



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

<b>Case Reference</b>	:	<b>CHI/45UE/HNA/2024/0008</b>
<b>Property</b>	:	<b>4 Cross Path, Crawley, West Sussex RH10 8BW</b>
<b>Applicant</b>	:	<b>Mr N Butt</b>
<b>Representative</b>	:	<b>No representation</b>
<b>Respondent</b>	:	<b>Crawley Borough Council</b>
<b>Representative</b>	:	<b>Mr C McLean of Counsel</b>
<b>Type of Application</b>	:	<b>Appeal against a financial penalty – s249A and Schedule 13A to the Housing Act 2004</b>
<b>Tribunal Members</b>	:	<b>Judge R Cooper Mr M J F Donaldson FRICS Ms T Wong</b>
<b>Date and venue of Consideration</b>	:	<b>Havant Justice Centre 10/12/2024</b>
<b>Date of Decision</b>	:	<b>31/12/2024</b>

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**DECISION**

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**The Tribunal confirms the Final Notice issued by Crawley Borough Council ('the Council') dated 20/03/2024 imposing a financial penalty on Mr Butt of £1,750 under s249A of the Housing Act 2004, for an offence under s72(2).**

Pages in this decision where referred to are marked [ ].

## **Background**

1. On or around 16/04/2024 the Tribunal received an appeal from Mr Butt under section 249A(1) of the Housing Act 2004 (“the 2004 Act”) against a financial penalty imposed on him by Crawley Borough Council (‘the Council’).
2. He appeals against the Final Notice issued to him by the Council on 20/03/2024 imposing a financial penalty of £1,750 for conduct amounting to a criminal offence in respect of 4 Cross Path, Crawley, West Sussex RH10 8BW (‘4 Cross Path’).
3. Mr Butt also appealed against a Final Notice issued to him by the Council in respect of 34 Priors Walk (CHI/45UE/HNA/2024/0007). With the agreement of the parties, that appeal was heard immediately before this on the same day given that many of the issues were common to both appeals. The decision of the Tribunal in respect of 34 Priors Walk is a distinct and separate decision based on individual findings, but the decisions may be read together given that some findings relating to the other appeal may be referred to in this.

## **The Appeal**

4. Mr Butt’s grounds of appeal against the Final Notice are set out in the application and his statement of case. The grounds can be summarised as follows:
  - (i) Although he accepted there was a short overlap of tenants which resulted in a breach of the licence conditions as regards number of occupants permitted under the licence, it had come about unintentionally and was due to the actions of one of the tenants, and their failure to move out promptly,
  - (ii) The penalty notice is confusing and there was a lack of clarity about the definition of household in the licence,
  - (iii) He should not be personally penalised as the property was managed by Platinum Properties Partnership (a family partnership which owns a portfolio of 9 houses),
  - (iv) The council officer investigating had been unreasonable in his approach,
  - (v) The financial penalty should not be imposed given that it would have significant personal impact. He was an accountant and an upstanding member of the community who had been assisting those with housing need, and he had co-operated with the Council fully, and
  - (vi) The penalty is excessive. There were no aggravating factors, no harm done and there were mitigating factors.

## **The Response**

5. The Respondent's response is set out in the statements of Diana Maughan [61] to [68] and Glenn Stubbs [69] to [80], and can be summarised as follows:
- (i) Mr Butt is the holder of the licence and was the person actively engaged in managing the lettings at 4 Cross Path. He was responsible for the breach of licence conditions.
  - (ii) Mr Butt allowed two couples to reside in the property, which resulted in the number of occupants exceeding the maximum number permitted under the licence. He allowed Mr and Mrs Sivorjan to move in on 2/06/2023 despite Mr Shivakumar and Ms Guruswamy still being resident in the property until 30/06/2023.
  - (iii) The decision to impose a penalty was appropriate and proportionate and was in line with the Council's policy. It reflected the seriousness of the offence and complied with the Council's duty to deter both Mr Butt and other private sector landlords from breaching their licence conditions.

### **The Documents**

6. The documents considered by the Tribunal are in the appeal bundle (221 PDF pages) which included the notice of appeal, the statement of case and Mr Butt's documents in support, and witness statements and evidence for the Respondent.
7. In addition to the appeal bundle, Mr McClean provided a skeleton argument shortly before the hearing.

### **Inspection**

8. The Property was not inspected. No party had requested one and it was not considered necessary by the Tribunal.

### **The Hearing**

9. The hearing took place remotely by video in a combined hearing with appeal reference CHI/45UE/HNA/2024/0007 given that many of the issues were common to both. Mr Butt represented himself at the hearing and Mr McLean represented the Council.
10. The Tribunal heard oral evidence from Mr Butt and from two witnesses for the Council – Diana Maughan and Glenn Stubbs (the Head of Strategic Housing and a Private Sector Housing Officer respectively), and submissions from Mr Butt and Mr McLean. The recording of the hearing stands as the record of proceedings.
11. Judgment was reserved.

## **REASONS FOR THE DECISION**

### **The Legal Framework**

#### Power to impose a financial penalty

12. Section 249A of the Housing Act 2004 allows a local housing authority to impose a financial penalty on a person if it is satisfied to the criminal standard - beyond reasonable doubt - that the person's conduct amounts to a 'relevant housing offence' in respect of premises in England.
13. The relevant housing offences are listed in section 249A(2). They include the offence of a person having control or managing a licenced HMO, who knowingly permits another person to occupy the house, where that person's occupation results in the housing being occupied by more households or persons than is authorised by the licence section (72(2) of the 2004 Act). It also includes the offence of a licence holder failing to comply with conditions of the licence (s72(3) of the Act).
14. Only one financial penalty under section 249A may be imposed on a person in respect of the same conduct. The amount of that penalty is determined by the local housing authority (to a maximum of £30,000). The imposition of a financial penalty is an alternative to instituting criminal proceedings for the offence in question.

#### Procedural requirements

15. Schedule 13A to the 2004 Act sets out the procedure which local housing authorities must follow.
16. Before imposing a financial penalty on a person under s249A, the local housing authority must give him or her a 'notice of intent' (paragraphs 1 and 3) setting out:
  - (a) the amount of the proposed financial penalty
  - (b) the reasons for proposing to impose it; and
  - (c) information about the right to make representations.
17. Unless the conduct to which the financial penalty relates is continuing, the notice of intent must be given before the end of the period of six months beginning on the first day on which the local housing authority has sufficient evidence of that conduct (paragraph 2).
18. A person who is given a notice of intent has the right to make written representations to the local housing authority about the proposal to impose a financial penalty within a 28-day period beginning the day after the date on which the notice of intent was given (paragraph 4). After the end of that period, the local housing authority must decide whether to impose a financial penalty and, if it decides to impose a penalty, the amount (paragraph 5).

19. If the local housing authority decides to impose a financial penalty on a person, it must give that person a final notice setting out the following (paragraphs 6 and 8):
- (a) the amount of the financial penalty,
  - (b) the reasons for imposing it,
  - (c) information about how to pay the penalty,
  - (d) the period in which the penalty should be paid,
  - (e) information about rights of appeal, and
  - (f) the consequences of a failure to comply with the notice.

#### Relevant guidance

20. Local housing authorities must have regard to any guidance given by the Secretary of State about the imposition of financial penalties (paragraph 12). The relevant statutory guidance is the *Civil penalties under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities* issued by the Ministry of Housing, Communities and Local Government in April 2018 ('the 2018 Guidance'). That guidance states local housing authorities are expected to develop a policy about when to prosecute and when to issue a financial penalty. They should also develop a policy on determining the appropriate level of penalty in a particular case. However, the 2018 Guidance makes it clear that local housing authorities should decide which option to pursue on a case by case basis.
21. The 2018 Guidance states that in general the maximum amount (£30,000) should be reserved for the very worst offenders and '*the actual amount levied in any particular case should reflect the severity of the offence as well as taking account of the landlord's previous record of offending.*'
22. The guidance sets out a number of factors which local housing authorities should consider so as to ensure that financial penalties are set at an appropriate level. These are as follows:
- the severity of the offence
  - the culpability and track record of the offender
  - the harm caused to the tenant(s)
  - punishment of the offender
  - deterrence of the offender from repeating the offence
  - deterrence of others from committing similar offences, and
  - removal of any financial benefit the offender may have obtained as a result of committing the offence.
23. Crawley Borough Council adopted a policy relating to financial penalties in accordance with the 2018 Guidance on 29/11/2017 (which was amended in October 2023) [29]

## Appeals

24. If a final notice is given under Schedule 13A to the 2004 Act the penalty must be paid within 28 days of the day after the date on which the notice was given. However, this is subject to the right of the person to whom a final notice is given to appeal to the Tribunal (under paragraph 10 of Schedule 13A).
25. An appeal may be made against the decision to impose the penalty, or the amount of the penalty or both. An appeal must be made within 28 days of the date on which the final notice was sent to the appellant.
26. If an appeal is made, the final notice is then suspended until the appeal is finally decided or is withdrawn (paragraph 10(2)).

## **Discussion and conclusions**

27. This appeal takes the form of a re-hearing. In other words, the Tribunal is not simply reviewing the action taken by the Council, but it stands in the shoes of the Council, and it may make any decision the Council had the power to make. This can include cancelling the Final Notice, varying the financial penalty or confirming it. The Tribunal may take into account evidence that was not considered by the Council at the time it made the Final Notice on 20/03/2024.

## The procedural requirements

28. When considering Mr Butt's appeal against the financial penalty, the Tribunal must be satisfied the necessary procedural steps were taken by the Council required by Schedule 13A of the Act. The Upper Tribunal has confirmed that because a civil penalty is an alternative to a criminal prosecution, local housing authorities must treat their responsibilities with the same degree of seriousness and transparency (*Welwyn Hatfield BC v Wang* [2024] UKUT 24 (LC) at [18])
29. Mr Butt submitted the reasons given for the notice of intent was ambiguous, in particular its reference to 'households' and also to 'persons'. In his evidence and submissions to the Tribunal, Mr Butt, in summary, said there was confusion on the part of the Council about whether a household consisting of a couple were permitted to live at the property if the maximum number of people was not exceeded.
30. The Council in its statement of the reasons for recommending a financial penalty stated as follows:

*Between 02.06.2023 and 30.06.2023, that you Mr Nasser Butt, being a person having control of or managing a house in multiple occupation which was licensed, such property being 4 Cross Path, Northgate, Crawley, RH10 8BW ("the Property"), did knowingly permit another person to occupy the house and that other person's*

*occupation resulted in the house being occupied by more households than was authorised by the licence, in that you permitted 8 persons to occupy the Property whereas the licence only permitted 6 persons to occupy the Property, and you did this contrary to section 72(2) of the Housing Act 2004*

31. The Tribunal is satisfied that although both households and persons are mentioned, as Mr Butt says, the Notice of Intent is sufficiently clear, enabling Mr Butt to know he was accused of allowing more people to occupy the property than the permitted number. The notice also clearly set out how much the proposed penalty was and what factors had been taken into account so he could respond to the allegations.
32. The Notice of Intent was served on 5/02/2024 [44]. The Tribunal was satisfied this was within 6 months of when the Council had sufficient evidence to demonstrate beyond reasonable doubt the offence had been committed. Whilst Mr Stubbs had received information on 15/06/2023 that more than 6 people were occupying the property and had obtained witness statements from the occupiers on 23/06/2023 this was not in itself sufficient evidence beyond reasonable doubt that an offence under s72(2) of the Act had been committed. The Tribunal was satisfied that it was not until the Council received Mr Butt's response to the request for information under s16 of the Local Government (Miscellaneous Provisions) Act 1976 dated 07/08/2023 [92] that it had clear documentary evidence of Mr Butt's role in relation to the property and copies of the tenancy agreements. This response confirmed Mr Butt was both the co-owner and landlord of 4 Cross Path and received the rent on behalf of Platinum Properties Partnership [93]. In addition, Mr Stubbs' enquiries were not completed until in or around 15/09/2023, when the Council obtained email confirmation as to the dates on which all the tenants had left the property and, therefore, clarified the dates when the offence was carried out. As the Notice of Intent was served within 6 months of that date, the Tribunal was satisfied it was in time and Council was not time-barred.
33. The notice of intent gave Mr Butt the opportunity to make representations to the Council stating why he disagreed, and he did so by 4/03/2024.
34. The Tribunal was satisfied that the Council had taken into account those representations before reaching their decision to issue a Final Notice on 20/03/2024. Appendix 2 of the Final Notice expressly refers to Mr Butt's submissions and explains the reasons why they had been rejected [26]. The Council was entitled to reject his representations for the reasons it did.
35. For all these reasons, the Tribunal was satisfied that the correct procedural steps had been taken by the Council.

### The offence

36. Having considered the totality of the evidence the Tribunal was satisfied beyond reasonable doubt that Mr Butt had committed an offence under s72(2) of the Act for the following reasons.

### Conduct

37. The witness statements and emails from tenants, and the tenancy agreements exhibited to Mr Stubbs's witness statement show that between 02/06/2023 (when he granted a six-month tenancy of room 6 to Mr and Mrs Sivorjan [158])) and the 30/06/2023 (when Mr Shivakumar and Ms Guruswamy moved out of room 2 [172]), a total of 8 individuals were living in 4 Cross Path. Mr Butt accepts this in his email responding to the notice of intent on 11/10/2023 [217]. He confirms that he had two different couples in the house for a temporary period one from 14/04/2023 until 30/06/2023 and the other from 2/06/2023 to 30/07/2023. He says both couples made false statements in order to take up the tenancy and both were removed to prevent a breach of the house rules.
38. The Tribunal is satisfied that it is clear the Licence granted on 6/04/2020 only permits a maximum of six persons to occupy the house and only a single household per room [62] and [63].
39. Mr Butt in submissions said there was an ambiguity in the licence which allowed a household (such as a couple) in each room, yet only allowed one person to occupy each room. However, the Tribunal found no such ambiguity in the licence. Whilst the Tribunal accepts that a household can comprise a couple or a family, as Mr Butt submitted, it is also satisfied a household can include a single individual. In the case of 4 Cross Path, the Tribunal found the licence was clear. There could be six separate 'households', in other words six people who were unrelated to each other (either by blood or relationship). The licence also made it clear that only one person was permitted to occupy each room [63]. In licencing matters, the local authority will usually determine the number of people who can occupy a room based on its size, and the total number of occupiers for the property according to the facilities available.
40. We found Mr Butt in his evidence demonstrated that he was fully aware that only 6 people were permitted to reside in the property, even if he was confused about whether a couple could live in a room together. The Tribunal found that by allowing Mr and Mrs Sivorn to move into the property on 2/06/2023 before Mr Shivakumar and Ms Guruswamy had vacated, he would have known the licence conditions were being breached.
41. In relation to Mr Butt submission that it was Platinum Properties Partnership or Platinum Equity Management Ltd (PEM Ltd - the

partnership's management company) that should be held liable for any breach, the Tribunal found this not to be the case.

42. The Tribunal found the evidence was clear that Mr Butt was the person who managed the HMO. He was named as the licence holder of the HMO licence issued on 6/04/2020 [82]. In his response of 7/08/2023 to the Council's enquiries Mr Butt confirmed that he was the owner and landlord of the property, and received the rent, albeit on behalf of the Platinum Properties Partnership. The Tribunal also found it clear from the various messages and emails relied on by both Mr Butt and the Council that he was actively communicating with tenants about the arrangement in the house and the letting of individual rooms (for example [58], [59], [201] and [204]), and disrepair issues (for example [209])
43. Having considered the totality of the evidence, the Tribunal was satisfied beyond reasonable doubt that Mr Butt had knowingly permitted the number of occupants to exceed six from 02/06/2023 when he granted a tenancy agreement to Mr and Mrs Sivorjan. At that time there were already six people living in 4 Cross Path (Ms Mashonga in room 1, Mr Shivakumar and Ms Guruswamy in room 2, Mr Babyemi in room 3, Ms Ogoy in Room 4, and Ms Payne in room 5).
44. The evidence also shows that there continued to be eight occupants until at least 30/06/2023 when Mr Shivakumar and Ms Guruswamy moved out [123]

Was there reasonable excuse?

45. Mr Butt's main contention is that he had a reasonable excuse for the offence. Reasonable excuse is a defence to allegation that an offence has been committed (s72(5) of the 2004 Act). In summary, he says the breach resulted from false statements made by Mr Shivakumar and because Mr and Mrs Sivorjan pleaded with him to move in because they were being evicted from their previous property. Additionally, he relies on the difficult nature of the housing market at the time.
46. The Tribunal is not satisfied the breach was unintentional. The evidence shows that Mr Shivakumar and Ms Guruswamy had initially enquired about renting for a 6-month period from 15/04/2023 [119]. Although they appear to have changed their mind, it was only on 30/05/2023 that Mr Shivakumar notified Mr Butt by text that he had found a job starting on 19/06/2023 and confirmed they would be looking for alternative accommodation [59]. They asked Mr Butt for '*flexible time to move out of [4 Cross Path]*'. Given that under the Housing Act 1996 (as amended) the couple would have had a legal right to occupy room 2 for six months regardless of whether a tenancy agreement was signed or not, Mr Butt could not have been guaranteed he would get vacant possession on 19/06/2023 (as indeed it ultimately transpired).

47. The Tribunal also found the evidence indicated that Mr Butt had agreed to let the room to Mr and Mrs Sivorjan before Mr Shivakumar even gave him notice they intended to leave early. This is because he had asked Mr and Mrs Sivorjan to pay a deposit of £1,000 on a date before the 31/05/2023 [201]. He then proceeded to permit Mr and Mrs Sivorjan to move in on 2/06/2023 without a guaranteed date on which the tenants of room 2 would actually vacate.
48. No documentary evidence has been provided by Mr Butt to support his assertions about the difficult nature of the housing market in Crawley at the time, or the problems with high rates of voids. The evidence before the Tribunal indicates that he managed to find tenants to fill the house quite soon after the company let of 4 Cross Path came to an end in March 2023. The witness statements and tenancy agreements exhibited to Mr Stubbs's statement show Mr Butt managed to find 4 tenants (who occupied rooms 1, 3, 4 and 5) in late March 2023, and Mr Shivakumar and Ms Guruswamy in early April.
49. Having considered the totality of the evidence the Tribunal was not satisfied that Mr Butt had demonstrated on the balance of probabilities that he had a reasonable excuse for the breach of the licence conditions. The Tribunal found the evidence indicated Mr Butt's primary concern was to maximise occupancy of the property and avoid periods when rooms were vacant, even if that meant breaching the terms of the licence.
50. The Tribunal is satisfied beyond all reasonable doubt Mr Butt committed an offence under s72(2) of the Act without reasonable excuse. As the person responsible for managing the property he knowingly permitted Mr and Mrs Sivorjan to move into the property on 2/06/2023, rather than postponing their move in date until the other couple had actually moved out. Their occupation resulted in the total number of occupiers in the property being eight, which exceeded the permitted number of six.

#### Financial penalty

51. As to the allegations made by Mr Butt in relation to the actions of the Council in imposing a Financial Penalty rather than taking some other course of action, the Tribunal is satisfied it is appropriate to impose a financial penalty in respect of the offence committed under s72(2) of the Act. The Tribunal does not find evidence of the Council being vindictive or making a personalised attack on Mr Butt. It finds that the Council was acting in accordance with its duty to regulate housing conditions in the private rented sector.
52. Given our findings set out at paragraphs [37] to [51] above and the Council's policy and the 2018 Guidance, the Tribunal did not accept that either no penalty or a lesser sanction such as a caution was appropriate. Such a step would not be adequate either in terms of its punitive effect or in acting as a deterrent more generally. The Tribunal,

therefore, considered the financial penalty that was appropriate in the circumstances.

53. The Tribunal had regard to the factors specified in the 2018 Guidance as being relevant to the level at which a financial penalty should be set (see paragraph 22 above). It also had regard to the Council's policy which guided their decision-making process in this case. The Tribunal was not bound to adopt that policy for the purposes of this appeal, but we considered it provided a sound basis for quantifying financial penalties on a reasonable, objective and consistent basis. The Tribunal, therefore, used it as a tool to assist in our own decision-making.
54. The Council's policy on civil penalties is based on the relevant factors specified in the 2018 Guidance, set out above. It confirms that in the case of a first or second offence, generally the policy of the Council was to issue a civil penalty rather than to prosecute for an offence, unless the offence was serious. The Council policy provides a matrix of ranges of penalty and relevant guidance on individual offences which places particular emphasis on an assessment of the severity of the offence. Offenders holding larger portfolios of properties attract higher penalties under the policy. The seriousness of the offence is rated moderate, serious and severe.
55. The matrix and guidance set out six bands the penalty should fall into taking into account any additional aggravating or mitigating factors. The six penalty bands are as follows:
- |                   |                   |
|-------------------|-------------------|
| Band 1 (Moderate) | £0 - £4,999       |
| Band 2 (Moderate) | £5,000 - £9,999   |
| Band 3 (Serious)  | £10,000 - £14,999 |
| Band 4 (Serious)  | £15,000 - £19,999 |
| Band 5 (Severe)   | £20,000 - £24,999 |
| Band 6 (Severe)   | £25,000 - £30,000 |
56. In the narrative regarding the individual types of offence, the Council's guidance includes a non-exhaustive list of aggravating factors.
57. The Council's policy states that a breach of a condition of a Licence is an offence of moderate severity (minimum Band 1), and the starting point for the penalty should be £1,000 [32].
58. Although the breach was for a short period of just less than a month and was not on the most serious end of the scale, the Tribunal was satisfied that this breach was not the first offence committed by Mr Butt identified by the Council. The Tribunal gave weight to the fact that Mr Butt had also been found to have committed a similar breach in respect of 34 Priors Walk by signing up new tenants to move into that property also resulting in a period of over occupation. The Tribunal was satisfied, therefore, that it was appropriate for the penalty to be increased from the starting point of £1,000.

59. In relation to the aggravating factors identified in its policy the Council has not provided any evidence regarding the condition of the property or any specific risks identified as a consequence of the overcrowding.
60. The Tribunal did not accept Mr Butt's submissions that he was blameless, or that the offence was unintentional or was the fault of the tenants. The Tribunal finds he had no reasonable excuse for his actions for the reasons set out above.
61. The Tribunal found Mr Butt to be personally culpable. The Tribunal did not accept his submission that Platinum Properties Partnership or PEM Ltd should be held liable. Mr Butt knew he was the licence holder as he had applied for it in 2020 and his name was on the licence. No application had been made to vary the licence holder to PEM Ltd.
62. Mr Butt described himself as the '*front facing person*' and the evidence shows he was the one who was actively engaged in the process of letting rooms at the property. He was the one who arranged viewings with potential tenants, signed the tenancy agreements, took the deposits and agreed the move in date. He also appeared to deal with day-to-day management of the property, including issues of disrepair. He was the one who had personally negotiated the arrangements to let Mr and Mrs Sivorjan move into room 6 before Mr Shivakumar and Ms Guruswamy had actually given a final date when they would move out.
63. No direct evidence has been produced by the Council regarding any harm caused by the overcrowding.
64. However, in this property the plan shows that there was only one bathroom, a shower room with a separate toilet and one kitchen. This meant that for a period of nearly a month, 8 people who were unrelated (save for the couples in room 2 and 6) had to share facilities only deemed sufficient for 6 people.
65. When looking at all these matters in the round, the Tribunal considered the imposition of a penalty was necessary to punish Mr Butt for his actions and deter him from future such offences, particularly given the commission of a similar breach in relation to 34 Priors Walk. It appeared he was not taking his responsibilities as a licence holder seriously by allowing over occupation in both the properties he was managing in Crawley.
66. Whilst Mr Butt submits that he was being unfairly victimised and says the Council, and in particular Mr Stubbs, were being 'vindictive', the Tribunal found no evidence of this. It is satisfied that local housing authorities have an important role to play in improving the quality of housing conditions in the private rental sector and preventing harm resulting from overcrowding.

67. The additional financial benefit deriving from the letting rooms to couples was £1,000 per month indicating the starting penalty of £1,000 was proportionate.

Aggravating and mitigating factors

68. The Tribunal found in relation to 4 Cross Path that this was the first offence proven beyond all reasonable doubt. However, the Tribunal gave weight to the fact that Mr Butt had also permitted over occupation of 34 Priors Walk within the same period, and this was an aggravating factor warranting a higher financial penalty.

69. Mr Butt submits there are mitigating factors; that the breach was caused by Mr Shivakumar and Ms Guruswamy and Mr and Mrs Sivorjan making false statements. He also claims to be an upstanding member of the community whose reputation will be damaged by a civil penalty.

70. The Tribunal finds no evidence of false statements being made. Having allowed Mr Shivakumar and Ms Guruswamy to move into the property on 15/04/2023, Mr Butt should have known that if they had not decided to move out in June, they would under the Housing Act 1996 (as amended) have legally been entitled to remain at the property for a full six months and until he obtained an order of possession through the Court.

71. On balance, the Tribunal found Mr Butt's actions were more likely than not to be motivated by the desire to maximise occupation of the property and ensure minimal void periods with little thought regarding his obligation to comply with the conditions of his HMO licence.

72. The Tribunal did find, however, that Mr Butt had co-operated fully with the Council without delay. He had responded to their questions and provided the documents requested of him. This was a mitigating factor.

73. Having considered all these matters in the round, the Tribunal considers there is a reason to exceed the level of penalty identified as the starting point in the Council's policy and that a financial penalty of £1,750 for this second offence is proportionate.

**DECISION**

74. The Tribunal confirms the Final Notice issued by Crawley Borough Council ('the Council') dated 20/03/2024 imposing a financial penalty on Mr Nassir Butt of £1,750 under s249A of the Housing Act 2004, for an offence under s72(2).

**Signed: Judge RE Cooper**

**Date: 31/12/2024**

### **Note: Appeals**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office that has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision, and should be sent by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk).
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.