FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	CHI/43UD/HMF/2024/0018
Property	**:**	69 Park Barn Drive, Guildford, Surrey, GU2 8ER ("the premises")
Applicant	**:**	Rena Jackson-Belete
Representative	**:**	None
Respondent	**:**	Richard Lisowski
Representative	**:**	**None**
Type of Application	**:**	**Applications for a Rent Repayment Order by Tenant – Sections 40, 41, 43 44 & 45 of the Housing and Planning Act 2016**
Tribunal Members	**:**	**Judge HD Lederman** **M Donaldson FRICS** **Ms T Wong**
Date and Venue of Hearing	**:**	**30 January 2025** **Remote hearing by Cloud Video platform from Havant Justice Centre**
Date of Decision	**:**	**17 February 2025**

DECISION AND REASONS

Decision of the Tribunal

The Tribunal:

a. Orders the Respondent to make payment of a total amount of £1338.57 to the Applicant as a Rent Repayment Order ("RRO") under section 43 of the Housing and Planning Act 2016 ("the 2016 Act") for the period 2md October 2023 to February 2024 (inclusive).

b. Orders the Respondent to reimburse the Applicant's application and hearing fees amounting to a total of £300.00 within 14 days of the date of this Decision.

Reasons

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The Application

1. The Tribunal is required to determine an application received on 25th June 2024 under section 41 of the Housing and Planning Act 2016 ("the 2016 Act") for a Rent Repayment Order ("RRO") for repayment of rent paid by the Applicant for occupation of the "Blue Room" at the premises from October 2023 to and including January 2024. The Blue room at the premises comprise one room with bed and furniture, in addition to the use of fridge freezer and cupboards in the kitchen marked blue. There was an ensuite bathroom.

The Hearing and the participants

2. The Tribunal checked that all parties had the same copies of the bundle of 85 numbered pages and documents before the hearing started. Page references in these reasons are to that Bundle unless stated otherwise. The Respondent submitted additional response documents with accompanying photographs by email on 22nd January 2025 which the Applicant had seen and did not object to being entered into evidence. The Applicant had submitted 4 separate video files by email which the Respondent had seen and were referred to in the hearing.

3. The Tribunal Judge checked throughout the hearing that the Applicant and Respondent understood the issues. The Applicant and Respondent although intelligent and articulate were litigants in person with no legal expertise. The Tribunal made sure the Respondent and the Applicant understood the issues and fully participated in the hearing. The Respondent was informed that he did not need to give evidence about whether the circumstances alleged against him gave rise to an offence. He was told he could confine his evidence to the issue of the amount (level) of any RRO and simply comment upon the evidence produced by the Applicant. The Respondent chose to give

evidence about some of the issues. A copy of the *Acheampong* decision reported at [2022] UKUT 239 had been sent to each of the parties before the hearing.

4. There was evidence the Applicant suffered from a medical condition, which affected her ability to function intermittently. A clinic letter was found at pages 32 to 33. That said, the Tribunal observed the Applicant was able to participate fully, and was able to present her application with energy and clarity. She was registered as a university student at the relevant times. When she became distressed at one point during the hearing, the Tribunal adjourned for a short period to enable her to compose herself and checked that she was able to continue after the adjournment. The Tribunal was alert to the possible need to make adjustments for all parties. The nature of the allegations made by each of the Applicant and the Respondent against each other about conduct during the Applicant's occupation at the premises, understandably gave rise to some unhappiness, each party feeling that they had been wronged and treated unfairly and improperly by the other.

Approach to evidence of parties

5. Nothing in these reasons should be read as a finding that either party or any witness was dishonest or untruthful. The Tribunal has no need to reach findings on these issues. All parties and the witness were doing the best they could to give their evidence from their perspective and recollection.

6. The following issues arose:

   a. Can the Applicant satisfy the Tribunal beyond reasonable doubt (so that the Tribunal is sure) that the Respondent had committed the criminal offence of being a person having control of or managing the premises when they were a House in Multiple Occupation (an "HMO") was required to be licensed but was not so licensed contrary to section 72(1) of the Housing Act 2004 ("HA 2004") *during the relevant periods*;

   b. If the Respondent was such a person whether he had a reasonable excuse for having control of or managing the premises when they were required to be licensed but were not so licensed;

   c. If any of the above were established, should the Tribunal exercise its discretion to make an RRO.

   d. If so what should the amount of the RRO be (by reference to any offence or offences found to have been committed) taking into account:

      (a)the conduct of the Respondent landlord and the Applicant tenant,

      (b)the financial circumstances of the Respondent landlord, and

      (c)whether the Respondent landlord has been

convicted of an offence.

(d) the period during which any relevant offence was found to have been committed (if applicable)

e. Was the offence committed in the 12 months ending on the day when the application for an RRO was made: see section 41(2)(b) of the Act.

Inspection

7. None of the parties contended the Tribunal needed to inspect the premises. The Tribunal considered an inspection was not proportionate or necessary to determine the issues.

Status of these reasons

8. Where narrative, facts or descriptions are recited, they should be treated as the Tribunal's findings of fact unless stated otherwise. These reasons address in summary form the key issues raised by the application. They do not rehearse every point raised or debated. The Tribunal concentrates on those issues which go to the heart of the application.

Was the offence under section 72(1) of the Act committed by the Respondent?

9. The burden falls to the Applicant to satisfy the Tribunal so it is sure that the Respondent was a person managing or in control of the premises during the relevant period within the meaning of section 72(1) of HA 2004.

10. The Respondent accepted that during the period October 2023 – January 2024 a minimum of 6, and often 7 persons were in occupation as tenants in the 5 rooms at the premises 2 couples and 3 single persons sharing kitchen facilities living as separate households. He did not dispute that the premises as a whole were a house in multiple occupation within the meaning of section 254(2) of HA 2004 (known as "the standard test").

11. Premises occupied by five or more persons who together do not form a single household are prescribed and required to be licensed by section 55 of the HA 2004 and the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 (SI 2018/221). This is sometimes described as mandatory licensing.

12. The Respondent previously held a licence to use the premises as an HMO for occupation of no more than 5 persons which commenced on 1st October 2018 and expired on 30th September 2023: see [44]. On a date which the Respondent was unable to clarify, he made an application to renew the HMO licence for the premises. The Respondent's evidence which the Tribunal accepts, is that the local Housing Authority considered that there were a number of issues which needed to be addressed before a further HMO licence could be granted. These included upgrading of part of the electrical installations to comply with current regulations. These issues seem to have

been reflected in the schedule B (specified works) to the licence which was ultimately issued on 4th December 2024 at pages 68-71, some of which were required to be addressed within a relatively short timeframe. The upshot was that a further HMO licence for a period of one year was not granted until the 4th December 2024 – see page 45 and 58 to 71, subject to a number of conditions.

13. The Respondent has not been convicted of an offence under the HA 2004 and the local housing authority does not appear to have commenced any proceedings against the Respondent.

14. The e-mails from the local Housing Authority of the 21st June 2024 and the 2nd December 2024 at pages 22-23, confirm that no application for an HMO licence had been made by the Respondent on those dates, although the premises were required to be licenced as an HMO. The Respondent did not challenge the Applicant's reading of the e-mail of the 21st June 2024 at page 22, to this effect. The Tribunal so finds.

15. The Tribunal is satisfied beyond reasonable doubt that the premises were required to be licenced as an HMO from the beginning of October 2023 throughout the entirety of January 2024 but the Respondent did not obtain a licence for this period as the person managing and in control of the premises at that time.

Did the Respondent have a reasonable excuse?

16. To make out the defence of reasonable excuse, the Respondent would need to show to the civil standard of proof (the balance of probabilities) that he had a reasonable excuse for managing or being in control of the premises as an HMO without a licence.

17. The Applicant's tenancy commenced on 1st or 2nd August 2023. The Respondent said that he had overlooked obtaining a renewal of the HMO licence and had not received any renewal communication from the local housing authority. He said he had been involved in plans for extensive works to the premises since before December 2019 and had overlooked the need to apply for a renewal of this license and renewal of HMO licence for another property which he operated as an HMO.

18. The Respondent also drew attention to the draft HMO licence for the premises sent to his wife on the 27th August 2019 at pages 42 to 43. In his statement at page 38 and in his evidence at the hearing he described that as a temporary HMO licence and said that he had assumed that it would last for five years. He mentioned the fact that the premises were undergoing major refurbishment in 2018 and said that when the full licence arrived which was dated the 1st October 2018 he just found the licence and did not notice the date. In his statement at page 38 he said he believed that the licence did not expire until September 2024. He said his error did not come to light until he received a communication from the local Housing Authority "chasing the renewal". At the hearing he was unable to specify the dates of this communications from the local authority. The email from the local housing authority of 21st June 2024 at page 22 suggests that they had written to him

about renewing an HMO licence before that date and were due to send a second reminder.

19. In his statement the Respondent said that it had been explained that the HMO licence was dated from the application date and he had believed that the licence did not expire until September 2024 as the draft licence contained the date August 2019: see page 38. He referred to the temporary licence which was not dated and “went by the date of the letter” i.e. the covering letter of August 2019.

20. Upon questions from the Tribunal it emerged the Respondent was a manager or in control of three other properties which, until relatively recently, were registered as HMO's with an HMO licence all run as part of the business. Of the 4 properties which he had rented out he had decide that two of them would no longer be used as HMO’s. The Respondent said had not undergone any training or undertaken any professional development in relation to his property management, or become a member of any professional associations. He said he had been carrying on business as a landlord for some 25 years.

21. The Tribunal mentioned to the Respondent that he appeared to have made a planning application for the premises in December 2019 for various extension works. This arose from the reason given on page 14 of the licence (page 16 of the bundle) for the restriction of the period of the renewed licence for one year.

22. The Respondent’s management of his licencing obligations in relation to the premises and other premises formerly run as an HMO did not enable him to properly record or diarise the date of expiry or the HMO licence. This also meant that when it came to renewal the local Housing Authority was unable to process his renewal speedily as the premises did not satisfy current regulations in a number of respects. The Respondent did not provide the Tribunal with the full picture about this or produce copies of his communications with the local Housing Authority.

23. The Respondent has not satisfied the Tribunal that it was objectively reasonable for him firstly to fail to renew the HMO licence, to delay in applying for a licence until December 2024, or to exceed the limit of five persons in the HMO licence expiring on 30th September 2023. Notably he has failed to provide a satisfactory explanation, for allowing 7 persons or 6 persons to occupy, to the premises when the limit of HMO licence expiring in September 2023 was 5 persons. He did mention that a number of the rooms in the premises were double rooms and when a tenant wished his or her partner to join them as tenant he did not think he could reasonably object. If this was his explanation it did not provide a satisfactory reason for breaching the terms of the HMO licence expiring on 30th September 2023 or failing to renew that licence.

24. The Tribunal is satisfied beyond reasonable doubt the Respondent committed the offence of being in control of or managing the premises when they required an HMO licence without such a licence being in force in the period of October 2023 to and including January 2024.

Discretion

25. It is only in an exceptional case where the Tribunal would refuse to make a rent repayment order, where relevant housing defence has been found to have been committed. There are no exceptional circumstances in this case.

The amount of rent

26. The Respondent accepted that in calculating the amount of the rent paid for the relevant period The tribunal should not take into account any offset for cleaning services provided by the applicant. This amount is to be treated as being paid as rent: see section 52(2) of the 2016 Act. It was common ground the monthly rent for the relevant period was £845.00. Accordingly the total of rent treated as paid for the period October 2023 to February 2024 was £4225.00.

Utility payments

27. There was no dispute that credit should be given for one seventh of the following utility payments made by the landlord for the exclusive benefit of the applicant (listed at pages 53-54):

	Total £ October 2023 – January 2024
Water/sewerage	967.95
Ovo energy	3276.00
Council tax	1526
Sky digital	380
Sub total	6149.95
One seventh	878.56

Purpose of rent repayment orders

28. It has been said the purpose of Rent Repayment orders where a landlord has not been convicted of the relevant housing offence is

a. Punishment of the offender. Rent repayment orders should have an economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.

b. Deter the offender from repeating the offence.

c. Dissuade others from committing similar offences.

d. Removing any financial benefit the offender may have obtained as a result of committing the offence.

see *Kowalek v Hassanein Ltd* [2022] 1 WLR at [23].

Conduct of the Respondent

29. The Applicant alleged the Respondent had committed acts which she

described as "harassment" in the application form and in her written submissions.

30. To establish harassment for the purpose of the Protection from Eviction Act 1977 the Applicant would have to show the Respondent did or omitted to do acts which were intended to persuade her to give up occupation of the premises to the criminal standard of proof beyond reasonable doubt.

31. The Tribunal did not understand the Applicant to be saying these uninvited visits were an offence under section 1 of the Protection from Eviction Act 1977 as a pre-condition for the making of an RRO under section 40 of the 2016 Act. Rather, these were examples of conduct of the Respondent which the Applicant wished the Tribunal to take into account in determining the amount of any RRO under section 44(4)(a) of the 2016 Act.

32. The Applicant alleged that, starting from 3rd November 2023 on several occasions the Respondent would arrive at the Blue Room or the common areas and demand to speak to her about issues with the house or room, sometimes late in the evening, without prior notice. The Applicant said she asked him several times via email to give her notice or put all communications via email so she could be prepared for his visits. The visits clearly made the Applicant feel uncomfortable but having heard the explanation of the Respondent that he was attending to adjustments or repairs, the Tribunal is not satisfied they were acts or omissions intended to cause her to give up the occupation of the premises, if that is what is alleged. Colloquially, the Tribunal understands she found the visits annoying. Standing back from this the Tribunal sees her response to the visits as part of a deteriorating relationship between her and the Respondent aggravated by miscommunication and following her complaints about the condition of the Blue room.

33. One example of the Respondent's perspective on this issue this is found at page 39 where he said:

> "Ms Jackson-Belete stopped communicating and cooperating (which is in breach of her commitments under HMO regulations) with me after I collected her chest of drawers. I had text her regarding exchanging it with a temporary one that I purchased at a cost of £70.00 (Page 12) especially for her. The chest of drawers needed to be taken away as it needed a complete refit and new runners that could not be completed on site. As it turned out there was a considerable delay in obtaining the correct size runners. However once the work was completed I tried by text on many occasions to arrange to return the chest of drawers but I never received a response. On hind site maybe I could have emailed but at the time I could not have foreseen the events that followed. I knocked on her door to attempt to deliver the chest of drawers she opened the door the smallest of cracks and said it was not convenient to deliver the chest of drawers and could she keep the temporary one. I explained that they are a set and I did not want to put it into storage, they needed to be exchanged. Ms Jackson-

Belete then suggested I come back on the Saturday. I try to avoid working on Saturdays but agreed When I arrived she again opened the door the smallest of cracks and asked that I leave it in the hallway I replied that it would be a fire hazard and I would prefer to deliver it into the room.. She said it was not convenient. There was a. strong smell of recreational drugs coming from the room and I assumed that this was the reason she had become so obsessive about entering bet room. I arrived on the Saturday and this time she did not answer the door, although I knew she was in. I did not want to leave it in the hallway but I had been putting it in and out of my car, so I left it. Sometime later 1 collected the temporary one from the hallway. I have never expected a tenant to lift furniture in and out of their room before, especially a female."

and

"I was going to the house more often than usual because I was doing the cleaning of the kitchen, hallway and landing also I had a tenant leave and I had a room to smarten up before re-advertising. I only had contact with Ms Jackson-Belete on two occasions.

Whilst 1 was working in the kitchen she arrived with her shopping. She asked why I had not contacted her as she requested. I told her that I did not need her permission to enter the shared areas of the house and anyway she did not respond to my texts. I got my I got my phone out to show her the texts. At this point she said I was sending them to the wrong WhatsApp account and that one did not receive texts. This I did not believe as I am sure WhatsApp would have notified me that it had not been received or that I was sending them to an invalid"

34. The Tribunal understands how the Applicant perceived this as harassment or a breach of her right to quite enjoyment but regards this as a breakdown in communication. The Respondent seems to have been frustrated with his inability to communicate with the Applicant and the Applicant perceived his frustration as hostility or interference with her quiet enjoyment

35. The Tribunal considered carefully the video evidence of the exchange in the kitchen which reinforces its view that the Applicant perceived the Respondent's frustration with his inability to communicate as hostility or harassment. the Respondent's response was probably not as tactful or restrained as it should have been, but fell a long way from "harassment".

The incident on 10th February 2024

36. The Applicant sought to rely upon the following clause 1.9 in the tenancy agreement

"To allow the Landlord or anyone with the Landlord's written

permission to enter the Property at reasonable times of the day to inspect its condition and state of repair, carry out any necessary repairs and gas inspections, or during the last month of the term show the Property to prospective new tenants, provided the Landlord has given 24 hours' prior written notice (except in emergency)."

37. There is some ambiguity in the drafting of that clause and whether the requirement for 24 hours' notice applies to the issue entry for repairs. The Tribunal assumes without deciding the issue that entry into her premises without 24 hours' notice was a breach of that clause.

38. Having viewed the video evidence of the Respondent standing in the doorway and heard his account of the incident on 10th February 2024, it is not satisfied that any physical interaction which may have occurred was either deliberate or anything more than a passing brush of bodies. The Tribunal makes no finding about whether the Applicant was pushed or shoved as she alleged as in its view it is not material to its overall findings of the seriousness of the circumstances in which the housing offence was committed by the Respondent.

39. The Tribunal considered carefully the evidence of the Respondent's son Oliver Lisowski in his statement dated 10th December 2024 and in his oral evidence by video. His evidence did not assist the Tribunal to decide the key issues in this application.

40. Even if the Tribunal had accepted the Applicant's version about the incident on 10th February 2024 in its entirety, and accepts that she was shaken and upset, it would not have affected its assessment of the level of the RRO. The Tribunal takes the overall combination of factors of which this incident was one small part. By the date of this incident the personal relationship between the Applicant and the Respondent had broken down as illustrated by the Applicant wishing to video record exchanges with the Respondent.

Allegation of disrepair mites and mould

41. The Tribunal looked at the video evidence and considered the written and oral evidence about this. The Applicant's complaints of mould and mites were addressed promptly and appropriate attempts were made to apply relevant treatments. There was no evidence of significant disrepair or failure of maintenance. Mould is a common occurrence without adequate ventilation and the mites were undoubtedly of concern. However from the photographs provided the overall standard of accommodation provided in the Blue Room appeared to be within the band of fair to good. This incident would not by itself or taken with other factors amount to an aggravating feature for the purpose of assessing the level of seriousness of the offence.

Conduct of the Applicant

42. The Respondent made a number of assertions about the accuracy and motivation of the Applicant in bringing this application. The Tribunal makes

no findings about those assertions they are not in its view material to the key underlying issues which it should take into account. He did not challenge the key events or incidents which the Applicant complained of only how they should be interpreted or understood. It was not necessary to resolve the conflict of evidence about whether the Applicant was shoved or pushed on 10th February 2024 as this was a very small incident.

The period(s) of time when the offence was committed

43. The Tribunal considered this issue initially to see if the offence was committed in the 12 months ending on date when the application for an RRO was made within section 41(2)(b) of the 2016 Act. The application was dated 21st June 2024 and received by the Tribunal on 25th June 2024. This was within the 12 month period.

Overview Conduct of the Respondent as landlord

44. The Tribunal finds the circumstances in which the offence was committed were towards the lower end of the scale of moderate seriousness.

45. There is no evidence of previous convictions, cautions or previous misconduct by the Respondent.

46. On the other side of the scale the Respondent was a professional landlord, with 4 properties let out and had not kept abreast with his licensing obligations although he was considering refurbishment. The local housing authority thought it appropriate to insert a considerable number of conditions in the renewed licence including conditions as to completion of works and applying for planning permission. The clear inference is that until the licence was renewed in December 2024 from September 2023, the premises were not compliant with current regulations. In addition the Respondent had a competitive advantage over other complaint landlords

47. At the date of the hearing he had still not applied for planning permission although he said he was due to do so imminently. The Respondent did not give details of his interactions with the local housing authority and he cannot claim credit for applying for a renewed licence as soon as he was aware of the issue because he did not provide the Tribunal with confirmation of this or a confirmed explanation for the delay.

Financial circumstances of the landlord

48. The Respondent offered no evidence about this but it became clear that this is one of four properties rented out for profit.

Overall evaluation

49. The Tribunal has found that the section 72 offence was committed and the purpose of the provisions in the 2016 Act is partly deterrent, punitive and to disgorge profit.

50. In the light of the foregoing, the Tribunal takes the rent paid £4225.00

and deducts the value of utilities for her benefit £878.56 producing a figure of 3346.44. The Tribunal takes a figure of 40% of that net rent received as the amount of the rent repayment order, for the Applicant, for the periods when the offence was committed. This proportion works out at £1338.57.

Reimbursement of fees

51. The Respondent did not make an offer of compromise of the claim. The Applicant had to bring this application to obtain an order. It is just and equitable the Respondent should reimburse the Applicant the hearing and application fees amounting to £300.00 within 14 days.

Respondent's costs

52. The Respondent asked for an order that his costs others of his witness be paid by the Applicant. The Tribunal does not in the ordinary run of cases make it award of payment of legal costs or costs of a party or their witness in connection with a hearing or preparation for the hearing. An exception to that general rule is where a person who has acted unreasonably in bringing or conducting proceedings within article 13 of the tribunal procedures. There was nothing in the conduct of the proceedings by the Applicant which came close to establishing the level of unreasonable conduct which might justify such an award outlined in cases such as *Willow Court Management Co (1985) Ltd v Alexander* [2016] L. & T.R. 34.

This has been a remote hearing in part which has been consented to by the parties. The form of remote hearing was CVPREMOTE. All issues could be determined in a remote hearing in that application. The documents that we were referred to are set out above

H Lederman

Tribunal Judge

17th February 2025

RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application for permission to appeal must arrive at the Regional office

within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

Appendix relevant legislation

Section 72(1) of the 2004 Act provides that a person who has control of or manages an HMO required to be licensed under section 61 of the 2004 Act commits an offence if it is not so licensed. Section 72(5) of the 2004 Act provides that "In proceedings against a person for an offence under subsection (1), (2) or (3) it is a defence that [the person accused] had a reasonable excuse–

(a) for having control of or managing the house in the circumstances mentioned in subsection (1), or
(b) for permitting the person to occupy the house, or
(c) for failing to comply with the condition,

as the case may be." (Tribunal's insertions)

Section 61(1) of the 2004 Act provides that "Every HMO to which this Part applies must be licensed under this Part unless–

(a) a temporary exemption notice is in force in relation to it under section 62, or
(b) an interim or final management order is in force in relation to it under Chapter 1 of Part 4."

The relevant part of the 2004 Act is Part 2. Section 55 of the 2004 Act is entitled "Licensing of HMOs to which this Part applies". Sections 55(1) and 55(2) of the 2004 Act (in their relevant parts) provide:

"(1) This Part provides for HMOs to be licensed by local housing

authorities where–

(a) they are HMOs to which this Part applies (see subsection (2)), and
(b) they are required to be licensed under this Part (see section 61(1)).

(2) This Part applies to the following HMOs in the case of each local housing authority–

(a) any HMO in the authority's district which falls within any prescribed description of HMO, and
(b)…………………………….”

Article 4 of Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018/221 provides that “An HMO is of a prescribed description for the purpose of section 55(2)(a) of the Act if it—

(a) is occupied by five or more persons;
(b) is occupied by persons living in two or more separate households; and
(c) meets—

(i) the standard test under section 254(2) of the Act;
(ii) the self-contained flat test under section 254(3) of the Act but is not a purpose-built flat situated in a block comprising three or more self-contained flats; or
(iii) the converted building test under section 254(4) of the Act.”

References to “the Act” in that Order are to the 2004 Act: article 3.

1. Section 62(1) provides: “This section applies where a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed, notifies the local housing authority of his intention to take particular steps with a view to securing that the house is no longer required to be licensed.”

2. Sections 62(6) and 62(7) of the 2004 Act provide:

“62(6) If the authority decide not to serve a temporary exemption notice in response to a notification under subsection (1), they must without delay serve on the person concerned a notice informing him of—

(a)the decision,
(b)the reasons for it and the date on which it was made,
(c)the right to appeal against the decision under subsection (7), and

(d)the period within which an appeal may be made under that subsection.

(7)The person concerned may appeal to [the FTT] against the decision within the period of 28 days beginning with the date specified under subsection (6) as the date on which it was made."

3. Section 72(4) of the 2004 Act provides: "In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time— a notification had been duly given in respect of the house under section 62(1),….. and that notification ……… was still effective (see subsection (8))."

4. Section 72(8) of the 2004 Act provides "For the purposes of subsection (4) a notification ……… is "effective" at a particular time if at that time it has not been withdrawn, and either—

(a)the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or….."

Section 254(2) of the 2004 Act. This sets out what constitutes an HMO, falling within the "standard test":

"A building or part of a building meets the standard test if

(a) it consists of one or more units of living accommodation not consisting of self-contained flats;
(b) the living accommodation is occupied by persons who do not form a single household;
(c) the living accommodation is occupied by the tenants as their only or main residence;
(d) their occupation of the living accommodation constitutes the only use of that accommodation;
(e) rents are payable in respect of the living accommodation; and
(f) two or more of the households who occupy the living accommodation share one or more basic amenities, namely the kitchen, a bathroom and a toilet. "