



FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : CHI/29UL/HIN/2024/0025

Property : 61A Guildhall Street, Folkstone, Kent, CT20 1EJ

Applicant : Simon Vreony

Representative :

Respondent : (1)Folkstone & Hythe District Council
(2)Michaela Cridland

Representative : Sarah Salmond counsel for first Respondent

Type of Application : Appeal against an Improvement Notice – Housing Act 2004

Tribunal Members : Judge N Jutton, Mr M Donaldson FRICS, Ms T Wong

Date and Venue of Hearing : 20 February 2025, Havant Justice Centre, Elmleigh Road, Havant, PO9 2AL

Date of Decision : 27 February 2025

DECISION

Background

1. This is an appeal by the Applicant Mr Simon Vreony in respect of an Improvement Notice dated 3 July 2024 (the Improvement Notice) served upon him by the Respondent Folkstone & Hythe District Council pursuant to sections 11 and 12 of the Housing Act 2004 (the Act).
2. The Improvement Notice is in respect of a residential flat known as 61A Guildhall Street, Folkstone CT20 1SE (the Property). The Property is described as a basement flat which is 'semi-subterranean'. It is a two bed flat. It is part of a late 19th century residential property understood to have been converted into four residential flats between 1998 and 2000. The Applicant together with Mr Kyriacos Charalampos Vreony (who is the Applicant's father) let the Property to Mr Carl McEvitt and Ms Michaela Cridland under the terms of a written tenancy agreement dated 5 April 2012. The current occupiers of the Property are Ms Cridland, Mr Hari Francis and 3 children aged 12, 10 and 3.
3. The registered proprietor of the freehold interest in the Property is Mr Kyriacos Charalampos Vreony (Mr KC Vreony). The Applicant describes himself as agent for Mr K C Vreony and 'the trustee and co beneficiary' of the Property. The Applicant says that he carries out most repairs to the Property with the support of outside contractors when needed.
4. The Applicant's appeal was heard by the Tribunal on 20 February 2025. The parties attended the hearing remotely. The Applicant represented himself, the first Respondent was represented by counsel Miss Sarah Salmon and the second Respondent appeared in person. Also in attendance was Mr Martin Smith a private sector housing officer employed by the first Respondent. The Tribunal had before it a bundle of documents of 375 pages. The bundle contained copies of the application, Directions made by the Tribunal, the Improvement Notice, the statements of case and witness statements of the parties, various correspondence including emails and other documents including extracts from various statutes. References to page numbers in this Decision are references to page numbers in the bundle.
5. The Law
6. Part 1 of the Act provides for a system of assessing the condition of residential premises, and the way in which this is to be used in enforcing housing standards. It provides for a Housing Health and Safety Rating System (HHSRS) which evaluates the potential risk to harm and safety from any deficiencies identified in dwellings using objective criteria.
7. Local Authorities apply HHSRS to assess the condition of residential property in their areas. HHSRS enables the identification of specified hazards by calculating their seriousness as a numerical score by prescribed method. Hazards that score 1000 or above are classed as

Category 1 hazards, whilst hazards with a score below 1000 are classed as Category 2 hazards.

8. Section 2(1) of the Act defines hazard as *'any risk of harm to the health or safety of an actual or potential occupier of a dwelling which arises from a deficiency in the dwelling (whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise)'*.
9. Section 2(3) provides *'regulations under this Section may, in particular, prescribe a method for calculating the seriousness of hazards which takes into account both the likelihood of the harm occurring and the severity of the harm if it were to occur'*.
10. Those regulations are the Housing Health and Safety Rating System (England) Regulations 2005.
11. Under Section 5 of the Act, if a Local Authority considers that a Category 1 hazard exists on any residential premises, it must take appropriate enforcement action. Section 5(2) sets out seven types of enforcement action which are appropriate for a Category 1 hazard. The types of enforcement action that a Local Authority may take following identification of a Category 1 hazard include service of an Improvement Notice.
12. Section 7 of the Act contains similar provisions in relation to Category 2 hazards. Power is conferred on a Local Authority to take enforcement action in cases where it considers that a Category 2 hazard exists on residential premises and those courses of action include in Section 7(2) service of an Improvement Notice.
13. Section 9 of the Act requires the Local Authority to have regard to the HHSRS operating guidance and the HHSRS enforcement guidance.
14. Sections 11 to 19 of the Act specify the requirements of an Improvement Notice for Categories 1 and 2 hazards. Section 11(2) defines an Improvement Notice as a notice requiring the person on whom it is served to take such remedial action in respect of the hazard as specified in the Notice.
15. Section 11(8) defines remedial action as action (whether in the form of carrying out works or otherwise) which in the opinion of the Local Authority will remove or reduce the hazard. Section 11(5) states that the remedial action to be taken by the Notice must as a minimum be such as to ensure that the hazard ceases to be a Category 1 hazard but may extend beyond such action. Section 12 of the Act deals with an Improvement Notice for a Category 2 hazard, and contains similar provisions to that in Section 11.
16. An Appeal may be made to the Tribunal against an Improvement Notice under Paragraph 10, Part 3, Schedule 1 of the Act.

17. The Appeal is by way of a rehearing and may be determined by the Tribunal having regard to matters of which the Local Authority is unaware. The Tribunal may confirm, quash or vary the Improvement Notice. The function of the Tribunal on an Appeal against an Improvement Notice is not restricted to a review of the Authority's decision. The Tribunal's jurisdiction involves a rehearing of the matter and making up its own mind about what it would do.
18. Paragraphs 1 to 5 of Part 1 of Schedule 1 to the Act deal with the requirements for the service of Improvement Notices, including identifying the person on whom a notice must be served. Four distinct situations are catered for, each of which identifies the recipient of the notice by reference to the nature of the specified premises in the improvement notice; the expression 'specified premises' is defined in section 13 (5) as premises specified in an improvement notice as premises in relation to which remedial action is to be taken in respect of the hazard. The situations are:
- (a) Where the specified premises are licensed under Part 2 or Part 3 of the Act, the notice must be served on the licence holder.
 - (b) Where the specified premises are not so licensed and are not a flat the notice must be served on 'the person having control of the dwelling' or in the case of an HMO on either the person having control of the HMO or the person managing it.
 - (c) Where the specified premises are a flat which is either a dwelling not licensed under Part 3 of the Act, or an HMO which is not licensed under Parts 2 or 3 the notice must be served on 'the person managing' the flat, or on a person who is both an owner of the flat, and in the authority's opinion ought to take the action specified in the notice.
 - (d) Where any specified premises are common parts of a building containing one or more flats, or any part of such a building which does not consist of residential premises, the notice must be served on a person who is an owner of the specified premises and who in the local authority's opinion ought to take the action specified in the notice.
19. Paragraph 5 of Part 1 of Schedule 1 to the Act further provides in addition that a copy of the notice must be served on every other person who to the knowledge of the local authority has a relevant interest in the specified premises or who is an occupier of such premises.
20. The provisions in Schedule 1 of the Act for identifying the proper recipient of an improvement notice therefore make it important to be able to identify the 'owner', the 'person having control', and the 'person managing' the specified premises.
21. Section 262 of the Act defines amongst other expressions the meaning of 'owner' as a person who is for the time being entitled to dispose of the fee simple of the premises whether in possession or in reversion and also includes a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds 3 years.

22. Section 263 of the Act defines the meaning of the expressions 'person having control' and 'person managing'. 'Person having control' means the person who receives the rack rent of the premises (whether on his own account or as an agent or trustee of another person), or who would so receive if the premises will let at a rack rent (S263(1)).
23. The expression 'person managing' is defined in Section 263(3) as:
.....the person who, being an owner or lessee of the premises-
(a) receives (whether directly or through an agent or trustee) rents or other payments from-
(i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and
(ii) in the case of a house to which Part 3 applies (see section 79 (2)), persons who are in occupation as tenants or licensees of parts of the premises, or the whole of the premises; or
(b) would so receive those rent or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments;
and includes, where those rent or other payments are received through another person as agent or trustee, that other person.
24. The Service of the Improvement Notice
25. There is a copy of the Improvement Notice at pages 3 to 16 of the bundle. Mr Smith told the Tribunal that this had been served on both the Applicant, the proprietor of the freehold interest in the Property Mr Kyriacos Charalampos Vreony (Mr K C Verony), and a copy served on the second Respondent Miss Michaela Cridland. The Applicant confirmed that the Improvement Notice had been served on Mr K C Vreony and Miss Cridland confirmed that she had received a copy.
26. Mr Smith confirmed that the Property was not within a selective licensing area (Part 3 of the Act) nor was it a House in Multiple Occupation (HMO) (Part 2 of the Act).
27. The Property is therefore a flat which is not licensed under either Part 2 or Part 3 of the Act. The requirements for service of the Improvement Notice are therefore governed by paragraph 3 of Part 1 of Schedule 1 to the Act (which is set out above). Miss Salmon confirmed that the Respondent agreed that to be the case. The Improvement Notice was therefore required to be served on the owner of the flat and who in the Respondent's opinion ought to take the action specified in the notice, or on the 'person managing' the flat.
28. The owner of the Property (applying the definition of 'owner' set out in section 262(7) of the Act) is Mr K C Vreony. Miss Salmon confirmed that he was regarded by the first Respondent as the person who ought to take the action specified in the Improvement Notice. Accordingly the Tribunal

is satisfied that the Improvement Notice was properly served in accordance with the requirements of paragraph 3 of Part 1 to Schedule 1 of the Act.

29. To the extent that any part of the specified premises referred to in the Improvement Notice are common parts then the service requirements are governed by paragraph 4 of Part 1 to Schedule 1 of the Act. The requirement is for service of the notice on a person who is an owner of the specified premises and who in the local housing authority's opinion ought to take the action specified in the notice. To the extent that the Improvement Notice relates to common parts, for the reason stated, the Tribunal is satisfied that it was properly served.

30. Other issues and The Appropriate Type of Enforcement Action

31. In his written submissions and at the hearing the Applicant sought to raise various arguments by reference to the Hague Convention, the law applicable to trusts, the Fraud Act 2006, the Modern Slavery Act 2015, and the Protection from Harassment Act 1997. None of these submissions were helpful nor, as the Tribunal explained to the Applicant at the hearing, relevant to the issues that it fell to the Tribunal to determine.

32. The Applicant also contends that the second Respondent, the tenant of the Property, had substantial arrears of rent. That in the circumstances given the breach by the second Respondent of the terms of her tenancy agreement, he is not, he submits, obliged to comply with the landlord's repairing obligations in that agreement. Further, that the first Respondent was aware of the substantial arrears of rent, a matter which the Applicant contends it should have taken into account before serving the Improvement Notice. That not least because of the financial impact the rental arrears had upon the Applicant's financial ability to carry out the works required by the notice.

33. As he put it in summary in his witness statement (page 55) the Applicant says that the first Respondent had failed in its duty to act 'fairly and objectively' towards him.

34. Miss Salmon told the Tribunal that it was not unusual to have a situation where a property was in a poor condition and that there were arrears of rent due from a tenant. That it wasn't for the first Respondent as the local housing authority to address the 'ins and outs' as to why there may be rental arrears. That the purpose of the Act was to allow the local housing authority to look at the standard of repair of the Property and to take appropriate enforcement action. That it could not be the case that the Act was intended not to operate in a situation where an occupying tenant had arrears of rent. It was understood that there had been separate proceedings between the Mr K C Vreony and the second Respondent in the County Court in respect of rent arrears and alleged breaches of the landlord's repairing covenants. There is a County Court judgment at page 202 of the bundle.

35. The Tribunal agrees with the first Respondent. The purpose of the Act is to enable a local housing authority to assess housing conditions and to enforce appropriate housing standards. It does so by the application of the Housing Health and Safety Rating System to evaluate the potential risk to harm and safety from any deficiencies identified in dwellings using objective criteria. Defects found are categorised into either category 1 or category 2 hazards depending upon the HHSRS score achieved. Where a category 1 hazard is found the local housing authority must take appropriate enforcement action (section 5 (1)). Where a category 2 hazard is found the local housing authority has power to take enforcement action. The local housing authority is not restrained by the level of income that may be enjoyed by the landlord/owner or by arrears of rent.

36. The Improvement Notice

37. The Improvement Notice (pages 3–16) is dated 3 July 2024. Schedule 1 to the notice sets out the hazards identified. Schedule 2 sets out the required remedial action to include the date by which the remedial works must be completed. The date for completion of the works to remedy the category 1 hazard identified was 3 September 2024. The date for completion of the works to remedy the category 2 hazards identified was 3 October 2024.

38. The HHSRS Hazard Scoring Forms completed by Mr Smith for the first Respondent in respect of each hazard identified were at pages 222- 245 of the bundle. Mr Smith confirmed that these were his calculations. They were not challenged by the Applicant.

39. The Hazards and Proposed Remedial Actions

40. Category 1 Hazard Excess Cold.

41. The hazard identified is: *The front main entrance door is ill fitting with gaps between the door and frame and rattles in the wind. Some of the black window seals have become dislodged.*

42. This is the front door to the Property. The Applicant said that it was not a hazard 3 years ago. He accepted that the door and frame needed to be replaced but that affordability had been an issue with him.

43. Mr Smith told the Tribunal that gaps around the front door allowed excessive air to come into the Property.

44. The Tribunal is satisfied from the evidence before that the deficiencies identified in the Improvement Notice are properly made out and that the proposed remedial action as set out in the notice is reasonable.

45. The Category 2 Hazards

46. Damp and Mould Growth.

47. The notice identifies slipped and fallen slates on the roof. It identifies ineffective external drainage on the walkway surrounding the property. It states that the direction of fall on the basement well is wrong and that water pools collect in the area causing damage to the walls. It states that the render on the external walls is in contact with the ground causing a bridge for moisture to penetrate the walls. It says there are cracks and damaged render on the external wall surfaces. It refers to a waterproof sheeting with a timber batten nailed to the wall at the rear of the Property which is said to be preventing the wall from drying out. The notice goes on to identify internal mould and elevated moisture readings alongside the main entrance door, in the kitchen/ dining room, the living room, the small bedroom, the master bedroom, and the hall. There is reference to the mains water stopcock in the hallway cupboard leaking and to external guttering containing debris blocking the guttering and downpipes affecting the flow of rainwater.
48. The Applicant said that slipped or fallen slates were irrelevant as regards the second Respondent's occupation of the Property. He didn't accept that the external drainage on the walkway surrounding the Property was inadequate. That blockage to the gutters was caused by falling leaves etc and was simply a matter of ongoing maintenance not disrepair. The Applicant said that the damp in the Property was due to high humidity within it. He questioned as to how the internal walls appeared to be dry in 2021 (he referred to an email from Mr Smith dated 25 August 2021 at page 89) could now be damp. He suggested that the damp metre readings taken from the walls which appeared to show damp in the centre of the wall may well have been 'phantom readings'. He said that the Property was suffering from internally generated condensation.
49. The first Respondent says that the Property was inspected twice by one Tim McCormack an Environmental Health & Housing Consultant as part of the County Court proceedings who reported various hazards at the Property including damp (189). The first Respondent also refers to a report commissioned by the Applicant from the 'Damp Detectives' (122-150) which suggests that the cause of the damp includes penetrating damp, damp possibly caused by entrapped moisture and salts in the exterior walls and induced rising damp.
50. Mr Smith said that the Improvement Notice merely asked the Applicant to check the fall of the pathway and to take reasonable necessary work to ensure that water drained from it. Mr Smith told the Tribunal that high levels of moisture within the walls had been found including high levels of elevated moisture readings. That he had used both pin and radio damp meters both of which showed moisture within the wall. That he had been present when calcium carbide tests had been carried out which showed moisture within the walls.
51. The Improvement Notice requires the removal of a strip of lower render to the external wall to above the damp proof course to prevent moisture

bridging from ground level. That the render should then be finished with a drip curve to divert rainwater away from the base of the wall.

52. The Applicant told the Tribunal that the timber batten and waterproof sheeting at the rear of the property had been removed and that was accepted by Mr Smith. Further that he suspected that internal damp to the property was caused in part by the defect to the main entrance door. Once that had been rectified he anticipated that the damp problems in the property would resolve themselves. He wondered if the first Respondent might be prepared to delay the works proposed in the Improvement Notice until after the front door had been replaced and reset.
53. The Tribunal is satisfied from the evidence before it, and as an expert Tribunal, that the Property is suffering from mould and damp as set out in the Improvement Notice and that the remedial works proposed are reasonable. That it may well be the case that some of the damp within the Property is caused by condensation but on balance the Tribunal is satisfied, not least bearing in mind that the property is a basement flat (described as 'semi-subterranean') and the results of damp meter readings that have been taken that moisture is present within the walls and that the cause thereof is both rising and penetrating damp.
54. The Tribunal confirms the wording in the Improvement Notice save to vary the description of the remedial work to be carried out by removing the words '*remove the timber batten and weatherproof sheeting from the rear of the property and..*'.
55. Uncombusted Fuel Gas.
56. Mr Smith told the Tribunal that he was satisfied that this matter had now been rectified and was no longer an issue. As such the Tribunal varies the Improvement Notice by removing this hazard.
57. Domestic Hygiene, Pests and Refuse.
58. Master Bedroom - the Improvement Notice identified a hole in the floor. It required the hole to be filled and the damaged floor covering to be replaced. The Applicant conceded that there was a hole in the floor near the electrical socket which he said was around 3 in². He didn't accept that it constituted a hazard, but agreed to fill the hole.
59. Kitchen - the Improvement Notice refers to the kitchen worktop behind the sink being perished and not running the full length of the units. That the protective edging strip to the worktop underneath the boiler was missing. That there were damaged and missing tiles around the cooker. That the cover to the extraction outlet was missing on the external wall and that the internal extractor fan cover was loose.
60. The Applicant said that he accepted that the kitchen worktop had perished behind the sink and suggested that a kitchen unit had been removed by the tenant which is why the worktop didn't now run the full

length of the units. That the missing protective edging strip was a maintenance issue and not a health hazard. He didn't accept that the tiles around cooker were damaged. He said that the cover to the extraction outlet on the external wall had been remedied. He accepted that the internal extractor fan cover was loose.

61. Mr Smith confirmed that he was satisfied that a suitable cover had been put on the external extraction outlet.
62. The Tribunal is satisfied from the evidence before it that the deficiencies identified in the Improvement Notice are properly made out and that the proposed remedial action as set out in the notice is reasonable. However it varies the notice to remove the wording in schedule 1 '*the cover to the extraction outlet is missing on the external wall*' and in schedule 2 '*put a suitable cover on the external extraction outlet*'.
63. Living Room - the Improvement Notice requires a hole in the living room to be filled. The Applicant agreed to undertake the necessary work.
64. Bathroom - the Improvement Notice requires missing bath panels to be fitted and the replacement of missing floor covering. The Applicant said that he accepted that the bath panels were missing but said that they had been removed by the tenants. He also contended that the floor covering have been removed by the tenants. The second Respondent said that they had been removed because of a flood in the bathroom due to a 'popped' tap.
65. Whatever the cause of the missing bath panels and floor covering they are matters in the view of the Tribunal which are required to be rectified. The Tribunal confirms the Improvement Notice in that regard.
66. External Gas Cupboard Door - the Applicant said that the missing external gas cupboard door had been replaced and Mr Smith confirmed that was correct and that this was no longer an issue.
67. The Tribunal varies the Improvement Notice by removing the reference to the external gas cupboard door.
68. External Plastic Air Vents - the Applicant said that the external plastic air vents had been cemented in place. Mr Smith confirmed that was correct and that this was no longer an issue.
69. The Tribunal varies the Improvement Notice by removing the reference to external plastic air vents.
70. Guttering - the Improvement Notice states that the guttering contains debris which is blocking the guttering and downpipes. The Applicant said that he didn't accept this was causing a hazard but nonetheless would arrange for a cherry picker to be used to clear the guttering.
71. Falling on Level Surfaces

72. Main entrance door - the Improvement Notice states that the threshold at the bottom of the door was only a timber batten which was not weatherproof. That it should be replaced with a suitable threshold. The Applicant said that this will form part of the works to replace the front door and entire frame, so this would be attended to.
73. Left side of property - the Improvement Notice states that the pathway down the left side of the Property was uneven. The paving had broken up and was overgrown with weeds. It required the damaged pathway to be repaired so as to create a level surface to walk on.
74. The Applicant said that there was no need for anybody to walk down the left hand side of the Property. That the condition of the pathway didn't affect the living conditions of the tenants. Mr Smith stated that nonetheless if people were to use the pathway it would constitute a trip hazard. The Applicant suggested that he simply block the pathway off to prevent access. Mr Smith said that he would be happy with that.
75. The Tribunal accepts that an uneven pathway creates a hazard. If access to the pathway is to be blocked so as to effectively prevent that hazard from causing harm the restriction preventing access to it must be suitable and have a degree of permanence. Accordingly, The Tribunal varies the Improvement Notice to provide that the remedial works required in schedule 2 read: *'repair the damaged pathway down the left side of the property to create a level surface to walk on or alternatively prevent access to the pathway by the provision of a gate with a lock'*.
76. Hallway flooring - the Improvement Notice provides that the hallway flooring is damaged and uneven. It requires the damaged flooring to be replaced so as to create a level surface to walk on.
77. The Applicant said that the difference in the level of the flooring was some 3 mm which would not in his view constitute a trip hazard. Mr Smith said that nonetheless the surface remained uneven.
78. The Tribunal is of the view that uneven flooring with a difference in level of 3mm does constitute a hazard which should be remedied. It confirms the Improvement Notice in that regard.
79. Large Concrete slab at Front Hard Standing Area - the Applicant said that the work required by the Improvement Notice had been completed. Mr Smith confirmed that to be the case save that where the slab had been cut sharp edges had been left which he said should be rounded off. He described that as a 5 to 10 minute job. The Applicant confirmed that he would undertake that work.
80. The Tribunal varies the Improvement Notice by deleting the wording *'the large concrete slab has become detached and is loose underfoot'* and replacing it with *'there are sharp edges to the concrete slab'*, and amending the remedial work by deleting the wording *'secure the large*

concrete slab in place to create a level surface to walk on' and replacing it with the wording 'round off the sharp edges to the large concrete slab'.

81. Falling on Stairs etc

82. Rear concrete steps - the Improvement Notice requires the installation of a handrail. The Applicant agreed to install a handrail. The Tribunal confirms the Improvement Notice in this regard.

83. Electrical Hazards

84. The Improvement Notice requires replacement of damaged electrical plug socket cover. The Applicant confirmed that he would undertake this work. The Respondent proposed that the Improvement Notice be varied to make it clear that the electrical socket concerned was in the master bedroom.

85. The Tribunal amends the Improvement Notice to provide that the Electrical hazard in schedule 1 shall read '*The electrical plug socket cover in the master bedroom is damaged*' and the remedial work in schedule 2 shall read '*Replace the damaged electrical plug socket cover in the master bedroom*'.

86. Fire

87. The Improvement Notice states that there is no smoke detector in the hallway. It requires the installation of a mains wired smoke detector.

88. The Applicant said that there was no need for a smoke detector when the property was refurbished in 1998/1999. That there was a fire panel in the hallway which provided adequate protection. Mr Smith said that nonetheless there should be a smoke detector to provide early warning of fire. The second Respondent said she had put up a smoke detector by which the Tribunal understood she was referring to a battery-powered detector.

89. The Tribunal agrees with the first Respondent that for safety reasons there should be a smoke detector in the hallway. It notes that the second Respondent has erected a smoke detector. In the view of the Tribunal it would be unreasonable and disproportionate to require the erection of a mains wired smoke detector, that a battery-powered detector would be suitable. Accordingly the Tribunal varies the improvement notice to amend the remedial work in schedule 2 to read '*Install a mains wired or battery powered smoke detector*'.

90. Collision and Entrapment

91. Small Bedroom - the Improvement Notice required a repair to the window so that it could be easily opened and closed and for the hinges to the door to be secured so that the door could be easily opened and closed. Mr Smith said that he was satisfied that the window had been repaired and this was

no longer an issue. The Applicant said that the hinges to the door frame were a maintenance issue and not a hazard. The second Respondent said that nonetheless these had been fixed by her partner. Mr Smith confirmed that also was a longer an issue.

92. The Tribunal varies the Improvement Notice by removing the Collision and Entrapment hazard profile from both schedule 1 and schedule 1.

93. Structural Collapse and falling Elements

94. External left side of Property - the Improvement Notice refers to a large brick built structure against the left gable of the Property as starting to lean away from the Property. It requires that the services of a competent structural engineer be employed to advise and then to make safe and sound.

95. The Applicant confirmed that work to secure the brick built structure had been completed. Mr Smith confirmed that was the case and that this item was no longer an issue.

96. Main concrete staircase - the Improvement notice states that the main concrete staircase has started to come away from the Property. Again schedule 2 required the services of a competent structural engineer to be employed to advise and to make safe.

97. The Applicant stated that work had been carried out to make the main concrete staircase safe. Mr Smith confirmed that work had been carried out and that this was no longer an issue.

98. Balcony - the Improvement Notice provided that the balcony was sitting on a steel cross member which was severely corroded and could no longer provide adequate structural support. The Applicant said that he had obtained a structural report which stated this was not an issue. Mr Smith said that he accepted the report and that accordingly this was no longer an issue.

99. Scaffolding - the Improvement Notice refers to scaffolding at the rear of the Property having been erected for several years with some rotten timber scaffolding boards. The remedy in schedule 2 is to instruct a competent structural engineer to carry out a survey and then to carry out any necessary action as recommended to make safe and sound.

100. The Applicant said that the scaffolding was still in place and was not an issue. Mr Smith said that certain scaffolding boards were rotten and dangerous. He understood that one board had fallen down. The second Respondent said that was correct.

101. In the view of the Tribunal unsafe scaffolding at the Property does constitute a hazard. That the scaffolding should be made safe.

102. The Tribunal varies the Improvement Notice by removing under the hazard profile heading of 'Structural Collapse and Falling Elements' in schedule 1 the reference to the 'external left side of property', 'main concrete staircase' and 'balcony'. The remedial work in schedule 2 shall be deleted and replaced with 'Scaffolding. *Remove any rotten scaffolding timber boards and replace so as to make safe*'.
103. Type of Enforcement Action
104. The Applicant submitted that the service of an Improvement Notice was not in any event the appropriate enforcement action to take. That the first Respondent was aware that rent had not been paid and that he didn't have sufficient funds to carry out works to the Property. That in the circumstances it was not appropriate for the first Respondent to serve an Improvement Notice. That the more appropriate action would have been the service of a Hazard Awareness Notice. That would have allowed the Applicant to address and consider what he felt were more appropriate timescales for carrying out work to the Property dependent upon ongoing affordability.
105. Miss Salmon said that it was a matter for the first Respondent to consider what was the most appropriate course of enforcement action. Mr Smith explained that the first Respondent had been dealing with the Property since 2021. That the longer it took the Applicant to carry out repairs to the Property the more it fell into disrepair. He felt that the repairs to the Property has simply dragged on. That the service of a Hazard Awareness Notice would not have been appropriate as that did not provide dates for work to be carried out, it just made a landlord aware of the hazards. The benefit of an Improvement Notice was that it set out a timescale for work be carried out.
106. The Tribunal has given careful consideration in relation to all of the hazards identified in the Improvement Notice as to whether in the circumstances an improvement notice is the most appropriate enforcement action to take. Sections 5(2) and 7(2) of the Act identify the different types of possible enforcement action. None of the hazards which are set out in the Improvement Notice in the view of the Tribunal represent imminent danger to the health and safety of any occupants of the Property and that rules out the options of Emergency Remedial Action, an Emergency Prohibition Order or a Prohibition Order. Patently, the condition of the Property and the nature of the deficiencies rule out the radical options of demolition or clearance. The choice is therefore between an Improvement Notice (with the possibility of suspending the improvement notice) and a Hazard Awareness Notice.
107. There is clearly a history of inspections and communications between the parties in respect of the state of repair of the Property dating back to 2021. Since that time there may have been some degree of repair work carried out but undoubtedly given the passage of time further disrepair would have arisen. A Hazard Awareness Notice advises the owner of a property

of the existence of a hazard and the deficiency causing it. It requires no action to remedy the deficiency on the part of the owner. In the view of the Tribunal not least given the risk of harm and health represented by the hazards identified, a Hazard Awareness Notice would not be appropriate. The hazards require remedying. There is no suggestion by either party that the Improvement Notice be suspended nor does the Tribunal think it would be appropriate to do so. Given the nature of the defects identified in the Improvement Notice in particular in relation to the category 1 hazard identified it was appropriate in the view of the Tribunal for a timescale to be imposed for the completion of the required works and in those circumstances the service of an improvement notice was the appropriate action for the first Respondent to take.

108. Timing

109. The Improvement Notice provided in schedule 2 that the category 1 Hazard remedial works were to be completed by 3 September 2024 (2 months). The category 2 remedial works to be completed by 3 October 2024 (3 months). In the view of the Tribunal those timescales were reasonable but have of course now passed.

110. The Tribunal varies the Improvement Notice in respect of the timescale for the works to be carried out for each hazard profile as set out in schedule 2, as varied, to read as follows:

*'Category 1 Hazards
Deadline (Date by which remedial works must be completed)
30 April 2025'*

*'Category 2 Hazards
Deadline (Date by which remedial works must be completed)
30 May 2025'*

111. Summary of Decision

112. The Improvement Notice

1. The Tribunal confirms the Improvement Notice dated 3 July 2024 save for the following variations:

2. Schedule 1

3. Under the heading of 'Damp and mould growth' and the sub heading 'The drains on the walkway surrounding the property' the words: 'There is waterproof sheeting with a timber batten nailed to the wall at the rear of the property which is preventing the wall from drying out' be deleted

4. The hazard profile 'Uncombusted Fuel Gas' be deleted.

5. Under the heading of 'Domestic Hygiene, Pests and Refuse' the following shall be deleted:
Under the sub heading of 'Kitchen' the words: '*The cover to the extraction outlet is missing on the external wall*'.
'*The External gas cupboard door*'
'*External plastic air vent's*'
6. Under the heading 'Falling on Level Surfaces' and the sub heading '*Large concrete slab at front hard standing area*', the words: '*The large concrete slab has become detached and is loose underfoot*' be deleted and replaced with '*there are sharp edges to the concrete slab*'
7. Under the heading 'Electrical Hazards' the wording be amended to read: '*The electrical plug socket cover in the master bedroom is damaged*'
8. The hazard profile '*Collision and Entrapment*' is deleted.
9. Under the heading 'Structural Collapse and Falling Elements' the sub headings '*External left side of property*', '*Main concrete staircase*' and '*Balcony*' be deleted.
10. Schedule 2
11. The hazard profile 'Uncombusted Fuel Gas' be deleted.

Under the heading 'Domestic Hygiene, Pests and Refuse' the following shall be deleted:
Under the sub heading of 'Kitchen' the words: '*put a suitable cover on the external extraction outlet*'.
'*External Plastic air vents*'
'*External gas cupboard door*'
12. Under the heading of 'Falling on Level Surfaces' and the sub heading '*Large concrete slab at front hard standing area*' the words '*secure the large concrete slab in place to create a level surface to walk on*' be deleted and replaced with: '*round off the sharp edges to the large concrete slab*'. Under the sub heading '*Left side of property*' the remedial action required shall be varied to read: '*Repair the damaged pathway down the left side of the property to create a level surface to walk on or alternatively prevent access to the pathway by the provision of a gate with a lock*'.
13. Under the heading: 'Electrical Hazards' the wording be amended to read: '*Replace the damaged electrical plug socket cover in the master bedroom*'.
14. The hazard profile 'Collision and Entrapment' be deleted.

15. Under the heading; *Structural collapse and Falling elements* References to 'Large brick structure', 'main concrete staircase' and 'balcony' be deleted. The wording: 'Employ the services of a competent structural engineer to survey the above structures and carry out any necessary action highlighted in the recommendations section of the engineers report to make them safe and sound' be deleted and replaced with: 'Remove any rotten scaffolding timber boards and replace so as to make safe'.

16. The deadline date by which the remedial works must be completed shall be varied to read:

Category 1 Hazards
Deadline (Date by which remedial works must be completed)
30 April 2025'

Category 2 Hazards
Deadline (Date by which remedial works must be completed)
31 May 2025'

Judge N Jutton

27 February 2025

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 by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which 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.
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.

