FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference: CAM/12UD/HUA/2024/0600

Property: 2 Sealeys Lane Parsons Drove Wisbech Cambs PE13 4LD

Applicant: Mr Mark Patrick

Representative: In person

Respondent: Fenland District Council

Representative: Andrew Brown (Housing Enforcement Officer)

Type of Application: Financial Penalty

Tribunal members: Judge Granby, Mr G Smith MRICS

Date of Decision: 23 May 2025

DECISION

Introduction

1. This is an appeal against a financial penalty imposed by the Respondent on the Appellant pursuant to its powers under Paragraph 11 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 ("the Regulations").

2. The appeal is against a financial penalty noted dated 9 July 2024 imposing a penalty of £11,001 in respect of the absence of an Electrical Condition Installation Report ("ECIR") in respect of the Appellants property 2 Sealey's Lane, Parson Drove, Wisbech PE13 4LD ("the Property"). At all material times the property was occupied by the Appellant's tenant Ms Wilson and three of her children, until 13 September 2023 the property was also occupied by Ms Wilson's partner who featured in some of the submissions made, this is addressed later in this decision.

3. The grounds of appeal are brief and can be set out in full, they are:

   I was unaware of the change or rules regarding the EICR but as soon as I knew about it the problem was sorted and the EICR was in place

The Hearing

4. The hearing was conducted remotely. The Applicant appeared in person assisted by Ms Wilson who made submissions on behalf of the Applicant. As is often the case with litigants in person these submissions included a considerable amount of factual material. The Respondent was represented by Andrew Brown who also provided a witness statement.

5. The Appellant was given the opportunity to cross examine Mr Brown and did not do so, this is perhaps unsurprising as the Appellant does not challenge any of Mr Brown's evidence.

6. The Tribunal is grateful to Mr Brown, and Ms Wilson for their assistance.

The evidence

7. Mr Browns succinct evidence (the facts of which the Tribunal accepts) was as follows:

On 10 November 2023 I wrote to the appellant Mark Patrick (MP) requesting the current EICR for 2 Sealey's Lane, Parson Drove, Wisbech PE13 4LD of which he was the landlord taking details from land registry and council tax data.

After receiving no response within the 7 days required to respond, a Remedial Notice was served under The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, requiring an EICR to be commissioned within 28 days and supplied to myself. This was dated 24 November 2023.

Later that day I saw I had received an email from MP informing me that he had an electrician going to the property the following weekend and will then send an updated EICR to me. I was further informed that this was the earliest they could book the electrician.

The same day I responded that as I had not heard back from my initial correspondence that I had served a Remedial Notice and that although I do wish to see the new EICR that I still did require any previous report he had. I asked that if there was none then to please confirm that.

I received a response on 28 November 2023 informing me that the electrician will be at the property this week and as soon as he receives the EICR he will forward it to me. It was also confirmed that no previous EICR was in place.

As I had heard nothing, I sent an email on 12 December 2023 chasing the EICR.

A reply email was received on 15 December 2023 informing me that the electrician had visited the property and had booked the work that needed doing for the 27 December. As soon as the work was completed, he will issue an EICR and MP will forward it straight to me.

A letter was attached to this email from the electrician, dated 13 December 2023, stating that following his visual inspection it was found that the consumer unit will have to be changed to comply with BS7671 to provide RCD protection to the old part of the installation. It further advised that he would carry out the work on 28 December and provide a report.

On 18 December 2023 I called the electrician leaving a message and he called me back the same day. I discovered that, as he had informed in his letter, no EICR had been undertaken and only a visual inspection had been carried out. He informed me that the property was in a poor condition and that electrically there were a few issues that would have been recorded as C2 deficiencies on an EICR. There was nothing he was aware of at the time that constituted a C1 deficiency.

Later that same day I emailed the electrician confirming our call so that he had my email address to send the EICR to me. On 19 December I emailed MP thanking him for the information.

On 5 January 2024 I emailed MP asking for the EICR as a considerable amount of time had passed since the EICR was supposedly being completed.

On 7 February 2024 I again emailed MP again requesting the EICR and any other certificates that may have been received with it for the work undertaken.

On 13 February 2024 I received an email informing me that MP was under the impression the electrician was sending the EICR to me. I was informed that they were going to contact him that day to find out what was happening.

I responded the same day relaying that it was concerning this has not been chased up prior, as MP has to supply the tenants with a copy within 28 days of the test being completed.

On 20 February 2024 I received an email from the electrician with an EICR attached. The EICR deemed the electrics as satisfactory. The inspection had been carried out on 10 January 2024 but had not been reviewed until 20 February 2024.

On 21 February 2024 I emailed the electrician back to confirm I had received the report, and I requested the EIC for the work he had completed prior.

I received no response to this email, so I sent a further one to the electrician and MP requesting them both to provide an EIC. No response was received from either person to this request.

On 25 April 2024 I served the Notice of Intent to Serve a Financial Penalty Notice to MP.

On 26 April 2024 I received an email from MP. In it he said, 'in my defence I can only say I was not aware I needed to provide one of these before this time, any advice on this matter would be greatly appreciated'.

On the same day I responded by providing advice and a copy of the council's Housing Enforcement Policy.

On 17 June 2024 Daniel Horn provided me with his review of the case for me to use to compile the final notice.

The Final Notice was served to MP, dated 9 July 2024 and signed by me on Daniel Horn's behalf.

8. The Tribunal has accepted the factual evidence of Mr Brown, it does not accept all of the criticism made or implied. It appears wrong to implicitly criticise the Appellant for thinking his electrician would send the EICR to Mr Brown where Mr Brown had provided his e-mail address for the purpose, it also appeared to the Tribunal to be wrong to refer to the period 19th December 2023 – 5 January 2024 as "considerable" – it is a period of 9 working days over the Christmas period when most contractors will not be working. It also seemed unnecessary to refer to the EIC for earlier works – this is not said to relate to either the breach of duty or the level of penalty imposed.

9. The Applicant did not provide any witness statements, his bundle consisted of 12 pages of photographs of documents (either extracts of the appeal application or notices served by the Respondent) and a short e-mail from Ms Wilson stating that she had been the victim of domestic abuse and that her partner had refused to allow anyone to access the property.

10. Mr Brown's evidence did not address the calculation of the level of financial penalty but the Respondent's bundle included a copy of the

relevant policy which is addressed further later in this policy. Mr Brown gave evidence that nothing he had heard by way of submissions from (or on behalf of) the Applicant would have changed the level of penalty imposed.

Submissions

11. The Appellants submissions had two threads which were flatly inconsistent with each other. The first was, as set out in the application to the Tribunal, the Appellant was simply unaware of the legal requirement to obtain an EICR, he was dyslexic and of limited education such that reading and witing was very difficult. He had a secretary who would assist with post and correspondence twice a week. This strand of the Appellant's case was, effectively, that the Appellant is functionally illiterate. As a result, it was said, the Appellant had an excuse for being unaware of his obligations.

12. The second thread was that Ms Wilson's partner would not allow access to the property to anyone. Ms Wilson described that she was only permitted to leave the property to take children to school (on such journey's she would, it was said, sometimes encounter the Applicant who lived nearby). Ms Wilson described her former partners removal by the police and the involvement, now ended, of social services with her family.

13. In response to questions from the Tribunal both Ms Wilson and the Appellant clarified that access to conduct an electrical inspection had not been requested by the Appellant, the point appeared to be that such a request would have been pointless as it would have been inevitably refused by Ms Wilson's then partner (as, it was implied, it had been on other occasions).

14. The Tribunal observed that both explanations could not be correct – if the reason was a refusal of access then it couldn't be said that the

Appellant was unaware of his obligations. If the Appellant was unaware of his obligations then he could not have requested access for the purpose of fulfilling them.

15. The Appellant stated that he owned two other rental properties, of his portfolio two properties were subject to, in his words "small" mortgages.

16. Ms Wilson submitted that the Appellant was unable to afford the fine and that if it was imposed he would have to sell the Property which would cause considerable difficulties for her as she would have to move, Ms Wilson's children have, Ms Wilson submitted a number of additional support needs some of which arose from the domestic abuse Ms Wilson described.

17. Ms Wilson described the electrician as having to work around her children's needs (including post-traumatic stress) which it was said limited the access she was able to give to the electrician

18. Ms Wilson also submitted that the fine was very high considering there had been (in her view) no actual harm and that the Appellant had generally got on with inspecting and (it appeared) repairing the property once her partner had been removed and the Appellant was able to access the property.

19. The Respondent was permitted to ask questions in respect of these submissions as they were in part evidence. Mr Brown elicited through cross examination, as set out above, that there had been no thwarted attempt to carry out an inspection and that the other properties owned by the Appellant had been, at least for a time, without EICR's.

20. Mr Brown submitted that ignorance of the law was not a defence and that the Appellant could, and should, have either engaged a professional managing agent or joint a landlord association that would

have kept him up to date with legislative developments. Mr Brown observed that being a landlord had become much more complex than it had been historically and that landlords needed to take steps to stay on top of their obligations.

21. Mr Brown made submissions on the application of the policy, these are addressed further below.

Tribunals findings

22. As this appeal is by way of re-hearing the Tribunal must be satisfied, beyond reasonable doubt, that the Appellant was in breach of his obligations under Paragraph 3 of the Regulations, these provide (so far as is material):

3.—(1) A private landlord(1) who grants or intends to grant a specified tenancy must—
(a)ensure that the electrical safety standards are met during any period when the residential premises(2) are occupied under a specified tenancy;
(b)ensure every electrical installation in the residential premises is inspected and tested at regular intervals by a qualified person; and
(c)ensure the first inspection and testing is carried out—
(i)before the tenancy commences in relation to a new specified tenancy; or
(ii)by 1st April 2021 in relation to an existing specified tenancy.

(2) For the purposes of sub-paragraph (1)(b) "at regular intervals" means—
(a)at intervals of no more than 5 years; or
(b)where the most recent report under sub-paragraph (3)(a) requires such inspection and testing to be at intervals of less than 5 years, at the intervals specified in that report.

(3) Following the inspection and testing required under sub-paragraphs (1)(b) and (c) a private landlord must—

(a)obtain a report from the person conducting that inspection and test, which gives the results of the inspection and test and the date of the next inspection and test;

(b)supply a copy of that report to each existing tenant of the residential premises within 28 days of the inspection and test;

(c)supply a copy of that report to the local housing authority within 7 days of receiving a request in writing for it from that authority;

(d)retain a copy of that report until the next inspection and test is due and supply a copy to the person carrying out the next inspection and test; and

(e)supply a copy of the most recent report to—

(i)any new tenant of the specified tenancy to which the report relates before that tenant occupies those premises; and

(ii)any prospective tenant within 28 days of receiving a request in writing for it from that prospective tenant.

23. The Appellant does not claim to have complied with those obligations nor does he say they do not apply. The Tribunal accordingly finds, beyond reasonable doubt, that the Appellant did not comply with them.

24. There is not, in the Regulations, a statutory defence of "reasonable excuse" as there is for certain property licensing offences under the Housing Act 2004. In those cases the absence of a reasonable excuse is an element what are criminal offences, that is not the case here. The decision to impose a penalty once the breach of duty is established in this case is however discretionary and subject to the usual principles of administrative law.

25. It is however unnecessary in this decision for the Tribunal to consider the precise circumstances in which, the breach being established, the

Tribunal would hold that no penalty should be applied. Firstly because it was common ground at the hearing that if the Appellant had a reasonable excuse then there should be no penalty applied.

26. Secondly, and more fundamentally, the Tribunal rejects the Appellants claim of a reasonable excuse. The Tribunal is mindful that it is possible for ignorance of obligations to found a reasonable excuse in cases where that forms part of the statutory test. The Tribunal considers that in considering whether there is an analogous excuse in this case it needs to give personal consideration to the Applicant.

27. The Upper Tribunal, per the Deputy Chamber President in *Marigold v Wells* [2023] UKUT 33 (LC) has noted there is no shortage of guidance on 'reasonable excuse' generally. In *Marigold* the Upper Tribunal (Lands Chamber) applied the Upper Tribunal Tax and Chancery Chamber case *Perrin v HMRC* [2018] UKUT 156 (TCC) in which that Tribunal held, inter alia that the Tribunal must consider (once the facts are made out) whether the excuse is objectively reasonable and, inter alia, that where ignorance of the law was said to be the excuse whether it was objectively reasonable for that particular taxpayer, in the circumstances of the case, to be ignorant of the law.

28. Those cases are concerned with situations where "reasonable excuse" was part of the statutory framework. That is not the case here but, for the reasons given above the Tribunal will consider whether there is (in general terms) a reasonable excuse in this case.

29. Of the two stands to the Appellants submissions described above the Tribunal rejects the second strand – the claim that the Appellant was prevented from carrying out inspections by Ms Wilson's partner (either directly or by his presence). That claim is unsupported by evidence, it is flatly inconsistent with the ground of appeal advanced in the application, it is inconsistent with the remainder of the Appellants submissions (namely that he was unaware of his obligations).

30. The Tribunal also rejects the Appellants submission that he had any form of good reason or reasonable excuse for being unaware of his obligations.

31. The Tribunal accepts that the Appellant was unaware of his obligations and that he is, at least, of limited literacy. The submissions as to the Appellants abilities were consistent with the documentary evidence, the language of the application, the quixotic nature of the "bundle" (thirteen jpeg images of isolated pages) and the Appellants e-mails being drafted by a third party. However the Tribunal finds that this is not a "reasonable excuse" or good reason for being unaware of his obligations and therefore not carrying them out – the Appellant has a portfolio of properties (he is not an accidental landlord, for example by recent inheritance) – that there is a portfolio is part of the circumstances of the case, the more properties there are the less objectively reasonable (or more unreasonable) failure through ignorance becomes.

32. The Appellant could have appointed a professional agent who would have made him aware of his responsibilities, he could have had his secretary check his obligations (they are readily available online, including from the Respondent's website), he could have joined a landlords association that would have told him of his obligations (even if someone had to read the circulars for him). Functionally the Appellant communicates in writing including by e-mail (even if they are, perhaps, dictated and typed by others), there is no reason he could not have made himself aware of his obligations and he was not obliged to invest, and keep invested, his capital in the now heavily regulated business of being a landlord.

Level of Penalty

33. The Respondent imposed a penalty of £11,001 this being a reduction from the £13,000 envisaged in the notice of intention.

34. The Respondent has a policy, the copy provided does not have an obvious title (it is headed "Housing and Planning Act 2016"), in the hearing it was called the enforcement policy and, for convenience, the Tribunal will adopt that name.

35. The policy provides for the penalty to be determined by a numerical score, that score is arrived at by the consideration of a grid, the axis to which are the level of culpability and the level of harm.

36. The Approach the Tribunal must take to such a policy is set out in *London Borough of Waltham Forest and Allan Marshall & London Borough of Waltham Forest and Huseyin Ustek* [2020] UKUT 0035; [2020] 1 W.L.R. 3187 ("Marshall") by which this Tribunal is bound.

37. In *Marshall*, Her Honour Judge Cooke referred at paragraph 15 to the Guidance of the Secretary of State issued in 2016 and again in 2018 with regard to Financial Penalties. At paragraphs 1.2 and 6.3 of the Guidance both local authorities and tribunals are to have regard to the guidance. At paragraph 3.5 the guidance says that local authorities should develop and document their own policy on determining the appropriate level of civil penalty in a particular case; it adds that "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". The paragraph goes on to set out the matters that a local authority "should consider" to "help ensure that the civil penalty is set at an appropriate level". These are:

- Severity of the offence,
- Culpability and track record of the offender,
- The harm caused to the Tenant,

- Punishment of the offender,
- Deter the offender from repeating the offence,
- Deter others from committing similar offences,
- Remove any financial benefit the offender may have obtained as a result of committing the offence.

38. The Upper Tribunal went on at paragraph 42 to state that given a policy, neither the local authority nor a tribunal must fetter its discretion but "must be willing to listen to anyone with something new to say" (as per Lord Reid in *British Oxygen Co Ltd v Minister of Technology* [1971] AC 610 at page 625) and "must not apply to the policy so rigidly as to reject an applicant without hearing what he has to say" (per Lord Denning MR in Sagnata Investments Ltd v Norwich Corporation [1971] 2 QB 614 page 626).

39. In referring to the approach a tribunal should take in applying a policy, HHJ Cooke referred, at paragraph 52, to *R (Westminster City Council) v Middlesex Crown Court, Chorion plc and Fred Proud* [2002] EWHC 1104 (Admin) as being particularly apt. In that case a local authority sought a review of the decision of the Crown Court which allowed an appeal by rehearing of the decision of the authority to refuse an entertainment licence in accordance with policy. Scott Baker J said at paragraph 21:

> *"How should a Crown Court (or a Magistrates Court) approach an appeal where the council has a policy? In my judgement it must accept the policy and apply it as if it was standing in the shoes of the council considering the application."*

40. However, it is added that the cases confirm that accepting the policy does not mean the tribunal may not depart from it provided it gives reasons taking into account the objective of the policy; the onus being on the Applicant to argue such departure.

41. The Upper Tribunal considered what weight should be given to the local authority's decision under its policy. The justification for giving weight to a local authority's policy is, as expressed in *Sagnata Investments Ltd v Norwich Corporation* [1971] 2 QB 614, because it is an elected body and therefore its decisions deserve respect (see paragraph 42 of *Marshal*)

42. In respect of the weight to be attached to a decision under a lawful policy the Upper Tribunal in Marshal said this:

60 So there is a puzzle here, which Mr Underwood did not explore. The words quoted above say that the court will depart from the decision when it is satisfied that it was wrong. But Edmund Davies LJ said that the court in Joffe expressly rejected the idea that the courts are bound by the decision unless it was wrong.

61 The answer to the conundrum is that the idea "unless it is wrong" is being used in two different senses. Both in Joffe and in Sagnata the court rejected the idea that the lower court was exercising a narrow jurisdiction and could assess only whether the original decision was one that could have been reached on the evidence. The idea that the original decision stands "unless it was wrong", that is, wrong in law, is expressly rejected. In both cases the court stressed that this was a re-hearing and not (to use a modern term) a review. But in both cases—in Joffe in the words I quoted at [57] and in Sagnata by reference to those quoted words—the court stressed that the original decision caries a lot of weight; and it is in this sense that it is true that the courts will not vary it unless it is wrong. Here "wrong" means a decision with which the court disagrees; the court can vary that decision where it disagrees with it, despite having given it that special weight.

62 That is why I do not accept without qualification the proposition that Mr Underwood seeks to derive from this group of cases, which is

that the court—or the FTT as Mr Underwood says—must not allow the appeal or vary the local authority's decision unless it is satisfied that it is wrong. The authorities we have looked at so far do use those words, but they make it very clear that the court uses its own judgment. It is not simply carrying out a review; the court is to afford considerable weight to the local authority's decision but may vary it if it disagrees with the local authority's conclusion…

43. This analysis was approved by the Court of Appeal in *Waltham Forest LBC v Hussain* [2023] EWCA Civ 733; [2023] H.L.R. 40 (paragraph 64 per Andrews LJ and Lewison LJ at paragraph 100)

44. In this case there is no suggestion the Enforcement Policy is unlawful, it would be for the Appellant to make such a case, the Tribunal must accordingly apply that policy without fettering itself.

45. The Tribunal has not, however, found the policy easy to interpret.

46. The Respondent characterised the culpability in this case as being "very high" on a 6 level scale, this is the second highest level (the highest being "maximum"). The description of cases that warrant "very high" is *"Where the landlord or agent has seriously breached, or seriously and flagrantly disregarded, the law."*

47. The examples given are in respect of the Housing Act 2004, inter alia, "failure to license an HMO" and in respect of the Regulations:

- Failure to ensure all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every 5 years

- Failure to supply the local housing authority with an EICR within 7 days of receiving a written request for a copy where the report is unsatisfactory.

- Failure to supply a copy of an EICR to the existing tenant(s) within 28 days of the inspection and test where report is unsatisfactory

48. This apparently clear description becomes less clear when the next level down (referred to as "high") is considered. The description of "high" is *"Actual foresight of, or willful blindness to, risk of a breach but nevertheless taken"*, in respect of the Housing Act 2004 the example given is a failure to comply with an improvement notice, in respect of the Regulations:

- Failure to obtain an EICR from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test
- Failure to supply a copy of an EICR to a new tenant before they occupy the premises
- Failure to supply a copy of an EICR to any prospective tenant within 28 days of receiving a request for the report

49. There seems something of a mismatch between the examples given and the principle description of the level, taken in isolation the description of "medium" would best fit the Appellant circumstances namely "Breach committed through an act or omission which a person exercising reasonable care would not commit". The examples in respect of the Regulations for "medium" breaches are of a different nature – essentially failures to provide a satisfactory report to either the tenant or the local authority.

50. If the examples are applied rigidly then there would be surprising results – in this case the Respondent has placed the Appellants culpability on a par with knowingly operating an unlicensed HMO. While the Tribunal has rejected the Appellants claims of a reasonable excuse the Tribunal has accepted that the Appellant is functionally

illiterate, it seems to the Tribunal that the Appellant is less culpable that a notional landlord with a high level of literacy who would have found it easier to become aware of their obligations.

51. Mr Brown's submissions on culpability were simply to refer to the example for "very high" culpability including not having conducted an EICR, Mr Browns submissions were that the Appellants circumstances, if he had known them, would have made no difference to the culpability classification because the Property had not been inspected and that was the example given in the policy. Mr Brown was asked if, in light of what was now said about the Appellants literacy and sophistication he would have reached a different conclusion, the answer was that he would not because the case matched the example.

52. The Tribunal attaches special weight to the Respondents application of its own policy but, on this occasion, departs from it as it is wrong in the sense that the Tribunal, having more information than that provided to the Respondent at the time of the decision, disagrees with it (not in the sense that it is unlawful as a matter of administrative law).

53. It appears to the Tribunal that the Respondent (in Mr Browns submissions at the end of the hearing as to the level of penalty) was too rigidly applying the examples for each level of culpability at the expense of both the description of that band and the Appellants own circumstances – this fettering of the discretion would (if it was a correct construction of the policy) amount to a form of strict liability, an unlawful fettering of the Respondents discretion, a landlord who has not obtained an EICR would always fall into the second most culpable category even if (to use an example discussed in the hearing) they were incapacitated, they would be as culpable as a landlord with a large portfolio who was knowingly acting unlawfully, for example knowingly operating overcrowded unlicensed HMO's for the preferential rental returns.

54. The Tribunal considers that on the particular facts of the case the culpability falls into the "medium" category, the Appellants failure to familiarise himself with his obligations certainly fell below a standard of reasonable care but it did not appear to the Tribunal to be appropriately described as wilful (which would make it a "high" breach) and in the circumstances is certiantly not equally culpable to knowingly operating an unlicenced HMO (which would make it a "very high" breach)

55. No issue is taken with the characterisation of the level of harm as low – the evidence (such as it is) is of C2 deficiencies rather than more serious C1 deficiencies.

56. Step three of the Enforcement Policy is a grid with culpability on one side and harm on the other. Medium culpability but low harm produces a figure of 4.

57. Step four converts that figure to a band, in this case £3,001 - £7,000.

58. Step five is a starting point mid-way through the band, in this case £5,000

59. Step six is an adjustment within the band for "factors" along with any other relevant information. Having found culpability to be "medium" rather than "very high" the Appellants circumstances as the Tribunal has found them do not warrant a further adjustment.

60. The Tribunal does not accept that there should be a reduction (or no penalty at all) because the Appellant claims the Property would have to be sold, to the detriment of Ms Wilson – firstly there is no principle that a penalty that forces a landlord to sell up should be avoided. Secondly there was no evidential basis for a plea of poverty (or illiquidity), no evidence was provided of the Appellants means, the Appellant did not complete the financial information form sent with

the notice of intention. Finally the claim appeared self-serving and somewhat implausible, the Appellant has three rental properties some (but not all of which) have "small" mortgages, it was also hard to see why if something had to be sold it would be the Property that would have to be sold not some other property.

61. Step seven (the final step) is fairness and proportionality. The Tribunal makes no reduction for fairness or proportionality having taken account of the Appellants circumstances when considering culpability. The Appellant may consider £5,000 to be a substantial fine but that does not make it unfair – the Appellant did not comply with his statutory obligations in respect of the Property while enjoying the rental income from it, the provisions are meant to be punitive and to carry a detract factor.

62. The consequence is that the penalty notice is varied to £5,000.

63. The Tribunal has worked through the policy in stages, if it were wrong to place this case in the "medium" rather than "very high" category then the starting point would have been a penalty of £13,000. The Tribunal would have reduced that by £5,000 by way of reductions at step 6 and step 7 to account for relevant information, fairness and proportionality which would have produced a figure of £8,000.

Conclusion

64. The penalty notice is varied to £5,000

Appeals

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 rpeastern@justice.gov.uk .

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.

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.

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.