



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

Case reference	:	HAV/43UF/HNA/2024/0608/ HAV/43UF/HNA/2025/0001
Property	:	32 The Drive, Horley, RH6 7NG
Applicant	:	Huria Ali
Representative	:	None
Respondent	:	Reigate & Banstead Borough Council
Representative	:	None
Type of application	:	Appeal against two Financial Penalties- Section 249A & Schedule 13A of the Housing Act 2004.
Tribunal members	:	R Waterhouse FRICS A Crawford MRICS T Wong
Date and Venue of hearing	:	5 June 2025
Date of Decision	:	28 July 2025

DECISION

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Decision of the Tribunal

1. The Tribunal reduces the Financial Penalty Reference HAV/43UF/HNA/2024/0608/BS imposed on the Applicant of **£3500**, in respect of the offence under section 72 (3) of the Housing Act 2004. This sum is to be paid by **5 September 2025**.

2. The Tribunal **cancels** the Financial Penalty Reference HAV/43UF/HNA/2024/0001/BS imposed on the Applicant of £1500.00 in respect of the offence under section 72(3) of the Housing Act 2004.
3. The Tribunal does not make an order for the Respondent to refund to the Applicant the tribunal fees which have been paid.

The Application

4. On 5 December 2024 the Tribunal received an appeal from the Applicant against a financial penalty made under section 294A of the Housing Act 2004. The Tribunal sent a copy of the appeal to the Respondent Local Housing Authority.
5. The Notice of Financial Penalty received with that application was dated 6 November 2024 in the sum of £4000.00 with reference [24/00258/HCPNF]
6. Directions were issued on 4 February 2025 setting a timetable for the exchange of documents preparatory to a final hearing to take place on 10 April.
7. By a case management application dated 10 February 2025 the Applicant applied to amend the application to include a second notice of financial penalty, also dated 6 November 2024 in the sum of £1500.00 with reference [24/00259/HCPNF] stating that 'On the original form there was not space for more than one reference number so I just included one of the 2. Please can you ensure the £4000.00 penalty notice is included, as this is the bigger fine that has been imposed.'
8. The Tribunal refused that case management application on 13 February 2025 on the basis that if the Applicant wished to appeal a 2nd Final Notice, the application on the appropriate form with the appropriate application fee would be required.
9. On 14 February 2025 the Applicant submitted a further case management application requesting an extension for 18th February 2025 witness statement date, payment of additional fee and request for remote trial.
10. On 18 February 2025 the Applicant submitted a second appeal against the notice of financial penalty dated 6 November 2024 in the sum of £1500.00 with reference [24/00259/HCPNF].
11. The Respondent wrote in an email to the Tribunal and Applicant dated 20 February 2025; "*I write to state that we have not objected and do not object to the Applicant's request for a remote hearing and extension of time for her witness statement, in the attached application.*"
12. The Tribunal decided with reference to its overriding objective and all the correspondence from both parties to date, that the appeals against both notices together should be heard together. Ref HAV/43UF/HNA/2024/0608/BS and HAV/43UF/HNB/2025/0001/BS

13. The Applicant has filed a Bundle of Documents comprising 552 pages.

The Hearing

14. Ms Ali, the applicant, the owner gave appeared in person. Mr Kosteletos of counsel acted for the respondent Reigate & Banstead Borough Council, Ms Lade, Housing Licencing and Enforcement Officer of Reigate & Banstead Borough Council was present but was not called as a witness.

15. This was a rehearing. Mr Kosteletos of counsel presented the case for Reigate & Banstead Borough Council, and Ms Ali then represented herself.

The Law

16. The Housing Act 2004 ("the 2004 Act") introduced a new system of assessing housing conditions and enforcing housing standards. Part 2 of the Act relates to the licencing of Houses in Multiple Occupation ("HMOs") whilst Part 3 relates to the selective licensing of other residential accommodation.

17. Part 2 of the Housing and Planning Act 2016 introduced a raft of new measures to deal with "rogue landlords and property agents in England". Section 126 amended the 2004 Act by adding new provisions permitting local housing authorities ("LHAs") to impose Financial Penalties of up to £30,000 for a number of offences as an alternative to prosecution.

18. Section 72 of the 2004 Act creates a number of offences in relation to the licencing of HMOs. Section 72(3) provides: "(3) A person commits an offence if— (a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 67(5), and (b) he fails to comply with any condition of the licence.

19. Section 72(5) provides that in proceedings against a person for an offence under subsection (3), it is a defence that he had a reasonable excuse for failing to comply with the condition,

20. Schedule 13A deals with the procedure for imposing Financial Penalties and appeals against them. Paragraph 10 of Schedule 13A provides for a right of appeal:

"(1) A person to whom a final notice is given may appeal to the First-tier Tribunal against—

(a) the decision to impose the penalty, or

(b) the amount of the penalty.

(2) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.

(3) An appeal under this paragraph—

- (a) is to be a re-hearing of the local housing authority's decision, but
 - (b) may be determined having regard to matters of which the authority was unaware.
 - (4) On an appeal under this paragraph the First-tier Tribunal may confirm, vary or cancel the final notice.
 - (5) The final notice may not be varied under sub-paragraph (4) so as to make it impose a financial penalty of more than the local housing authority could have imposed.”
21. Paragraph 12 of Schedule 13A requires a LHA to have regard to any guidance given by the Secretary of State about the exercise of its functions under s.249A. The current guidance issued by the Secretary of State, is set out in a document “Civil penalties under the Housing and Planning Act 2016: Guidance for Local Housing Authorities” (April 2008). LHAs are expected to develop and document their own policy on when to prosecute and when to issue Financial Penalties and should decide which option they wish to pursue on a case-by-case basis in line with that policy. LHAs should also adopt their own policies about how to determine the appropriate level of a penalty.
 22. Section 3.5 specifies factors which a LHA should take into account when deciding on the level of the civil penalty (p.55-56). Seven factors are listed: (a) Severity of the offence; (b) Culpability and track record of the offender; (c) The harm caused to the tenant; (d) Punishment of the offender; (e) Deter the offender from repeating the offence; (f) Deter others from committing similar offences; and (g) Remove any financial benefit the offender may have obtained as a result of committing the offence.
 23. In *Hussain (Nasim) v Waltham Forest LBC* [2023] EWCA Civ 733; [2024] KB 154, the Court of Appeal gave importance guidance on the scope of any appeal. The task for this tribunal is to determine whether the decision under appeal had been wrong when it had been taken. In this context, “wrong” meant that the tribunal disagreed with the decision under appeal despite having accorded it the deference or special weight appropriate to a decision involving the exercise of judgment by the body tasked by Parliament with the primary responsibility for making licensing decisions. In reaching its decision, the tribunal could have regard to matters of which the LHA had been unaware, including matters arising after the LHA’s decision, provided those matters were relevant to the assessment of whether that decision had been right or wrong at the time it was taken (see Andrew LJ at [63]).

Reigate and Banstead Borough Council Policy

24. The Reigate and Banstead Borough Council – Environmental Health and Licensing Enforcement Policy [400]

25. The Objectives of the policy are set out in paragraph 3 and the enforcement options in paragraph 6. [403]
26. The Reigate and Banstead Borough Council – Housing Enforcement Policy [409] The Aims and Principles are set out, as is a section on Determining Appropriate Action, noting “in the case of certain specified Housing Act 2004 offences the administration of a civil financial penalty, the Environmental Health Enforcement Decision Matrix will be used to help reach a conclusion.” [411]
27. Appendix A considers “Factors taken into account when deciding the level of civil penalty”. [437] Appendix B relates to “Environmental Health Enforcement Decision Matrix” which includes “The Full Code test comprising an evidential stage and a public interest stage.”

The Background

28. Ms Ali described that the property had six tenants, three had ensuite bathrooms with their rooms and three shared a bathroom. Ms Ali considered herself to be a dedicated landlord, and did not shy away from replacing items that required replacing or upgrading. She emphasised that she was a compliant landlord and wanted to work with the relevant authorities within the regulations to provide safe accommodation for the occupiers.
29. Ms Ali acquired this property at 32 The Drive, Horley, RH6 7NG in 2007 for £220,000. [245]. The current mortgage on the property is £ 329,000 [4]. On 29 September 2023 an application for a renewal of an HMO licence was received from Ms Huria Ali for the subject property.
30. On 28 December 2023 a draft HMO licence was sent with covering letter, the covering letter contained paragraphs that stated the number of occupants should not exceed 6. The letter highlighted conditions 18 and 19 that related to Fire Risk Assessment and requirement to maintain the fire alarm system and complete a logbook.
31. The HMO Licence was issued on 18 January 2024. On 29 February 2024 the Respondent wrote notifying of an inspection on **12 March 2024** and identifying the need for various documentation to be available during the inspection.
32. The Respondent took a number of photographs during the inspection.
33. On **22 March 2024 after** the visit two Housing Act 2004 Improvement Notices were served. The first for fire safety and the second for excess cold and position of amenities.
34. On 22 March 2024 the Respondent set a post inspection letter that set out the non-compliances, licence conditions and Management Regulations in a table. The letter also invited the Applicant to an interview under caution.

35. On the 3 May 2024 the Applicant provided an update of the works via email, the update included photographs.
36. On 7 May 2024 the Applicant cancelled the interview under caution, on 9 May 2024 the Respondent inspected the property in connection with issued Housing Act 2004 Improvement Notice compliance for the Notices served on 22 March 2024.
37. The Respondent confirmed the Notices were compliant except for the Fire safety logbook, and a FENSA certificate required because the window had been replaced rather than repaired.[454]
38. On 4 September 2024 a Sanction Panel Meeting to determine the possibility of issuing financial penalties took place. The panel considered each of the 24 alleged offences and the proposed scores and penalties. A summary of the sanctions meeting 4September 2024 was contained in the bundle.
39. At the end of the Sanction meeting, eleven items remained that the panel concluded were important, and that each should be counted as one penalty charge.
40. Notices of Intent to Issue a Financial Penalty were served on 6 September 2024 with an invitation to make representations by 8 October 2024. These related to Duty 4 Safety Measures ref 24/00211/HCPNI and Duty 7 to maintain common parts, fixtures, fittings and appliances ref 24/00212/HCPNI.
41. On the 3 October 2024 Ms Ali submitted her representations to the Notice of Intent. [256 /258] The Respondent comments are in red on the Applicants representations.
42. The Respondent noted that Representations were received and discussed at the sanctions meeting of 10 October 2024. No changes to the Notice of Intent were made.
43. The Final Notices were issued on 6 November 2024 [290] ref 24/00258/HCPNNF £4000. [271], Copy of the £1500 ref 24/00259/HCPNF) is at [279] [296]
44. **Final Notice Ref 24/00258/HCPNF of £4000** relates to
- “1. Ensure that all means of escape from Fire in the HMO are kept free from obstruction
- (a) Allowing furniture and tenants belongings in the final exit corridor
2. Ensure that all means of escape in event of fire in the HMO are maintained in good order and repair.
- (a) failing to maintain the fire door self-closer to the highest risk room, kitchen

(b) Failing to maintain the integrity of the bedroom fire doors, not recognising that redundant door handles stuffed with paper compromises the door integrity and ability to contain smoke and flames

3. Ensure that the fire alarms are maintained in good working order.

(a) Insufficient routine testing- no scheduled weekly testing (as best practice) on a different detector each time to ensure the fire alarm is operating correctly between annual testing, so it can be relied on to work in event of fire.”

45. **Final Notice Ref 24/00259/HCPNF of £1500** relates to Housing Act 2024 Section 234 – management regulations in respect of a House in Multiple Occupation

The law states:

The Management of Houses in Multiple Occupation (England) Regulations 2006

Duty of manager to maintain common parts, fixtures, fittings and appliances

7-(1) The manager must ensure that all common parts of the HMO are-

(a) maintained in good and clean decorative repair

(b) maintained in a safe and working condition; and

(c) kept reasonably clear from obstruction

(2) In performing the duty imposed by paragraph (1) the manager must in particular ensure that-

(f) subject to paragraph (3), fixtures, fittings or appliances used in common by two or more households within the HMO are maintained in good and safe repair and in clean working order.

The Housing Officer noting that,” in that Ms Huria Ali as manager for the Licenced House in Multiple Occupation has failed to ensure that:

1. The extractor fan in the shared bathroom is clean
2. The shower drain in the shared bathroom is clean and flowing freely
3. That the shared fridges and freezers are kept clean and frost free so as to be in proper hygienic, working order.

The Tribunal’s Decision

46. This is a rehearing. The tribunal is satisfied beyond reasonable doubt that Ms Ali committed an offence under section 234 Housing Act 2004 – management regulations in respect of a House in Multiple Occupation.

47. In respect of Ref **24/00258/HCPNF of £4000 [263]** the alleged offence comprised a number of parts.

Alleged- means of fire escape – furniture and tenants belongings in the final corridor

48. The submissions of the applicant, respondent and deliberations of the sanctions panel [263] have been considered. The tribunal saw photographic evidence of the doorway having a piece of low-level furniture, described either as a chest of drawers or a shoe rack. The tribunal observed the hinges of the door would require the door to open inwards. The door is located on the outer flank of the wall and so there is, by the presence of the wall, a limit to how much the door could open. When asked Ms Ali stated that at the time of the first inspect, no one attempted to open the door to ascertain the level of blockage. Visually the chest of drawers overlaps the wall into the area of the door opening by a couple of inches and so would prevent the door from fully opening. The bundle contained a photograph date 1 April 2024. The photograph shows the chest of drawers / shoe rack had been removed. The wall above the door and the wall to the right of the door, as viewed from the inside had Fire Exit/Keep clear signs attached.

Alleged - the kitchen door closer was disconnected.

49. The submissions of the applicant, respondent and deliberations of the sanctions panel [263] have been considered. The tribunal has seen photograph of the part of the automatic door closer that attaches to the door frame being detached. There is no evidence of how long the door closer has been detached. The inspection of the 12 March 2024 identified the issue and the second inspect of 9 May 2025 identified the issue resolved.

Alleged- failure to maintain the integrity of the bedroom fire doors not recognising that redundant door handles stuffed with paper compromise the doors integrity and ability to contain smoke and fumes.

50. The submissions of the applicant, respondent and deliberations of the sanctions panel [263] have been considered. The tribunal heard from the applicant that annual fire risk assessments were carried out at the property. The applicant says that after the inspection of 12 March 2024, the applicant instructed a commercial fire risk assessment company to carry out the inspection. There was no copy of this report within the bundle. The inspection prior to this had been carried out by the landlord. The landlord contended that the “Regulations” permitted landlords to carry out their own risk assessments provided they were familiar with the regulatory requirements. There was no evidence provided as to what constituted sufficient understanding nor whether the landlord had independent proof of such. Prior to the inspection of the 12 March 2024, the landlord stated that the fire risk assessments had been carried out by either herself or a contractor. There was no evidence in the bundle of these reports. There was clear photographic evidence that at some stage in the past the door locks and handles had been changed, the result of which was that there were holes in the doors around the handles. Material had been pushed into the holes. The landlord stated that some time prior to inspection of the 12 March 2023,

the then letting agent had reported to her the landlord that a council officer had inspected and said that the holes in the door were not a problem. The landlord submitted they had received contradictory advice from the council over whether the holes in the doors were a problem or not. The landlord then replaced the doors with new FD 30 doors, the previous being stated by the landlord as being FD60.

51. The tribunal takes fire safety very seriously and it would be good practice to receive annual fire risk assessments from an independent professional contractor. The tribunal believes that if this were to have happened and if the holes were present, then such a report would flag the issue and make recommendations as to their remedy.
52. This did not happen. Notwithstanding, what conversations may have taken place, providing assurance, good practice would suggest that an independent fire assessment should take place on an annual basis.

Alleged – failure to ensure that the fire alarms are maintained in good working order

(a) Insufficient routine testing – no scheduled weekly testing (as best practice) on a different detector each time to ensure the fire alarm system is operating correctly between annual testing, so it can be relied on to work in event of a fire.

53. Different fire systems will require different testing periods. As with the issue immediately about, it is apparent that the landlord felt that the proactive testing that was recorded in the logbook was sufficient. However, the frequency of the testing, its nature and what action may or may not be required was not consistently recorded. The recording of this information is both good practice and a requirement of the HMO licence.
54. **In respect of Ref 24/00 /HCPNF of £1500 [269] the alleged offence comprised a number of parts.**

Failure to ensure the extractor fan in the shared bathroom is clean

55. The submissions of the applicant, respondent and deliberations of the panel [263] have been considered. The tribunal has heard that the bathroom which housed the extractor was refitted 18 months before and the extractor was new then. The tribunal has also heard that the bathroom or more accurately the shower room as there is no bath, is used by three tenants. The landlord reiterated the extractor was new 18 months ago, and the respondent focussed on its condition in terms of cleanliness. The landlord noted that the cleaners who attend weekly were not instructed to clean it. The landlord after the inspection of 12 March 2025 had the extractor fan replaced.

Failure to ensure the shower drain in the shared bathroom is clean and flowing freely

56. The submissions of the applicant, respondent and deliberations of the panel [263] have been considered. The tribunal saw a photograph of the drain of the shower with its cap removed. This showed water in the drain hole. Additionally, it is understood, from the parties that the water rose in the drain when fresh water was introduced, but equally that no tenant had complained previously. There was no record of the specific drain in the shower having been attended to subsequently. However, the landlord noted the issue was one of hair blocking the drain and that this was easily resolved. There were entries in the log that showed a plumber in attendance to address a previously ill fitted WC, the drain being at too shallow an incline, leading to issue including odour.

Failure to ensure shared fridges and freezers are kept clean and frost free so as to be in proper hygienic, working order.

57. The submissions of the applicant, respondent and deliberations of the panel [263] have been considered. The tribunal heard that at its peak there were five fridges and freezers present of which four, that is two fridges, and two freezers were owned by the landlord. The fifth being the ownership of the tenant. It was common ground between the parties that an item not in the ownership of the landlord is not the responsibility of the landlord.

58. The freezers had excess ice which may have caused the plastic trays to break when attempts were made to open them. The fridges were dirty and evidence of mould around the seals. It is understood that a replacement freezer was ordered, and this appears in the record log for April 2024.

59. Fridges and freezers within HMOs, are often intensively used and with good practice should form part of a regular cleaning routine.

60. **The amount of penalty is set out by the Respondent in their exhibit, [229]. In respect of the first, the Severity of the offence has been scored as “medium”, the culpability and track record of the offender is scored as “Medium”. The harm caused to the tenant is scored as “High”. This gives the starting point of the fine at £8000.00. The Respondent noted at the point of the Sanction Meeting that the works were completed, as such a 50% reduction was made.**

61. The tribunal for the reasoning above maintains the Penalty Notice but amends it from £4000 to £3500 to reflect what the tribunal considers excess penalty in respect of the chest of drawers / shoe rack element but confirms the penalty in respect of the remainder.

62. **In respect of the second, the culpability and track record of the offender is scored as “Medium”. The “Harm” is set as low. This produces a starting point of the fine at £3000.00. The Respondent noted at the point of the Sanction meeting, that the**

works were now completed and so a 50% reduction to £1500.00 was appropriate.

63. The tribunal has considered each of the three items and believes all three to be examples of items that periodically require intervention within a properly managed HMO. However, the tribunal also considers that in all these cases; dust in the extractor fan, below par draining of one shower, there being four bathrooms, and iced fridges leading to ineffective seals and some mould are not sufficient to warrant the penalty and that advisory measures would be adequate. The tribunal therefore cancels this penalty notice.

Rights of Appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Legal Annex

Housing Act 2004 Extracts

9 Guidance about inspections and enforcement action

(1) The appropriate national authority may give guidance to local housing authorities about exercising—

(a) their functions under this Chapter in relation to the inspection of premises and the assessment of hazards,

(b) their functions under Chapter 2 of this Part in relation to improvement notices, prohibition orders or hazard awareness notices,

(c) their functions under Chapter 3 in relation to emergency remedial action and emergency prohibition orders, or

(d) their functions under Part 9 of the Housing Act 1985 (c 68) in relation to demolition orders and slum clearance.

(2) A local housing authority must have regard to any guidance for the time being given under this section
[...]

Prohibition orders

20 Prohibition orders relating to category 1 hazards: duty of authority to make order

(1) If— (a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,
making a prohibition order under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

(2) A prohibition order under this section is an order imposing such prohibition or prohibitions on the use of any premises as is or are specified in the order in accordance with subsections (3) and (4) and section 22.

(3) The order may prohibit use of the following premises— (a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may prohibit use of the dwelling or HMO; 10

(b) if those premises are one or more flats, it may prohibit use of the building containing the flat or flats (or any part of the building) or any external common parts;

(c) if those premises are the common parts of a building containing one or more flats, it may prohibit use of the building (or any part of the building) or any external common parts. Paragraphs (b) and (c) are subject to subsection (4).

(4) The notice may not, by virtue of subsection (3)(b) or (c), prohibit use of any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied—

(a) that the deficiency from which the hazard arises is situated there, and

(b) that it is necessary for such use to be prohibited in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.

(5) A prohibition order under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.

(6) The operation of a prohibition order under this section may be suspended in accordance with section 23.

21 Prohibition orders relating to category 2 hazards: power of authority to make order

(1) If—

(a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

the authority may make a prohibition order under this section in respect of the hazard.

(2) A prohibition order under this section is an order imposing such prohibition or prohibitions on the use of any premises as is or are specified in the order in accordance with subsection (3) and section 22.

(3) Subsections (3) and (4) of section 20 apply to a prohibition order under this section as they apply to one under that section.

11 (4) A prohibition order under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.

(5) A prohibition order under this section may be combined in one document with an order under section 20 where they impose prohibitions on the use of the same premises or on the use of premises in the same building containing one or more flats.

(6) The operation of a prohibition order under this section may be suspended in accordance with section 23.

27 Service of copies of prohibition orders etc and related appeals

Schedule 2 (which deals with the service of copies of prohibition orders, and notices relating to their revocation or variation, and with related appeals) has effect.

SCHEDULE 2

PROCEDURE AND APPEALS RELATING TO PROHIBITION ORDERS

Section 27

Part 1

Service of Copies of Prohibition Orders Service on owners and occupiers of dwelling or HMO which is not a flat

1

(1) This paragraph applies to a prohibition order where the specified premises are a dwelling or HMO which is not a flat.

(2) The authority must serve copies of the order on every person who, to their knowledge, is—

(a) an owner or occupier of the whole or part of the specified premises;

(b) authorised to permit persons to occupy the whole or part of those premises; or

(c) a mortgagee of the whole or part of those premises.

(3) The copies required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the order is made.

(4) A copy of the order is to be regarded as having been served on every occupier in accordance with sub-paragraphs (2)(a) and (3) if a copy of the order is fixed to some conspicuous part of the specified premises within the period of seven days mentioned in sub-paragraph (3).

Service on owners and occupiers of building containing flats etc

2

(1) This paragraph applies to a prohibition order where the specified premises consist of or include the whole or any part of a building containing one or more flats or any common parts of such a building.

(2) The authority must serve copies of the order on every person who, to their knowledge, is—

(a) an owner or occupier of the whole or part of the building;

(b) authorised to permit persons to occupy the whole or part of the building;
or

(c) a mortgagee of the whole or part of the building.

(3) Where the specified premises consist of or include any external common parts of such a building, the authority must, in addition to complying with sub-paragraph (2), serve copies of the order on every person who, to their knowledge, is an owner or mortgagee of the premises in which the common parts are comprised.

(4) The copies required to be served under sub-paragraph (2) or (3) must be served within the period of seven days beginning with the day on which the order is made.

(5) A copy of the order is to be regarded as having been served on every occupier in accordance with sub-paragraphs (2)(a) and (4) if a copy of the order is fixed to some conspicuous part of the building within the period of seven days mentioned in sub-paragraph (4).

Part 3

Appeals Relating to Prohibition Orders

Appeal against prohibition order

7 (1) A relevant person may appeal to [the appropriate Tribunal] against a prohibition order.

(2) Paragraph 8 sets out a specific ground on which an appeal may be made under this paragraph, but it does not affect the generality of subparagraph (1).

8

(1) An appeal may be made by a person under paragraph 7 on the ground that one of the courses of action mentioned in sub-paragraph (2) is the best course of action in relation to the hazard in respect of which the order was made.

(2) The courses of action are—

(a) serving an improvement notice under section 11 or 12 of this Act;

- (b) serving a hazard awareness notice under section 28 or 29 of this Act;
- (c) making a demolition order under section 265 of the Housing Act 1985 (c 68).

Appeal against decision relating to revocation or variation of prohibition order

9

A relevant person may appeal to [the appropriate Tribunal] against—

- (a) a decision by the local housing authority to vary a prohibition order, or
- (b) a decision by the authority to refuse to revoke or vary a prohibition order.

Time limit for appeal

10

(1) Any appeal under paragraph 7 must be made within the period of 28 days beginning with the date specified in the prohibition order as the date on which the order was made.

(2) Any appeal under paragraph 9 must be made within the period of 28 days beginning with the date specified in the notice under paragraph 3 or 5 as the date on which the decision concerned was made.

(3) [The appropriate Tribunal] may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

Powers of . . . Tribunal on appeal under paragraph 7

11

(1) This paragraph applies to an appeal to [the appropriate Tribunal] under paragraph 7.

(2) The appeal— (a) is to be by way of a re-hearing, but (b) may be determined having regard to matters of which the authority were unaware.

(3) The Tribunal may by order confirm, quash or vary the prohibition order.

(4) Paragraph 12 makes special provision in connection with the ground of appeal set out in paragraph 8.

12

(1) This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 8.

(2) When deciding whether one of the courses of action mentioned in paragraph 8(2) is the best course of action in relation to a particular hazard,

the Tribunal must have regard to any guidance given to the local housing authority under section 9.

(3) Sub-paragraph (4) applies where—

(a) an appeal under paragraph 7 is allowed against a prohibition order made in respect of a particular hazard; and

(b) the reason, or one of the reasons, for allowing the appeal is that one of the courses of action mentioned in paragraph 8(2) is the best course of action in relation to that hazard.

(4) The Tribunal must, if requested to do so by the appellant or the local housing authority, include in its decision a finding to that effect and identifying the course of action concerned.

Powers of . . . Tribunal on appeal under paragraph 9

13

(1) This paragraph applies to an appeal to [the appropriate Tribunal] under paragraph 9.

(2) Paragraph 11(2) applies to such an appeal as it applies to an appeal under paragraph 7. 15

(3) The Tribunal may by order confirm, reverse or vary the decision of the (3)
The Tribunal may by order confirm, reverse or vary the decision of the local housing authority.

(4) If the appeal is against a decision of the authority to refuse to revoke a prohibition order, the Tribunal may make an order revoking the prohibition order as from a date specified in its order.

“The operative time” for the purposes of section 24(5)

14

(1) This paragraph defines “the operative time” for the purposes of section 24(5) (operation of prohibition orders).

(2) If an appeal is made under paragraph 7 against a prohibition order which is not suspended, and a decision on the appeal is given which confirms the order, “the operative time” is as follows— (a) if the period within which an appeal to the [Upper Tribunal] may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;

(b) if an appeal to the [Upper Tribunal] is brought, “the operative time” is the time when a decision is given on the appeal which confirms the order.

(3) If an appeal is made under paragraph 7 against a prohibition order which is suspended, and a decision is given on the appeal which confirms the order, “the operative time” is as follows— (a) the time that would be the operative time under sub-paragraph (2) if the order were not suspended, or

(b) if later, the time when the suspension ends.

(4) For the purposes of sub-paragraph (2) or (3)—

(a) the withdrawal of an appeal has the same effect as a decision which confirms the notice, and

(b) references to a decision which confirms the order are to a decision which confirms it with or without variation.

“The operative time” for the purposes of section 25(7)

15

(1) This paragraph defines “the operative time” for the purposes of section 25(7) (revocation or variation of prohibition orders).

(2) If no appeal is made under paragraph 9 before the end of the period of 28 days mentioned in paragraph 10(2), “the operative time” is the end of that period.

(3) If an appeal is made under paragraph 10 within that period and a decision is given on the appeal which confirms the variation, “the operative time” is as follows—

(a) if the period within which an appeal to the [Upper Tribunal] may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;

(b) if an appeal to the [Upper Tribunal] is brought, “the operative time” is the time when a decision is given on the appeal which confirms the variation.

(4) For the purposes of sub-paragraph (3)—

(a) the withdrawal of an appeal has the same effect as a decision which confirms the variation, and

(b) references to a decision which confirms the variation are to a decision which confirms it with or without variation.

Meaning of “relevant person”

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(1) In this Part of this Schedule “relevant person”, in relation to a prohibition order, means a person who is—

(a) an owner or occupier of the whole or part of the specified premises,

(b) authorised to permit persons to occupy the whole or part of those premises, or

(c) a mortgagee of the whole or part of those premises.

(2) If any specified premises are common parts of a building containing one or more flats, then in relation to those specified premises, “relevant person” means every person who is an owner or mortgagee of the premises in which the common parts are comprised.