



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

**Case reference** : **LON/00BH/HNA/2024/0619**

**Property** : **40 Eldon Road, London E17 7BZ**

**Applicant** : **Mrs Noreen Kosur Malik**

**Representative** : **In person**

**Respondent** : **London Borough of Waltham Forest**

**Representative** : **Mr Alex Williams, counsel**

**Type of application** : **Appeal against a financial penalty –  
Housing Act 2004, Sch. 13A, para 10**

**Tribunal members** : **Judge Tagliavini  
Mr S Mason BSc FRICS**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of hearing** : **10 July 2025**  
**Date of decision** : **30 July 2025**

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**DECISION**

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## **Decisions of the tribunal**

- (1) The tribunal confirms the respondent's decision to issue a Financial Penalty Notice.
  - (2) The tribunal confirms the amount of the penalty in the sum of £4,400.
  - (3) The tribunal refuses the applicant's appeal.
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## **The application**

1. This is an appeal against a Financial Penalty pursuant to Schedule 13A para 10(1)(a) of the Housing Act 2004 issued by the London Borough of Waltham Forest dated 26 September 2024, in the sum of £4,400 for having failed to ensure the premises at **40 Eldon Road, London E17 7BZ** ('the premises') were licensed under section 72 of the Housing Act 2004 as on 5 July 2022.

## **Procedural matters**

2. At the hearing the respondent was represented by Mr Alex Williams of counsel. The applicant represented herself but had requested an interpreter speaking either Urdu or Punjabi and the tribunal arranged for the attendance of Mr Zehid Saleem at the hearing. It quickly became clear at the hearing that the applicant both read and understood English as she was able to answer the tribunal's questions in English with only very occasional assistance from Mr Saleem, the Urdu interpreter.

## **The background**

3. The subject premises are a 6 bedroom house which the applicant had let out as an HMO since 2017/18. However, the Article 4 Direction under the Town and Country Planning Act subsequently came into force and removed permitted development rights for Class C4 (houses in multiple occupation) and required planning permission for change of use from Class C3 (use as a dwelling house as a single household) to Class C4. The applicant was subsequently informed by the respondent that:

*'...the C4 HMO use is unauthorised and should cease. The Council will be satisfied to allow you a period of 6 months to cease the use and remove the tenants provided you can provide the Council with a copy of the Section 21 Notice to Quit.'*

4. Subsequently, the applicant informed the respondent that she had served a S.21 Notice to Quit on the 5 tenants still in occupation on 10/06/2022. In 2023 the applicant converted the use of the premises from a HMO to a single household use.
5. On 3 January 2023 the respondent issued a Notice of Intention to issue a Financial Penalty and invited the applicant to make representations. Subsequently on 26 September 2024 a Final Notice was issued imposing a Financial Penalty of £4,400 in which it was alleged the applicant had committed an offence pursuant to s.72 of the Housing Act 2004 (failing to ensure the premises were licensed) as on 5 July 2022.
6. The applicant had previously unsuccessfully appealed the respondent's refusal to grant a HMO licence. The respondent's refusal relied on the imposition of an Article 4 Direction under the Town and Country Planning Act came into force that removed permitted development rights for Class C4 (houses in multiple occupation) and required planning permission for change of use from Class C3 (use as a dwelling house as a single household) to Class C4; see ref: AB/LONBH/HML/2020/005 dated 14 March 2022. Consequently, the applicant was no longer permitted to use the premises as an HMO and only permitted to let it to a single household.

### **The hearing**

7. The applicant provided the tribunal with a digital bundle of 25 pages and the respondent provided a digital bundle of 288 pages. As this appeal was by way of a re-hearing the tribunal heard first from the respondent as to its decision to impose the financial penalty on the applicant and the process by which it had reached the appropriate amount of that penalty.

### **The respondent's case**

8. The respondent relied upon and referred the tribunal to the witness statements of former tenants at the premises, Amanda Pacciotti dated 29 June 2022, Drew Burnham dated 5 July 2022 and Helena Wallis also dated 5 July 2022 who were all found to be in occupation of the subject premises on that day together with four or more other persons.
9. The tribunal heard oral evidence from Catherine Lovett, Team Manager within the respondent's Private Sector Housing and Licensing Team who spoke to her witness statement dated 5 March 2025 in which she stated:

*On 30th March 2017 the Authority received an application for a mandatory HMO license in respect of the Property. The application was made by Noreen Malik (hereafter "Mrs Malik") of 36 Eldon Road, London E17 7BZ. Mrs Malik was the proposed Licence Holder and she provided (**details***

**removed by tribunal** as her contact details. A copy of the application is produced as Exhibit GS6 to the witness statement of Galia Stefanova dated 15th December 2022.

On 23rd January 2018 the Authority proposed to grant a reduced term licence for 1 year. The reduced term was proposed because the Authority became aware that the Property was operating as an HMO without planning consent for a change of use from a C3 dwelling house to a C4 HMO. Since 16 September 2014, following the Authority having made an Article 4 Direction removing permitted development rights for the change of use of properties from Class C3 (single family dwelling) to Class C4 (HMOs occupied by 3 to 6 people), it is the case that property owners in Waltham Forest must obtain planning permission or be able to demonstrate established use for a Class C4 HMO accommodating 3-6 persons on a shared basis. It is the case, therefore, that any such HMO established after 16 September 2014 without the owner obtaining the necessary consent represents a planning breach...

On 29th June 2022 a visit was made to the Property. This was to identify whether the house was still being used as an illegal HMO and operating without a licence. Ms Stefanova visited the Property where she met Amondin Pacciotti. Ms Pacciotti confirmed in a signed witness statement that she had lived in the Property for 15 months and paid rent to Noreen Hassan. She confirmed in her 5th March 2025 statement that she shared the Property and the facilities with 4 other people that she was not related to such that the Property came under the definition of a Mandatory HMO...

On 5th July 2022 Ms Stefanova returned to the Property where she met two other tenants who identified themselves as Helena Wallis and Drew Barnham. Both tenants confirmed that they shared the accommodation with four other people who they were not related to and paid their rent to Noreen Malik or Noreen Hassan...

These visits carried out on 29th June 2022 and 5th July 2022 confirmed that the Property at 40 Eldon Road E17 7BZ was operating as an unlicensed HMO and Mrs Malik's decision to operate an illegal HMO without a licence constituted an offence under Section 72(1) Housing Act 2004.

10. Ms Lovett also stated:

As per the Authority's policy when responding to representations the (applicant's) representation was passed to another Team Manager, Jon Fine to respond and on 7th March 2023 a response was sent to Noreen Kosur Malik. The response

*confirmed the Authority's decision to uphold the financial penalty for the following reasons:*

- Following the decision by the tribunal to confirm the Authority's decision to refuse the HMO Licence Mrs Malik did not consult with the Private Sector Housing and Licensing Team about how best to proceed. Instead she contacted a Planning Enforcement Officer, James McDermott. Mr McDermott's response was to inform her that, from his department's point of view, he would not take any enforcement action against the planning breach for 6 months. Mrs Malik was advised by Mr Fine that the two departments are very different and are governed by different legislation.*

- Despite this Mrs Malik decided to continue to rent the Property as an HMO. A valid Section 21 notice had not been served on any tenant in the Property since the decision to refuse the licence. Evidence was gathered on 29 June 2022 that the Property continued to be occupied by multiple tenants. In fact, a new tenancy was created in June 2022 which was approximately 3 months after the Tribunal upheld the Council's decision to refuse the licence and further adding to the view that Mrs Malik had no intention to comply with the law.*

- Mrs Malik had from 1 February 2018 to have reverted the Property to a single-family dwelling or to have obtained a certificate of lawfulness for the change of use from a C3 dwelling house to a C4 HMO. She waited almost 2 years to apply for the latter. No attempt had been made to lessen the numbers of tenants prior to the offence date (29 June 2022). She made no effort to comply with the regulations and continued to profit from renting the Property as an illegal HMO.*

11. The respondent asserted that the value of the Civil Penalty was calculated correctly according to the Council's policy. This had recommended the imposition of a penalty of £5,000 as a serious Band 2 offence. To this was added the sum of £500 due to the aggravating existence of disrepair, bringing the total to £5,500. This sum was reduced to £4,400 on the Final Notice as it was said by the respondent that as the applicant has complied in remedying the identified breach.

### **The applicant's case**

12. The applicant did not provide a witness statement in support of her appeal but gave oral evidence to the tribunal. The applicant did not deny she had control of or was managing the subject premises. Further, the applicant did not deny she failed to obtain a licence and asserted that as she had in June 2022 been given 6 months by the respondent's Planning Department to lawfully evict her tenants and

restore the premises as a single family home. The applicant stated it was unfair of the respondent's Housing Department to have imposed a financial penalty on her for an offence alleged to have been committed on 5 July 2022 as she had already served a Notice to Quit. However, she accepted she had neither provided a copy or copies of the Notice to Quit to the respondent and had simply served a handwritten notice on the tenants that was not in the required format with the requisite information as she had been unaware of what a Notice was or required.

13. The applicant also stated that she had been previously granted an HMO licence which was subsequently revoked and had subsequently reapplied for a licence and had appealed unsuccessfully against this decision to the First-tier Tribunal in March 2022.

### **The tribunal's decision**

14. The tribunal confirms the respondent's decision to issue a Financial Penalty Notice. The tribunal confirms the amount of the penalty to the original sum of £4,400 and refuses the applicant's appeal.

### **Reasons for the tribunal's decision**

15. The tribunal is satisfied so that it is sure that the applicant has committed the offence alleged pursuant to s72(1) of the Housing Act 2004 and has failed to raise any reasonable defence. Further, the tribunal is satisfied the respondent has given proper consideration to its policy in deciding whether or not to impose a financial penalty and its amount.

16. Section 72(1) of the Housing Act states:

*A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.*

17. The tribunal finds that the applicant had neither provided a copy or copies of the Notice to Quit to the respondent and had simply served a handwritten notice on the tenants. This was not in the required format with the requisite information as the applicant admitted she had not known what form a valid s.21 Notice required despite having been a landlord of the subject premises since about 2017/2018.

18. The tribunal also finds the applicant knew that she was required to cease using the subject premises as an HMO after the tribunal's decision of 14 March 2022 and confirmed in the subsequent correspondence in 2022 from the respondent informing her of the action she needed to take. The tribunal finds the applicant deliberately continued to let the premises as an HMO despite being fully aware she was not permitted to do so and only remedied the

breach in early 2023 for which she was given a 20% discount in the Final Notice.

19. Further, the tribunal finds the applicant was made aware that the decision to allow her six months to lawfully evict her tenants was a decision from Planning Enforcement and concerned potential breaches of planning law and not the respondent's Housing and Licensing Department. In any event, the tribunal finds the applicant failed to serve a valid Notice to Quit and continued to let the premises as an HMO.
20. The tribunal finds the respondent has correctly applied its policy in the level of the financial penalty and has reasonably provided the applicant with a 20% discount.
21. In conclusion, the tribunal confirms the service of the Financial Penalty Notice in the sum of £4,400 and refuses the applicant's appeal.

**Name:** Judge Tagliavini

**Date:** 30 July 2025

### **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).