FIRST-TIER TRIBUNAL

PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/00CG/HNA/2024/0054**
Property	**:**	**82 Willoughby Street, Sheffield S4 8HT**
Applicant	**:**	**Bertha Uzor Ononye**
Representative	**:**	**In Person**
Respondent	**:**	**Sheffield City Council**
Representative		**Ms Anjum Saad (Solicitor)**
Type of Application	**:**	**Appeal against a financial penalty – Section 249A & Schedule 13A- Housing Act 2004**
Tribunal Members	**:**	**Tribunal Judge J. E. Oliver** **Tribunal Member S. A. Kendall**
Date of Determination	**:**	**12th May 2025**
Date of Decision	**:**	**10th June 2025**

#

DECISION

Decision

1. The Final Notice, dated 1st July 2024, being the subject of this appeal, is varied.
2. The penalty payable is reduced from £23,000to £15,000, such penalty to be paid within 28 days of the receipt of this decision by the parties.

Background

3. This is an application by Bertha Uzor Ononye ("the Applicant") to appeal a financial penalty of £23,000 issued by Sheffield City Council ('the Council") pursuant to section 249A of the Housing Act 2004 ("the Act") in respect of 82 Willoughby Street, Sheffield ('the Property").
4. The Property is owned and managed by the Applicant. Prior to his death in 2021, the Property was jointly owned by the Applicant and her husband, Dr Ononye. On occasions the Applicant is assisted in the management of the Property by family members.
5. The Council's involvement with the Property is long standing, an Improvement Notice having been served on 26th September 2013.This followed complaints of overcrowding at the Property, complaints that were unfounded. However, the Council found multiple Category 1 and 2 hazards whilst visiting the Property, including excess cold, fire and falling on the stairs. The then tenants were a couple with 3 young children aged 6,4 and a 14-month old baby. An Improvement Notice ("2013 Notice") was subsequently issued requiring remedial work to be completed by 27th October 2013. Dr Ononye and the Applicant did not appeal the Improvement Notice.
6. The tenants vacated the Property on 29th April 2014 and Council tax records show the Property then remained vacant for 8 years.
7. In 2017 the Council contacted the Applicant regarding outstanding costs arising from the Improvement Notice of £570.64. Those were paid on an instalment basis and confirmed settled in 2025.
8. On 28th February 2024 the Council received complaints regarding the condition of the Property and the matter was allocated to James Tomlinson, a Housing Standards Officer. On 12th March 2024 an inspection found none of the work required by the 2013 Notice had been completed and other issues had arisen from the Property having been unoccupied. In the light of this, the Council revoked the 2013 Notice on 10th April 2024 and issued a second Improvement Notice ("2024 Notice") on 12th April 2024. This included both Category 1 and 2 hazards and required the remedial works to be started by 19th May 2024.
9. On 15th May 2024 the Council issued a Notice to Impose a Financial Penalty for the failure to comply with the 2013 Notice, in the sum of £23,000. The Applicant made no representations to this Notice and a Final Notice of a Financial Penalty was issued on 1st July 2024 for £23000.
10. The Applicant filed an appeal in respect of the financial penalty and the matter was listed for determination with a hearing and without an inspection on 12th May 2025.

The Law

11. Section 249A (1) of the 2004 Act provides that "a local authority may impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person's conduct amounts to a relevant housing offence…"
12. Section 249 (2) sets out what amounts to a housing offence and includes at s.249(2)(a) an offence under s.30 of the 2004 Act, namely failing to comply with an improvement notice. Section 30 states that a person commits an offence if an improvement notice has become operative and the person upon whom it has been served fails to comply with it. Section 30(4) provides that a person does not commit the offence if he has a reasonable excuse for failing to comply with this requirement.
13. It is for the Council to prove, beyond reasonable doubt, that an offence has been committed.
14. It is for the Applicant to prove, on the balance of probabilities, that he has a reasonable excuse for failing to comply with the Improvement Notice.
15. The maximum fine that can be imposed for each offence is £30,000.
16. Paragraph 10(3) of Schedule 13A of the Act provides that an appeal in respect of a financial penalty is by way of re-hearing.

Procedural requirements

17. Schedule 13A of the Act sets out the procedural requirements a local authority must follow when seeking to impose a financial penalty. Before imposing such a penalty, the local authority must give a person notice of their intention to do so, by means of a Notice of Intent.
18. A Notice of Intent must be given be given within 6 months of the local authority having sufficient evidence of the conduct to which the financial penalty relates. If the conduct continues beyond that date, then the Notice of Intent may be given at any time when the conduct is continuing or within 6 months of the day when the conduct last occurs.
19. The Notice of Intent must set out:
    - the amount of the proposed financial penalty
    - the reasons for imposing the penalty
    - information about the right to make representations regarding the penalty
20. If representations are to be made, they must be made within 28 days beginning with the day after that on which the Notice of Intent was given. At the end of this period the local authority must then decide whether to impose a financial penalty and, if so, the amount.
21. The Final Notice must set out:
    - the amount of the financial penalty
    - the reasons for imposing the penalty
    - information about how to pay the penalty
    - the period for the payment of the penalty
    - information about rights of appeal
    - the consequences of failure to comply with the notice

Guidance

22. A local authority must have regard to any guidance issued by the Secretary of State relating to the imposition of financial penalties. The Ministry of Housing issues such guidance ("the MHCLG Guidance) in April 2018: *Civil penalties under the Housing and Planning Act 2016-Guidance for Local Authorities*. This requires a local authority to develop their own policy regarding when or if to prosecute or issue a financial penalty.
23. The Council has developed its own guidance, dated 1st May 2024 ("the Sheffield Guidance") that follows the MHCLG Guidance in setting out the criteria to be considered when determining the penalty.
24. When deciding whether to issue a financial penalty or prosecute, the Council will have regard to:

    - Punishment of the offender
    - Deterring the offender from repeating the offence or other housing offences
    - Determining others from committing similar offences
    - Removing any financial benefit from having committed the offence

25. When considering the likely merits of a punishment in relation to the aims, the Council will take into consideration:

    - The likelihood of being able to recover a financial penalty
    - The effect had by any previous sanctions imposed on that offender
    - The likely impact of a criminal sanction on the offender
    - The conduct of the offender, and anything else which is known about them which may be relevant to the aims (at paragraph 24)

26. The amount of any financial penalty will take into account, but not be limited to, factors such as:

    - The severity of the offence
    - The financial circumstances of the offender
    - Any previous action taken against the offender
    - Whether they ought to have known they were in breach of their legal responsibilities
    - The harm or potential harm to the occupier
    - The deterrence of further offending by the offender in question
    - The deterrent values to others (whilst civil penalties will not generally be in the public domain, unlike prosecutions, it is recognised that other landlords may become aware through informal channels)
    - The removal of any financial benefit the offender may have obtained as a result of committing the offence
    - Any other aggravating factors including the reaction of the offender to out intervention.

27. The Sheffield Guidance further states:

3.1 *In setting a financial penalty, we may conclude that the landlord is able to pay any financial penalty imposed- unless they have supplied us with any evidence to the contrary.*

3.2 It is up to the landlord to disclose to us any information which is relevant to their financial position as this will enable us to assess and determine what they can reasonably pay.

3.3 If we do not receive sufficient reliable information, we may make reasonable assumptions about what the landlord can afford from the information and evidence we may have. This may include the assumption that they can pay any financial penalty.

28. The Sheffield Guidance states any financial penalty is determined using culpability, track record and harm factors as set out in the Guidance.
29. Culpability is on three levels, these being high, medium and low:

High level of culpability

A person will be deemed to be highly culpable where the Council are satisfied they intentionally or recklessly breach or wilfully disregard the law. The following are relevant factors:

- are an experienced landlord/agent with a portfolio of properties who would be expected to have known of their responsibilities
- despite a number of opportunities to comply they have failed to comply
- serious breaches and/or systematic failure to comply with their legal duties
- has been significantly obstructive as part of the investigation
- previous history of being prosecuted or served a financial penalty with regard to a housing or tenancy law offence

Medium level of culpability

Where a landlord commits an offence through an act or omission which the Council considers a person exercising reasonable care would not commit. The following are relevant factors:

- the landlord/agent had systems in place to manage risk or comply with their legal duties but they were not sufficient or complied with on this particular occasion
- Landlord with more than one property and should have known their responsibilities
- The breach is significant but not so serious to meet the high level of culpability
- Has been obstructive as part of the investigation

- No history of being prosecuted or served a financial penalty with regard to a housing or tenancy ;law offence (however high criteria points being met)

Low level of culpability

Where a person fails to comply, or commits an offence where:

- No or minimal warning given to offender
- A significant effort has been made to comply but was inadequate in achieving compliance
- The breaches are minor and is an isolated offence
- Landlord with one property and may not have a full understanding of their responsibilities
- No history of being prosecuted or served a financial penalty with regard to a housing or tenancy law offence

30. The same categories apply to harm and the following are given as examples:

High

- Actual serious or potential serious harm to individual(s)
- Serious effect on an individual(s) or widespread impact

Medium

- Adverse effect on an individual
- Moderate risk of harm to an individual(s) or broader impact

Low

- Minimal adverse effect on individual(s)
- Actual low harm or potential low harm on individual(s)

31. Once the appropriate levels have been determined a matrix fixes the level of penalty. The Sheffield Guidance provides examples of aggravating and mitigating factors from which the Council may choose to deviate from the prescribed level of penalty.

32. The aggravating factors are given as follows:

- Previous relevant convictions having regard to the offence to which it relates
- Landlord motivated by financial gain
- Deliberate concealment of the activity/evidence
- Number of items of non-compliance-greater the number the greater the potential aggravating factor
- A record of letting substandard accommodation

- A record of poor management/inadequate management provision
- Vulnerable. Nature of occupants

33. The mitigating factors are exampled as follows:
    - High level of co-operation with the investigation, beyond that which will always be expected
    - Any voluntary steps taken to address issues e.g. submits a licence application
    - Near complete compliance with regard to the offence i.e. completed 85% of the Improvement Notice
    - Acceptance of responsibility e.g. accepts guilt and remorse for the offence(s)
    - Mental disorder or learning disability, where linked to the commission of the offence
    - Serious medical conditions requiring urgent, intensive or long-term treatment
    - Age/and lack of maturity where it affects the responsibility of the offender
    - Previous good character and/or exemplary conduct-(good character or exemplary conduct are not evidenced purely by lack of bad character)

34. Paragraph 12 of the Sheffield Guidance continues:

    12.1 The statutory guidance advises that a guiding principle of financial penalties is that they should remove any financial benefit that the landlord may have obtained as a result of committing the offence. This means the amount of the financial penalty will normally not be less than what it would have cost to comply with the legislation in the first place.

    12.2 the final consideration when setting the level of penalty is therefore, making sure that any financial benefit to the offender of committing the offence is removed, and that as well as being fair and proportionate, the level of the penalty acts as a deterrent.

    12.3 When determining any gain as a result of the offence the Council will take into account the following issues:

    - *Cost of the works required to comply with the legislation*
    - *Any licence fees avoided*
    - *Any other factors resulting in financial benefit*

The Hearing/Submissions

35. The Applicant attended the hearing supported by her nephew, Tom Mbukanma. The Council was represented by Ms Saad, solicitor and Gary Sanders, a Senior Private Housing Standards Officer. It was confirmed that although the 2013 Notice had been handled by James Tomlinson, he no longer worked for the Housing Department. Gary Sanders attended the hearing to give evidence on behalf of the Council.

Council's Evidence

36. The Council confirmed it had issued the 2013 Notice on 26th September 2013 following an inspection of the Property and finding both Category 1 and 2 hazards. The Council, when speaking to the tenants, noted they were unable to produce a valid Landlord's Gas Safety Record. The hazards were such the Council did not take an informal route to enforcement but immediately issued the 2013 Notice. This required completion of the remedial work by 27th October 2013.
37. The statements of Gary Sanders advised that when serving the Improvement Notice the known address of the Applicant was 11 Minster Close, Bishops Cleeve, Cheltenham. This was the address on the tenancy agreement seen by Mr Tomlinson at the Property and that also matched the Council Tax records for the Applicant and her late husband. This address was where the Improvement Notice was served by 1st class post. The 2013 Notice was also served at 41 Dryden Road, Sheffield, being the address of Tom Nbukanma, who was a witness on the tenancy agreement, 7 High View Sheffield where the Applicant had previously resided, at the Property and a copy was also served upon the mortgagees.
38. The Council referred the Tribunal to the legislation regarding the service of documents by post being Chapter 63 of the Interpretation Act 1889 and The Local government Act 1972, section 233(4). The former confirms a document is deemed to have been served if sent by post, pre-paid within a properly addressed envelope. The latter clarifies what constitutes a "proper address".
39. In 2017 the Council contacted the Applicant regarding unpaid costs arising from the 2013 Notice. The Applicant was by then living in Doncaster. An agreement was reached for payment of these costs by instalments and repayment was made by 2025.
40. It was confirmed from Council Tax records the Property remained empty for 8 years but on 28th February 2024 a report was received of poor housing conditions there. James Tomlinson inspected the Property on 12th March 2024 where several hazards were identified including those contained in the 2013 Notice. A decision was made to revoke the 2013 Notice and issue the 2024 Notice, the latter containing the original hazards in the 2013 Notice and others that had arisen during the time the property had been empty.
41. James Tomlinson determined a suitable penalty for the failure of the Applicant to comply with the 2013 Notice would be by way of a financial penalty, rather than prosecution.
42. When calculating the penalty reliance was placed upon information obtained regarding other properties that had been owned by the Applicant. It was found that of those properties four had been the subject of interventions by the Council. The calculation of the penalty was based upon harm being high and culpability was medium/high, resulting in a starting point of £20,000.
43. The harm was put as high for the following reasons:

- Actual serious or potential serious harm to individual(s)
- Serious effect on individual(s)

- Property in very poor condition for years
- Vulnerable persons including young children living in the property. Conditions have significant effect upon occupants
- Multiple Category 1 hazards present in the property, clearly unaddressed for years.

44. Culpability was put at medium/high as follows:

- Are an experienced landlord/agent with a portfolio of properties who would be expected to have known their responsibilities. Landlord with more than one property and should have known their responsibilities. Landlord associated with at least 8 properties over at least 20 years according to records – (Medium)
- Has history of being prosecuted or served a financial penalty with regard to a housing or tenancy law offence. HA 2004 s.95 failure to apply for selective licensing 2015/2016. One prosecution known-(High)
- Improvement Notice served in 2103, therefore an extremely long timescale/opportunity to comply and complete works – High
- No works completed from original notice. Items as detailed still remained. Property in very poor condition. Property re-let from empty without any works, has deteriorated significantly over a long timescale of neglect-(High).

45. The Council then considered there to be 3 aggravating factors, each valued at 10%, adding £6,000 to the penalty. These were:

- Vulnerable nature of occupants. Let to a family with young children and limited English and so have very little understanding as to their statutory rights
- Poor management/inadequate management provision. Property became vacant and then re-let with new tenants since at least June 2021 with significant hazards, as detailed on the improvement notice still present. Property in extremely poor condition.
- Extremely long timescale the landlord has had to undertake works and involvement from SCC, this included a significant period where the landlord had vacant possession and so access issues would not cause a delay. Improvement Notice served in 2013, property occupied since at least June 2021.

46. The Council then applied 3 mitigating factors, each given a value of 5% reducing the penalty by £3000

- Notice served on Mr. & Mrs Ononye. Mr Ononye has since passed away, which will likely have had a significant impact on Mrs Ononye. However, based on the significant period of time, during which the breach has occurred, it is unclear, exactly how much this would have prevented the offence from occurring and so little weight is applied to this factor.

- Landlord has said they have recently had an operation and is currently recovering. However the timeline is so long and it is unknown about their health for the last 11 years, since the service of the Improvement Notice and so little weight will be applied to this factor. Landlord's son has been carrying out some management functions recently.
- Majority of properties belonging to the Landlord have been sold. Landlord may be moving away from property management due to age/health.

47. Using these factors, the final penalty was £23,000.
48. The Council confirmed it did not receive any representations from the Applicant when receiving the Notice of Intent to Impose a Financial Penalty and therefore issued the Final Notice without amendment.
49. In his evidence to the Tribunal, Mr Sanders stated that had he undertaken the calculation he would have started the penalty at £15,000 and whilst there was nothing to suggest there were further aggravating factors, the allowances given for mitigating factors were "small".
50. It was confirmed the 2024 Improvement Notice had since been revoked, all necessary work having been completed.

Applicant's Evidence

51. The Applicant stated she had not received the 2013 Notice sent to 11 Minster Close, Bishops Cleve, Cheltenham. She confirmed that was her address but at the time it was posted to her, she was in hospital. Mr Mbukanma also stated he had not received the Notice at 41 Dryden Road Sheffield, although he had lived at that address when the Notice was served and until December 2013. Consequently, the Applicant had no notice of it. The Applicant advised she and her late husband moved from 11 Minster Close in October 2013 but confirmed they did have Royal Mail redirect the post following the move.
52. The Applicant was challenged about her lack of knowledge of the Notice when contacted by the Council in 2017 regarding payment of the costs arising from the 2013 Notice. Mr Sanders had given evidence the Notice was mentioned in that conversation. The Applicant advised she was only focussed upon the monies owed and had no recollection of any discussion regarding the 2013 Notice.
53. The Applicant advised the Tribunal she suffers from ill health, some of her illnesses being of long standing. This, coupled with her late husband's illness and subsequent passing, had an impact on her ability to manage her and her late husband's property portfolio. Her late husband had become ill in 2018 and had passed away in 2021. They had spent a significant time in Nigeria leading up to his death. As a result of this the management of the Property has been with other people, namely Mr Mbukanma from 2013-2014, Mr Mike Judd from 2014 until 2021. In August 2021 her son, Anthony Ononye arranged for the property to be re-let. This was at the time she was still in Nigeria.
54. The Applicant maintained the tenant of the Property from 2021 had also been obstructive in allowing any repairs to be undertaken. The Applicant said this was done to devalue the Property and for it then to be bought by an associate of the tenant. He would buy it subject to the existing tenancy. The Applicant had instructed an estate agent to market the Property for sale and she received comments from the agent that there were difficulties in arranging

viewings. The Property was still on the market at the time of the hearing. The Applicant confirmed the Property was on the market for £71,000 but was subject to a mortgage of £68,000. Therefore, once sold, there would be little cash remaining from the sale.

55. The Applicant advised her financial circumstances were such that she could not afford to pay any penalty. She provided the Tribunal with details of her income and expenses. Her income comprises of pensions, benefits and rental income from the Property. The latter will cease upon sale and one of her benefits, awarded for a specific illness, is due to end in January 2026. Her expenses include the repayment of outstanding Council Tax for properties already sold.
56. The Applicant also provided details of the sale of two of her properties, neither of which had significant sale proceeds remaining after the payment of the outstanding mortgages and sale fees. She advised another property had been sold in 2021 but she could not recall the amount of the net proceeds of sale. The Applicant stated she is now having to sell her current home since it is subject to a mortgage which has now expired. She is unable to re-mortgage due to her income and her plan is for it to be sold subject to a tenancy in her favour in order that she can remain living there. This is on the market for £95,000-£105,000 and is subject to a mortgage of £90,000.
57. When asked why no work had been carried out in the 8 years the Property was empty, the Applicant advised she was facing significant family problems, including both her and her husband's illnesses. When she received the Notice of Intention to Impose a Financia Penalty she had been recovering from a broken femur and pulmonary embolism and her health had not begun to recover until July after the Final Notice had been issued.
58. The Applicant advised she had taken out a loan of £15,000 from family members and some of those monies had been used to carry out the necessary works at the Property. She estimated the costs of the work to be £8k-£9k.

Determination

59. The Applicant did not challenge the Council's compliance with the procedural requirements of Schedule 13A of the Act and, from the documents provided, the Tribunal accepted those requirements were met.
60. The imposition of a financial penalty can only be upheld by the Tribunal if it is found, beyond reasonable doubt, the Applicant's conduct amounts to an offence under section 95 of the Act. In ***Opara v Olasemo [2020] UKUT 0096(LC)*** it was said:

> "*For a matter to be proved to the criminal standard it must be proved "beyond reasonable doubt"; it does not mean "beyond any doubt at all". At the start of a criminal trial the judge warns the jury not to speculate about evidence they have not heard, but also tells them it is permissible for them to draw inferences from the evidence they accept"*

61. The Tribunal finds the Applicant has committed the offence of failing to comply with the Improvement Notice dated 26th September 2013. The Applicant has not challenged the necessity of the work, the work on the 2013 Notice having been included within the 2024 Notice and those works have now been remedied by the Applicant.

62. The Tribunal considered the submission the Applicant did not receive the 2013 Notice and has taken note of the steps taken by the Council to verify the address for the Applicant and her late husband. The Applicant confirmed she was residing at 11 Minster Close at the relevant time as did Mr Mbukanma who was then living at 41 Dryden Road. The Tribunal has not heard any explanation as to why the documents may not have been delivered to both addresses and therefore, relying upon the Interpretation Act 1889, finds the 2013 Notice to have been delivered and the Applicant should have been aware of it.
63. There is a defence of reasonable excuse, for which the standard of proof is the balance of probabilities. In ***IR Management Services v Salford [2020] UKUT 0081 (LC)*** the UT observed:

"*The issue of reasonable excuse is one which may arise on the facts of a particular case without an appellant articulating it as a defence (especially where an appellant is unrepresented). Tribunals should consider whether any explanation given by a person … amounts to a reasonable excuse whether or not the appellant refers to the statutory defence."*

64. When considering whether the Applicant had a reasonable excuse for failing to carry out the work the Tribunal finds that she does not. In making this determination, the Tribunal considered the explanations given by the Applicant for her failure to comply with the 2013 Notice.
65. The Applicant has explained she did not receive the 2013 Notice but the Tribunal finds it was posted on 26th September 2013 and she did not relocate until October 2013. There was a Royal Mail redirection service in place. The excuse of not having received the 2013 Notice therefore fails.
66. The Applicant has suffered from ill health for some time, but at the time of the 2013 Notice both she and her late husband were managing the Property. Whilst Dr. Ononye suffered from ill health, the Tribunal was told he became unwell from 2018 onwards.
67. The Tribunal considered the complaints the current tenant of the Property has been obstructive in allowing access for the required works to be carried out. This,however, applies to the 2024 Notice and not the 2013 Notice.
68. The application before the Tribunal is by way of a rehearing and it should make its own decision as to the appropriate amount of any financial penalty and apply the Sheffield Guidance as referred to in paragraphs 24-34 above.
69. In ***Sutton & Another v Norwich City Council [2021] UKUT 0090 (LC):***

"It is an important feature of the system of civil penalties that they are imposed in the first instance by local housing authorities, and not by courts and tribunals. The local authority will be aware of housing conditions in its locality and will know if particular practices or behaviours are prevalent and ought to be deterred".

The Upper Tribunal continued to state that the starting point should be to apply the local authority's policy. It stated:

"*If a local authority has adopted a policy, a tribunal should consider for itself what penalty is merited by the offence under the terms of the policy. If the*

authority has applied its own policy, the tribunal should give weight to the assessment it has made of the seriousness of the offence and the culpability of the appellant in reaching its own decision".

70. This view was endorsed by the Upper Tribunal in ***London Borough of Waltham Forest v Marshall & Another [2020] UKUT 0035(LC).*** This decision stated the Tribunal could depart from the Council's policy but only in certain circumstances, for example, where it had been applied too rigidly. It should also afford great respect to the decision and a Tribunal should be slow to disagree with any decision that is made in accordance with the local policy. Despite this, the Tribunal is conducting a rehearing and not a review and can vary any decision where it disagrees with it.
71. The Tribunal then considered the amount specified in the Final Notice of £23,000.
72. The Tribunal noted the Applicant had made no response to the Notice of Intent to Impose a Financial Penalty and consequently the Council was not aware of those issues now raised by her.
73. The Tribunal firstly considered the levels of culpability and harm, the former being medium/high and the latter high. The Tribunal noted Mr Sanders would have had put harm as high but culpability at medium to give a penalty of £15,000. The Tribunal considered the Sheffield Guidance and agreed harm was correctly put at high. The factors accurately reflected the events leading to the penalty. In respect of culpability the Tribunal again considered the Sheffield Guidance and here determined this should be medium/high. The Tribunal considered whether culpability should be amended to medium as suggested by Mr Sanders, but found the criteria applied to this was more severe than that of medium within the Sheffield Guidance and had been correctly assessed as medium/high. The penalty is therefore £20,000 before adjustment.
74. The Tribunal thereafter considered the aggravating factors and again agreed those were correctly weighted at 10% and accorded with the relevant criteria. This gives a further penalty of £6000.
75. The Tribunal considered the mitigating factors and here found insufficient weight had been given to these by the Council, mainly due a lack of information when the Applicant failed to respond to the Notice of Intended Financial Penalty. The Council could not have known, at that stage, the extent of the Applicant's ill health, nor the fact the Applicant had taken steps to divest herself of the rental properties. At the time of the hearing the Applicant had one remaining rental property that was on the market for sale and her own home. Neither sale was likely to result in the Applicant receiving a significant amount of money.
76. When taking those matters into account the Tribunal agreed with the mitigating factors applied to the penalty, but determined the value of them should each be increased to 15%, giving a reduction in the penalty of £9000.
77. The Tribunal further determined there should 10% given in mitigation because the 2024 Notice had been fully complied with and revoked. This reduces the penalty by a further £2000.
78. The Final Notice, dated 1st July 2024, is therefore varied to replace the penalty of £23,000 with a penalty of £15,000, such sum to be paid within 28 days of the receipt of this decision by the parties.