FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**MAN/00BR/HNA/2024/0041**
Property	:	**12, Lydford Street, Salford M6 6BJ**
Applicant	:	**Munchengeti Madhovi**
Respondent	:	**Salford City Council**
Type of Application	:	**Appeal against a financial penalty – Section 249A & Schedule 13A to the Housing Act 2004**
Tribunal Members	:	**Tribunal Judge C Wood** **Tribunal Member J Faulkner**
Date of Decision	:	**6 July 2025**

ORDER

Order

1. In accordance with paragraph 10(4) of Schedule 13A to the Housing Act 2004, the Tribunal confirms the final notice imposing a financial penalty of £13650.

2. The financial penalty is payable by the Applicant within 28 days of the date of this Order.

Application

3. By an application dated 30 May 2024, ("the Application"), the Applicant appealed against a financial penalty of £13650 imposed by the Respondent under section 249(a) of the Housing Act 2004, ("the 2004 Act").

4. A video hearing of the Application took place on 8 April 2025 at the Tribunal premises at 1st Floor, Piccadilly Exchange, 2, Piccadilly Plaza, Manchester M1 4AH at which the following people attended remotely:

   The Applicant: Mr Munchengeti Madhovi

   Counsel for the Respondent, Salford City Council: Mr Paul Whatley

   Solicitor for the Respondent: Mr Paul Scott

   Respondent's witnesses: Ms Abbey Moss

   Ms Sarah Hughes

5. The Tribunal informed at the outset of the hearing that Ms Liz Mann, one of the Respondent's witnesses, was unable to attend the hearing.

Law and Guidance - Power to impose financial penalties

6. Section 249A of the 2004 Act enables a local housing authority to impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person's conduct amounts to a 'relevant housing offence' in respect of premises in England.

7. Relevant housing offences are listed in section 249A(2) of the 2004 Act. They include the offence under section 234(3) of the 2004 Act, of failing to comply with the Management of Houses in Multiple Occupation (England) Regulations 2006, ("the Management Regulations").

8. Only one financial penalty under section 249A may be imposed on a person in respect of the same conduct. The amount of that penalty is determined by the local housing authority (but it may not exceed £30,000), and its imposition is an alternative to instituting criminal proceedings for the offence in question.

Procedural requirements

9. Schedule 13A to the 2004 Act sets out the procedure which local housing authorities must follow in relation to financial penalties imposed under section 249A. Before imposing such a penalty on a person, the local housing authority must give him or her a notice of intent setting out:

    • the amount of the proposed financial penalty;

    • the reasons for proposing to impose it; and

    • information about the right to make representations.

10. Unless the conduct to which the financial penalty relates is continuing, that notice must be given before the end of the period of six months beginning on the first day on which the local housing authority has sufficient evidence of that conduct.

11. A person who is given a notice of intent has the right to make written representations to the local housing authority about the proposal to impose a financial penalty. Any such representations must be made within the period of 28 days beginning with the day after that on which the notice of intent was given. After the end of that period, the local housing authority must decide whether to impose a financial penalty and, if a penalty is to be imposed, its amount.

12. If the local housing authority decides to impose a financial penalty on a person, it must give that person a final notice setting out:

    • the amount of the financial penalty;

    • the reasons for imposing it;

    • information about how to pay the penalty;

    • the period for payment of the penalty;

    • information about rights of appeal; and

    • the consequences of failure to comply with the notice.

Relevant guidance

13. A local housing authority must have regard to any guidance given by the Secretary of State about the exercise of its functions in respect of the imposition of financial penalties. Such guidance ("the HCLG Guidance") was issued by the Ministry of Housing, Communities and Local Government in April 2018: Civil penalties under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities. It states that local housing authorities are expected to develop and document their own policy on when to prosecute and when to issue a

financial penalty and should decide which option to pursue on a case by case basis. The HCLG Guidance also states that local housing authorities should develop and document their own policy on determining the appropriate level of penalty in a particular case. However, it goes on to state: "Generally, we would expect the maximum amount to be reserved for the very worst offenders. 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."

14. The HCLG Guidance also sets out the following list of factors which local housing authorities should consider to help to ensure that financial penalties are set at an appropriate level:

    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. Deterrence of the offender from repeating the offence.

    f. Deterrence of others from committing similar offences.

    g. Removal of any financial benefit the offender may have obtained as a result of committing the offence.

15. In recognition of the expectation that local housing authorities will develop and document their own policies on financial penalties, on 20 February 2020 the Respondent adopted the Association of Greater Manchester Authorities (AGMA) Policy on Civil (Financial) Penalties as an Alternative to Prosecution under the Housing and Planning Act 2016, ("the AGMA Policy").

Appeals

16. A final notice given under Schedule 13A to the 2004 Act must require the penalty to be paid within the period of 28 days beginning with the day after that on which the notice was given. However, this is subject to the right of the person to whom a final notice is given to appeal to the Tribunal (under paragraph 10 of Schedule 13A).

17. Such an appeal may be made against the decision to impose the penalty, or the amount of the penalty. It must be made within 28 days after the date on which the final notice was sent to the appellant. The final notice is then suspended until the appeal is finally determined or withdrawn.

18. The appeal is by way of a re-hearing of the local housing authority's decision, but may be determined by the Tribunal having regard to matters of which the authority was unaware. The Tribunal may confirm, vary or cancel the final notice.

However, the Tribunal may not vary a final notice so as to make it impose a financial penalty of more than the local housing authority could have imposed.

Hearing

Appeal against the Financial Penalty Notice ("FPN")

19. Mr Whatley, Counsel for the Respondent, briefly summarised the Respondent's position regarding the events leading up to the decision to impose a financial penalty as follows:

    19.1 the Respondent's decision is based on the commission of an offence under s234 (3) of the 2004 Act as at the date of inspection on 3 October 2023, namely, various breaches of Regulation 4 of the Management Regulations relating to fire safety;

    19.2 the defects identified at the inspection included the installation of an incorrect fire alarm system for the type of property (the Property was occupied as a bedsit-style HMO at the date of inspection), the lack of a protected fire escape route and the lack of fire doors to risk rooms;

    19.3 other defects identified at the inspection which may have constituted breaches of Regulation 7 (duty of manager to maintain common parts, fixtures, fittings and appliances) were not included on the Notice of Intent dated 23 February 2024, ("the Notice"), and/or the Final Notice dated 9 May 2024, ("the Final Notice"), which related only to the breaches of Regulation 4;

    19.4 the Applicant submitted written representations in response to the Notice of Intent which the Respondent took into account in its final determination of the calculation of the financial penalty;

    19.5 in accordance with the AGMA Policy, it was determined that the offence was one of high harm and medium culpability (Band 5). In determining that there was medium culpability on the Applicant's part, the Respondent noted that there was no established system of management checks and that the Applicant had acknowledged his awareness of fire regulations but did not know/understand the impact of those regulations for the particular style of letting. The Respondent accepted that there was no deliberate act/omission on the Applicant's part nor were there any aggravating or mitigating factors which should be taken into account. However the Respondent had applied a 30% reduction to the amount of the financial penalty because of the Applicant having undertaken remedial works with reasonable despatch.

The Respondent's evidence

20.1 Cross-examination of the Respondent's witnesses focused on the following issues:

Ms Moss

(1) the admissibility of the PACE interview, the Applicant's right to free legal representation, the competence of the Respondent's witness to undertake such interviews and the potential for a conflict of interest where undertaking the inspection and the interview;

(2) the alleged failure on the Respondent's part to give adequate notice of a change in the fire safety regulations since the grant of the licence to the Applicant in respect of the Property;

(3) the time line relating to the remedial works.

Ms Sarah Hughes

(4) again, the question of whether adequate notification had been given to landlords of the changes in the fire safety regulations;

(5) the level of the fine having regard to the period within which the Applicant undertook the remedial works.

20.2 The Respondent's witnesses/Counsel responded as follows:

(1) there is no entitlement to free legal representation for someone in the Applicant's position;

(2) Mr Moss had undertaken training in conducting interviews and was satisfied that there was no conflict of interest for him in undertaking the inspection and the PACE interview;

(3) there has not been any change in the fire regulations as an HMO-bedsit style has always required a Grade LD2 fire alarm system. An application for a selective licence did not prompt an inspection whereas an application for a licence within an additional licensing scheme will do so;

(4) the decision to impose a financial penalty relates to the existence of defects at the date of inspection and not to how long/whether remedial works were undertaken although the Applicant's timely response to the undertaking of works has been reflected in a 30% reduction of the amount of the financial penalty;

(5) the introduction of the additional HMO licensing scheme was widely advertised including, without limitation, on the Council's website and all existing licence holders were notified of its introduction by email.

The Applicant's evidence

21.1 The Applicant believes that this matter has arisen because of a misunderstanding on the Applicant's part following a change in the licensing scheme as follows:

(1) the Applicant has held a selective licence in respect of the Property for c10 years;

(2) an immediate application was made for an HMO licence on becoming aware of the need in June 2023;

(3) following the inspection on 3 October 2024, a realistic proposal for remedial works was made;

(4) the fire alarm has been inspected annually.

21.2 In view of the above, the Applicant submits as follows:

(1) the financial penalty is disproportionate, no actual harm has resulted and the Respondent demonstrated a failure to engage with the Applicant; and,

(2) again concerns were voiced regarding the admissibility of the PACE interview and the weight to which should be attached by the Tribunal to this evidence.

21.3 Cross-examination of the Applicant focused on the following issues:

(1) the continuing misunderstanding on the Applicant's part of the subject matter of these proceedings ie they relate to the Property as at the date of the inspection (3 October 2023) and not to the undertaking of remedial works subsequently by the Applicant (although a 30% reduction in the amount of the financial penalty has been made because of the Applicant's timely undertaking of those works);

(2) the Applicant's responsibility as a person managing the Property for compliance with the Management Regulations as they relate to fire safety as soon as the Property became an HMO ie from the date when the Property was first let out to 3 people;

(3) the extent of the Applicant's knowledge of the Regulations and the relevant parts of the LACORS Guidance including any advice sought/action taken by the Applicant to ensure awareness;

(4) whether there is any evidence of a reasonable excuse defence having regard to advice sought by the Applicant regarding installation of fire alarm system and his referral to the LACORS Guidance.

Questions from the Tribunal

22. The Tribunal's questions related to the following issues:

(1) the unavailability of the Respondent's witness, Ms Liz Mann, at the hearing: the Tribunal noted that the hearing had already been re-arranged at the Respondent's request due to the unavailability of witnesses. It was disappointed by Ms Mann's non-appearance as a key individual in the Respondent's decision-making process but, on balance, was disinclined to further delay proceedings by adjourning the hearing. In reaching this decision, it accepted that Ms Moss' evidence covered much of the same ground as that of Ms Mann but was not satisfied that Ms Hughes' attendance was an adequate "replacement", not least because there was no witness statement from Ms Hughes so there was no prior notice available of her evidence.

(2) the Applicant's financial means: the Applicant stated that, as at 3 October 2024, 2 of the tenants were paying rent of £290 per month and 1 was paying £300 per month, and that there was an outstanding mortgage of £80,000 on the Property. The Applicant also stated that he was the sole earner in his family at that time and that he had spent £15000 on the remedial works to the Property. Ms Hughes stated that they had taken into account the rental income of the Property but not the costs of the remedial works as they were not known at the dates of the Notice of Intent/Final Notice.

Closing Submissions

23. The oral closing submissions are summarised as follows:

23.1 the Respondent

(1) the Applicant has not disputed the deficiencies ie the absence of fire doors; no protected fire escape route and an inadequate fire alarm system for the style of property, and the offence has therefore been established;

(2) although the exact date when the Property was first let to 3 people is unknown, it appears that the Property may have been operating as an HMO for some time prior to the licence application/inspection. It is reasonable to conclude that the failure of compliance exposed the Applicant's tenants to a higher degree of risk for some considerable time because of the absence of appropriate fire safety measures. It is only fortunate that no fire occurred at the Property and it is also acknowledged that the existence of a fire alarm system did mitigate the risk but the level of risk remained unacceptably high and the harm is therefore properly classified as high;

(3) with regard to culpability, at the time of the offence the rental income from the Property was £860 per month. There is no suggestion that the Applicant was "deliberately delinquent" but the failure to acquaint himself with his legal responsibilities falls within the definition of "negligent" in the Policy. For that reason, the determination of medium culpability is appropriate;

(4) with regard to the financial means of the Applicant, the following points were noted:

(i) to take into account the cost of remedial works undertaken would risk a perverse result as the worse a property is/the more costly the remedial works, the greater the credit given;

(ii) the only information available is the rental income at the time of the offence and the outstanding mortgage debt of £80,000 eg there is no information regarding the type of mortgage (ordinary repayment/interest-only). Assuming mortgage repayments of c£500 per month, the Applicant appeared to be in receipt of net profit of c£350 per month. No other evidence has been provided by the Applicant as to his financial means to the Respondent in the periods leading up to the Notice of Intent and/or Final Notice or to the Respondent and/or the Tribunal for the hearing.

23.2 the Applicant

(1) The Applicant rejected the Respondent's statements that he acted negligently or with disregard to his obligations. Rather he had managed in accordance with the management Regulations applicable at the time and responded immediately and positively by making an application for an HMO licence as soon as he became aware of the requirement to do so.

(2) Likewise the Applicant responded proactively with regard to the need to undertake remedial works.

(3) The issue of the Notice of Intent came "out of the blue" and reflected what the Applicant regards as the Respondent's failure to engage with him.

(4) The Applicant reiterated that no actual harm had been suffered by any of the tenants of the Property.

Reasons

Procedural requirements

24. The Tribunal notes that the Applicant has not raised any issues regarding the procedural requirements in respect of the Notice and/or the Final Notice, but it is satisfied that the Respondent has complied with the procedural requirements as required under Schedule 13A to the 2004 Act.

Issues for determination by the Tribunal

Has an offence been committed?

25. The Tribunal notes as follows:

    (1) there is no dispute between the parties that, as at the date of the offence, the Property was a bedsit-style HMO occupied by 3 persons and that the Applicant is to be properly regarded as "a person having control" of the Property;

    (2) further, no dispute was raised by the Applicant regarding the fire safety measures required to be in place at the Property having regard to the nature of its occupation as a bedsit-style HMO;

    (3) the Tribunal is not satisfied that the Applicant's evidence of action taken by him to acquaint himself with the necessary fire safety measures for the Property afford him with a reasonable excuse defence to the offence. In particular, the Applicant provided no evidence of having sought any expert advice rather appearing to rely on ad hoc advice from letting agents and/or his own research into eg the LACORS Guidance.

26. Having regard to the matters set out in paragraph 25, the Tribunal is satisfied, beyond reasonable doubt, that the Applicant's conduct amounts to an offence under s234 of the 2004 Act.

Quantum of the FPN

27. Having regard to the terms of the AGMA Policy, the Tribunal is satisfied as follows:

    (1) the Respondent's determination of high harm is appropriate because all of the defects identified related to fire safety measures and the style of occupation of the Property ie bedsit-style HMO with 3 unrelated occupants. In reaching this determination, the Tribunal reiterates that the fact that no actual harm has resulted is not a relevant consideration;

    (2) the Respondent's determination of medium (negligent act) culpability is appropriate in all the circumstances. In particular, but without limitation, the Tribunal is satisfied that there is evidence of a failure on the Applicant's part to take appropriate action to avoid commission of the offence eg by taking action to ensure that he was aware of and/or fully understood the law regarding operation of an HMO. In reaching this determination, the Tribunal is satisfied that there is no evidence of any deliberate act on the Applicant's part.

    (3) The Tribunal does not consider that any evidence has been presented to it of any aggravating or mitigating factors or of the financial means of the

Applicant that should be taken into account.

(4) The Tribunal notes that the Respondent's application of a 30% reduction in the amount of the financial penalty appears to be in accordance with paragraph 5.5 of the AGMA Policy.

Determination

28. In accordance with paragraph 10(4) of Schedule 13A to the 2004 Act, the Tribunal confirms the Final Notice imposing a financial penalty of £13650.