FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	HAV/24UB/HNA/2024/0601 HAV/24UB/HML/2025/0001
The Property	:	23 Winchester Road, Basingstoke, Hampshire, RG21 8UE
Applicant	:	Colin Andrew Davison
Representative	:	
Respondent	:	Basingstoke & Deane Borough Council
Representative	:	
Type of Application	:	Appeal against a financial penalty under section 249A of the Housing Act 2004 and Appeal against a decision to refuse to grant an HMO licence paragraph 31 Part 3 Schedule 5 Housing Act 2004
Tribunal Members	:	Judge N Jutton, Mr P Cliffe-Roberts FRICS, Mr D Ashby FRICS
Date and Venue of Hearing	:	7 August 2025 – remote hearing
Date of Decision	:	13 August 2025

DECISION

---

1. The Applicant was at all material times the person having control of or managing a three-storey seven bedroomed property at 23 Winchester Road, Basingstoke, Hampshire RG21 8UE (the Property). The Property is a House in Multiple Occupation (HMO).

2. The Applicant makes two applications. The first, dated 14 October 2024 is an appeal by the Applicant against two financial penalties imposed upon him by the Respondent under section 249A of the Housing Act 2004 (the Act) (The Financial Penalty Application). The second, dated 14 April 2025 is an appeal against a decision of the Respondent to refuse to grant an HMO licence (The HMO Licence Application).

3. By Directions dated 13 May 2025 the Tribunal Directed that both applications would be heard together.

4. The applications were heard by the Tribunal on 7 August 2025. The Applicant, Mr Colin Andrew Davison attended and represented himself. The Respondent was represented by counsel, Mr Oliver Capildeo. Also in attendance were Mr John Stowe (Mr Stowe) a Housing Standards Enforcement Officer with the Respondent and Mr Christopher Williams (Mr Williams) an Environmental Health Team Leader with the Respondent. All parties attended remotely.

5. There was before the Tribunal a bundle of documents of some 1278 pages. It contained the Applicant's applications, witness statements made by the Applicant, witness statements made by Mr Stowe and Mr Williams on behalf of the Respondent, Directions made by the Tribunal, and various other documents. References to page numbers in this Decision are references to page numbers in that bundle, e.g. [10].

6. **Preliminary issue**

7. The Applicant filed the hearing bundle on 29 July 2025. Directions made by the Tribunal dated 13 May 2025 provided that the hearing bundle was to be filed and served by the Applicant by 24 July 2025. It was therefore filed 5 days late. Paragraph 29 of the Directions stated: *'If the hearing bundle is not sent to the Tribunal by the said date or not in the required format, the Application will be struck out without further notice'.*

8. At the start of the hearing Mr Capildeo made an application to strike out the Applicant's case upon the basis that the Applicant had failed to comply with the Tribunals Directions. In particular he submitted that the hearing bundle had been filed out of time, was not in the required format and that the witness statements signed by the Applicant did not feature the correct form of statement of truth.

9. The Applicant asked the Tribunal to grant him relief from sanctions. He said that as a litigant in person he found preparation of the bundle a difficult challenge.

10. The Tribunal considered the Overriding Objective to deal with cases fairly and justly. It was concerned that if it were to strike out the Applicant's case he undoubtedly would make an application to reinstate which in all probability would be granted. It noted that all parties were attending the hearing. That they had had sufficient time to prepare for the hearing. That although the bundle was not in the exact format that the Tribunal normally would expect it was paginated and that it was possible to navigate around it. The Tribunal, bearing in mind the costs and resources of the parties and in particular of the Tribunal (not least given that the Tribunal had been constituted and was sitting), the need to avoid unnecessary formality and to seek flexibility in proceedings, to avoid delay so far as compatible with proper consideration of the issues, granted the Applicant's application for relief from sanctions and made an Order reinstating the proceedings to allow them to proceed.

11. **Background**

12. On 11 October 2018 the Respondent granted a licence authorising occupation of the Property as an HMO [856-859]. The licence permitted the Property to be occupied by 7 persons. The licence ran from 26 October 2018 to 25 October 2023. The licence holder was stated to be the Applicant.

13. Following an inspection of the Property by the Respondent on 25 January 2022 the Respondent wrote on 28 January 2022 to the Applicant (as the person responsible for managing the Property) setting out various breaches of the requirements of The Management of Houses in Multiple Occupation (England) Regulations 2006 (the Regulations) and detailing works required to rectify those breaches [869-876]. The letter stated that if the works to the Property were carried out within 14 days then prosecution action would not be pursued.

14. On 24 October 2023, the day before the HMO licence expired, the Respondent wrote to the Applicant stating that he needed to apply for another licence or alternatively that he should let the Respondent know why the Property may no longer require a licence [866-867]. The letter reminded the Applicant that an application for a licence would need to be accompanied by certain documents.

15. Mr Stowe inspected the Property on 22 April 2024. He found 6 tenants living at the Property. He recorded various breaches of the Regulations and various disrepair issues within the Property. He completed an inspection sheet which was also signed by the Applicant [904].

16. On 23 April 2024 Mr Stowe sent an email to the Applicant[910-911] attaching a copy of the inspection report and setting out in bullet point form the remedial issues to be addressed at the Property. The email allowed a month for the majority of the remedial works to be addressed - save for works to the windows which were expected to take longer. The email also reminded the Applicant to submit an application for an HMO licence by 6 May 2024. The

Applicant was reminded that it was an offence to wilfully operate an HMO which required a mandatory licence without a licence.

17. On 2 May 2024 the Applicant submitted an HMO licence application to the Respondent. The Respondent did not accept it as a valid application on the basis that it was only partially completed and was missing certain supporting documents and payment of the requisite fee.

18. Mr Stowe re-inspected the Property on 23 May 2024. He concluded that no remedial works had taken place save for securing the basement area. He produced a revisit inspection report [925]. He sent a copy of that report by email to the Applicant on 30 May 2024 [916]. The email stated that the Applicant was in breach of the legislative requirements of the Regulations and of the Act.

19. On or about 28 May 2024 the Applicant placed the Property on the market for sale. On 30 May 2024 Mr Stowe sent an email to the Applicant contending that the failure on the Applicant's part to address an issue with fire door gaps at the Property demonstrated an intention not to comply with 'legislative compliance' [966].

20. On 23 July 2024 the Respondent served on the Applicant a Requisition for Information notice pursuant to section 16 of the Local Government (Miscellaneous Provisions) Act 1976 [999]. The intention being to collate weekly rental income from some 9 properties understood to be owned by the Applicant or under his control. The Applicant responded stating that his interest in the Property was as '*shareholder of Cranleys Capital Limited, freeholder*' [1018]. The request for information asked the Applicant to state the weekly rental income in respect of 9 properties. The Applicant responded: '*None, all these are under the control of Cranleys Capital Limited. All property businesses are loss making. All repairs are paid from personal investment*' [1018].

21. On 25 July 2024 one Agnieszka Weglarczyk of Cranleys Chartered Accountants sent an email to the Respondent (copied to the Applicant) stated to be on behalf of the Applicant listing the names of 7 tenants at the Property [1033].

22. On 25 July 2024 the Respondent served on the Applicant 2 notices of intent to issue a financial penalty under section 249A of the Act. The first was in respect of an alleged offence under section 72 of the Act of operating a 7 bedroom HMO without a licence since expiry of the previous licence on 25 October 2023. The proposed financial penalty was £7,200 [1051–1052].

23. The second was in respect of an alleged offence under section 234 of the 2004 Act for failing to comply with the Regulations. The proposed financial penalty was £12,000 [1069-1070].

24. On 9 September 2024 the Applicant sent a detailed form of appeal to the Respondent [1075-1088]. On 27 September 2024 the Respondent sent a

formal response thereto rejecting the Applicant's representations [1090-1093].

25. On 1 October 2024 the Respondent served on the Applicant 2 Final Notices to Issue a Financial Penalty under section 249A of the Act. The first was for the sum of £7200 [1096-1098]. The Notice stated:

The following offence has been committed by you at the foregoing address:
Section 72 – offences relating to the licencing of house in multiple occupation (HMO's);
In that you have failed to comply with mandatory HMO licensing criteria;
Operating a mandatory licensed 7-bedroom HMO still meets mandatory licensing criteria of 5 or more persons across 2 or more households without a licence after it lapsed on 25 October 2023.
Date of offence:
Ongoing since the HMO licence for 23 Winchester Road expired on 25 October 2023.

26. The second Notice was in the sum of £12,000 [1101-1103]. The noticed stated:

The following offence has been committed by you at the foregoing address:
Section 234 - management regulations in respect of a House in Multiple Occupation.
In that you have failed to comply with:
Regulation 4 - Duty of manager to take safety measures
HMO was in a state of disrepair and landlord was not fulfilling HMO management obligations such as ensuring fire doors were compliant with minimum safety specification of gaps no more than 4 millimetres around doors. Questions of sufficiency of FD30 rated fire boarding of the loft hatch were unanswered on 22nd of April 2024 and on revisit on 23 May 2024.
Date of offence:
First witnessed by the enforcing officer, John Stowe on 22nd of April 2024.

27. On 9 October 2024 following receipt of payment of a fee in respect of the Applicant's application for an HMO licence the Respondent emailed the Applicant asking for certain documents in support of his application [729-730]. Those documents included a fire risk assessment, a fire alarm yearly test certificate and an emergency lighting yearly testing certificate. On 31 October 2024 Mr Stowe emailed the Applicant again requesting the production of supporting documents to allow the application to be progressed [727-728].

28. Mr Stowe inspected the Property again on 12 November 2024. On 13 November 2024 he sent an email to the Applicant with a copy of his inspection report [739]. The inspection report set out a list of 8 defects/remedial works which required addressing. They included defects in respect of fire safety doors [749].

29. On 19 November 2024 Mr Stowe wrote to the Applicant with a summary of outstanding defects, a list of remedial works required and a list the Regulations which the Respondent contended were being breached. [761-766]. The later were: Regulation 3 - duty of manager to provide information to occupiers; Regulation 4 - duty of manager to take safety measures; Regulation 7 - duty of manager to maintain common parts, fixtures, fittings and appliances, and Regulation 8 - duty of manager to maintain living accommodation.

30. On 28 January 2025 Mr Stowe wrote to the Applicant acknowledging receipt of his HMO renewal licence application and fee [732]. The letter advised that the application was incomplete and asked for certain documents to be provided. They were:

-Floor plan including dimensions of bedrooms in metres
-Compliant fire alarm testing certification with sufficient detail; a self-assessment is not sufficient. This certification must be undertaken by a competent person and compliance with BS5839-1principles.
-Compliant emergency lighting test certification which conforms with industry best practice of a minimum 3-hour full discharge test to check the battery life of the emergency lighting system as stipulated by BS5266-1.
-A fire risk assessment of sufficient detail undertaken in the last 12 months, which complies with LACoRS guide principles

31. On 14 February 2025 the Respondent wrote to the Applicant with a notice of proposal to refuse to grant of a licence for a HMO [768-771]. Two reasons were given. Firstly a failure to provide supporting documentation. Secondly a failure to comply with '*Housing Act 2004 standards and HMO licensing regulations*'.

32. On 27 February 2025 representations were made on behalf Applicant by email requesting that the HMO application was not refused [773]. The email stated that the Applicant was working to address the outstanding matters and attached a fire risk assessment and floor plan.

33. On 10 March 2025 Mr Chris Williams Environmental Health Team Leader (Housing Standards) with the Respondent wrote to the Applicant rejecting the representations made by him [821].

34. On 18 March 2025 the Respondent served on the Applicant a Notice of Refusal to Grant a Licence for a House in Multiple Occupation [835-837]. The reasons were stated as:

1. *Not providing supporting documentation including:*
    - *Fire alarm testing certification with sufficient detail; a self-assessment is not sufficient. This certification must be undertaken by a competent person and compliance with BS5839-1 principles.*
    - *Compliant emergency lighting test certification which conforms with industry best practice of a minimum 3-*

hour full discharge test to check the battery life of the emergency lighting system as stipulated by BS5266-1.

2. *The applicant has been issued with two civil penalty notices for section 72 and section 234 offences under the Housing Act 2004 in October 2024. Since these civil penalty notices have been imposed, this department has received limited co-operation from the HMO licence applicant to secure compliance with Housing Act 2004 standards and HMO licensing regulations at 23 Winchester Road. Property conditions on 12 November 2024 demonstrated multiple HMO management contraventions still on-going despite remedial requests*

35. The Notice of Refusal advised the Applicant of his right to appeal to this Tribunal within 28 days. That was stated to be by 15 April 2025.

36. **The Financial Penalty Application**

37. **The Law**

38. Section 249A of the Act provides that a local housing 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' in respect of premises in England. 'Relevant housing offence' means one or more of the offences set out in subsection 2. Those include an offence under section 72 (licencing of HMOs) and under section 234 (management regulations in respect of HMOs) of the Act.

39. Subsection 4 provides that the amount of a financial penalty imposed must not be more than £30,000.

40. Section 72(1) of the Act provides: '*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…. but is not so licensed*'. Section72(4) provides that it is a defence if an application for a licence has been duly made under section 63 and that application is still effective. Section 72(5) provides that it is a defence that the defendant had a reasonable excuse for having control of or managing a house which is required to be licensed but is not so licensed.

41. Section 234 of the Act provides for regulations to be made the purpose of ensuring that in respect of every HMO there are in place satisfactory management arrangements and for satisfactory standards to be observed. Those may include duties on the person managing the HMO in respect of its repair, maintenance, cleanliness and good order and of the facilities and equipment in it. Subsection 3 provides that a person commits an offence if he fails to comply with regulations made under section 234. Subsection 4 provides that in proceedings against a person for an offence under subsection 3 that it is a defence that he had a reasonable excuse for not complying with the regulation.

42. The Management of Houses in Multiple Occupation (England) Regulations 2006 (the Regulations) are regulations made under section 234 of the Act.

Regulation 4 of the Regulations provides:

(1) The manager must ensure that all means of escape from fire in the HMO are –
(a) kept free from obstruction; and
(b) maintained in good order and repair.
(2) The manager must ensure that the fire fighting equipment and fire alarms have been maintained in good working order.
(3) Subject to paragraph (6) the manager must ensure, where there are 5 or more occupiers, that all notices indicating the location of means of escape from fire are displayed in positions within the HMO that enable them to be clearly visible to the occupiers
(4) The manager must take all reasonable measures as are reasonably required to protect the occupiers of the HMO from injury, having regard to-
(a) the design of the HMO
(b) the structural conditions in the HMO; and
(c) the number of occupiers in the HMO
(5) In performing the duty imposed by paragraph (4) the manager must in particular-
(a) Iin relation to any roof or balcony that is unsafe, either ensure that it is made safe or take all reasonable measures to prevent access to it for so long as it remains unsafe; and
(b) In relation to any window the sill of which is at or near floor level, ensure that bars or other such safeguards as may be necessary are provided to protect the occupiers against the danger of accidents which may be caused in connection with such windows.
(6) The duty imposed by paragraph (3) does not apply where the HMO has four or fewer occupiers.

The term '*the manager*' is defined in Regulation 2(c) in relation to an HMO to mean; '*the person managing the HMO'*.

43. Paragraph 10 of Schedule 13A to the Act provides that a person who has been served with a final penalty notice may appeal to this Tribunal against the decision to impose the penalty, or the amount of the penalty. The appeal is to be a rehearing of the local authority's decision, but may be determined having regard to matters of which the authority were unaware. On an appeal the Tribunal may confirm, vary or cancel the final penalty notice. Paragraphs 1 – 8 of Schedule 13A set out the procedural steps to be taken by a local authority if it wishes to impose a financial penalty on a person under section 249A.

44. **The Applicant's Case**

45. It is not disputed by the Applicant that the HMO licence expired on 25 October 2023 and that it needed to be renewed. He told the Tribunal that he had owned a number of HMOs over the years and that as an experienced landlord he

understood the importance of ensuring that an HMO licence was in place where required.

46. He was, he said, at the time suffering from severe stress not least due to financial pressures exacerbated by tenants failing to pay rent. One tenant, he told the Tribunal, had arears of some £200,000. That his failure to apply, or at least the delay in applying, for a new licence was a lapse on his part due to extreme circumstances. It was not something which had happened to him before. He accepted that legally the Respondent was not obliged to remind him of when the licence fell to be renewed. He said that he hadn't seen the reminder letter from the Respondent dated 24 October 2023 advising him that the licence was to expire on 25 October 2023 and of the need to apply for a new licence [866-867]. He was at the time he said receiving a large volume of emails. He suggested to the Tribunal that it might perhaps be more helpful if the licence were renewed yearly as it would then be, as he put it 'on my radar'. In this case he had one reminder which he didn't see, he therefore didn't react in a timely manner primarily due to the stress that he was under at the time.

47. The Applicants properties, including the Property, are managed through his company Cranleys Capital Limited. In answer to questions from the Tribunal the Applicant said that the company operated a spreadsheet system which contained all key dates relating to properties which included renewal dates for HMO licences. In answer to questions from Mr Capildeo the Applicant said that he personally managed the Property and as a responsible landlord he accepted that it was his responsibility to comply with all applicable legal requirements. That he had not been aware that the licence was due to expire on 25 October 2023, that due extenuating circumstances at the time his judgment was not as strong as it usually was. That the stress that he was under ultimately led to him suffering a heart attack April 2024.

48. The Applicant's case is that as soon as he was made aware of the need to apply for a new licence in April 2024 (presumably a reference to the letter from the Respondent dated 23 April 2024 [910-911]) he made an application on 2 May 2024. He suggests that was not unreasonable not least given the medical condition that he was in. That any suggestion that he had no intention to apply was demonstrably false and deeply unfair.

49. In his witness statement dated 10 July 2025 the Applicant refers to certain personal characteristics which he says affect the way that he communicates and processes information. That he has always found processing large volumes of written material difficult. That he often requires time to digest complex written information and that he can miss fine details unless they are presented clearly or summarised. He describes those traits as being consistent with a form of neurodivergence (paragraph 8 of the statement [20]). He does not though he says rely on a formal diagnosis but he recognises that his way of thinking is perhaps different from the norm. For that reason he says that he works with a trusted member of his office team to help him manage communication and clarify documentation especially in legal or administrative matters. He states: '*Their assistance ensures that my understanding and response are accurate, and that my intentions are properly reflected in correspondence*' (paragraph 10 [21]. Further (paragraph

25 [23]: '*Despite these challenges, I have never ignored my responsibilities. On the contrary, I have actively sought to engage, clarify, and comply. To suggest that I had "no intention to comply" not only misrepresents my actions but also ignores the fact that I have always viewed legal and regulatory compliance as central to my professional and personal values. I would never deliberately risk non-compliance, especially when I understand the serious legal and financial consequences involved*'.

50. The Applicant told the Tribunal that he had no idea that the lack of a licence was a form of 'strict liability'. That he had sought advice and had been given an assurance by the Respondent that if he placed the Property on the market for sale he would benefit from a temporary exemption from the mandatory HMO licensing requirements. That accordingly he had placed the Property on the market for sale which had included putting it up for auction. He had even paid a solicitor to prepare a legal sales pack. He accepted that he hadn't made a formal application for a temporary exemption that he hadn't been aware of the need to apply. In answer to a question from Mr Capildeo as to whether he would have expected written confirmation from the Respondent that he had the benefit of a form of exemption, he said he didn't know what to expect.

51. The Applicant's case is that he always sought to resolve the defects identified by the Respondent at the Property. That indeed they had, he said, all now been resolved. That where there were delays in carrying out works that was not due to him trying to avoid responsibility but because of medical issues, delays on the part of contractors and a lack of clarity from the Respondent as to the nature of the works required. That in respect of the gaps below the fire doors identified by the Respondent he was given no indication as to how that might be addressed. The Property was a grade 2 listed property with sloping floors. That the advice he received from experienced carpenters was that the evenness of the original flooring would cause the fire doors to drag and become inoperable if the gap was closed. That would create a greater hazard including a trip risk in an emergency. That he had carried out independent research and consulted industry sources (paragraph 58 of his witness statement dated 10 July 2025 [25]). That because smoke and heat rise, small gaps at the base of fire doors particularly in old buildings did not automatically present a serious risk especially where other fire safety measures were in place. However once he had received clear advice including input from a fire door specialist he had acted and the works to the doors have been completed. (Paragraph 59).

52. The Applicant accepts that there had been some outstanding works at the time that the Property was inspected by the Respondent but he had not been uncooperative or indifferent. That the delay in resolving the fire door issue was largely the result of unclear and inconsistent guidance from the Respondent, the nature of the building, and the practical limits of what tradespeople could realistically deliver without causing further hazards. That once sufficient clarity was obtained he had addressed and resolved the issue properly (see paragraph 60 of his witness statement dated 10 July 2025 [26]).

53. The Applicant told the Tribunal that his financial circumstances had not prevented or delayed any necessary work to the Property. As he put it; financial issues will never get in the way of providing a safe space for his

tenants. Where he had not been available his assistant Agnes and handled matters on his behalf.

54. The Applicant says that once he realised that there was an issue as regards the lack of an HMO licence he reduced the number of tenants at the Property so as to take the Property outside of the HMO legislation. The Tribunal was not told, or given any evidence as to, the date upon which the number of tenants were reduced to 4.

55. The Applicant says that no harm was caused to tenants at the Property by reason of the lack of an HMO licence or because of any delaying in carrying out works to the Property as required by the Respondent. That there was no concealment or evasion on his part. That the remedial issues had been properly resolved. That he had at all times cooperated fully with the Respondent. That he had not acted dishonestly or sought to avoid his responsibilities.

56. The Applicant asks the Tribunal to either cancel the financial penalties imposed on him or to significantly reduce them.

57. **The Respondent's Case**

58. The Respondent's case is primarily set out in the witness statement of Mr Stowe dated 27 June 2025 [846-854] and in the oral submissions and evidence given to the Tribunal at the hearing. The witness statement sets out a chronological history of the matter which is summarised at paragraphs 11-35 above.

59. It is the Respondent's case that the Applicant at all material times committed an offence under section 72 of the Act by having control of or managing an HMO which was required to be licensed but was not so licensed, and also under section 234 of the Act by failing to comply with the Regulations.

60. As to the Section 72 offence; the Property the Respondent says is an HMO subject to mandatory licensing criteria. The licence issued for the Property dated 11 October 2018 expired on 25 October 2023. As the Property remained at that time an HMO it was incumbent upon the Applicant to make an application for a new licence. To assist the Applicant, although not obliged to do so, the Respondent wrote to the Applicant on 24 October 2023 [866-867] reminding the Applicant of the need to apply for a new licence or to otherwise inform the Respondent as to why the Property might no longer require a licence.

61. There was then what Mr Capildeo described as a 'time-lapse' until April 2024. On 11 April 2024 the Mr Stowe sent an email to the Applicant encouraging him to make an application for an HMO licence and reminding him that it was an offence to operate an HMO without fulfilling the mandatory licensing criteria. The email stated that the lack of a licence ' *… has the potential to make you the subject of formal enforcement works such as civil penalties or prosecution were appropriate'* [949]. Following an inspection of the Property on 22 April 2024 Mr Stowe sent an email to the Applicant on 23 April 2024 which amongst

other things again reminded the Applicant of the need to submit an HMO licensing application which the email stated should be submitted by 6 May 2024 [946-947].

62. The Respondent says the Applicant did submit what it describes as a 'partially completed' HMO licence application on 2 May 2024. The application was, the Respondent says, missing supporting documentation and payment of a fee. That it is the Respondent's custom and practice to only consider an application as valid when all required documents are provided and the correct fee paid.

63. As to the possibility of a temporary licence exemption, Mr Stowe says that it was made clear to the Respondent that he was not eligible. That he sent an email to the Applicant on 20 May 2024 [943] stating: '*To date my department is yet to receive an HMO licensing application despite you verbally confirming this was your intention at our face to face meeting in April. For further clarity EH confirmed you were <u>not</u> eligible for a temporary exemption from mandatory HMO licensing obligations and are currently operating an HMO meeting aforementioned criteria'*.

64. Mr Williams told the Tribunal when cross examined by the Applicant that it was the Respondent's policy only to consider temporary exempt licence applications if such applications were made before the HMO licence expired. That was not the case here. That exemptions were applied only in extenuating circumstances such as a sale of the property and would be for a period of 3 months at most. That they could be extended by a further 3 months in exceptional circumstances for example where there was an imminent sale of the property. That the Respondent would expect a professional landlord to apply for exemption in advance of an HMO licence expiry.

65. Mr Stowe emailed the Applicant further on 30 May 2024 [966]. The penultimate paragraph stated: '*Temporary licensing exemption notices for HMO's meeting mandatory licensing obligations are only available when the HMO licenced property is still within a legitimate licence period for instances such as being sold. Your licence for 23 Winchester Road expired on 25 October 2023 and was listed for sale on 28 May 2024'*.

66. As to the Section 234 offence; the Respondent refers to a number of inspections of the Property. The first was on 25 January 2022 which revealed various breaches of the Regulations, in particular breaches under regulations 3,4,6,7 and 8. A letter was written to Applicant on 28 January 2022 setting out the breaches and providing details of works required to be carried out [869-876].

67. That when the Respondent inspected the Property next on 22 April 2024 numerous defects were found including multiple fire doors displaying gaps of greater than 4 mm. The defects were discussed, the Respondent says, with the Applicant and timescales set for remedial works to be carried out of between 1 and 2 months. That the Applicant raised no objection and signed the inspection report.

68. Mr Stowe carried out a further inspection of the Property on 23 May 2024. The Applicant did not attend. Mr Stowe reported that no remedial work had taken place except for the securing of the basement area. He sent a copy of his revisit report [925] by email to the Applicant.

69. There was fourth inspection of the Property by the Respondent, albeit after service of the financial penalty notices, on 12 November 2024. Mr Stowe says that numerous defects first identified at the April 2024 inspection remained unaddressed. There is a copy of the inspection report at [1139]. The report lists 8 defects which include reference to thresholds under various fire doors still being greater than 4 millimetres.

70. Mr Stowe told the Tribunal that it had been the fire safety hazards at the Property that had most concerned him, in particular the gaps around the fire doors. This was a matter he said first raised in 2022 and was still outstanding as at his inspection in November 2024. When cross examined by the Applicant about the difficulties in applying the Regulations to historic houses he said that he was used to seeing issues in respect of Tudor houses in the Basingstoke area but that the Council were not there to provide property owners with bespoke advice. He told the Tribunal that the decision to issue a financial penalty notice in respect of the breach of the Regulations was predominately because of the gaps around the fire doors. He told the Tribunal that he regarded this as important because it was not just flames that could kill but also smoke inhalation, something which could also damage a person's lungs with a lifelong effect. He didn't agree that this was a practically difficult issue to address in old properties. He made the point that the National Trust was able to manage such properties and achieve gaps of 4 mm or less around fire doors. That there were various ways of addressing this such as the application of a tempered wedge, by rehanging the door or the application of brushes along the lower edge of the door.

71. The Respondent decided to consider enforcement proceedings. To that end it serviced a notice on the Applicant dated 23 July 2024 seeking information under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 [999-1002]. The intention Mr Stowe says was to collate accurate actual weekly income on 9 properties that it was understood were either owned by the Applicant or in respect of which he had a controlling influence.

72. The Applicant responded stating that his interest in the Property was as '*shareholder of Cranleys Capital Limited, freeholder*' [1018]. The request for information asked the Applicant to state the weekly rental income in respect of the 9 properties. The Applicant responded: '*None, all these are under the control of Cranleys Capital Limited. All property businesses are loss making. All repairs are paid from personal investment*' [1018].

73. On 25 July 2024 the Respondent received an email from Applicant's assistant Agnieszka Weglarczk confirming that 7 persons were residing at the Property in single let's [1033]. That confirmed to the Respondent that the Applicant continued to commit an offence by operating HMO which met mandatory licensing criteria without a licence. The Respondent also concluded that the

Applicant was committing an offence under section 234 of the Act for failing to comply with the Regulations.

74. A decision was made to calculate a civil penalty charge in respect of both matters. The Respondent considered that the issue of a civil penalty was more cost-effective than prosecution. A notice of intent to issue a financial penalty charge in respect of both offences was issued to the Applicant on 25 July 2024 [1051-1052 and 1069-1070].

75. The Respondent received a civil penalty appeal document from the Applicant. That was not accepted by the Respondent and on 1 October 2024 separate civil penalty notices for offences under section 72 and section 234 of the Act were served on the Applicant (paragraphs 25 and 26 above).

76. The Respondent asks the Tribunal to dismiss the Applicant's appeal. The Respondent says it is clear that the Applicant's guilty of both offences. That after the HMO licence had expired on 23 October 2023 there had been no attempt by the Applicant to apply for a new licence until the Respondents inspection in April 2024. That the Applicants subsequent attempts to obtain a new licence were unsuccessful due to missing documentation so that the Property had continued to be operated as an unlicensed HMO at the least from the expiry of the previous licence from 24 October 2023 until 25 July 2024 when the Applicant's assistant had confirmed that 7 persons continued to reside at the Property on single let's.

77. That the Property had been inspected 4 times, in January 2022, April 2024, May 2024 and November 2024 when on all occasions numerous defects at the Property had been identified and had not been remedied. That there was clear evidence as such of housing management offences contrary to section 234 of the Act. That enforcement by way of civil financial penalties had been the most appropriate action to take.

78. **The Tribunal's Decision**

79. The Tribunal first reminds itself that this appeal is by way of a rehearing and may be determined having regard to matters of which the Respondent was unaware. That the Tribunal may confirm, vary or cancel the final notices dated 1 October 2024.

80. On the basis of the evidence before it the Tribunal is satisfied beyond reasonable doubt that the Applicant is guilty of an offence under both section 72 and section 234 of the Act.

81. It is not disputed that the HMO licence for the Property expired on 25 October 2023. The Tribunal is satisfied that the Property remained subject to the mandatory licensing requirements until at least until 25 July 2024. Although the Applicant contends that he has taken the Property outside of the mandatory licensing regime by reducing the number of occupiers to 4, it is clear from the email from his assistant that as at 25 July 2024 there were 7 occupants as at that date. Any reduction in the number of occupants would therefore appear to have taken place after that date. There was no evidence

adduced by the Applicant as to the date when he did reduce the number of occupants.

82. The Applicant did not submit an application for a new licence until 2 May 2024. The Tribunal is satisfied from the evidence before it that that was not an effective application. That because the application was not accompanied by the required documents.

83. There was a consistent theme running through the 4 inspections of the Property. That was effectively highlighted in the financial penalty notice served in respect of the section 234 offence. It was something which Mr Stowe told the Tribunal caused him the most concern. That was a breach of Regulation 4 of the Regulations in particular the failure to reduce the gaps around the fire doors to 4 millimetres or less.

84. The Applicant effectively raised a defence in respect of both offences of reasonable excuse. That is not in the view of the Tribunal made out.

85. The Applicant is clearly a professional and experienced landlord. He told the Tribunal that he had some 15 to 20 years' experience in looking after HMOs and of complying with the HMO mandatory licensing regime. He said he had had no issues in the past. He told the Tribunal that the Property was owned by him personally albeit managed through a company of which he was the sole director and shareholder. He confirmed that he personally managed the Property. He has systems in place at his company he said to ensure that deadlines in respect of matters affecting the Property to include the renewal of the HMO licence were not missed. That in this case however there had been a lapse on his part.

86. He explained that he had been under considerable stress. That he had been facing serious financial difficulties. That had affected his health such that he has subsequently sustained a heart attack in April 2024. He had been in hospital for three days. That was some six months after the HMO licence had expired. He was assisted in his management of the Property by an assistant who no doubt was able to step into his shoes during his absence. In any event it was his responsibility to ensure that the Property was properly managed in the event that he was indisposed. Although there was no obligation on it to do so the Respondent reminded him orally and in writing on more than one occasion of the need to apply for a new licence. He failed to take any action to do so until 2 May 2024 when he filed an application missing the required accompanying documents. That was not an effective application as the Applicant should have known.

87. The Applicant does not argue that he was constrained by restricted financial circumstances in carrying out works to the Property. Conversely, and to his credit, he told the Tribunal that financial issues would never get in the way of ensuring the safety of his tenants. He argued that delay was caused by his contractors to carry out work to the Property but adduced no evidence to support that.

88. The Applicant's heart attack occurred many months after the expiry of the HMO licence. It does not explain his failure to address the defects at the property prior thereto. Nor was any evidence adduced by the Applicant to suggest that he was not in position to address those defects following his recovery from his heart attack or during a period of recuperation. In any event, as stated, he had in place an assistant who no doubt could step into his shoes.

89. The Tribunal appreciates that landlords may face particular hurdles in complying with the Regulations in respect of older properties. Those are hurdles that it is incumbent on them to overcome. Indeed the Applicant says that ultimately he has been able to make the fire doors at the Property compliant with the Regulations (albeit that was not the case at the time of the service of the financial penalty notices on 1 October 2024 or at the date of the Respondent's inspection in November 2024).

90. The Tribunal accepts that it was the Respondent's policy that the Applicant was not entitled to apply for a form of temporary exemption from a licence after expiry of the HMO licence. Indeed it is apparent that he didn't make an application in any event. The Tribunal doesn't accept that any landlord, let alone a professional landlord, would reasonably consider that it was acceptable not to make a formal application for a temporary exemption but instead to rely upon what he thought was an understanding that he need take no action whilst he placed the Property on the market for sale.

91. **The Quantum of the Penalty**

92. The Tribunal agrees with the Respondent that the imposition of civil penalties was an appropriate action for it to take as a more cost effective alternative to prosecution. The Applicant suggested at the hearing that it would have been more appropriate to have served a further notice on him prior to or instead of the imposition of financial penalties. Mr Stowe said that the history of the matter was such, not least by reference to the correspondence between the parties, the inspections of the Property, what he described as the 'cascade' of emails, the severity of the issues and the perceived lack cooperation on the part of the Applicant that the imposition of financial penalties was the most appropriate action. The Tribunal agrees with Mr Stowe. Notices and correspondence served historically on Applicant appear to have had little if any effect. The imposition of civil penalties was the most appropriate action for the Respondent take in respect of the offences committed under sections 72 and 234 of the act.

93. The Applicant does not suggest that the Tribunal should depart from the Respondent's Civil Penalties Policy (the Policy), nor in the view of the Tribunal should it. There is a copy of the policy at [1054-1060].

94. There is a copy of the Respondents Financial Penalties Decision record in respect of the section 72 offence applying the Policy at [1045-1049]. It contains 4 steps.

95. The first step addresses the level of culpability, the level of harm, the penalty level and the penalty band. The Respondent says that the level of culpability falls under the heading of 'Very High'. The Respondent says it regarded the breach as a deliberate or fragrant disregard of the law (which is the definition of 'Very High' contained in the Policy). Mr Stowe told the Tribunal that was not least because of the length of time over which in his view the breach had occurred.

96. The Policy has 4 categories of landlord culpability: Very High, High, Medium and Low. The definition of 'High' is:

    - *Offender failed to put in place measures that are recognised legal requirements.*
    - *Offender ignored warnings from the Council or tenants.*
    - *Offender failed to improve conditions even after being alerted to the risks.*
    - *Offender allowed the breaches to continue over a long period of time.*
    - *Serious and/or systemic failures to address risks.*

97. After careful consideration, the Tribunal is of the view that this offence falls more readily into the category of 'High' culpability. The Applicant failed to address warnings from the Respondent to renew the HMO licence. He allowed the Property to operate without a licence over a long period of time. The Applicant was arguably negligent or at the least lackadaisical in failing to make an effective application to renew the HMO licence. It is in the view of the Tribunal a step too far to describe his actions, or lack of actions, as a deliberate breach or flagrant disregard for the law.

98. As to levels of harm the Policy has 3 categories levels A, B and C. The Respondent placed this matter at level C stating: *licensing contraventions in themselves are not specifically injurious to health so cannot be levels A or B as a standalone issue.* Having considered the definitions of Levels of Harm A and B in the Policy the Tribunal agrees with the Respondent.

99. By reference to the table in the Policy the Penalty Level is therefore 3 which falls within the penalty band of £2,000–4,000.

100. The second step is to determine the Applicant's weekly income. The Policy provides that the Respondent should determine the landlord's weekly income from the evidence that it possesses. That is stated to be the weekly rental income that the landlord receives from properties in their portfolio as stated on tenancy agreements. That however, if tenancy agreements don't exist or are not forthcoming the Policy provides that a best estimate of weekly income will be made – see paragraph 2.5 of the Policy [1056].

101. The Respondent identified 11 properties owned by or under the control of the Applicant. Of these it disregarded 2 on the basis that it understood that one was a business address and one was the Applicant's home address. The Respondent had asked the Applicant to provide details of the weekly rental income from those 9 properties as part of the Request for Information served on the Applicant dated 23 July 2024. The Applicant's unhelpful response was '*None, all these are under the control of Cranleys Capital Limited*' [1018], a company solely owned by the Applicant.

102. The Applicant therefore undertook a best estimate of weekly income from those properties. It did so from discussions with tenants at the Property and from a market assessment by reference to resources such as spareroom.com, Zoopla, Rightmove and HM land Registry records. In the view of the Tribunal it was right to do so. That produced a monthly estimated rental income. The Applicant divided that figure by 4 to produce a weekly income. The resultant weekly income figure was £4,362.50.

103. The Applicant was critical of that approach at the hearing. He made the point that based on the number of weeks and months in the year an average month equates to more than four weeks. That the assessed monthly income should not have been divided by 4 to produce a weekly figure but by a figure of 4.333. The effect would be to produce a lower weekly figure. The Tribunal agrees that technically the Respondent is correct, however the reduction would be minimal and given the cap applied under terms the Policy, see below, the point becomes academic.

104. Dividing the estimated monthly rental income figure by 4.333 produces a weekly figure of £4,027.23. The percentage of relevant weekly income multiplier by reference to the table in the policy is 150%. The penalty subtotal calculation is therefore £2,000 + (4,027.23 x 1.5) = £8,040.85.

105. The third step of the Policy process is to consider aggravating and mitigating factors. Table 6 of the Policy contains a list of the factual elements to be considered in the context of the offence [1057-1058]. The Respondent identified three aggravating factors and no mitigating factors. The aggravating factors were identified as:

- *Cost-cutting at the expense of safety,*
- *Poor history of compliance with other enforcement notices at 23 Winchester Road,*
- *Deliberate failure to obtain or comply with relevant licensing requirements to avoid scrutiny by enforcing authorities including not responding to S16 and S235 notices.*

106. The Tribunal sees no reason to interfere with the Respondent's approach. The effect is to increase the penalty subtotal by 15% which produces a figure of £9,246.98. The Policy provides that the penalty level cannot exceed the maximum amount of the appropriate penalty band. In this case that is a figure of £4,000.

107. The fourth step of the Policy process is to remove any financial benefit that the landlord may have obtained by committing the offence. The amount of the penalty is adjusted accordingly. By reference to Table 7 of the Policy the Respondent considered that the cost of a licensing application would be around £1000. That was not challenged by the Applicant. The total level of civil penalty is therefore calculated as £4,000 plus £1,000 for works = £5000.

108. Finally the Policy provides for the proposed penalty to be subject to a peer review by the Environmental Health Team Leader (Housing Standards). That was Mr Williams. Mr Williams agreed with the reasoning for the issue of a civil penalty. He made the point that the Applicant was a professional landlord with a large portfolio of rental properties. That he had been reminded on more than one occasion that the Property required an HMO licence. He considered a similar case where two penalties had been issued for almost exactly the same breaches. To be consistent with the approach taken by the Respondent in that case he considered that a 20% reduction in the overall total was fair and proportionate and revised the penalty to £7200. When questioned by the Tribunal Mr Williams said if the level of culpability had been assessed as 'high' as opposed to 'very high' and if that would have reduced the level of the penalty to a figure below £7,200, he would have made no further reduction.

109. For those reasons the Tribunal varies the civil penalty imposed by the Respondent in respect of the offence under section 72 of the Act to the sum of £5,000.

110. There is a copy of the Respondent's Financial Penalties Decision record in respect of the section 234 offence at [1062-1067].

111. The Respondent categorises the level of culpability as 'very high'. That upon the basis that it considered that the Applicant had acted in deliberate breach or flagrant disregard of the law. The Tribunal having considered the Respondent's reasoning carefully is of the view this matter falls more readily under the category of 'high'. The Applicant did ignore warnings from the Respondent. He failed to improve conditions even after been alerted to the risks. He allowed the breaches to continue over a long period of time. There was a serious failure on his part to address the risks. However in the view of the Tribunal the Respondent's conduct fell short of constituting a deliberate breach or flagrant disregard for the law.

112. The Tribunal agrees that the Respondents consideration of the seriousness of the harm or potential harm is correct and that it falls in this case into level B. The effect is to put the penalty level into band 4 between £4,000-£8,000.

113. The Tribunal applies the level of weekly rental income as per the section 72 offence in the sum of £4,027.23. The percentage of relevant weekly income by reference to the table in the Policy is 250%. The penalty subtotal is therefore £4,000 + (£4027.23 x 2.5) = £14,068.08.

114. Aggravating and mitigating factors. The Respondent identifies no mitigating factors and 3 aggravating factors which are:

- *Cost-cutting at the expense of safety,*
- *Poor history of compliance with other enforcement notices at 23 Winchester Road,*
- *Deliberate failure to obtain or comply with relevant licensing requirements to avoid scrutiny by enforcing authorities including not responding to S16 and S235 notices.*

115. The Tribunal agrees with the Respondent's conclusions. The effect is to increase the penalty by 15% to produce a figure of £16,178.29. In accordance with the terms of the Policy that figure is however capped at £8,000.

116. Addressing the question of potential financial benefit to the Applicant the Respondent estimated the cost of the works required to the Property in the sum of £5,000. That was not challenged by the Applicant. The Respondent's estimate of the cost of the required works does not in the view of the Tribunal appear unreasonable.

117. The total level of the civil penalty is therefore calculated as £8,000 plus £5,000 for the cost of remedial works = £13,000.

118. Upon review Mr Williams again considered a similar case for almost exactly the same breaches and to be consistent with the approach in that case reduced the penalty to £12,000. The Tribunal see no reason to vary that approach and reduces the penalty to £12,000. The effect is to produce the same figure as determined by the Respondent albeit by way of a slightly different approach.

119. For those reasons the Tribunal confirms the civil penalty imposed by the Respondent in respect of the offence under section 234 of the Act in the sum of £12,000.

120. The total of the financial penalties imposed on the Applicant are therefore varied to the sum of £17,000.

121. **The HMO Licence Application**

122. **The Law**

123. It is accepted in this case that the Property is an HMO which is subject to compulsory licensing under Part 2 of the Act.

124. Section 63 provides that an application for a licence must be made to the local housing authority. Section 63(2) states: *The application must be made in accordance with such requirements as the authority may specify*.

125. Section 64 provides that on an application to it the local authority must either grant or refuse to grant a licence. Before granting a licence the local authority must be satisfied as to the matters set out in 64(3). Those include:

(a) that the house is reasonably suitable for occupation by not more than the maximum number of households or persons mentioned in

subsection (4) or that it can be made so suitable by the imposition of conditions under section 67

(aa) .....

(b) that the proposed licence holder –

(i) is a fit and proper person to be the licence holder, and

(ii) is, out of all the persons reasonably available to be the licence holder in respect of the house, the most appropriate person to be the licence holder;

(c) that the proposed manager of the house is either –

(i) the person having control of the house, or

(ii) a person who is an agent or employee of the person having control of the house;

(d) that the proposed manager of the house is a fit and proper person to be the manager of the house; and

(e) that the proposed management arrangements for the house are otherwise satisfactory,

126. Section 66 of the Act provides:

(1) In deciding for the purposes of section 64(3)(b) or (d) whether a person ("P") is a fit and proper person to be the licence holder or (as the case may be) the manager of the house, the local housing authority must have regard (among other things) to any evidence within subsection (2) or (3).

(2) Evidence is within this subsection if it shows that P has—

(a) committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements);

(b) practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business;

(c) contravened any provision of the law relating to housing or of landlord and tenant law; or

(d) acted otherwise than in accordance with any applicable code of practice approved under section 233.

(3) Evidence is within this subsection if—

(a) it shows that any person associated or formerly associated with P (whether on a personal, work or other basis) has done any of the things set out in subsection (2)(a) to (d), and

(b) it appears to the authority that the evidence is relevant to the question whether P is a fit and proper person to be the licence holder or (as the case may be) the manager of the house.

(3A – 3C).....

(4) For the purposes of section 64(3)(b) the local housing authority must assume, unless the contrary is shown, that the person having control of the house is a more appropriate person to be the licence holder than a person not having control of it.

(5) In deciding for the purposes of section 64(3)(e) whether the proposed management arrangements for the house are otherwise satisfactory, the local housing authority must have regard (among other things) to the considerations mentioned in subsection (6).

(6) The considerations are—

(a) whether any person proposed to be involved in the management of the house has a sufficient level of competence to be so involved;

(b) whether any person proposed to be involved in the management of the house (other than the manager) is a fit and proper person to be so involved; and

(c) whether any proposed management structures and funding arrangements are suitable.

(7) Any reference in section 64(3)(c)(i) or (ii) or subsection (4) above to a person having control of the house, or to being a person of any other description, includes a reference to a person who is proposing to have control of the house, or (as the case may be) to be a person of that description, at the time when the licence would come into force.

127. Paragraph 31 of Schedule 5 to the Act provides that an Applicant may appeal to the Tribunal against a decision by the local housing authority to refuse to grant a licence. Paragraph 34 provides that the appeal is to be by way of a rehearing but may be determined having regard to matters of which the authority were unaware. The Tribunal may confirm, reverse or vary the decision of the local housing authority. The Tribunal may direct the authority to grant a licence to the Applicant for the licence on such terms as the Tribunal may direct.

128. LB Waltham Forest v Hussain and others (2023) EWCA Civ 733 made it clear that the task of the Tribunal is to determine whether the decision under appeal was wrong at the time when it was taken (paragraph 63 of the judgment). At paragraph 101 of the judgment Lewison LJ said that the appellate tribunal was not : '*….entitled to decide an appeal by reference to facts which occurred after the date of the local authority's decision, except to the extent that they throw light on the question whether the local authorities decision was wrong. To decide otherwise, and to hold that the FTT may legitimately conclude that circumstances have changed since the local authority's decision and that, although it was right at the time, events have since moved on, would be to countenance an ever-moving target'*

129. **The Applicant's Case**

130. The Applicant says that he did supply the requested supporting documents with his application for a new licence. That included a fire alarm testing certificate. That had been produced he says by what he understood was a competent engineer. That once the Respondent questioned the certificate's format he obtained a new test. He says that had the Respondent provided more specific or constructive feedback he would have acted sooner. That at no point did he refuse to provide what was needed, that he was : '*…. simply navigating the practical realities of contractor availability, inconsistent interpretations, and my own health constraints during that period'* [27].

131. As to the emergency lighting test certificate the Applicant says that the Respondent was wrong to insist that the system be tested to a 3 hour standard. He understood that a 1 hour certificate would be acceptable for a small scale HMO such as the Property. That a 3 hour standard was generally expected for

large buildings, institutions, or properties housing vulnerable individuals, such as care homes or hospitals. That the Respondent's insistence on a 3 hour test was disproportionate. Nonetheless once he understood the Respondent's position he arranged for a 3 hour test to be conducted and submitted. That where there were delays in submitting documents those could have been avoided with clearer guidance and engagement on the part of the Respondent. That he worked to rectify any defects with his application as soon as he had clarity. That any delay was not due to avoidance but rather medical issues, slow contractor availability, administrative backlogs and cognitive processing challenges. It was he says unreasonable to expect ' *… a lay landlord to self-validate specialist fire or lighting tests'* [28]. He says that the refusal of a licence was based on technical shortcomings not substantive failures of compliance.

132. In answer to questions from Mr Capildeo the Applicant accepted that it was his responsibility to comply with legal requirements. He said that he was a member of the Residential Landlords Association. That he hosted a weekly podcast on property matters. That he undertook continuing professional development (CPD) in respect of housing matters. That he has a property in Wales where he says the regulatory requirements were much higher than in England. He told the Tribunal that he had always acted in good faith. That issues only ever arose over the mechanics of what was needed. That he had looked after HMOs for some 15 to 20 years with no issues in the past.

133. The Applicant says that at all times he acted in good faith. He asks the Tribunal to take in to account the financial pressures that he was under and his medical issues including his heart attack. That those, along with the unavailability of contractors, administrative backlogs and cognitive processing challenges that he faced, were he says the cause of any delay on his part in undertaking the works required to the Property.

134. **The Respondent's Case**

135. The Respondent's case is primarily set out in a witness statement by Mr Stowe dated 1 July 2025 [682-687] and Mr Williams dated 23 June 2025 [1160-1164].

136. There were, Mr Williams says, two reasons why the Respondent refused the Applicant's application for an HMO licence for the Property on 18 March 2025. Firstly, insufficient documentation in relation to fire detection and emergency lighting systems, and secondly, because it was determined that the Applicant was not a fit and proper person to hold an HMO licence.

137. It was a requirement of the Respondent that an application for an HMO licence be accompanied by a fire alarm testing certificate undertaken by a competent person showing compliance with British Standard BS5839-1 principles. It was also a requirement that the application be accompanied by an emergency lighting test certificate of a minimum of 3 hour full standard as stipulated by BS5266-1.

138. On 28 January 2025 Mr Stowe sent a letter to the Applicant stating that the application submitted by the Applicant was incomplete because the above documents, and at the time certain other documents, had not been supplied. The letter asked for those documents within 14 days [732].

139. On 14 February 2025 the Respondent sent a Notice of Proposed Refusal to Grant a Licence for a House in Multiple Occupation [770-771]. The notice referred to 4 documents which had not been provided including a fire alarm testing certification undertaken by a competent person and a compliant emergency lighting test certificate to a minimum three hour standard.

140. On 27 February 2025 on Agnieszka Weglarczyk on behalf of the Applicant sent an email to the Respondent requesting that the HMO application was not refused [1179]. It referred to an emergency lighting test being scheduled for the following Tuesday. In the circumstances Mr Williams decided to allow the Applicant some further time.

141. On 18 March 25 the Respondent served the Applicant with a notice of refusal to grant a licence for an HMO. The Notice stated that the Applicant had failed to provide the required fire alarm testing certificate and a compliant emergency lighting test certificate [835-837].

142. The Respondent says that following the refusal of the application the Applicant provided further supporting documents which included a fire preventative maintenance report dated 15 November 2024. However Mr Stowe says that the document raised concerns around validity as it contained no discernible test details and did not comply with British Standard BS5839-1 [840-841].

143. Similarly the Respondent says that the Applicant subsequently produced an emergency lighting inspection and test certificate dated 15 November 2024 which did not comply with British Standard BS5266-1 as the duration was for one hour only. That a further emergency lighting inspection and test certificate dated 4 March 2025 was thereafter provided to the Respondent but that it was not signed by an engineer, which gave the Respondent concerns as to its validity [845].

144. The Respondent also determined that the Applicant was not a fit and proper person to be granted an HMO licence for the Property. Mr Williams refers to the chain of events which led to the issue of the financial penalties and the reasons for their issue. That the Respondent was in breach of the Regulations, and therefore committed an offence under section 234 of the Act, over a number of years. That the Respondent was guilty of multiple breaches of a serious nature over a significant period of time despite being provided with multiple opportunities to adhere to the Regulations. That there was, Mr Williams says, a pattern of repeated offences which gave rise to a belief that the Applicant was unfit to hold an HMO licence.

145. The Respondent says that considering the housing offences committed by the Applicant which gave rise to the issue of the financial penalties (something which Mr Williams says the Respondent only applies as a last resort when

efforts to work collaboratively with landlords has failed), it was entirely right and justified to take the view that the Applicant was not a fit and proper person to hold an HMO licence for the Property.

146. The health issues raised by Applicant were not, Mr Williams says, mitigation for the various offences. The Applicant was, he says, provided with verbal and written explanations regarding works or actions that he was required to take. The Respondent checked his understanding of those requirements regularly and invited further questions. That he signed inspection sheets to confirm his comprehension and acceptance of what works were required. That at no point did the Applicant request that information be provided in another format. That the Applicant had a more than reasonable length of time to comply with the Regulations before any formal action was taken even if reports of his ill-health were taken into account. That the Applicant has a large property portfolio and even if it were the case that health did not allow him to personally deal with matters it was reasonable to expect that someone else would be instructed to take on the management responsibilities so that his tenants were not put at risk as a result.

147. **The Tribunal's Decision**

148. The Tribunal reminds itself that the task before it is to consider whether the Respondent's decision to refuse the HMO licence application made by the Applicant was wrong at the time that the decision was made, that is 18 March 2025.

149. Firstly, did the Applicant make an effective application. In the view of the Tribunal he did not. The Respondent was entitled to require the application to be accompanied by certain documents. Those were documents which the Respondent, properly in the view of the Tribunal, was entitled to demand as part of the process of satisfying itself that the Property was fit to be operated as a licensed HMO for the safety and well-being of the tenants.

150. Those documents included a fire alarm testing certificate undertaken by a competent person to the appropriate British Standard, and an emergency lighting testing certificate undertaken by a competent person to the appropriate British Standard. On the evidence before it the Tribunal is satisfied that both at the date of the application and at the date of the decision to refuse the application neither document had been produced.

151. That in itself would have been sufficient reason to refuse the application. Indeed in the absence of those documents the application was never in the view of the Tribunal an effective application.

152. Further the Respondent took the view that the Applicant was not a fit and proper person to hold an HMO licence. That primarily because of the history of non-compliance with the Regulations that gave rise to the issue of the financial penalties. For the reasons stated above the Tribunal is satisfied beyond reasonable doubt that the Applicant committed an offence over some considerable period of time under section 234 of the Act by not complying with the Regulations. For the purposes of section 66(2)(c) of the Act he therefore

contravened a provision of the law relating to housing or landlord and tenant law.

153. The Tribunal also has regard to the substantial delay on the Applicant's part in submitting an application for a new licence. He holds himself out as a professional and experienced landlord. He nonetheless allowed the Property to continue to be used as an unlicensed HMO for several months.

154. The Tribunal agrees with the Respondent for the reasons put forward by Mr Williams that the Applicants mitigation argument does not assist him. The medical evidence adduced by the Applicant was sparse. It was limited to a hospital discharge summary which stated that he was in hospital from 10 February 2024 to 13 February 2024 by reason of his heart attack [100-101]. The breach of the Regulations by the Applicant occurred over a period of at least two years. It remained the Applicant's responsibility during the entirety of that period to ensure that the Regulations were complied with. If at any time during that period his health restricted him from doing so then it was incumbent upon him to instruct another person to take over the management of the Property. The Tribunal notes that the Applicant manages the Property through his company with the aid of his assistant.

155. For those reasons the Tribunal is satisfied that the Respondent was right to conclude that the Applicant was not a fit and proper person to be a licence holder for the Property and was right to refuse the application for an HMO licence on 18 March 2025.

156. Accordingly the Tribunal confirms the Respondent's decision dated 18 March 2025 to refuse the Applicants application for an HMO licence for the Property.

157. **Summary of Decision**

- The Tribunal confirms the Respondent's imposition of a financial penalty dated 1 October 2024 by reason of a breach of section 72 of the Housing Act 2004 but varies the amount of the penalty to £5,000.

- The Tribunal confirms the Respondent's imposition of a financial penalty dated 1 October 2024 by reason of a breach of section 234 of the Housing Act 2004 in the sum of £12,000.

- The Tribunal confirms the Respondent's decision dated 18 March 2025 to refuse the Applicant's application for an HMO licence for the Property.

13 August 2025

Judge N Jutton

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.