



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

Case Reference : HAV/29UB/HNA/2024/0607

Property : 12 High Street, Ashford, Kent, TN24 8TD

Appellant : Mr Fayez Noor

Representative : N/A

Respondent : Ashford Borough Council

Representative : Ms Sandra Clarke

Type of Application : **Appeal against a financial penalty -
Section 249A & Schedule 13A to the
Housing Act 2004**

Tribunal Members : **Judge R Cooper
Mr S Mason FRICS
Mr M Ayers FRICS**

Date of hearing : **28 August 2025**

Venue : **Havant, parties attending remotely by
video and telephone**

Date of decision : **22 September 2025**

DECISION

Summary decision

The Tribunal varies the Notice of Financial Penalty issued by Ashford Borough Council ('the Council') on 16 October 2024. Mr Noor must pay £12,500 to the Council within 28 days.

No paginated bundle was provided for the hearing. Documents relied on by the Appellant were in two PDF bundles. Individual PDF pages from those bundles in this decision where referred to are marked [A1-] and [A2-]. Individual page numbers of documents from the Respondent's PDF bundle are marked [R-].

Background

1. On 28 November 2024 the Tribunal received an appeal from Mr Noor under section 249A(1) of the Housing Act 2004 ("the 2004 Act") against a Final Notice of Financial Penalty imposed on him by Ashford Borough Council ('the Council') on 16 October 2024. The Council imposed a penalty of £10,000 for conduct amounting to a criminal offence in respect of 12 High Street, Ashford, Kent, TN24 8TD ('12 High Street').
2. The Council alleges that on 16 July 2024 Mr Noor committed an offence contrary to s72 of the Housing Act 2004 in summary on the grounds that 12 High Street required a licence as it was house in multiple occupation (HMO) but was not licenced, and at the time of the Council's inspection on that day was occupied by 13 people in 11 bedrooms.
3. Directions were given on 21 January 2025 by a Case Officer (Mrs Cooper) setting out the steps that needed to be taken by the parties in preparation for the hearing listed for 3 April 2025. As the appeal had not been received within 28 days of the date of the Final Notice, these Directions included a requirement for Mr Noor to provide reasons for lateness and for the parties to make representations on the issue.
4. On 21 March 2024 the Tribunal issued a Notice that it was minded to strike out Mr Noor's appeal in accordance with Rule 9 (3) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 because he had failed to comply with the Directions. The parties were asked to provide representations on that Notice by 25 March 2025.
5. On 31 March 2025 the appeal was struck out by Regional Judge Whitney. Following an application for reinstatement, which was refused and an application for permission to appeal to the Upper Tribunal, the appeal was reinstated on 17 June 2025 pursuant to Rule 55.
6. Directions were given on 17 June to the parties as to the steps that they needed to take in readiness for the hearing which was set for the 28 August 2025. These included directions for the dates by which documents should be exchanged with each other, and the Appellant was directed to prepare the bundle (papers) for the hearing.
7. On 15 July 2025 the Council applied for the appeal to be struck out due to Mr Noor's failure to comply with the Tribunal's directions of 17

June 2025 by failing to provide his statement to them, and by failing to produce a bundle for the hearing.

8. On 21 August 2025 directions were given that the Council's application would be dealt with at the start of the hearing on 28 August.

The Appeal

9. Mr Noor's grounds of appeal against the Final Notice are set out in his application [R-21] and statements of 8/08/2025 [A2-4] and undated [R-36]. The grounds can be summarised as follows:
 - (i) He was in Bangladesh at the time of the alleged offence. He firmly believed the only people living at 12 High Street were the staff of his restaurant. He did not know what happened at the time of the Council's inspection, but he was not aware others were living at the property.
 - (ii) He always respects and complies with government regulations
 - (iii) In response to the Council's findings, he planned improvements and had applied for a licence.
 - (iv) In relation to the reasons for lateness, his wife had been gravely ill, he had been caring for her and had health issues of his own which affected his ability to manage. In all the circumstances he should be allowed to present his appeal.

The Documents

10. The documents considered by the Tribunal are
 - The Tribunal's various Directions and Decision Notices
 - Documents from Mr Noor including his appeal against the Final Penalty Notice, applications, medical evidence in relation to Mrs Renu Bibi (various), his statements of and statement of case (8/08/2025) and documents for the appeal [A1 – 24 pages] and [A2 – 5 pages]
 - The Respondent's bundle of documents including witness statements of Gary Clarke and Abigale Close (173 pages) [R1-173]

Inspection

11. The Property was not inspected. No party had requested one and it was not considered necessary by the Tribunal.

The Hearing

12. The hearing took place remotely. The Tribunal, the Respondent's representative (Ms Clarke) and witnesses (Ms Close and Mr Clarke)

for the Council, the interpreter (Ms Begum) all attended by video and Mr Noor attended by telephone because he was unable to join the hearing by video link as he only had access to a mobile phone. The hearing was observed remotely by a member of the public.

Preliminary issues

13. The Tribunal initially considered whether it was able to proceed to hear the appeal on the day for the following reasons.
14. The interpreter was not in attendance at the start of the hearing. It was clear that although Mr Noor can speak and understand some English, he had asked for an interpreter and would have some difficulties both in speaking and understanding. The Tribunal was satisfied that it would not have been fair or in the interests of justice to proceed in these circumstances without an interpreter. However, as discussions were proceeding about an adjournment, the interpreter then joined the hearing at 10.20am.
15. The Tribunal then considered whether it should proceed with Mr Noor attending by telephone rather than video. He stated he was unaware that he needed a laptop to access the CVP video hearing (despite instructions being given to him that he needed one) and was unable get access to one at short notice. Mr Noor wanted to proceed with the hearing. When considering the overriding objective in Rule 3 and in particular fairness to the parties, the Tribunal's duty to be flexible and avoid unnecessary formality or delay and ensuring parties are able to participate fully in the proceedings, the Tribunal decided it was proportionate, fair and in the interests of justice to proceed in this way.

Admission of the late appeal and application to strike out the appeal

16. The Tribunal then proceeded to consider whether
 - (i) it should admit Mr Noor's appeal which had been made 14 days late (on 28 November 2024) and/or
 - (ii) it should strike out his appeal as requested by the Council in its application of 15 July 2025 on the basis of his failure to comply with directions given when the appeal was reinstated.
17. Having heard the submissions from both the Council and from Mr Noor, and having considered all of the documents, the Tribunal decided, on balance, that Mr Noor's appeal should be admitted and should not be struck out for the following reasons.
18. The Tribunal was satisfied that Mr Noor's application was made late. It was also satisfied that Mr Noor had repeatedly failed to comply with directions. These were serious breaches because they had prevented the Council from knowing at the appropriate time what his case was.

19. However, the Tribunal was also satisfied that English is not Mr Noor's first language, he said he had difficulty reading in English and was relying on others, such as his 13-year-old daughter to assist him. The directions of the Tribunal are complex.
20. Although the Council had been disadvantaged by not being given proper notice of the Appellant's case, once it had received Mr Noor's statement, the Respondent had been able to provide a bundle of relevant documents setting out its position, including statements from the officers it intended to call as witnesses. Although a proper paginated bundle had not been provided by the Appellant for the appeal as he had been directed, the documentation was not substantial, the Tribunal had been able to consider it, and in all the circumstances the Tribunal was satisfied that it was proportionate, fair and in the interests of justice to proceed to consider the substantive issues which are of considerable importance.

The hearing of the substantive appeal

21. The Tribunal heard oral evidence from Mr Noor and from two witnesses for the Council (Abigail Close and Gary Clarke) and submissions from Mr Noor and Ms Clarke. The recording of the hearing stands as the record of proceedings.
22. Judgment was reserved.

REASONS FOR THE DECISION

The Legal Framework

Power to impose a financial penalty

23. Section 249A of the Housing Act 2004 allows a local housing authority to impose a financial penalty on a person if it is satisfied to the criminal standard - beyond reasonable doubt - that the person's conduct amounts to a 'relevant housing offence' in respect of premises in England.
24. The relevant housing offences are listed in section 249A(2). They include the offence under s72(1) of the 2004 Act of a person having control or managing a House in Multiple Occupation (HMO) which is required to be licenced under Part 2 of the Housing Act 2004 but is not so licenced.
25. 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 (to a maximum of £30,000). The imposition of a financial penalty is an alternative to instituting criminal proceedings for the offence in question.

Procedural requirements

26. Paragraphs 1 to 8 of Schedule 13A to the 2004 Act set out the procedure which local housing authorities must follow.
27. Before imposing a financial penalty on a person under s249A, the local housing authority must give him or her a 'notice of intent' (paragraphs 1 and 3) setting out:
 - (a) the amount of the proposed financial penalty
 - (b) the reasons for proposing to impose it; and
 - (c) information about the right to make representations.
28. Unless the conduct to which the financial penalty relates is continuing, the notice of intent 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 (paragraph 2).
29. 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 within a 28-day period beginning the day after the date on which the notice of intent was given (paragraph 4). After the end of that period, the local housing authority must decide whether to impose a financial penalty and, if it decides to impose a penalty, the amount (paragraph 5).
30. 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 following (paragraphs 6 and 8):
 - (a) the amount of the financial penalty,
 - (b) the reasons for imposing it,
 - (c) information about how to pay the penalty,
 - (d) the period in which the penalty should be paid,
 - (e) information about rights of appeal, and
 - (f) the consequences of a failure to comply with the notice.

Relevant guidance

31. Local housing authorities must have regard to any guidance given by the Secretary of State about the imposition of financial penalties (paragraph 12). The relevant statutory guidance is the *Civil penalties under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities* issued by the Ministry of Housing, Communities and Local Government in April 2018 ('the 2018 Guidance'). That guidance states local housing authorities are expected to develop a policy about when to prosecute and when to issue a financial penalty. They should also develop a policy on determining the appropriate level of penalty in a particular case. However, the 2018 Guidance makes it clear that local housing authorities should decide which option to pursue on a case by case basis.

32. The 2018 Guidance states that in general the maximum amount (£30,000) should be reserved for the very worst offenders and *‘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.’*
33. The guidance sets out a number of factors which local housing authorities should consider so as to ensure that financial penalties are set at an appropriate level. These are as follows:
 - the severity of the offence
 - the culpability and track record of the offender
 - the harm caused to the tenant(s)
 - punishment of the offender
 - deterrence of the offender from repeating the offence
 - deterrence of others from committing similar offences, and
 - removal of any financial benefit the offender may have obtained as a result of committing the offence.
34. Ashford Borough Council has produced a copy of their policy relating to financial penalties in accordance with the 2018 Guidance [R-53]

Appeals

35. If a final notice is given under Schedule 13A to the 2004 Act the penalty must be paid within 28 days of the day after the date 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).
36. An appeal may be made against the decision to impose the penalty, or the amount of the penalty or both. An appeal must be made within 28 days of the date on which the final notice was sent to the appellant.
37. If an appeal is made, the final notice is then suspended until the appeal is finally decided or is withdrawn (paragraph 10(2)).

Discussion and conclusions

38. This appeal takes the form of a re-hearing. In other words, the Tribunal is not simply reviewing the action taken by the Council, but it stands in the shoes of the Council, and it may make any decision the Council had the power to make. This can include cancelling the financial penalty, varying it by increasing or reducing it, or confirming the penalty imposed by the Council. The Tribunal may take into account evidence that was not considered by the Council at the time it issued its Final Notice on 16 October 2024.
39. The Tribunal took into account the totality of the documents and written information and statements it had before it, as well as the oral

evidence and submissions before it made its decision. In deciding the weight that should be given to each part of the evidence, we considered its detail, coherence and consistency, both internally and with other external evidence. Having approached the evidence in that way, we made our findings of fact as set out below for the following reasons.

40. Mr Noor had provided limited information and documentary evidence. Much of it related to his own and his wife's health. Whilst it is not disputed that he and his wife do have medical problems which may have been relevant to the question of delay and his failure to comply with directions, it is not relevant to the substantive issues in dispute.
41. The Tribunal did not find Mr Noor to be a reliable historian. His oral evidence was vague at times. He had provided the briefest of witness statements and no supporting documentation regarding the issues that needed to be determined. We found there to be inconsistencies in his evidence which called into question his credibility. For example, in his undated 'statement of truth' [R-36] he said while he was away one of his staff let his cousins come to stay for two or three days, yet in his evidence to the Tribunal he said staff who told him it was people who had come from London to visit someone who was poorly. Similarly, while he said he only let the restaurant staff live in the property, on his own account he had increased the number of habitable rooms to 11 whilst claiming only to have 2 to 4 staff members.
42. The Tribunal found Ms Close to be a credible witness. She was straightforward in the evidence she gave. She provided detailed and careful answers that were largely consistent with the documents we had before us. Her evidence was consistent with that of Mr Clarke. His evidence was unchallenged.

The procedural requirements

43. When considering Mr Noor's appeal against the financial penalty, the Tribunal must be satisfied the necessary procedural steps were taken by the Council required by Schedule 13A of the Act. The Upper Tribunal has confirmed that because a civil penalty is an alternative to a criminal prosecution, local housing authorities must treat their responsibilities with the same degree of seriousness and transparency (*Welwyn Hatfield BC v Wang* [2024] UKUT 24 (LC) at [18]).
44. The Tribunal is satisfied that the Notice of Intent to Issue a Financial Penalty (Notice of Intent) is sufficiently clear, enabling Mr Noor to know he was accused of having control of or managing an HMO without having the necessary licence. The notice also clearly set out how much the proposed penalty was and what factors had been taken into account so he could respond to the allegations.

45. The Notice of Intent was served on 23 August 2024, well within 6 months of the Council's inspection of the property on 16 July 2024 when the Council had obtained sufficient evidence to demonstrate the offence had been committed.
46. The Notice of Intent gave Mr Noor the opportunity to make representations to the Council by 20 September 2024 stating why he disagreed [R-131].
47. Although no evidence was provided by the Council about how it served it, the Tribunal was satisfied Mr Noor had received the Notice of Intent. This is because in his oral evidence he confirmed he had found the notice on his return from Bangladesh on 31 August 2024. He says he contacted the Council on 18 September 2024. This was consistent with Miss Cole's evidence that Mr Noor had contacted her previous manager, Mr Watts, shortly before the 20 September 2024 (the deadline for making representations). The Tribunal had no reason to doubt Miss Cole's evidence that Mr Watts had met and explained to Mr Noor in person the procedure and gave him extra time to make representations.
48. The Tribunal is satisfied beyond reasonable doubt that Mr Noor made no representations in response to the Notice of Intent by the 20 September 2024 or at all. None has been produced by Mr Noor. Miss Cole confirms none were received despite Mr Watts extending the deadline for a few days.
49. Although Mr Noor says that the Council failed to provide an interpreter on two occasions, the Tribunal was satisfied that he was fully aware that he had been served with documents that were serious. Mr Noor confirmed that he sought advice from Citizens Advice who were unable to assist and advised him to see a solicitor. Mr Noor is a businessman operating a restaurant which requires him to comply with health, safety and licencing regulations. The Tribunal is satisfied that in such a position, if he chose not to obtain professional legal advice about his position, he cannot use any purported lack of knowledge or understanding as an excuse.
50. The Tribunal was satisfied that the correct procedural steps had been taken by the Council.

The offence

51. Having considered the totality of the evidence the Tribunal was satisfied beyond reasonable doubt that Mr Noor had committed an offence under s72(1) of the Act for the following reasons.

The Appellant's Conduct

52. It was not in dispute that Mr Noor has control of and manages the residential premises above his restaurant 'Indian Diner' at 12 High

Street. He confirmed in his oral evidence that he is the leaseholder of the property at 12 High Street.

53. The Tribunal finds this to be a four storeyed building comprising a restaurant on the ground floor with three floors of residential accommodation above. Miss Cole and Mr Clarke had both provided descriptions of the property from their observations at the time of inspections as to the nature of the premises and Mr Noor did not dispute them. Ms Cole and Mr Clarke's description of the property was supported by photographs.
54. The Tribunal is satisfied that 12 High Street meets the definition of being a 'house in multiple occupation' under s254 of the Housing Act 2004. It meets the conditions in s254(2), the 'standard test', as it consists of 11 separate bedrooms which are not self-contained flats and therefore comprises more than one unit of living accommodation (s254(2)(a)). For the reasons set out below, the Tribunal was satisfied the people occupying the living accommodation were separate individuals (or couples) who did not form a single household (s254(b)). It was also satisfied for the reasons set out below that the people living there occupied the accommodation as their only or main residence, the living accommodation was not used for another purpose and rent was being paid by at least one of the persons occupying living accommodation (ss254(c),(d) and (e)).
55. The evidence showed there was only two bathrooms and one kitchen for all the occupants.
56. For the purposes of s55 of the Housing Act 2004 which sets out the requirement for licencing of houses in multiple occupation, Article 3 of the Licencing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006 provides that an HMO meets the prescribed description where it
 - (a) comprises three storeys or more,
 - (b) is occupied by five or more persons, and
 - (c) is occupied by persons living in two or more single households.
57. It is the number of people living at the property and the number of separate households that are of relevance, not whether the occupiers are paying rent or occupying property in connection with their employment, unless of course they had a main residence elsewhere.
58. Although Mr Noor claimed only his staff resided in the premises, the Tribunal was satisfied beyond reasonable doubt that this was not the case for the following reasons.
59. It found Mr Noor's assertion at odds with the question he asked of Miss Cole in which he confirmed there had previously been five bedrooms and then he had converted the first floor to five bedrooms '*otherwise where would the staff have been?*'. The Tribunal found this to be a clear admission that he provided accommodation to people

other than restaurant staff, particularly as he told the Tribunal he only had two or four staff members. The Tribunal found this consistent with the number of staff members found living at the property on 16 July 2024.

60. From Mr Clarke's evidence, the Tribunal was satisfied that Mr Noor had housed a man who was on probation, who was living there in September 2020. Although Mr Noor said he had allowed the man to stay there for two days, the evidence exhibited from the probation service dated 4 September 2020 [R-114] showed they had corresponded with the man nearly three weeks before Mr Clarke's visit on 23 September 2020 [R-109].
61. The Tribunal was satisfied that the individual, Mr Acharjee, who said on 24 January 2024 he had been living there about 5 months paying rent of £400 to Mr Noor whilst working at Subway [R-122], was still residing there at the time of the Council's inspection in July 2024 (R-127).
62. Whilst Mr Noor in evidence to the Tribunal said Mr Acharjee worked for Subway during the day, and in his restaurant at night, he has produced no evidence demonstrating this to be the case (for example payslips). The Tribunal also found such a claim wholly inconsistent with Mr Archarjee paying rent of £400 per month when staff members told the Council they lived at the property rent free.
63. Miss Cole in her evidence, which the Tribunal accepts, provided details of the individuals she encountered at the property at the time of the inspections in January and July 2024. She confirmed her notes were made at the time of the inspections. Her notes were detailed and were consistent with the evidence of Mr Gary Clarke who also attended on 16 July 2024 [R-69]. They both confirmed the presence of 12 individuals living in the accommodation above the restaurant, with one person sleeping in the restaurant itself. Miss Cole provided photographs taken at the time of the inspection that the Tribunal found consistent with her notes.
64. The individuals identified by Miss Cole included a number of people who said they did not pay rent. These were Mr Hoque in room 1 on the second floor (said to be a student friend of Mr Noor who was staying during his College holidays) and a number of individuals who all identified they were working at the restaurant - Mr Rahman who lived with his wife in room 1 on the third floor, Mr Foysal in room 2 on the first floor (a waiter), Mr Udden in room 4 on the first floor (a chef) and Mr Khalik in room 5 of the first floor (the chef/manager).
65. Miss Cole in her evidence confirmed the individuals she encountered were not members of the same household. They were people of different nationalities, and some informed her they did not know the other individuals living there, except by their first names.

66. Although the Council says there were 13 people living in 11 rooms, the Tribunal found they had not demonstrated beyond reasonable doubt that all thirteen people were living at 12 High Street as their main residence. On their own account, Mr Hoque was a student who was only staying for the holidays, and the gentleman asleep in the restaurant who sometimes worked there could not be said to live there as his main residence.
67. However, the Tribunal was satisfied that the Council has demonstrated beyond reasonable doubt that on 16 July 2024 at least 9 individuals in 7 separate households were living at the property as their main residence. Of these, four of the households (five individuals) lived rent free, as they worked for Mr Noor in the restaurant. Three of the households (four individuals) confirmed they were paying rent to Mr Noor who demanded he was paid in cash.
- Mr Moudud and Mrs Tanjira in room 6 on the first floor who had been there three months and paid £500 per month [R-128],
 - Mr Acharjee in room 2 on the second floor who had been there since about 5 months at the time of the inspection in January 2024 [R-122 & 127] and paid £400 per month, and
 - Mr Zvorwadza in room 2 on the third floor who had been there a few months paying £250 per month [R-127].
68. The Tribunal is also satisfied that it was more likely than not there were other individuals also living there who did not work in the restaurant; a woman living in room 3 on the third floor (who had correspondence addressed to her at the property) and Mr Ahmed who worked for Griffith Brand, a factory in Ashford.
69. The Tribunal is satisfied, therefore, beyond reasonable doubt that this was an HMO, and as Mr Noor did not have a licence, he had committed an offence under s72(1) of the Act on 16 July 2024, and most probably before and after that date, although no clear findings are made as to the dates. Mr Noor told the council that he had evicted the people living there when he spoke to them after receiving the notice of intent, and this appears consistent with the photographs taken by Mr Clarke on 8 October 2024 [R-88] to [98].
70. In addition to the number of individuals and households living at the property, the Tribunal was also satisfied on the evidence that they were sharing facilities. The evidence demonstrates that there were two bathrooms on the first floor and one kitchen/utility room on the second floor shared by the occupants.
71. In addition to the number of individuals living at the property, the Tribunal was satisfied there was an infestation of cockroaches at the time of the inspection in July 2024, and the living conditions could only be described as poor. Some bedrooms had no windows, there was limited light in the kitchen areas and numerous other defects and risks. On 13 November 2024 Mr Noor was served with an

Improvement Notice identifying both category 1 hazards (excess cold and fire) and category 2 hazards (electrical, damp and mould, personal hygiene and domestic hygiene/pests) [147] to [162].

72. The Tribunal was also satisfied that on at least two separate occasions in the past (in September 2020 and January 2024) the Council found evidence indicating that Mr Noor had individuals occupying the property other than staff, and he had been warned on at least one occasion about the need to obtain an HMO licence. He had also been warned in September 2020 about illegally evicting a tenant. Mr Noor in his evidence confirmed that he had been warned that he might face a fine of £5,000. However, he had treated this as a threat.

Was there a reasonable excuse?

73. Mr Noor's response to the financial penalty is a claim that he had a reasonable excuse for the offence. Reasonable excuse is a defence to allegation that an offence has been committed (s72(5) of the 2004 Act).
74. In summary, Mr Noor says he only ever allowed staff to live in the property, and if there were more people at the time of the inspection, he was unaware of it because he was in Bangladesh [R2-4]. In his evidence to the Tribunal, he said when he found out about the Council's investigation and the notice of intention to issue a financial penalty, he asked staff who told him it was people who had come from London to visit someone who was poorly.
75. However, the Tribunal found his claim lacks credibility for the following reasons.
76. The Tribunal accepts that some of the individuals were staying at 12 High Street temporarily - Mr Hoque, the student, and the gentleman asleep in the restaurant. However, if as Mr Noor says, others were also there staying there from London temporarily, he has provided no credible evidence to support what he says. His account was vague and inconsistent. In his undated 'statement of truth' [R-36] he said while he was away one of his staff let his cousins come to stay for two or three days, yet in his evidence to the Tribunal he said staff who told him it was people who had come from London to visit someone who was poorly. He has not disclosed the identity of any of the individuals concerned (for example which staff member he spoke to, who was poorly and needed to be looked after, how many people had come from London, and when). He has not provided a statement from his staff member to corroborate what he says.
77. The photographic evidence from the date of the inspection is not consistent with a few individuals just staying for a few days to look after someone who was ill. They appear to the Tribunal to show most rooms being used as living accommodation. For example, significant quantities of belongings (clothes, shoes, toiletries, food items),

evidence of correspondence addressed to people at the property, personal items such as pictures and calendars on the wall and so on [R-118] to [R-120].

78. For the reasons set out above in paragraph 66 and 67 the Tribunal was satisfied that on 16 July 2024 in addition to those in the property on a temporary basis there were at least 9 individuals living in the property (in 7 separate households).
79. Of those living at the property, some were paying rent. Mr Moudud and Mrs Tanjira in room 6 on the first floor who told the Council they had been there three months, Mr Acharjee in room 2 on the second floor who had been there since about August 2023 and Mr Zvorwadza in room 2 who said he had been there a few months. As Mr Noor's passport shows he left the UK on 11 July 2024 [R2-3] just five days before the inspection, the Tribunal found those individuals would have all been in occupation well before he left. In addition, five individuals identified that they were living there and worked in the restaurant or were the spouse of someone who did (Mr Rahman (with his wife), Mr Foysal, Mr Uddin and Mr Khalik).
80. Having considered the totality of the evidence the Tribunal was not satisfied that Mr Noor had demonstrated on the balance of probabilities that he had a reasonable excuse for the offence.
81. The Tribunal is, therefore, satisfied beyond all reasonable doubt Mr Noor committed an offence under s72(2) of the Act on 16 July 2024 without reasonable excuse. As the person having control or managing an HMO which was required to be licenced under Part 2 of the Housing Act 2004 but was not so licenced.

Financial penalty

82. As Mr Noor was advised both in directions before the hearing, and by the Tribunal in the hearing, the Tribunal stands in the shoes of the Council, and it has the power to cancel, vary (by increasing or decreasing) or confirming the penalty imposed by the Council.
83. Having considered the totality of the evidence, the Tribunal is satisfied it is appropriate to impose a financial penalty in respect of the offence committed under s72(2) of the Act rather than some other course of action. The Tribunal does not find evidence of the Council being threatening or making unreasonable demands of Mr Noor. It finds that the Council was acting quite properly in accordance with its duty to regulate housing conditions in the private rented sector.
84. Given our findings set out at paragraphs [51] to [79] above and the Council's policy and the 2018 Guidance, the Tribunal did not consider that either no penalty or a lesser sanction such as a caution was appropriate. Such a step would not be adequate either in terms of its punitive effect or in acting as a deterrent more generally.

85. The Tribunal, therefore, considered the amount of the financial penalty that was appropriate in the circumstances.
86. The Tribunal had regard to the factors specified in the 2018 Guidance as being relevant to the level at which a financial penalty should be set (see paragraph 22 above). It also had regard to the Council's policy which guided their decision-making process in this case. The Tribunal was not bound to adopt that policy for the purposes of this appeal, but we considered it provided a sound basis for quantifying financial penalties on a reasonable, objective and consistent basis. The Tribunal, therefore, used it as a tool to assist in our own decision-making.
87. The Council's policy on civil penalties is based on the relevant factors specified in the 2018 Guidance, set out above. It confirms that in the case of a first offence, generally the policy of the Council was to issue a civil penalty rather than to prosecute for an offence, unless the offence was serious. The Council policy provides a matrix of ranges of penalty, relevant guidance and places particular emphasis on an assessment of the culpability of the offender and the risk of harm.
88. The Council's matrix and guidance [R65-57] sets out 12 specific bands it uses to determine the appropriate penalty. This matrix is based on four levels of culpability (low, medium, high and very high) and in each culpability band, there are three rankings based on likelihood of harm (category 1 (low likelihood) to category 3 (high likelihood)). Within each individual band, there is a starting point and then a minimum and maximum penalty. The bandings start from low culpability/low harm (with a range from £25 to £75 with a starting point of £50) through to very high culpability/high harm (with a range from £6,250 to £30,000 with a starting point of £15,000). The guidance also provides for consideration of mitigating factors and allows for the drawing of adverse inferences where an offender fails to provide financial information.
89. The Tribunal did not accept Mr Noor's submissions that he was blameless, or that the offence happened without his knowledge.
90. The Tribunal found Mr Noor to be personally culpable, that in addition to housing his staff (and their family members), he knowingly let out multiple rooms in his property for rent which he demanded in cash without providing tenancy agreements and had done so for many months. On his own admission he had converted two bedrooms into five, clearly with a view to increasing the number of occupants (he claimed he only had 2 or 4 staff members). He was also aware that all the occupants shared limited facilities. The Tribunal found that at least 9 individuals were sharing two bathrooms and one kitchen area.

91. The Tribunal was satisfied that the accommodation was in poor condition as evidenced by service of an improvement notice in November 2024 identifying both category 1 hazards (fire and excess cold) as well as category 2 hazards (electrical hazards, poor bathroom and kitchen facilities, cockroach infestations and damp and mould). The Tribunal was satisfied that in addition to the breach of the requirement to have an HMO licence, Mr Noor showed a complete disregard for the high risk of serious harm that might come to the occupants as a result of these hazards.
92. Mr Noor has been known to the private sector housing team of the Council since 2015 due to reports of poor housing conditions and risks to occupiers [R-68]. He had previously been warned in January 2024 of the need to have a licence for an HMO due to the number of occupants. He had been warned about illegally evicting a tenant in September 2020, and in June 2018 he had also been served with an Improvement Notice for Category 1 and 2 Hazards in his capacity as being a person having control of an HMO [R-73]. Although these were not matters proven beyond all reasonable doubt, they indicated that Mr Noor took little heed of his responsibilities as a landlord or as an employer as regards the welfare of his staff, or the need to comply with the law.
93. When looking at all these matters in the round, the Tribunal considered the imposition of a significant penalty was necessary to punish Mr Noor for his actions and to deter him from future such offences.
94. Based on the known rents, Mr Noor would have been receiving rents of at least £13,800 per year. The Tribunal considered this was likely to be an underestimate, given the other individuals whose full circumstances were not ascertained. It considered the Council's estimate of rental income received as £15,000 per year not unreasonable.
95. The Council had obtained little evidence regarding Mr Noor's financial circumstances, save that in addition to the lease of 12 High Street he also owned or had an interest in three other properties in Ashford: 10, Belmont Place (jointly owned), 12 Torrington Road and 63 Mead Road [R-131].
96. Mr Noor had been directed by the Tribunal on multiple occasions to provide details of his financial circumstances but had failed to do so.
97. Mr Noor had not accepted responsibility and had not cooperated fully with the Council. However, the Council did confirm that he had undertaken works required by the Improvement Notice.
98. Having considered all these matters in the round, the Tribunal considers Mr Noor's culpability to be high, with either actual foresight of, or wilful blindness to, the risk of offending but a willingness to take

that risk. It also found the risk of harm to the tenants and other occupiers of the HMO to be high or very high. Although the Council had set the penalty at £10,000, the Tribunal was satisfied that the penalty should be set at the maximum for that band in the sum of £12,500. This is reflect the aggravating factors (Mr Noor's failure admit the offence and fully co-operate, his failure to provide financial information), the need to deter him from future offending and serve as a deterrence to others, to remove the financial benefit he received from renting the property, and to reflect the risk of serious harm that could have come to the tenants in the property. The Tribunal was satisfied that such penalty is proportionate in all the circumstances.

DECISION

99. The Tribunal varies the Penalty Notice issued by Ashford Borough Council dated 16 October 2024 and imposes a financial penalty on Mr Noor of £12,500 under s249A of the Housing Act 2004, for an offence under s72(2) which must be paid within 28 days.

Signed: Judge R Cooper

Date: 22 September 2025

Note: 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 to the First-tier Tribunal at the Regional office that 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, and should be sent by email to rpsouthern@justice.gov.uk.
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.