FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/00CH/HIN/2024/0002**
Property	**:**	**157 Avenue Road Gateshead NE8 4JH**
Applicants		**Allan Robinson & Maria Codreany-Robinson**
Respondent	**:**	**Gateshead Council**
Type of Application	**:**	**Appeal against an Improvement Notices –Housing Act 2004 Schedule 1, Paragraph 10(1)**
Tribunal Members	**:**	**Tribunal Judge L Brown Mr. P Mountain**
Date Decision Issued	**:**	**2 October 2025**

DECISION

In accordance with paragraph 15(3) of Schedule 1 of the Housing Act 2004, the Tribunal confirms the Improvement Notices dated 22 December 2023 dealing with Category 1 and Category 2 hazards at the Property ("the Improvement Notices").

Background

1. By an application dated 8 January 2024, ("the Application"), the Applicants appealed against Improvement Notices under paragraph 10 of Schedule 1 to the Housing Act 2004, ("the Act"). The notices at issue were both dated 22 December 2023, one was made relating to a Category 1 hazard and a second concerning Category 2 hazards which the Respondent had identified affecting the Property.

2. Directions dated 23 October 202024 were issued pursuant to which both parties submitted written representations.

3. On 15 January 2025 the Tribunal undertook an inspection of the exterior and interior of the Property, in the presence of the Applicants and on behalf of the Respondent, Ms L Dawson, Counsel, Ms C Norris Senior Environmental Health Officer and Ms L Gradwell, Environmental Health Officer. The Property is a 5 bedroom end of terrace maisonette.

4. A face to face hearing took place at Gateshead Country Court on 15 January 2025 and after adjournment, a further hearing took place by remote video hearing (CVP) on 3 June 2025. The Tribunal was satisfied that all relevant issues could be determined in that remote hearing. Those present at the inspection attended, save that Ms Norris did not attend the second hearing. We found no difficulty with the technology for the second hearing.

The Law

5. The Housing Health and Safety Rating System (HHSRS) was introduced by the Act, for assessing the condition of residential premises, which can be used in the enforcement of housing standards. The system entails identifying specified hazards and calculating their seriousness as a numerical score by a prescribed method.

6. Hazards are categorised as Category 1 and Category 2 hazards.

7. Section 5 of the Act provides:

(1) If a local housing authority consider that a category 1 hazard exists on any residential premises, they must take the appropriate enforcement action in relation to the hazard.

(2) In subsection (1) "the appropriate enforcement action" means whichever of the following courses of action is indicated by subsection (3) or (4)—

(a) serving an improvement Notices under section 11;

(b) making a prohibition order under section 20;

(c) serving a hazard awareness Notices under section 28;

(d) taking emergency remedial action under section 40;

(e) making an emergency prohibition order under section 43;

(f) making a demolition order under subsection (1) or (2) of section 265 of the Housing Act 1985 (c. 68);

(g) declaring the area in which the premises concerned are situated to be a clearance area by virtue of section 289(2) of that Act.

(3) If only one course of action within subsection (2) is available to the authority in relation to the hazard, they must take that course of action.

(4) If two or more courses of action within subsection (2) are available to the authority in relation to the hazard, they must take the course of action which they consider to be the most appropriate of those available to them.

.....

8. Section 7(2) of the Act sets out five types of enforcement action which a local authority may take in respect of a category 2 hazard. If two or more courses of action are available, the authority must take the course which they consider to be the most appropriate. One of these is an improvement notice.

9. An improvement notice is a Notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the Notices: sections 11 and 12, relating to Category 1 and Category 2 hazards, respectively.

10. Paragraph 5(1)(a) of Part 3 of Schedule 1 to the Act provides that an improvement notice must be served on "*…every other person, who, to their knowledge…has a relevant interest in any specified premises*". "*Relevant interest*" is defined in paragraph 5(2) as "*an interest as freeholder, mortgagee or lessee*".

11. The person on whom an improvement notice is served may appeal to the Tribunal (Schedule 1, para.10(1) of the Act).

12. Paragraph 15(2) of Schedule 1 provides that the appeal is by way of a re-hearing, (para. 15(2)(a)), but may be determined having regard to matters of which the authority was unaware, (para. 15(2)(b)).

13. The Tribunal may confirm, quash or vary the improvement notice (para. 15(3)).

The parties' positions

14. It is not intended to record here all of the parties' arguments, but only persuasive evidence found by the Tribunal relevant to its determinations. If our summaries do not reflect every point, that does not mean we have ignored them.

15. The Applicants described the Property as a "guest house". They asserted that all guests found the Property acceptable, but they blamed the Respondent for allegedly advising occupiers to reclaim monies paid. They stated in the Application that officers of the Respondent inspected the Property on 9 September 2021 following a repaired leak from a shower, and found no defects. Subsequent action had been heavy-handed. If the Respondent had engaged informally, they would have been able to agree a list of upgrades to the Property which they would carry out.

16. At the first hearing the Applicants asserted that the Property was not a house in multiple occupation and therefore the Respondent had no power to issue an Improvement Notices.

17. The Applicants submitted written representations on 21 May 2025. They set out that the Respondent had not inspected the Property after the first hearing, which it had stated it would do. They recorded that works which they accepted were required had been carried out – carpet to staircase replaced, lower steps boarded, hinges to all fire doors replaced with three hinges per door.

18. They said that works they had undertaken were part of general upgrading of the Property and they did not agree all the defects set out in the Improvement Notices required remedial action.

19. At the second hearing their position was that save for some "*minor bits and pieces*", about which they could not be clear, all works identified in the Improvement Notices had been carried out.

20. In addition, at the second hearing, they confirmed that they had been convicted at South Tyneside Magistrates Court of a housing-related offence relating to failure to provide information about occupiers. They also confirmed that they had been delayed in producing electricity safety certificates, but the Respondent was in error to suggest they had not been received, because their electrician had confirmed he had delivered them to the Respondent.

21. The Respondent's case was simply that it had power under section 7 of the Act to issue the Improvement Notices and that having identified a Category 1 hazard through application of the HHSRS calculation it was required by law to take one of the actions set out in section 5 and had determined an improvement notice was the most appropriate step.

22. Opposition to the Improvement Notices based on whether the Property was a HMO was irrelevant, enforcement action was mandatory for a Category 1 hazard and had been deemed appropriate for the identified Category 2 hazards.

23. Through its Counsel, the Respondent conceded it had *"….not covered itself in glory…."* by failing to re-inspect the Property before both the Tribunal's inspection and before the second hearing, having informed the Tribunal and the Applicants it would do so. Therefore, it was unable to advise if there had been compliance with the Improvement Notices so that it could be revoked at the final hearing.

24. While no other enforcement action had been taken, or was contemplated, at this time, the Respondent would have to be satisfied with compliance, which would require reinspection, for it to revoke the Improvement Notices.

Reasons

25. The Tribunal is satisfied that the Applicants' appeal has been made under the general right of appeal under paragraph 10, Part 3 of Schedule to the Act.

26. The Tribunal has sympathy for the Applicants' complaint regarding the lack of co-operation by the Respondent in re-inspecting the Property after issuing of the Improvement Notices. However, the principal questions for the Tribunal were the validity of the Notices and whether they had been properly served.

27. Although each Notice was directed to both Applicants, the covering letters for them produced to us were directed only to Mr Robinson. However, service of the Notices was not disputed by either Applicant and Mrs Codreany-Robinson endorsed at the hearings submissions of her husband and supplemented them. Nor was it argued that the Applicants, as freehold owners of the Property, were not "*person having control*" so as to be the proper recipients of the Notices.

28. The question of whether the Property was a HMO was irrelevant to the matter before the Tribunal The source of the Respondent's power to take action by an Improvement Notices is section 7(1) of the Act, which is not dependent on the letting status of the Property, merely that it is used for residential purposes, which was not disputed regarding the Property.

29. The Tribunal noted that in the Application the Applicants has not challenged the Respondent's assessment of the hazards at the Property, (save for claims that certain of the identified hazards are the result of damage/neglect by the occupants), or the appropriateness of the Respondent's choice of enforcement action. The Tribunal found no viable challenge had been presented to the HHSRS calculations. The Tribunal found no obvious error in categorisation of the hazards, based upon the descriptions in the Improvement Notices and from the evidence of the Respondent's officers. The hazards were category 1 or significant category 2, as identified. Regarding a category 1 hazard the Respondent had to take action, it had a discretion regarding the category 2 hazards.

30. The Tribunal had no doubt that enforcement action for both types of hazard was appropriate in this matter. This was clear, given past non-cooperation by the Applicants regarding their obligations as landlords, leading to conviction. We considered the potential alternatives available to the Respondent, listed in section 5(2) of the Act. We found that the Respondent set out cogent reasons in the Improvement Notices as to why the alternatives were not appropriate. Due to the past mis-management resulting in conviction, we were not persuaded that, for example, a hazard awareness notice would have been satisfactory to ensure remedying of some significant hazards. We found that issue of the improvement Notices was both necessary and a reasonable step to take.

31. In consequence of our findings, we confirmed the Improvement Notices dated 22 December 2023.

Expense of enforcement action

32. Section 49 of the Act provides:

Power to charge for certain enforcement action

(1) A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering certain administrative and other expenses incurred by them in—

(a)serving an improvement Notices under section 11 or 12;

.....

and sub-section (2) states:

The expenses are, in the case of the service of an improvement Notices....., the expenses incurred in—

(a) determining whether to serve the Notices,

(b) identifying any action to be specified in the Notices, and

(c) serving the Notices.

33. While we found that the Respondent acted rationally and reasonably in its choice of enforcement action and the issue of the Improvement Notices we found that it had not been proactive in seeking to work with the Applicants subsequent to issuing the Improvement Notices. The amount of expenses claimed was £482.50 for each notice, but no detail was provided as to, for example, time involved. We found that more likely than not there was some overlapping of effort leading to the enforcement and then preparing the notices. Therefore, we record that we found one sum of £482.50 as reasonable for both notices involved, payable by the Applicants jointly.

L Brown
Tribunal Judge

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).