FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/00DA/HNA/2025/0617**
Property	**:**	**79 Wickham Street, Beeston, Leeds, LS11 7EJ**
Applicant	**:**	**Mr Adnan Taj**
Respondent	**:**	**Leeds City Council**
Representative	**:**	**Ms Hayley Lloyd-Henry**
Type of Application	**:**	**Appeal against a financial penalty: Housing Act 2004 – Schedule 13A, paragraph 10**
Tribunal Members	**:**	**Judge S. Westby (Chair)** **Judge J. Hadley** **Ms J. Bissett FRICS**
Date and venue of Hearing	**:**	**6 October 2025** **Video Hearing**
Date of Decision	**:**	**14 October 2025**

DECISION

DECISION

The revised financial penalty notice dated 1 August 2025 is confirmed. Mr Adnan Taj must therefore pay a financial penalty of £2,000 to Leeds City Council.

REASONS

INTRODUCTION

The appeal

1. On 2 February 2025, Mr Adnan Taj appealed to the Tribunal against a financial penalty imposed on him by Leeds City Council ("the Council") under section 249A(1) of the Housing Act 2004 ("the 2004 Act"). The financial penalty related to an alleged housing offence in respect of premises known as 79 Wickham Street, Beeston, Leeds, LS11 7EJ ("the Property").

2. To be more precise, the Applicant appealed against a final notice dated 28 January 2025 given to him by the Council under paragraph 6 of Schedule 13A to the 2004 Act ("the Final Notice"). It imposed a financial penalty of £3,211.45 for conduct allegedly amounting to an offence under section 234(3) of the 2004 Act. The financial penalty was subsequently reduced by the Council to £2,000.00 on 1 August 2025 by way of a revised financial penalty notice ("the Revised Notice"), pursuant to paragraph 9(1)(b) of Schedule 13A to the 2004 Act.

The hearing

3. The appeal was heard remotely on 6 October 2025. The Applicant appeared with his wife, Mrs Shabina Taj, and represented himself with some assistance from his wife. The Council was represented by Ms Hayley Lloyd- Henry, Principal Legal Officer for the Council.

4. The Applicant gave oral evidence and the Tribunal also heard oral evidence from a witness for the Council: Ms Stacey Giles (a Senior Housing Officer employed by the council). Opportunity was given for each witness to be cross-examined and oral submissions were also made by both parties. In addition, the Tribunal considered the documentary evidence provided by the parties in support of their respective cases.

5. The Tribunal did not inspect the Property prior to the hearing, but understands it to comprise a 3-bedroom terraced residential house.

6. There was a preliminary issue for the Tribunal to deal with - the late filing of two documents: (1) the Council had omitted from its bundle a page from its civil penalties policy. The page in question sets out the amount of the financial penalty based upon the level of culpability and harm ("the Missing Page"); and (2) the Council wished to include a document entitled 'City Wide Consultation Activity' which evidenced how the Council had sought to advertise the introduction of the selective licensing scheme across Leeds ("the Consultation Document").

7. The directions set by the Tribunal required the Council to submit its bundle by no later than 15 August 2025. The Council also had a right of reply to the Applicant's bundle by no later than 19 September. The Council sent the Missing Page to the Applicant and the Tribunal on 2 October 2025 and the Consultation Document on 26 September 2025.

8. The Applicant opposed the inclusion of both documents in the bundle on the basis that they were served late and so should not be included.

9. After considering the issue, the Tribunal determined to include both documents in the bundle on the basis that both would aid the Tribunal's understanding of the matter. The Missing Page was part of a document that was freely available online via the Council's website. In respect of both documents, the Tribunal did not consider that any prejudice had been caused to the Applicant by the late service of the documents and the Tribunal, therefore, allowed the documents to be included within the bundle pursuant to the overriding objective at Rule 3 and its case management powers at Rule 6(3)(a) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

STATUTORY FRAMEWORK

Power to impose financial penalties

10. New provisions were inserted into the 2004 Act by section 126 and Schedule 9 of the Housing and Planning Act 2016. One of those provisions was section 249A, which came into force on 6 April 2017. It enables a local housing authority to impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person's conduct amounts to a "relevant housing offence" in respect of premises in England.

11. Relevant housing offences are listed in section 249A(2). They include the offence (under section 95) of having control of or managing a house which is required to be licensed under Part 3 of the 2004 Act, but which is not so licensed.

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

Procedural requirements

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

- the reasons for proposing to impose it; and
- information about the right to make representations.

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

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

16. If the local housing authority decides to impose a financial penalty on a person, it must give that person a final notice setting out:
    - the amount of the financial penalty;
    - the reasons for imposing it;
    - information about how to pay the penalty;
    - the period for payment of the penalty;
    - information about rights of appeal; and
    - the consequences of failure to comply with the notice.

Appeals

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

18. The appeal is by way of a re-hearing of the local housing authority's decision but may be determined by the Tribunal having regard to matters of which the authority was unaware. The Tribunal may confirm, vary or cancel the final notice. However, the Tribunal may not vary a final notice so as to make it impose a financial penalty of more than the local housing authority could have imposed.

RELEVANT GUIDANCE

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

penalty and should decide which option to pursue on a case-by-case basis. The HCLG Guidance also states that local housing authorities should develop and document their own policy on determining the appropriate level of penalty in a particular case. However, it goes on to state:

> "Generally, we would expect the maximum amount to be reserved for the very worst offenders. The actual amount levied in any particular case should reflect the severity of the offence as well as taking account of the landlord's previous record of offending."

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

    a. Severity of the offence.
    b. Culpability and track record of the offender.
    c. The harm caused to the tenant.
    d. Punishment of the offender.
    e. Deterrence of the offender from repeating the offence.
    f. Deterrence of others from committing similar offences.
    g. Removal of any financial benefit the offender may have obtained as a result of committing the offence.

21. In recognition of the expectation that local housing authorities will develop and document their own policies on financial penalties, the Council has issued its own Civil Penalty Policy ("the Council Policy"). A copy of the Council Policy was included within the bundle, and we make further reference to this policy later in these reasons.

BACKGROUND FACTS

22. The Respondent is responsible for the licensing of houses within its district under Part 3 of the 2004 Act. Since 6 January 2020, the Council has been operating two selective licensing schemes, pursuant to s.80 of the 2004 Act. The selective licensing scheme requires a licence to be obtained from the Council in order to control and/or manage certain privately rented properties situated in the designated areas of Harehills and Beeston. The scheme ended on 5 January 2025.

23. On 5 November 2024, an officer for the Council visited the Property to assess whether the Property was being let. The occupiers of the Property confirmed that they were tenants and telephoned their landlord, the Applicant. The Council officer spoke with the Applicant on the telephone and advised him that it appeared that an offence had been committed as the Property was not licensed.

24. Later that same day, 5 November 2024, the Applicant applied to the Council for a licence for the Property, which was subsequently processed and granted.

25. From council tax checks conducted by the Council, it appeared that the tenants of the Property had moved in on 1 March 2023. From the register of title obtained from H.M. Land Registry, the Council also established that the Applicant, Mrs Shabina Taj and Mr Mohammad Taj (together "the Owners") had been the registered freehold owners of the Property since 21 March 2023. This was accepted by the Applicant at the hearing.

26. On 5 November, a Council officer wrote to the Owners under the Police and Criminal Evidence Act 1984 to request certain information.

27. Following a Council review panel meeting on 13 November, the Council served the Applicant and the Owners with a notice of intention to impose a financial penalty dated 19 November 2024 ("the Notice"). The Notice proposed a financial penalty of £3,211.45 (the "Initial Penalty").

28. The Initial Penalty was calculated on the following factors:
    a. Level of culpability – Low
    b. Level of harm – Low
    c. Aggravating factors – None
    d. Mitigating factor – 5% reduction in penalty as the Owners had no previous convictions.

29. According to the Council Policy, when calculating a financial penalty, the Council assesses the financial gain to the property owners to ensure that there is no financial benefit to the owner for non-compliance. The civil penalty imposed should not be less than the financial gain made from the offence plus £2,000 or 10% of the penalty, whichever is the greater (subject to a maximum penalty of £30,000).

30. In this case, the Council had calculated the financial gain to the Owners as the cost of the licence which had not been obtained (£825) and the cost of the investigation to the Council (£386.45). These sums, in addition to £2,000 referred to above, culminated in the Initial Penalty of £3,211.45.

31. The Council received a response to the Police and Criminal Evidence Act 1984 notice from Mohammad Taj on 15 November. This included a copy of the Assured Shorthold Tenancy Agreement for the Property which named the Applicant as the landlord and was dated 1 March 2024.

32. The Council also received written representations from the Applicant on 27 November 2024.

33. The Council saw no reason to alter the Initial Penalty and, on 28 January 2025, the Final Notice was served upon the Owners citing the Initial Penalty. Although the notice was served on all three freehold owners, the financial penalty is a single, joint penalty and is only required to be paid once.

34. On 2 February 2025, the Applicant submitted his appeal to the Tribunal in respect of the Final Notice.

35. On 4 July 2025, following the departure of the Council officer overseeing the matter, Ms Stacey Giles, Senior Housing Officer for the Council, carried out a review of the case and identified an error in the issuing of the Final Notice. Under the Council's Policy, a one-third reduction in the financial penalty is offered where the landlord meets the following criteria:
    a. There is a formal admission of the offence
    b. There is immediate and effective action taken to remedy the breach
    c. There are no previous relevant offences.

36. The officer identified that this one third reduction in the Initial Penalty should have been offered to the Owners but was not. The officer wrote to the Owners on 4 July 2025 to offer this reduction and confirmed that the Owners had 28 days in which to accept or reject this offer. The offer was rejected.

37. On 1 August 2025, Ms Giles reassessed the Initial Penalty and identified further mitigating factors which would warrant a reduction in the Initial Penalty, in addition to the already identified mitigating factor that the Owners had no previous convictions. The additional mitigating factors were:
    a. The Owners had co-operated with the investigation.
    b. Following notification of the offence, a valid licence application was submitted.
    c. Responsibility had been accepted.

38. The Council assessed that a revised discount of 20% was justified; 5% reduction for each mitigating factor, including the original mitigating factor identified.

39. The Council also reassessed the financial gain made by the Owners. As the Applicant had made a valid application for a licence and had paid the licence fee, the cost of the licence fee (£825.00) was removed from the penalty. The Council also accepted that its cost of investigating the matter (£386.45) should not have been included in the Initial Penalty in accordance with previous Tribunal rulings.

40. The Council, therefore, concluded that the revised financial penalty should be £2,000. The Revised Notice confirming a financial penalty of £2,000 was therefore served on the Owners on 1 August 2025.

<u>The Applicant's Submissions</u>

41. The Applicant accepts that the Property was not licensed at the time that the Council conducted its visit on 5 November 2025. The Applicant also confirmed, during the hearing, that it is he who receives the rent from the tenant of the Property, pursuant to the terms of the Assured Shorthold Tenancy Agreement.

42. The Applicant submits that he has a reasonable excuse for not licensing the Property as he was simply not aware that a licence was required. The Applicant confirmed that he was not informed of the same by either his conveyancing solicitor, nor the letting agent when the Property was purchased. Had he been so informed, he confirmed that he would have immediately applied for a licence.

43. During the hearing, the Applicant confirmed that he had purchased the Property with a sitting tenant and with the intention of continuing to let the Property. He further confirmed that he carried out no prior research himself into any landlord responsibilities and did not review the Council's website to check what information was available for landlords. He simply was not aware of the selective licensing scheme.

44. The Applicant pointed out that as soon as he was informed of the selective licensing scheme, he applied for a licence that same day. The Applicant also confirmed that he had never been a landlord before and that did not consider appointing a managing agent as he had not been advised to do so.

45. The Applicant confirmed that, although he lived in the Leeds area and had done all his life, the Property was 10 miles away from his own home and it was not in an area that he had visited prior to purchasing the Property. The Applicant submits that it was the responsibility of his conveyancing solicitor to inform him of the selective licensing scheme.

46. The Applicant refers to the case of *Ekweozoh v Redbridge LBC [2021] UKUT 180* and submits that this case makes it clear that a landlord, once notified that an offence has been committed but who promptly applies for a licence, has a reasonable excuse defence.

47. In addition, the Applicant argues that the financial penalty itself, in the sum of £2,000 is disproportionate and that the imposition of the penalty would cause severe financial hardship for him and his family.

The Respondent's Submissions

48. The Council submits that the selective licensing scheme was properly advertised city-wide, and not just in the scheme areas of Beeston at Harehills. There were roadside adverts, articles in publications, radio adverts, drop-in sessions and letters/ mail drops were sent to some managing and letting agents. The Council also confirmed that there is, and has been, since the imposition of the scheme, a plethora of information on the Council's website.

49. The Council argues that the Applicant has not provided any evidence that his estate agent or solicitor were required or even instructed to inform him of the selective licensing scheme and, in any event, the Applicant could, and should, have carried out this research himself. The Council relies upon the case of *Gateshead v City Estate Holdings Limited [2023]*

UKUT 35 (LC) in this regard and refers to paragraph 25 of Judge Cooke's decision in which it states:

> *25. It was open to the respondent to instruct his solicitors to find out and advise him on the regulatory position about letting the property, without Mr Kosmas being aware either of the selective licensing regime… but it has never been the respondent's case that any such instructions were given. Equally, the Respondent could, through Mr Kosmas, have researched the regulatory and licensing position itself; or it could have instructed a letting agent to do so. It did none of those things. As a result there is no basis upon which the respondent can establish the defence of reasonable excuse'.*

50. The Council acknowledges the Applicant's prompt corrective action in respect of applying for a licence and says that this, and the other mitigating factors, have been accounted for in the calculation of the revised financial penalty.

51. The Council argues that the case of *Ekweozoh* can be distinguished from this case on its facts (the local authority's policy in Ekweozoh was that informal action ought to be considered for all matters, whereas the Council's Policy states that in circumstances such as these 'there will be a presumption to take formal action'). The Council also argues that it is the responsibility of the landlord to carry out proper due diligence on his responsibilities.

52. With regard to the calculation of the penalty, the Council states that the revised financial penalty is in accordance with its civil penalty policy and is just and proportionate.

The Tribunal's Deliberations and Determinations

53. The Tribunal, under paragraph 10 of Schedule 13A to the 2004 Act, may confirm, vary or cancel a final notice, determining the matter as a re-hearing of the local authority's decision.

54. In reaching its determination the Tribunal considered the relevant law and all evidence submitted, both written and oral, and briefly summarised above. The Tribunal also notes that the Applicant accepted that, at the relevant time, he was unlicensed.

Reasonable Excuse

55. Under s.249A of the 2004 Act, a local authority may only impose a financial penalty on a person if it is satisfied 'beyond reasonable doubt' that a person's conduct amounts to a relevant housing offence. Pursuant to s.95(4) of the 2004 Act, the landlord has a defence to the offence if he had a reasonable excuse for having control of or managing the property in question without a licence.

56. In deciding this question, the Tribunal considered the guidance set out by the Upper Tribunal in *Marigold v Wells [2023] UKUT 33 LC*. In paragraph 48 of the judgment, the Upper Tribunal referred to three steps which the First-tier Tribunal could use when deciding whether such a defence was established: firstly, which facts give rise to the offence; secondly, which of those facts were proven; and, thirdly, whether if viewed objectively those facts did amount to a reasonable excuse.

57. The Applicant submitted that he had, initially, failed to obtain a licence as he had been unaware of the selective licensing scheme. Despite the Council having undertaken a city-wide consultation in respect of the scheme, the Tribunal accepts that the Applicant managed the Property himself and genuinely had not been aware of the scheme until November 2024, when contacted by the Council.

58. The Tribunal notes that, under s.85(4) of the 2004 Act, the Council was required to take 'reasonable steps' to consult people likely to be affected by the scheme. The Tribunal determines that the Council did take such reasonable steps. The evidence from the Council, contained within the bundle and given orally, demonstrates that the Council undertook a city-wide advertising campaign, consulted with letting agents and held drop-in events, as well as putting all relevant information on the Council website. The Tribunal does not consider that it would have been reasonable or practical for the Council to administer a strategy of individually informing all landlords, as well as potential future landlords, of the scheme.

59. As to whether the Applicant's lack of knowledge of the scheme amounts to a reasonable excuse, the Tribunal considers that it was for the Applicant to make himself aware of all his legal obligations in respect of the Property and the requirements of the Council. On the evidence before the Tribunal, the Applicant had taken no steps to identify what was required of him by law or by way of the Council's housing policy.

60. Accordingly, the Tribunal determines that the Applicant's lack of knowledge of the scheme does not amount to a reasonable excuse.

Imposition and Level of Penalty

61. As an offence had been committed under s.95(1) of the 2004 Act and no reasonable excuse defence had been made, the Council was entitled to consider whether to prosecute the Applicant under s.95(5) of the Act or impose a financial penalty under s.249A of the 2004 Act.

62. The Tribunal is satisfied that it was appropriate for the Council to impose a financial penalty on the Owners in respect of their failure to license the Property. The Tribunal must therefore determine the amount of that penalty.

63. The Tribunal must make its own determination as to the appropriate amount of the financial penalty having regard to all the available

evidence. In doing so, the Tribunal should have regard to the seven factors specified in the HCLG Guidance as being relevant to the level at which a financial penalty should be set (see paragraph 20 above).

64. The Tribunal should also have particular regard to the Council Policy. As the Upper Tribunal (Lands Chamber) observed in *Sutton & Another v Norwich City Council [2020] UKUT 0090 (LC)*:

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

65. The Upper Tribunal went on to say that the local authority is well placed to formulate its policy and endorsed the view that a tribunal's starting point in any particular case should normally be to apply that policy as though it were standing in the local authority's shoes. It offered the following guidance in this regard:

> "If a local authority has adopted a policy, a tribunal should consider for itself what penalty is merited by the offence under the terms of the policy. If the authority has applied its own policy, the Tribunal should give weight to the assessment it has made of the seriousness of the offence and the culpability of the Applicant in reaching its own decision."

66. Upper Tribunal guidance on the weight which tribunals should attach to a local housing authority's policy (and to decisions taken by the authority thereunder) was also given in another decision of the Lands Chamber: *London Borough of Waltham Forest v Marshall & Another* [2020] UKUT 0035 (LC): whilst a tribunal must afford great respect (and thus special weight) to the decision reached by the local housing authority in reliance upon its own policy, it must be mindful of the fact that it is conducting a rehearing, not a review: the tribunal must use its own judgment and it can vary such a decision where it disagrees with it, despite having given it that special weight.

67. The Tribunal agrees with the Council's assessment of the level of culpability and harm. The Council assessed both levels in the present case to be low. The Tribunal accepted that there was a low level of harm caused by the Applicant's failure to licence the Property; there is no evidence of any adverse effect on any individual by the Applicant failing to licence.

68. In respect of culpability, as previously stated the Tribunal did accept that the Applicant had not been aware of the selective licensing scheme and, upon finding out about the scheme, immediately took remedial action and applied for a licence. The Tribunal, therefore, accepts and agrees that there is a low level of culpability.

69. Based upon the Tribunal's findings of culpability and harm, the starting point for the penalty based on the Council Policy is £2,500.

70. The Tribunal then went on to consider the aggravating and mitigating factors taken into account by the Council.

71. The Tribunal agrees with the Council's assessment that there are no aggravating factors in the current case.

72. The Tribunal considers that there is a total of four mitigating factors, each of which will reduce the penalty by 5%, in accordance with the Council Policy. Those factors are as follows:
    - 71.1 Co-operation with the investigation – the Owners responded to the Council's correspondences and provided a copy of the Assured Shorthold Tenancy.
    - 71.2 Voluntary steps were taken to address the issue – the Applicant immediately applied for a licence.
    - 71.3 Acceptance of responsibility – the Applicant accepted responsibility and the requirement for a licence.
    - 71.4 No previous convictions – the Applicant has no previous convictions.

73. The total discount in respect of the mitigating factors is, therefore, 20% which reduces the penalty from £2,500 to £2,000.

74. In accordance with the Council Policy, the minimum financial penalty to be levied is £2,000 and no further deductions can be made (including the one third reduction referred to at paragraph 35 above).

75. In respect of the totality principle contained within the Policy, the Tribunal must consider whether the total penalty is just and proportionate to the offending behaviour.

76. The Policy also states that the final determinate of any civil penalty must be the general principle that 'the civil penalty should be fair and proportionate but, in all instances, should act as a deterrent and remove any gain as a result of the offence'.

77. The Tribunal finds that a penalty of £2,000 is significant enough to act as a deterrent not just to the Owners, but also to other landlords and potential landlords. The Tribunal does not consider that there is any reason to suggest that the imposition of a penalty of £2,000 is not just and proportionate.

78. With regard to the final determinative (referred to at paragraph 76 above), the Council Policy states that 'when determining any gain as a result of the offence, the council will take into account facts which may be deemed as obtaining a financial gain' and which include 'the cost to the council of their investigation'.

79. Contrary to the Council's first assessment of the financial penalty to be imposed, the Tribunal does not include any costs for investigative charges. The Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017 already permit money recovered from financial penalties to be used for the carrying out of its enforcement function in relation to the private rented sector.

80. Again, commensurate to the Revised Notice issued by the Council, the Tribunal also agrees that the cost of the licence should not be included in the penalty. Upon being contacted by the Council, the Applicant obtained a licence and paid the licence fee and, as such, there has been no financial gain to the Applicant in this respect.

OUTCOME

81. For the reasons explained above, we uphold the decision of the Council to impose a financial penalty on the Applicant. We do not consider that the Council Policy was properly applied in respect of the Initial Penalty. However, following the Applicant's appeal to this Tribunal, the Council reassessed the penalty imposed and reduced it to £2,000. We are satisfied that the Council Policy was properly applied in determining this revised penalty and that the amount of that penalty should be £2,000. The imposition of such a financial penalty is appropriate in the circumstances of this case: not only does it reflect the offending conduct, but it should also have a suitable punitive and deterrent effect.

82. Accordingly, we confirm the Revised Notice. The Applicant must therefore pay a financial penalty of £2,000 to the Council.

Signed: S. Westby
Judge of the First-tier Tribunal
Date: 14 October 2025