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

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| **Case reference** | **:** | **LON/00BH/HNA/2025/0626** |
| **Property** | **:** | **234a Chingford Road, London E17 5AL** |
| **Applicant** | **:** | **Sad Miah** |
| **Representative** | **:** | **Paul Clark (McKenzie Friend)** |
| **Respondent** | **:** | **London Borough of Waltham Forest** |
| **Representative** | **:** | **Sharpe Pritchard LLP** |
| **Type of application** | **:** | **Appeal against a financial penalty** - Section 249A & Schedule 13A to the Housing Act 2004 |
| **Tribunal** | **:** | **Judge Nicol**<br>**Mr A Fonka FCIEH** |
| **Date and venue of hearing** | **:** | **28th November 2025**<br>**10 Alfred Place, London WC1E 7LR** |
| **Date of decision** | **:** | **1st December 2025** |

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**DECISION**

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**The Tribunal has decided to confirm the penalty of £15,000 imposed on the Applicant by the Respondent.**

Relevant legislation is set out in the Appendix to this decision.

**Reasons**

1. The Applicant is the leasehold owner of 234a Chingford Road, London E17 5AL, a 3-bedroom flat on the first floor of a 2-storey end terrace building with commercial premises on the ground floor. The local

authority Respondent has sought to impose a financial penalty of £15,000 on the Applicant for managing or having control of the property when it should have been licensed but was not, contrary to section 95(1) of the Housing Act 2004 ("the 2004 Act") and their selective licensing scheme which came into force on 1st May 2020.

2. The final penalty notice was issued on 16th September 2022. The Applicant appealed to this Tribunal on 25th November 2024. Judge Korn granted the Applicant permission to appeal out of time when he issued directions on 8th April 2025.

3. The Applicant's appeal was heard by the Tribunal on 28th November 2025. The attendees were:

- The Applicant;
- Mr Paul Clark, a paralegal acting as the Applicant's McKenzie friend;
- Mr Alex Williams, counsel for the Respondent;
- Ms Manavini Mohan, a trainee solicitor from the Respondent's solicitors, Sharpe Pritchard;
- The Respondent's witnesses:
    - Ms Stacey Walkes, Licensing Enforcement Officer;
    - Ms Lisa Smith, Private Sector Housing & Licensing Enforcement Officer.

4. The Tribunal had the following documents, filed and served in accordance with the Tribunal's directions issued on 4th June 2024:

- Applicant's Bundle, 107 pages;
- Respondent's Bundle, 450 pages; and
- Respondent's Reply Bundle, 17 pages.

5. Mr Clark submitted that the Applicant pursued the following points in his appeal:

(a) The Applicant said he only became aware of the penalty when the Respondent phoned him about it in October 2024. He alleged that the notices required under the 2004 Act had not been properly served.
(b) If it were to be held that he had been properly served, he had a defence by means of having a reasonable excuse in that he relied on his agents, PSM, to attend to the licensing of the property so that it was their fault it did not happen.
(c) In breach of their public law duties, the Respondent failed to exercise their discretion to withdraw the notice when the Applicant found out about the penalty and was able belatedly to put in representations.
(d) In any event, the amount of the penalty was unfair and disproportionate.

*Factual Background*

6. The Applicant held a selective licence for the property from 15th June 2015 until it expired on 31st March 2020. When the Respondent's new selective licensing scheme began on 1st May 2020, the Applicant should have applied, or got someone to apply on his behalf, for a new licence.

When the Tribunal asked him why he did not do this, he said the property had been empty at that time but that is not what the evidence before the Tribunal said. The unchallenged evidence of Ms Smith is that, when she attended the property on 1st September 2021, she found a Mr Humayun Rashid living there with his family. Mr Rashid told Ms Smith they had been living there since August 2019 and showed her his tenancy agreement to that effect. Although the rent was paid to an agent, Soares Property Services, the Applicant would have been aware of the family's presence as two of the 3 bedrooms were reserved for his use and he regularly came in and out using his own key.

7. Ms Smith's inspection was preceded by a letter on 2nd February 2021, addressed to the Applicant at 37 Barnsdale Avenue, London E14 9WR, and an email on 28th June 2021, addressed to c9case@gmail.com, to warn him that he needed to obtain a licence. When they elicited no response, Ms Smith conducted a search for other addresses connected to the Applicant. On 1st September 2021, she wrote to the Applicant at the following addresses:

- 37 Barnsdale Avenue. The Respondent had this address for the Applicant in their Council Tax records. The Applicant said this was his late parents' address which he had given to the Respondent as his contact address for the purposes of business rates. He said he left the property in January 2021 due to a confrontation with his brother and did not return to live there until August 2024. His father passed away on 16th January 2022, leaving only his brother in occupation.
- 234 Chingford Road. This was the ground floor commercial property below the subject property. The Applicant ran a business there, trading as C9 Inn, until 7th September 2021, before letting it to another business which then also later closed down.
- 311 Regents Park Road, London N3 3JY. The Applicant said this was the office of an accountant he had used to register a limited company which ultimately did not trade.
- 355 Commercial Road, London E1 2PS. The Applicant said this was his barber business which he closed down at around the beginning of 2022.

8. The Applicant said he did not receive Ms Smith's letters at or through these addresses. He implied that no-one at any of these addresses, including his father, his brother, his former accountant or anyone working in any businesses operating at these addresses, would forward his post or tell him if he ever received any. He did not check at any time to see if there was any post for him at any of these addresses or set up postal forwarding with Royal Mail.

9. Apparently purely coincidentally, the Applicant decided to take action at this time. On 29th September 2021, he had the following exchange on WhatsApp with Mr Sadikur Rahman of PSM Estates, a property agent:

> Mr Rahman: what's the deal with this house? I'm happy to take it on but we need to agree our fees before I do any work on this

Applicant: Same deal as 542 commercial road

Applicant: For the license I will pay you for the paperwork and council application

Mr Rahman: Give me the full address so I can make your contact

Applicant: 234 Chingford road London e17 5AL

10. The Applicant said he appointed PSM Estates on 10th October 2021 and "gave them full control of the property, expecting them to meet all compliance requirements, including the selective licence." He said he did not put any of this in writing, relying simply on trust. He did not consider setting up any arrangements for PSM to report back to him on anything they did, including about starting a licence application or confirming the grant of a licence. At no point did he think to chase them in relation to licensing or any other aspect of the management of the property.

11. PSM told the Respondent a different story. Mr Rahman provided the following documents:

(a) An email exchange in which the Applicant purportedly said on 3rd October 2021, "I only require a rent collection service from you guys and property will come tenanted. Are you able to provide a contract for the tenants so they know who to pay rent to? apart from that I will manage all other requirements as the managing landlord."
(b) A one page agreement purportedly signed by the Applicant on 8th October 2021 which included a term that he would "also ensure I/we have all required certificates and licenses from the Local authority to enable me to rent out my property."
(c) A further email exchange in which the Applicant purportedly said to the Respondent, "I instructed PSM Estates to collect rent and issue a contract I thought I had things in place but a lot was going on so I must have missed this. I had full management and control of my property. If you could kindly take out PSM Estates from correspondence."

12. The Applicant asserted that all 3 documents were forged by Mr Rahman. This is an extraordinary allegation and, if true, would represent an enormous betrayal by Mr Rahman, a man in whom the Applicant had placed significant trust. However, although his documents betrayed some anger at the Respondent, there was none for PSM Estates. They carried on working together – Mr Rahman and PSM Estates applied for a licence for the property on the Applicant's behalf in August 2022. When asked by the Tribunal, it had clearly not even occurred to the Applicant to confront Mr Rahman about what he had done. He hadn't thought of going to the police or of suing PSM Estates.

13. The Applicant pointed out that the emails purporting to be from him came from "sad.miah@c9lounge.co.uk". He said that this was not his email address and, when Mr Clark sought to find evidence as to who was behind the domain name, he found out that this information was hidden behind a proxy wall. On that basis, not only did the Applicant accuse Mr Rahman of forging the documents, he also accused him of going to the

lengths of creating a false domain name which referenced the Applicant's business, c9, in order to facilitate his other forgeries.

14. Despite a Tribunal order requiring the domain name registration authority, 123Reg, to release details of who was behind the domain name, and the efforts of the Respondent's solicitor, Mr Simon Kiely, and Mr Clark to ensure compliance with the order, this information was not forthcoming. Mr Clark submitted that this meant that crucial information was unavailable to the Tribunal and that this should be taken into account.

15. Mr Clark made two points which deserve attention:

(a) He pointed out that the Applicant spells his first name, Sad, with one "a" whereas, in the purported management agreement of 8th October 2021, his first name is handwritten as Saad, with two "a"s.
(b) The Respondent had an email address for the Applicant, given in the 2022 licence application. The Applicant criticised the Respondent for not using this email address, which he firmly asserted was the correct one. The bundles contained at least one email from that address, namely "saad_binali@hotmail.com".

16. The problem is that these two submissions are contradictory. The Applicant's "correct" email address shows that he sometimes spells his first name with two "a"s. Therefore, the use of two "a"s in the management agreement is not evidence of a forgery.

*Service*

17. Under paragraph 6 of Schedule 13A of the 2004 Act, when an authority decides to impose a financial penalty on a person, it must ***give*** that person a final notice. Under section 233 of the Local Government Act 1972, an authority may ***give*** such a notice by sending it to the relevant person's last known address. The Respondent did this when they sent the Final Notice to 37 Barnsdale Avenue.

18. Mr Clark did not challenge this but asserted that it was a fundamental and essential part of service that the notice in question should come to the relevant person's attention, without which criminal sanctions could be imposed without the intended recipient knowing about it. He asserted that this would be unfair to the point of contradicting the right to a fair trial under Article 6 of the European Convention on Human Rights.

19. Mr Clark is not correct. The concept of service is fundamental to English law. It provides a means of ensuring legal enforcement is effective without requiring every step to come to the attention of a litigant. The statute in this case requires a notice to be "given" which is defined in a practical way so that it is sent to the best place where it is likely to come to the relevant person's attention without involving onerous requirements of identifying that person's precise whereabouts. Giving does not necessarily mean receiving – if the author of the statute meant the latter, then the statute would have said that. Fairness is provided, at

the very least, by the Applicant having a full merits review by the Tribunal of whether a penalty should have been imposed.

20. The Tribunal is satisfied that the requisite notices were duly served.

*Reasonable Excuse*

21. Under section 95(4) of the 2004 Act, in proceedings against a person for an offence under section 95(1), it is a defence that he had a reasonable excuse for having control of or managing the property which is required to be licensed but is not so licensed.

22. In accordance with the decision of the Upper Tribunal in *Marigold v Wells* [2023] UKUT 33 (LC); [2023] HLR 27, in considering whether a landlord had a reasonable excuse for failing to comply with a licensing requirement, the Tribunal must:

(a) establish what facts the landlord asserts give rise to a reasonable excuse;
(b) decide which of those facts are proven; and
(c) decide whether, viewed objectively, those proven facts initially amounted to a reasonable excuse and whether they continued to do so. The Tribunal should take into account the experience and other relevant attributes of the landlord and the situation in which they found themselves at the relevant time or times.

23. The Applicant asserted that he had a reasonable excuse because he had given over the responsibility of arranging proper licensing to a suitable agent. While the commission of the offence under section 95(1) must be established by the Respondent to the criminal standard of beyond a reasonable doubt, the Applicant had the burden of establishing the relevant facts amounting to a reasonable excuse to the civil standard of a balance of probabilities. The Tribunal is not satisfied that he did so:

(a) His story of forgeries and a fabricated email address in inherently incredible;
(b) Even taking into account the lack of co-operation from the relevant authority for domain names, there was no evidence to support this story;
(c) The Applicant's evidence is not credible – the Tribunal is satisfied he was not telling the truth about the property being empty between 2020 and 2021 and he sought to mislead the Tribunal about how he spells his name.

24. In any event, even if the Applicant's account were true, the Tribunal is not satisfied that it amounts to a reasonable excuse. Delegation of the licence application process to an agent may constitute a reasonable excuse but only when suitable processes are also put in place to ensure they carry out this responsibility. In this case, that was done with the 2022 application by having PSM Estates send by WhatsApp a screenshot showing the application had been made. This is, of course, not the only possible method but it would arguably have been sufficient if it had been part of an express arrangement between PSM and the Applicant. In the event, the Applicant had left himself with no means of checking to ensure

his responsibility of obtaining a licence had been executed by his agent. Therefore, he had no excuse when the agent failed him. His remedy, if any, is against the agent – it is not being let off the penalty.

25. Therefore, the Tribunal is satisfied that the Applicant committed the offence under section 95(1) and did not have a reasonable excuse defence under sub-section (4). That leaves the question of the amount of the penalty.

*Public law*

26. The appeal is a rehearing and the Tribunal reaches its own conclusions on the penalty and the amount of it. In those circumstances, any flaws in the Respondent's investigation into the Applicant are irrelevant. Mr Clark pointed out that the Respondent had a discretion as to whether to impose the penalty and/or to continue to oppose the appeal and that that discretion must be exercised in accordance with public law principles. However, even assuming that the Respondent did act contrary to such principles, that would not enable the Tribunal to act in a way it was otherwise minded to.

*Amount of penalty*

27. While the Tribunal needs to reach its own conclusions, the Tribunal is entitled to have regard to the Respondent's views (*Clark v Manchester CC* [2015] UKUT 0129 (LC)) and must consider the case against the background of the policy which the Respondent has adopted to guide its decisions (*R (Westminster CC) v Middlesex Crown Court* [2002] EWHC 1104 (Admin)).

28. According to the penalty matrix included in the Respondent's policy in accordance with the Government's guidance, the relevant band for this offence is £15,000-£20,000. In particular, the Respondent's policy said that a landlord with either a significant portfolio or experience as a property manager should be placed in this band rather than a lower band. The Applicant did not volunteer the extent of his portfolio but there was plenty of evidence in the bundles that he owns, manages or has owned or managed a number of residential and commercial properties. Even if he does not currently have a significant portfolio, he does have sufficient property management experience to put him in this band.

29. The Respondent asserted there were no mitigating factors. The most that could be said for the Applicant was that he did eventually apply for, and was granted, a licence and that he attended to some items of repair that were raised with him. Mr Clark suggested that the appropriate penalty would be between zero and £2,000 but he did so on the basis of the same points already rejected above.

30. The Respondent put the Applicant's offence at the lowest end of the band. The Tribunal is satisfied that the policy has been properly followed and that the amount of £15,000 is in accordance with that policy.

31. Therefore, the Tribunal has decided to confirm the penalty of £15,000.

**Name:** Judge Nicol **Date:** 1st December 2025

## 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).

## Appendix of relevant legislation

## Local Government Act 1972

### Section 233 Service of notices by local authorities

(1) Subject to subsection (8) below, subsections (2) to (5) below shall have effect in relation to any notice, order or other document required or authorised by or under any enactment to be given to or served on any person by or on behalf of a local authority or by an officer of a local authority.

(2) Any such document may be given to or served on the person in question either by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.

(3) ...

(4) For the purposes of this section and of section 26 of the Interpretation Act 1889 (service of documents by post) in its application to this section, the proper address of any person to or on whom a document is to be given or served shall be his last known address, ...

## Housing Act 2004

### Section 95 Offences in relation to licensing of houses under this Part

(1) A person commits an offence if he is a person having control of or managing a house which is required to be licensed under this Part (see section 85(1)) but is not so licensed.

(2) A person commits an offence if–

(a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 90(6), and

(b) he fails to comply with any condition of the licence.

(3) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time–

(a) a notification had been duly given in respect of the house under section 62(1) or 86(1), or

(b) an application for a licence had been duly made in respect of the house under section 87,

and that notification or application was still effective (see subsection (7)).

(4) In proceedings against a person for an offence under subsection (1) or (2) it is a defence that he had a reasonable excuse–

(a) for having control of or managing the house in the circumstances mentioned in subsection (1), or

(b) for failing to comply with the condition,

as the case may be.

(5) A person who commits an offence under subsection (1) is liable on summary conviction to a fine.

(6) A person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6A) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).

(6B) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.

(7) For the purposes of subsection (3) a notification or application is "effective" at a particular time if at that time it has not been withdrawn, and either–

(a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or

(b) if they have decided not to do so, one of the conditions set out in subsection (8) is met.

(8) The conditions are–

(a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of the appropriate tribunal) has not expired, or

(b) that an appeal has been brought against the authority's decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.

(9) In subsection (8) *"relevant decision"* means a decision which is given on an appeal to the tribunal and confirms the authority's decision (with or without variation).

**<u>Section 249A</u> Financial penalties for certain housing offences in England**

(1) The 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.

(2) In this section "relevant housing offence" means an offence under—

(a) section 30 (failure to comply with improvement notice),
(b) section 72 (licensing of HMOs),
(c) section 95 (licensing of houses under Part 3),
(d) section 139(7) (failure to comply with overcrowding notice), or
(e) section 234 (management regulations in respect of HMOs).

(3) Only one financial penalty under this section may be imposed on a person in respect of the same conduct.

(4) The amount of a financial penalty imposed under this section is to be determined by the local housing authority, but must not be more than £30,000.

(5) The local housing authority may not impose a financial penalty in respect of any conduct amounting to a relevant housing offence if—

(a) the person has been convicted of the offence in respect of that conduct, or
(b) criminal proceedings for the offence have been instituted against the person in respect of the conduct and the proceedings have not been concluded.

(6) Schedule 13A deals with—

(a) the procedure for imposing financial penalties,
(b) appeals against financial penalties,
(c) enforcement of financial penalties, and

(d) guidance in respect of financial penalties.

(7) The Secretary of State may by regulations make provision about how local housing authorities are to deal with financial penalties recovered.

(8) The Secretary of State may by regulations amend the amount specified in subsection (4) to reflect changes in the value of money.

(9) For the purposes of this section a person's conduct includes a failure to act.

## SCHEDULE 13A
## FINANCIAL PENALTIES UNDER SECTION 249A

**6**

If the authority decides to impose a financial penalty on the person, it must give the person a notice (a "final notice") imposing that penalty.

**10**

(1) A person to whom a final notice is given may appeal to the First tier Tribunal against—

(a) the decision to impose the penalty, or
(b) the amount of the penalty.

(2) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.

(3) An appeal under this paragraph—

(a) is to be a re-hearing of the local housing authority's decision, but
(b) may be determined having regard to matters of which the authority was unaware.

(4) On an appeal under this paragraph the First-tier Tribunal may confirm, vary or cancel the final notice.

(5) The final notice may not be varied under sub-paragraph (4) so as to make it impose a financial penalty of more than the local housing authority could have imposed.