



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

Case Reference : **HAV/ooLC/HIN/2025/0620**

Property : **Chestnut Cottage, Pier Approach Road,
Gillingham, Kent, ME7 1RU**

Applicants : **Mr Abrar Hussain Bajwa & Mrs Sadia
Iram**

Respondent : **Medway Council**

**Type of
Application** : **Appeal against an Improvement Notice,
Part 3 Schedule 1 Housing Act 2004**

Tribunal Members : **Tribunal Judge H Lumby
Mr E Shaylor MCIEH**

Venue : **Havant Justice Centre (by CVP)**

Date of Hearing : **20 November 2025**

Date of Decision : **31 December 2025**

DECISION

Decisions of the tribunal

1. The Tribunal allows the Appeal and quashes:
 - (1) the Improvement Notice dated 2 July 2025 and
 - (2) the Notice of Demand for Payment dated 2 July 2025
2. The Tribunal orders the Respondent to repay the application fee of £110.00 and the hearing fee of £220.00 to the Applicants within 28 days of the date of this decision.

Introduction

1. This is an application by the Applicants to appeal against an Improvement Notice (the Improvement Notice) and a Notice of Demand for Payment (the Payment Notice), both dated 2 July 2025 and served pursuant to sections 11/12 and section 49 of the Housing Act 2004 (the Act). The notices were served by the Respondent. The application to appeal was received by the tribunal on 15 July 2025, within the 21 days permitted to appeal.
2. The Applicants are the owners of Chestnut Cottage, Pier Approach Road, Gillingham, Kent, ME7 1RU (the Property), being a four bedroom detached house and garden, with two bedrooms on the ground floor and two on the first floor.
3. The Improvement Notice identifies three Category 1 hazards and five Category 2 hazards, all requiring works. The Payment Notice relates to the cost of enforcement and is for £779.85.
4. The Category 1 hazards relate to Domestic Hygiene, Pests and Refuse, Food Safety and Structural Collapse and Falling Elements. The Category 2 hazards relate to Damp and Mould Growth, Personal Hygiene, Sanitation and Drainage, Falls on level surfaces, Falling on stairs etc and Electrical Safety Hazards.
5. The Applicants' appeal against the Improvement Notice is on the grounds that the Applicants' tenant prevented compliance whilst causing damage to the Property, a room said to be affected by subsidence is excluded from the demise to the tenant, the notice is not in accordance with the Respondent's policy and is disproportionate (with the HHSRS

scores being challenged) and the time periods given for compliance are not appropriate. The appeal against the Payment Notice is integral to the appeal against the Improvement Notice.

6. The Property was let to Mr Ijaz Ahmed in 2019 and has been occupied by him since. There is a suggestion a carer is also now in occupation. A section 21 notice was served in August 2024 and proceedings in the County Court to obtain possession are ongoing. Mr Ahmed put himself forward as an Interested Party in this case but did not make any submissions prior to the hearing or attend the hearing itself.
7. The relationship between the Applicants and Mr Ahmed deteriorated over time and on 27 October 2023 Mr Ahmed reported alleged disrepairs in the Property to the Respondent. The Respondent says they were obliged to inspect and served notice to do so on 1st and 2nd July 2024, with the inspection occurring on 9th July 2024. An informal schedule of works was served by the Respondent on the Applicants on 17th July 2024, with a required completion date of 23rd September 2024.
8. Mr Ahmed subsequently sought to prevent the Applicants or people acting on their behalf from contacting him, alleging harassment and seeking to obtain injunctions against the Applicants from entry. Attempts by the Applicants to obtain entry were refused whilst entry by contractors was at best limited. The Applicants sought assistance from the Respondent to obtain entry but the first four requests were ignored. It is accepted that the Respondent was aware that the Applicants faced access challenges.
9. It is common ground between the parties that some works were done but in May 2025 the tenant contacted the Respondent alleging the required works were not completed. A further inspection was arranged for 5 June 2025, following the required notices on 30 May 2025. The Inspection was conducted by Mr Ryan Salter. Following this inspection, the Respondent served the Improvement Notice and the Payment Notice on 2 July 2025 on the Applicants. The Improvement Notice was served by Mr Paul Salter (Mr Ryan Salter's manager).
10. The tribunal was provided with a bundle running to 576 pages. We were separately referred to the annexures to a witness statement of Mr Michael Coward, which we also reviewed. The contents of all these documents were noted by the tribunal.
11. The hearing was conducted online, using the tribunal's CVP system. The panel were together at Havant Justice Centre whilst all the parties were online. Mr Bajwa was in attendance and represented the Applicants. Mr Venky Krishnan appeared for the Respondent together with Mr Michael Coward (the Respondent's Senior Private Sector Housing Technical Officer). Mr Ryan Salter and Mr Paul Salter of the Respondent also

attended as observers but did not participate as they had not provided witness statements.

12. The hearing took the form of a re-hearing of the decision to issue the Improvement Notice and the Payment Notice, as required by paragraph 15(2) of schedule 1 of the 2004 Act. In doing so, the tribunal applied the requirements of the 2004 Act and considered the submissions of both parties.
13. The tribunal was satisfied that the Improvement Notice and the Payment Notice were both valid notices properly served on the Applicants and the Applicants' appeal was also served within the required time limit.

Law

14. Part 1 of the Act provides for a system of assessing the condition of residential premises, and the way in which this is to be used in enforcing housing standards. It provides for a Housing Health and Safety Rating System (HHSRS) which evaluates the potential risk to harm and safety from any deficiencies identified in dwellings using objective criteria.
15. Local Authorities apply HHSRS to assess the condition of residential property in their areas. HHSRS enables the identification of specified hazards by calculating their seriousness as a numerical score by a prescribed method. Hazards that score 1000 or above are classed as Category 1 hazards, whilst hazards with a score below 1000 are classed as Category 2 hazards.
16. Section 2(1) of the Act defines hazard as '*any risk of harm to the health or safety of an actual or potential occupier of a dwelling which arises from a deficiency in the dwelling (whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise)*'
17. Section 2(3) provides '*regulations under this Section may, in particular, prescribe a method for calculating the seriousness of hazards which takes into account both the likelihood of the harm occurring and the severity of the harm if it were to occur*'.
18. Those regulations are the Housing Health and Safety Rating System (England) Regulations 2005.
19. Under Section 5 of the Act, if a Local Authority considers that a Category 1 hazard exists on any residential premises, it must take appropriate enforcement action. Section 5(2) sets out seven types of enforcement action which are appropriate for a Category 1 hazard. The types of enforcement action that a Local Authority may take following identification of a Category 1 hazard include Emergency Remedial Action

(under section 40) and service of an Improvement Notice (under section 11 to 19).

20. Section 7 of the Act contains similar provisions in relation to Category 2 hazards, except that instead of a duty, a power is conferred on a Local Authority to take enforcement action in cases where it considers that a Category 2 hazard exists on residential premises and those courses of action include in Section 7(2) service of an Improvement Notice. It follows that a Local Authority is not obliged to take enforcement action if there are no Category 1 hazards.
21. Section 9 of the Act requires the Local Authority to have regard to the HHSRS operating guidance and the HHSRS enforcement guidance.
22. Sections 11 to 19 of the Act specify the requirements of an Improvement Notice for Categories 1 and 2 hazards. Section 11(2) defines an Improvement Notice as a notice requiring the person on whom it is served to take such remedial action in respect of the hazard as specified in the Notice.
23. Section 11(8) defines remedial action as action (whether in the form of carrying out works or otherwise) which in the opinion of the Local Authority will remove or reduce the hazard. Section 11(5) states that the remedial action to be taken by the Notice must as a minimum be such as to ensure that the hazard ceases to be a Category 1 hazard but may extend beyond such action. Section 12 of the Act deals with an Improvement Notice for a Category 2 hazard and contains similar provisions to those in Section 11.
24. An Appeal may be made to the Tribunal against an Improvement Notice under Paragraph 10, Part 3, Schedule 1 of the Act. Section 14 of Schedule 1 provides that an appeal '*...must be made within the period of 21 days beginning with the date on which the improvement notice was served in accordance with Part 1 of this Schedule*'
25. Section 14 (3) provides: '*The appropriate tribunal may allow an appeal to be made to it after the end of the period mentioned in subparagraph (1) or (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delays since then in applying for permission to appeal out of time)*'
26. Part 1 of Schedule 1 provides that the improvement notice must be served on the owner of the property and on every other person who to the knowledge of the local authority has a relevant interest in the premises or is an occupier thereof.
27. The Appeal is by way of a rehearing and may be determined by the Tribunal having regard to matters of which the Local Authority is

unaware. The Tribunal may confirm, quash or vary the Improvement Notice. The function of the Tribunal on an Appeal against an Improvement Notice is not restricted to a review of the Authority's decision. The Tribunal's jurisdiction involves a rehearing of the matter and making up its own mind about what it would do.

28. Section 28 of the Act gives power to a Local Housing Authority to serve on the owner of residential properties a Hazard Awareness Notice relating to Category 1 hazards. The notice advises the recipient of the existence of the hazard(s), the deficiency giving rise to it, the reason for serving the notice and details of remedial action if any which the local authority considers would be practical and appropriate to take in relation to the hazard. Section 29 contains like provisions for the service of a Hazard Awareness Notice in relation to Category 2 hazards. The Act does not provide for a right to appeal against the service of a Hazard Awareness Notice.

Submissions by the parties

29. The Respondent contends that it followed due process at all stages so there is no question as to the validity of the Improvement Notice. They accept that the Applicants had access issues but argues that the Applicants could have done more, such as using contractors or obtaining a court requiring access. They contend that it is not for the Respondent to get involved in access issues. However, having been notified of an issue, it was their duty to inspect. That inspection identified serious issues that needed to be addressed. These were not resolved by the Applicants after notice was first given. Given that some of the issues were identified as Category 1 Hazards, the service of an Improvement Notice was a reasonable action and the works required and time periods given were reasonable and proportionate. They therefore argued that the Improvement Notice should be confirmed.
30. At the start of the hearing, the Respondents offered to vary the Improvement Notice to give the Applicants a further four months to do the works. The Applicant rejected this, arguing that the works could not be carried out until vacant possession was obtained.
31. The Applicants' arguments centred on the conduct of Mr Ahmed, contending that he had been let the Property in good condition and caused much of the disrepair relied on by the Respondent. In addition, they argued that the Respondent had not followed its own policies, had required works that were not reasonably practicable. As a result, they contended that the Improvement Notice was irrational and should be quashed.

Witness evidence

32. At the hearing, we heard witness evidence from Mr Coward and Mr Bajwa.
33. Mr Coward is no stranger to the tribunal and there was no doubt to us that his experience and ability is of a high order. However, he was not the inspecting officer in this case nor did he issue the Improvement Notice. His evidence was by necessity therefore second hand. He acknowledged that Mr Ryan Salter (who was the inspecting officer) was fairly new in the role but had done the necessary training and has relevant prior experience.
34. The tribunal asked him extensive questions about the HHSRS scores Mr Ryan Salter (the officer) had made. Mr Coward agreed that some of the scores given were perhaps incorrect, for example the health outcomes were in reality no worse than average in relation to damp and mould, the likelihood of harm for pests and for food safety in the kitchen should have been assessed as Category 2 rather than 1, the reference to water becoming stagnant and attracting pests was probably wrong in the context of falls on levels surfaces. He agreed that a month to remedy subsidence was in some instances insufficient but the period could be varied if major works were required.
35. Overall, the tribunal was left with the impression that the scoring carried out had some issues. However, without a witness statement from Mr Ryan Salter (the inspecting officer) or Mr Paul Salter (who served the notice), it was not possible to ask them questions and so it was not possible for these concerns to be adequately addressed by the Respondent.
36. We found Mr Bajwa to be a credible witness. We were satisfied that he had attempted to carry out the required works and that the Applicants felt thwarted by the tenant and frustrated by the Respondent's unwillingness to engage with them.

Consideration of the Hazards

37. The tribunal considered each of the identified hazards in turn, based on its review of the evidence and the submissions made by the parties.

Category 1 – Domestic Hygiene, Pests and Refuse

38. The Improvement Notice covers two items under this Hazard, these being gaps around the rear ground floor WC waste pipe and evidence of rodent infestation in the kitchen.

39. The tribunal accepts the evidence that the tenant prevented the Applicants' contractor from carrying out repair works to the waste pipe.
40. The tribunal found two difficulties with the HHSRS score. The first is that the officer increased the likelihood score very significantly, from 1 in 5,600 to 1 in 3. The tribunal found that whilst a modest increase in the risk of harm above the national average for this type of property would have been appropriate given the lack of pest proofing around the waste pipe (and indeed evidence that rodents had already entered), the risk of harm should relate not to the risk of pests entering (which is high) but should relate to the risk of an occupier becoming ill or injured within 12 months as a direct consequence (which is much lower).
41. The second difficulty is that the officer increased the spread of harm scores, when there was no evidence that illness or injury, if it occurred, would have more serious consequences for an occupier of this property compared to another property of the same type and the same likelihood of harm.
42. The tribunal therefore determined that, based on the evidence provided, the HHSRS scores in respect of the two identified hazards were wrongly assessed and that these did not amount, individually or in aggregate, to a Category 1 hazard.

Category 1 – Food Safety

43. The Improvement Notice again covers two items under this Hazard, these being the rotten kitchen work top and the broken floor covering.
44. The tribunal noted Mr Coward's confirmation that the worktop should have been categorised as Category 2 rather than Category 1. It also noted the limited extent of the floor damage apparent from the photographs provided and considered that repair of the affected area rather than total replacement would be an adequate solution, even if the landlord decided that total replacement was a more straightforward solution.
45. The officer significantly increased the likelihood of harm score from 1 in 3,200 to 1 in 18. The tribunal accepted the justification that damaged surfaces for food preparation might harbour pathogens which could contaminate food but found that the increase of likelihood of harm was excessive as it did not take into account that the damage was mostly a small area adjacent to the sink. Similarly to Pests and Refuse above, the officer also increased the spread of harms scores, even though there was no evidence that the consequences of an illness, if it occurred, would be more serious than the average for this type of hazard.
46. The tribunal therefore determined that, based on the evidence provided, the HHSRS scores in respect of the two identified hazards were wrongly

assessed and that these did not amount, individually or in aggregate, to a Category 1 hazard.

Category 1 – Structural Collapse and Falling Elements

47. The Improvement Notice covers one item under this Hazard, these being severe cracks to the walls in the ground floor front bedroom, suggesting possible structural movement.
48. The tribunal noted that this room was excluded from the demise to Mr Ahmed and that the Respondent considered this was irrelevant as it had affected the structural integrity of the whole building. The tribunal did not agree on the evidence before it that this was the case. It acknowledged that the Applicants should have taken further steps to prevent access to this room but accepted that the tenant was preventing access to allow this to be done. The Respondent has specified a short period for the works to be completed which the tribunal considered unrealistic given the reports on subsidence provided. The Respondent's explanation that the Applicants could apply for a variation if the works proved to be more serious was unconvincing and demonstrated a potential lack of awareness by the inspecting officer of the amount of work which would be required. An Improvement Notice should specify a timescale for completion of works which is within a range of reasonableness. The Notice required the subject to engage a reputable company to investigate, and to carry out its recommendations, all within 2 months, which was not reasonable, given that the cause was probably settlement or subsidence affecting the house.
49. The officer significantly increased the likelihood of harm score from 1 in 5,600 to 1 in 6, with the justification that the cracks were severe and had been known to the landlord for some time, the wall had moved, and the cracks were floor to ceiling and 5mm wide. The tribunal found that the officer had not taken into account that the crack was long-standing and slow to develop, therefore the risk of structural collapse within 12 months was over-estimated, as was the risk of a person being injured as a consequence, given that a person would have to be in immediate vicinity at the exact time of the collapse. The photos in the supplementary bundle (501-503) did not give the impression that collapse was imminent. The tribunal was not able to ask the officer questions as to why he assessed the risk of collapse as imminent. The Respondent's representative referred to emails from the Applicants to an insurance company, in which Mr Bajwa said the house was not safe to live in; however, the tribunal attached limited weight to that evidence, finding that there could be any number of reasons why a landlord might try to impress on an insurance company the urgency of required repairs.
50. The tribunal therefore determined that, based on the evidence provided, the HHSRS scores in respect of the identified hazard was wrongly

assessed and that this did not amount to a Category 1 hazard. In addition, the timetable for completing required works was unrealistic.

Category 2 – Damp and Mould Growth

51. The Improvement Notice again covers two items under this Hazard, these being the lack of a mechanical extractor fan in the ground floor bathroom and a leak in the pipe joints to the boiler.
52. The tribunal noted that the tenant had prevented the plumber from doing repair works to the boiler. The leak therefore remained, but it was not clear from the evidence provided what was the extent of the leak or whether the consequent dampness was significant or not.
53. The HHSRS score sheet also referenced incorrect fitting of the new rear rainwater downpipes and inappropriate fittings to some guttering as possible causes of damp and mould inside the Property; however, in the Improvement Notice this deficiency was attributed to a different hazard (see Sanitation and Drainage below). No evidence was provided in the bundle or at the hearing that there was actual damp or mould within the Property, so it was a theoretical risk rather than an actual risk. Mr Coward when questioned on this point gave the opinion that the officer thought it possible that the lack of an extractor fan could mean condensation would not be dispersed, so damp might occur within 12 months. This was unconvincing, but in any case the officer did not score the likelihood of harm any higher than the national average for this type of property so the HHSRS score remained very low on the scale from A to J.
54. The tribunal therefore determined that, based on the evidence provided, the two identified hazards amounted to Category 2 hazards but did not constitute matters requiring urgent works.

Category 2 – Personal Hygiene, Sanitation and Drainage

55. The Improvement Notice again covers two items under this Hazard, these being the incorrect fitting of the new rear rainwater downpipes and inappropriate fittings to some guttering.
56. The tribunal noted that these had low HHSRS scores attributed to them and were minor in terms of hazard and urgency.
57. The tribunal found that the deficiency was wrongly attributed to this hazard, Damp and Mould would be the appropriate hazard.

58. The tribunal therefore determined that, based on the evidence provided, the two identified hazards may not amount to Category 2 hazards and in any event did not constitute matters requiring urgent works.

Category 2 - Falls on Level Surfaces

59. The Improvement Notice covers three items under this Hazard, these being the lack of outflows to two water butts, slippery decking and the presence of a pond cut into the decking (although the tribunal noted that stagnant water and pests are not relevant to falls on level surfaces).
60. The tribunal accepted the HHSRS score of D, with a modest increase in likelihood of harm from falls due to slippery surfaces and a pond cut into the decking. Given that falls are one of the most common causes of household injury, the tribunal therefore determined that the high Category 2 hazard score appeared appropriate. It also determined that the remedial works in the Improvement Notice were appropriate, but the timescale for completion may have been a little short.

Category 2 – Falling on stairs etc

61. The Improvement Notice again covers two items under this Hazard, both relating to the staircase leading to the first floor; these were that the balustrade on the right did not comply with current Building Regulations and the handrail did not extend the full length of the stairs.
62. The tribunal accepted the HHSRS score of D, with a modest increase in likelihood of harm from falls due to handrail and balustrade deficiencies. Given that falls are one of the most common causes of household injury, the tribunal determined that the high Category 2 hazard score appeared appropriate; it also determined that the remedial works and timescale for completion in the Improvement Notice were appropriate.

Category 2 – Electrical Hazards

63. The Improvement Notice referred to one item under this Hazard, this being excessive cable to a suspended light fitting in the kitchen.
64. The tribunal noted the Applicants' comment that the EICR certificate provided did not raise concerns about this.
65. Although the deficiency requires improvement, the tribunal noted that the officer did not raise the likelihood of harm or spread of harms scores above the national average. The tribunal therefore accepted the low HHSRS score at Category 2. It also determined that the remedial

works and timescale for completion in the Improvement Notice were appropriate.

Determination

66. The tribunal considered whether the Improvement Notice should have been issued in the way that it was, in light of its determinations above.
67. A key part of the Respondent' case was that it had concluded that an Improvement Notice was required because the inspecting officer had identified three Category 1 Hazards. The tribunal agrees that this would have been an appropriate course if there were indeed Category 1 Hazards.
68. However, based on the evidence provided, the tribunal has determined that there are in fact no Category 1 Hazards. It has found that those identified as being in Category 1 have been wrongly assessed as such. In addition, no matters identified as Category 2 Hazards should be instead treated as Category 1 Hazards. Indeed, some of those matters may not even constitute Category 2 Hazards.
69. The absence of any Category 1 Hazards means that the Respondent was not required to issue an Improvement Notice. It finds that other options should at the very least be considered. Consideration should have been given in this context to the fact that the tenant is preventing works being done.
70. As a corollary, the tribunal has reservations about the appropriateness of the works required and the timetable set for them, especially in relation to the structural issue. The Respondent could have considered, for example, an order prohibiting the use of the room excluded from the demise. The refusal of the tenant to permit access may have been relevant here.
71. Accordingly, the tribunal considers that the Respondent's decision to issue the Improvement Notice was based on incorrect conclusions, especially in relation to the categorisation of some of the hazards and the risks they presented. It had a power to issue an Improvement Notice but no duty to do so. Other options should have been given proper consideration but were not. If a proper process had concluded that an Improvement Notice should be issued, it should have been served under section 12 in respect of Category 2 hazards.
72. The tribunal considered whether to use its discretionary power to vary the Improvement Notice, but concluded that the variations, if made, would be substantial, and therefore it was not appropriate for the tribunal to do so of its own accord.

73. As a result, the tribunal concludes that the Improvement Notice has been incorrectly issued and should be quashed.
74. The tribunal therefore determines that the Improvement Notice is quashed.
75. Whilst the tribunal has determined that the Improvement Notice be quashed, the Applicants are reminded that that this does not absolve them of their wider obligation as landlords to maintain the tenanted accommodation in a safe and habitable condition and carry out repairs when these are necessary. Similarly, the Respondent is still free to use the powers afforded to it in sections 5 and 7 Housing Act 2004, should it believe those to be appropriate. The Respondent's Enforcement Policy was referred to by the Applicants but was not provided in the bundle. The tribunal has not therefore made any findings as to whether the Respondent had strictly adhered to it in this case. However, the Respondent should pay close attention to that policy when deciding what further action it takes, if any, with regard to this property.

Costs Notice

76. The tribunal considers that the Payment Notice should not have been issued on the basis that the Improvement Notice should not have been issued. The Payment Notice is therefore quashed.

Cost applications

77. The Applicants have applied under paragraph 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for an order that the Respondent reimburse the application fee of £110.00 and the hearing fee of £220.00.
78. As the Applicants have been successful in this claim in that both notices were quashed, the tribunal determines that it is just and equitable that the Respondent should be responsible for the tribunal fees associated with this case.
79. Accordingly, the tribunal orders the Respondent to repay the application fee of £110.00 and the hearing fee of £220.00 to the Applicants within 28 days of the date of this decision.

Rights of appeal

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.