FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**MAN/00DA/HNA/2024/0046**
Property	:	**37 Woodview Mount, Beeston, Leeds, LS11 6LG**
Applicants	:	**Sovereign Assets and Developments Ltd (1)** **Janette Mardon (2)** **Charles Mardon (3)** **Michail Motanov (4)**
Respondent	:	**Leeds City Council**
Type of application	:	**Appeal against a financial penalty - section 249A & Schedule 13A Housing Act 2004**
Tribunal	:	**Tribunal Judge L Brown,** **Tribunal Member Mr J Faulkner**
Date of Hearing	:	**4 July 2025**
Date of Decision	:	**22 September 2025**

DECISION

The appeal is refused and the Tribunal confirms the financial penalty issued by the Respondent to the Applicants jointly in relation to the Property to £2,825.00

The Application

1. By Application first received on 22 June 2024 the Applicants appealed against a financial penalty of £2,825.00 imposed upon them jointly by the Respondent by a Final Notice dated 15 May 2024 in respect of the Property, initially in the sum of £3,145.45, varied on 14 April 2025 to the lesser sum, by removal of the costs of investigation of the Respondent

2. By Order dated 10 March 2025 the time for submission of the Application was extended so as to permit its late presentation. Procedural Directions were issued by the Tribunal on 9 April 2025.

3. The Application is opposed by the Respondent. Both parties presented their own bundle of documents, comprising 29 pages (Applicants) and 325 pages, plus supplementary Reply of 28 pages (Respondent), which the Tribunal took time to read before the hearing.

4. The Application was heard by video link on 4 July 2025. From the Applicants, Mr Michael Motanev attended and gave oral evidence to the Tribunal. He is Managing Director of Sovereign Assets and Developments Ltd (the Company). The Respondent was represented by Mr J Comer, Solicitor. Evidence for the Respondent was given by Mr Maciej Piorek, Housing Officer, who provided a statement dated 6 May 2025 and a further statement dated 6 June 2025. We accepted those statements as his main evidence.

Facts and Chronology

5. The basic facts were largely agreed. The Property is a 2 bedroom mid-terrace house, located in a residential area of Beeston designated by the Respondent for selective licensing under Part 3 of Housing Act 2004, which commenced on 6 January 2020. Any property occupied under a residential tenancy within that area would require a licence.

6. The Company acquired the Property on 19 October 2016. The individual Applicants here are directors of the Company. It was accepted that the Property was let by the Applicant to a residential occupier from at least 6 March 2022, within the period when selective licensing had become effective for the locality, although the date of commencement of the tenancy was unclear. The Respondent's Council Tax records state that Alina Bertulyte was the tenant from 26 August 2018. The Applicants' position was that the person had been the tenant since the later date, above. When an officer of the Respondent visited the Property on 23 January 2024 they learned that the occupier was Ms Oksana Kalakasuskien, who stated she was a tenant and had been living in the Property for approximately 2 weeks.

7. On 20 February 2024 the Applicant submitted online its application for a selective licence for the Property. At the hearing, Mr Motanov suggested the licence had never been issued to the Company, but the Tribunal had in the Applicant's bundle a letter dated 12 March 2024 from the Respondent enclosing the *"…final licence for the property*". For the purposes of the Application, the Applicants did not dispute it was without the appropriate licence and had not made application for it

before 20 February 2024. Nor was it in dispute that the Applicants were each in "control" and / or "managing" the Property for the purposes of section 263 Housing Act 2004 (HA) – see below.

8. Suspecting that the Applicants had committed an offence under section 95 HA an enquiry process was undertaken by the Respondent and Mr Motanov provided written answers dated 21 February 2024 to questions raised under caution

9. After production of evidence to it, the Respondent's review panel found beyond reasonable doubt that the Applicants had committed an offence under s95(1) Housing Act 2004 in that they were persons in control of and/or managing premises which were required to be licensed under Part 3 Housing Act 2004, but which were not.

10. The process leading to the Respondent imposing financial penalties for the offence was not in dispute and the Tribunal was satisfied that there had been compliance by the Respondent with the requirements of s 249A and Schedule 13 Housing Act 2004. Notices of Intention to issue financial penalties were issued on 20 March 2024. Mr Motanov submitted undated representations which were considered by the Respondent on 17 April 2024.

11. The basis of calculation of the amounts of the penalties is set out in Mr Piorek's first statement. Our findings on that matter are set out below. The period relevant to the Penalty Notice was potentially from 6 January 2020, when the selective licensing scheme came into force, but from at least the commencement of the residential letting on (according to the Applicants) 6 March 2022 to 20 February 2024 (application properly submitted).

12. Mr Motanov confirmed at the hearing that the Applicants accepted an appropriate licence should have been in place for the Property in accordance with the selective licensing regime. We received no contrary submissions from any of the other Applicants.

The Law

13. Section 249A of the Housing Act 2004 ("the 2004 Act") states that:

    "(*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*."

14. Section 249A(2) sets out what constitutes a "relevant housing offence". It includes an offence under section 95(1) of the 2004 Act, by which it is an offence for a person who has control of or manages a house to do so without a licence where that house is required to be licensed.

15. Section 263 sets out definitions of "person having control" and "person managing", as:

"*(1) In this Act "person having control", in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.*

(2) In subsection (1) "rack-rent" means a rent which is not less than two-thirds of the full net annual value of the premises.

(3 In this Act "person managing" means, in relation to premises, the person who, being an owner or lessee of the premises—

(a) receives (whether directly or through an agent or trustee) rents or other payments from—

(i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and
(ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as tenants or licensees of parts of the premises, or of the whole of the premises; or

(b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments; and includes, where those rents or other payments are received through another person as agent or trustee, that other person."

16. In the first instance, the local housing authority must ascertain beyond reasonable doubt whether a licence should have been applied for and that it was not applied for.

17. In the event that the local housing authority determines that a relevant housing offence has been committed, Schedule 13A to the 2004 Act sets out the procedural requirements which the local housing authority must then follow, including the service of notices of intent and of final notices, before the financial penalty may be imposed under section 249A.

18. In addition, by paragraph 12 of Schedule 13A, the local housing authority must have regard to guidance which the government has issued to local housing authorities as to how their financial penalty powers are to be exercised. The guidance confirms that local housing authorities are expected to issue their own policies in relation to housing offences and the imposition of civil penalties, and must include the factors which it will consider when establishing the offender's level of culpability and the harm which has been caused by the offence, as well as a matrix for calculating the appropriate level of penalty after taking into account any additional mitigating or aggravating circumstances.

19. In this case, the Respondent's policy is the document in the Respondent's bundle, commencing at page 133 entitled 'Private sector housing enforcement policy', and the 'Civil penalties' policy (commencing page 162) in the Respondent's bundle.

20. Section 95(4) of the 2004 Act provides that it is a defence to proceedings if the person committing the offence had a reasonable excuse for having control of or managing the house without a licence. It is for the Applicants here, individually, to show on a balance of probabilities that each, or any of them, had a reasonable excuse for so doing.

21. On an appeal against a financial penalty, the Tribunal is required to make its own finding as to the imposition and/or amount of a financial penalty and may take into account matters which were unknown to the local housing authority when the Final Notice was issued. The Tribunal must make its decision in accordance with the Respondent's published policy unless there are compelling reasons to depart from it.

Applicants' position

22. In its undated Statement of Case, the Applicants' challenge to the penalty was identified as:

"• Reasonable steps were taken to comply with the law while applying for multiple licenses
• Mitigating circumstances – technical issues
• Council failed to consider relevant representations or evidence."

23. The Applicants set out:

"*• The failure to submit the Selective Licensing application was not due to willful neglect or disregard of legal obligations, but arose from genuine administrative complications, which were promptly communicated to Leeds City Council.*
• The Applicants made every reasonable effort to engage with the Council, followed instructions provided by Council officers, and submitted the necessary paperwork via alternative means as directed.
• The Respondent has not demonstrated that the Applicants acted in bad faith or that the alleged breach caused harm to tenants or the wider community.
• The financial penalty is disproportionate given the cooperative stance taken by the Applicants, the minor nature of the alleged breach, and the absence of aggravating circumstances."

24. In oral evidence, Mr Motanov stated that the Company was an experienced landlord, with 5 premises in the Leeds area requiring selective licences. In 2016/17 it had engaged with the local authority for the Doncaster area, to obtain selective licenses for its let residential properties in that location. It found the application process straight-forward, in which the local authority had first visited each property, to check on housing standards, then invited the Company to make its application. The Respondent had not operated such pre-inspections and engagement, and its application process online had been more complicated. It was accepted that the Company had applied for selective licences for other properties it owned in the Respondent's designated area, but it had never believed it was necessary to apply immediately following designation and commencement of letting.

25. Further, the initial applications submitted, for 11 Westbourne Avenue and 35 and 37 Woodview Mount failed to be processed via the online procedure and paper applications had to be made, although no copies were available in evidence. He said the Company engaged (self-employed) staff (about 50 in number) to deal with administrative matters, but he had an overseeing role. He represented that the business brought back into letting properties which had become run-down, in areas around Leeds, Doncaster and Halifax, and were mainly let to low-income occupiers.

26. He indicated he believed licences would be backdated to commence upon the selective licensing scheme being implemented. He said few issues were identified regarding condition of the Property as needing attention relating to the licence application.

27. Mr Motanov represented that the Respondent had adopted an aggressive stance and had imposed a penalty for a minor error, therefore the penalty should be cancelled.

Respondent's representations

28. In response to the Applicants' representations, in his second statement Mr Piorek set out "*Mr Motanov first contacted Leeds City Council regarding the License in 2022. Selective Licensing Scheme launched on 5 January 2020. It took over 2 years for property from the email [in Appendix E], 11 Westbourne Avenue to obtain a licence after Selective Licensing has been established in the area and another 2 years for the rest of the portfolio to be licenced upon receiving a PACE letter from Leeds City Council dated 8 February 2025. Additionally, the applications were spread in time.*"

29. Further, "*….emails were sent to Mr Motanov in 2022….asking if paper application will be required due to Leeds City Council application portal was not working….. We have received no evidence that paper application for 37 Woodview Mount or any other property was requested or issued.*"

30. The Respondent represented that the penalty at issue was calculated taking into consideration all of the information available at the time of the offence. Upon closer looking into the case it was noted that the culpability should have been revised and increased, based on information that the Company is a professional landlord.

Conclusions and Reasons

31. The Tribunal must be satisfied for each Applicant, beyond a reasonable doubt, that they had committed a "relevant housing offence" in respect of the Property. The area in which the Property is situated was designated as a selective licensing area with effect from 6 January 2020. From that date, any property occupied under a residential tenancy within that area would require a licence.

32. While the date of commencement of letting was disputed, we found it had no bearing upon the potential offence being committed during the period before

application was made for a licence, or on the consequential amount of the penalty issued. We found that the Applicants did not have a licence for the Property from 6 January 2020 and to 20 February 2024, when application was first submitted. Further, no evidence was presented that any other person or body held an appropriate licence.

33. It was not disputed that the Applicants were persons having control and/ or management, of the Property, as defined by s263.

34. The Applicants' position was that they had a "reasonable excuse" for the offence because the Respondent's process for licensing was different to that for a local authority with which the Applicants had previously engaged over selective licensing and the Respondent had not triggered the application. We found this point to carry no weight. The Applicants did not argue ignorance of the application of selective licensing affecting the Property (and that of itself is very rarely the basis of a reasonable excuse). The burden lay on the Applicants to make the appropriate application in a timely fashion. On their own evidence the Property was let from at least 6 March 2022 and the application was not submitted until 2024. The application was not made timely and only after the Respondent prompted it by its initial contact to the Company.

35. We rejected the Applicants suggestion that it had been necessary to submit a paper application, which had not been processed by the Respondent. There was no credible evidence to support that proposition. The Tribunal accepted the Respondent's evidence that its records showed only online applications regarding any of the premises in which the Applicants were involved. Further, the Respondent had offered to supply paper application forms in a period when its online service was not operational. We found no persuasive evidence to contradict the Respondent's submission that the online "*….issues related to a different property (11 Westbourne Avenue) and these issues were eventually resolved because the Applicant submitted its selective licence application online for 11 Westbourne Avenue on 5 September 2022.*"

34. The Tribunal was satisfied that the failure to apply for the licence for the Property may have been an oversight, but that did not amount to reasonable excuse. Given that the Company had a significant number of workers and owned and managed a portfolio of residential properties and had conducted similar necessary licensing applications with another local authority, we found it was reasonable to expect the Applicants to have in place processes to ensure compliance with relevant national and local laws and regulations.

34. Accordingly, the Tribunal was satisfied beyond a reasonable doubt that the Applicants committed a "relevant housing offence" in respect of the Property and that the offence was being committed between at least 6 March 2022 and 20 February 2024. In consequence, a penalty may become payable in accordance with the aforementioned policies.

Amount of the Penalty

35. The Respondent provided through Mr Piorek detail on the method of calculating the penalties. The Applicants' challenge was just in broad terms about its unfairness.

37. As noted above, DCLG Guidance has been issued to local housing authorities regarding how their financial penalty powers are to be exercised. The Guidance encourages each authority to issue its own policy for determining the appropriate level of penalty, with the maximum amount being reserved for the worst offenders. Relevant factors include:

    a. the severity of the offence;
    b. the culpability and track record of the offender;
    c. the harm caused to the tenant;
    d. punishment of the offender;
    e. deterring the offender from repeating the offence;
    f. deterring others from committing similar offences; and
    g. removing any financial benefit the offender may have obtained as a result of committing the offence.

38. The Tribunal has considered the Respondent's published policy (see paragraph 19), and notes that it is reflective of the DCLG Guidance. We found that the financial penalty imposed was properly calculated in accordance with the Respondent's published policy.

39. The Respondent's process was to identify a starting figure for the penalty. First, by determining the severity of the offence by reference to culpability, and harm (or risk of harm) caused by the offence. On the information available to the Respondent at the time, the Respondent assessed the Applicants' culpability as low. The Respondent represented that information after the event suggested the level of culpability should be "medium" because the Applicants are (and were at the time) involved in management of a number of other properties (but had no record of previous housing-related offences). However, using our discretion on a balance of probabilities the Tribunal determined that this information, alone, was not sufficient justification for us to alter the level of culpability. The Respondent assessed the level of harm also as low. Therefore, the starting point was at the minimum level as set out in its Civil Penalty Policy – £2,500.

40. Harm to the tenants also was assessed as low, with which we agree, as there was no persuasive evidence of poor safety or condition of the Property.

41. We found that in accordance with its policy, the Respondent applied a 5% reduction for the lack of previous convictions. The DCLG Guidance also records that no financial benefit should accrue to the offender. The Respondent applied an increase to the penalty for the aggravating factor of being motivated by financial gain, but limited to the licence application fee which should have been payable at the time a licence became required (£825). This would result in a maximum penalty of £2,825.

42. While the Respondent initially added investigation costs of £320.45, these were later removed in line with case law and we agree such adjustment is appropriate.

43. The Tribunal was not persuaded to view the assessment of the Respondent of aggravating and mitigating factors as inappropriate, or that any other aspect of the calculation was not in accordance with policy and guidance.

44. The Tribunal found also that the Respondent was benefitting the Applicant by seeking only one payment totalling the final sum, rather than pursuing each Applicant for a penalty, which it could have done.

45. Having taken into account all of the evidence before it, the representations and submissions made to it, including during the course of the hearing, we found no persuasive reason to cancel or vary the amount of the penalty and in consequence of our findings we determined that the financial penalty imposed on the Applicants jointly should be confirmed at £2,825.

Tribunal Judge Brown

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.