



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

Case Reference	:	MAN/00DA/HNB/2024/0602
Property	:	41 Sandhurst Terrace, Leeds LS8 3QS
Applicants	:	Pervaz Iqbal Khan
Respondent	:	Leeds City Council
Type of Application	:	Appeal against a financial penalty - Section 249A & Schedule 13A to the Housing Act 2004
Tribunal Members	:	Judge, Katherine Southby Valuer Member, Jill Gittus
Date of Decision	:	1 October 2025

DECISION

The Tribunal dismisses the appeal and varies the financial penalty to £7,875.

REASONS

THE FACTS

1. 41 Sandhurst Terrace, Leeds, LS8 3QS ('the Property') falls within the residential area of Harehills, which was designated by the Respondent as an area for selective licensing on 18 July 2019 and which came into force on 06 January 2020.
2. On 20 December 2019 a selective licence application was submitted to the Respondent from the Applicant, Mr Pervaiz Iqbal Khan, in respect of the Property.
3. On 27 May 2021 a selective licence was granted which confirmed the Applicant as the Licence Holder for the Property.

4. The hearing took place in person at the Leeds Employment Tribunal on 15 September 2025. Mr Khan attended and represented himself. There were no witnesses. Mr Rafferty of Counsel represented the Respondent. The witness was Mr Benson. Also present were Miss Giles of the Respondent and Ms Lloyd Henry of instructing solicitors.
5. A bundle of documents of 346 pages from the Respondent and a bundle of 40 pages from the Applicant had been placed before the Tribunal for their consideration and these had been read by the Tribunal before the commencement of the hearing and were referred to during the hearing. The Applicant confirmed that he had received the documents in advance and had had the opportunity to consider the contents in order to make any representations he wished to.
6. The Respondent also provided a 10 page supplementary statement of Mr Benson which the Tribunal admitted by way of late evidence having satisfied ourselves that it was just and fair to do so, and having adjourned to allow Mr Khan time to consider its contents and upon Mr Khan confirming that he had had sufficient opportunity to consider it and respond to it and that he wished to proceed. The Tribunal also sought from the Respondent missing pages from the Respondent's Civil Penalty Policy which could not be accessed within the bundle as they were behind click-through links. These pages were likewise admitted having confirmed with Mr Khan that he had had sufficient time to consider and respond to them and that he was happy to proceed rather than seek additional time to adjourn or to take any further advice on the contents.
7. We carefully considered all the written evidence submitted to the Tribunal in advance and the oral evidence given to us at the hearing even if we do not mention it. We used the hearing to amplify and update parts of the written evidence and only record such of the oral evidence as is necessary to explain our decision.

The Law

Housing Act 2004

8. Section 249A (1) of the Act provides that a local authority may impose a financial penalty where there has been "a relevant housing offence".
9. Section 249 (2) sets out what amounts to a housing offence and includes at, section 249(a) an offence under section 30 of the Act, namely a failure to comply with an improvement notice. Section 249 (3)-(4) further provides that only one financial penalty can be imposed for each offence and that cannot exceed £30,000. The imposition of a financial penalty is an alternative to criminal proceedings.
10. Selective Licensing is dealt with under Part 3 of the Housing Act 2004. Section 80 of the Act provides local authorities with powers to designate certain areas to be subject to this scheme in respect of residential accommodation generally. Harehills was so designated by the Respondent and the scheme came into force on 6th January 2020. Mr Khan duly applied for a licence and was granted it on 27 May 2021 with a number of conditions imposed.
11. Section 90 of the Act gives local authorities the power to impose '*such conditions as the local housing authority consider appropriate for regulating the management, use or occupation of 1 the house concerned.*' In addition to these discretionary conditions which the local authority may impose, Schedule 4 to the Act further sets out mandatory

conditions which must be included in any selective licence. No issues are raised by A as to the power to impose the conditions which have been included within the licence granted in respect of this property.

12. A failure to comply with the conditions of a licence is an offence under section 95(2) of the Housing Act 2004:

(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.

...

(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.

...

(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).

13. Subsection 6A of section 95 of the Housing Act 2004 makes it clear that civil penalty notices can be imposed in respect of this offence, as does section 249A of the 2004 Act which reads as follows:

(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. ...

Procedural requirements

14. Schedule 13A of the Act sets out the procedural requirements a local authority must follow when seeking to impose a financial penalty. Before imposing such a penalty, the local authority must give a person notice of their intention to do so, by means of a Notice of Intent.
15. A Notice of Intent must be given within 6 months of the local authority becoming aware of the offence to which the penalty relates, unless the conduct of the offence is continuing, when other time limits are then relevant.
16. The Notice of Intent must set out:
 - the amount of the proposed financial penalty
 - the reasons for imposing the penalty
 - Information about the right to make representations regarding the penalty
17. If representations are to be made, they must be made within 28 days from the date the Notice of Intent was given. At the end of this period the local authority must then decide whether to impose a financial penalty and, if so, the amount.
18. The Final Notice must set out:
 - the amount of the financial penalty
 - the reasons for imposing the penalty
 - information about how to pay the penalty
 - the period for the payment of the penalty
 - information about rights of appeal
 - the consequences of failure to comply with the notice.

Guidance

19. A local authority must have regard to any guidance issued by the Secretary of State relating to the imposition of financial penalties: 2004 Act Schedule 3, para 12. The Ministry of Housing Communities and Local Government issued such guidance ("the MHCLG Guidance") in April 2018: *Civil Penalties under the Housing and Planning Act 2016 – Guidance for Local Authorities*. This requires a local authority to develop its own policy regarding when or if to prosecute or issue a financial penalty. The MHCLG Guidance also sets out the following list of factors which local housing authorities should consider to help 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.

20. In recognition of the expectation that local housing authorities will develop and document their own policies on financial penalties, in June 2018 the Council approved a policy for the use of Civil Penalties as an alternate to prosecution in the Housing and Planning Act 2016 ('the Policy'). We make further reference to this Policy later in these reasons.

Appeals

21. 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 the Tribunal (under paragraph 10 of Schedule 13A).

22. Such an appeal may be made against the decision to impose the penalty, or the amount of the penalty. It must be made within 28 days after the date on which the final notice was sent to the appellant. The final notice is then suspended until the appeal is finally determined or withdrawn.

23. The appeal is by way of a re-hearing of the local housing authority's decision and 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.

24. When deciding whether to confirm, vary or cancel the final notice imposing the financial penalty, the issues for the Tribunal to consider will or may include:

- a. Whether the Tribunal is satisfied beyond reasonable doubt that the applicant's conduct amounts to a relevant housing offence in respect of premises in England (see sections 249A (1) and (2) of the Housing Act 2004);
- b. Whether the local housing authority has complied with all of the necessary requirements and procedures relating to the imposition of the financial penalty (see section 249A and paragraphs 1 to 8 of Schedule 13A of the 2004 Act);
- c. If the appeal relates to more than one financial penalty imposed on the applicant whether or not they are in respect of the same conduct; and/or
- d. Whether the financial penalty is set at an appropriate level having regard to any relevant factors, which may include, for example:
 - i. The offender's means
 - ii. The severity of the offence
 - iii. The culpability and track record of the offender
 - iv. The harm (if any) caused to a tenant of the premises
 - v. The need to punish the offender, to deter repetition of the offence or the need to deter others from committing similar offences; and/or
 - vi. The need to remove any financial benefit the offender may have obtained as a result of committing the offence

25. A number of decisions of the Upper Tribunal have established the questions that should be addressed when considering an appeal against a financial penalty. Those are *London Borough of Waltham Forest v Younis* [2019] UKUT 0362 (LC), *London Borough of Waltham Forest v Marshall & Another* [2020] UKUT 0035 (LC), *IR Management Services Ltd v Salford City Council* [2020] UKUT 0081 (LC), *Sutton & Another v*

Norwich City Council [2020] UKUT 0090 (LC) and *Thurrock Council v Daoudi* [2020] UKUT 209 (LC).

26. The Tribunal's task is not simply a matter of reviewing whether the penalty imposed by the Final Notice was reasonable: 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 MHCLG Guidance as being relevant to the level at which a financial penalty should be set (see paragraph 14, above).
27. The Tribunal should also have particular regard to council's Policy (see paragraph 15, above). As the Upper Tribunal (Lands Chamber) observed in *Sutton & Another v Norwich City Council* [2020] UKUT 0090 (LC):
28. "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."
29. 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:
30. "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 appellant in reaching its own decision."
31. Upper Tribunal guidance on the weight which tribunals should attach to a local housing authority's policy (and to decisions taken by the authority hereunder) was also given in another recent 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.
32. The decision of the Upper Tribunal in *Sutton & Another v Norwich City Council* was appealed to the Court of Appeal. The Court concluded that the penalties imposed could not be impugned: *Sutton & Another v Norwich City Council* [2021] EWCA Civ 20. The Court (at para. 14) having considered the Upper Tribunal's view on the weight to attach to a policy of the authority in *London Borough of Waltham Forest v Marshall & Another* took the view there were no reasons to dissent from those observations.

Evidence

33. It is not disputed that 41 Sandhurst Terrace Leeds LS8 3QS falls within the residential area of Harehills which was designated by the Respondent as an area for selective licensing on 18 July 2019 and which came into force on 6 January 2020.

34. Nor is it disputed that on 20 December 2019 a selective license application was received by the Respondent from the Applicant in respect of the Property. A selective licence was granted on 27 May 2021 which confirmed the Applicant as the Licence Holder for the Property.

35. The licence includes the following conditions which are of particular relevance in this matter:

Smoke Alarms

To ensure that a smoke alarm is installed on each storey of the house on which there is a room used wholly or partly as living accommodation and to keep each alarm in proper working order.

To supply to the Council, on demand, a declaration as to the condition and positioning of any smoke alarm.

Management of the Property

To ensure that the internal structure of the house and every window and other means of ventilation is maintained in good repair and that any fixtures and fittings and appliances made available are maintained in good repair and working order.

To ensure, as far as is reasonably practicable, that the exterior of the property (including any boundary walls, gates and yards) is maintained in reasonable decorative order and in a good state of repair; that the exterior is free from graffiti and fly posters; and that gardens are maintained in a reasonably clean and tidy condition.

Tenancy Management

To supply to all the occupiers of the house, within 7 days of the commencement of any new tenancy, a written statement of the terms on which they occupy the property and to keep a written record that this has been supplied.

To obtain a reference for each person who wishes to live in the house as their main home. References shall be obtained before entering into any new tenancy, licence or other form of agreement to occupy the house and shall be retained for the term of this licence.

To supply to the Council on demand any references obtained for any tenancy for the term of the licence.

To supply to the Council, on demand, details of all occupiers of the house.

Where a tenancy is terminated during the term of the licence, to ensure the correct process is followed and to supply to the Council, on demand, a copy of all relevant documentation to demonstrate that the correct process has been followed.

To ensure that they give the tenant/occupier at least 24 hours' written notice of their intention to enter the house and specify the reason(s) entry is required. The exception to this is when it would not be reasonable to give such notice and access is urgent, for example in an emergency.

36. The Respondent provided the Tribunal with the following chronology which was not disputed :

6 January 2020	Selective licencing comes into effect.
20 December 2019	The Respondent received an application for a selective licence for the Property.
6 May 2021	The Respondent issued a draft selective licence to the Applicant.
27 May 2021	The Respondent granted a selective licence to the

	Applicant.
23 July 2024	The Respondent identified the Property as once requiring inspection during an action day in the Harehills selective licensing area due to the condition of the makeshift fencing.
3 September 2024	The Respondent sent a letter to the Licence Holder requesting certain documentation relating to the Property and advising of a proposed inspection date.
9 September 2024	The Respondent inspected the Property for the purposes of checking compliance with the terms of the selective licence.
16 September 2024	The Respondent wrote to the Applicant with a request to answer questions under caution, in accordance with the Police and Criminal Evidence Act 2004 (PACE). The letter included an inspection report, which identified the various breaches of the licence.
16 September 2024	The Respondent received an email from the Applicant which confirmed that the by-passed electric meter had been made safe and missing smoke alarms replaced.
25 September 2024	The Applicant responded in writing to questions under caution.
26 September 2024	Further correspondence from the Applicant in which he blamed the tenants for issues in the Property.
10 October 2024	The Respondent served a notice of intent to impose a financial penalty on the Applicant in the sum of £25,000.
12 October 2024	The Respondent received an email from the Applicant advising that all of the remedial works had been completed.
16 October 2024	The Respondent received a response from the Applicant with representations in response to the notice of intent to impose a financial penalty.
23 October 2024	The Respondent reinspected the Property to check compliance with the conditions. The Respondent was satisfied that all works had been completed.
22 November 2024	The Respondent wrote to the Applicant regarding the representations received from the Applicant.
22 November 2024	The Respondent wrote to the Applicant regarding another property owned by him, following a complaint by the public.
28 November 2024	The Applicant wrote to the Respondent objecting to the reasoning regarding the calculation of the civil penalty and email exchanges ensued regarding this.
29 November 2024	The Respondent served a final notice to impose a financial penalty for a reduced sum of £7,500.

Decision

37. The Tribunal first considered whether it is satisfied that the offence of failing to comply with the conditions of a licence under s95(2) of the Housing Act 2004 has been made out.
38. Mr Khan's oral evidence was that he accepts that at the time of the inspection by Mr Benson of the Respondent the smoke detectors were missing or non-functional and the other items identified by the Respondent [page 16] were as reported, including damage to electrical fixings and a bypassed electricity meter. It is not disputed that Mr Khan addressed the issues promptly when informed of them. Mr Khan stated that he had the smoke detectors inspected by an external contractor some six months previously on 9 February 2024 and they were found to be in working order. He was unable to provide any information about any interim testing or inspection regime and stated that he did not know at what point they had been removed.
39. This is broadly consistent with his written evidence which stated '*The property's licence (whether HMO or selective) would include a standard condition requiring the landlord to ensure that working smoke alarms are installed on each storey of the dwelling and kept in proper working order. Mr Khan fully appreciates the importance of this condition for fire safety and has always intended to comply with it.*' Mr Khan's written submissions also stated that he '*does not dispute that these issues were found during the Council's inspection; however, he vigorously disputes that they amounted to a culpable failure on his part to comply with the licence.*' He stated that he had '*taken appropriate measures and that the immediate cause of the issues was outside his control (namely, tenant interference).*'
40. Mr Khan's oral evidence was that he did not carry out tenant referencing at the change of tenancy because it was a change of tenant within the previous household.
41. We find the evidence of Mr Benson to be persuasive and supported by the documentary evidence provided within the bundle. We find that there were various breaches of the licence conditions relating to smoke detectors, management of the property and tenancy management.
42. We considered whether Mr Khan had provided the Tribunal with any evidence which could amount to a reasonable excuse for these breaches. We carefully considered Mr Khan's oral evidence about the actions of the tenants and we note that he referred corroborative evidence was provided to support this, and even if it was the case that the previous tenant caused damage to the Property, the Tribunal found no persuasive evidence as to why Mr Khan did not carry out regular property inspections or conduct tenant reference checks or check the status of the property upon the change of tenant. Nor did we find there to be compelling evidence that Mr Khan could not have been aware of the potential for difficulties at the Property, given the visible external makeshift wooden fence which had been constructed which could have alerted him to the possibility that the Property was worthy of more attention.
43. We carefully considered Mr Khan's arguments that he had gone above and beyond his obligations by engaging an external contractor to check the smoke detectors in February and asking utility contractors to report back if there were any problems, but we reject this evidence. Mr Khan's obligation is not just a one-off obligation in respect

of compliance with the licence conditions, but an ongoing one. Whilst we accept that a landlord cannot have constant oversight of tenant misdeeds, in this case the level of oversight was so absent as to mean that Mr Khan has absolutely no way of knowing when between February and September the actions of the tenants may have taken place. The likelihood of this occurring would have been reduced had Mr Khan complied with his obligations under the licence to carry out appropriate tenant referencing.

44. We find that we are satisfied beyond reasonable doubt that a relevant housing act offence has been committed, namely that there was a failure to comply with the licence conditions of the licence dated 27 May 2021.
45. Notwithstanding that no issue is raised by the Applicant, we next considered the procedural compliance of the Respondent. Paragraphs 3 and 8 of Schedule 13A to the Housing Act 2004 deal with the contents of the Notice of Intent and the Final Notice respectively.
46. We find that the Notice of Intent was given within 6 months of the local authority becoming aware of the offence to which the penalty relates and set out the amount of the proposed financial penalty, the reasons for imposing the penalty and information about the right to make representations regarding the penalty. We find that the Final Notice correctly set out:
 - the amount of the financial penalty
 - the reasons for imposing the penalty
 - information about how to pay the penalty
 - the period for the payment of the penalty
 - information about rights of appeal
 - the consequences of failure to comply with the notice.
47. We next considered procedural compliance concerning the Final Notice. The Final Notice issued in this case is dated 29 November 2024 [page 290] The procedural requirements imposed by paragraph 8 have been complied with within that Final Notice.
48. We note that Mr Khan raised an issue in his written representations about not having received notification of the intention of the Respondent to inspect the Property. Upon questioning we are satisfied that the notice was sent to the correct address and we note the ambiguity in Mr Khan's evidence as to whether his position was that it had never been received at his postal address or whether he had been out of the country and therefore unable to receive it. We are not persuaded that there is any procedural breach here.
49. In our view the Respondent has complied sufficiently with its procedural obligations in respect of the issuing of the financial penalty

Penalty

50. We next considered the penalty imposed by the Council.
51. We remind ourselves that our task is not simply a matter of reviewing whether the penalty imposed by the Council by the Final Notice was reasonable: we must make our

own determination as to the appropriate amount of the financial penalty having regard to all the available evidence before us.

Culpability

52. We considered the Guidance on Civil Penalties and the Respondent's own Guidance [page 286] note that this states that 'a landlord will be deemed to be highly culpable where there is a "*serious or systematic failure to comply with their legal duties*". In this case there was not a single isolated breach, but multiple compliance breaches as identified by Mr Benson throughout the Property. Despite being an experienced professional landlord with responsibility for 29 properties and being a member of a recognised landlord accreditation scheme, Mr Khan appeared to be oblivious to the need for any systematic need for inspection as part of his responsibility as a licence holder.
53. For the reasons above we consider culpability in this case to be High. We note that the assessment of the Respondent in this matter was also High.

Harm

54. The Council initially categorised the level of harm in this matter as high and then Mr Benson revisited that categorisation following Mr Khan's compliance with the required works and his written representations, whereby Mr Benson downgraded his assessment to low harm. At the hearing Mr Rafferty invited the Tribunal to use its discretion to re-categorise the level of harm as high taking the view which Mr Benson took immediately after the inspection.
55. We found the evidence of Mr Benson to be balanced and persuasive, and we note that he arrived at his final figure having taken a step back and considered what in his view as a professional of considerable experience was just and reasonable in the circumstances. We accept his evidence, notwithstanding it being at odds with the Respondent's submissions, and adopt his analysis as set out in his supplementary witness statement, save to the extent that we set out below.
56. We agree with the Council's analysis that the aggravating factors are that there was a record of poor management by Mr Khan across other properties for which he had responsibility, and that he demonstrated, and continues to demonstrate a lack of insight into his obligations and the consequences of the lack of a comprehensive inspection and compliance programme.
57. In terms of mitigating features we agree that Mr Khan has cooperated with the investigation. We note that the Respondent has also treated Mr Khan's carrying out of the works as acceptance of responsibility for which they have given credit as a mitigating factor. Having heard Mr Khan's oral evidence we are less persuaded that he takes responsibility for his actions, and we consider that the Respondent has been generous in applying this as a factor. Compliance with the licence requirements is not something which arises with a given timescale to put things right, as per an Improvement Notice – the licence itself contains conditions which require continuous

compliance, and Mr Khan has failed to comply and as set out above, continues to fail to show insight into his ongoing obligations in this regard.

58. We carefully considered the oral and written representations made by Mr Khan in respect of mitigating factors.
59. We are not bound by the 5% increments within the Council policy, and we remain mindful of the statutory guidance that a civil penalty should not be regarded as a lesser option compared with prosecution and should be set at a level high enough to ensure it has a real economic impact on the offender and removes any financial benefit obtained from the offence. Mr Khan was receiving rent during the period of non-compliance, and we have reflected this in our thinking. We note that no evidence is provided to us regarding the Applicant's means to pay the financial penalty and therefore this has not been accorded any weight in our decision-making.
60. Having considered all these factors we consider that the financial penalty of £7,500 set by the Respondent should be increased by 5% to £7,875 to reflect the Tribunal's finding that we are not persuaded that Mr Khan has accepted responsibility for his role in the non-compliance.

Appeal

61. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional Office, which has been dealing with the case.
62. 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.
63. If the person wishing to appeal does not comply with the 28-day time limit, that 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.
64. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

Tribunal Judge Katherine Southby

1 October 2025