FIRST-TIER TRIBUNAL
PROPERTY CHAMBER

(RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/00EY/HNA/2025/0614**
Property	**:**	**First Floor Flat, 162 Central Drive, Blackpool, FY1 5EA**
Appellants	**:**	**Jennifer Heaton-Ghernaout** **Mohamed Ghernaout**
Respondent	**:**	**Blackpool Council**
Representative	**:**	**Ms Emily Kay, Counsel**
Type of Application	**:**	**appeal against a financial penalty – s.249A & Schedule 13A to the to the Housing Act 2004**
Tribunal Members	**:**	**Judge P Forster** **Mr C Snowball MRICS**
Date of Decision:		**6 November 2025**

DECISION

The final notice dated 14 January 2025 is varied. The financial penalty payable by the Appellants is £6,375.00.

Introduction

1. The Appellants, Jennifer Heaton-Ghernaout and Mohamed Ghernaout appeal against a financial penalty imposed by the Respondent, Blackpool Council, under s.249A of the Housing Act 2004 ("the Act") in respect of First Floor Flat, 162 Central Drive, Blackpool, FY1 5EA ('the Property'). The penalty was imposed for an offence under s.95(1) of the Act in respect of the failure to license a house under Part 3 of the Act.

2. The Appellant and Mohamed Ghernaout are registered at HM Land Registry under title number LA415983 as the proprietor of the Property. The appeal was made in the sole name of Mrs Heaton-Ghernaout. They Property is owned by them jointly and the notices issued by the Respondent were addressed to them both.

3. The Tribunal joined Mohamed Ghernaout as a party to the proceedings under rule 10(1) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

4. The Respondent is the relevant local housing authority.

5. The Respondent served a notice of intent under Schedule 13A of the Act dated 23 September 2024 on the Appellants in respect of the Property. The proposed financial penalty was £13,125.

6. On 8 October 2024, the Appellants submitted written representations to the Respondent against the imposition of a financial penalty.

7. A final notice dated 14 January 2025 was served on the Appellants imposing a reduced penalty of £7,437.50.

8. The hearing was conducted by video on 6 November 2025. Both Appellants attended the hearing and were represented by Mrs Heaton-Ghernaout. The Respondent was represented by Ms E Kay, Counsel. The Tribunal heard evidence from Mrs Heaton-Ghernaout and from Eamonn Miller, a housing enforcement officer, on behalf of the Respondent and submissions from the representatives before it reserved its decision.

The issues

9. The issues to be determined by the Tribunal are: (1) did the Appellants commit an offence under s. s.95(1) of the Act; (2) are the Appellants liable to pay a financial penalty under s. 249A of the Act and (3) if yes, the amount of the penalty.

The Respondent's case

10. The Property is within the Central Selective Licensing Area in Blackpool and was required to be licensed under Part 3 of the of the Housing Act 2004. The licensing scheme was in operation between 26 March 2019 and 25 March 2024. It came to the Respondent's attention in about February 2024 that the Property did not have a license.

11. The Appellant as the person having control or managing the Property which was required to be licensed but was not so licensed committed an offence under s.92(1) and is liable to pay a financial penalty under s.249A of the Act.

12. The amount of the penalty is calculated in accordance with the Respondent's Private Sector Housing Civil Penalties Policy 2024

The Appellant's case

13. The Appellant has summarised her case as follows:

- she did not receive the two letters telling her she needed the license. This is because they were not addressed correctly by the Council

- if she had received the letters, she would have bought the license as she has shown by purchasing a license for one of the Appellants' other properties, 132 Adelaide Street.

- this is not her only or main business. Although she tries her best to give it the attention it needs. She likes to think of herself as a responsible landlord and someone who upholds the law. She has worked hard alongside the Better Homes team in Blackpool to give her tenants a nice home to live in.

- if the council were unaware of properties that needed to be licensed, how was she expected to. It is the Council's responsibility to communicate such schemes to the greater public. She believes the Council has set a precedent for this by sending her a letter for her house on Adelaide Street that she subsequently bought a license for. She was left to presume, should she need other licenses she would receive a letter telling her so. The Council allege they sent her letters however it has been proven that they were sent to the wrong address and therefore not received by her.

- communication has been extremely poor, two letters in five years is not sufficient

- she believes this case has been dragged on for no reason other than trying to squeeze more money out of hard-working taxpayers into the government pot

- she has felt bullied and cornered by a system that is supposed to help her

- this was a simple admin oversight on the part of the Council who are not communicating properly with people. This could have easily been resolved by letting her purchase the licenses retrospectively as she has offered several times.

- The Council are wasting taxpayers' money with this. All the letters' emails and correspondence between herself and so many people who are paid for by the state is an absolute waste of time and public money

The Law

14. A 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 (s. 249A(1) HA 2004).

15. An appeal against the imposition of a financial penalty is to be a re-hearing of the local authority's decision (para 10, Schedule 13A, HA 2004). The Tribunal must therefore similarly be satisfied, beyond reasonable doubt, that such an offence has been committed.

16. The Tribunal should pay great attention to the Respondent's policy on financial penalties and should be slow to depart from it. The burden is on the Appellant to persuade the Tribunal to do so. Where the Tribunal departs from the Respondent's policy, it should give reasons for doing so (Waltham Forest LBC v Marshall [2020] UKUT 35 (LC)).

Reasons for the Decision

17. The appeal is a re-hearing and the Tribunal will make its own decision on the issues to be determined. The decision is be reached upon the facts as found by the Tribunal notwithstanding that some of those facts might not have been known to the Respondent at the time that it made its decision.

18. Under Part 3 of the of the Housing Act 2004, local authorities in England can designate areas for selective licensing of privately rented properties. This requires all landlords in the designated area to apply for a license for each property they rent out. In the present case, the Property is within the Central Selective Licensing Area in Blackpool. This was in force between 26 March 2019 and 25 March 2024. Failure to obtain a license is an offence under s. s.95(1) and (5) of the Act.

19. The selective licencing regime covers privately rented homes in designated areas. Local

authorities are empowered to introduce schemes to raise property standards, support better management practises and combat local area problems. The intention is to improve overall neighbourhood quality and achieve better managed homes.

The offence

20. The Tribunal must be satisfied beyond reasonable doubt that the Appellant committed an offence under s.95(1) of the Act.

21. The Appellants are the owners of and they were the person having control or managing the Property.

22. The Property required a license under Part 3 of the Act. It did not come within any of the prescribed exceptions. It is not in dispute that the Property did not have a license as required.

Reasonable excuse

23. Unlike s.72 of the Act which explicitly allows a reasonable excuse defence, s.95 lacks a direct 'reasonable excuse' provision. However tribunals may still consider reasonableness when deciding whether an offence was committed.

24. The Appellants put the onus on the Respondent to inform them about the need to obtain a license rather than accept responsibility themselves. The Appellants own several residential properties which they let to tenants. As experienced landlords the Appellants should have been aware of their legal responsibilities. Acting as a landlord is not something that should be undertaken lightly without giving proper attention to the considerable amount of legislation that governs residential property.

25. At the relevant time, between 26 March 2019 and 25 March 2024 the Appellants owned four properties. They acquired 162 Central Drive in 2015 as a commercial property. They also owned 132 Adelaide Street, 170 and 172 Central Drive.

26. The Appellants deny receipt of a letter dated 21 May 2019 addressed to Mr Ghernaout from the Respondent informing them about the selective licensing scheme in the Central area of Blackpool and the need to obtain a license for the Property. They say the letter had the wrong postcode, FY8 4DT when the correct postcode is FY8 4DF.

27. The Appellants received a letter dated 24 September 2019 from the Respondent in respect of 132 Adelaide Street which is within the same selective licensing area. This also had the wrong postcode but nevertheless was received and acted on. The Appellants applied on 9 March 2020 and a license was issued on 15 July 202. This letter told the Appellants that they needed to 'ensure that [they] apply for a license for any property that is rented out…'.

28. In response, the Appellants point out that the Property was let as a commercial unit until 2022 and the first floor was not rented as a residential flat until 1 September 2023. Therefore they say a selective license was not initially required. This is correct but they were already on notice in September 2023 that a selective licensing scheme was in operation in Blackpool. Mrs Heaton-Ghernaout says that she did not give the question of a license 'massive thought'.

29. The Appellants had owned 170 Central Drive since 2021 and 172 Central Drive since 2018. Neither of these properties were licensed. The Respondent did not know about these properties until it was too late to serve notices under Schedule 13A of the Act. Had the Council been aware of this it would have instigated the penalty process.

30. On 12 February 2024 the Respondent served a notice of intended entry under s. 239 of the Act in order to inspect the Premises. The Respondent became aware that the Property did not have a selective license. The notice was addressed to the correct post code, FY 84DF. It was received by the Appellants and Mr Ghernaout subsequently met officials from the council.

31. On 27 February 2024, the Respondent sent two letters to the Appellants. These were correctly addressed to FY8 4DF. The first letter required works to be undertaken under the Housing Health and Safety Rating System. The Appellants complied and undertook the required works. The second letter informed the Appellants that they need a license for the Property and gave them 14 days to apply for a license. The Appellant did not act on the letter and did not apply for a license.

32. The Appellants contend that they did not receive the second letter. Mrs Ghernaout was not sure if either letter was received and says that if the second letter had been received, they would have applied for a license. Both letters were posted on the same date to the correct address and on the balance of probabilities the Tribunal finds that the Appellants received the second letter about the license.

33. Mr Miller accepted that if the Appellants had applied for a license in February or March 2024, the Council would not have instigated the process to impose a penalty. The Tribunal finds that it is reasonably likely that the Appellants failed to action the second letter and focused their attention on complying with the first letter by undertaking the necessary work.

34. The Respondent cites the decision in Newell v Abbott & Anor [2024] UKUT 18 which considered whether a landlord unaware of the existence of a selective licensing scheme had a reasonable excuse for controlling an unlicensed house under s.95(4) of the Act. The Court looked at the facts, including the landlord's lack of awareness of the scheme and the council's attempts to notify them at an outdated address. The facts are similar to those in the present case. The Court found that it was objectively unreasonable for the landlord not to have been aware given their circumstances and the general expectation

that landlords keep themselves informed of legal requirements. The conclusion was that there was no reasonable excuse for failing to obtain a license.

35. On the facts of the present case, the Tribunal finds that the Appellants knew about the existence of selective licensing scheme in Blackpool but did not trouble themselves to find out if it applied to the Property. Irrespective of any issue about the incorrect postcode, it is reasonable to have expected the Appellants to have informed themselves about their legal responsibilities as landlords. Ignorance of the law is no excuse.

36. The Tribunal is satisfied beyond reasonable doubt that the Appellants committed an offence under s.95(1) of the Act.

The penalty

37. The appeal is a rehearing of the Respondent's decision and the Tribunal makes its own decisions having regard to the Respondent's policy on the making of civil penalties. The Tribunal adopted the approach in respect of the penalties as set out in Waltham Forest LBC v Allan Marshall and Waltham Forest LBC v Huseyn Ustek [2020] UKUT 0035 (LC).

The amount of the penalty

38. The Tribunal considered the Respondent's Private Sector Housing Civil Penalties Policy 2024 which implements the statutory guidance published by the Secretary of State in April 2018. In common with many other local housing authorities, the policy provides that the level of civil penalty is determined in three stages, (1) an assessment of the seriousness of the offence by reference to the culpability of the offender and the level of harm (or potential harm) to the occupiers; (2) the making of adjustments to the initial figure to take account of mitigating or aggravating factors and (3) considering whether any final adjustments should be made.

39. It is for the Tribunal to make its own assessment applying the Respondent's Policy. Although the maximum penalty which can be imposed is £30,000 it is for the Tribunal to determine the level of the penalty having regard to the particular circumstances in this case.

Seriousness of the offence

40. The Respondent's Policy provides that the more serious the offence, the higher the penalty should be. Culpability and the track record of the offender is to be considered. '*A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and therefore are expected to be aware of their legal obligations'*.

41. The Appellant's do not have a track record in respect of housing offences. They do not have a history of failing to comply with their obligations as landlords. The Tribunal concluded that they did not act deliberately but rather they neglected to inform themselves of their responsibilities as landlords and were naïve in expecting the Council to inform them when a license was required. In terms of the Respondent's Policy document, the Appellants were negligent and not reckless. This categorises the offence as 'medium'.

Harm

42. The Respondent's Policy provides for the harm caused to the tenant to be considered. '*This is a very important factor when determining the level of penalty. The greater the sum or the potential for harm, the higher the amount should be when imposing a civil penalty'.*

43. The importance of the selective licensing scheme should not be understated. It cannot be dismissed, as the Appellants do, as the Council trying to squeeze money out of hard-working taxpayers. The scheme has the beneficial effect of raising property standards and encouraging better management practises. The Appellant's attitude undermines their claim to be responsible landlords and people who uphold the law.

44. When compared to other housing offences under the Act, the potential harm of not having a license is not as serious as the failure to license an HMO or comply with housing management regulations. There was also no evidence submitted to the Tribunal that the tenant of the Property had suffered any harm, or was at significant risk of any harm, due to the failure to licence. The Tribunal noted that the schedule of required works served on the Appellants dated 27 February 2024 detailed only one category one hazard and two category two hazards. Therefore, it is correct to categorise the level of harm as 'minor'.

45. Once the offence category has been determined based on culpability and harm, the Respondent's Policy applies a penalty matrix to reach the starting point for the penalty. In the present case, the Tribunal finds the culpability to be medium and the harm level to be minor.

46. The Appellants had four properties at the relevant time. Applying the findings about culpability and harm to the matrix, the starting point for calculating the penalty is £7,500.

Aggravating factors

47. The Respondent found two aggravating factors: 'the financial gain' and 'property management appearing to be the Appellant's main business'. These are based on the list

in the Policy document.

48. The Tribunal does not agree that the Appellants' failure to obtain a license was 'motivated by financial gain'. By not applying for a license, the Appellants only saved themselves the relatively modest application fee. The rental income comes to be considered at a later stage.

49. The evidence does not establish that the Appellants' residential property management business 'was their only or main business'. The Appellants own and run a restaurant in Blackpool and their property business appears to have been secondary to this, and includes a commercial property investment. In part, this may explain their lack of attention to their legal responsibilities as landlords, which is no excuse for failing to obtain a license.

50. However, not getting a license certainly does amount to 'not meeting legal requirement' as included in the list of aggravating factors and is further evidenced by the failure to license 107 and 172 Central Drive.

51. The Tribunal therefore found one aggravating factor to be considered in the calculation of the penalty.

Mitigating factors

52. The Respondent identified five mitigating factors: the Appellant's previous good character, evidence that the Property was in good repair and no relevant unspent convictions, no relevant cautions and no relevant civil penalties. These are in part taken from the list in the Policy document. Good character duplicates the lack of convictions, cautions and penalties. The factors allowed by the Policy may be seen to be generous because it credits the Appellants for doing what they were required to do. However, the Tribunal must apply the Respondent's policy and has no good reason to depart from it. A further factor, as identified in the Policy is a 'good record of maintaining the property'. The HHSRS inspection does not indicate a failure in this respect.

53. The Tribunal therefore found four mitigating factors being lack of convictions, cautions and penalties and a good record of maintaining the property.

54. The Policy allows for an adjustment of 5% upwards for each aggravating factor and 5% downwards for each mitigating factors. The net result is to reduce the penalty from £7,500.00 to £6,375.00

55. The Policy requires the Tribunal to look at the 'totality' of the penalty. This encompasses punishment of the offender; deterrence of the offender from repeating the offence; deterrence of others from committing the offence and the removal of any financial benefit the offender may have obtained as a result of committing the offence.

56. The Property was occupied without a license for a period of six months from September 2024 to March 2025. The weekly rent was £110.00 resulting in total income of £2,860.00. The Appellants benefited from not paying the application fee. Taking these factors into account, the Tribunal considers a penalty of £6,375.00 to be fair and proportionate

Conclusion

57. Applying the Respondent's Policy, the Tribunal imposes a penalty of £6.375.00 on the Appellants.

Dated 6 November 2025

Judge P Forster

RIGHT OF APPEAL

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