FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**MAN/00EJ/HNA/2024/0625 - 0628**
Properties	:	**27a Rutland Road, Consett, Co. Durham DH8 8EF** **17 Sussex Road, Consett, Co.Durham DH8 8HS** **28 Knitsley Gardens, Consett, Co. Durham DH8 7NR** **104 Surrey Crescent, Consett, Co. Durham DH8 8DE**
Applicant	:	**Tyne Management NE Limited**
Respondent	:	**Durham County Council**
Type of application	:	**Appeal against financial penalties - section 249A & Schedule 13A Housing Act 2004**
Tribunal	:	**Tribunal Judge L Brown,** **Tribunal Member Mr Jefferson**
Date of decision	:	**9 December 2025**

DECISION

The appeal is allowed in part and the Tribunal varies the financial penalties imposed by the Respondent to the Applicant in relation to the Properties to £5,500.00 in respect of each of the four properties.

The Application

1. By Application dated 22 November 2024 the Applicant company appealed against four financial penalties of £18,000 each imposed upon it by the Respondent by Final Notices dated 31 October 2024. The Application was pursued by the Applicant's sole director and shareholder, Mr Desmond Young.

2. Procedural Directions were issued by the Tribunal on 25 April 2025 and following the first hearing date.

3. The Application is opposed by the Respondent. Both parties presented their own bundle of documents, comprising 161 pages (Applicant) and 1005 pages (Respondent), which the Tribunal took time to read before the hearing. For the hearings, the Respondent provided its chronology of events.

4. Hearings took place at Durham Court Centre on 24 July 2025 and following adjournment, on 11 September 2025. The Applicant attended through Mr Young, who denied having received the Respondent's bundle. It was confirmed as received by him after the first hearing. The Respondent was represented by Mr S Buston, Solicitor. Also attending were Ms V Hall and Ms J Thompson. Oral evidence for the Respondent was given by Mr J Gibson, Senior Housing Enforcement Officer, who provided a statement dated 21 May 2025 and a further statement dated 19 August 2025. We accepted those statements as his main evidence. Mr Young provided in an email dated 1 September 2025 his written submissions.

Facts and Chronology

5. The basic facts were largely agreed. A detailed Case Summary was provided by the Respondent, in addition to Mr Gibson's written statements and we do not consider it necessary to repeat here their content. We will identify most relevant facts and those which we had to determine.

6. The Properties are residential, located in areas of County Durham approved as designated for selective licensing on 30 November 2021, effective from 1 April 2022 for five years. Subject to certain exclusions not applicable in this matter, any property occupied under a residential tenancy within that area would require a selective licence.

7. It is recorded in office copy entries from Land Registry that the Applicant became registered proprietor of each property on various dates between 2016 and 2019; no mortgage lender appears on the title information provided. Mr Young did not dispute that he is sole director and shareholder of the Applicant company.

8. For the purposes of the Application, the Applicant did not dispute it was without the appropriate licences before they were granted beginning on 9 September 2024. Nor was it in dispute that the Applicant was in "control" and / or "managing" the Properties for the purposes of section 263 Housing Act 2004 (HA) – see below.

9. Commencing in 2022 the Respondent began direct contact with Mr Young – by telephone and email initially and then by letter – about the need for licensing of

the Properties. The Tribunal accepted that on 22 May 2022 Mr Young created a portal account on the Respondent's database for selective licensing, Metastreet.

10. After a lengthy investigation process, conducted by Mr Gibson, the Respondent found beyond reasonable doubt that the Applicant had committed an offence under s95(1) Housing Act 2004 regarding the Properties in that it was in control of and/or managing premises which were required to be licensed under Part 3 Housing Act 2004, but which were not.

11. 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 14 August 2024, each in the sum of £22,500. On 22 August 2024 Mr Young submitted written representations which were considered by the Respondent. Final Notices imposing financial penalties were issued on 31 October 2024.

12. On 5 February 2024 Mr Young applied for licences for 27a Rutland Road and 28 Knitsley Gardens, but failed to provide the necessary supporting documents. Properly made applications for selective licences were made on 16 August 2024 and licences were granted on 9 September 2024 (27a Rutland Road), 20 September 2024 (104 Surrey Road) and 27 September 2024 (17 Sussex Road). It was not confirmed any licence was in place for 28 Knitsley Gardens.

13. The basis of calculation of the amounts of the penalties is set out in Mr Gibson's second statement. Our findings on that matter are set out below. The period relevant to the Penalty Notice is referred to below.

The Law

14. 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*."

15. 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.

16. 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."

17. 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.

18. 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.

19. 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.

20. In this case, Mr Gibson exhibits to his first statement the Respondent's Corporate Enforcement Policy and the Civil Penalties under the Housing and Planning Act 2016 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

21. 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 Applicant here to show on a balance of probabilities that it had a reasonable excuse for so doing.

22. 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.

Applicant's position

23. In the Application, Mr Young set out:

"In August 2022, my nursery business faced significant challenges following an issue with Ofsted, forcing its closure. Simultaneously, I was working on a major Ground Source Heating System project costing £170,000. This project had a strict deadline of March 31, 2023, and required the employment of additional staff to complete it on time. The project was successfully completed, but only just, by 3 PM on the final day. The immense pressure of managing these situations severely affected my health.

On January 17, 2023, I was signed off work due to extreme stress, depression, anxiety, and dangerously high blood pressure. The severity of my condition led to frequent migraines, and I was under the care of the mental health team due to intrusive thoughts. I was unable to leave my bed for months, an experience unlike anything I had faced in my working life. Medical professionals advised that my recovery could take up to 18 months, which proved accurate. Their support was instrumental in my recovery.

During this time, I did not receive correspondence from Jack Gibson because I had changed my company's registered address, as documented with Companies House. Unfortunately, all communication was sent to the old address, and I was unaware of any issues until two weeks ago.

Regarding the properties in question, two out of the four houses were vacant and did not require licenses as they were being prepared for sale. The other two properties presented significant access challenges because the tenants were using Class A drugs. Both the gas safety engineer and electrician were unable to gain entry for months despite repeated attempts. Social Services eventually intervened to facilitate access for necessary safety checks.

I repeatedly informed Jack Gibson of my circumstances and provided approximately 15 medical "not fit for work" certificates from my doctor, explaining that I was unable to address these matters until I returned to work. Unfortunately, my emails were ignored, and I continued receiving correspondence insisting on immediate action."

24. In his written representations he also set out:

"I also have dyslexia, which affects my ability to process complex written information. The only information I initially received from the council was a long

list of postcodes, which I struggled to interpret correctly due to my condition, causing further delay and confusion.
I was eventually made aware of the licensing requirements by another landlord — not directly by the council — and I applied for all necessary licences as soon as I was well enough to do so." He represented that the Respondent's communication was poor and that when he requested support, the Respondent referred him to only a "paid" service and it failed to make adjustments for his difficulties.

25. Mr Young stated that he is "disabled" within the provisions of Equality Act 2010 due to his "*…medical condition and dyslexia. These conditions significantly affected my ability to manage property administration during the relevant time. Despite being informed through calls and emails, the council failed to make any reasonable adjustments. Offering a paid service is not a reasonable adjustment under the Equality Act — especially when someone has already explained that they are not well enough to manage basic communications or administration."* He suggested that the Respondent had not "*….fulfilled its Public Sector Equality Duty and acted proportionately in issuing such large financial penalties under these circumstances."*

26. He represented he had always been a responsible landlord and that his properties were well maintained; no harm was caused to tenants and "*This was not a case of deliberate non-compliance, but rather an administrative oversight during a period of ill health, compounded by dyslexia and poor communication from the council."* He submitted that he had complied (i.e. obtained the relevant licences) "*…. once I was aware and able*."

27. Mr Young represented that the Respondent had adopted an aggressive stance and had imposed a penalty for a minor error, when he was unaware of the need for a licence and during a period of ill-health and therefore the penalty should be cancelled.

28. Mr Young presented that he had travelled abroad and used his Mother's address for correspondence. He denied receiving the PACE questionnaire (see below) or Notices of Intent.

29. The Applicant's position was that it had a "reasonable excuse" for the offence because of the matters set out in paragraphs 23 – 25, above, preventing Mr Young being able to attend to the licensing. The Tribunal made further findings of fact from Mr Young's oral evidence concerning event he said were preventing him attending to the licensing . He personally had £14,000 tied up in a ground source heating project, for which he had a time deadline of completion by 31 March 2024. Storm Arwen had blown down sheds, interfering with the works. He said the project cause him to have "tunnel vision". He had engaged workers to ensure the project was completed, which only happened on the final day.

30. Mr Young advised in oral evidence that he had been unwell with stress-related illness. He had presented fitness to work notes for periods between 17 January 2023 and 29 August 2024, from his doctor. These did not cover a continuous period, however. Mr Young presented a GP's letter dated 11 December 2023, which

related to the effect on him of a planning application decision and confirmed he had been prescribed medication for anxiety.

31. Further, he expressed that he personally managed his rental properties and would not pay someone to undertake a job for which he took a salary from the Applicant for that and other work. He said the Applicant owned a number of 10 residential properties. Rents were paid from Housing Benefit, or direct debit. He had signed up to the Respondent's assisted application service, but it required a payment and he felt able to deal with the applications himself.

32. Regarding the nursery business (see paragraph 23), this was owned by the Applicant and had employees. It had struggled with management issues and following Ofsted intervention it closed, but his documentary evidence was that it ceased to operate on 26 July 2022, some many months before he applied for licences.

Respondent's representations

33. The sequence of events is set out in the Respondent's Case Summary and statements of Mr Gibson. The Tribunal's findings relevant to the alleged offence are explained below.

34. From 8 September 2023 the Respondent had corresponded with the Applicant at both of the addresses appearing on Land Registry searches for the 4 registered titles for the Properties, one of which was the registered office address for the Applicant appearing on Companies House records. No reply had been received to a questionnaire under caution, in accordance with Police and Criminal Evidence Act 1984 (PACE), sent to Mr Young on 26 January 2024.

35. In response to the Applicant's written representations, in his second statement Mr Gibson set out how reductions to the penalties had been applied, resulting in credits for each in the sum of £4,500 and stated "*The reduction of £4,500 is £500 below the maximum reduction the Council's policy allows, outside of exceptional circumstances, which we consider does not apply in this case.*"

36. Mr Gibson recorded "*The mitigating factors that have been applied in this case are as follows: a) Steps voluntarily taken to remedy the problem. b) Mental disorder or learning disability, where linked to the commission of the breach. c) High level of co-operation with the investigation and admittance of guilt, beyond that which will always be expected.*"

Conclusions and Reasons

37. The Tribunal must be satisfied beyond a reasonable doubt, that the Applicant had committed a "relevant housing offence" in respect of each of the Properties. The area in which the Properties are situated was designated as a selective licensing area with effect from 1 April 2022. From that date, any property occupied under a residential tenancy within that area would require a licence.

38. While the date of commencement of lettings 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 Applicant 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.

39. It was not disputed that the Applicant was in control and/ or management, of the Properties, as defined by s263. Nor did the Applicant produce evidence to support Mr Young's assertion that two of the properties were unoccupied. Indeed, the persuasive evidence was from the Respondent that a search on its Council Tax records on 8 September 2023 disclosed that all of the properties were occupied by individuals registered to pay council tax. There was no evidence to contradict the evidence of Mr Gibson, which was that he gained knowledge, between November 2023 and January 2024, of occupiers from discussions with them. They described themselves as tenants, of 27A Rutland Road and 104 Surrey Cresent. He also drew conclusions from external inspection regarding residential occupation of 28 Knitsley Gardens. As to 17 Sussex Road, the Respondent relied on information of a personal named council tax payer appearing on its records, inspected by Mr Gibson on 25 October 2023. The Tribunal found that there was residential tenancy occupation of all of the Properties for residential purposes from at least 8 September 2023, but likely before then.

40. While Mr Young argued the Respondent had not provided clear information that the Properties need to be licensed, there is no legal requirement for the Respondent to have given direct notification to each and every landlord potentially affected by designation for selective licensing. The Tribunal found it was reasonable to expect the Applicant to have in place processes to ensure compliance with relevant national and local laws and regulations.

41. We accepted Mr Gibson's evidence that the Respondent's records identified that Mr Young was first spoken to by telephone on 12 September 2022 to be reminded of the need to apply for selective licenses for properties affected by the scheme. We further found that the Respondent's chronology document was consistent with Mr Gibson's evidence and therefore of value in determining facts. It was clear only Mr Young acted for and on behalf of the Applicant. We noted that Mr Young had registered for the Respondent's assisted application process on 29 June 2023. We found that regarding correspondence, in addition to emails to Mr Young to which he responded from time to time, the Respondent used the addresses relevant for the Applicant according to Companies House and Land Registry.

42. While we have sympathy for Mr Young's ill-health which he described, his fitness notes presented were not continuous, but more particularly did not show total incapacity (they describe variously "stress related problem, anxiety, migraine").

43. Undoubtedly his attention was diverted by the ground heating project and the nursery business. However, we found from the registration on 29 June 2023 for the assisted application support that Mr Young was alert to the need to seek licenses. We found no persuasive evidence that the Applicant, through its officer Mr Young, was unaware of the need to have selective licenses. However, he was suffering ill-health.

44. As to Mr Young's allegation that the Respondent was in breach of its duty to him under the Equality Act 2014, this could only have relevance to his ability, as officer of the Applicant, to make an appropriate application. Firstly, we believe that the Respondent was not made aware of this allegation until the closing submissions in these proceedings. Secondly, there was no corroborative evidence that Mr Young had informed the Respondent of his dyslexia – but in any event he had been signposted to the support service to make applications. Thirdly, we found no substance that he had been unable to make applications due to any condition or characteristic which may potentially engage any duty on the Respondent's under equality legislation. The Tribunal dismissed this element of Mr Young's submissions as merely an additional attempt to argue the Applicant had a reasonable excuse for the offences.

45. In consequence of our findings, the Tribunal was satisfied beyond a reasonable doubt that the Applicant committed a "relevant housing offence" in respect of all of the Properties and that the offence was being committed between at least 8 September 2023 (inspection of council tax records by the Respondent) and 9 September 2024 (first licence granted) and that no reasonable excuse existed for any or all of that time. The housing offence found to have occurred is under Section 95 Housing Act 20024 - having control or managing a house that is required to be appropriately licensed but is not so licensed. The offence was committed regarding each of the Properties.

46. Accordingly, in consequence, a penalty may become payable in accordance with the guidance for the statutory scheme of enforcement.

Amount of the Penalty

47. The Respondent provided through Mr Gibson detail on the method of calculating the penalties. The Applicant's challenge was in broad terms about its unfairness.

48. 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.

49. The Tribunal has considered the Respondent's published policy and noted that it is largely reflective of the DCLG Guidance.

50. The Respondent's process was set out in Mr Gibson's second statement. Here, we address only aspects of the calculation with which we disagreed, while paying close attention to the Respondent's Corporate Enforcement Policy (commencing page 777 of the Respondent's bundle) and the Civil Penalties under the Housing and Planning Act 2016 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (commencing page 982).

51. The Respondent's latter document includes "*The Council would view the offence of failing to ensure that a rented home was licensed under its Selective Licensing Scheme as a significant issue, meaning that the tenants and wider community are not protected by the additional regulatory controls afforded by licensing.*

    This seriousness of the offence is viewed by the Council as being a Serious matter, attracting a financial penalty with a starting level of £12500. Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features…., will reduce by £5000, attracting a civil penalty of £7500.

    Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features…., will attract a civil penalty of £12500. Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17,500"

52. The Respondent added to that sum £1,000 for the failure to licence being deliberate and £5,000 for the period of letting without a licence, but capped the amount it attributed to these aggravating factors to £5,000 – this increasing the penalty to £22,500. It then allocated for mitigation £2,000 for the applications being made, £1,500 for the impact of the Applicant's mental health difficulties and £1,000 for co-operation and admittance of guilt. Mr Gibson then explained *"Following the mitigating circumstance a total reduction of £4,500 was applied leaving the total amount to be £18,000."*

53. Having reviewed all of the evidence, the Tribunal applied the principles of the policy, because we found that while Mr Young has failed to make out a reasonable excuse for the Applicant, the Tribunal found that ill-health between early 2023 and end of August 2024 likely contributed to his lack of attention for the licensing requirements of the Applicant. Further, we received no persuasive evidence that the occupiers of any of the Properties were put at risk during the period when no licence was in place (harm). Also, Mr Young began the application process for two of the Properties in February 2024, not wholly ignoring the prompting from the Respondent. The Tribunal did not agree to a blanket policy fixing of seriousness of the offence as "serious". The Tribunal's determination was that the starting amount should be £7,500.

54. When looking at the offender's culpability the Tribunal considered that some credit was justified for the applications eventually begun. We did not find that the Applicant's failure to apply timely for the licences was deliberate. Mr Young was inattentive to the responsibility. The duration of the offences was not established, due to a lack of clarity of when the occupations of each property began. On the facts we could establish, we could not agree with the Respondent that there had been omission from commencement of the selective licensing scheme. Nevertheless, we considered the base penalty should be increased by £3,500 for aggravating factors.

55. As to mitigating factors, no other commission of a housing-related offence by the Applicant was presented, nor was there evidence of tenant complaints or of deficiencies in the properties affecting safety. In addition, there was co-operation by Mr Young for his company, albeit slow, but leading to issuing of licences. Also, taking account also of his ill-health, affecting the ability of the Applicant to be pro-active in attending to its licensing responsibility, the Tribunal considered that the reduction for mitigating factors should be £5,500:

    Co-operation - £2,000
    Steps taken to remedy the failure to licence - £500
    Mental health factor - £1,500
    Track-record £1,500

56. Having taken into account all of the evidence before it, the representations and submissions made to it, including during the course of the hearings, we found persuasive reason to vary the amount of the penalty and in consequence of our findings we determined that the financial penalty imposed on the Applicant for each offence (per property) should be £5,500.00

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.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).