



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

Case Reference : HAV/29UN/HNA/2025/0621

Property : 52 Dundonald Road, Ramsgate, Kent CT11
9PU

Applicant : Nigel Collingwood

Representative :

Respondent : Thanet District Council

Representative :

Type of Application : **Appeal against a financial penalty -**
Section 249A & Schedule 13A to the
Housing Act 2004

Tribunal Members : Judge C Skinner
Mr C M Davies FRICS
Ms T Wong

Date of Hearing : 16 December 2025

Date of Decision : 14 January 2026

DECISION

SUMMARY OF DECISION

- a. The Tribunal extends time under Rule 6(3)(a) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 to 6 February 2025 for the purposes of Rule 27(2) meaning the Applicants Application is deemed lodged in time.**
- b. The Tribunal finds beyond all reasonable doubt that the Applicant breached the Improvement Notice dated 7 December 2023.**
- c. The Tribunal finds on balance of probabilities there is no reasonable excuse defence made out.**
- d. The Tribunal finds the Respondent complied with the requirements of Schedule 13A Housing Act 2004 (as amended by Housing and Planning Act 2016) when issuing the Financial Penalty Notice dated 16 December 2024 under powers available to it under s249A Housing Act 2004 (as amended by Housing and Planning Act 2016)**
- e. Under Schedule 13A, para 10(4) Housing Act 2004 (as amended by Housing and Planning Act 2016), the Tribunal varies the Financial Penalty Notice dated 16 December 2004 to impose a of £8,000 upon the Applicant.**

Background

1. The Applicant is the landlord and owner of 52 Dundonald Road, Ramsgate, Kent CT11 9PU (“the Property”). By way of application dated 6 February 2025, the Applicant made an application to appeal against a Financial Penalty that has been issued against him based on non-compliance with an Improvement Notice served upon the Applicant by the Respondent on 7 December 2023. The Improvement Notice had required the works identified within it to be completed by 8 March 2024.
2. On 13 March 2024 at an inspection of the property by the Respondent, they deemed the Applicant to be in breach of the Improvement Notice due to the Respondent being of the view no attempt had been made to conduct any works at all in compliance with the Improvement Notice. As a result of the suspected breach, the Respondent deemed an offence under section 30 Housing Act 2004 may have occurred and proceeded to investigate the matter further.
3. The Applicant attended an interview under caution on 19 June 2024 following which the Respondent was satisfied an offence under Section 30 Housing Act 2004 had occurred. In accordance with Schedule 13A Housing Act 2004, the Respondent first issued a Notice of Intent to

issue a Financial Penalty dated 14 August 2024 and invited representations from the Applicant. On 9 September 2024 the Applicant submitted written representations to the Respondent. Having reviewed those representations, the Respondents determined to exercise its powers under section 249A Housing Act 2004 to issue a Final Financial Penalty Notice (“the Notice”).

4. The Notice was served on 16 December 2024 and imposed a penalty on the Applicant of £12,000.
5. This application to appeal against the Notice was received by the Tribunal on 6 February 2025.
6. On 12 February 2025 the Tribunal acknowledged receipt of the application and requested that the Applicant send a copy of the Notice as this had been omitted from the application.
7. The Applicant did not provide a copy of the Notice despite repeated requests made on 13 February 2025 and 25 February 2025.
8. The Tribunal issued a warning on 6 June 2025 stating that unless a full copy of the Notice was submitted to the Tribunal by 20 June 2025 the application would be struck out without further notice.
9. The Tribunal did not receive a copy of the Notice and did not receive any communication from the Applicant. The application was therefore struck out on 30 June 2025 in accordance with Rule 9 (1) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 on the ground that the Applicant had failed to comply with a Direction which stated that failure by the Applicant to comply with the Direction by a stated date would lead to the striking out of the proceedings.
10. On 17 July 2025 the Applicant emailed the Tribunal requesting to reinstate the application, following which the Tribunal sent him a copy of the Tribunal’s Directions dated 6 June 2025 and advised a case management application form was to be completed should he wish to apply to reinstate the application.
11. On 24 July 2025 the Tribunal received a case management application from the Applicant seeking to reinstate the Application. The Tribunal sought representations from the Respondent on the application to reinstate.
12. On 23 September 2025, the Tribunal granted the Applicants application to reinstate the Appeal and further Directions were made requiring the Applicant to provide a copy of the Notice, which at that point had still not been provided to the Tribunal, over 6 months from the Tribunal’s original request.

13. On 24 September 2025, the Applicant provided a copy of the Notice. The Notice was dated 16 December 2024. Under Rule 27 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 any appeal against a notice where no time limit for starting proceedings is prescribed by or under another enactment, must be received by the Tribunal within 28 days. The Applicant's Appeal was lodged with the Tribunal on 6 February 2025 and was therefore outside the 28 day time limit prescribed by Rule 27.
14. On 2 October 2025 the Tribunal issued further Directions. Those Directions, along with other procedural requirements, set out clearly that the parties were to submit written representations within their respective statements on the issue of the Appeal against the Financial Penalty Notice being out of time.
15. The Tribunal notes that the Applicant did not in any of the statements submitted, nor in any of the documentation lodged with the Tribunal, provide submissions as to why his appeal was not lodged within the required time limits.
16. The Tribunal has been provided by the Applicant a determination bundle consisting of 61 pages. Also provided is a Statement from the Respondent consisting of 138 pages which is separate from the determination bundle due to its size and difficulties the Applicant had incorporating it into the determination bundle. The Tribunal has read the bundle and all associated material. References in this decision to page numbers in the bundle are indicated as [] and references to page numbers within the Respondent's Statement are indicated as [RS].
17. The lack of mention of any particular document or submission should not be regarded as indicating that it has not been taken into account. The Tribunal has focused on the key issues identified that require determination. In writing this decision the Chairman has had regard to the Senior President of Tribunals Practice Direction – Reasons for Decisions, dated 4 June 2024.
18. The final hearing was listed to take place remotely via video link on 16 December 2025 at 10am. After some initial technical difficulties, both the Applicant and Respondent attended the hearing. The Applicant in person, accompanied by Mr Gareth Evans (an employee of the Applicant's company), the Respondent represented by Mr Bray.

The Law

19. Section 30 Housing Act 2004 reads as follows:

(1) Where an improvement notice has become operative, the person on whom the notice was served commits an offence if he fails to comply with it.

(2) For the purposes of this Chapter compliance with an improvement notice means, in relation to each hazard, beginning and completing any remedial action specified in the notice—

(a) (if no appeal is brought against the notice) not later than the date specified under section 13(2)(e) and within the period specified under section 13(2)(f);

(b) (if an appeal is brought against the notice and is not withdrawn) not later than such date and within such period as may be fixed by the tribunal determining the appeal; and

(c) (if an appeal brought against the notice is withdrawn) not later than the 21st day after the date on which the notice becomes operative and within the period (beginning on that 21st day) specified in the notice under section 13(2)(f).

(3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.

(5) The obligation to take any remedial action specified in the notice in relation to a hazard continues despite the fact that the period for completion of the action has expired.

(6) In this section any reference to any remedial action specified in a notice includes a reference to any part of any remedial action which is required to be completed within a particular period specified in the notice.

(7) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).

(8) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.

20. Section 249A Housing Act 2004 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.

(5) The local housing authority may not impose a financial penalty in respect of any conduct amounting to a relevant housing offence if—

- (a) the person has been convicted of the offence in respect of that conduct, or*
- (b) criminal proceedings for the offence have been instituted against the person in respect of the conduct and the proceedings have not been concluded.*

(6) Schedule 13A deals with—

- (a) the procedure for imposing financial penalties,*
- (b) appeals against financial penalties,*
- (c) enforcement of financial penalties, and*
- (d) guidance in respect of financial penalties.*

(7) The Secretary of State may by regulations make provision about how local housing authorities are to deal with financial penalties recovered.

(8) The Secretary of State may by regulations amend the amount specified in subsection (4) to reflect changes in the value of money.

(9) For the purposes of this section a person's conduct includes a failure to act.

21. Para 10 of Schedule 13A Housing Act 2004 reads as follows:

Appeals

10 (1) A person to whom a final notice is given may appeal to the First-tier Tribunal against—

- (a) the decision to impose the penalty, or*
- (b) the amount of the penalty.*

(2) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.

(3) An appeal under this paragraph—

*(a) is to be a re-hearing of the local housing authority's decision, but
(b) may be determined having regard to matters of which the
authority was unaware.*

*(4) On an appeal under this paragraph the First-tier Tribunal may
confirm, vary or cancel the final notice.*

*(5) The final notice may not be varied under sub-paragraph (4) so as
to make it impose a financial penalty of more than the local housing
authority could have imposed.*

22. The relevant Tribunal Rules applicable to this application are Rules 3, 6(3)(a) and 27 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 read as follows:

Rule 3 - Overriding objective and parties' obligation to co-operate with the Tribunal

3.— (1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes—

(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal;

(b) avoiding unnecessary formality and seeking flexibility in the proceedings;

(c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;

(d) using any special expertise of the Tribunal effectively; and

(e) avoiding delay, so far as compatible with proper consideration of the issues.

(3) The Tribunal must seek to give effect to the overriding objective when it—

(a) exercises any power under these Rules; or

(b) interprets any rule or practice direction.

(4) Parties must—

(a) help the Tribunal to further the overriding objective; and

(b) co-operate with the Tribunal generally.

Rule 6 - Case management powers

6.— (1) Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure.

(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the Tribunal may—

(a) extend or shorten the time for complying with any rule, practice direction or direction, even if the application for an extension is not made until after the time limit has expired;

Rule 27 - Time limits

27.— (1) This rule applies where no time limit for starting proceedings is prescribed by or under another enactment.

(2) Where the notice of application relates to a right to appeal from any decision (including any notice, order or licence), the applicant must provide the notice of application to the Tribunal within 28 days after the date on which notice of the decision to which the appeal relates was sent to the applicant.

Determination

Preliminary Issue – Appeal out of Time

23. The applicable timeline is set out in paragraphs 1 to 14 above. It is not in dispute that the Notice was served upon the Applicant on 16 December 2024 and that the Applicant's application was not lodged until 6 February 2025. Allowing for the 3 Bank Holidays within that period of time, the Applicant had until 16 January 2025 under Rule 27 to lodge his application. He failed to do so, his application being made 21 days out of time.
24. The Tribunal has case management powers under Rule 6(3)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 to extend time for compliance with any rule, practice direction or direction, even if the application for an extension is not made until after the time limit has expired. In this matter, if the Tribunal does not extend time for compliance with Rule 27(2), the application must be dismissed.
25. At the hearing, the Tribunal invited representations from the parties over this preliminary issue. The Applicant requested Mr Gareth Evans be appointed as his Representative to speak on his behalf and address the Tribunal on this preliminary issue only. The Respondent did not object to Mr Evans presenting this part of the case on behalf of the Applicant. Accordingly, the Tribunal was satisfied to grant the Applicant permission to appoint Mr Evans as his representative for this purpose.

26. Mr Evans submitted that following the fire that occurred in November 2023 at the Property, the Applicant had struggled to deal with matters and as a result delays occurred to many of the Applicants affairs. It was submitted that the Applicant felt the Respondent had been unhelpful towards him and been very forceful in their approach. It was submitted it was a very difficult time for the Applicant and he struggled to find any help. In summary, it was submitted the Applicant has simply become overwhelmed by all the issues in this matter and other matters, relating to the Applicant's business which was struggling and involved in other litigation wholly unrelated to these proceedings. The Applicant also was very much of the view that the Property was not an HMO for the purposes of the Housing Act 2004 and the making of the Improvement Notice dated 7 December 2023. However, it was admitted he took no formal steps to challenge the Improvement Notice nor submit any appeal against it.
27. In response, the Respondent submitted that all the relevant details are contained in the Notice on how to appeal it, that information is also repeated within the information notes accompanying it and further reference, which includes specific reference to the Tribunal's rules and the impact of the time scales applicable under Rule 27, were set out in the covering letter accompanying the Notice.
28. The Respondent submitted there is no good reason why the Applicant should not be aware of the applicable timescales and it is the Applicant's responsibility to read and review the Notice given its importance and potential consequences.
29. The Tribunal questioned if the Applicant had actually read the Notice. The Applicant advised he probably hadn't read it properly due to being overwhelmed with matters and the timescales subsequently were overlooked. The Applicant again making reference to pressures he faced in connection with other unrelated business matters he was facing.
30. The Tribunal finds that the timescales applicable under Rule 27 are clear. There is further clear information around how to appeal against the Notice and the applicable timescales with the Notice itself and the documentation accompanying that Notice as referred to and evidenced by the Respondent.
31. In considering if the Tribunal should exercise its discretion to extend time, the Tribunal is required to have mind to Rule 3 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules and the need to deal with the case in ways which are proportionate to the importance of the case. As set out above, Rule 6 allows the Tribunal to extend time for compliance with any Rule should it deem it appropriate to do so.
32. When considering matters of compliance with the Tribunal's Rules and whether to grant relief from any non-compliance, it is established that the Tribunal should consider the 3 stage test set out in *Denton v TH White Ltd* [2014] 1 WLR 3926

33. The first test is to consider if the breach is significant. The Tribunal finds in this matter the breach is significant. The application was lodged at least 3 weeks late. The Notice relates to the imposition of a financial penalty which infers a criminal offence has taken place. It is clearly a serious matter with serious implications for the Applicant. The Applicant should have carefully read the Notice and timescales applicable and submitted the application within the time limits that apply.
34. The Respondent is required to comply with the statutory provisions under Schedule 13A Housing Act 2004 (as amended by Housing and Planning Act 2016), which include sending a Notice of Intent and seeking written representations on the intent to issue a financial penalty. The timescales attached to this process mean that there can have been no doubt over the possibility of the Applicant receiving a financial penalty, especially where he had engaged in that process by attending an interview under caution and submitting written submissions.
35. Once that process was completed and the Notice issued, the Tribunal agrees with the Respondent that it was clear and incumbent on the Applicant to note the correct timescales and make any application to the Tribunal accordingly. Accordingly, the Tribunal finds to subsequently miss the deadline imposed by that timescale by at least 3 weeks is a substantial breach.
36. The second test is to ask if there is a good reason for the delay? The Tribunal finds that no good reason has been provided. The Tribunal carefully considered the Applicants submission around feeling overwhelmed. However, by the time the Notice was issued the matter, and the enforcement process, had been on-going for over a year. There was no specific reason given as to why the timescales could not be complied with, just a general submission about feeling overwhelmed.
37. The Tribunal invited written representations over the reasons why the Applicant has not submitted the application in time and had received no such representations in advance of the hearing. In light of the Tribunal not receiving any information beyond the submissions made by the Applicant at the hearing, and the lack of any specific details over why the Applicant could not submit the application within the 28 day timescale that applies, the Tribunal does not find there is any good reason why the application was lodged out of time.
38. The third test the Tribunal must apply is to consider the prejudice that the failure to comply with the rules may have upon the parties. The Tribunal is mindful of the serious nature of enforcement proceedings under the Housing Act 2004. This is in respect of the importance of the upholding of safety standards the Housing Act 2004 applies to lettings and also the provision for those subject to any enforcement under that

legislation to have the chance to appeal and challenge any perceived unfairness or incorrect application of the law.

39. In this matter, the Applicant faces a significant financial penalty as a result of noncompliance with an Improvement Notice. To impose such a penalty requires a finding that a person has committed an offence under Section 30 Housing Act 2004. To prove that offence has occurred, a Local Authority must find beyond all reasonable doubt that the offence took place because it is a criminal offence. If the Tribunal dismisses the application at this stage for failing to meet the timescales required under Rule 27, the Applicant loses any ability to challenge that finding that an offence has taken place and loses the ability to have a Tribunal determine if the financial penalty is set at an appropriate level based on the facts of the matter.
40. The Tribunal is mindful that the parties had prepared for the final hearing, attended and were ready to proceed. Considering the effect of any prejudice on the Respondent at this stage, whilst it is clearly not satisfactory for applicants to miss important deadlines and important that enforcement of notices and timescales are upheld, the Tribunal finds in this matter, the prejudice to the Respondent is not significant when compared to the prejudice the Applicant will suffer if the Tribunal refuses to extend time for compliance with Rule 27.
41. If the Tribunal refuses to extend time, there would be significant prejudice to the Applicant. The Notice and financial penalty would be imposed and the Applicant loses their opportunity for the Tribunal to re-hear the matter and assess the parties evidence relating to the making of the Notice.
42. Given the criminal liability attached to these proceedings and the financial implications, the Tribunal finds it is in the interests of justice to exercise its discretion to extend time for compliance with Rule 27 and allow the application to proceed accordingly. It is proportionate in all the circumstances given there ultimately was no impact on the ability to hear the final hearing of matter, with both parties having submitted written evidence and been able to make oral submissions.
43. The Tribunal finds on balance, it is therefore reasonable to extend time using its case management powers under Rule 6(3)(a) and extend the time for compliance with Rule 27 to 6 February 2025. The Tribunal is satisfied this relief is proportionate and aligns with the Rule 3 objectives to determine matters considering the proportionality of the matter and the interests of justice.

Appeal Against Financial Penalty

Parties Submissions

44. The Tribunal heard first from the Applicant who summarised various issues he had experienced over the last few years. The Tribunal was told

this was one of four legal cases the Applicant was engaged in, two of which had reached litigation and the other two potentially heading the same way. The Applicant again stating how the matters continue to overwhelm him, describing everything as “havoc” in terms of the impact on his life.

45. The Applicant set out how he had been a master mariner and captain of a cross-channel ferry. After this he went into business, starting an environmental company designed to offer services relating to pollution control at sites such as airports, ports and large company sites.
46. The Applicant submitted his Company had been defrauded out of its pension savings, he'd received little help from any of the authorities, he'd incurred great legal expense and was experiencing significant stress from not having enough money to keep his company afloat, as a result now winding it up and moving out of the office premises the company had occupied.
47. The Applicant referred to the fire at the Property in November 2023, the day before the visit from Mr Pledger, the Respondents Housing Improvement Officer, and how the inspection immediately focused on the Property being an HMO and various safety standards and planning requirements being applicable to the 4 flats contained within the Property.
48. The Applicant submitted he did not argue about the need to do the works and as a matter of principle would never argue with anyone about safety issues as safety was very important to him. The Applicant admitted the works required under the Improvement Notice had not been done within the timescales set out in the Improvement Notice. The Applicant submitted the timescales were too tight and that the insurance company had taken too long in determining what payout might be applicable under the insurance policy the Applicant held.
49. The Applicant submitted he simply couldn't find contractors to do the works required and quotes he received were expensive. He apologised for not complying with the timescales required under the Improvement Notice but felt the subsequent issuing of a financial penalty for that non-compliance was in the circumstances unfair.
50. The Tribunal questioned if all the works had now been completed, with the Applicant submitting some electrical works were still possibly outstanding.
51. The Tribunal questioned the Applicant as to why he had not appealed against the original Improvement Notice given much of his evidence related to challenges linked to the making of an Improvement Notice, such as whether the Property was an HMO, and the timescales for completing the works under it being too difficult to comply with. The Applicant didn't know why he hadn't decided to take that option,

suggesting he'd missed his chance and reiterating he didn't dispute the need to do the works.

52. The Tribunal confirmed with the Applicant that the 4 flats at the Property were a Basement, Ground Floor, First Floor and Second Floor Flat consisting of four units in total that he let as Landlord. The Applicant confirmed those were the only properties he let as a Landlord.
53. In response, the Respondent submitted that the Applicant had been interviewed under caution and admitted he had not complied with the Improvement Notice and not conducted the works required under it within the timescales required. The Respondent submitting there was no dispute that the Applicant had been properly served with the Improvement Notice, no dispute he hadn't complied with it, no appeal had been made against the making of the Improvement Notice and it was in the public interest to enforce the Improvement Notice when it was established the Improvement Notice was in breach.
54. The Respondent submitted they had conducted a proper interview under caution, issued a notice of intent, invited and received written representations and then determined appropriately they would issue a final financial penalty in light of the evidence collected during that process.
55. The Respondent submitted other tenants were residing in the building at the time the Improvement Notice was served and it required works to the communal area to protect other residents. In response to the suggestion that the delays were due to the position of the insurance company the Respondent submitted that only related to one flat and therefore any pay out was not relevant to the other flats in building or the communal areas.
56. Much of the Applicants questioning of the Respondent continued to focus on historic aspects to his position as a landlord and his view on whether the Property should be classified as an HMO and his view on the content of the works required under the Improvement Notice. The Respondent took time to provide answers where possible even though those issues were not essentially relevant to the application or matters before the Tribunal.
57. The Tribunal raised questions with the Respondent over how it had applied its Financial Penalty Policy ("the Policy") when determining the level of fine applicable [RS25 to RS46].
58. The Tribunal asked how the Respondent concluded a "High Level" of Culpability. The Respondent advised that a Financial Penalty Proposal Form ("the Form") was used to review the evidence available and make a decision [RS47 to RS58]. In the section relating to culpability, the Form has limited information to show how that conclusion was reached [RS49].

59. At the hearing, the Respondent was unable to add any information to how the decision makers had arrived at the conclusion that culpability was “Very High” beyond what had been set out in the Form. It was suggested it was likely to be because of the belief the Applicant had deliberately breach the Improvement Notice and that fire safety was an important area for compliance.
60. The Tribunal also questioned the Respondent on its finding that Level 3 was the appropriate level of harm under its Policy. The Respondent submitted that the decision makers had concluded that where the works under the Improvement Notice related to the risks associated with fire safety, an extreme harm outcome (ie. death) was a reasonable conclusion when assessing the possible outcomes that could stem from a fire. Likewise, it was reasonable to conclude the risk of that harm occurring (ie. a fire) was medium especially in circumstances where a fire had taken place at the Property the day before the inspection.
61. The Tribunal questioned how the Respondent had determined a £2,000 increase to account for aggravating factors. The Respondent submitted that at the interview under caution, the Applicant had disclosed outstanding electrical works at the Property that had not been completed some 6 months after the report had raised them. The Respondent submitting that under different legislation, the Council could have imposed multiple fines for each flat affected but instead chose not to and considered the totality of the fine that would be imposed.
62. The Respondent was unable to offer any information as to how the decision makers had arrived at the figure of £2,000 or 20% of the initial level of fine that had been determined at £10,000 when applying their Policy. The Respondent was not able to provide any further insight or information beyond what was set out in the Form and the box relating to mitigating/aggravating factors [RS50].
63. The Tribunal questioned if the evidence provided by the Applicant in his statements submitted to the Tribunal [54] and subsequently expanded upon in his submissions around hardship would have affected the additional level of fine imposed under the mitigating/aggravating factors part of the Respondent’s Policy.
64. The Respondent again was unable to provide any submissions on this query and was not able to provide any further evidence from the decision maker beyond the limited information supplied on the Form.

Decision

Basis of decision to impose Financial Penalty

65. In accordance with provisions of Schedule 13A Housing Act 2004 (as amended by Housing and Planning Act 2016) the Tribunal is required

under this application to effectively conduct a re-hearing of the original decision to issue a financial penalty and if appropriate determine the level of fine to impose. The Tribunal effectively steps into shoes of the Local Authority and must apply the Local Authority's Policy in determining these matters unless there is a good reason to depart from that Policy. If the Tribunal departs from that original decision, it must give clear reason why it has departed from that original decision.

66. The Tribunal is also required to give appropriate weight to the Local Authority's original decision making when applying its Policy to the evidence before it and the issuing of any financial penalty, paying careful attention to the reasons why the original decision was made. (*Waltham Forest London Borough Council v Hussain* [2023] EWCA Civ 405)
67. The Tribunal is not concerned with any challenge to the making of the original Improvement Notice. This application is an appeal against the making of the financial penalty for breach of that Improvement Notice. Therefore any evidence relating to whether the original Improvement Notice should have been made is disregarded for this purpose and the Tribunal makes no findings on that issue.
68. The Tribunal must be convinced beyond all reasonable doubt that an offence under Section 30 Housing Act 2004 has occurred. As referred to above at paragraph 48 the Applicant admits breaching the terms of the Improvement Notice. This is also admitted in the interview under caution [RS8 to RS24]. Considering these admissions, the Tribunal finds that the Applicant has beyond all reasonable doubt breached the Improvement Notice.
69. Further the Tribunal has carefully considered if the Applicant has a defence by way of reasonable excuse. The Tribunal considering the Applicant's submissions that he found the timescales under the notice too tight to comply with, that he was overwhelmed by lots of issues affecting him and that he did not conduct the works due to waiting for the insurance company to pay out under an insurance policy.
70. The Tribunal does not accept this evidence amounts to a reasonable excuse. If the Applicant had felt the timescales to comply with the Improvement Notice were unrealistic, he should have communicated that to the Respondent. He did not. He could have considered submitting an appeal against the making of the Improvement Notice. He did not. Whilst the Tribunal has considered how overwhelmed the Applicant suggests he felt by matters at the time, this in itself is not found to be a reasonable excuse for failing to comply in any way with the requirements of the Improvement Notice or seeking to extend the timescales or appeal the making of the Improvement Notice.
71. By the Applicants own evidence he had completed no works and made no attempts to comply with the requirements of the Improvement Notice. When coupled with taking no steps to communicate this to the

Respondent around his feelings of being unable to comply with the Improvement Notice, the Tribunal does not find that level of complete disengagement and complete inaction to be reasonable.

72. The Tribunal considered the Applicants submission and evidence that he was struggling with the insurance company and the time taken to secure a pay out was part of the reason for no steps being taken by him to comply with the Improvement Notice.
73. The Tribunal does not find that sufficient evidence to be deemed a reasonable excuse. The Applicant produced no evidence to support his claims around the timescales the insurance company were taking to resolve the issue and produced no letters or emails to evidence the proactive steps he may have been taking.
74. Further the Tribunal prefers the evidence of the Respondent in respect of the works associated with the Improvement Notice relating to wider issues than those simply relating to the insured risk and potential insurance pay out covered by the fire in one single flat.
75. Therefore the Tribunal finds on the balance of probabilities that a defence of reasonable excuse has not been made out by the Applicant.
76. There has been no challenge to validity of the Notice issued by the Respondent in respect of its service, content or compliance with the requirements set out in Schedule 13A Housing Act 2004 (as amended by Housing and Planning Act 2016) however based on the written evidence of the Respondent and the written evidence of the Applicant, along with the submissions made by the parties at the hearing, the Tribunal finds the Respondent complied with the requirements of Schedule 13A and the Notice served was valid for that purpose.
77. In light of the Tribunal finding that beyond all reasonable doubt an offence under Section 30 Housing Act 2004 has occurred, with no defence made out on balance of probabilities, the Tribunal is satisfied the Respondent was able to apply its Policy for imposing financial penalties and was able to choose to issue a financial penalty under the provisions of s249A Housing Act 2004 as an appropriate remedy.

Level of Fine Imposed

78. In determining the level of fine to impose on the Applicant the Tribunal adopts and follows the Respondents' Policy and framework therein [RS25 to RS46].
79. Under the Policy it is necessary to determine four matters in order to then determine the starting level of fine to impose. Those four areas are Culpability, Track Record, Number of Units within the Landlord's entire stock and Level of Harm.

80. The Policy then allows for an adjustment to be made to the starting level of fine if there are any relevant mitigating or aggravating factors.

Culpability

81. The Respondent set the initial Culpability level at “Very High”. This was based on the witness statement evidence of Mr Pledger submitted as part of the investigation into the breach of the Improvement Notice and the Applicant’s answers to questions during the interview under caution and subsequent written representations.
82. “Very High” is defined as *“This category applies to offences where the offender has deliberately breached or flagrantly disregarded the law. This category is subject to a 100% culpability premium”*.
83. As set out above, the Tribunal questioned the Respondent on this finding and how it arrived at the decision to deem the Culpability level as “Very High”. The Respondent was largely unable to provide anything further to that submitted in written evidence.
84. The Tribunal asked the Respondent to explain how it determined that this was not considered as ‘High’. “High” is defined as *“This category applies to offences where the offender had foresight of a potential offence but through wilful blindness, decided not to take appropriate and/or timely action. This category is subject to a 80% culpability premium.”*
85. The Respondent was unable to explain why it had not deemed the culpability level as “High” or what factors or evidence placed the matter in the “Very High” category.
86. The Tribunal considered carefully the Respondents Policy and its definition of “High” culpability. Within that definition it refers to a *wilful blindness* to the Improvement Notice and a decision to take no action to comply with the Improvement Notice.
87. The Tribunal finds the evidence provided by both parties consistent with a “High” level of culpability as defined by the Respondents Policy. This is based on the evidence of the answers from the Applicant at the interview under caution and the submissions made by the parties at the hearing.
88. The Applicant admitted he knew about the Improvement Notice and knew about the timescales that applied. His evidence on this point was that he found the timescales too difficult to meet and he was waiting for the insurance payout. He also admitted that he fully intended to do the work and has subsequently done work required under the Improvement Notice.
89. The “Very High” culpability category defines the level required as “deliberate”. However, within the Respondent’s own Form, there is no

rationale or detail around why the Respondent determined the Applicant was being more than *wilfully blind* to the need to comply with the Improvement Notice. The Respondent has been unable to provide any real evidence to show how the culpability level should be greater than envisaged by the “high” category.

90. The Tribunal is mindful of ensuring substantial weight is placed on the original decisions made by the Local Authority and has been slow to depart from those findings, however here it is felt that on the evidence provided, the Tribunal is satisfied it should depart from the original decision that the culpability level was “Very High” and vary that decision to “High”. On the evidence before it the Tribunal finds that the Applicant decided not to take appropriate and/or timely action as a result of wilful blindness to the timescales required under the Improvement Notice.
91. Whilst not excusing the breach and wrongly failing to comply with the timescales required under the Improvement Notice, when assessing the evidence and applying it to the Policy definitions, the Tribunal finds the culpability level to be “High” and not “Very High”. The Tribunal finding that the Applicants conduct was *wilful blindness* as per the definition of “High” culpability but not the kind of deliberate and defiant conduct that the “Very High” level refers to, the Tribunal accepting the Applicants evidence that he intended to do the work. The Applicant did not act in a timely fashion and wrongly delayed in taking steps to comply with the notice, but he did not challenge the need for the works to ultimately be done.

Track Record and Number of Units

92. The parties did not raise any arguments disputing the findings of the Respondent on the Applicant’s Previous Track Record or the number of Units held by the Applicant in total for the purposes of determining the level of fine.
93. The Tribunal finds on the evidence provided by the parties and their admissions, that the appropriate categories attributed to both these factors in the original determination were correct and the Tribunal applies the same, namely there is no previous track record of offending by the Applicant and the applicable number of units is 4, meaning the 2-4 units category is appropriate under the Policy.

Level of Harm

94. The Respondent originally attributed a harm level of Level 3 as defined in their Policy. The Respondents position was that the facts meet the criteria for Level 3 based on “extreme harm” being the risk of death associated with fire and the likelihood of a fire/harmful event being medium, ascertaining that a fire had in fact occurred the day before the inspection.

95. The Applicant did not challenge this assessment or put forward any counter arguments but did argue he had always maintained safety was a priority and didn't feel the inspection findings were fair or balanced and that it was over reaction.
96. The Tribunal agrees with the Respondent on their assessment of the harm associated with the facts of this case, preferring the evidence of the Respondent on this point.
97. The Tribunal finds that the Improvement Notice was served on the basis of safety issues relating to fire risks as well as inadequate heating at the Property. Therefore in assessing harm, it is entirely reasonable to conclude that fire does lead to the potential for an extreme harm outcome. It is not unreasonable to suggest the likelihood of a fire at property (ie a harmful event) occurring was medium given the evidence of a fire occurring the day before the inspection.
98. The Tribunal finds that as a result of no works having taken place in accordance with the Improvement Notice, that finding of harm could not realistically be challenged as the conditions and circumstances at the Property had not changed at the time of the Respondents decision making in this regard.
99. Applying the above findings in each category to the Respondent's Policy and matrix for determining the level of fine [RS36], the Tribunal finds the starting fine to be £8,000.

Adjustment due to Mitigating or Aggravating factors

100. The Respondents Policy covers changes that might be affected to the starting level of fine within one section entitled "Determining whether adjustment of the financial penalty is appropriate" [37-38RS]. The assessment is designed to be taken as a whole, accounting for any mitigation that might apply along with any aggravating factors, to give a final potential increase or decrease to the starting level of fine.
101. The Respondent sets out in the Form that they concluded there were aggravating factors. This was based on evidence from the interview under caution that failures to comply with recommendations in an electrical safety report provided by the Applicant to the Respondent at that interview, meant an additional £2,000 should be applied to the starting level of fine. Based on the original starting level of fine being set at £10,000 by the Respondent, this meant an additional 20% would be added as a result of the aggravating factor.
102. The Respondent did not provide evidence to the Tribunal when questioned over how that decision was reached and why £2,000 or 20% of the total fine was deemed appropriate. There is no evidence within

the Form or associated statements to explain how that discretion was applied or the conclusion reached.

103. The Tribunal notes that the Policy does give wide discretion to the Respondent on aggravating factors and how, provided any changes to the starting level of fine are within a 50% range, that discretion can be applied as seen fit.
104. The Tribunal finds that matters of outstanding electrical safety works and failure to comply with a report highlighting the same, which was at the time of interview over 6 months,old, is an aggravating factor.
105. The Applicant was required to disclose this information as part of the interview process and did so. He made no attempt to try and conceal this further issue at the Property and was rightly open and honest with the Respondent about the issue.
106. Giving weight to the Respondent's Policy and its original decision and based on the evidence from the Applicant at the interview under caution and submissions made at the hearing that electrical work had still had not been completed, the Tribunal finds that the Respondents application of a 20% uplift for that aggravating factor was rational. Therefore, following the original decision if the Tribunal applied the same 20% rate to the new £8,000 starting level fine, that would allow an additional £800.
107. However, the Policy references other factors that can be taken into account including Landlord Hardship. The Tribunal has considered the evidence provided by the Applicant of hardship both within the written evidence [54] and submissions made at the hearing.
108. The Tribunal recognises that this information had not been before the Respondent at the time of the original decision. However, the Tribunal finds based on the Applicants evidence that hardship is being suffered as a result of the fire and water damage to Property and the impact that has had to the Applicant.
109. The Applicants evidence refers to him suffering pension fraud, his company being in significant financial problems, losing income and suffering financial hardship.
110. As set out above, the Tribunal has found the Applicant to be very open and honest about his beliefs around the Improvement Notice and around his personal circumstances. As commented above, this has been to his detriment at times and in no way excuses the failure to comply with the Improvement Notice and the way he has delayed attending to the works required at the Property. However when assessing mitigating circumstances for the purpose of this part of the Respondent's Policy, the Tribunal does consider the Applicants evidence of relevance. The Respondent's policy allows for consideration of personal circumstances and the financial position of the Landlord. The Respondent did not

challenge the Applicant's evidence and submissions made on the issue of hardship.

111. The Tribunal asked the Respondent for submissions on the issue of hardship given that information wasn't previously before it when assessing the issue of mitigation. The Respondent submitted it didn't know if it would make any difference arguing that new guidance being published under the Renters Rights Act 2025 would see likely multiple penalties pursued in similar circumstances instead of the approach taken here to keep matters all under one penalty.
112. The Tribunal finds on the evidence that the Applicant will suffer hardship from the Financial Penalty. The policy gives a wide discretion at paragraph 58 and the list of factors that can be considered are not exhaustive but does include for landlord hardship. In light of the Respondent being unable to say how the factors set out by the Applicant on this issue would affect their decision, the Tribunal is unable to give any weight to any new position the Respondent might adopt. Paragraph 69 of the Policy sets out the Respondent is to give reasons for any adjustment made but there is very little detail set out in their Form or the Notice itself over the reasons behind the original adjustment.
113. As a result, of the Tribunal's finding that hardship will be caused to the Applicant, accepting the written evidence [54] and submissions made, it will make allowances as a result within the discretion afforded in this part of the Policy.
114. The Tribunal notes the opening part of the Policy talks about being fair and proportionate and refers to both aggravating factors and mitigation. As referenced above, the Tribunal is aware the Respondent did not have the same level of information provided to the Tribunal at time of original assessment. The Policy also refers to the consideration of an offender's previous offences which both parties here have agreed as none.
115. The Tribunal finds when assessing all the factors considered, both aggravating and in mitigation, that on balance no further fine should be applied, the aggravating factors that might warrant an uplift, effectively being offset by the mitigating factors that might warrant a reduction. The Tribunal on balance feeling the starting point level of fine being both fair and proportionate in all the circumstances.
116. The Tribunal therefore finds the Total fine to be applied is £8,000 with no adjustments to be made.

RIGHTS OF APPEAL

118. 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 by email at rpsouthern@justice.gov.uk
119. 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.
120. If the person wishing to appeal does not comply with the 28- day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28- day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
121. 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.