FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**LON/00BG/HMG/2025/0603**
Property	:	**123 Mellish Street, London, E14 8PJ**
Applicants	:	**(1) Elizaveta Zagarina** **(2) Yoana Ivanova Pavlova** **(3) Natalia Yashchenko**
Representative	:	**Represent Law Ltd.**
Respondent	:	**Ioannis Angelis**
Representative	:	**In person**
Type of application	:	**Application for a rent repayment order by tenant** **Sections 40, 41, 43, & 44 of the Housing and Planning Act 2016**
Tribunal	:	**Judge Tueje** **Mr Lewicki BSc(Hons) FRICS MBEng**
Venue	:	**10 Alfred Place, London WC1E 7LR**
Date of hearing:	:	**12th August 2025 and 28th November 2025**
Date of decision	:	**26th January 2026**

DECISION

Decisions of the Tribunal

(1) The Tribunal are satisfied beyond reasonable doubt that the Respondent committed an offence under section 72(1) without reasonable excuse.

(2) The Tribunal makes a rent repayment order against the Respondent for the global sum of £6,099.75 which is to be paid to the Applicants within 28 days of the date this Decision is sent to the parties.

(3) The above sum represents a rent repayment order of 75% of the rent paid by each Applicant during the period of their respective award, and it represents the following amounts:

(i) £1,800 for the period from 11.10.2023 to 22.12.2023 to Elizaveta Zagarina;
(ii) £2,649.75 for the period from 11.10.2023 to 22.12.2023 to Yoana Ivanova Pavlov; and
(iii) £1,650 for the period from 11.10.2023 to 22.12.2023 to Natalia Yashchenko.

(4) The reasons for the Tribunal's decision are set out below.

The Tribunal's Approach to Findings of Fact

1. The Tribunal's determination on the legal issues in the case is dealt with at paragraphs 136 to 207 below.

2. There are factual disputes between the parties on numerous issues. Some of these relate to matters that are relevant to the issues that require determination, some are indirectly relevant, for instance credibility. However, some disputed issues are not relevant at all.

3. Only findings of fact directly or indirectly relevant to matters that are necessary to determine the issues in this case have been referred to in this judgment.

4. It has not been necessary, and neither would it be proportionate, to determine each and every matter in dispute. The Respondent, in particular, has raised numerous procedural and legal issues, including citing numerous case law authorities that are not routinely relied on in RRO applications. Therefore, we have not referred to every point raised by the parties, nor have we referred to every document that we read and/or were taken to in the findings below. However, that does not mean it was not considered if it was referred to in the evidence and was relevant to an issue.

5. On credibility, we have taken into account that where we have found a party or witness to lack credibility regarding one issue, it does not necessarily follow that all of that person's evidence, even if disputed, should be assessed as lacking in credibility.

The Application

6. On 2nd December 2024 the Tribunal received the Application dated 30th November 2024 for a rent repayment order made pursuant to section 41 of the Housing and Planning Act 2016.

7. The Applicants were former occupiers of the property situated at 123 Mellish Street, London, E14 8PJ ("the Property").

8. The Application is made against the Respondent who is the freehold owner of the Property.

9. The Property is a two-storey house with a kitchen/dining area and two rooms on the ground floor, both with en suite facilities. There are three rooms on the first floor, again, each with en suite facilities.

10. The Respondent states that one room on the first floor has cooking amenities. The amenities are not specified, and could therefore range from simply having a microwave in the room, to having a kitchenette fitted with an oven and hob. The Respondent exhibits to his second witness statement a plan showing that a room, described as "Bedroom 5" has unspecified cooking facilities. It is not a plan that has been filed at Land Registry. Photographic evidence of the cooking amenities would have been more persuasive, particularly because, according to the Respondent's (disputed) evidence, he occupied room 5.

11. While we note that neither Ms Zagarina or Ms Pavlova ever went upstairs, and Ms Yashchenko does not deal with whether, to her knowledge, any upstairs room had cooking amenities, we do not accept the Respondent's evidence on this point. That is because, the direct evidence of Ms Zagarina is that all five occupants used the downstairs kitchen facilities. Furthermore, her direct evidence is supported by the contemporaneous evidence of the kitchen cleaning rota, which is consistent with all occupiers taking turns cleaning the kitchen, which is inconsistent with one occupier having use of their own cooking facilities. Yet further, we have been provided with group WhatsApp messages discussing the cleaning rota, discussing whether certain food items are shared communally or purchased individually. We find these contemporaneous exchanges amongst all occupants to be persuasive that they all shared the communal kitchen as Ms Zagarina stated.

The Hearing

12. By an order dated 20th February 2025 the Tribunal gave directions, and subsequently listed the matter for a final hearing on 12th August 2025. The Tribunal's directions order made clear that liability, and if an RRO was made, quantum, would be dealt with at the final hearing. Neither party filed a formal application requesting liability and quantum be dealt with in any other way.

13. Further case management directions were provided in directions dated 3rd and 20th June 2025. The final hearing began on 12th August 2025.

14. Ahead of the final hearing on 12th August 2025 the Tribunal was provided with the following documentation by the Applicants:

    14.1 Skeleton argument dated 10th August 2025;
    14.2 Hearing bundle (299 pages)[1];
    14.3 Second statement of Ms Zagarina dated 31st July 2025;
    14.4 Second statement of Ms Yashchenko dated 2nd August 2025; and
    14.5 Second statement of Ms Pavlova Statement 31st July 2025.

15. The Respondent provided the following documentation for use at the hearing:

    15.1 Strike out application dated 6th August 2025;
    15.2 Response to Applicants' second witness statements dated 7th August 2025;
    15.3 Skeleton argument dated 8th August 2025;
    15.4 Hearing bundle (324 pages);
    15.5 Authorities' bundle (containing 10 authorities);
    15.6 TH Council Advisory Emails – Hearing Deliver Order (11 printed pages);
    15.7 E-mails dated 11th December 2024 attaching related documents (10 printed pages);
    15.8 Part 2 Licensing - Mandatory vs Additional document attaching extracts from the Housing Act 2004 (Part 2); and
    15.9 Preliminary Issue – Statutory Basis/Jurisdiction (3 printed pages).

16. No party requested an inspection of the Property by the Tribunal, and the Tribunal did not consider that one was necessary or proportionate.

17. At the hearing on 12th August 2025 the Tribunal dealt with various procedural matters raised by the Respondent as set out in the order dated 13th August 2025. We gave our decision and full reasons in respect of each of these applications on 12th August 2025.

18. The applications, our decisions, and a summary of the reasons we gave at the hearing were as follows:

    18.1 To exclude observers from the hearing

        (i) The Respondent stated he wished observers in the hearing room to be excluded because their presence could be intimidating leading to a hostile environment. We refused this request on the grounds that it is a public hearing, the principle of open justice requires that the

[1] It seems the Applicants had submitted multiple versions of the bundle. The Tribunal used the 299-page bundle referred to above because that was the version that the only version the Respondent had, and had done his preparation from. Mr Barrett initially had with him a 279-page version of the bundle, and was unable to locate a copy of the 299 version. The Tribunal e-mailed a copy of the 299-page bundle so that everyone was working from the same version.

public should be allowed to observe hearings unless, for instance, doing so will somehow interfere with conducting a fair hearing. The Respondent's concern that he could (potentially) feel intimidated is not sufficient to override the principle of open justice.

18.2 To exclude any documents submitted by the Third Applicant from 22nd June 2025 onwards

(i) The Respondent argued these documents were submitted late. The Applicants argued that the Respondent had been late filing his documents, so if the Third Applicant's documents were excluded for lateness, the Respondent's documents should also be excluded. We refused the Respondent's request because, although he had provided medical evidence about ill-health during the period he was due to provide his documents, the documents were nonetheless late.

(ii) The Applicants' documents were all provided in sufficient time for the Respondent to consider them, so there would be no prejudice to him in admitting the documents. Whereas the prejudice to the Third Applicant would be disproportionate if the documents were excluded.

(iii) Therefore, in accordance with the overriding objective, the documents were not excluded, and we extended the time limits under rule 8(2)(a) to admit any documents at paragraphs 14 to 15.9 above relied on by the parties that were filed late.

18.3 To exclude specified WhatsApp messages

(i) The Respondent sought to exclude certain WhatsApp messages relied on by the Applicants; he argued the messages were fake.

(ii) We refused this request. Apart from the Respondent's assertion, there were no grounds nor evidence to support his allegation that the WhatsApp messages were fake. They were relevant to the issues we need to determine, therefore it is in the interests of justice to admit them.

18.4. The Tribunal's jurisdiction to deal with the RRO application

(i) We gave our decision and reasons on 12th August 2025. These are set out at paragraphs 147 to 157 below.

18.5 The Respondent's application to strike out the Application under rule 9(3)(e).

(i) We exercised our case management powers under rule 6(2) in respect of the strike out application under rule 9(3)(e), and directed the parties to deal with the issue of the strength or weakness of any party's case during their closing submissions.

19. We heard oral evidence from the following witnesses:
    19.1 Ms Zagarina;
    19.2 Ms Pavlova; and
    19.3 The Respondent.

20. Ms Yashchenko has since returned to Ukraine and so did not give evidence at the hearing. Her witness statement was relied on as hearsay evidence.

21. In the event, after hearing all the evidence, there was insufficient time to deal with closing submissions, and so the hearing was adjourned part-heard to 28th November 2025. Directions dated 13th August 2025 were issued in respect of the part heard hearing, with further directions issued on 31st October 2025 requesting that the parties identify the individuals occupying the Property during 2023 to 2024.

22. On 24th November 2025 the Respondent sought permission to rely on four additional witness statements. Copies of those statements were not filed with the application. In summary, the Respondent submitted that the additional evidence related to the status and number of occupants of the subject property, whether occupation was as their only or main residence, and his status as a resident landlord. He stated that, despite his best efforts, he has been unable to adduce this evidence earlier.

23. The Tribunal refused this request, it gave detailed reasons in its order dated 26th November 2025, in summary the reasons were as follows:

    23.1 The Tribunal had already heard oral evidence from the parties on 12th August 2025, and it would be unfair to the Applicants to allow the Respondent to rely on previously unseen statements at that stage.

    23.2 The Tribunal was unable to assess the relevance of the proposed evidence as the witness statements had not been provided.

    23.3 There would be insufficient time to deal with both additional witness evidence plus hear closing submissions at the part-heard hearing. We were mindful that the Respondent had expressly stated he wished to provide oral submissions. This is recorded in the order dated 13th August 2025 (see paragraph 10). This meant it would not be possible to use the part heard hearing to deal with the further evidence, as well as dealing with oral closing submissions.

    23.4 Given the time already spent dealing with the Application, it would be disproportionate to introduce further evidence that would further prolong the hearing time.

    23.5 In all the circumstances, allowing the additional evidence would be contrary to the overriding objective.

24. For the part-heard hearing on 28th November 2025, the Tribunal was provided with the following additional documentation:

24.1 The Applicants' written closing submissions;
24.2 The Applicants completed occupancy table;
24.3 The Respondent's written closing submissions; and
24.4 The Respondent's completed occupancy table.

25. At the part-heard hearing, the Tribunal heard oral closing submissions from both parties.

26. This is the Tribunal's determination following the final hearing on 12th August 2025 and 28th November 2025.

Findings of Fact

27. In some respects, the parties' cases are diametrically opposed. In brief, the Applicants maintain they occupied the Property as their only or main residence, and that each shared the Property with four other occupants. In broad terms, this is reflected in the occupancy table they submitted. The Respondent's position in brief, is that he occupied the Property as a resident landlord during the relevant period, that none of the Applicants occupied the Property as their only or main residence, and according to his witness statements, there were never any more than four occupiers (including himself) at any one time. The number of occupants is different to his occupancy table, which indicates that there were never any more than three occupiers (including himself) at any one time. However, the occupancy was prepared to support the parties' submissions, and as such, is not evidence. Our findings regarding the number of occupants are based on the witness statements and oral evidence of the parties, and the extent to which that is credible and/or supported by contemporaneous documentary evidence.

28. Therefore, the main issues in dispute between the parties are as follows:

28.1 The number of occupants living at the Property during the relevant periods;
28.2 Whether the Applicants occupied the Property as their only or main residence; and
28.3 Whether the Respondent was a resident-landlord.

29. As to whether or not the Respondent was a resident landlord, this is dealt with at paragraphs 73 to 84 below.

The Applicants' Occupation of the Property up to February 2023

30. Ms Yashchenko states that she was granted a 12-month fixed term assured shorthold tenancy commencing 5th November 2022, which expired in November 2023, after which she became a statutory periodic tenant until her tenancy ended on 7th February 2025. She confirms her deposit was returned to her, albeit several weeks after her tenancy ended.

31. A copy of the written agreement is exhibited to Ms Yashchenko's first witness statement. It commenced on 6th November 2022 and expired on 5th November 2023. It records Ms Yashchenko paid a £600 deposit, and the rent payable was £1,200 per month. She has provided bank statements showing rent payments made to the Respondent.

32. It is common ground that Ms Yashchenko's deposit was not protected, although it was returned to her, albeit five weeks after her tenancy ended. The Respondent states he the deposit provisions did not apply because Ms Yashchenko was a lodger, and he returned the deposit as soon as Ms Yashchenko provided her bank details to him.

33. In the agreement, the landlord is named as John Aggelis, whose address is stated to be the Property.

34. Although in his oral evidence the Respondent initially denied using the name "John", that is evidently untrue. He used the name the name "John" in the written agreements. He has also exhibited to his witness statement the notice to vacate which he gave to Ms Pavlova, and which he signed as "John Aggelis". There are e-mails exchanged with Ms Zagarina which he also signs off as "John" (see pages 151 and 170 of the Applicant's hearing bundle). He states in his first witness statement that John is widely recognised as anglicised version of Ioannis.

35. It is common ground that the document Ms Yashchenko signed is described as a lodger agreement. The Respondent therefore disputes Ms Yashchenko, or any of the Applicants, were assured shorthold tenants. His position is also that as a resident- landlord, the occupiers were merely lodgers. He also states he has been advised that as the Applicants occupied the Property as lodgers pursuant to a licence, without exclusive possession, they formed part of a single household within the meaning of the Housing Act 2004. He cites authorities at para 69 of his first witness statement.

36. He relies on Norris v Checksfield, which we find is not relevant because it deals with a service occupier.

37. He also relies on Gray v Heffer. An incomplete citation has been given, it is not included amongst the authorities the Respondent provided. In any event, this submission does not apply in this case because we have found the Respondent is not a resident landlord.

38. Our findings as to whether the Applicants were licencees (i.e. lodgers) or tenants is dealt with at paragraphs 190 to 192 below.

39. Ms Yashchenko complains about a broken wardrobe when she moved in, which took around one week to repair. She also complained to the Respondent that the mattress was stained, however, he did not deal with this so she had to pay to get this professionally cleaned. She states no fire safety information was provided, and the door did not appear to be fire doors. The Respondent states

that the Property has been inspected by Tower Hamlets, which found it met HMO fire safety requirements.

40. In her first witness statement, Ms Yashchenko states that there was a high turnover of occupants in the Property. She lists the full names of five individuals who previously occupied the Property, and stated that, at the time her witness statement was prepared, she lists four individuals, by first name only, whom she shared the Property with. However, Ms Yashchenko does not provide dates or approximate dates of when any of the named individuals moved into and out of the Property.

41. Nonetheless, we are satisfied that in December 2022 there were at least 3 women living in the Property, as shown in the advertisement Ms Zagarina exhibits to her first witness statement (see page 131). Ms Zagarina states that when she moved in on 22nd February 2023, there was an additional occupant, which brought the total occupants at that time to five, although that pre-dates the period of the claim.

42. However, we are satisfied that by the start of the period of Ms Zagarina's claim, which is 22nd February 2023, there were at least five occupants living at the Property. That is because the bin and kitchen cleaning rotas which cover the period January 2023 to March 2023 show that there were at least five individuals on the rotas. Those individuals include Ms Zagarina and Ms Yashchenko. The rota is also shown in a WhatsApp message dated 18th March 2023. Ms Zagarina has also exhibited undated WhatsApp messages amongst a group whose members comprise the same as those on the rota. On its own, the message is not conclusive because it is undated, but when considered with the other evidence it supports the Applicants' account that there were five occupants at the start of the period.

43. The Respondent states that the rotas and WhatsApp messages relied on by the Applicants are fake. However, we do not accept that is the case because, as stated, the rotas are included in a WhatsApp message dated 18th March 2023 bearing the names of five occupants. We do not accept that, in March 2023, there would be any need to fake a false WhatsApp group, because the message is over one year prior to the RRO Application being made, and it pre-dates Tower Hamlets informing the Applicants that the Property did not have a Mandatory HMO Licence.

<u>Occupation of the Property by the Applicants as their Only or Main Residence</u>

44. In his first witness statement, regarding occupancy of the Property, the Respondent states (original emphasis):

> *10. Under section 254(2)(c) of the Housing Act 2004, the living accommodation must be* ***occupied as the only or main residence*** *of the persons concerned. The alleged offence must be proved beyond reasonable doubt, and the Applicants have failed to provide sufficient evidence that the property was occupied as their main residence by themselves or by any of the claimed occupants.*

11. *In Opara v Olasemo [2020] UKUT 96 (LC) and Taylor v Mina An Ltd [2021] UKUT (LC), the Tribunal determined that payment of rent alone is insufficient to establish residency or occupier status. Only individuals who physically reside in the property and use it as their sole or main residence qualify for a Rent Repayment Order or to be included in the HMO occupancy count. Therefore, the Applicants and any individuals they claim as occupants are required to provide evidence demonstrating actual occupation and use of the property as their only or main residence during the relevant period.*

12. ***None of the Applicants, nor any individuals they claim as occupants, have at any time used the property as their only or main residence.***

13. *From the commencement of the Claimants lodging at my residential address, I was, and have at all material times remained,* ***a resident landlord.***

45. In his skeleton argument, the Respondent relies on Goldsbrough v CA Property Management Ltd [2019] UKUT 311 (LC) to argue that the failure to occupy the Property as their only or main residence is fatal to the Application.

46. Ms Yashchenko and Ms Zagarina have exhibited two household rotas to their second witness statements. The first rota is described as a weekly kitchen cleaning rota covering 28th January to 17th March, and lists five individuals, including Ms Yashchenko. It also includes Ms Zagarina's name from 5th March. The second is described as a bin rota, it covers the period from 4th February to 17th March, and again, it lists five individuals, including Ms Yashchenko. It also includes Ms Zagarina's name from 5th March. In her witness statement, Ms Yashchenko states these rotas cover February to March 2023, and elsewhere, these rotas have been sent on a message dated 18th March 2023.

47. She also provides additional rotas covering the period June to October 2024, and messages from November 2024 regarding allocated waste bins. However, these are outside the relevant period.

48. Specifically, as to Ms Yashchenko's occupation of the Property, the Respondent states she did not occupy the Property as her only or main residence, and he is aware of this because he is a resident landlord. He also stated that Ms Yashchenko was based regularly at 6 Boston Road, W7 3TR, 23 Hillswest, TN4 0AJ, or at the address she currently resides in, having returned to Kyiv, Ukraine.

49. In his second witness statement dated 7th August 2025, the Respondent relies on Ms Yashchenko's bank statements, which he argues between February 2023 to February 2024 show less than 5% of transactions were made in and around the Property, with considerably more transactions in Tunbridge Wells and Ealing.

50. It is unclear why the Respondent did not raise this in his first witness statement. By failing to do so, it has left Ms Yashchenko without an opportunity to respond to the matters he raises in his second statement. That is because it was prepared after Ms Yashchenko filed her witness statement in reply, which is dated 2nd August 2025, and because Ms Yashchenko did not attend the final hearing. However, we do not find these transactions are particularly persuasive evidence of residency. That is because a number of the transactions show simply London as the location, or do not specify a location at all. Additionally, these transactions relate to Ms Yashchenko's bank account only, there is no evidence regarding transactions that she may have made using other payment methods.

51. In her second witness statement dated 2nd August 2025, Ms Yashchenko deals with the Respondent's submission there were never five occupiers living at the Property, and that she did not occupy the Property as her only or main residence. She states that she slept at the Property most nights and had her meals there.

52. We find that Ms Yashchenko occupied the Property as her only or main residence during the relevant period. Our reasons are that her evidence is supported by the direct evidence of Ms Zagarina and Ms Pavlova that Ms Yashchenko lived at the Property. We note she paid £1,200 per month rent for the Property, and we find the Respondent's contention that she paid rent for a property that she did not occupy as her main residence lacks credibility.

53. Our finding is supported by the messages she has exchanged with other occupants and her landlord, which are consistent with someone living day-to-day at the Property, rather than someone who is merely there occasionally. For instance, she participates in the discussion regarding whether coffee is purchased collectively or individually, and confirms to her housemates that she had used some of what she believed was communal coffee.

54. As stated, we do not accept the Respondent's assertion that the rotas and exchanges are fake (see paragraph 43 above).

55. Our finding at paragraphs 73 to 84 below that the Respondent was not a resident landlord is also relevant because it undermines the basis for his claiming to know whether Ms Yashchenko, and the other Applicants, occupied the Property as their only or main residence.

56. Therefore, to the extent that the Upper Tribunal's decision (relied on by the Respondent) in Goldsbrough is relevant on this issue, we find that the Applicants did occupy the Property as their only or main residence as follows:

57. Ms Zagarina's occupation of the Property as her only or main residence is dealt with at paragraphs 98 to 100 below.

58. Ms Pavlova's occupation of the Property as her only or main residence is dealt with at paragraphs 106 to 110 below.

The Respondent and Ms Yashchenko's Cross Allegations

59. The Respondent states that Ms Yashchenko colluded with Ms Zagarina and Ms Pavlova "… to pursue malicious claims against me and to extract financial gain." He also relies on hearsay evidence from Ms Xue-Er Su and Ms Nahema Ahmed, and continues that Ms Yashchenko "repeatedly approached and harassed my two other lodgers, in an attempt to persuade them to participate in a false claim against me."

60. The Respondent argues the Applicants' witness statements are similar, which he submits is indicative of collusion. He also says this amounts to an abuse of process. We accept there are similarities in the structure and content of the Applicants' tenancy agreements, except for the details that are unique to their particular case. We do not consider that undermines the veracity of the witness statements, particularly as they all confirm the witness statements were prepared on their behalf by their legal representatives based on the instructions provided to them. We also note in Ms Zagarina and Ms Pavlova's case, they attended the final hearing to be cross examined. And while Ms Yashchenko did not, that is because she has returned to Ukraine. We do not consider the Applicants' witness statements amount to an abuse of process.

61. In any event, we note that there is a degree of similarity in the witness statements the Respondent seeks to rely on from Sue Xue-Er and Nahema Ahmed, neither of whom attended the final hearing, nor was any explanation provided for their non-attendance. Furthermore, the date at the start of each of their witness statements postdates the date the statements were signed. The significance (if any) of these anomalies is unclear, however, as hearsay evidence without any explanation for non-attendance, we attach limited weight to the contents.

62. Ms Yashchenko was still residing at the Property when she was joined as an additional Applicant.

63. She refers to receiving communications from the Respondent both while she was still a resident and after she had vacated, which she states demanded that she withdraw her application for an RRO. She states these added to the stress she was feeling due to visa and associated employment problems.

64. The Respondent denies repeatedly demanding that she withdraw her claim for an RRO. His position is that she "repeatedly and unequivocally expressed her desire to be removed from the proceedings as a claimant, stating explicitly that she was not pursuing the matter for financial gain."

65. His claim that he did not repeatedly request she withdraws her Application is contrary to the documentary evidence. This shows that on 22nd January 2024, 27th January 2024, 29th January 2024, 31st January 2024, 6th March 2024, 7th March 2024, 13th March 2024, 19th March 2024, 31st March 2024 and 10th April 2024 he contacted Ms Yashchenko stating that she should withdraw her claim. We find the frequency of the requests amount to harassment. The content was also unpleasant, in that he questioned why Ms Yashchenko, who is

from Ukraine, would want to support Ms Zagarina, who is from Russia, when the two countries are at war with one another.

Occupancy from 9th March 2023 to 11th October 2023

66. It is common ground that one resident named Patricia moved out of the Property in 2023. In his oral evidence the Respondent stated she moved out of the Property on 9th March 2023. Ms Zagarina stated in her oral evidence that Patricia moved out in October 2023 and was replaced by Ms Pavlova. However, that is inconsistent with the rotas, which show that Patricia's name did not appear on the rota after February 2023. That is despite there being 8 subsequent entries on the rota after the last entry for Patricia. On the bin rota, after the last entry for Patricia, the four other occupants' names have been entered twice, this indicates that she moved out during this period.

67. The rotas are more supportive of the Respondent's case that Patricia moved out on 9th March 2023, accordingly we conclude that is when she moved out, and not in October 2023.

68. We also cannot be sure that when Patricia moved out on 9th March 2023 that she was replaced immediately by someone occupying the Property as their only or main residence. The Respondent's oral evidence was that on 15th March 2023 Eom Yoenshim moved into the room previously occupied by Patricia, but that Eom Yoenshim moved out on 26th March 2023. The brevity of Eom Yoenshim's occupancy means we cannot be sure that they occupied the Property as their only or main residence. Furthermore, Eom Yoenshim's name does not appear on the rotas, and there are only 4 names on the rotas between 20th February 2023 to 17th March 2023, indicating there were 4 individuals occupying the Property as their only or main residence.

69. The Respondent's oral evidence was that from March 2023 until October 2023 there was no change in the occupants. In other words, Ms Yashchenko occupied the Property, albeit according to the Respondent, not as her only or main residence. He also states he occupied the Property but was away for periods including over the summer. He states that it wasn't until Ms Pavlova moved in in October 2023 that the occupancy changed.

70. We cannot accept the Respondent's evidence in its entirety, because his account of the period from March 2023 to October 2023 completely disregards Ms Zagarina's occupancy. Even though it is his position that she did not occupy the Property as her only or main residence, even on his evidence, she spent some time at the Property as can be seen from the occupancy chronology exhibited to his first witness statement as IA9.

71. However, the Applicants bear the burden of showing an offence was committed during the period March to October 2023, and they have not provided sufficient evidence to satisfy us beyond reasonable doubt regarding the number of occupants residing at the Property from March 2023 until October 2023. We note Ms Yashchenko's witness statement refers to a high turnover of occupants, Ms Zagarina accepted during her oral evidence that on

occasions there would be gaps of up to one week between one occupant moving out and another moving in. In the circumstances we are not satisfied to the required standard that an offence under section 72(1) was committed during this period between 9th March 2023 when Patricia moved out, and 11th October 2023 when Ms Pavlova moved in.

72. As to repairs, Ms Yashchenko states there was a period when her toilet was defective. She provides WhatsApp exchanges from 7th and 8th March 2024 with someone described as "John LANDLORD" regarding repairs, to which John responds: "can I come in around 20 minutes to repair your toilet".

Whether the Respondent was a Resident Landlord

73. A further reason why we reject the Respondent's claim that Ms Yashchenko did not occupy the Property as her only or main residence, as set out above, is because we find his claim to be a resident landlord to be devoid of veracity. We have taken into account that he has provided documents addressed to him at the Property. We attach limited weight to utility bills addressed to him at the Property because as the Applicants' rent included bills, which is the case with HMOs. It is therefore unsurprising that the bills were registered in his name.

74. The Respondent also relies on an e-mail sent to him by London Borough of Tower Hamlets on 5th September 2024 stating that the Property has been his main residence and correspondence address since June 2022. The basis on which the Council makes this statement is unclear, so again, we attach limited weight to this e-mail. We have also taken into account that documents from a variety of sources are addressed to him at the Property. The documents include from his bank, GP, home insurance, employer and HMRC. However, documents in themselves, are not evidence of occupancy at a particular address.

75. Therefore, we find the weight of the direct evidence from Ms Zagarina and Ms Pavlova is much more persuasive, because it is supported by contemporaneous documentary evidence such as the advertisement (see paragraphs 89 and 90 below), the rotas, and WhatsApp exchanges between the occupants of the Property. Neither the rota nor the group WhatsApp exchanges include the Respondent, and some exchanges that he has with the Applicants indicate he does not live at the Property. For instance, in the message to Ms Zagarina on 6th October 2023 he refers to "coming" to the Property to check on repairs, which language is inconsistent with someone who lives at the Property. Taken together, we find this supports the Applicants' evidence that the Respondent did not live at the property.

76. However, the primary reason why we find the Respondent did not live at the Property was his oral evidence. When cross examined as to why his name did not appear as an occupant in the WhatsApp messages, on the cleaning rota or when the kitchen bins were allocated, he gave a number of reasons. Firstly, he said that this evidence was fake. However, for the reasons stated at paragraph 43 above, we do not accept this evidence was faked.

77. Secondly, he claimed it was because he lived at the Property with his girlfriend at the time, and her name was on the rota instead of his. That was the first time he mentioned that he lived at the Property with his girlfriend.

78. When Mr Barret asked the Respondent further questions about his girlfriend, the Respondent stated she only lived at the Property for a couple of weeks, that her name was Xue-er Su, and she was allocated the green bin. However, the witness statement prepared by Xue-er Su which he has exhibited to his first witness statement refers to her living at the Property from at least April 2024 to December 2024.

79. Still dealing with the Respondent's evidence during cross examination, shortly after claiming Xue-er Su was his girlfriend, he claimed his girlfriend that he lived with at the Property with a different occupant, Shiyu, who was allocated the red bin. When he was asked why he had given previously given different details for his girlfriend, he denied having done so. He maintained this denial when the Tribunal confirmed their notes showed the Respondent had given different details. The Respondent was also asked why in her witness statement Xue-er Su had referred to the Respondent as her landlord, and not her partner or ex-partner. His response was that this was a private matter so there was no need for her to address that in her statement.

80. In his closing submissions the Respondent tried to explain this inconsistency by stating that he felt stressed while being questioned, and he claimed Mr Barratt had bullied him during cross examination. We do not accept that was the case. Mr Barrett cross examined him robustly, but neither the content of his questions nor the manner in which he asked them was inappropriate or bullying.

81. We also find it implausible that even when under pressure during cross examination, someone would both forget the name of their ex-girlfriend who they had lived with, even for a brief period, and yet provide the name of a different occupant. So, when considering the inconsistencies in the Respondent's evidence regarding his occupancy, in conjunction with timing and manner in which this evidence was first given during cross examination, and that it was not supported by Xue-er Su's hearsay evidence, we cannot accept it is true. This is evidently not a matter about which the Respondent would be mistaken; therefore regrettably, we conclude this evidence was fabricated.

82. We note that in later correspondence with the Applicants, and somewhat conspicuously, the Respondent refers to them as living in his home, and claims to be a resident landlord. However, that correspondence post-dates Ms Zagarina informing him that she has been informed by the Council that the Property requires a Mandatory HMO Licence, but doesn't have one. It is a change of tone compared to his earlier communications which do not refer to the Property as his home so explicitly. We therefore accept the Applicants' submission that the Respondent did not live at the Property during the relevant period, and that it is likely he claimed to be a resident landlord in an attempt to use this as part of his defence to the RRO Application.

83. Our finding that the Respondent was not a resident landlord, undermines the basis for his claim that the Applicants did not occupy the Property as their only or main residence. As he was not living at the Property, his evidence on this point is weakened, it is based largely on assertion, and such other factors that he seeks to rely on as evidence that Ms Yashchenko did not occupy the Property as her only or main residence, such as bank transactions, are not persuasive.

84. In any event, when asked by the Tribunal, the Respondent accepted that being a resident landlord would not provide any exemption from the requirement to have a Mandatory HMO Licence, if one was required. Furthermore, he did not seek to argue otherwise during the hearing.

The Additional HMO Licence

85. On 15th December 2022 London Borough of Tower Hamlets issued notice of its intention to grant the Respondent an Additional HMO licence in respect of the Property. Occupation was limited to a maximum of 4 people consisting of no more than 3 households. It is common ground that the Respondent was subsequently granted an Additional HMO Licence covering the period 6th January 2023.

86. Contrary to the Respondent's assertion, we do not consider he has complied with the terms of the Additional HMO Licence. That is because, based on our findings regarding the number of occupants, there were periods of time when the maximum permitted number of occupants were exceeded.

87. In their grounds in support of the Application, the Applicants argue that the Respondent exceeded the permitted number of occupants, and so the Applicants are entitled to an RRO on that basis alone. The Respondent's response is two-fold. Firstly, he has complied with the requirements of the Additional HMO Licence, and secondly, even if he were in breach of the licence conditions, that would not entitle the Applicants to an RRO.

88. Our determination on this legal issue is at paragraph 157below.

Ms Zagarina's Occupancy

89. Ms Zagarina states she saw the Property advertised on Spareroom.com, and she exhibited a copy of the advertisement to her first witness statement. It advertised a room in an all-female household with three other occupants.

90. During the final hearing, the Tribunal asked the Respondent why the advertisement referred to an all-female household if he lived there; he stated it was because all the lodgers were female.

91. The Respondent also states in his witness statement that Ms Yashchenko recommended Ms Zagarina as a prospective occupant for the Property. There is a potential conflict between Ms Zagarina claiming to have seen the Property

advertised, and the Respondent's evidence that Ms Yashchenko recommended her. However, the two positions are not necessarily mutually exclusive, none of the parties were cross examined on this, and as it is not an issue that requires a determination, we make no finding on this point.

92. Ms Zagarina exhibited a copy of her written agreement to her first witness statement. It is dated 20th February 2023, is expressed to commence on 1st March 2023 for a fixed term of 12 months, with a break clause after 6 months, subject to one month's written notice. The start date appears to have been entered incorrectly because it is common ground that Ms Zagarina's agreement commenced 20th February 2023. The landlord is named as John Aggelis, whose stated address is the Property. The rent payable is £1,100 per month, and Ms Zagarina has provided bank statements showing her rent payments.

93. The agreement is described as a lodger agreement. It states that Ms Zagarina paid a £600 deposit to the Respondent. She states the deposit not protected, and was not returned after her tenancy ended. The Respondent did not challenge this.

94. She states that she occupied a room on the ground floor, she did not go upstairs, but understands there were three bedrooms on the first floor which were all occupied, and that there were four others living there throughout her occupancy. However, her witness statement provides no information regarding who the other occupiers were.

95. The Respondent asked her during cross examination how she knew the number of bedrooms on the first floor if she never went up there, she said she saw all the residents, they all used the kitchen, so she knew there were five of them in the Property, and she believed they all had their own bedroom. This was corroborated by Ms Pavlova during her oral evidence.

96. Ms Zagarina has provided some communications exchanged with the Respondent during her occupancy. For instance, a message from the Respondent to her, sent on 6th October 2023, when she reported heating problems he states he "Will need to come and check your individual radiator please."

97. There are also various exchanges in December 2023 when she and the respondent are discussing her moving-out arrangements, and the return of her deposit. In particular, she sends him an e-mail on 15th December 2023 stating that the Property does not have an HMO licence, and also that her deposit has not been protected.

98. As with the other Applicants, the Respondent disputes Ms Zagarina occupied the Property as her only or main residence. He states that when she viewed the Property, she stated that she lived with her partner in Northern Ireland, and only required the Property for two to three nights per week, when her employer required her in the office. He adds that she rarely stayed at the Property.

99. The Respondent cross examined Ms Zagarina extensively about her residence. He referred to her social media posts from Belfast and Russia. He also asked her about the one to two months spent abroad in the Maldives and Rome, and why there were no social media posts showing her at the Property, if that's where she claimed to live. Ms Zagarina's response was that she posted on social media when she did something of interest, like travelling abroad, and that the quantity of posts was because some items were re-posted. She explained that she did not post on social media when she was in her room at the Property because that would not be of interest. As to travelling to Northern Ireland and Russia, she stated that her partner lived with his parents in Northern Ireland, and she would visit him there some weekends. She would also visit family in Russia.

100. We also note Mr Barrett's submission that Ms Zagarina's bank statements show her account was registered to the Property throughout the period of her claim for an RRO. Although on its own this is not determinative, it corroborates Ms Zagarina's evidence, reinforcing our reasons at paragraphs 98 to 99 above, which collectively satisfies us that she occupied the Property as her only or main residence.

101. The Respondent complains that Ms Zagarina used the Property to register and operate a company without his consent, in breach of the lodger agreement, and which he states supports his position that she did not use the Property as a residence, but for administrative and commercial purposes. He states that when he confronted Ms Zagarina about this, she became aggressive, confrontational, and threatened him with legal action regarding his handling of her deposit and his alleged breach of licensing regulations. Ms Zagarina has exhibited these exchanges to her witness statement, and we do not find them aggressive or confrontational, she is merely seeking to assert her legal rights regarding the return of her deposit.

102. Ms Zagarina states that the company's registered address was her accountant's address, although she accepted that some correspondence was sent to her at the Property. We accept this evidence, and we do not find it amounts to misconduct to receive correspondence at her home addressing relating to a company she owned. We also do not find this amounts to using the Property for business purposes as the Respondent alleged.

Ms Pavlova's Occupancy

103. Amongst the Applicants, Ms Pavlova's agreement was entered into last. She states that her agreement commenced on 11th October 2023 and ended on 29th February 2024.

104. She states that she found the Property advertised on the Spareroom app, and she has exhibited exchanges with the Respondent prior to moving into the Property. For instance, in one exchange the Respondent states that he wishes to progress things so that he knows whether or not to remove the advertisement.

105. There is also an e-mail to her from the Respondent sent on 10th October 2023, with the subject heading: Landlord referencing. This requests she provides proof of her ability to afford the rent, a copy of her passport to confirm her right to rent, and an e-mail from her employer. He sends a further message the next day requesting payment of the rent and deposit.

106. They also exchange messages on 12th October 2023, with Ms Pavlova stating she'll be arriving at the Property in 15 minutes, the Respondent replies:

Do you need me today? Can you settle?

107. Ms Pavlova responds:

Oh I was thinking you were going to show me which space in the kitchen is mine and stuff.

108. We find the above exchanges between her and the Respondent provide persuasive contemporaneous evidence that she moved into the Property when her agreement commenced on 11th October 2023. We also accept her evidence that she lived at the Property with four others, and we note she provides all their names, which include Ms Zagarina and Ms Yashchenko. She further states that when Ms Zagarina moved out around two months after she moved in, someone named Anastasia replaced her. However, Ms Pavlova does not provide the date or approximate date that Anastasia moved in. Furthermore, from the exchanges between Ms Zagarina and the Respondent, it seems there was a void period. We note the Respondent e-mailed Ms Zagarina in around December 2023 that he had been unable to find someone to replace her.

109. To her second witness statement, Ms Pavlova has exhibited a WhatsApp message sent on 14th October 2023 with messages from the other occupants welcoming her to the Property. She has also exhibited to her first witness statement a WhatsApp group message dated 21st October 2023 with four other occupants who all have "Mellish Str" after their names.

110. We accept Ms Pavlova's direct evidence that when she moved into the Property she (and the other Applicants) was one of five occupants, particularly because her evidence is supported by contemporaneous welcoming WhatsApp message from the four other occupants. It is also consistent with the message she sent the Respondent on 12th October 2023 regarding being shown what space she could use in the kitchen.

111. Ms Pavlova states her rent was £1,100 per month, and she has provided bank statements showing the rent payments she made. She also states that she paid a deposit of £600 that was not returned to her. Again, this evidence was not challenged.

112. The written agreement Ms Pavlova exhibits is dated 30th December 2023, is expressed to commence 1st January 2024 for 4 weeks commencing 1st October

2024. Ms Pavlova states after she had moved into the Property and requested a written agreement, that was the agreement the Respondent sent to her.

113. The Respondent states at paragraph 30 of his first witness statement:

> "Ms Pavlova Never physically moved into the property and did not at any time reside at 123 Mellish St. When I enquired about her whereabouts, she responded via WhatsApp that she was not in the UK, stating simply: "I am not in the UK."

114. He states her primary residence was 53 Burrage Place, SE18.

115. As to the lodger agreement that Ms Pavlova exhibited to her first witness statement, the Respondent states this was provide at her request. In his first witness statement, he states:

> On 4 January 2024, while I was at work, Ms Yoana Pavlova contacted me urgently from abroad, demanding a "proof of rent agreement." At that time, Ms Pavlova had not moved into my home and was not residing at 123 Mellish Street, E14 SPJ. Given her known association with Ms Zagarina- who was operating a company from my residential address without my knowledge or consent -I found this request unusual and began to question her underlying motives.

116. The Respondent was asked why he provided the lodger agreement to Ms Pavlova, if according to him, she hadn't moved in. The Respondent answered that she asked for confirmation that she lived at the Property, she was paying the rent, but because she wasn't living there, he made clear the arrangement was temporary.

117. The Tribunal asked him how he knew Ms Pavlova had not moved into the Property. His response was that he had not seen her, and her room was empty. When asked how he knew her room was empty, he said because he had a key. When he was asked whether he used the key to enter her room, he denied doing so.

118. The Respondent's evidence regarding Ms Pavlova's occupancy continued (see paragraph 33 of his first witness statement):

> *Between approximately 15 January 2024 and 10 February 2024, Ms Yoana Pavlova was present at my home on a few occasions, often for only a few hours at a time, accompanied by different male visitors. During this period, she was engaging in sexual activity at my home, and the associated loud and intrusive noises caused considerable distress, embarrassment, and discomfort to me and other members of the household. This behaviour was inconsistent with the expectations of respectful cohabitation and the terms of the lodger agreement. When I raised my concerns with Ms Pavlova about the appropriateness of her conduct, she responded in a rude and dismissive manner Exhibit IA17.*

119. We reject the above allegation, and we note the Respondent did not put this allegation to Ms Pavlova during cross examination. Having found that the

Respondent did not live at the Property, we find he would not have any knowledge about Ms Pavlova's visitors, and this is not dealt with by any other witness, including the statements from Xue-er Sue and Ms Nahema that he relies on.

120. The Respondent states that when Ms Pavlova vacated her room on 29th February 2024, she left the room and en suite damaged.

121. Ms Pavlova disputes the Respondent's account of her occupancy. She states that she occupied the Property as her only or main residence. She accepts that she travelled to Bulgaria to visit family, and during the trip she was hospitalised. However, she otherwise states that she would sleep at the Property. She states that Burrage Road was her previous address, and when she gave notice to leave that address, she did not change her address with her bank, and continued paying rent for the Burrage Road address for two months after moving into the Property because that covered her notice period. We accept that as a credible explanation, noting that her bank transactions show around one rent payment for Burrage Road, although her oral evidence was, she continued paying rent at Burrage Road for two months. In any event, there is no evidence that she paid rent at Burrage Road throughout her occupancy of the Property, which supports her case that she did not occupy Burrage Road after she moved into the Property.

122. In his first witness statement, the Respondent initially deals with procedural matters that were addressed by the Tribunal's order dated 3rd and 20th June 2025. As to the substantive Application, he states that the Applicants were not tenants, but were lodgers occupying his home, where he also resided as a resident landlord. He denies they had exclusive access to the Property, and states that cleaning and laundry services were provided. He relies on a witness statement from Georgina Enache, who states she cleaned the Property every two weeks between September 2022 to May 2024. A typed schedule of cleaning dates and times is provided covering 11th January 2023 to 13th December 2023. No reason is given as to why she did not attend to provide evidence to the Tribunal.

123. A general complaint by the Applicants is that the respondent would conduct viewings without prior notice. However, as the viewings would only be of the shared areas and the room available to let, we do not consider there is any legal requirement for the Respondent to give prior notice.

Conclusions Regarding Occupants During the Period of the Claim

124. Based on the above, we find as follows:

124.1 From 20th February 2023 until 9th March 2023 there were five occupants living at the Property who occupied the Property as their only or main residence. Those occupants included Ms Yashchenko and Ms Zagarina (see paragraph 48 above).

124.2 From 11th October 2023 until 22nd December 2023 there were five occupants living at the Property who occupied the Property as their only or main residence. Those occupants included Ms Yashchenko, Ms Zagarina and Ms Pavlova (see paragraphs 109 to 110 above).

124.3 We are satisfied beyond reasonable doubt that the Respondent did not reside at the Property during the period of the claim (see paragraphs above).

125. During all other periods of the claim, we are not satisfied beyond reasonable doubt that the number of occupants at the Property resulted in an offence being committed under section 72(1).

The Legislation

126. Extracts from the Housing Act 2004 and the Housing and Planning Act 2016 are in the Appendix, however, it is convenient to set out the relevant provisions in section 254(2) here, which reads:

> *(4) A building or a part of a building meets the converted building test if—*
>
> *(a) it is a converted building;*
> *(b) it contains one or more units of living accommodation that do not consist of a self-contained flat or flats (whether or not it also contains any such flat or flats);*
> *(c) the living accommodation is occupied by persons who do not form a single household (see section 258);*
> *(d) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);*
> *(e) their occupation of the living accommodation constitutes the only use of that accommodation; and*
> *(f) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation.*

The Issues

127. In light of the above, the issues for the Tribunal to determine are as follows.

128. Whether the Respondent committed an offence under section 72(1) as a result of the following:

128.1 Being in control of or managing the Property;
128.2 Whether the Property was an HMO;
128.3 Whether a licence was required for the Property; and
128.4 If so, whether the Property had the required licence.

129. We need to determine whether we were satisfied beyond reasonable doubt that all the elements of the offence at paragraphs 61.1 to 61.4 above are met, during the period in which the offence was committed. We also need to consider whether we are satisfied on the balance of probabilities whether any guilty party has a defence to the commission of the offence under section 72(4) and/or 72(5) of the 2004 Act?

130. If an offence has been committed, the maximum amount of rent repayment order that can be ordered under section 44(3) of the 2016 Act.

131. Whether the Respondent had been responsible for the cost of any utilities at the Property.

132. The severity of the offence.

133. Any relevant conduct of the guilty party or parties, the Respondent's financial circumstances, whether she has any previous convictions of a relevant offence, and the conduct of the Applicants to which the Tribunal should have regard in exercising its discretion as to the amount of the rent repayment order.

The Tribunal's Decision and Reasons

134. The Tribunal reached its decision after considering the parties' oral and written evidence, including documents referred to in that evidence, and taking into account its assessment of the evidence.

135. As stated, the relevant legal provisions are set out in the Appendix to this decision.

The offence under section 72(1) Housing Act 2004

136. The Tribunal is satisfied beyond reasonable doubt that all the elements of the offence under section 72(1) are proved against Respondent as set out at paragraphs 137 to 156 below.

Control of or Managing the Property

137. We find that the Respondent was in control of the Property as defined by section 263(1), which states a person is in control of premises where they receive the rack-rent either directly or indirectly.

138. We also find that the Respondent was a person managing the Property as defined by section 263(3), which states a person manages premises where they are an owner or lessee of the premises, and they receive the rack-rent either directly, or indirectly through an agent.

139. The Respondent is the freehold owner of the Property; a copy of the freehold title registered in his name is in the Applicants' hearing bundle. He received rent for the Property directly from each Applicant. They have provided proof

that they paid the rent, and the Respondent has not disputed the payment information they have provided.

Whether the Property is an HMO

140. We are satisfied beyond reasonable doubt that the Property meets the standard test, and is therefore an HMO as defined by section 254(2), for the following reasons:

141.1 The Property consists of five en suite rooms, namely two on the ground floor and three on the first floor.

141.2 During the periods that we have found an offence was committed, we are satisfied that the Property was occupied by five individuals, who were all separate households. The evidence establishes that each occupier was a separate household.

141.3 Alternatively, from 20th February 2023 to 9th March 2023, it is common ground that there were at least three separate agreements. Namely, Ms Yashchencko's agreement commencing 5th November 2022, Ms Zagarina's agreement commencing 20th February 2023, and one or more agreements in relation to the other occupiers. We find that this establishes there were at least three separate households.

141.4 Again, from 11th October 2023 to 22nd December 2023, it is common ground that there were multiple separate agreements. Namely, Ms Yashchencko's agreement commencing 5th November 2022, Ms Zagarina's agreement commencing 20th February 2023, Ms Pavlova's agreement commencing 11th October 2023, and one or more agreements in relation to the other occupiers. We find that this establishes there were at least four separate households.

141.5 All the Applicants confirm in their witness statements that they occupied the Property as their only or main residence. Our findings in favour of the Applicants on this point are set out above.

141.6 Their occupation of the Property was the only use of the accommodation. This was largely unchallenged, except that the Respondent alleged Ms Zagarina used the Property for business purposes. However, as stated, we accept Ms Zagarina's evidence that as regards her company, the Property was used for correspondence, and the registered address for her company was her accountant.

141.7 The Applicants have provided confirmation that they paid rent to occupy the Property, and the Respondent has not challenged this point.

141.8 We have found that all occupants shared cooking facilities.

141. The Respondent argues the Property is not an HMO as defined by section 254(3), however, that provision applies to a part of a building that meets the "self-contained flat" test. Therefore, it does not apply in this case because the Property is a house, and in any event, we find it meets the criteria for an HMO under the "standard test" at section 254(2).

Was a Licence Required

142. At paragraph 147 below we have concluded the Property met the requirements of paragraph 4 of the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018. Having also found the Property is an HMO as defined by sections 254(2) (see above), we are therefore satisfied that the Property required a licence under section 61.

143. Neither exemption at subsection 61(1)(a) or subsection 61(1)(b) applies. It is common ground that even if the Respondent was a resident landlord, which we find he was not, that would not provide an exemption.

Whether there was a licence for the Property

144. It is also agreed between the parties that Tower Hamlets granted an Additional HMO Licence with effect from 6th January 2023, and it is also agreed that during the period of the claim no Mandatory HMO Licence had been granted. That is also confirmed by an e-mail sent by Tower Hamlets to the Applicants' representatives on 24th September 2024, in response to an enquiry as to whether there had been any HMO licence applications, Tower Hamlets responded it had received an application, and granted, an Additional HMO Licence. No mention is made of a Mandatory HMO Licence.

145. Although the Respondent's position is that a Mandatory HMO Licence was not required, we find that the criteria at section 254(2) applied in this case, meaning a Mandatory HMO Licence was required.

146. Part 2 of the Housing Act 2002 deals with the licensing of houses in multiple occupation. Amongst its provisions, section 55(2) states that Part 2 applies to any HMO in the authority's district which falls within any prescribed description of HMO.

147. By paragraph 4 of the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018, an HMO is of a prescribed description if it is occupied by at least five individuals, who form two or more separate households, and it is an HMO as defined by sections 254(2), 254(3) or 254(4). We have found that the Property satisfies section 254(2).

148. At paragraph 16 of his skeleton argument the Respondent submits (original emphasis):

*149. The Respondent's evidence (Exhibits **IA3, IA30)** shows **Tower Hamlets** granted an **Additional HMO licence for** the property from **6 January 2023 to 5 January 2028,** authorising occupation parameters. Where a valid licence is in force there can be **no offence** under **s. 72** (cf. principle in Dollond v Secretary of State for Housing). On this basis alone, the jurisdictional gateway falls.*

150. The Respondent also makes this submission in his written closing submissions. He argues that an offence under section 72(1) is committed where a landlord has control or manages premises without any HMO licence issued under Part 2 of the 2004 Act. Therefore, he maintains, because he had an Additional HMO Licence, issued under Part 2, he could not be guilty of an offence.

151. This line of argument is set out at paragraph 6 of the Respondent's closing submissions as follows:

152. Section 55 (6) HA 2004 provides that references to a licence in Part 2 or to "a licence under this Part". Read with ss.61-72, an HMO is "licenced under this Part" where a Part-2 licence (mandatory or additional) is in force in respect of it. The statute draws no distinction, for this purpose, between "mandatory" and "additional" licences; both are Part- 2 licences.

153. We reject these submissions.

154. Even though the Property had an Additional HMO Licence from 5th January 2023, we consider the matters set out at paragraphs 137 to 156 herein above is sufficient to establish beyond reasonable doubt that the Property in fact required a Mandatory HMO licence. An offence would not be committed if the Respondent had a Mandatory HMO Licence, but between 20th February 2023 to 9th March 2023, and from 11th October 2023 to 22nd December 2023 it did not have such a licence. The fact that he had an Additional HMO Licence does not exempt him from the requirement to obtain a Mandatory HMO Licence.

155. We find that the offence under section 72(1) relates to managing or being in control of premises which require a Mandatory HMO Licence but where such a licence has not been obtained. That is because section 72(1) applies where "… an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed."

156. Sections 61 and 62 are set out under the heading: "HMOs required to be licensed". In other words, they deal with mandatory HMOs. It follows that the reference in section 72(1) to an offence being committed relates to an

offence being committed in respect of 61(1), namely, being in control of and/or managing a mandatory HMO.

157. In their Application, the Applicants argue that by exceeding the terms of the Additional HMO Licence by renting rooms to more than 4 occupants comprising more than 3 households, the Applicants are entitled to a RRO on that basis. We disagree, and we accept the Respondent's submission on this point. The offences for which an RRO may be made are set out at section 40 of the Housing and Planning Act 2016. Those offences include section 72(1), but section 72(2) is not listed as an offence for which an RRO may be made. Therefore, although we find the Respondent has breached the terms of the Additional HMO Licence, we do not consider that provides any legal basis to make an RRO.

Reasonable Excuse

158. We have considered whether any of the points raised by the Respondent may amount to a reasonable excuse. We take into account that the Respondent needs to establish on a balance of probabilities (and not beyond reasonable doubt), that a reasonable excuse defence is available to him.

159. The Respondent argues that because he had an Additional HMO Licence, that amounts to a reasonable excuse providing a defence to the offence. He submits, this is because the Additional HMO Licence was in force throughout the period of the RRO claim, he had proactively engaged with Tower Hamlets and has complied with all safety requirements.

160. We do not accept that this amounts to a reasonable excuse. That is because the offence was committed, as set out at paragraphs 137 to 156 above, and the Respondent has not explained why, notwithstanding the commission of the offence, his proactive engagement, compliance, and obtaining the wrong licence should provide a reasonable excused to the offence.

161. We also do not accept that the other matters raised by the Respondent in resisting the Application amount to a reasonable excuse.

162. Therefore, we do not consider these matters, nor any other issues in this case amount to a reasonable excuse. Accordingly, the Respondent has failed to establish on the balance of probabilities that he has a defence to the application.

163. In the circumstances, having found that the Respondent committed an offence under section 72(1), we also find it is appropriate to exercise our discretion by making a rent repayment order, there being no exceptional circumstances that would justify refusing to make the order.

Amount of the Rent Repayment Order

164. In its decision in *Acheampong v Roman and others* [2022] UKUT 239 (LC), the Upper Tribunal recommended a four-stage approach to determine the amount of the rent repayment order, that approach is summarised as follows:

    166.1 Ascertain the whole of the rent for the relevant period;

    166.2 Subtract any element of that sum that represents payment by the landlord for utilities that only benefited the tenants;

    166.3 Consider how serious this offence was, both compared to other types of offence in respect of which a rent repayment order may be made and compared to other examples of the same type of offence; and

    166.4 Consider whether any deduction from, or addition to, that figure should be made pursuant to section 44(4) of the 2016 Act in the light of the parties' conduct, the landlord's financial circumstances and whether the landlord has previously been convicted of an offence to which Chapter 4 of the 2016 Act applies.

165. The Tribunal has adopted the approach recommended in *Acheampong v Roman and others*.

166. We also take into account that, once the offence has been proved beyond reasonable doubt, any facts that are relevant to a reasonable excuse defence or the amount of an RRO, must be proved on the balance of probabilities, and need not be proved beyond reasonable doubt.

The Whole of the Rent Paid

167. In each case, an RRO has been made for a shorter period than the period being claimed, and by section 44(2) it can only be made for rent during the period for which we have found an offence was committed.

168. In most cases, the Applicants have provided bank statements confirming they paid rent to the Respondent during the periods they claimed. Ms Yashchenko is the exception.

169. In Ms Yashchenko's case, Mr Barrett clarified at the hearing that the period she is claiming for is from 22nd December 2022 until 22nd December 2023. This is supported by paragraph 8(3) of the amended grounds of the application, which mistakenly duplicates Ms Pavlova's name.

170. The bank statements exhibited by Ms Yashchencko do not cover the entire period she is claiming for. The earlier bank statements cover the period from 1st November 2022 to 30th November 2022, showing one rent

payment made to the Respondent on 5th November 2023 for £1,200. £600 was also made to the Respondent on 5th November 2023, which we take to be the deposit. The only other bank statements provided cover 3rd November 2023 to 10th December 2024, showing £1,200 was paid to the Respondent on 5th November 2023, and again on 5th December 2023.

171. Based on our findings that an offence was committed from 22nd February 2023 to 9th March 2023 and from 11th October 2023 to 22nd December 2023, in principle, Ms Yashchencko could recover an award for either of the above periods.

172. However, having decided an offence was committed and that a RRO should be made, that would be defeated by making the RRO for the earlier period in which we have found an offence would be committed. Because without proof of Ms Yashchenko's rent payments during that period we would be unable to calculate the amount she paid, making it impractical to award an RRO, which in turn would undermine our determination that a RRO should be made. For that reason, we have made an RRO for that part of the later period an offence was committed for which we have proof of rent payments.

173. Based on the Applicants' bank statements that have been provided, we find they paid the following amounts during the later period of the offence:

174.1 Ms Zagarina relevant payments amounted to £2,200 payments. The total amounts paid during the period of the offence were as follows:
(i) £1,100 on 1st November 2023; and
(ii) £1,100 on 22nd November 2023.

174.2 Ms Zagarina's occupancy covers both periods during which we have found an offence was committed. For consistency, we have made Ms Zagarina's award in respect of the later period so that it coincides with the period of awards made to Ms Pavlova and Ms Yashchenko.

174.3 We find Ms Pavlova paid rent of £3,533 comprising:
(i) £1,333.00 paid on 13th October 2023;
(ii) £1,100.00 paid on 2nd November 2023; and
(iii) £1,100.00 paid on 2nd December 2023.

174.4 Ms Pavlova has explained she paid £1,333.00 on 13th October 2023 as rent as future monthly instalments were due on the 1st of each month.

174.2 Based on the bank statements provided, Ms Yashchenko paid £2,400 comprising:
(i) £1,200 on 5th November 2023; and
(ii) £1,200 on 5th December 2023.

Utilities

175 Having calculated the whole of the rent paid during the period for which an RRO will be made, as evidenced by each Applicants' bank statements, the next issue is what sum, if any, is to be deducted for utilities. Following the decision regarding deductions in *Vadamalayan v Stewart and others [2020] UKUT 183 (LC)*, the Upper Tribunal in *Acheampong v Roman* stated (at paragraph 9):

> *…where the rent includes payments for utilities (which the tenant consumes and which do not benefit the landlord) it will usually be appropriate to deduct a sum representing that payment; a sum the tenant pays the landlord for utilities is not really rent.*

176 While noting it will usually be appropriate to do so, we do not consider this is authority a deduction must be made in every case where the landlord pays for utilities. And we note in *David v Hancher [2022] UKUT 277 (LC),* the Upper Tribunal declined to make any deduction for utilities where the landlord had failed to provide any information regarding the amount spent on utilities. Despite the various arguments and documents advanced by the Respondent, we have not been provided with any adequate documentary evidence that would enable us to calculate an appropriate amount to be deducted. The Respondent offered to submit this evidence after the hearing, but we did not allow this for several reasons. Firstly, the final hearing is when the evidence should be presented and tested by the parties. Secondly, the hearing was listed for 12th August 2025, it could not be completed on that day, in part due to the number of procedural applications made by the Respondent, all of which were dismissed. In trying to arrange the reconvened meeting, the Respondent provided very limited availability. The re-listing on 28th November 2025 was one of a few days in which he stated he was available. To delay these proceedings to allow a further opportunity to adduce evidence, which the Applicants would have a limited opportunity to challenge would be contrary to the interests of justice. Therefore, as in the David v Hancher case, without evidence of the cost of the utilities, we make no deduction for utilities.

The Appropriate Amount of the Rent Repayment Order

177 The Applicants are seeking repayment of the total amount of rent paid in respect of the Property during the period of the offence based on the amounts set out in their skeleton argument.

178 The Respondent's primary position is that a rent repayment order should not be made. His alternative position is that the amount awarded for any rent repayment order made should be zero.

179 In fixing the appropriate sum the Tribunal had regard to *Acheampong v Roman and others* and the decision in *Hallett v Parker [2022] UKUT 165*

(LC). We have also taken into account that proper enforcement of licensing requirements against all landlords, good and bad, is necessary to ensure the general effectiveness of the licensing system and to deter evasion.

180 Regarding the seriousness of the offence in this application, namely being in control of or managing an HMO without a licence, we find this is at the lower end when compared to other offences for which a rent repayment order may be made.

181 We have also considered the seriousness of the offence committed in this case compared to other cases of the same offence.

The Respondent's Conduct

182 We find that the mitigating features of the offence are that, firstly, the Respondent has no prior convictions for any licencing offences. We accept his unchallenged evidence on that issue.

183 We also find that although there were exceptions, there was a degree of regulatory compliance, in that the relevant gas safety and electrical inspections had been carried out. We are also satisfied on the balance of probabilities that there were adequate fire safety measures because Tower Hamlets stated this to be the case in its e-mail to the Respondent sent on 11th December 2024. We also take into account that the photographs of the Property indicate it repairs and maintenance were dealt with adequately.

184 The maintenance issues reported to the Respondent appear to have been dealt with in a reasonable period of time, such as Ms Zagarina reporting heating issues. Ms Yashchenko states that, except for the stained mattress, the other complaints she made at the start of her occupancy were dealt with within one week, which we find to be a reasonable period. Although Ms Yashchencko states he did not deal with the mattress, we do not consider that is sufficient result to increase the amount awarded based on the condition of the Property.

185 Ms Yashchenko refers to there being mould in the kitchen, but this was not reported to the Respondent, we do not consider any failure to address that would amount to misconduct. Ms Pavlova states she reported mould in her bathroom to the Respondent, but she does not expressly state he failed to remedy it within a reasonable period. Therefore, taking into account there has been a degree of regulatory compliance, and the condition of the Property, we consider it is likely that, if the Respondent had applied for a Mandatory HMO Licence one would have been granted.

186 In light of the above, we find the condition of the Property was safe and well maintained.

187 We find the Respondent's failure to protect the Applicants' deposits to be unlawful. We also find the consequent failure to return Ms Zagarina and Ms Pavlova's deposits without any independent adjudication to be unacceptable. We reject his account that he did not protect the deposits because he believed they were lodgers; as stated below, we find the lodger agreements were sham agreements. While one deposit was returned, it was nonetheless irregular to fail to protect them.

188 Additionally, there are a number of matters which we find are aggravating factors. The most serious is that we find the Respondent has deliberately sought to evade the licencing requirements. By deliberate, we mean that, we are satisfied that he was aware of the licensing regime, not least because he obtained an Additional HMO Licence in January 2023. Furthermore, although we note that breaching the Additional HMO Licence, which we found the Respondent has done, is not an offence, we consider this additional breach of the licensing regime is an aggravating feature. Furthermore, the Respondent was aware or ought to have been aware that he breached the Additional HMO Licence, and to that extent, the breach was deliberate.

189 We also find broader aspects of the Respondent's conduct warrant criticism. For instance, by issuing the Applicants with lodger agreements, and claiming to be a resident landlord, the latter we find to be fabrication, he has also sought to rely on these sham agreements in these proceedings.

190 Our finding of fact is that the Respondent is not a resident landlord. Our legal conclusion as to whether the Applicants were tenants or lodgers (i.e. licencees), is that they were tenants. We have taken into account that each of them signed an agreement described as a "lodger agreement", but it is well-established that it is the substance of the agreement between the parties, and not the label attached to it, that determines whether an agreement is a tenancy or a licence, and in this case, we are satisfied the Applicants were granted tenancies.

191 Our reasons for finding the Applicants were tenants are firstly, we find that each had exclusive possession of their individual rooms. Although their agreements purportedly did not grant exclusive occupation, in reality, the Applicants had exclusive occupation. It is common ground that each room had a lock, only the occupier and the Respondent had the key. However, the Respondent does not appear to have used the key. For instance, when asked about whether he had entered Ms Pavlova's room to establish whether or not she had moved in, the Respondent stated he had not. Furthermore, when he planned visits to check on maintenance issues affecting their rooms, he sought their permission. For instance, there is an exchange between Ms Zagarina and the Respondent regarding heating, and he sends a message on 6th October 2023 asking if he can inspect it. That he is asking Ms Zagarina whether he can inspect, is evidence that she has exclusive possession.

192 He also states that by providing a cleaner denied the Applicants exclusive possession. However, even on the Respondent's case, the cleaner was hired to clean the communal areas only, not the individual rooms. Accordingly, even if there was a cleaner, that would not prevent the Applicants having exclusive possession.

193 For completeness, we reject the Respondent's account that he provided a cleaner. Although he relies on the evidence of the cleaner, that evidence is provided in a witness statement only. The cleaner did not attend the final hearing to give evidence, and no explanation was given for this non-attendance. Furthermore, the direct evidence from Ms Zagarina and Ms Pavlova that there wasn't a cleaner, is supported by the contemporaneous evidence of the cleaning rota. There would be no need for a cleaning rota if there was a cleaner for the communal areas.

194 We also find the Respondent's claim that the Applicants did not occupy the Property as their only or main residence to be ill-founded. Having found that he was not a resident landlord, it is implausible that he can know which nights they were at the Property and which nights they were not. For instance, his claim that Ms Pavolva did not move into the Property when her agreement commenced (and despite the contemporaneous evidence to the contrary), and that she was only present at the Property between 15th January 2024 to 10th February 2024 to be without foundation.

195 We also find the implication arising from his allegation at paragraph 118 above regarding Ms Pavlova to be false and objectionable.

196 Finally, regarding the various communications sent to Ms Yashchenko seeking to pressurise her to discontinue her application against him is to be criticised. We use word "pressurise" deliberately, because that reflects the number and timing of his communications. We also consider it was unconscionable to try to exploit the fact that Ms Zagarina is Russian, whereas Ms Yashchenko is from Ukraine. He expressly relied on the current conflict between these two countries as a reason why Ms Yashchenko should not participate in an application initially brought by Ms Zagarina (together with Ms Pavlova).

<u>The Applicants' Conduct</u>

197 Regarding the Applicants' conduct, we find they behaved appropriately, for instance, they paid their rent. We reject the Respondent's claims regarding their misconduct, and we accept their evidence denying these allegations. For instance, we do not find Ms Zagarina's e-mails sent in around December 2023 to be inappropriate, we accept Ms Yashchencko's evidence that she left her room in a good condition when she vacated, which is supported by the Respondent returned her deposit in full. Our findings regarding the allegations against Ms Pavlova are dealt with above.

Our Conclusions on the Amount of the RRO

198 We have taken into account the above conduct when deciding on the amount of the rent repayment order, and we have had regard to paragraphs 47 to 56 of the Upper Tribunal's decision in *Newell v Abbott [2024] UKUT 181 (LC)*. Paragraph 47 of that decision includes the following:

199 *It is an important part of this Tribunal's function to promote consistent decision making. It is relevant therefore to consider those cases involving licensing offences in which the level of rent repayment has been determined by the Tribunal. Each case is different and in each case the decision maker must exercise their own discretion, but the pattern of decisions in other cases is a necessary point of reference and a relevant factor to which regard should be had.*

200 From this, we considered the case summaries at paragraphs 48 to 56 of *Newell v Abbott* provide helpful guidance as to where in this case, the amount of the rent repayment order may lie, when compared to other cases. However, we are also mindful of the Deputy President's guidance that *"…each case is different and in each case the decision maker must exercise their own discretion…"*.

201 In deciding on the appropriate amount of a rent repayment order, we need to take the Respondent's financial circumstances and any other relevant mitigation into account.

202 The Respondent has put forward personal mitigation in relation to his finances. However, Mr Barrett argues, the information is limited, and he highlights that while the Respondent has provided no information about his earnings, he submits the Respondent receives around £66,000 in rental income per annum. We accept the thrust of Mr Barrett's submission, namely that, without information regarding the Respondent's income, it is not possible to assess his financial circumstances based on the limited information relating to debts that he has provided. Consequently, we have insufficient information to decide whether a deduction is appropriate based on the Respondent's financial circumstances, and if so, how much. We therefore make no reduction.

203 In *Newell v Abbott* the Upper Tribunal's assessment of RRO awards included the following cases:

205.1 In Aytan v Moore [2022] UKUT 27 (LC) a RRO of 85% was made for the failure to licence an HMO owned by landlords with a substantial property portfolio, that had engaged managing agents.

205.2 An RRO of 80% was made in Simpson House 3 Ltd v Osserman [2022] UKUT 164 (LC), which also involved a substantial property

investment company that had engaged managing agents to let an HMO in good condition but failed to obtain the necessary licence. There was some misconduct such serving notice to quit when the tenants asserted their rights, and making baseless threats to forfeit the tenants' deposits if they did not move out.

206 Although the circumstances in these cases are not identical to the present case, they seem the most comparable cases when considering the seriousness of the offence. The main difference is that we have no evidence regarding the extent of the Respondent's property portfolio. As far as we are aware, the Property may be the only accommodation he rents out. However, in the above cases, the fact that the landlords instructed agents is a mitigating feature that is not present in this case, where we have found that the Respondent deliberately sought to evade the licensing requirements. Aside from this, there are similarities between this case and the others. For instance, the Property is in Osserman was in good condition, and there was also misconduct which we have found to be the case here.

207 In light of the above cases, we consider an RRO of 75% is appropriate in this case.

208 Accordingly, the amount of the rent repayment order is as follows:

208.1 £1,650 to Ms Zagarina;
208.2 £2,649.75 to Ms Pavlov; and
208.3 £1,800 to Ms Yashchenko.

207 The Tribunal would remind the parties that it does not have the power to order the payment of the rent repayment order. It can only determine the amount of the rent repayment order.

Name: Judge Tueje **Date:** 26th January 2026

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).

Appendix of Relevant Legislation Housing Act 2004

72 Offences in relation to licensing of HMOs

(1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.

(2) A person commits an offence if–

(a) he is a person having control of or managing an HMO which is licensed under this Part,

(b) he knowingly permits another person to occupy the house, and

(c) the other person's occupation results in the house being occupied by more households or persons than is authorised by the licence.

(3) A person commits an offence if–

(a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 67(5), and

(b) he fails to comply with any condition of the licence.

(4) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time–

(a) a notification had been duly given in respect of the house under section 62(1), or

(b) an application for a licence had been duly made in respect of the house under section 63,

and that notification or application was still effective (see subsection (8)).

(5) In proceedings against a person for an offence under subsection (1), (2) or (3) it is a defence that he had a reasonable excuse–

(a) for having control of or managing the house in the circumstances mentioned in subsection (1), or

(b) for permitting the person to occupy the house, or

(c) for failing to comply with the condition,

as the case may be.

(6) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine.

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

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

(7B) 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.

(8) For the purposes of subsection (4) a notification or application is "effective" at a particular time if at that time it has not been withdrawn, and either–

(a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or

(b) if they have decided not to do so, one of the conditions set out in subsection (9) is met.

(9) The conditions are–

(a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of the appropriate tribunal) has not expired, or

(b) that an appeal has been brought against the authority's decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.

(10) In subsection (9) *"relevant decision" means* a decision which is given on an appeal to the tribunal and confirms the authority's decision (with or without variation).

Housing and Planning Act 2016

40 Introduction and key definitions

(1)This Chapter confers power on the First-tier Tribunal to make a rent repayment order where a landlord and committed an offence to which this Chapter applies.

(2) A rent repayment order is an order requiring the landlord under a tenancy of housing in England to –

(a) repay an amount of rent paid by a tenant, or

(b) pay a local housing authority an amount in respect of a relevant award of universal credit paid (to any person) in respect of rent under the tenancy.

(3) A reference to "an offence to which this Chapter applies" is to an offence, of a description specified in the table, that is committed by a landlord in relation to housing in England let to that landlord.

	Act	*section*	*general description of offence*
1	Criminal Law Act 1977	section 6(1)	violence for securing entry
2	Protection from Eviction Act 1977	section 1(2), (3) or (3A)	eviction or harassment of occupiers
3	Housing Act 2004	section 30(1)	failure to comply with improvement notice
4		section 32(1)	failure to comply with prohibition order etc
5		section 72(1)	control or management of unlicensed HMO
6		section 95(1)	control or management of unlicensed house
7	This Act	section 21	breach of banning order

(4) For the purposes of subsection (3), an offence under section 30(1) or 32(1) of the Housing Act 2004 is committed in relation to housing in England let by a landlord only if the improvement notice or prohibition order mentioned in that section was given in respect of a hazard on the premises let by the landlord (as opposed, for example, to common parts).

41 Application for rent repayment order

(1) A tenant or a local housing authority may apply to the First-tier Tribunal for a rent repayment order against a person who has committed an offence to which this Chapter applies.

(2) A tenant may apply for a rent repayment order only if –

(a) the offence relates to housing that, at the time of the offence, was let to the tenant, and

(b) the offence was committed in the period of 12 months ending with the day on which the application is made.

43 Making of a rent repayment order

(1) The First-tier Tribunal may make a rent repayment order if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which this Chapter applies (whether or not the landlord had been convicted).

(2) A rent repayment order under this section may be made only on an application under section 41.

(3) The amount of a rent repayment order under this section is to be determined in accordance with –
(a) section 44 (where the application is made by a tenant);

44 Amount of order: tenants

(1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 in favour of a tenant, the amount is to be determined in accordance with this section.

(2) The amount must relate to rent paid during the period mentioned in the table.

If the order is made on the ground that the landlord has committed	***the amount must relate to rent paid by the tenant in respect of***
an offence mentioned in row 1 or 2 of the table in section 40(3)	the period of 12 months ending with the date of the offence
an offence mentioned in row 3, 4, 5, 6 or 7 of the table in section 40(3)	a period, not exceeding 12 months, during which the landlord was committing the offence

(3) The amount that the landlord may be required to repay in respect of a period must not exceed—

(a) the rent paid in respect of that period, less

(b) any relevant award of universal credit paid (to any person) in respect of rent under the tenancy during that period.

(4) In determining the amount the tribunal must, in particular, take into account—

(a) the conduct of the landlord and the tenant,

(b) the financial circumstances of the landlord, and

(c) whether the landlord has at any time been convicted of an offence to which this Chapter applies.