FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00BE/HMF/2025/0787**
Property	**:**	**2 Whitworth House** **Falmouth Road** **Southwark** **London SE1 6RW**
Applicants	**:**	**Lola Caputo (1)** **Imogen Crossley (2)** **Jenna Masoomzadeh (3)**
Representative	**:**	**Eva Sherratt, Counsel** **Justice for Tenants** **Ref: 35312**
Respondent	**:**	**Nicholas Jollie**
Representative	**:**	**In person**
Type of application	**:**	**Application for Repayment Order by tenants** **Sections 40, 41, 43 & 44 of the Housing & Planning Act 2016**
Tribunal members	**:**	**Valuer Chairman I B Holdsworth FRICS** **Tribunal member A Morrison MRICS**
Date and venue of Hearing	**:**	**18 February 2026** **10 Alfred Place, London WC1E 7LR**
Date of Decision	**:**	**16 March 2026**

DECISION

Decisions of the Tribunal

a. The Tribunal is satisfied on the evidence before it that grounds exist to make a Repayment Order.

b. The Tribunal makes an Order in the sum of **£19,464.96.**

c. The Tribunal directs that the following payments be made to the Applicants:

(i) Lola Caputo **£ 5,886.83**

(ii) Imogen Crossley **£6,789.06**

(iii) Jenna Masoomzadeh **£ 6,789.06**

d. The Tribunal makes an Order for the reimbursement of the application and hearing fees in the sum of £341.00.

1. The application

1.1 By application received by Tribunal dated 5 May 2025, the Applicants sought a Rent Repayment Order ('RRO') pursuant to s.41 of the Housing and Planning Act 2016 ('the 2016 Act').

1.2 The application was made on the grounds of the offence of having control of or managing a unlicenced house in multiple occupation ('HMO') under Part II, section 72, subsection 1, Housing Act 2004 ('the 2004 Act'), which is an offence under section 40, subsection 3 of the 2016 Act.

1.3 The Applicants were all residents at 2 Whitworth House, Falmouth Road, Southwark, London SE1 6RW (**'the Property'**), during the period September 2023 to 31 August 2024, pursuant to an assured shorthold tenancy agreement ('**AST'**). The rent payable under the AST having been £2,700 per month.

1.4 The Tribunal was told that the Respondent was the owner/lessee of the Property, as confirmed through his witness statements.

1.5 Neither the Applicants nor Respondent requested an inspection of the Property, and the Tribunal did not carry out such, as it was not considered proportionate to deal with the application.

2. The hearing

2.1 The Tribunal issued Directions on 20 August 2025.

2.2 The matter was listed for an oral heating, which took place on 18 February 2026.

2.3 The Applicants: Lola Caputo (1), Imogen Crossley (2) and Jenna Masoomzadeh (3), appeared in person as witnesses and were represented by Eva Sherratt, Counsel from Justice for Tenants.

2.4 The Respondent Mr Nicholas Jollie attended and appeared as a Litigant in Person.

2.5 Preliminary matters

2.5.1 The Applicants had submitted an Order Form 1, on 12 February 2026, as an application to debar the Respondent's bundle of evidence.

2.5.2 The Directions issued on 20 August 2025 required the Respondent's bundle to be submitted to Tribunal by 31 October 2025. Tribunal e-mailed the Respondent on 12 November 2025, to remind him that his bundle had been due for delivery by 31 October 2025 and asked that he deal with the matter urgently.

2.5.3 The Respondent subsequently requested an extension of time on 17 December 2025 but did not give any justified reasons for such a request. The request for an extension of time was declined by the Tribunal.

2.5.4 On 5 February 2026, Justice for Tenants e-mailed the Respondent to remind him that they had still not received his bundle and enquired as to whether the bundle had been submitted to Tribunal. The Respondent responded to the email on 7 February 2026 but still failed to submit his bundle.

2.5.5 On 12 February 2026 a 121-page bundle was received by both Tribunal and Justice for Tenants for the Applicants.

2.5.6 Counsel for the Applicants advised the Tribunal that submission of a bundle three-days before a hearing provided insufficient time to comprehensively examine the same and prepare a response to the Respondent's evidence. Counsel said it would be neither fair not just, in accordance with Rule 3 of the Tribunal's Rules, for the Applicants to be penalised by such late submission, when the Respondent had been given ample time, together with a number of reminders, to submit his bundle in a timely fashion in accordance with the August 2025 Directions.

2.5.7 The Respondent said in the months prior to the hearing he had been distracted and unable to focus on preparation of his bundle, as he had suffered a bereavement and this had taken up much of his time.

2.5.8 The Tribunal asked the Respondent why he had not brought this matter to its attention at an earlier stage and discuss the difficulties he was facing in complying with the Directions. The Respondent provided no credible answer to this question.

2.5.9 The Respondent asked that two late submissions of supplementary evidence presented on behalf of the Applicants also be excluded from consideration at the hearing.

2.5.10 Tribunal's decision on the preliminary matters

2.5.10.1 The Tribunal was unable to discern any meaningful reasons for the Respondent's numerous failings to comply with the Directions issued on 20 August 2025, some six-months prior to the date of the hearing. The Respondent's behaviour was in flagrant disregard of the Tribunal's authority.

2.5.10.2 The Tribunal concluded there were no cogent reasons to justify late submission of the 121-page Respondent's bundle and that the Applicants would be prejudiced were Tribunal to have done so. Conversely, the Applicants had complied in full of the Tribunal's Directions.

2.5.10.3 The Tribunal reviewed the late submission of the Applicants' supplementary evidence submitted to the parties several days before the hearing. This was considered to be unnecessary and unjustified, offering the Respondent inadequate time to consider and review the additional evidence.

2.5.10.4 It was for these reasons Tribunal determined that the Respondent's 121-page bundle which was submitted three-days before the hearing would be debarred. Similarly, the additional evidence submitted by Counsel on behalf of the Applicants after 6 February 2026 was also precluded.

2.6 Matters agreed by the parties

2.6.1 The Respondent in his skeleton argument acknowledged that he had committed the offence of controlling an unlicenced HMO, during the period 1 September 2023 to 31 August 2024. He gave an oral affirmation of this written statement at the hearing. He also confirmed at the hearing the rental payments made by the Applicants 1-3 shown at Annex D ('AD') (pp.72-76) were received by him during the dispute period.

2.6.2 Based on the evidence presented to the Tribunal it concluded that the Respondent had admitted the alleged offence as the owner/lessee of the Property and that during the period in dispute a sum of £28,348.42 had been paid by way of rent to him.

2.6.3 Accordingly, the Tribunal was satisfied that the grounds existed to make a Rent Repayment Order and the only matter to be determined was the quantum of that Order.

3. Respondent's case

3.1 The Tribunal heard evidence from the Respondent that he had a reasonable excuse for his failure to licence the Property as a HMO. He said he had suffered from severe incapacity due to an accident, which had caused chronic pain and insomnia. He also said he received an ADH diagnosis. No evidence was submitted to Tribunal to verify either of these assertions.

3.2 The Respondent also said he had failed to identify the need for licencing of the Property as he had referred to a weblink that detailed the London Borough of Southwark's ('LBofS') historic standards for licencing of HMOs. It was suspected the Respondent had inadvertently accessed the 2015 licencing scheme standards and not those for the relevant period in dispute.

3.3 The Tribunal are aware it is the responsibility of a landlord or managing agent to ensure they are appraised of the correct and relevant information in respect of HMO licencing.

3.4 The Respondent claimed he was incumbered by a serious fraud investigation, but no supporting evidence was adduced. The cross examination revealed his collation and submission of evidence took place prior to letting of the Property and at the end of the period in dispute. The Respondent was unable to explain why these obligations prevented him from appropriately managing the Property.

3.5 The Respondent claimed he was a diligent and committed landlord, who had addressed any difficulties and problems presented by his tenants. He said he had devoted much time to resolution of a leak from a flat above the Property.

3.6 The issue of financial hardship was raised and that a significant RRO would cause the Respondent much personal difficulty. The Respondent criticised the Applicants' behaviour, stating that they knew from commencement of the AST that the Property was not a licenced HMO. He disputed the veracity of some of the comments made by the Applicants.

4. <u>The Applicants' case</u>

4.1 The Applicants as tenants of the Property were called as witnesses, to evidence the quality of the Property and adequacy of the Respondent as a landlord.

4.2 The Applicants were critical of the Respondent's property management, in particular referring to the difficulties caused by a defective shower, inadequate fire/heat/carbon monoxide detection and his failure to respond expeditiously to other property problems.

4.3 Counsel for the Applicants emphasised that the 'reasonable excuse' defence was not evidenced and had not satisfied the guidance provided by the authority **Marrigold & Ors – v – Wells [2023] UKUT 33 (LC) UTLC No LC-2022.** This authority emphasised the need to provide an excuse that was reasonable and evidenced in all circumstances.

4.4 Ms Sherratt for the Applicants focused on the seriousness of the offence committed by the Respondent. She said a s.72 offence was less serious than other s.40/subsection 3 offences. She referred the Tribunal to **Daff – v – Gyalui & Aiach-Cohen [2023] UKUT 134 (LC)**, paragraph 49, which suggested breaches of s.72 varied in severity.

4.5 She pointed out that the offence continued for 10-months and 29-days, as the property was let to the Applicants for this period without an HMO licence being in place. During this time, the HMO standards and regulations that owners of a HMO must comply with, including regulations dealing with fire safety, had not been satisfied. It was likely minimum standards of fire safety, namely those outlined in LACoRS Fire Safety Guidance, had not been satisfied. The Applicants confirmed there was no door to the kitchen, nor had a fully integrated mains operated smoke/heat/carbon monoxide system been installed at the Property throughout their time in occupation. These failures posed a significant risk to the tenants.

4.6 It was also alleged the electrical safety and energy performance certificates were not given to the Applicants as tenants.

4.7 Counsel for the Applicants denied that the Respondent was in such financial hardship as to reduce the starting point. **Counsel referred to Vadamalayan – v – Stewart & Others [2020] UKUT 0183 (LC) and Williams – v – Parmar [2021] UKUT 0244 (LC)** in support of the proposition that it was not appropriate to adjust a RRO in relation to the costs of repair works, mortgage payments or other expenditure that was not for the tenant's benefit, including council tax.

4.8 On questioning the Respondent confirmed he had no previous convictions of any type.

4.9 In conclusion Counsel contended that the offence was serious and Tribunal should make a RRO amounting to 90% of the £28,348.42 rent paid.

5. <u>Findings of the Tribunal in regard to the Rent Repayment Order</u>

5.1 The Upper Tribunal, in **Acheampong – v – Roman & Ors [2022] UKUT 239 (LC)** approved of the decision of the Upper Tribunal **in Williams – v – Parmar [2021] UKUT 0244 (LC)** that the maximum amount of rent should be ordered only when the offence is the most serious of its kind. The Upper Tribunal suggested a four-step approach to determination of a RRO, namely: -

(i) ascertain the whole of the rent payable for the relevant period;

(ii) subtract payments for utilities that benefit the tenant;

(iii) consider the seriousness of the offence, determine what proportion of the rent, after deduction, as above, is a fair reflection of the seriousness of the offence; then

(iv) consider if any deductions of additions should be made to the figure, based on the facts in section 44 of the 2016 Act.

Note: s.44, subsection 4 of the 2016 Act provides:

'In determining the amount the Tribunal must, in particular, take into account: -

(a) the conduct of the landlord and tenant;

(b) the financial circumstances of the landlord and whether the landlord has at any time been convicted of an offence to which this chapter applies.

5.2 Table 1 below shows the calculation of the RRO made by the Tribunal in this matter, based upon the relevant guidance.

Table 1: 2 Whitworth Road London SE1 6RW				
Total rent payment during period of letting without HMO licence		£ 28,348.22		
	Less:			
Service Charge		£ 1,500.00		
Total service or other deductions		£ 1,500.00	£ 1,500.00	
Residual RRO after deductions				
			£ 26,848.22	
Adjustment for seriousness of offence			70.00%	
		Adjustments		
Adjustment for section 44 matters		(-)	(+)	
Conduct of Landlord			7.50%	
Conduct of the tenant			Nil	
Financial circumstances of Landlord		*2.50%*		
Previous convictions of Landlord for offences under Chapter			Nil	
Reasonable Excuse justified by illness		2.50%		
Total adjustments for section 44		5.00%	7.50%	2.50%
Seriousness of offence (%)				70.00%
Percentage with adjustments				72.50%
Outcome	**RRO payable**			**£ 19,464.96**

5.3 The maximum amount of rent payable that can be ordered under s.44 subsection 3 of the 2016 Act is £28,321.94. The Respondent was not responsible for payments of utility bills that would have benefitted the Applicants. The Respondent had paid approximately £1,500 by way of service charges to his freeholder during the period and the Tribunal determined the Applicants received some benefit from those services. This sum is deducted from the total rental paid by the Applicants.

In assessing the seriousness of this matter, the Tribunal finds that it was a serious offence given the:

- lack of process designed to licence the property;
- the length of offending extending to some 10 months and 29 days;
- the number of fire safety breaches; and
- lack of compliance with electrical standards.

Accordingly the Tribunal determined 70% of the total rental paid after deductions was the starting point for the RRO assessment.

5.4 The Tribunal also considered the behaviour of the Landlord under section 44 provisions and were persuaded the RRO merited a 7.5% weighting to the percentage payable given the poor management of the dwelling. They also accepted the landlords' alleged weakened financial circumstances are material to the RRO. The financial circumstances along with the distraction of his reported head injury constituted a limited excuse for his behaviour. The Tribunal reflected these factors by a reduction in weighting of the RRO in accordance with guidance. It was mitigated by a 2.5% reduction to reflect the financial circumstances of the landlord and a further 2.5% reduction to acknowledge the difficulties caused following the head injury. The outcome is 72.5% of the total rent paid after deductions is refundable to the tenant applicants as an RRO.

5.5 Accordingly, Tribunal makes a Rent Repayment Order in the sum of £19, 464.96 to be divided between the Applicants as shown in table two.

Table 2: Summary of RRO payments					
Rent Repayment Orders determined by Tribunal					
Applicants	Rent paid	less service charge prportion	Net rent	Reduction factor (%)	
Lola Caputo	£ 8,573.42	£ 453.65	£ 8,119.77	0.725	**£ 5,886.84**
Imogen Crossley	£ 9,887.40	£ 523.18	£ 9,364.22	0.725	**£ 6,789.06**
Jenna Massoomzadeh	£ 9,887.40	£ 523.18	£ 9,364.22	0.725	**£ 6,789.06**
Overall total	£ 28,348.22	£ 1,500.00			**£ 19,464.96**

5.6 The Tribunal also makes an Order in respect of reimbursement of the and hearing fees in the sum of £341.00

Name: Ian B Holdsworth Valuer Chairman **Date:** 16 March 2026

RIGHTS OF APPEAL

1 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.

2 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.

3 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.

4 The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie, 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.

APPENDIX OF RELEVANT LEGISLATION

Landlord and Tenant Act 1985 (as amended)

Section 18

(1) In the following provisions of this Act 'service charge' means an amount payable by a tenant of a dwelling as part of or in addition to the rent: -

(a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and

(b) the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

(3) For this purpose: -

(a) 'costs' includes overheads; and

(b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period: -

(a) only to the extent that they are reasonably incurred; and

(b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard.

And the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 27A

(1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to: -

(a) the person by whom it is payable;

(b) the person to whom it is payable;

(c) the amount which is payable;

(d) the date at or by which it is payable; and

(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to: -

(a) the person by whom it would be payable;

(b) the person to whom it would be payable;

(c) the amount which would be payable;

(d) the date at or by which it would be payable; and

(e) the manner in which it would be payable.

(4) No application under subsection (1) or (3) may be made in respect of a matter which: -

(a) has been agreed or admitted by the tenant;

(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party;

(c) has been the subject of determination by a court; or

(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

Section 20

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either: -

(a) complied with in relation to the works or agreement; or

(b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal.

(2) In this section 'relevant contribution', in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long-term agreement: -

(a) if relevant costs incurred under the agreement exceed an appropriate amount; or

(b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount: -

(a) an amount prescribed by, or determined in accordance with, the regulations; and

(b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

Section 20B

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

Section 20C

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

(2) The application shall be made: -

(a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;

(aa) in the case of proceedings before a residential property tribunal, to that tribunal;

(b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;

(c) in the case of proceedings before the Upper Tribunal, to the tribunal;

(d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.

(3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

Section 21B

(1) A demand for the payment of a service charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges.

(2) The Secretary of State may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.

(3) A tenant may withhold payment of a service charge which has been demanded from him if subsection (1) is not complied with in relation to the demand.

(4) Where a tenant withholds a service charge under this section, any provisions of the lease relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.

(5) Regulations under subsection (2) may make different provision for different purposes.

(6) Regulations under subsection (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.