

			
Case Reference	:	MAN/00CA/HNA/2025/0640 MAN/00CA/HNA/2025/0726	
Property	:	18 Leyland Road Southport PR8 1AS 35 Albert Road Southport PR9 0LQ	
Applicant	:	(1) Lisa Rimmer (2) Rimmer Rentals Ltd	
Respondent	:	Sefton Metropolitan Borough Council	
Type of Application	:	Appeal against a financial penalty – s 249A & Sch 13A Housing Act 2004	
Tribunal Members	:	Judge Richard Dobson Mason LLB Mr Hefin Lewis FRICS	
Type & Venue of the Hearing	:	Video hearing online	
Date of Decision	:	12 January 2026	

DECISION

- (1) Rimmer Rentals Ltd shall be added as Second Applicant in these proceedings.**
- (2) The final notice dated 29 January 2025 issued to the First Applicant in respect of 18 Leyland Road Southport PR8 1AS is varied to £1,250.**
- (3) The final notice dated 29 January 2025 issued to the Second Applicant in respect of 35 Albert Road Southport PR9 0LQ is varied to £4,250.**
- (4) The time for payment of the final notices referred to in paras (2) and (3) above is 28 days from the date of service of this Decision.**

REASONS

Background

1. The First Applicant is the owner of the freehold title to 18 Leyland Road: a property containing 7 flats. The Second Applicant is the owner of the freehold title to 35 Albert Road: a property comprising 4 flats. The First Applicant is the sole director and shareholder of the Second Applicant.
2. 18 Leyland Road and 35 Albert Road (*“the Properties”*) are HMOs pursuant to s 257 Housing Act 2004 (*“the Act”*).

3. On 18 October 2022, the Respondent approved the redesignation of a Selective Licensing Scheme for all privately rented properties within parts of Bootle. The designation came into effect on 1 March 2023, lasting for a period of 5 years, and applied to the Properties, requiring them to be licensed.
4. In the absence of a license being in place, on 29 January 2025, the Respondent served on the First Applicant a Final Notice imposing a Financial Penalty, pursuant to s 249A of the Act, in respect of 18 Leyland Road in the sum of £4,250 (*“the 18 Leyland Road Notice”*).
5. On the same date, the Respondent served on the Second Applicant a similar notice in respect of 35 Albert Road in the sum of £7,000 (*“the 35 Albert Road Notice”*).

The applications

6. By an application dated 6 April 2025 the First Applicant appealed against the 18 Leyland Road Notice.
7. By an application dated 11 August 2025, the Second Applicant appealed against the 35 Albert Road Notice (*together “the Applications”*).

The law

Power to impose financial penalties

8. New provisions were inserted into the Act by s 126 and Sch 9 of the Housing and Planning Act 2016. One of those provisions was s 249A, which came into force on 6 April 2017, which enables a local housing authority to impose a financial penalty on a person or entity if satisfied, beyond reasonable doubt, that their conduct amounts to a “relevant housing offence” in respect of premises in England.

9. Relevant housing offences are listed in s 249A(2). They include the offence, under s 72, of having control of or managing a house which is required to be licensed under Part 2 of the Act, but which is not so licensed.
10. Only one financial penalty under s 249A may be imposed on a person or entity in respect of the same conduct. The amount of that penalty is determined by the local housing authority, but it may not exceed £30,000, and its imposition is an alternative to instituting criminal proceedings for the offence in question.

Procedural requirements

11. Sch 13A to the Act sets out the procedure which local housing authorities must follow in relation to financial penalties imposed under section 249A. Before imposing such a penalty on a person or entity, the local housing authority must give that person or entity a notice of intent setting out:
 - The amount of the proposed financial penalty.
 - The reasons for proposing to impose it; and
 - Information about the right to make representations.
12. Unless the conduct to which the financial penalty relates is continuing, that notice must be given before the end of the period of six months beginning on the first day on which the local housing authority has sufficient evidence of that conduct.
13. A person or entity who is given a notice of intent has the right to make written representations to the local housing authority about the proposal to impose a financial penalty. Any such representations must be made within the period of 28 days, beginning with the day after that on which the notice of intent was given.
14. After the end of that period, the local housing authority must decide whether to impose a financial penalty and, if a penalty is to be imposed, its amount.

15. If the local housing authority decides to impose a financial penalty on a person or entity, it must give that person a final notice setting out:
- The amount of the financial penalty.
 - The reasons for imposing it.
 - Information about how to pay the penalty.
 - The period for payment of the penalty.
 - Information about rights of appeal; and
 - The consequences of failure to comply with the notice.

Relevant guidance

16. A local housing authority must have regard to any guidance given by the Secretary of State about the exercise of its functions in respect of the imposition of financial penalties. Such guidance was issued by the Ministry of Housing, Communities and Local Government in April 2018, entitled Civil penalties under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities (*“the HCLG Guidance”*).
17. The HCLG Guidance states that local housing authorities are expected to develop and document their own policy on when to prosecute and when to issue a financial penalty and should decide which option to pursue on a case-by-case basis.
18. The HCLG Guidance also states that local housing authorities should develop and document their own policy on determining the appropriate level of penalty in a particular case. However, it goes on to state: “Generally, we would expect the maximum amount to be reserved for the very worst offenders. The actual amount levied in any particular case should reflect the severity of the offence as well as taking account of the landlord’s previous record of offending”.

19. The HCLG Guidance also sets out the following list of factors which local housing authorities should consider to ensure that financial penalties are set at an appropriate level: -
- a. Severity of the offence.
 - b. Culpability and track record of the offender.
 - c. The harm caused to the tenant.
 - d. Punishment of the offender.
 - e. Deterrence of the offender from repeating the offence.
 - f. Deterrence of others from committing similar offences.
 - g. Removal of any financial benefit the offender may have obtained as a result of committing the offence.
20. In recognition of the expectation that local housing authorities will develop and document their own policies on financial penalties, the Respondent has issued its own Civil Penalty Policy (*"the Council Policy"*), a copy of which was included within the bundle.

Appealing a final notice

21. A final notice given under Sch13A of the Act must require the penalty to be paid within the period of 28 days beginning with the day after that on which the notice was given. However, this is subject to the right of the person to whom a final notice is given to appeal to this Tribunal pursuant to para 10 Sch 13A.
22. The appeal is by way of a re-hearing of the local housing authority's decision but may be determined by the Tribunal having regard to matters of which the authority was unaware.
23. The Tribunal may confirm, vary or cancel the final notice.

24. However, the Tribunal may not vary a final notice to impose a financial penalty of a higher amount than the local housing authority could have imposed.

Directions

25. As above, appeals of a final notice pursuant to para 10 Sch 13A are required to be made within 28 days of the date of the service of the relevant notice. Notably, the Applications were not made within that timescale.
26. However, by Order dated 26 August 2025, the Tribunal extended time retrospectively such that the Applications could proceed as if they were made in time.
27. Directions were made by a Legal Officer on 15 October 2025 (*“the Directions”*), requiring sequential bundles to be prepared by the Respondent then the Applicants, with the Respondent having the opportunity of a reply.

The hearing

28. The hearing of the Applications took place by way of a video hearing on 12 January 2026.
29. The First Applicant appeared and represented herself and the Second Applicant.
30. The Respondent was represented by Miss Edwards, a solicitor in its employ. Witnesses appeared on behalf of the Respondent, namely Mrs Gaynor Pemberton, Mrs Noeline Cuthbertson, and Mrs Clare Taylor.

Preliminary application

31. By email of 9 January 2026 at 15:04 pm, the First Applicant, having completed the Attendance Form to state that a solicitor, Mark Robinson of Hodge Halsall, would be representing her at the hearing, informed the Tribunal that her solicitor could

not make the hearing and asked for it to be adjourned. That email was not copied to the Respondent.

32. By email of 10 January 2026, Mr Robinson emailed the Tribunal to state that he had provided advice to the First Applicant but was not on the record and had not agreed to represent her at the hearing.
33. At the commencement of the hearing, the Tribunal informed the Respondent of the above, after which the First Applicant was asked whether she wished to make an oral application for an adjournment. However, she informed the Tribunal that she no longer wished to adjourn the matter given that the parties and the Tribunal members were present, and she wanted to “get the matter out of the way”.

Preliminary issue

34. The Tribunal noted that the application in respect of 35 Albert Road was submitted by the First Applicant, but it did not state that it was made on behalf of the Second Applicant in her capacity as director of that company.
35. The issue was raised with the First Applicant and she confirmed that it had been submitted on behalf of the Second Applicant as above.
36. The Tribunal therefore proposed to add the Second Applicant as a party to the case.
37. The Respondent was asked whether it took any issue with that course of action, and Miss Edwards confirmed that it did not.

The issues

38. At the start of the substantive hearing, the Tribunal clarified the basis of the Applications with the First Respondent, where she confirmed the following were in issue: -
- a. Whether a reasonable excuse defence was established.
 - b. Whether the level of the penalties was appropriate.
 - c. Whether the level of the penalties should be adjusted to account for the fact that the First Applicant was the sole director and shareholder of the Second Applicant, considering the totality of the penalties.

The Respondent's evidence

39. The Respondent filed a bundle of documents, including, *inter alia*, a Statement of Case dated 4 November 2025 and Witness Statements from Gaynor Pemberton, Noeline Cuthbertson and Clare Taylor.

Gaynor Pemberton

40. Mrs Pemberton told the Tribunal about the process that the Respondent went through regarding approving the redesignation of the Selective Licensing Scheme for the area in question and the batch correspondence sent to the landlords / agents about the scheme informing them of the relevant deadlines for submitting a licence, including the emails sent to the First Applicant in respect of the Properties.
41. The First Applicant confirmed that she did not dispute that the emails had been sent to her but suggested they may have gone into her “junk mail”.

Noeline Cuthbertson

42. Mrs Cuthbertson told the Tribunal about her correspondence with the First Applicant regarding the licences required for the Properties and her involvement in

the decision making regarding the calculation of the respective penalties, including how the culpability and harm levels were decided upon.

43. She said that the deadline for applying for a licence was 1 September 2023 and that she had written to the First Applicant providing for a deferred deadline of 1 August 2024 to submit a licence, which she pushed back ultimately to 1 September 2024, but which was still missed. This was after emails with the First Applicant where there appeared to be confusion on the First Applicant's part about previous licences, and the First Applicant requesting more time.
44. Mrs Cuthbertson said that the Respondent held a meeting on 14 October 2024 to determine if Intention to Issue Civil Penalty Notices should be served in respect of the Properties.
45. At that meeting, she said that the Respondent decided that the offence (in respect of both of the Properties) was one of high culpability, as the offender had actual foresight of, or wilful blindness to, the risk of offending, and there was a serious and systemic failure to comply. It was decided that the level of harm was low, because the failure was likely to have a relatively low risk of adverse effect on the tenants. The range was therefore £5,250 to £12,000 with a starting point of £7,500. The aggravating factors were that 1) the offending happened over a prolonged period, and 2) property management was the offender's only business. The mitigating factors were that 1) the offender has no relevant unspent convictions and is of good character, 2) the offender has no relevant cautions in the last 2 years, and 3) the offender has no relevant Civil Penalty Notices imposed in the last 2 years. Each factor required an increase or decrease in the level of fine respectively and therefore the Respondent decided on a penalty of £7,000.
46. She told the Tribunal that the totality principle was considered but then decided that it was not applicable as only one penalty was applied to each of the Properties, and thus only one to each of the Respondents.

47. The Applicants were then served with Intention to Issue Civil Penalty Notices dated 16 October 2024 setting out the above.
48. Mrs Cuthbertson then retired on 31 October 2024.
49. She was asked if the Respondent had taken into account the First Applicant's medical issues with her pregnancy, to which she explained that no notification had been provided until after the Final Notices had been issued, therefore it was not taken into consideration. She said that it may have been taken into account if it was a serious medical condition, and that, had the Respondent been aware of the issue beforehand, it would have asked for confirmation from the First Respondent's GP or maternity service to evidence the same.

Clare Taylor

50. Mrs Taylor told the Tribunal that she was Mrs Cuthbertson's line manager and so had access to her emails after her retirement and had access to other correspondence between the First Applicant and the Respondent.
51. She recited some emails in November and December 2024 which discussed the First Applicant having applied for a licence for 18 Leyland Road on 23 November 2024 but that it was the wrong one, and in January 2025 regarding the First Applicant's queries as to the requirement to licence 35 Albert Road.
52. Notably, on 5 January 2025, the First Applicant emailed the Respondent to say that she would not have all the paperwork for the required safety checks for the Properties and queried if they were required to complete the licence applications. On 16 January 2025, the Respondent replied to advise the First Application that she could upload blank documents instead, which would allow her to complete the applications, with the required documents to be uploaded later. The First Respondent was given a further 7 days to submit the applications, failing which Final Notices would be issued.

53. Mrs Taylor explained that, on 27 January 2025, the Respondent held a further meeting to discuss the matter and decided to issued 2 Final Civil Penalty Notices because the applications had not been submitted. It was decided that the culpability level for 18 Leyland Road would be reduced to “medium” because the First Applicant had attempted to submit a licence. This meant that there was a range of £3,750 to £5,250 with a starting point of £4,500 before adjustments of £250 for each aggravating and mitigating factor (which remained the same as above). This gave a reduced penalty of £4,250. The penalty for 35 Albert Road was to remain the same.
54. Accordingly, the 18 Leyland Road Notice and the 35 Albert Road Notice were issued on 29 January 2025 in the above sums.
55. The First Applicant pointed out that it had taken the Respondent 11 days to reply to say she could upload blank documents, but then she had only been given 7 days to complete the applications. Mrs Taylor highlighted that this should be considered in light of the fact that the original date for licence submissions was in September 2023 which the Applicants had been notified of.

The Applicants’ evidence

56. The First Applicant filed a bundle of documents, including, *inter alia*, a 4-page undated summary of the Applicants’ position and various emails between the parties.
57. It was agreed by the Tribunal and the parties that the summary would be accepted as the First Applicant’s Witness Statement.
58. The First Applicant’s summary informed the Tribunal that, upon being notified of the initial correspondence regarding the licences, from around August 2024 onwards she was in contact with the Respondent. She then applied in November 2024 for a licence for 18 Leyland Road, which she paid the fee for, but was told that it was incorrect. She then queried how to progress the application without certain

documents and was informed 11 days later that she could upload blank documents but only given 7 days to comply. She also raised queries with the Respondent regarding the requirement to licence 35 Albert Road.

59. There were circumstances surrounding the delay in submitting the applications, including her brother's wedding, working several jobs, struggling to pay for works to be carried out to the Properties, a large rent increase on her partner's commercial premises – culminating in her and her partner moving into a caravan because they could not afford the mortgage whilst on maternity leave – and her unexpected pregnancy, in relation to which she suffered from high blood pressure and risk of early labour and struggling with sleepless nights and her memory and concentration.
60. The First Applicant told the Tribunal that the Second Applicant was making a loss because of unpaid communal fees, which had increased, and property repairs. She explained the effect that the difficulties with her pregnancy had on the situation as above. She told the Tribunal that she thought the culpability should be low as she had made significant efforts to licence the Properties, and there were several mitigating factors as above. She had tried to manage the situation herself, as the Second Applicant does not make enough profit to employ anyone, and that she had tried to act quickly upon being aware of the situation in August 2024. She did accept that the Applicants owned about 10-12 properties between them, which was quite a lot of properties, and that they owned and managed the Properties as a business.

Submissions

61. The Respondent recited the above background, and particularly the length of time that the Applicants had been afforded to apply for the licences and submitted that the Tribunal should only depart from the Respondent's in circumstances where there is sufficiently good reason to do so (per *Waltham Forest LBC v Marshall* [2020] 1 WLR 3187).

62. The Respondent also submitted that the Applicants had not made out a reasonable excuse defence, which (as clarified by the case of *Palmview Estates Ltd v Thurrock council* [2022] 1 WLR 1896) must be a reasonable excuse for continuing to manage and control a HMO without a licence, which was different to the question of whether there was a reasonable excuse for not applying for a licence.
63. The Respondent concluded by submitting that the totality principle was not engaged as there was one penalty per property; one to each of the Applicants which owned the relevant property.
64. The Applicants recalled the issues suffered by the First Applicant during the process and submitted that they had engaged with the Respondent when she became aware of the issue regarding the licences, did not ignore the situation, and indeed submitted an application, albeit the wrong one, for 18 Leyland Road. She also submitted queries on 35 Albert Road, and was not informed of the ability to apply for the licences using blank documents (where the proper documents were missing) until shortly before the Final Notices were issued.
65. The Applicants further submitted that there was no unwillingness to apply for a licence therefore, and there was a low risk of harm to the tenants, and as such the penalties were too high.
66. Finally, they submitted that the Applicants should be viewed as one entity when considering the totality principle, as the Second Applicant did not have any employees, and as such was run by the First Applicant herself.

Determination

67. Generally, the Tribunal noted that the Applicants accepted that they owned quite a few properties between them and that they ought to have proper processes in place to ensure that they were aware of the legal requirements pertaining to the Properties and to make any applications for the licences properly and promptly.

Reasonable excuse

68. It did not find that a reasonable excuse defence had been made out, particularly as the reasons put forward by the Applicants related to why the applications were not submitted either correctly or in time, as opposed to why the Properties were managed and controlled without licences.

Adjustments to the level of penalties

69. The Tribunal did, however, determine that the level of penalties should be adjusted as follows: -

18 LEYLAND ROAD

70. The harm level was correct and should remain “low”.
71. The culpability should be reduced from “medium” to “low” in view of the significant efforts made by the First Applicant to address the situation but which were inadequate on this occasion, noting that she did submit an incorrect application and tried to submit another but required the Respondent’s guidance to be aware that she could submit blank documents where they were missing in order to progress the application. That guidance was provided 11 days later, with the First Applicant only allowed a further 7 days thereafter to complete the partial application.
72. That provides a penalty band range of £750 to £2,250, with a starting point of £1,500, with any aggravating and mitigating factors attracting a £250 adjustment accordingly. Applying the same factors as those applied by the Respondent provided for an overall reduction from that starting point of £250.

73. Accordingly, the Tribunal determined that the final notice dated 29 January 2025 issued to the First Applicant in respect of 18 Leyland Road Southport PR8 1AS should be varied to £1,250.

35 ALBERT ROAD

74. The harm level was correct and should remain “low”.
75. The culpability should be reduced from “high” to “medium” in view of the Second Applicant’s attempts to engage with the Respondent but apparent lack of understanding and confusion regarding the need for a licence, noting that the Second Applicant had not ignored the situation, along with the First Applicant’s evidence that she was the only employee of the company *vis-à-vis* the systems expected to be in place for a corporate entity.
76. That provides a bracket of £3,750 to £5,250, with a starting point of £4,500, with any aggravating and mitigating factors attracting a £250 adjustment accordingly. Applying the same factors as those applied by the Respondent provided for an overall reduction from that starting point of £250.
77. Accordingly, the Tribunal determined that the final notice dated 29 January 2025 issued to the Second Applicant in respect of 35 Albert Road Southport PR9 0LQ should be varied to £4,250.

Totality principle

78. Finally, the Tribunal was satisfied that the totality principle had not been engaged given that the Respondent had only imposed one penalty per property, with each property owned and managed by a separate legal entity.

Judge Richard M. Dobson-Mason

12 January 2026