



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

**Case reference** : **LON/00BG/HNA/2025/0633**

**Property** : **219A Whitechapel Road, E11DE**

**Applicant** : **ARS Properties Limited**

**Representative** : **Sugan Paisbody**

**Respondent** : **London Borough of Tower Hamlets**

**Representative** : **Sarah Salmon**

**Type of application** : **Appeal against a penalty notice.**

**Tribunal** : **Judge Shepherd**  
**Rachel Kershaw BSc**

---

**DECISION**

---

1. The Appellants are appealing a financial penalty imposed under Section 249A Housing Act 2004 by the Respondent. The penalty was imposed because the Appellants were operating an unlicensed House in Multiple Occupation (“HMO”) at premises known as 219a Whitechapel Road, London E1 1DE (“the premises”).
2. The premises are owned by the late Mohammed Mansha between 27 August 2019 to 26 August 2022, Mr Mansha held a mandatory HMO licence in respect

of the premises. The premises consist of a three-storey flat above a commercial premises and contain six bedrooms, two bathrooms and a kitchen. On 26 August 2022, the licence expired and the Respondent wrote to Mr Mansha about renewal of the licence.

3. On 9 February 2024, a tenant made a complaint to the Respondent about the condition of the premises and the Respondent wrote to the Appellants who were managing the premises on behalf of Mr Mansah. They are named as the landlord on the tenancy agreements at the premises.
4. On 6 March 2024, a section 239, Housing Act 2004 notice was served on the Appellant and Mr Mansha. The premises were inspected on 11 March 2024. There were three occupiers in evidence one of whom told the officer that the rent was paid to the Appellants. It was clear that in total there were five persons from four households residing at the premises.
5. On 28 March 2024, an Improvement notice was served on the Appellants. There were category 1 and 2 hazards found at the premises.
6. On 24 May 2024, the Respondent served a notice of intent to impose a financial penalty on the Appellants as the premises were not licensed.
7. In response to the notice in a letter dated 1 June 2024, the Appellants said:
  - a. they were unaware of the expired HMO licence;
  - b. renewal was the responsibility of the landlord and not the Appellants as agent;
  - c. Mr Mansha died on 24 April 2023;
  - d. they were under the impression that “the landlord’s” son had renewed the licence;
  - e. the Appellants had submitted a renewal application; and,
  - f. the office manager for the Appellants had died on 16 November 2023 which also contributed to the lack of a renewal.
8. On 25 November 2024, the Respondent issued a final notice.
9. On 14 December 2024, the appeal to the Tribunal was lodged. In the appeal, the Appellants stated
  - a. they were the managing agent for part of the premises only and as such are “not fully liable for any regulations to be complied with”;
  - b. the landlord was responsible for the licence;
  - c. they were not aware of any circumstances “regarding the granting of HMO. It was landlord’s responsibility. The managing agent was responsible for few rooms instead of whole building at the time of contract. Therefore, regulatory responsibilities vested with the landlord. The local authority never issued non compliant notice to the Applicant”.
10. On 10 April 2024, there was a fire at the property which resulted in two occupants being taken to hospital as a precaution.

11. The appeal was first heard by the Tribunal on 7<sup>th</sup> August 2025. The Appellant's solicitor had the wrong bundle so the matter was adjourned. I made an order requiring the Appellants to explain why they had attended with the wrong information.

### **The hearing**

12. The Tribunal had the benefit of written evidence from Robert Nartey, Abdul Hannan, Bezoy Ahmed Saown, Jahangir Alam, Md. Shobuj Ahmed, Sajjad Miah and SubrataDebnath Shuv.

### **The law**

13. There was no dispute that the premises should have been licensed under the mandatory licensing provisions of the Housing Act 2004.

14. It is an offence to control or manage an HMO that requires a licence but is not licensed: s.72(1).

15. "Person having control" means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent: s.263(1). "Rack-rent" means a rent which is not less than two-thirds of the full net annual value of the premises: s.263(2).

16. . Section 263(3) provides:

"(3) In this Act "person managing" means, in relation to premises, the person who, being an owner or lessee of the premises—

- (a) receives (whether directly or through an agent or trustee) rents or other payments from—
  - (i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and
  - (ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as tenants or licensees of parts of the premises, or of the whole of the premises; or
- (b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments; and includes, where those rents or other payments are received through another person as agent or trustee, that other person".

17. The definition of a "person managing" was intended to identify someone who undertook management responsibilities on a continuing basis, so as to make them subject to continuing statutory obligations with regard to HMO licensing and management, backed by civil and criminal sanctions: *Cetin v Epping Forest District Council* [2025] UKUT 196 (LC); [2025] 4 WLR 82.

18. Under section 249A, 2004 Act, a local housing authority may impose a financial

penalty on a person if satisfied, beyond reasonable doubt, that the person's conduct amounts to a "relevant housing offence" in respect of premises in England. A relevant offence includes offences under section 72 of the 2004 Act: s.249A(1)-(2), 2004 Act.

19. Under paragraphs 1 to 3 of schedule 13A of the 2004 Act, before imposing a financial penalty on a person under section 249A the local housing authority must give the person notice of the authority's proposal to do so (a "notice of intent"). The notice of intent must be given before the end of the period of 6 months beginning with the first day on which the authority has sufficient evidence of the conduct to which the financial penalty relates. If the person is continuing to engage in the conduct on that day, and the conduct continues beyond the end of that day, the notice of intent may be given at any time when the conduct is continuing, or within the period of 6 months beginning with the last day on which the conduct occurs. A person's conduct includes a failure to act. There are certain things a notice of intent must also include including the amount of proposed penalty and reasons.

20. A person who has been given a notice of intent then has a period of 28 days from being given the notice within which to make representations under paragraph 4 of schedule 13A of the 2004 Act.

21. Paragraphs 5 to 8 of schedule 13A of the 2004 Act deal with decisions and notices which a local authority may give after the period for a licence holders representations had ended. Once a decision has been made to impose a financial penalty on the person, the local authority must give the person a notice (a "final notice") imposing that penalty. As well as providing for 28 days to pay the penalty, the final notice must set out the amount of the financial penalty, the reasons for imposing the penalty, 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.

22. For an offence to be committed under the Housing Act 2004 Pt 2 s.72(1), there is no requirement to prove that an individual knew that a property he had control of or managed was a house in multiple occupation and therefore had to be licenced, as it was a strict liability offence: *R. (on the application of Mohamed) v Waltham Forest LBC* Divisional Court [2020] EWHC 1083 (Admin). It may amount, however, to a reasonable excuse.

#### *Reasonable excuse*

23. The broad, common-sense question for the purposes of a defence under the Housing Act 2004 Pt 2 s.72(5) was whether, in all the relevant circumstances, the person having control of an unlicensed house in multiple occupation had a reasonable excuse for doing so: *Awolaja v Rodriguez* [2021] UKUT 274 (LC).

### **The Hearing**

24. The Appellants were represented by Sughan Praisbody of Counsel and the Respondents by Sarah Salmon of Counsel. We were told that the Appellants managed 45 properties. They did receive notice of renewal. Mohammed Miah

was a manager of the Appellants. He accepted they were a professional estate agent who were aware of licensing regime. He also accepted that the Appellants knew the premises were an HMO. Under the agreement with the landlord they were permitted to sublet the premises. He accepted that the Appellants were named as landlord on the tenancy agreements and they collected the rent. He also accepted that they had to keep the landlord apprised of the tenancy situation. It was put to him that the Appellants knew that the license was to expire and did nothing about it. He was asked why the Appellants had applied for a license if they were not the responsible party. Mr Miah said they believed the license was being renewed by the landlord's son.

25. Mr Ahmed gave evidence. He was an occupier at the premises. He said his sole dealings were with the Appellants. He had left the premises after the fire.
26. Mr Nartey the Principal Environmental Health Officer for the Appellants gave evidence. He had received a complaint of illegal eviction and disrepair at the premises. He found out that ARS were managing the premises. Following the complaint the council registered that the license had not been renewed. He said that the Appellants were the responsible party who should have renewed the license.
27. In closing Ms Praisbody said the Respondents did not keep the Appellants informed of the licensing situation. She said the landlord retained a room in the premises which challenged the amount of control the Appellants had. She said that there was confusion and miscommunication between the landlord and the Appellants and this compounded the situation. She said the penalty was extremely high.
28. Ms Salmon said that the only procedural requirement was the serving the notice of intent and this had been done properly. She said there was no doubt that at the relevant time the premises were an HMO and should have been licensed. There was a guaranteed rent for the landlord and they could charge whatever rent they wanted. The Improvement Notice was served on the Appellants which showed that they were responsible for the repairs at the premises. They were a professional managing agent who should have known about the need to renew the license. They had the occupation information and they were in the driving seat.

## **Decision**

29. We consider that the Appellants were the responsible parties and should have renewed the license. Although the agreement with the landlord appeared to make him responsible for licensing the premises the reality of the situation was that they were fully in control of the premises and if they knew that a license was required it was incumbent on them to arrange this.
30. Even if there was an agreement that the landlord would arrange the licensing process they should have taken steps when they realised the landlord had

breached that agreement. It was not appropriate for them to continue to operate an HMO and receive rent from it when it was illegal. Further their responsibility became even more pronounced when the landlord died as he was unable to fulfil his responsibilities under his agreement with them. Moreover, there was nothing to support their contention that they believed his son was sorting the license out. There was no reasonable excuse for failing to renew the license.

31. The Appellants were in control of the premises and they maintained that control throughout even though the landlord retained a room. They were named on the tenancy agreements and they collected the rent.
32. Although the Appellants contended that the penalty was too high they did not point to any deficiency in the Respondent's policy and how it was applied in this case. We consider that the policy was properly applied and the penalty was objectively reasonable.
33. The appeal is dismissed. The parties should make any costs submissions within 14 days of receiving this decision.

Judge Shepherd

1<sup>st</sup> April 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 should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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).