



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

Case Reference : **BIR/00CS/HNA/2024/0006**

Subject Property : **16 Horseley Heath
Tipton
DY4 7PA**

Applicant : **Chaudhry Shehzad**

Respondent : **Sandwell Metropolitan Borough Council
(Richard Spencer Ref: 221729)**

Type of Application : **Application under paragraph 10 of
Schedule 13A to the Housing Act 2004 to
appeal against a financial penalty**

Tribunal Members : **Deputy Regional Judge Nigel Gravells
Mr Robert Chumley-Roberts MCIEH, JP**

Date of Decision : **11 May 2026**

DECISION

Introduction

- 1 This is a decision on an application by the Applicant under paragraph 10 of Schedule 13A to the Housing Act 2004 ('the 2004 Act') to appeal against a financial penalty of £5,000.00 imposed by the Respondent on the Applicant under section 249A of the 2004 Act for the offence of failing to comply with an improvement notice served in respect of the subject property, contrary to section 30(1) of the 2004 Act.

The relevant law

- 2 Section 30 of the 2004 Act makes provision in relation to the offence of failing to comply with an improvement notice –
 - (1) Where an improvement notice has become operative, the person on whom the notice was served commits an offence if he fails to comply with it.
 - (2) For the purposes of this Chapter compliance with an improvement notice means, in relation to each hazard, beginning and completing any remedial action specified in the notice -
 - (a) (if no appeal is brought against the notice) not later than the date specified under section 13(2)(e) and within the period specified under section 13(2)(f);
 - (b) (if an appeal is brought against the notice and is not withdrawn) not later than such date and within such period as may be fixed by the tribunal determining the appeal; and
 - (c) (if an appeal brought against the notice is withdrawn) not later than the 21st day after the date on which the notice becomes operative and within the period (beginning on that 21st day) specified in the notice under section 13(2)(f).
 - (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
 - (4) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.
 - (5) The obligation to take any remedial action specified in the notice in relation to a hazard continues despite the fact that the period for completion of the action has expired.
 - (6) In this section any reference to any remedial action specified in a notice includes a reference to any part of any remedial action which is required to be completed within a particular period specified in the notice.
 - (7) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).
 - (8) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.
- 3 Section 249A of the 2004 Act provides for the imposition of financial penalties –
 - (1) The local housing authority may impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person's conduct amounts to a relevant housing offence in respect of premises in England.
 - (2) In this section 'relevant housing offence' means an offence under—
 - (a) section 30 (failure to comply with improvement notice),

- (b) section 72 (licensing of HMOs),
- (c) section 95 (licensing of houses under Part 3),
- (d) section 139(7) (failure to comply with overcrowding notice), or
- (e) section 234 (management regulations in respect of HMOs).

(3) Only one financial penalty under this section may be imposed on a person in respect of the same conduct.

(4) The amount of a financial penalty imposed under this section is to be determined by the local housing authority, but must not be more than £30,000.

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

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

(6) Schedule 13A deals with—

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

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

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

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

4 Paragraphs 1 to 10 of Schedule 13A to the 2004 Act set out the procedure relating to financial penalties –

Notice of intent

1 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').

2(1) 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.

(2) But 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—

- (a) at any time when the conduct is continuing, or
- (b) within the period of 6 months beginning with the last day on which the conduct occurs.

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

3 The notice of intent must set out -

- (a) the amount of the proposed financial penalty,
- (b) the reasons for proposing to impose the financial penalty, and
- (c) information about the right to make representations under paragraph 4.

Right to make representations

4(1) A person who is given a notice of intent may make written representations to the local housing authority about the proposal to impose a financial penalty.

(2) Any representations must be made within the period of 28 days beginning with the day after that on which the notice was given (“the period for representations”).

Final notice

5 After the end of the period for representations the local housing authority must -

- (a) decide whether to impose a financial penalty on the person, and
- (b) if it decides to impose a financial penalty, decide the amount of the penalty.

6 If the authority decides to impose a financial penalty on the person, it must give the person a notice (a “final notice”) imposing that penalty.

7 The final notice 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.

8 The final notice must set out -

- (a) the amount of the financial penalty,
- (b) the reasons for imposing the penalty,
- (c) information about how to pay the penalty,
- (d) the period for payment of the penalty,
- (e) information about rights of appeal, and
- (f) the consequences of failure to comply with the notice.

...

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

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

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

(3) An appeal under this paragraph—

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

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

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

5 Paragraph 12 of Schedule 13A to the 2002 Act states that a local housing authority must have regard to any guidance given by the Secretary of State about the exercise of its functions to impose financial penalties and the Secretary of State has issued *Guidance for Local Housing Authorities: Civil penalties under the Housing and Planning Act 2016 (April 2018)* (‘the Guidance’). Paragraph 3.5 of the Guidance sets out a list of factors which local housing authorities should consider when assessing the level of any penalty, these being –

- the severity of the offence;
- the culpability and track record of the offender;
- the harm caused to the tenant;
- the punishment of the offender;
- to deter the offender from repeating the offence;

- to deter others from committing similar offences; and
- to remove any financial benefit the offender may have obtained as a result of committing the offence.

Factual background

- 6 The following chronology is taken from the witness statement of Richard Spencer (Enforcement Officer in the Private Rented Sector and Housing Standards Team of the Respondent Council) dated 17 July 2024 and updated on 17 February 2026. Its contents are not disputed.
- 7 On 1 September 2022, following reports (presumably from the tenant of the subject property) that there were electrical defects affecting the subject property, the Respondent sent a '21-day letter' to the Applicant (and his agent and the tenant) to give him the opportunity to remedy the situation before the Respondent considered formal action.
- 8 On 18 October 2022, in the absence of any remedial action, the Respondent sent appointment letters to the Applicant, his agent and the tenant, informing them that the Respondent would inspect the property on 8 November 2022 pursuant to its powers under the 2004 Act.
- 9 On 8 November 2022 the Respondent inspected the property and identified various hazards.
- 10 On 26 January 2023 the Respondent served on the Applicant an improvement notice identifying category 1 and category 2 hazards under sections 11 and 12 of the 2004 Act. The notice required specified works to be commenced no later than 3 March 2023 and to be completed within five weeks. The Respondent also issued a demand under section 49 of the 2004 Act for the payment of administrative expenses.
- 11 Both the improvement notice and the demand included details of the right to appeal but the Applicant did not appeal.
- 12 On 7 September 2023, following the expiry of the time for completion of the specified works and the sending of appointment letters, the Respondent re-inspected the property. As required by the improvement notice, a gas safety certificate had been provided and two carbon monoxide detectors had been installed; but the remaining specified works had not been completed.
- 13 On 30 November 2023 the Respondent served on the Applicant an Intentions Letter and Notice of Intent to issue a Financial Penalty. The Notice proposed a penalty of £5,000.00 for the offence of failing to comply with the improvement notice, contrary to section 30(1) of the 2004 Act. The Notice invited the Applicant to make representations but no representations were received.
- 14 On 4 April 2024 the Respondent served a Final Notice on the Applicant, imposing a financial penalty of £5,000.00 for contravention of section 30 of the 2004 Act.
- 15 By application dated 1 May 2024 the Applicant applied to the First-tier Tribunal under paragraph 10 of Schedule 13A to the 2004 Act to appeal against the financial penalty.

- 16 On 30 May 2024 the Tribunal issued Directions for the determination of the application.
- 17 A hearing was held on 14 April 2026. The Applicant represented himself. The Respondent was represented by Mr Bahadur.

Representations of the parties

Representations of the Applicant

- 18 The Applicant does not dispute that the works specified in the improvement notice had not been completed. Nor does he question that the Respondent followed the required procedures relating to financial penalties set out in paragraphs 1 to 10 of Schedule 13A to the 2004 Act.
- 19 The grounds of his appeal against the financial penalty are –
- (i) That under his agreement with his managing agent (The Right Property Company) the agent was responsible for the ‘full management’ of the subject property. Accordingly, when he received the 21-day letter on 1 September 2022, he forwarded it to the managing agent, who then had some contact with the Respondent. However, the agent was unable to arrange completion of the specified works before or after the service of the improvement notice.
 - (ii) That the tenant of the subject property had persisted in refusing access to the property and the completion of the specified works on the ground that the carrying out of the works could adversely affect the health of members of the family.
 - (iii) That the Applicant sought legal advice and was advised to seek an injunction against the tenant but that the Applicant had not pursued such action, relying instead on the managing agent to resolve the matter.

Representations of the Respondent

- 20 The position of the Respondent remains that the Applicant wholly failed to engage with the Respondent: the Applicant failed to act on the 21-day letter; he did not appeal against the improvement notice; and he did not respond to the invitation to make representations in relation to the proposed financial penalty.
- 21 The Respondent argued that the Applicant had failed to comply with the improvement notice and that it was appropriate to impose the financial penalty.

Discussion

- 22 In determining the issues in dispute between the parties, the Tribunal took full account of the written and oral representations of the parties so far as relevant to the issues in dispute.

Procedural requirements

- 23 The Tribunal is satisfied that the Respondent complied with the procedural requirements relating to financial penalties set out in paragraphs 1 to 8 of Schedule 13A to the 2004 Act.

Prima facie offence

24 The Tribunal is satisfied beyond reasonable doubt that, subject to the establishment of a reasonable excuse defence (see paragraphs 25-33 below), the Applicant committed a relevant housing offence listed in section 249(2) of the 2004 Act, namely an offence under section 30(1) of the 2004 Act.

Reasonable excuse defence

25 Although the Applicant did not expressly raise the defence of reasonable excuse under section 30(4) of the 2004 Act, the substance of his representations requires the Tribunal to consider whether the Applicant might have such a defence: see *IR Management Services Limited v Salford City Council* [2020] UKUT 81 at paragraph 40.

26 Section 30(4) provides –

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

27 The Respondent sought to argue that it was not open to the Applicant to rely on the reasonable excuse defence; and that any such defence should have been raised in the context of an appeal against the improvement notice. The Tribunal determines that such an argument is misconceived. The reasonable excuse defence is a defence that negatives the (alleged) commission of the offence of failing to comply with an improvement notice. It can only be raised in response to a prosecution brought, or a financial penalty imposed, for the (alleged) commission of the offence.

28 The substance of the Applicant's reasonable excuse defence would appear to be that (i) the Applicant's managing agent had assumed responsible for the management of the subject property and for compliance with the improvement notice and (ii) that the tenant of the subject property had made compliance impossible.

29 Although the Tribunal must be satisfied beyond reasonable doubt as to the elements of the offence set out in section 30(1), the standard of proof in relation to the defence in section 30(4) is the balance of probabilities.

30 Although the Applicant insisted that his managing agent had assumed responsible for the management of the subject property, and undertook to provide the Tribunal with a copy of his contract with the agent, no such document was forthcoming. While the Tribunal accepts that much of the day-to-day management of the property was carried out by the agent, the Applicant has failed to establish that the agent was legally responsible for all aspects of the management of the property. Indeed, the Applicant gave evidence at the hearing that he had himself tried to arrange for an electrician to attend the property.

31 The Tribunal therefore finds that the Applicant retained ultimate responsibility for the management of the property and for compliance with the improvement notice.

32 While the Tribunal understands that the Applicant may have been reluctant to follow legal advice to apply for an injunction to require the tenant to allow access to the subject property, and to incur the inevitable costs, he made the decision not to do so.

33 The Tribunal is not satisfied on a balance of probabilities that the Applicant had a reasonable excuse for failing to comply with the improvement notice.

- 34 In the absence of the defence of reasonable excuse, the Tribunal is satisfied beyond reasonable doubt that the Applicant committed an offence under section 30(1) of the 2004 Act.
- 35 The Tribunal determines that a financial penalty was properly imposed on the Applicant.

Amount of the penalty

- 36 The Applicant did not respond to the Tribunal's invitation to make representations in relation to the amount of the financial penalty.
- 37 The Tribunal noted the charging table applied by the Respondent in determining the amount of financial penalties.
- 38 In the circumstances the Tribunal determined that there was no reason to vary the amount of the financial penalty.

Conclusion

- 39 The Tribunal confirms the financial penalty of £5,000.00.

Appeal

- 40 If a party wishes to appeal this Decision, that appeal is to the Upper Tribunal (Lands Chamber). However, a party wishing to appeal must first make written application for permission to the First-tier Tribunal at the Regional office which has been dealing with the case.
- 41 The application for permission to appeal must be received by the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- 42 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(s) for not complying with the 28-day time limit. The Tribunal will then consider the reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- 43 The application for permission to appeal must state the grounds of appeal and state the result the party making the application is seeking.

11 May 2026

Professor Nigel Gravells
Deputy Regional Judge