FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**LON/00BG/HBB/2025/0001**
Property	:	**5 Kemps Drive, London E14 8HY**
Applicant	:	**London Borough of Tower Hamlets**
Respondents	:	**(1) R&G Agent Ltd** **(2) Rafael Mendes Torres** **(3) Evandro dos Santos Gomes**
Representative	:	**Aqua Law Solicitors**
Type of application	:	**Application for a banning order under section 15(1) of the Housing and Planning Act 2016**
Tribunal	:	**Judge Nicol** **Ms S Coughlin MCIEH**
Date and venue of hearing	:	**21st May 2026;** **Remote video**
Date of decision	:	**21st May 2026**

DECISION

The Tribunal has decided to make the Banning Orders for each Respondent, as attached.

Relevant legislation is set out in the Appendix to this decision.

Reasons

1. The Applicant local authority applied on 25th June 2025 for Banning Orders against the Respondents under section 15(1) of Housing and Planning Act 2016 ("the 2016 Act"). The Second and Third Respondents are directors of the First Respondent.

2. The Tribunal issued directions on 28th November 2025 and the case was heard by the Tribunal on 21st May 2026 by remote video. The attendees were:

- Jonathan Melnick, Principal Lawyer-Enforcement for the Applicant, accompanied by Yasmin Samra and Ruksana Begum;
- Mr Cengizhan Arat, Principal Environmental Health Officer and witness for the Applicant;
- Hadi Khalisadar, Aqua Law, representing the Respondents.

3. Initially, neither the Second nor Third Respondents attended, although both had provided witness statements. Mr Khalisadar suggested that the facts were not really in dispute and the Tribunal could manage without them. Judge Nicol challenged that assumption and pointed out that the witness statements would carry considerably less weight as hearsay than if they had been tested by cross-examination. In the event, the Second Respondent was able to join the hearing via his mobile phone and to answer questions from Mr Melnick and the Tribunal members.

4. The Tribunal had the following documents:

- Applicant's Bundle, 214 pages;
- Respondents' Bundle, 67 pages;
- Supplemental Witness Statement from Mr Arat; and
- A skeleton argument from Mr Khalisadar.

5. Mr Melnick objected to the fact that Mr Khalisadar's skeleton argument was provided only just before the hearing started. However, a skeleton argument only puts into writing what the advocate may say orally and so the Tribunal allowed it in. As it turned out, Mr Khalisadar was able to keep his oral submissions brief because he was able to rely on his skeleton argument instead.

The Facts

6. The Respondents were convicted on 1st October 2024 at Thames Magistrates' Court of having control of or managing a House in Multiple Occupation between about 14th January 2022 and 12th December 2023 at 5 Kemps Drive, London E14 8HY which was required to be licensed under Part 2 of the Housing Act 2004 ("the 2004 Act") but which was not so licensed, contrary to section 72(1) of the 2004 Act:

(a) The First Respondent was fined £1,500 and ordered to pay the victim surcharge of £600 and a contribution of £1,000 towards prosecution costs.
(b) The Second Respondent was fined £900 and ordered to pay the victim surcharge of £360 and a contribution of £1,000 towards prosecution costs.
(c) The Third Respondent was fined £559 and ordered to pay the victim surcharge of £224 and a contribution of £500 towards prosecution costs.

7. For the First Respondent, this is a second offence. It had previously been convicted of the same offence between 8th November 2021 and 31st May 2022 in respect of another property, 12 Barents House. A guilty plea was entered on the company's behalf on 13th December 2022. It was fined £1,000.

8. The circumstances of the Respondents' offences were set out in a prosecution case summary entitled, "Statement of Facts". It was presented to the magistrates but was not challenged by or on behalf of the Respondents. The Respondents did not seek to challenge any part of it before the Tribunal either. Therefore, the Tribunal accepts that it is accurate. The following matters taken from it are particularly relevant:

(a) The Applicant implemented an additional licensing scheme with effect from 1st April 2009. That scheme expired on 31st March 2024 but a new designation came into effect from 1st April 2024. Although 5 Kemps Drive had at least 5 residents for some of the time, the Respondents claimed that there were 3 or 4 for the rest of the time. Either way, the property required an HMO licence throughout the time it was let to tenants.
(b) On 3rd December 2023 the Applicant received a complaint through the Mayor of London's Rogue Landlord Portal that the tenants at 5 Kemps Drive did not have a tenancy agreement, 6 people were in occupation, tenancy deposits had not been protected and the facilities were inadequate for the number of people in occupation (all complaints the Applicant found later to be true). Although the registered leasehold proprietor was Shahnaz Begum-Hussain, the landlord was said to be the Second Respondent for the First Respondent company.
(c) The Applicant sent various notices to the First Respondent seeking various documents such as management contracts, proof of tenancy deposits, tenancy agreements and pest control records. The Respondents did eventually provide some documents but never fully complied. The Second Respondent's evidence to the Tribunal, considered further below, would suggest that at least some of these documents have never existed because the Respondents had not thought of them and did not know what they were required to have.
(d) Mr Gourdon, the Applicant's then case officer, inspected the property for the first time on 21st December 2023. There, he met a tenant who had shared a room with another tenant since 20th April 2022 and paid rent to the First Respondent by bank transfer. A third occupier had recently moved out.
(e) After Mr Gourdon's visit, the Respondents began removing partitions they had inserted in the flat to increase the number of bedrooms from 2 to 5. In his evidence to the Tribunal, the Second Respondent said the property initially had 3 bedrooms but it was clear he included the living room in this count.
(f) On 19th January 2024 the Second Respondent provided a Tenancy Deposit Scheme certificate for himself in the capacity of tenant. Although he said he lived there for a time when he first took on the property in around 2019 and again after the tenants left in 2024, there is no evidence he was ever a tenant himself.

(g) Mr Gourdon inspected the property for a second time on 5th February 2024. He noted that it had undergone significant redecoration since his previous visit. The Second Respondent was present and claimed he had a verbal tenancy from a company called Ellis & Co. He claimed he did not receive rent from any property in the borough. He has since admitted, including to the Tribunal, that the tenants at 5 Kemps Drive paid their rent to the First Respondent and that he manages at least 10 properties, on 5 of which he collects the rent.

(h) The Applicant obtained statements from 3 occupiers. They said that the property was shared by 6 people with rent paid to the First Respondent despite the lack of any written agreement. One of the occupiers said that, when he complained about mice and cockroach infestations and a lack of fire blankets or fire doors, the Respondents' response was to increase the rent. The Third Respondent also threatened him when he challenged him about removing the partitions.

(i) The occupiers had further complaints. The property was dirty and although they were meant to have a cleaner, cleaning rarely took place. Electrical sockets were apparently not functioning and there were bed bugs and sometimes rats. Smoke detectors and fire extinguishers were not supplied until about three months before they left the property.

9. On 25th March 2025, the Applicant issued a Notice for each Respondent of their intention to apply for Banning Orders, the Respondents' convictions being for one of the Banning Order offences listed in the Schedule to the Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018. A Banning Order is an order by this Tribunal that bans a landlord from:

- Letting housing in England;
- Engaging in English letting agency work;
- Engaging in English property management work; or
- Doing two or more of those things.

Breach of a banning order is a criminal offence. It must last for a minimum of 12 months. The Applicant proposed a period of 3 years.

10. Aqua Law Solicitors made representations on 28th April 2025 on behalf of the Second and Third Respondents. The Applicant responded on 5th June 2025 and decided to proceed with the application.

11. Both the Second and Third Respondents said they took responsibility for the "oversight" that resulted in their convictions and that they regretted it but put forward reasons as to why Banning Orders should not be made or would not be appropriate.

12. Mr Khalisadar first challenged the validity of the Notice of Intention on two grounds:

(a) Under section 15(3)(a) of the 2016 Act, the Notice must explain why the authority is intending to apply for a Banning Order. Mr Khalisadar asserted that this required some reasons as to why they considered that to be a proportionate and appropriate response. The extent of the explanation might vary from case to case but this adds a gloss to the statute which could have been but is not contained in the requirements. It must be remembered that the explanation is as to why an application is being made for a Banning Order. That application will always come with a statement of case, followed by any further directions the Tribunal believes are needed to ensure the proceedings are fair. The Applicant had already provided all the points it has relied on during the magistrates court proceedings and was not required to reiterate their case in the Notice.

(b) There was a typo in the Notice which stated that the Applicant, "intends to apply for a Banning Order which will last for not three years." Mr Khalisadar submitted that this nonsensical statement rendered the Notice invalid. However, it was clearly a typo. The reasonable recipient would know that the Applicant intended to seek Banning Orders lasting 3 years or more but that the Tribunal would make the final decision. The Tribunal does not believe that the Respondents were genuinely misled.

13. Under section 16(4) of the 2016 Act, in deciding whether to make a Banning Order and what order to make, the Tribunal must consider—

(a) the seriousness of the offence of which the person has been convicted,
(b) any previous convictions that the person has for a banning order offence,
(c) whether the person is or has at any time been included in the database of rogue landlords and property agents, and
(d) the likely effect of the banning order on the person and anyone else who may be affected by the order.

14. The middle 2 points were not in dispute. The only previous conviction was the First Respondent's in relation to 12 Barents House, as mentioned above. Mr Arat said he had conducted searches, twice on the Applicant's database and once across the internet, without finding anything on the Respondents.

15. The Respondents pointed out that the property did not need a licence when it was first let as it only had two bedrooms and was let out to two tenants. They submitted that they mistakenly failed to apply for a licence when the "occupancy situation changed." This phrase is carrying a lot of weight.

16. The occupancy situation changed when the Respondents inserted additional walls in the property so that it now had more bedrooms and so could accommodate more households. The number of bathrooms and kitchens remained at one of each, so that provision was now inadequate for the number of occupiers.

17. There is no excuse for the Respondents' alleged ignorance, given that they are professional agents who, in the case of the Second Respondent, had worked in the sector for at least 10 years. At the very least, they knew about the licensing requirements from when the situation at 12 Barents House was raised with them.

18. Both the Second and Third Respondents said they put in an early guilty plea at the magistrates' court in order not to waste court time. The Tribunal expects that this was taken into account when the court decided on the level of fine, but it is not really a matter for the Tribunal.

19. The Second and Third Respondents asserted that there was no evidence of harm to the tenants at the property. However, the Tribunal should not wait until actual harm arises before seeking to protect tenants from poor management. The fact is that the property was poorly run and maintained:

- As already mentioned, they converted a two-bedroom property into five bedrooms, resulting in overcrowding and inadequate facilities;
- The tenants' security deposits were not protected, contrary to section 213(1) of the Housing Act 2004;
- There were various repair and pest control issues; and
- There was a lack of basic fire safety measures.

20. The Second and Third Respondents say they have now taken steps to improve how compliance matters are monitored in their business but have provided no evidence other than asserting that they are paying closer attention and have "reviewed how occupancy levels are monitored".

21. On cross-examination of the Second Respondent, it became clear that this allegedly fresh attitude contained no substance. He admitted that he had not heard of the Housing Health and Safety Rating System or the repairing covenants implied by section 11 of the Landlord and Tenant Act 1985. He had no idea what a redress scheme or client money protection were, let alone having any knowledge of requirements to be members. He held no memberships of any professional organisations or landlords' forum, nor was he aware of them. He had not sought or undertaken any relevant training, again because he was unaware of the possibility of doing so.

22. The Second Respondent's evidence was that he came to the business of letting and managing properties when he was carrying out maintenance work and was asked to take on more responsibility. Growth of the business came entirely through word of mouth. Putting the most generous possible interpretation of his evidence, this route never put him in touch with anyone who could tell him what obligations a landlord carries. His ignorance is so deep that he does not even realise that he is ignorant. Apart from a vague assertion that he has good intentions, he knows nothing about being a good landlord and has never formed an intention to try to gain enough knowledge to become one.

23. Such extensive ignorance is dangerous. The Respondents know so little, they don't know enough to realise that. This has resulted in their committing serious offences of failing to licence. While they haven't been convicted of any other offences, it is highly relevant that their

management has been deficient in numerous other ways, as described above.

24. The Second and Third Respondents point out that Banning Orders would prevent them from being able to work in the sector on which they say they depend for their livelihood. That is, of course, the result of any Banning Order and is one of the reasons why they should only be made when circumstances justify it. However, it is the inevitable result of doing that work poorly, to unprofessional standards. The Respondents' livelihoods should not be protected if it means tenants are subjected to the kind of management they provided.

25. The Tribunal is satisfied that, not only did the Respondents provide poor management, but they also sought to mislead both their tenants and the Applicant in a transparent attempt to avoid the consequences. Banning Orders are clearly justified in this case and are imposed for the requested period of three years dating from 21st August 2026.

26. Mr Khalisadar suggested that there could be exceptions to the Banning Orders under section 17 of the 2016 Act but no details were provided of what those exceptions should be, nor any evidence which could support such exceptions.

Name: Judge Nicol **Date:** 21st May 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 and Planning Act 2016

Section 14 “Banning order” and “banning order offence”

(1) In this Part “banning order” means an order, made by the First-tier Tribunal, banning a person from—

(a) letting housing in England,
(b) engaging in English letting agency work,
(c) engaging in English property management work, or
(d) doing two or more of those things.

(2) See also section 18 (which enables a banning order to include a ban on involvement in certain bodies corporate).

(3) In this Part “banning order offence” means an offence of a description specified in regulations made by the Secretary of State.

(4) Regulations under subsection (3) may, in particular, describe an offence by reference to –

(a) the nature of the offence,
(b) the characteristics of the offender,
(c) the place where the offence is committed,
(d) the circumstances in which it is committed,
(e) the court sentencing a person for the offence, or
(f) the sentence imposed

(5) An offence under section 12 of the Tenant Fees Act 2019 is also a banning order offence for the purposes of this Part.

Section 15 Application and notice of intended proceedings

(1) A local housing authority in England may apply for a banning order against a person who has been convicted of a banning order offence.

(2) If a local housing authority in England applies for a banning order against a body corporate that has been convicted of a banning order offence, it must also apply for a banning order against any officer who has been convicted of the same offence in respect of the same conduct.

(3) Before applying for a banning order under subsection (1), the authority must give the person a notice of intended proceedings—

(a) informing the person that the authority is proposing to apply for a banning order and explaining why,
(b) stating the length of each proposed ban, and
(c) inviting the person to make representations within a period specified in the notice of not less than 28 days (“the notice period”).

(4) The authority must consider any representations made during the notice period.

(5) The authority must wait until the notice period has ended before applying for a banning order.

(6) A notice of intended proceedings may not be given after the end of the period of 6 months beginning with the day on which the person was convicted of the offence to which the notice relates.

<u>Section 16</u> Making a banning order

(1) The First-tier Tribunal may make a banning order against a person who—

(a) has been convicted of a banning order offence, and
(b) was a residential landlord or a property agent at the time the offence was committed

(but see subsection (3)).

(2) A banning order may only be made on an application by a local housing authority in England that has complied with section 15.

(3) Where an application is made under section 15(1) against an officer of a body corporate, the First-tier Tribunal may make a banning order against the officer even if the condition in subsection (1)(b) of this section is not met.

(4) In deciding whether to make a banning order against a person, and in deciding what order to make, the Tribunal must consider—

(e) the seriousness of the offence of which the person has been convicted,
(f) any previous convictions that the person has for a banning order offence,
(g) whether the person is or has at any time been included in the database of rogue landlords and property agents, and
(h) the likely effect of the banning order on the person and anyone else who may be affected by the order.

<u>Section 17</u> Duration and effect of banning order

(1) A banning order must specify the length of each ban imposed by the order.

(2) A ban must last at least 12 months.

(3) A banning order may contain exceptions to a ban for some or all of the period to which the ban relates and the exceptions may be subject to conditions.

(4) A banning order may, for example, contain exceptions—

(a) to deal with cases where there are existing tenancies and the landlord does not have the power to bring them to an immediate end, or
(b) to allow letting agents to wind down current business.

<u>Section 18</u> Content of banning order: involvement in bodies corporate

(1) A banning order may include provision banning the person against whom it is made from being involved in any body corporate that carries out an activity that the person is banned by the order from carrying out.

(2) For this purpose a person is “involved” in a body corporate if the person acts as an officer of the body corporate or directly or indirectly takes part in or is concerned in the management of the body corporate.