FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference(s)	**:**	**BIR/41UC/HNB/2025/0019** **BIR/41UC/HNA/2025/0032** **BIR/41UC/HNA/2025/0040**
Property	**:**	**96 Moor Street, Burton upon Trent, DE14 3SZ**
Applicant	**:**	**Atif Mahfooz** **Shahnaz Begum** **Rifat Fatima**
Representative	**:**	**Atif Mahfooz**
Respondent	**:**	**East Staffordshire Borough Council**
Representatives	**:**	**Rachel Liddle – Environmental Health Manager** **Lauren Sheffield – Solicitor**
Type of Applications	**:**	**Appeal against Financial Penalties - Section 249A & Paragraph 6 of Schedule 13A to Housing Act 2004.**
Tribunal Members	**:**	**Judge Candlin** **N Wint FRICS**
Date of Decision	**:**	**18 June 2026**

DECISION

Background

1. This is the Tribunal's determination in respect of three consolidated appeals brought by Atif Mahfooz, Shahnaz Begum and Rifat Fatima as Applicants against three Financial Penalties issued by the Respondent in the sums of £18,500, £6,500 and £6,500 respectively under section 249A and Schedule 13A of the Housing Act 2004 in respect of property known as 96 Moor Street, Burton Upon Trent, DE14 3SZ ("the Property").

2. On 29 April 2025 the Respondent sent to the Applicants Notices of Intent to Issue a Financial Penalty. The Applicants made Representations which the Respondent considered and found there to be no justification not to serve Final Notices.

3. The Respondent issued Final Notices to Atif Mahfooz dated 1 July 2025 and to Shahnaz Begum and Rifat Fatima dated 23 July 2025 confirming the issue of Financial Penalties on the Applicants. The Final Notices stated the Respondent was satisfied that the Applicants had committed an offence under section 72 of the Housing Act 2004 in relation to the Property and demanded payment within 28 days of the Final Notices.

4. Details of how the Financial Penalties were calculated were attached as a Schedule accompanying the Final Notices and had regard not only to the severity of the offence but also associated aggravating and mitigating factors.

5. The Applicants submitted an appeal to the First-tier Tribunal Property Chamber dated 28 July 2025. The appeal was received within the period of 28 days as specified in Rules 27(1) and (2) of the Tribunal Procedure Rules. The Tribunal issued its Directions dated 4 November 2025 and the matter was listed for a hearing on 11 May 2026.

6. The Tribunal received written submissions from the parties and heard oral evidence from Atif Mahfooz and Rachel Liddle at the hearing.

Preliminary Point

7. In closing submissions, the Respondent withdrew the Final Notices served upon Shahnaz Begum and Rifat Fatima on the basis that the Notices of Intention had been served at addresses not associated with either of these parties.

8. No further consideration shall be given in this Decision to the Final Notices served upon Shahnaz Begum and Rifat Fatima. Further, the Respondent conceded that the cost of the two related applications to appeal should be deducted from the outstanding Financial Penalty for which they argued Atif Mahfooz remained liable.

9. Atif Mahfooz shall hereafter be referred to as the Applicant.

Facts

10. It was not in dispute that the Property meets the standard test (section 254 of the Housing Act 2004) for a house in multiple occupation and meets the licensing criteria under the Licensing of Houses in Multiple Occupation (prescribed Description) (England) 2018. Therefore, the Property requires a licence under part 2 of the Housing Act 2004, section 61.

11. The licence held by the Applicant expired on 17 December 2024. The Applicant submitted an incomplete licence application on 13 February 2025 and a fully completed application on 15 July 2025. The Respondent approved the application and thereafter issued a licence on 6 January 2026, backdated to 15 July 2025.

The Evidence of the Applicant and Respondent

12. The Applicant is the landlord of two HMO's including the Property; 8 or 9 selectively licensed properties, and a number of other properties.

13. The HMO licence for the Property expired on 17 December 2024. The Respondent by email dated 25 November 2024 reminded the Applicant that the licence was coming up for renewal. They sent a letter of reminder on 6 January 2025.

14. The Applicant claimed not to have received the letter of reminder but had received the email.

15. The Applicant asserted that the reason why he did not attend to the renewal of the licence prior to its expiry was due to his maternal grandfather falling ill and sadly dying on 5 December 2024.

16. Soon after this bereavement, the Applicant's paternal grandfather living in Pakistan also fell ill and the Applicant followed his wife out to Pakistan to look after him in February 2025.

17. The Applicant was therefore in Pakistan when he received an email dated 5 February 2025 from Jayne Corson, Environmental Health Officer at the Respondent reminding him that the HMO licence renewal was outstanding and that he should respond within 7 days. The Applicant made the application to renew from Pakistan by email dated 13 February 2025, attaching as many of the renewal documents as he had available.

18. The Applicant received an email from Jayne Corson dated 19 February 2025 stating that he should send the remaining documents to her by 31 March 2025.

19. The Applicant asserts that he hand delivered the hard copy documents to the Respondent on 30 March 2025 by way of the postbox at the Town Hall Burton upon Trent.

20. The Applicant accepts that the hand delivered documents did not include either:
    a. the HMLR office copy entry for the Property, as he says that he had agreed that Jayne Corson would source that document using the Respondent's own access to the Land Registry database. The Respondent denies any such agreement;
    b. the Portable Appliance Testing (PAT) certificate. The Applicant asserts that he forwarded this to the Respondent on 2 May 2025; the Respondent claims that they did not receive it until 15 July 2025.

21. The Respondent, however, denies ever receiving the said hand delivered documents. The Respondent asserts that any documents delivered to the post box at the Town Hall are distributed to the relevant department and by implication if they weren't distributed, then they must not have been delivered.

22. The Applicant considers this to be a symptom of the Respondent's poor levels of administration, of which he gave other examples such as an email he claims was never received by Jayne Corson relating to the HMO renewal license on his other property, 95 Ash Street.

23. The Applicant asserts that the Respondent should have alerted him to the fact that they had not received his outstanding documents by the deadline of 31 March 2025. The Respondent asserts that this is not their responsibility.

24. The first the Applicant knew of the fact that the hand delivery had not reached the Respondent was service upon him on 29 April 2025 of the Notice of Intent to serve a Penalty Notice. Within 24 hours of receipt of the said Notice of Intent, the Applicant by email dated 2 May 2025 sent Jayne Corson the documents which he claimed he had hand delivered and thereafter emailed the HMLR document on 16 May 2025.

25. The Applicant asserts that he included the PAT certificate in the email of 2 May 2025. The Respondent asserts that they did not receive that until 4 June 2025, following a reminder email from Jayne Corson on that date.

26. The Applicant asserts that but for the Respondent's failure to inform him they had not received his documents by the deadline of 31 March 2025 and but for their delay thereafter in processing the application, his licence application would have been fully made and processed by mid-April 2025.

27. The Respondent asserts that the application was not fully complete and the invoice for the licence not paid until 15 July 2025. Promptly thereafter, on 15 July 2025, they issued the draft licence, subject to the inspection which they carried out in October 2025. Thereafter they issued the final licence on 6

January 2026 (backdated to commence on 15 July 2025).

28. The Respondent therefore maintains that the period during which the Applicant was not in possession of a valid HMO licence for the property was from 17 December 2024 to 15 July 2025.

Calculation of the Financial Penalty

29. The Respondent calculated the Financial Penalty it imposed upon the Applicant by way of the following 4-stage approach set out at para 5.3 of its Civil Penalties Policy and Procedure document:

Stage 1

30. The Respondent considered that the failure to licence an HMO was serious and therefore the starting point for the penalty was £12,500.

Stage 2

31. The Respondent considered that as the Applicant was the owner of 2 HMO properties and 8-9 other properties he was therefore an experienced landlord and that the starting point should be increased by £5,000.

Stage 3

32. The Respondent considered that an aggravating feature was the fact that the Applicant had 2 HMO properties which had had licences so he was familiar with the process; the Respondent had also corresponded with him to remind him to renew; they therefore made a +£3,000 adjustment.

Stage 4

33. The Respondent considered two heads of mitigation, namely (i) the two bereavements which the Applicant had suffered in Dec 24 and Feb 25 and (ii) the fact that he had made a partial application in February 2025. These merited a -£1,000 adjustment each.

34. The final sum of the financial penalty was therefore £18,500.

Closing Submissions

35. The Respondent stood by the quantum of the Financial Penalty they had imposed on the Applicant (minus the costs of the other two applicants' appeals being the combined sum of £228).

36. The Applicant's primary position in closing was that he should not be liable for a financial penalty at all because he had made the application on 13 February 2025 and but for the Respondent's administrative failure to successfully receive and distribute his hand delivered documents on 30 March 2025, the licence could and should have been issued at least in draft by mid-April.

37. The Applicant contended that even though the Property would have been unlicensed between 17 December 2024 and mid-April 2025, extenuating circumstances should mitigate any financial penalty otherwise imposed.

38. The Applicant asserted that there were very unusual circumstances in this case, namely two bereavements in quick succession with the consequent mental and emotional toll and in addition that his daughter had been in hospital three times (a fact referred to briefly in oral evidence but not in his witness statement).

39. The Applicant took the tribunal to para 5.3.4 of the Respondent's Housing Enforcement Policy and relied on the fact that he had not gained financially from the failure to licence. Further, he had been in regular contact with the Respondent since February 2025 and, on his evidence, had complied with the deadline of end March but been thwarted by the Respondent's poor administration.

40. In the alternative, in acknowledging that he had delayed in the application to renew the licence, the Applicant sought a significant reduction in the Financial Penalty to a sum of a few thousand pounds

The Law

41. The regime of financial penalties as an alternative to prosecution for certain housing offences came into force on 6 April 2017. Section 249A of the 2004 Act, inserted by section 126 of, and paragraphs 1 and 7 of Schedule 9 to, the Housing and Planning Act 2016 ('the 2016 Act') provides –

(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.

42. The "relevant housing offence" alleged is under s72 Housing Act 2004, which states:

" (1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part…but is not so licensed."

43. Paragraphs 1 to 10 of Schedule 13A to the Housing Act 2004 state as follows:

Notice of intent

44. 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").

(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.

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

(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

45. After the end of the period for representations the local housing authority must—

1. decide whether to impose a financial penalty on the person, and
2. if it decides to impose a financial penalty, decide the amount of the penalty.

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.

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.

The final notice must set out—

(c) the amount of the financial penalty,

(d) 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.

Withdrawal or amendment of notice

(1) A local housing authority may at any time—

(a)withdraw a notice of intent or final notice, or
(b)reduce the amount specified in a notice of intent or final notice.

(2) The power in sub-paragraph (1) is to be exercised by giving notice in writing to the person to whom the notice was given.

Appeals

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

-the decision to impose the penalty, or
-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.

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.

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

(4) 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.

Recovery of financial penalty

(1) This paragraph applies if a person fails to pay the whole or any part of a financial penalty which, in accordance with this Schedule, the person is liable to pay.
(2) The local housing authority which imposed the financial penalty may recover the penalty or part on the order of the county court as if it were payable under an order of that court.
(3) In proceedings before the county court for the recovery of a financial penalty or part of a financial penalty, a certificate which is—

(a) signed by the chief finance officer of the local housing authority which imposed the penalty, and
(b) states that the amount due has not been received by a date specified in the certificate,

is conclusive evidence of that fact.

(4) A certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved

(5) In this paragraph "chief finance officer" has the same meaning as in section 5 of the Local Government and Housing Act 1989.

Decision

46. The Tribunal has considered the appeal in three parts:

(1) Whether the Tribunal was satisfied, beyond reasonable doubt, that the applicant's conduct amounted to a "relevant housing offence" in respect of premises in England (see sections 249A (1) and (2) of the Housing Act 2004);

(2) Whether the local housing authority complied with all of the necessary requirements and procedures relating to the imposition of the financial penalty (see section 249A and paragraphs 1 to 8 of Schedule 13A of the 2004 Act); and/or

(3) Whether the financial penalty was set at an appropriate level, having regard to any relevant factors, including:

(i) the offender's means;

(ii) the severity of the offence;

(iii) the culpability and track record of the offender;

(iv) the harm (if any) caused to a tenant of the premises;

(v) the need to punish the offender, to deter repetition of the offence or to deter others from committing similar offences; and/or

(vi) the need to remove any financial benefit the offender may have obtained as a result of committing the offence.

Consideration 1 - Did the Applicant's conduct amount to a relevant housing offence?

47. The Tribunal is satisfied beyond reasonable doubt that the Applicant's conduct amounted to a relevant housing offence in respect of the Property.

48. The Applicant did not have a valid licence for the Property between 17 December 2024 and 15 July 2025.

49. The Tribunal was not persuaded that the period of the offence should be reduced on the basis of alleged poor administration on the part of the Respondent. The Tribunal was not persuaded that the Applicant did leave hard copies of the relevant documents at the Town Hall on 30 March 2025.

50. There was no documentary or photographic evidence that he did so and the Respondent's evidence was that any such documents so delivered would

have been distributed to the appropriate department.

51. Even if the Applicant had hand-delivered those documents, the documents were not complete because they did not include the PAT certificate or the HMLR document.

52. Although the Applicant asserted that the lack of the PAT certificate was not relevant and that he had agreed that Jayne Corson would source the HMLR document, the Tribunal is not satisfied that the application could have been considered complete without them or that the Applicant was entitled to rely upon Jayne Corson sourcing the HMLR document (there is for example no documentary evidence that she agreed to do so).

53. The offence lasted between the expiry of the previous licence and the grant of a draft new licence upon receipt and consideration of the completed application form on 15 July 2025.

Consideration 2 - Whether the local housing authority complied with all the necessary requirements and procedures relating to the imposition of the financial penalty?

54. The Tribunal is satisfied that the Respondent complied with the requirement to serve a Notice of Intent on the Applicant and did so on 29 April 2025. The Applicant acknowledges receipt.

55. The Applicant raised some issues with the procedural elements of the imposition of the penalties. He accused the Respondent of poor administration, failure to receive and distribute hand-delivered documents; failure to respond to telephone calls; and tardiness in dealing with his application.

56. The Tribunal is not satisfied that the Respondent is guilty of poor administration or that it is proven that the Respondent received and failed to distribute the hand-delivered documents.

57. Thereafter the Respondent served its Final Notice of Financial Penalty on the Applicant on 1 July 2025.

58. Unless the offence is continuing, 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. The time periods within which the Respondent became aware of the offences and subsequently served its Notice of Intent satisfy the requirements of paragraph 2 of Schedule 13A to the Act. Further, the Notice of Intent included all the necessary information required under paragraph

3.

59. The Tribunal determines that the procedural requirements for the imposition of the Financial Penalty were satisfied.

Consideration 3 - Whether the financial penalty was set at an appropriate level?

60. In determining whether the penalty was set at an appropriate level, the First-tier Tribunal ("FTT") must take into account the guidance given in recent Upper Tribunal decisions in respect of financial penalties, particularly the following two cases which were consolidated as follows:

London Borough of Waltham Forest and Allan Marshall
London Borough of Waltham Forest and Huseyin Ustek

Both were noted under the UT Neutral Citation Number: [2020] UKUT 0035 (LC).

61. In both appeals, Judge Cooke reinstated the original penalty amounts and held that the FTT must accept the local authority's policy:

"*the FTT is not the place to challenge the policy about financial penalties*".

When determining an appeal, it must

"*start from the policy*"

and, though it may depart from it, may only do so in certain circumstances. In addition, the Applicant, in any particular matter, bears the burden of persuading it to do so, and in considering whether it should do so, the FTT must:

"*Look at the objectives of the policy and ask itself whether those objectives will be met if the policy is not followed*",

And

"*Consider the need for consistency between offenders, which is one of the most basic reasons for having a policy and an essential component of fairness in the financial penalty system.*"

62. As an appeal under Schedule 13A to the 2004 Act is by way of re-hearing, the FTT must of course make its own decision. In doing so, however, it must afford the local authority's decision particular weight, described variously

by the Upper Tribunal as "*special weight*", "*considerable weight*" and "*great respect*". Parliament has conferred the primary decision-making function on democratically elected and accountable local authorities.

63. The starting point taken by the Respondent from its penalty matrix calculation was that the failure to obtain a licence was a serious matter. The starting value of the financial penalty was therefore set at £12,500.

64. The Respondent then increased the starting point by £5,000 due to the Applicant being an experienced landlord.

65. The Respondent then determined the aggravating features, namely (i) the landlord having two previously licensed HMO's and therefore being aware of the licensing regime and (ii) his having been reminded of the need to renew. They added £3,000 to the penalty.

66. The Respondent then considered the mitigating factors namely (i) bereavement and (ii) the Applicant's partial application and deducted £1,000 for each factor.

67. The Tribunal notes the following in respect of the nature and conduct of the Applicant:
    a. The Applicant is a portfolio landlord.
    b. The Applicant is a private individual with significant knowledge of the relevant Housing Law.
    c. The Applicant failed to employ a managing agent to look after the Property.
    d. Whilst the Applicant argued that the very fact that he looks after a lot of properties without the use of a managing agent means he has a lot to manage himself, the Tribunal considers that it is his responsibility to ensure he is compliant with the licensing regime.
    e. The Applicant had two bereavements whilst the renewal process was proceeding and a third (a paternal uncle) in July 2025. Whilst these are not an excuse for failing to obtain a licence, some mitigation is appropriate for his having to travel abroad in February 2025.

68. The Tribunal notes the following in respect of the Respondent's actions:
    a. The Respondent has followed its policy in the calculation of the penalty.
    b. They have given suitable weight to the aggravating factors.
    c. They have taken account of the mitigating factors.
    d. The Respondent has considered the Applicant's representations but upheld the sum of the penalty.

69. Taking into account all of the evidence and the respective submissions, the

Tribunal considers that a small extra deduction should be made from the starting point to take account of the exceptional circumstances of three bereavements during the relevant period.

70. The Tribunal therefore finds and determines that the Financial Penalty payable by the Applicant is **£18,272 (Eighteen Thousand two hundred and seventy-two Pounds**).

Appeal

71. If either party is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties (Rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

Judge Candlin