FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**MAN/00EJ/HUA/2025/0001**
Property	**:**	**3 Gerrard Street Spennymoor County Durham DL16 6DY**
Applicant	**:**	**Mr Joseph Ross**
Respondent	**:**	**Durham County Council**
Type of application	**:**	**Appeal against a financial penalty - Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020**
Tribunal	**:**	**Tribunal Judge L Brown,** **Tribunal Member Mr J Fraser**
Date of decision	**:**	**29th May 2026**

DECISION

Mr Jospeh Ross is substituted as Applicant.

The appeal is allowed in part. The Tribunal confirms that the Respondent was permitted to issue a financial penalty to the Applicant, but the Tribunal substitutes the amount of the financial penalty to the sum of £5,000.00

The Application

1. By Application dated 5 May 2025 CJ Homes (North East) Limited (the Company) appealed against a financial penalty of £7,500.00 imposed by the Respondent by a Final Notice dated 20 March 2025 in respect of the Property.

2. Procedural Directions were issued by the Tribunal on 7 November 2025.

3. The Application is opposed by the Respondent. Both parties presented their own bundle of documents, comprising 98 pages (Applicant) and 555 pages (Respondent), which the Tribunal took time to read before the hearing.

4. The Application was heard at Durham Court Centre on 12 February 2026. The Applicant was represented by Mr Christopher Ross, who provided a written statement dated 18 December 2025, as Director of the Company. Also attending was Mr Joseph Ross. Both gave oral evidence to the Tribunal. The Respondent was represented by Ms S Grigor, Solicitor. Evidence for the Respondent was given by Ms J Taylor, Senior Environmental Health officer, who provided a written statement dated 24 November 2025. Also present from the LA was Mr A Ward, Housing Action Team Leader. The Tribunal accepted the written statements as the statement maker's main evidence.

The Law

5. The Electrical Safety Standards in The Private Rented Sector (England) Regulations 2020 ('the Regulations') sets out at Regulation 3:

   "*Duties of private landlords in relation to electrical installations*

   (1) A private landlord who grants or intends to grant a specified tenancy must—
   (a) ensure that the electrical safety standards are met during any period when the residential premises are occupied under a specified tenancy;
   (b) ensure every electrical installation in the residential premises is inspected and tested at regular intervals by a qualified person; and
   (c) ensure the first inspection and testing is carried out—
   (i) before the tenancy commences in relation to a new specified tenancy; or (ii) by 1st April 2021 in relation to an existing specified tenancy.

   (2) For the purposes of sub-paragraph (1)(b) "at regular intervals" means—
   (a) at intervals of no more than 5 years; or
   (b) where the most recent report under sub-paragraph (3)(a) requires such inspection and testing to be at intervals of less than 5 years, at the intervals specified in that report.

   (3) Following the inspection and testing required under sub-paragraphs (1)(b) and (c) a private landlord must—

(a) obtain a report from the person conducting that inspection and test, which gives the results of the inspection and test and the date of the next inspection and test; (b) supply a copy of that report to each existing tenant of the residential premises within 28 days of the inspection and test; (c) supply a copy of that report to the local housing authority within 7 days of receiving a request in writing for it from that authority; (d) retain a copy of that report until the next inspection and test is due and supply a copy to the person carrying out the next inspection and test; and (e) supply a copy of the most recent report to—

(i) any new tenant of the specified tenancy to which the report relates before that tenant occupies those premises; and

(ii) any prospective tenant within 28 days of receiving a request in writing for it from that prospective tenant."

6. Regulation 11(1) of the Regulations states "*Where a local housing authority is satisfied, beyond reasonable doubt, that a landlord has breached a duty under regulation 3, the authority may impose a financial penalty (or more than one penalty in the event of a continuing failure) in respect of the breach.*" For the time at issue the maximum penalty was £30,000.

7. Schedule 2 of the Regulations sets out the procedure for imposing a financial penalty.

Preliminary point

8. The Property is a 2 storey semi-detached house. At the time relevant to matters before the Tribunal it was occupied by Ms H Lloyd and her daughter, under an assured shorthold tenancy.

9. The registered proprietor of the Property recorded at Land Registry was, and remained throughout, Mr Joseph Ross. While we were informed by Mr Christopher Ross that ownership had transferred to the Company in 2019, there was no other evidence before the Tribunal of any such change of ownership. The Tribunal found for the time at issue here that the landlord of the Property was Mr Joseph Ross. While the Company has proceeded on the basis that it was the party affected by the financial penalty, that is a misapprehension in law. The penalty was imposed by the Respondent on Mr Joseph Ross. The Respondent argued that as the Company lacked standing to bring the appeal the Application should be struck out.

10. The Tribunal found that the legal technicalities had not been properly understood by the Company, which we learned is a family business, by Mr Christoher Ross or Mr Joseph Ross. In reality, combined, they wanted to appeal against the penalty.

11. Under Rule 10 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, at the hearing the Tribunal substituted Mr Joseph Ross as Applicant. We found no prejudice arose to the Respondent by this action – it had proceeded against that gentleman throughout and could not reasonably argue it was misled by the Company appearing as pursuing the Application. We found that the representations present for the Company applied equally to Mr Joseph Ross.

Facts and chronology

12. On 12 April 2024 the Respondent received a complaint from Ms Lloyd about the state of repair of the Property. On 25 April 2024 Ms Taylor conducted an inspection of the Property, during the course of which she learned that Ms Lloyd considered she had not received an Electrical Installation Condition Report (EICR) for the Property, as required by law – see paragraph 5.

13. After checking with Land Registry and its Council Tax records, and being satisfied that Mr Joseph Ross was the landlord of the Property, on 10 May 2025 a hazard awareness notice (HAN) was sent to Mr Jospeh Ross c/o 11 South View, Middlestone Moor, Spennymoor, DL16,7DF and also to him at 3a Gerard Street, Spennymoor, DL16 6DY. The first address is as appears for Mr Joseph Ross on Land Registry records. The second address is that provided by Ms Lloyd in her complaint, for her landlord (albeit she identified the landlord as Mr Christopher Ross) and it is also the office of the Company. The HAN outlined defects identified and remedial works required, including the lack of a valid EICR.

14. Mr Christopher Ross sent an email dated 16 May 2024 to Ms Taylor. He referred to the correspondence to his brother, Mr Jospeh Ross, stated that the Property "*….is held by…..*" the Company, and commented upon the content of the HAN. Regarding the EICR he provided a copy of an electrical certificate installation/ modification report (EIC) covering the installation of a new 10 way distribution board and bonding to incoming gas at the Property. The EIC was dated 4 June 2021 and was signed by Mr Shaun Hope of IF Electrical and Security.

15. Ms Taylor replied to Mr Christopher Ross on 21 May 2024 stating that the EIC was not an EICR. A point of relevance here is that for the purposes of the Regulations, the EIC may have been satisfactory if it related to a full rewire of the Property, but this was not applicable, nor was the Property a new build; in effect an EICR was required.

16. When no EICR was provided, on 21 May 2024 Ms Taylor emailed Mr Christopher Ross commenting upon the document provided, and other matters referable to the HAN. On 20 July 2024 Mr Joseph Ross emailed Ms Taylor, dealing with address information, and indicated his partner – understood to mean his brother, Mr Christopher Ross – was in contact on his behalf. In the absence of an EICR being produced, on 30 August 2024 a Notice to Require Documents to be Produced, under the Regulations, was served on Mr Joseph Ross. Mr Christopher Ross emailed Ms Taylor on 9 September, acknowledging the need for the EICR, requesting more time, which was granted until Noon on 7 October 2024.

17. On 12 October 2024 Mr Christopher Ross asked for more time, due to a family death. On 17 October 2024 Ms Taylor indicated in reply that she intended to serve a notice of intent to impose a civil penalty. On 21 October 2024 Mr Christopher Ross provided an EICR, from IF Electrical and Security, issued 1 October 2024 in respect of the Property.

18. The Respondent uses an online database to check if an electrician is a competent person to undertake inspections for an EICR (the Competent Persons Scheme). It was not satisfied that IF was competent and informed Mr Christopher Ross of this

on 23 October 2024, who indicated the next day that he would investigate and if necessary would have a fresh inspection carried out. Ms Taylor also spoke directly with the electrician from IF on 25 October 2024, who appeared to acknowledge a problem with his registration to be able to provide the appropriate certificate.

19. On 11 November 2024 the Respondent dispatched to Mr Jospeh Ross a Notice of Intention to Impose a financial penalty of £7,500. The reasons identified for proposing to impose the penalty were "*The Council is satisfied that you have committed 'a relevant housing offence' in that: • You committed an offence in relation to a failure to comply with Regulation 3 of the Electrical Safety Standards in the Private Rented Section (England) Regulations 2020.*" Additional detail presented was "*You failed to comply with the requirements of Regulation 3 of the Electrical Safety Standards in the Private Rented Section (England) Regulations 2020. In particular, you failed to comply with a requirement relating to '(3)(c) Supplying a copy of the report to the local housing authority within 7 days of a written request'*".

20. On 12 November 2024 Ms Taylor received with an email from Mr Christopher Ross a new EICR, completed by LTW Electrical Ltd. The Respondent could not identify that electrician as competent to provide an EICR and on the same date Ms Ross emailed both Christopher and Joseph Ross to that effect and suggesting enquiry was made about the contractor's accreditation.

21. No representations regarding the proposed penalty were received and the Respondent proceeded to issue a Final Notice dated 20 March 2025 to Mr Joseph Ross.

22. The Respondent later was notified that LTW was accredited and the Respondent subsequently (on 18 March 2025) accepted that it was satisfied to that effect, meaning it agreed that the LTW EICR dated 11 November 2024 was valid.

Applicant's position

23. Simply, the Applicant's position advocated firstly was that the EIC satisfied the Regulations and had been supplied to the Respondent.

24. In an email dated 13 November 2024 Mr Wall, Managing Director of LTW, set out that the EICR it had produced was compliant and this proposition was subsequently accepted by the Respondent.

25. It was also represented that the Respondent had acted unreasonably by failing to enter into meaningful engagement.

26. The amount of the penalty was described as not proportionate to the circumstances.

Respondent's representations

27. The Respondent represented that the penalty arose from the failure to supply a valid EICR and was calculated taking into consideration all of the information available at the time of the offence, in light of the representations throughout and

its Enforcement Policy and Civil Penalties Policy, the latter of which was in the hearing bundles.

Conclusions and Reasons

28. On an appeal against a financial penalty, the Tribunal is required to make its own finding as to the imposition and/or amount of a financial penalty and may take into account matters which were unknown to the local housing authority when the Final Notice was issued.

29. The Tribunal must be satisfied, beyond a reasonable doubt, that the Applicant had committed the offence of failing to provide when requested a copy of a valid EICR. The Regulations require all properties subject to a 'specified tenancy' to have their electrical systems tested at least every 5 years by a qualified person. The test must comply with the 18th Edition of the Wiring Regulations in accordance with BS 7671:2018 and an Electrical Installation Condition Report (EICR) should be provided by the landlord to the tenant on completion of such test. Where the tenant is not in receipt of such certification, the Regulations make provision under Regulation 3 (3)(c) for the local authority to serve notice on the landlord to provide such documentation within seven days. Regulation 11 provides for a civil penalty where there is a breach of the requirement.

30. The Tribunal found that the Notice to Produce the EICR of 30 August 204 required production by 7 October 2024 (extended deadline). No valid EICR was presented by when the Notice of Intention to issue a penalty was sent on 11 November 2024; a document purporting to be satisfactory arrived the following day – but which was not verified by the Respondent until 18 March 2025, although the Tribunal considered, in light of the review set out below at paragraph 32 concerning the criteria for an electrician to be able to produce an EICR, that it is likely the Respondent could have established this sooner, having taken a restrictive approach to verification of the electrician. However, that helps only LTW, not IF, whose absence of accreditation was accepted by the Applicant at the hearing.

31. The Tribunal found firstly that the EIC was not an EICR, it did not arise from full electrical appliance testing, and none of the exceptions apply which might have made it acceptable. We found that there had been a misunderstanding by the Applicant and Mr Christopher Ross about the validity of the EIC.

32. We considered the ability of the IF and LTW electricians to produce a valid EICR, as that point arose regarding the second and third inspection document replied upon by the Applicant.

    Section 2 of the Regulations sets out:

    In these Regulations—

    ....

    "qualified person" means a person competent to undertake the inspection and testing required under paragraph (1) and any further investigative or remedial work in accordance with the electrical safety standards;

There are no further definitions for "qualified" or "competent" under that Interpretation provision.

Part 2 of the Standards provide definitions. There is no definition for qualified person or competent person. There is a definition of "Skilled person (electrically)" as follows:

A Skilled person (electrically) is defined as:

Person who possesses, as appropriate to the nature of the electrical work to be undertaken, adequate education, training and practical skills, and who is able to perceive risks and avoid hazards which electricity can create.

NOTE 1: *The term '(electrically)' is assumed to be present where the term 'skilled person' is used throughout BS 7671.*

NOTE 2: *Regulation 16 of the Electricity at Work Regulations 1989 requires persons to be competent to prevent danger and injury. The HSE publication HSR25 provides guidance on this.*

The Tribunal had regard to the Electricity at Work Regulations 1989, Regulation 16, which provides:

239 Technical knowledge or experience.
The scope of 'technical knowledge or experience' should include:

(a) adequate knowledge of electricity;
(b) adequate experience of the electrical work being carried out;
(c) adequate understanding of the system to be worked on and practical experience of that class of system;
(d) understanding of the hazards which may arise during the work and the precautions which need to be taken;
(e) the ability to recognise at all times whether it is safe for work to continue.

In relation to inspecting and testing, and skilled persons, the Standards set out:

6.5.1 The periodic inspection and testing shall be carried out by one or more skilled persons competent in such work

653.5 The Report shall be compiled and signed or otherwise authenticated by one or more skilled persons competent in such work.

33. The Respondent stated that they require an EICR to be produced by a person who is registered with a Government Approved Competent Persons Scheme. We find that there is no such requirement in the Regulations. Regulation 3(8) defines a *qualified person* as being someone competent to undertake inspection and testing and in accordance with the electrical safety standards which is BS

7671. BS 7671 does not define competent person, however a skilled person is referred to in the relevant section for testing and inspecting. A skilled person is a person who possesses "adequate education, training and practical skills". The definition references Regulation 16 of the Electricity at Work Regulations 1989 which provides that the scope of "technical knowledge or experience" should include – as set out in our previous paragraph starting "239".

34. The Respondent submitted at the hearing that they were not electricians and therefore could not assess the competency of an electrician and relied on the Competent Persons Scheme. However, this approach places an additional requirement beyond that required by the Regulations. We find that there is no such requirement in the Regulations. Rather, the person carrying out the testing and inspection, must have *adequate education, training and practical skills*. Therefore, if an electrician can provide evidence that they have adequate education and training and state that they have the requisite practical skills, this would comply with the requirements of the Regulations.

35. Notwithstanding the above, it was not asserted that the IF purported EICR was actually valid; indeed the instruction of LTW made it clear that the Applicant did not accept it as such. We question whether the Respondent was reasonable in rejecting the LTW certificate however, but that did not affect the clear failure of the Applicant to produce the EICR by 7 October 2024 and thereby we had to find that he committed the offence under Regulation 3 of the Regulations. In consequence, we found beyond reasonable doubt that a relevant offence had been committed.

36. The process leading to the Respondent imposing a financial penalty for the offence was not in dispute and the Tribunal was satisfied that there had been compliance with the statutory requirements including the service of notice of intent and of final notice, before the financial penalty may be active.

Amount of the Penalty

37. The basis of calculation of the amount of the penalty is set out briefly in the Respondent's Case Summary. Our findings on that matter are set out below. We had regard to the Civil Penalties under the Housing and Planning Act 2016 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 document of the Respondent, produced in evidence. Regarding a breach of Regulation 3 of the Regulations, it is recorded "*… the Council recognises that a failure to comply with certain aspects of Regulation 3 is likely to have a much bigger impact on the safety and comfort of residents than others.*" Further, a breach of the particular Regulation at issue here – 3(3)(c), for failing to produce a requested document is classified "*….as a Serious matter, attracting a financial penalty with a starting level of £12500.*"

38. The Respondent set out (Case Summary) "*Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features, will reduce by £5000, attracting a civil penalty of £7500*".

39. In addition, "*Aggravating features/factors specific to Electrical Safety Regulations breaches of duty*

• The number and/or nature and/or extent of the Electrical Safety Regulation breach(es) within each sub-regulation
• Using an unqualified person lacking appropriate certification to carry out inspection, testing, investigative or remedial work

In this case, as Mr Joseph Ross was listed as the sole owner of the property at land registry and there was no evidence at the time of him being a portfolio landlord with links to CJ Homes (North East) Limited, the starting civil penalty of £12500 was reduced to £7500. No mitigating circumstances were submitted following service of notice of intent. No aggravating factors were considered as applicable to the case."

40. The Tribunal was not persuaded that sufficient regard had been given to whether the starting point for seriousness of the offence ("serious") was appropriate in the specific circumstances of this matter. Indeed, we found that the Policy had been applied without any such assessment. The Policy itself regards certain other offences under the Regulations to be "Very serious" and "Mild". The Policy sets out indicative starting points. We believe that a reasonable authority would explain clearly what had been considered when determining the starting point for a penalty and simply referring to the Policy figures is not, in our view, sufficient.

41. The Ministry of Housing, Communities and Local Government issued (April 2018) Guidance to local housing authorities regarding how their financial penalty powers are to be exercised regarding civil penalties under the Housing Act 2004 and Housing and Planning Act 2016. The Guidance encourages each authority to issue its own policy for determining the appropriate level of penalty, with the maximum amount being reserved for the worst offenders. Relevant factors include:

    a. the severity of the offence;
    b. the culpability and track record of the offender;
    c. the harm caused to the tenant;
    d. punishment of the offender;
    e. deterring the offender from repeating the offence;
    f. deterring others from committing similar offences; and
    g. removing any financial benefit the offender may have obtained as a result of committing the offence.

42. The Tribunal considered that the principles of the Guidance are helpful also in respect of assessing a penalty for breach of the Regulations and we had it in mind the above factors when reviewing the Respondent's penalty.

43. However, while we agree that there were no aggravating factors which could affect the penalty amount, the Tribunal considered that the Respondent was deficient in its determination that there were no mitigating factors so as to reduce the penalty. The Policy records "*The Council has not provided a list of mitigating factors in this policy because it acknowledges that there are myriad possible circumstances that might give rise to mitigation.*" While the Respondent received no specific

representations after issue of the Notice of Intention, there were a number of factors which could have led to mitigation –

(i) Cooperation – there was engagement on behalf of the Applicant and no refusal to do so;
(ii) Misunderstanding regarding the status of the EIC – but when the Respondent sought to correct the confusion on 21 May 2024 it took until 21 October 2024 for a purported replacement EICR dated 1 October 2024 to be presented (the IF document). However, there was a genuinely held belief that the EIC was appropriate and even the IF electrician was prepared to argue this point until he spoke with Ms Taylor on 25 October 2024 and was convinced otherwise;
(iii) Steps taken to remedy the breach – an appropriate EIC was presented on 12 November 2024 (not determined by the Respondent until 18 march 2025 as satisfactory, the delay due to no fault of the Applicant). We accept that this point may be regarded as information not reasonably available to the Respondent at the time of its decision to issue a penalty, but it is a point which can be taken into account by the Tribunal;
(iv) Absence of previous offending regarding residential lettings.

44. Taking into account these points the Tribunal had some sympathy with the Applicant. We determined that applying the sum of £2,500 for mitigation was right and proper, therefore reducing the penalty to £5,000, which we determined should be substituted for the sum in the Final Notice.

Tribunal Judge Brown

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).