



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

Case Reference : **MAN/00CA/HNA/2026/0001
MAN/00CA/HNA/2026/0002**

Property : **16 Halidon Court, Liverpool, L20 4UL**

Applicants : **Simon Lopian & Pearl Lopian**

Representative : **Noah Weg**

Respondent : **Sefton Council**

Representative : **Sian Edwards, Sefton Council Legal
Service Department, Corporate Legal
Services**

Type of Application : **Appeal against a financial penalty –
Section 249a, Schedule 13A, 10(1)(a) to the
Housing Act 2004**

Tribunal Members : **Judge J Stringer, Mr J Faulkner, FRICS,
Valuer Member**

Date of Decision : **18th May 2026**

DECISION

Decision

1. In MAN/ooCA/HNA/2026/0001 the Financial Penalty imposed upon the Applicant is varied to £2250.00.
2. In MAN/ooCA/HNA/2026/0002 the Financial Penalty imposed upon the Applicant is varied to £2250.00.

REASONS

Preliminary Matters

Attendance

1. The Applicants were represented by Mr Dyson, Counsel. Mr Noah Weg, Director of JMC Management Solutions Limited, the company appointed by the Applicants as managing agent for the property, appeared as witness for the Applicants. Neither Applicant attended the hearing.
2. The Respondent was represented by Ms Edwards, Solicitor. Witnesses for the Respondent were Ms Kimberley Cahill, Housing Practitioner, employed within the Respondent's Housing Standards Team, and Ms Clare Taylor, Housing Standards Team Manager.

Late Evidence

3. A witness statement of Mr Weg dated 13th May 2026 had been submitted to the Tribunal. The directions order of 26th February 2026 required evidence, including the statements of any witnesses of fact, to be filed by 9th April 2026. The Respondent confirmed that it did not object to Mr Weg's late statement being admitted, and the Tribunal permitted that witness statement to be admitted, on the basis that admission was not opposed, the evidence may assist the Tribunal in determining the appeal, and it was in the interests of justice to admit the late evidence.

The Law

4. The Tribunal has had regard to the relevant statutory provisions, set out in section 249A and paragraphs 1 to 8 of Schedule 13A to the Housing Act 2004 Act.

Brief background to the application

5. The Applicants are the joint registered owners of the property, a one-bedroom flat within a complex of flats, which has at all relevant times been let to a tenant

(“the tenant”). The Property has been managed (at all relevant times) on the Applicant’s behalf by their agent, JMC Management Solutions Limited, of which company Mr Weg is a Director.

6. Following a referral in relation to alleged disrepair at the property an inspection was carried out on 28th March 2024 by Kimberley Cahill, a housing practitioner employed by the Respondent. The inspection identified a number of Housing Health and Safety Rating System category 1 and 2 hazards, in respect of which notice was sent to the Applicants, with a request for documents to be supplied in relation to the condition of the property.
7. A subsequent inspection on 28th November 2024 concluded that the works of which the Applicants had previously been notified were not complete, and an Improvement Notice dated 11th March 2025 was served on the Applicants by the Respondent.
8. A further inspection was carried out on 15th July 2025 which concluded that the works identified in the Improvement Notice had not been complied with. On or around 5th December 2025 Final Civil Penalty Notices were served on each Applicant, on the basis that the Respondent was satisfied beyond reasonable doubt that the Applicants had failed to comply with Improvement Notice served 11th March 2025. The Applicants appeal those Financial Penalties, in the sum of £4500.00 for each Applicant.

Issues

9. The following issues were identified for determination by the Tribunal:
 - a. Whether the local housing authority has 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);
 - b. Whether the Tribunal is satisfied, beyond reasonable doubt, that the Applicants’ conduct amounts to a “relevant housing offence” in respect of premises in England (see sections 249A(1) and (2) of the Housing Act 2004) and, in particular,
 - c. Do the Applicants have a defence of “reasonable excuse”, under section 30(4) of the Housing Act 2004;
 - d. Whether the financial penalty (in this case, a single penalty imposed severally on each of the Applicants) is set at an appropriate level, having regard to any relevant factors, which may include, for example:
 - 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;
- e. Whether the Respondent erred in failing to assess each Applicant separately in its calculation of the financial penalties.

Evidence

- 10. The Tribunal was provided with a 112-page electronic bundle of documents/evidence on behalf of the Applicant and a 346-pages electronic bundle on behalf of the Respondent.
- 11. The Tribunal has carefully considered all the written evidence available at the hearing, including the late evidence of Mr Weg, referred to above.
- 12. The Tribunal has also carefully considered the oral evidence given at the hearing by Mr Weg, Ms Cahill and Ms Taylor. .

Relevant Evidence and the Tribunal's Conclusions on the Issues

- 13. In accordance with the *'Practice Direction from the Senior President of Tribunals: Reasons for decisions'*, this decision refers only to the main issues and evidence in dispute, and how those issues essential to the Tribunal's conclusions have been resolved.

Has the local housing authority has complied with all of the necessary requirements and procedures relating to the imposition of the financial penalty

- 14. No issue was raised in relation to the necessary requirements and procedures relating the imposition of the financial penalty by the Applicants, and the Tribunal did not identify any procedural defects. Accordingly, the Tribunal finds that those requirements and procedures were complied with.

Is the Tribunal is satisfied, beyond reasonable doubt, that the Applicants' conduct amounts to a "relevant housing offence" in respect of premises in England (see sections 249A(1) and (2) of the Housing Act 2004)

- 15. The relevant housing offence that provided by section 30 Housing Act 2004, that is, a is failure to comply with an operative Improvement Notice.
- 16. The evidence of Ms Cahill in relation to defects in the property was that:
 - a. The property was inspected on 28th March 2024 and HHSRS hazards identified;
 - b. Notice of those hazards was given to the Applicants and their agent;

- c. There was a failure on the part of the Applicants to provide an Electrical Installation Condition Report (EICR) in the timescale requested, resulting in an Electrical Notice being served under regulation 4 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 being served;
 - d. Electrical installation defects were identified on a subsequent inspection;
 - e. Electrical works were carried out between 2nd and 11th July 2024 and an EICR was provided to the Respondent on 12th July 2024;
 - f. A further inspection of the property was carried out on 28th November 2024, on which inspection continuing HHSRS hazards were found;
 - g. In the absence of any evidence of works being undertaken an Improvement Notice dated 11th March 2025 was served on the Applicants on or around that date;
 - h. No response to that Improvement Notice was made;
 - i. A further inspection of the property took place on 21st July 2025 and the works notified and required by the Improvement Notice (exhibited to Ms Cahill's witness statement as Exhibits KC17A and KC17B) had not been undertaken.
17. That evidence was not substantively challenged.
18. Ms Cahill is an experienced, qualified (in particular, qualified in relation to the HHSRS) Housing Practitioner.
19. Her evidence, both written and oral, was clear, comprehensive and consistent. Neither the reliability nor the credibility of Ms Cahill was challenged in relation to this issue, and the Tribunal was satisfied that Ms Cahill was a reliable and credible professional witness, and her evidence was accepted.

Reasonable excuse

20. The Applicants seek to rely upon section 30(4) of the Housing Act 2004, and contend that they have a "reasonable excuse" for failing to comply with the Improvement Notice, that reasonable excuse being that the Applicants' ability to carry out the required works was "materially and repeatedly obstructed by the conduct of the tenant", that "the tenant failed to provide access on numerous occasions and did not maintain the property in a condition suitable for works to be carried out", the consequence being "contractors were unable to proceed". It is submitted that the tenant was "actively preventing [the] landlord from completing necessary works", engaging the defence of reasonable excuse.
21. The evidence relied upon in support of this defence is set out in the witness statement of Mr Weg, at paragraphs 7-12 and 21-25 of his statement dated 21st April 2026, and in particular, allegations of verbal aggression and abusiveness on the part of the tenant in the context of "attempts to arrange access or discuss the required works", and allegations that the condition of the property

prevented contractors carrying out the works safely. The specific evidence relied upon is four telephone transcripts of messages left by the tenant, various text messages from the tenant (according to Mr Weg's evidence in his supplementary witness statement dated 13th May 2026, the messages were left/texts sent, between October 2025 and March 2026) and an email from Ms Cahill dated 28th June 2024 in which she states that "I appreciate the difficulties you have experienced with the tenant regarding access etc."

22. In the judgment of the Tribunal, in order for a reasonable excuse defence in this context to succeed would require the Tribunal to be satisfied that the conduct of the Applicants (by them or their agent) was reasonable, in particular, that any attempts to arrange and carry out works were undertaken with a reasonable degree of consistency and persistency, any alleged attempts at access or for works to be carried out were supported by detailed and credible evidence (for example, records of contact with the tenant in relation to access and/or works, corroborative evidence of contact with contractors in relation to proposed access and works, and records of contact with both the tenant and contractors in relation to access being prevented), and, in appropriate circumstances, evidence that legal advice was taken in relation to, for example, injunctive relief to obtain access to the property. Further, the Applicants would need to be satisfied, insofar as they relied upon the agent that they were unaware of the steps that needed to be taken, or "had good reason to rely on the competence and experience of the agent".
23. The Tribunal finds that the Applicants' evidence does not approach this threshold. Firstly, the Applicants were well aware of the works required and the fact that those works were not being carried out by reason of the correspondence from the Respondent. In those circumstances the Tribunal is not satisfied the Applicants could have had good reason to rely on the agent, because the agent was clearly not effecting steps required for the works to be carried out. Further, the Tribunal find the Applicants conduct (by the agent) in relation to the repairs generally not to be reasonable, because it finds that on any reasonable reading of Ms Cahill's emails to Mr Weg of 22nd October and 18th November 2024, they were an offer on the part of Ms Cahill to liaise between the tenant and the Applicants' contractors in order to facilitate access to the property, and this offer was not pursued or acted upon by Mr Weg. Ms Cahill's oral evidence is accepted as generally credible – it is consistent with her witness statement and the objective evidence, and it was frank, making appropriate concessions as to the tenant's conduct; there is no contradictory evidence and in substance it was not challenged. Whilst Ms Cahill accepted the tenant's conduct could be obstructive and aggressive, in her opinion obtaining the tenant's cooperation was not impossible (it could be difficult), he had provided access to the Respondent and its contractors and there had been a failure on the part of Mr Weg to respond to the offer to liaise. Mr Weg's evidence was to the effect that once the two contractors he had used for many years had indicated an unwillingness to assist, no further enquiries were made of other

contractors, and no attempt was made to compel access by way of a court order, or (until shortly before the hearing) to consider an applying to evict the tenant. Mr Weg's attempts to arrange access and to have the required works carried out were, in the judgment of the Tribunal, inconsistent, lacking in persistence and inadequate.

24. The Tribunal is not satisfied on the evidence that the Applicants have a reasonable excuse for not complying with the Improvement Notice.
25. Accordingly, the Tribunal is satisfied to the appropriate standard that the relevant housing offence was proven.

Is the financial penalty set at an appropriate level?

26. The Applicants submit that the Respondent has erred in failing to properly apply relevant factors, specifically, in relation to culpability and level of harm.

Culpability

27. The Applicants' submission is that this is a low culpability case, and that the Applicants cannot be said to have medium culpability as they engaged a professional letting agent, that was reasonable, and at its highest, the Applicants failure is a failure to "micro-manage" the agent.
28. The Tribunal does not accept this submission – the Applicants are liable, in the particular circumstances of this case, for the acts and omissions of their agent. Further, the evidence suggests a wilful blindness on the part of the Applicants to matters relating to the management of the property (the evidence of the Respondent witnesses being that despite extensive correspondence in relation to the required works at the property and subsequent Improvement Notice being sent directly to the Applicants (initial correspondence being sent in April 2024, the Improvement Notice having been served in March 2025) no response at all was received.
29. The Tribunal has found that there is no evidence of Mr Weg, the agent, making any concerted efforts to access the property or undertake the required works, notwithstanding offers from the Respondent, and no formal management action was taken until April 2025 (that is, service of a section 21 Housing Act 1988 possession notice). The failure is manifestly, and at least, one of failing to exercise reasonable care so as not to commit the offence and a failure to implement and adhere to systems to manage risk or comply with legal duties.

Level of harm

30. The Applicants submit this should be considered a low harm case because there is no evidence of specific harm to the tenant - radiators which were installed prior to the Improvement Notice, and it was submitted there was no evidence

of those radiators being in any way lacking in performance or reliability - there is not no evidence of the tenant having suffered any harm as a result of the Improvement Notice not being complied with.

31. The Tribunal does not accept that the level of harm was low, because it accepts the evidence of Ms Cahill, giving her professional opinion in relation to potential hazards, of Category 1 hazards at the property, with a high level of risk of harm, because:
 - a. the heating did not work at all at the time of the initial visit;
 - b. the electric radiators installed were too small, giving insufficient heat, for the room sizes;
 - c. the radiators were not wired to a mains supply as is required by Building Regulations and the EICR Regulations;
 - d. there was no heating at all to the bathroom and kitchen, and;
 - e. a window could not be closed.
32. The Improvement Notice, which identified and categorised the hazards, was not appealed. The harm is, at least, a medium risk of adverse harm to an individual.
33. The Tribunal accept that Ms Cahill's evidence was at times (in relation to the relevance of harm in the context of assessing culpability) somewhat confused, that Ms Taylor conceded that "possibly" the starting point for the assessment of culpability could have been medium, and that there was a degree of ambiguity in relation to the Respondent's policy in relation to banding and mitigation, but, notwithstanding that, the Tribunal is satisfied that the findings of the Respondent as to harm and culpability are appropriate and should not be disturbed - the appropriate band has been applied. The aggravating and mitigating factors are also, in the judgment of the Tribunal entirely appropriate.

Did the Respondent err in failing to assess each Applicant separately in its calculation of the financial penalties

34. It is accepted by the Applicants that the Respondent was entitled, in this, a case of joint ownership, to impose separate penalty notices. However, the separate penalties are challenged on the basis that there was no separate assessment of the appropriate penalty in respect of each Applicant. It was submitted that Pearl Lopian's financial penalty should be reduced to nil to reflect her limited involvement and very low culpability.
35. No evidence in relation to the respective Applicants' roles in the management of, or responsibility for, the property was filed or served in accordance with the directions and the Tribunal refused to hear evidence in relation to this issue in circumstances where admission of such evidence was likely to significantly prejudice the Respondent due to lack of notice. In the absence of any evidence on the point the Tribunal reject the submission that one or other of the Applicants financial penalties should be reduced to reflect responsibility for, or involvement with, the property.

36. Further submissions were made to the effect that the totality principle was applicable (it is expressly referred to in the Respondent's policy, albeit the example being in a different context), and should be applied to this situation (that is, separate financial penalties to joint owners for the same offence) to reduce the penalties, and that any penalty must be just and proportionate having regard to that principle. Whilst no specific evidence was received in relation to this, the Tribunal is satisfied that the Applicants are a married couple, forming a single household, and that decisions made in relation to the property were made collectively, evidenced by the fact that the Applicants had instructed an agent to manage the property (rather than one or both seeming to take any active role in management of the property).
37. Whilst affording due deference to the Respondent's decision, those factors appear not to have been considered. The Tribunal is satisfied that having regard to these factors it would be unjust and disproportionate to impose separate, equivalent financial penalties on both Applicants in this case, and the Tribunal should exercise its discretion to reduce the penalty to one which it considers proportionate (taking into account all circumstances, including the offence, the nature of ownership, the likely rental income in respect of the property, and the level of penalty imposed on each Applicant), that is, a total financial penalty of £4,500.00, half (£2,250.00) to be paid by each Applicant.