



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

Case reference	:	LON/00BE/HIN/2025/0624
Property	:	Flats A, B & C, 110 Dunton Road, London SE1 5UN
Applicant	:	Jacqueline Stubbs
Respondent	:	London Borough of Southwark
Type of application	:	Appeal in respect of an Improvement Notice
Tribunal	:	Judge Nicol Ms S Coughlin MCIEH
Date and Venue of Hearing	:	26th June 2026 10 Alfred Place, London WC1E 7LR
Date of Decision	:	29th June 2026

DECISION

The Improvement Notices dated 27th March 2025 are confirmed save that the references to a fire blanket in the kitchen in Flats A and B are removed.

Reasons

1. The Applicant lets the subject three flats to up to 4 tenants each. On 27th March 2025 the Respondent served an Improvement Notice in relation to each flat. On 16th April 2025 the Applicant appealed against the Notices to this Tribunal.
2. The Tribunal heard the appeal on 26th June 2026. The hearing was attended by:
 - The Applicant, accompanied by Mr Ian Russell
 - Keith Chipato, counsel for the Respondent

- Jason Naiker, a Team Leader working within the Respondent's Environment, Neighbourhoods and Growth service.
3. The documents before the Tribunal consisted of:
 - An Applicant's bundle of 259 pages
 - A Respondent's bundle of 1,882 pages
 - An Applicant's Reply of 7 pages
 4. The Applicant sought to adduce additional evidence:
 - (a) Fire Risk Assessments for Flats B and C, the one for Flat A already having been included in the bundles.
 - (b) Two email chains between the parties which had been created only recently.
 5. Mr Chipato opposed the admission of these documents but only because he thought they didn't add anything. Although they have been adduced late, the Tribunal is satisfied that the Respondent is not prejudiced and allowed them in.
 6. The Respondent's original witness, Mr Francis Tshikaya, was the case officer whose work, including an inspection of the property, was the foundation of the Improvement Notices. He has left the Respondent's employ. Mr Naiker tried to contact him to see if he would still be willing to come to the Tribunal but got no response. Instead, the Respondent applied for permission to rely on Mr Naiker's evidence. The Applicant had no objection and so the Tribunal granted permission. He had a witness statement in the bundle and was subject to questions from the Applicant and the Tribunal.
 7. The parties have engaged in correspondence since Mr Tshikaya's inspection of the flats on 11th December 2024. The Applicant identified two items where they said, and the Respondent later accepted, Mr Tshikaya had been wrong. Mr Tshikaya said the smoke alarms were battery-operated when, in fact, they were correctly mains-wired. He also said there was no fire blanket in the kitchen in Flats A and B when there was. The Respondent corrected the first error by not including the alarms in the Improvement Notice. However, they only accepted the position on the fire blanket after the Applicant sent in photos after the Improvement Notices had been served. The Respondent was content that this item should be removed.
 8. The Applicant carried out the other works in the Improvement Notices except for one item which remained in dispute through to the Tribunal hearing. The Applicant had bought the flats in 2007. She found that none of the kitchens had a door, although there was clear evidence that there used to be, namely holes for 3 hinges and a perko door closer. She did not put in doors due to the restricted space and the resulting inconvenience. Mr Tshikaya assessed the absence of a door as a Category 1 hazard under the Housing Health and Safety Rating System, which

required the service of an Improvement Notice under section 11 of the Housing Act 2004.

9. The Applicant objected. She pointed to the numerous other fire safety features, some inherent in the property, some installed by her and some required by the Respondent. They included safety checks (gas, electricity, PAT), the blanket and extinguishers, a heat detector in the kitchen and smoke alarms elsewhere, and the hob being electric rather than having gas flames. Also, the conversion having taken place in 1993 there was compliance with the 1991 Building Regulations. Further, she pointed out that the risks from fire in the kitchen had generally reduced over the years – for example, chip pans are much less used these days.
10. The Applicant argued that, on balance, taking into account all these mitigating factors, the need for the additional one of a door was unnecessary and disproportionate, particularly given the limitation of space. She also pointed out that neither Mr Tshikaya nor the London Fire Brigade had considered any of the fire safety measures in isolation – they had not given their view as to whether the other measures were sufficient if the doors were omitted.
11. The Applicant relied on the Fire Risk Assessments she had commissioned earlier this year. The Respondent pointed out that they made no mention of a kitchen door, one way or the other. The Applicant argued that this implied that the fire safety of the flats was sufficient without it. However, this assertion was somewhat undermined by the fact that the FRAs also made no mention of the flats being HMOs (Houses in Multiple Occupation) for which fire safety requirements are more stringent due to the significantly higher risk of fire.
12. The Applicant was under the impression that there was a distinction between HMOs and “shared houses”, that the latter were subject to lesser requirements, and that her flats were in the latter category. The Respondent had already granted HMO licences in respect of each flat and the Applicant has not challenged their designation as HMOs. There is no distinction of the kind the Applicant put forward.
13. The fact is that each kitchen used to have a door, as required by the Building Regulations. Their removal was a breach of those regulations. The layout of each flat means that the only escape route in the event of a fire was to go from the bedrooms or the living room, through the hallway to the entrance door, past or near to the kitchen. Smoke generated from any such fire would block that route and could even lead occupants to take the much less safe alternative, possibly fatal, of staying put.
14. The Applicant queried Mr Tshikaya’s HHSRS assessment with Mr Naiker. Unfortunately, Mr Naiker got into a mess with his evidence because it seems that his and Mr Tshikaya’s approach would have been different. However, he eventually made it clear that he, too, would have concluded that the absence of a kitchen door was a Category 1 hazard even if he couldn’t be more precise in the absence of carrying out his own

inspection. He also said he would have required the installation of a kitchen door even if the hazard category could be lowered to 2.

15. The Tribunal is satisfied that, whatever approach is taken, the Respondent was right to include the installation of doors to the kitchens in the Improvement Notices, particularly in the light of the matters in paragraph 13 above. The risk of harm is significantly increased just by the absence of a door and is not mitigated by the other fire safety measures.
16. Therefore, the Tribunal has concluded that the only variation to the Improvement Notices should be the removal of the references to the fire blankets for Flats A and B (in any event, it appears they have been recently replaced by newer ones). The requirement to install kitchen doors remains.

Name: Judge Nicol

Date: 29th June 2026

Appendix of relevant legislation

Housing Act 2004

1 New system for assessing housing conditions and enforcing housing standards

- (1) This Part provides–
- (a) for a new system of assessing the condition of residential premises, and
 - (b) for that system to be used in the enforcement of housing standards in relation to such premises.
- (2) The new system–
- (a) operates by reference to the existence of category 1 or category 2 hazards on residential premises (see section 2), and
 - (b) replaces the existing system based on the test of fitness for human habitation contained in section 604 of the Housing Act 1985 (c. 68).
- (3) The kinds of enforcement action which are to involve the use of the new system are–
- (a) the new kinds of enforcement action contained in Chapter 2 (improvement notices, prohibition orders and hazard awareness notices),
 - (b) the new emergency measures contained in Chapter 3 (emergency remedial action and emergency prohibition orders), and
 - (c) the existing kinds of enforcement action dealt with in Chapter 4 (demolition orders and slum clearance declarations).
- (4) In this Part “residential premises” means–
- (a) a dwelling;
 - (b) an HMO;
 - (c) unoccupied HMO accommodation;
 - (d) any common parts of a building containing one or more flats.
- (5) In this Part–
- “building containing one or more flats” does not include an HMO;
- “common parts”, in relation to a building containing one or more flats, includes–
- (a) the structure and exterior of the building, and
 - (b) common facilities provided (whether or not in the building) for persons who include the occupiers of one or more of the flats;
- “dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling;
- “external common parts”, in relation to a building containing one or more flats, means common parts of the building which are outside it;
- “flat” means a separate set of premises (whether or not on the same floor)–

- (a) which forms part of a building,
- (b) which is constructed or adapted for use for the purposes of a dwelling, and
- (c) either the whole or a material part of which lies above or below some other part of the building;

“HMO” means a house in multiple occupation as defined by sections 254 to 259, as they have effect for the purposes of this Part (that is, without the exclusions contained in Schedule 14);

“unoccupied HMO accommodation” means a building or part of a building constructed or adapted for use as a house in multiple occupation but for the time being either unoccupied or only occupied by persons who form a single household.

(6) In this Part any reference to a dwelling, an HMO or a building containing one or more flats includes (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, the dwelling, HMO or building (or any part of it).

(7) The following indicates how this Part applies to flats–

- (a) references to a dwelling or an HMO include a dwelling or HMO which is a flat (as defined by subsection (5)); and
- (b) subsection (6) applies in relation to such a dwelling or HMO as it applies in relation to other dwellings or HMOs (but it is not to be taken as referring to any common parts of the building containing the flat).

(8) This Part applies to unoccupied HMO accommodation as it applies to an HMO, and references to an HMO in subsections (6) and (7) and in the following provisions of this Part are to be read accordingly.

2 Meaning of “category 1 hazard” and “category 2 hazard”

(1) In this Act–

“category 1 hazard” means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score of or above a prescribed amount;

“category 2 hazard” means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score below the minimum amount prescribed for a category 1 hazard of that description; and

“hazard” means any risk of harm to the health or safety of an actual or potential occupier of a dwelling or HMO which arises from a deficiency in the dwelling or HMO or in any building or land in the vicinity (whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise).

(2) In subsection (1)–

“prescribed” means prescribed by regulations made by the appropriate national authority (see section 261(1)); and

“prescribed band” means a band so prescribed for a category 1 hazard or a category 2 hazard, as the case may be.

(3) Regulations under this section may, in particular, prescribe a method for calculating the seriousness of hazards which takes into account both the likelihood of the harm occurring and the severity of the harm if it were to occur.

(4) In this section—

“building” includes part of a building;

“harm” includes temporary harm.

(5) In this Act “health” includes mental health.

5 Category 1 hazards: general duty to take enforcement action

(1) If a local housing authority consider that a category 1 hazard exists on any residential premises, they must take the appropriate enforcement action in relation to the hazard.

(2) In subsection (1) “the appropriate enforcement action” means whichever of the following courses of action is indicated by subsection (3) or (4)—

(a) serving an improvement notice under section 11;

(b) making a prohibition order under section 20;

(c) serving a hazard awareness notice under section 28;

(d) taking emergency remedial action under section 40;

(e) making an emergency prohibition order under section 43;

(f) making a demolition order under subsection (1) or (2) of section 265 of the Housing Act 1985 (c. 68);

(g) declaring the area in which the premises concerned are situated to be a clearance area by virtue of section 289(2) of that Act.

(3) If only one course of action within subsection (2) is available to the authority in relation to the hazard, they must take that course of action.

(4) If two or more courses of action within subsection (2) are available to the authority in relation to the hazard, they must take the course of action which they consider to be the most appropriate of those available to them.

(5) The taking by the authority of a course of action within subsection (2) does not prevent subsection (1) from requiring them to take in relation to the same hazard—

(a) either the same course of action again or another such course of action, if they consider that the action taken by them so far has not proved satisfactory, or

(b) another such course of action, where the first course of action is that mentioned in subsection (2)(g) and their eventual decision under section 289(2F) of the Housing Act 1985 means that the premises concerned are not to be included in a clearance area.

(6) To determine whether a course of action mentioned in any of paragraphs (a) to (g) of subsection (2) is “available” to the authority in relation to the hazard, see the provision mentioned in that paragraph.

(7) Section 6 applies for the purposes of this section.

11 Improvement notices relating to category 1 hazards: duty of authority to serve notice

(1) If–

- (a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and
- (b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

serving an improvement notice under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

(2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsections (3) to (5) and section 13.

(3) The notice may require remedial action to be taken in relation to the following premises–

- (a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may require such action to be taken in relation to the dwelling or HMO;
- (b) if those premises are one or more flats, it may require such action to be taken in relation to the building containing the flat or flats (or any part of the building) or any external common parts;
- (c) if those premises are the common parts of a building containing one or more flats, it may require such action to be taken in relation to the building (or any part of the building) or any external common parts.

Paragraphs (b) and (c) are subject to subsection (4).

(4) The notice may not, by virtue of subsection (3)(b) or (c), require any remedial action to be taken in relation to any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied–

- (a) that the deficiency from which the hazard arises is situated there, and
- (b) that it is necessary for the action to be so taken in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.

(5) The remedial action required to be taken by the notice–

- (a) must, as a minimum, be such as to ensure that the hazard ceases to be a category 1 hazard; but
- (b) may extend beyond such action.

(6) An improvement notice under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.

(7) The operation of an improvement notice under this section may be suspended in accordance with section 14.

(8) In this Part “remedial action”, in relation to a hazard, means action (whether in the form of carrying out works or otherwise) which, in the opinion of the local housing authority, will remove or reduce the hazard.

18 Service of improvement notices etc. and related appeals

Schedule 1 (which deals with the service of improvement notices, and notices relating to their revocation or variation, and with related appeals) has effect.

PART 3

APPEALS RELATING TO IMPROVEMENT NOTICES

Appeal against improvement notice

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(1) The person on whom an improvement notice is served may appeal to the appropriate tribunal against the notice.

(2) Paragraphs 11 and 12 set out two specific grounds on which an appeal may be made under this paragraph, but they do not affect the generality of sub-paragraph (1).

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(1) This paragraph applies to an appeal to the appropriate tribunal under paragraph 10.

(2) The appeal—

(a) is to be by way of a re-hearing, but

(b) may be determined having regard to matters of which the authority were unaware.

(3) The tribunal may by order confirm, quash or vary the improvement notice.

(4) Paragraphs 16 and 17 make special provision in connection with the grounds of appeal set out in paragraphs 11 and 12.