FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case Reference	**:**	**LON/00AC/HMF/2025/0883**
Property	**:**	**12B Long Lane, Finchley, London N3 2PT**
Applicant	**:**	**Yin Pok Wong**
Respondents	**:**	**Mohammed Kabir Uddin** **Mohammed Ikhlas Uddin**
Representative	**:**	**Adam Bernard Solicitors**
Type of Application	**:**	**Application for a rent repayment order by tenant**
Tribunal	**:**	**Judge Nicol** **Mr J Stead**
Date and Venue of Hearing	**:**	**29th June 2026;** **10 Alfred Place, London WC1E 7LR**
Date of Decision	**:**	**30th June 2026**

DECISION

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1. **The Respondents shall pay to the Applicant a Rent Repayment Order in the sum of £6,049.98.**
2. **The Respondents shall also reimburse the Applicant his Tribunal fees totalling £341.**

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

Reasons

1. The Applicant resided at 12B Long Lane, Finchley, London N3 2PT, from 3rd May 2024 until 21st June 2025. The Respondents are co-owners of the property.

2. The Applicant seeks a rent repayment order ("RRO") in accordance with the Housing and Planning Act 2016 ("the 2016 Act"). The Tribunal issued directions on 22nd January 2026 and heard the case on 29th June 2026. The attendees at the hearing were:

- The Applicant, accompanied by an interpreter, Ms Lee, arranged for him by the Tribunal;
- The Respondents; and
- James Divecha, counsel for the Respondents.

3. The documents available to the Tribunal consisted of:

- A bundle of 145 pages from the Applicant;
- A bundle of 49 pages from the Respondent; and
- A skeleton argument on behalf of the Respondent.

Who is the landlord

4. The First Respondent claimed that he was not the Applicant's landlord and so could not be subject to a RRO. He applied to be removed as a party. Judge Walker refused the application on 19th December 2025 but pointed out that there was a conflict of evidence which should not be resolved at an interlocutory stage, leaving the question open for the final hearing.

5. The Tribunal heard evidence from all 3 parties, all of whom were cross-examined and subject to questions from the Tribunal.

6. The First Respondent told the Tribunal that the reason he did not regard himself as the landlord was because the Second Respondent did most of the work, in particular the day-to-day management. The Applicant did not dispute this. The First Respondent admitted that he showed the Applicant around the flat and got him to sign the tenancy (labelled "Lodger Agreement"). He also admitted that the rent was paid into his bank account and that he had the power to decide what to do with the money, including applying it to pay the Respondents' joint mortgage instalments or to pay for repairs or to pass the money on to the Second Respondent.

7. However, in law, who does the work is not conclusive as to who is the landlord since it may also be done by an agent. A joint landlord may carry the administrative burden without affecting the status of any other joint landlord. This property is owned by both Respondents. They share the relevant duties and tasks, even if one does more than the other. The First Respondent controls the money. There is simply no reason to think that the Respondents are not joint landlords as well as co-owners of the property.

8. In the circumstances, the Tribunal is satisfied that the First Respondent is a landlord and will be jointly and severally liable with the Second Respondent for any RRO.

The offence

9. The Tribunal may make a rent repayment order when the landlord has committed one or more of a number of offences listed in section 40(3) of the 2016 Act. The Applicant alleged and the Respondents admitted that they were guilty of having control of or managing an HMO (House in Multiple Occupation) which was required to be licensed but was not so licensed, contrary to section 72(1) of the Housing Act 2004 ("the 2004 Act").

10. The local authority, the London Borough of Barnet, designated the area including the subject property for additional licensing of HMOs with effect from 27th October 2022. It applies to HMOs occupied by three or more persons in two or more households.

11. The property has 5 rooms (one of which the Respondents said was too small for a further occupant), occupied by between 3 and 4 people during the Applicant's time there, together with shared bathroom and kitchen facilities.

12. After the Applicant left, on 31st July 2025, the Second Respondent applied to Barnet for an HMO licence. It was granted on 30th January 2026.

13. Therefore, the Tribunal is satisfied so that it is sure that the Respondents committed the offence of managing and/or having control of the property when it was let as an HMO despite not being licensed and that there was no reasonable excuse.

Rent Repayment Order

14. Further, therefore, the Tribunal is satisfied that it has the power under section 43(1) of the Housing and Planning Act 2016 to make a RRO on this application. The Tribunal has a discretion not to exercise that power. However, as confirmed in *LB Newham v Harris* [2017] UKUT 264 (LC), it will be a very rare case where the Tribunal does so. This is not one of those very rare cases. The Tribunal cannot see any grounds for exercising their discretion not to make a RRO.

15. The RRO provisions have been considered by the Upper Tribunal (Lands Chamber) in a number of cases and it is necessary to look at the guidance they gave there. In *Parker v Waller* [2012] UKUT 301 (LC), amongst other matters, it was held that an RRO is a penal sum, not compensation.

16. The law has changed since *Parker v Waller* and was considered in *Vadamalayan v Stewart* [2020] UKUT 0183 (LC) where Judge Cooke said:

> 14. … under the current statutory provisions the restriction of a rent repayment order to the landlord's profit is impossible to justify. The rent repayment order is no longer tempered by a requirement of reasonableness; and it is not possible to find in the current

statute any support for limiting the rent repayment order to the landlord's profits.

15. That means that it is not appropriate to calculate a rent repayment order by deducting from the rent everything the landlord has spent on the property during the relevant period. That expenditure will have repaired or enhanced the landlord's own property, and will have enabled him to charge a rent for it. Much of the expenditure will have been incurred in meeting the landlord's obligations under the lease. The tenants will typically be entitled to have the structure of the property kept in repair and to have the property kept free of damp and pests. Often the tenancy will include a fridge, a cooker and so on. There is no reason why the landlord's costs in meeting his obligations under the lease should be set off against the cost of meeting his obligation to comply with a rent repayment order.

16. In cases where the landlord pays for utilities, as he did in *Parker v Waller,* there is a case for deduction, because electricity for example is provided to the tenant by third parties and consumed at a rate the tenant chooses; in paying for utilities the landlord is not maintaining or enhancing his own property. So it would be unfair for a tenant paying a rent that included utilities to get more by way of rent repayment than a tenant whose rent did not include utilities. But aside from that, the practice of deducting all the landlord's costs in calculating the amount of the rent repayment order should cease.

53. The provisions of the 2016 Act are rather more hard-edged than those of the 2004 Act. There is no longer a requirement of reasonableness and therefore, I suggest, less scope for the balancing of factors that was envisaged in *Parker v Waller*. The landlord has to repay the rent, subject to considerations of conduct and his financial circumstances. ...

17. In *Williams v Parmar* [2021] UKUT 0244 (LC) Fancourt J held that there was no presumption in favour of awarding the maximum amount of an RRO and said in his judgment:

43. ... "Rent Repayment Orders under the Housing and Planning Act 2016: Guidance for Local Authorities", which came into force on 6 April 2017 ... is guidance as to whether a local housing authority should exercise its power to apply for an RRO, not guidance on the approach to the amount of RROs. Nevertheless, para 3.2 of that guidance identifies the factors that a local authority should take into account in deciding whether to seek an RRO as being the need to: punish offending landlords; deter the particular landlord from further offences; dissuade other landlords from breaching the law; and remove from landlords the financial benefit of offending.

50. I reject the argument ... that the right approach is for a tribunal simply to consider what amount is reasonable in any given case. A tribunal should address specifically what proportion of the

maximum amount of rent paid in the relevant period, or reduction from that amount, or a combination of both, is appropriate in all the circumstances, bearing in mind the purpose of the legislative provisions. A tribunal must have particular regard to the conduct of both parties (which includes the seriousness of the offence committed), the financial circumstances of the landlord and whether the landlord has at any time been convicted of a relevant offence. The tribunal should also take into account any other factors that appear to be relevant.

18. In *Acheampong v Roman* [2022] UKUT 239 (LC) Judge Cooke sought to provide guidance on how to calculate the RRO:

20. The following approach will ensure consistency with the authorities:

a. Ascertain the whole of the rent for the relevant period;

b. Subtract any element of that sum that represents payment for utilities that only benefited the tenant, for example gas, electricity and internet access. It is for the landlord to supply evidence of these, but if precise figures are not available an experienced tribunal will be able to make an informed estimate.

c. Consider how serious this offence was, both compared to other types of offence in respect of which a rent repayment order may be made (and whose relative seriousness can be seen from the relevant maximum sentences on conviction) and compared to other examples of the same type of offence. What proportion of the rent (after deduction as above) is a fair reflection of the seriousness of this offence? That figure is then the starting point (in the sense that that term is used in criminal sentencing); it is the default penalty in the absence of any other factors but it may be higher or lower in light of the final step:

d. Consider whether any deduction from, or addition to, that figure should be made in the light of the other factors set out in section 44(4).

19. The full amount of rent paid by the Applicant for the period from 3rd May 2024 to 2nd May 2025, at £890 per month, was £10,680.

20. The Respondents submitted that deductions should be made for the following in accordance with Judge Cooke's guidance in *Vadamalayan* and *Acheampong*:

(a) British Gas Home Care boiler insurance: £24.20 per month
(b) TV Licence: £15 per month
(c) Internet with Virgin Broadband: £29.02 per month
(d) Thames Water: £64.12 per month
(e) Gas and Electricity: £221 per month (average)
(f) Council Tax: £302 per month
(g) Cleaning of shared areas: £50 per month

21. The problem for the Tribunal is that it does not understand Judge Cooke's guidance. The Respondents ask for deductions for items which Judge Cooke did not mention. In order to work out whether to accede to such submissions, the Tribunal needs to know the principle upon which Judge Cooke made hers but it is not apparent.

22. In his skeleton argument, Mr Divecha submitted that the expenses listed above were "not really rent" but that is not correct. The 2004 Act does not purport to give any definition of rent different from that long-established at common law. "Rent" means "the entire sum payable to the landlord in money" (see *Megarry on the Rent Acts*, 11th Ed at p.519 and *Hornsby v Maynard* [1925] 1 KB 514). It is also stated in *Woodfall: Landlord and Tenant* at paragraph 7.015 that, "At common law, the whole amount reserved as rent issues out of the realty and is distrainable as rent although the amount agreed to be paid may be an increased rent on account of the provision of furniture or services or the payment of rates by the landlord."

23. The fact that the rent in this case includes the items listed by the Respondents does not mean that any part of the rent may be discounted for RRO purposes as being rent. Therefore, it is necessary to look elsewhere to find why deductions should be made:

(a) In *Vadamalayan* Judge Cooke referred to something "provided to the tenant by third parties and consumed at a rate the tenant chooses." She seems to have had in mind gas, electricity, water and internet access. However, internet access is nearly always paid for by a set monthly fee which is unrelated to actual use. In this case, the Respondents said that the water is not metered but paid for again by a fixed amount unrelated to consumption. Gas and electricity include standing charges also unrelated to consumption but Judge Cooke did not mention that element.
(b) In *Vadamalayan* Judge Cooke also said that, in paying for utilities, the landlord is not maintaining or enhancing his own property. However, as a matter of fact, not law, this is not true. The Tribunal knows from its own expert experience and knowledge that landlords do not include such services in the rent out of charitable goodwill but for sound commercial reasons such as increasing the chances of achieving a letting, attracting and retaining desirable tenants, and maintaining control of the identity of suppliers to the property.
(c) Judge Cooke then said it would be unfair for a tenant paying a rent that included utilities to get more by way of rent repayment than a tenant whose rent did not include utilities. The problem with this is that a general principle of fairness is too vague for the Tribunal to apply, consistently or at all. While only utilities were mentioned, it is arguable that this could apply to any provision or service which is not provided to all tenants throughout the market. For example, a TV licence was supplied by the Respondents in this case. It is not a utility and consumption is irrelevant but the Tribunal is unsure whether Judge Cooke intended to include it in her concept of fairness.

(d) In *Acheampong* Judge Cooke referred to any element of the rent that represents payment for utilities that only benefited the tenant. As already referred to in sub-paragraph (b) above, nothing a landlord provides and includes in the rent exclusively benefits the tenant. In general, the landlord would not provide it if they did not get something from it. The same reasoning applies to the provision of furnishings, including white goods, but Judge Cooke did not appear to extend her reasoning to such matters. The Tribunal does not understand how the concept of "benefit" stops at utilities.

24. Some similar concerns were mentioned in previous Tribunal decisions on RROs. In *Newell v Abbott* [2024] UKUT 181 (LC) at paragraph 43, Judge Rodger QC commented:

> A tribunal required to weigh up competing considerations before arriving at a relatively complex judgment is well advised to avoid prefacing their decision with an explanation of their dissatisfaction with the legal principles which bind them. A tribunal's view of what the law ought to be, where it differs from the view of the law which they are required to apply, is irrelevant. By repeatedly explaining their disagreement with the guidance given by this Tribunal the FTT panel risks undermining the confidence of tribunal users in the standard of justice they have received. The panel risks creating the impression in the mind of the unsuccessful party, as it has done in Mr Newell's mind, that different criteria have been applied to their case than to the cases of others whose disputes have been determined by different panels.

25. With all due respect to the learned judge, the problem here is not disagreement. As he says, it is irrelevant that an inferior tribunal disagrees with a superior one. The problem is that the Tribunal cannot discern the legal principle which Judge Cooke applied in determining that there should be some deductions from the rent. There is nothing in the statute to support her approach, nor does she say there is. In the absence of principle, the Tribunal is unable to work out what items should be deducted and what should not. The following analysis is the Tribunal's attempt to be as faithful as possible to Judge Cooke's judgments but without any certainty as to whether it is correct.

26. As the Tribunal understands it, Judge Cooke only intended that deductions should be made for utilities. That excludes boiler insurance, TV Licence, Council Tax, and cleaning, none of which are utilities. Further, the boiler insurance is a method by which the Respondents seek to discharge some of their repairing obligations and would appear to be excluded by the approach set out in *Vadamalayan*.

27. Further, the Tribunal understands that Judge Cooke only intended that deductions should be made for costs which vary with the tenant's consumption. As well as excluding the TV Licence and Council Tax, this

excludes, in this case, water and internet access. It also excludes the standing charge element of gas and electricity charges.

28. The Respondents claimed that the cost of gas and electricity for the whole property averaged £221 per month, equating to £2,652 per year. Unfortunately, they had not provided clear evidence of this. They had mistakenly included in the bundle bills relating to a different address and utility payments listed in a bank statement did not refer to a particular address. However, it is a modest and credible sum.

29. The Respondents did not have evidence of how much the standing charge element might be but, relying on its own knowledge and experience, and taking into account the detailed utility bill provided in relation to the Second Respondent's own home, the Tribunal decided to deduct 10% to take account of the standing charge. This means that the estimated cost of the consumption of gas and electricity during the Applicant's time at the property was £2,386.80.

30. The Applicant was one out of 4 tenants to generate that consumption. The Second Respondent suggested in his witness statement that the Applicant's consumption may have been raised by his use of an electric fire in his room but this was not put to him in cross-examination and is not balanced by details of any other tenant's consumption. In the Tribunal's opinion, only one-quarter of the bill is relevant to the Applicant. This produces a total deduction of £596.70, reducing the maximum amount that could be awarded to £10,083.30.

31. The next step is to consider the seriousness of the offence relative both to the other offences for which RROs may be made and to other cases where the same offence was committed. In *Daff v Gyalui* [2023] UKUT 134 (LC) the Tribunal sought to rank the housing offences listed in section 40(3) of the 2016 Act by the maximum sanctions for each. The conclusion was that licensing offences were generally lesser than the use of violence for securing entry or eviction or harassment, although circumstances may vary significantly in individual cases.

32. It is important to understand why a failure to licence is serious, even if it may be thought lower in a hierarchy of some criminal offences. In *Rogers v Islington* LBC (2000) 32 HLR 138 at 140, Nourse LJ quoted, with approval, a passage from the Encyclopaedia of Housing Law and Practice:

> … Since the first controls were introduced it has been recognised that HMOs represent a particular housing problem, and the further powers included in this Part of the Act are a recognition that the problem still continues. It is currently estimated that there are about 638,000 HMOs in England and Wales. According to the English House Condition Survey in 1993, four out of ten HMOs were unfit for human habitation. A study for the Campaign for Bedsit Rights by G Randall estimated that the chances of being

killed or injured by fire in an HMO are 28 times higher than for residents of other dwellings.

33. He then added some comment of his own:

> The high or very high risks from fire to occupants of HMOs is confirmed by the study entitled "Fire Risk in HMOs" ... HMOs can also present a number of other risks to the health and safety of those who live in them, such as structural instability, disrepair, damp, inadequate heating, lighting or ventilation and unsatisfactory kitchen, washing and lavatory facilities. It is of the greatest importance to the good of the occupants that houses which ought to be treated as HMOs do not escape the statutory control.

34. These comments are based on old data but are just as apposite today as they ever were. The process of licensing effectively provides an audit of the safety and condition of the property and of the landlord's management arrangements, supported wherever and whenever possible by detailed inspections by council officers who are expert in such matters. Owners and occupiers are not normally expert and can't be expected to know how to identify or remedy relevant issues without expert help. It is not uncommon that landlords are surprised at how much a local authority requires them to do to bring a property up to the required standard and, in particular, object to matters being raised about which the occupiers have not complained.

35. If a landlord does not apply for a licence, the audit process never happens. As a result, the landlord can save significant sums of money by not incurring various costs which may cover, amongst other matters:

(a) Consultants – surveyor, architect, building control, planning

(b) Licensing fees

(c) Fire risk assessment

(d) Smoke or heat alarm installation

(e) Works for repair or modification

(f) Increased insurance premiums

(g) Increased lending costs

(h) Increased lettings and management costs.

36. The prospect of such savings is a powerful incentive not to get licensed. Not getting licensed means that important health and safety requirements may get missed, to the possible serious detriment of any occupiers. RROs must be set at a level which disincentivises the avoidance of licensing and disabuses landlords of the idea that it would save money.

37. The Second Respondent asserted that he had always maintained the property to a high standard but also that he only looked into what would

be required for a HMO to be licensed after the Applicant had left the property. He said he had installed mains-powered smoke and heat alarms but, in preparation for making a licence application, he also installed fire doors and intumescent strips and obtained electricity and gas safety certificates (although he had obtained the latter in previous years too). Further, when the local authority inspected as part of the licence application, they required him to display his name and details within the property in accordance with the HMO management regulations and install a door between the hall and kitchen for fire safety. His actions exemplify the reasons why the process of applying for a licence is so important in ensuring the safety of any occupants. He freely admitted he would not have taken these actions but for the licence application.

38. Further, under section 44(4) of the 2016 Act, in determining the amount of the RRO the Tribunal must, in particular, take into account the conduct of the respective parties, the financial circumstances of the landlord, and whether the landlord has at any time been convicted of any of the relevant offences. The Applicant accepted that the Respondents did not have any previous convictions. The Respondents had provided evidence that one of them was on benefits but this is insufficient information to conclude that their financial circumstances should alter the amount of the RRO.

39. As to conduct, the Applicant complained that his deposit was not protected, contrary to section 213 of the 2004 Act, and then the Respondents delayed in returning it until a new tenant replaced the Applicant so that they could repay the Applicant's deposit using the new tenant's deposit. The Tribunal accepts that this is unlawful and unacceptable conduct.

40. The Respondents' reason for non-compliance with the deposit protection provisions was the same as for failing to licence the property. While they have let this property for around 20 years, until around 2022/23 they had let to single households through an agency. The Second Respondent said that, after a 3-month hiatus for some refurbishment work, he decided to re-let the property on a room-by-room basis, without an agent, in order to maximise his income – he was particularly concerned that he might be made redundant from his job. He said he did not take advice and was unaware of both the deposit protection and licensing requirements.

41. The Tribunal is somewhat sceptical of the depth of the Respondents' ignorance of either the requirements or the need to take advice. The Second Respondent rents out another property in Wales which he owns jointly with his sister. In issuing written agreements to the occupants of 12B Long Lane, the Respondents knew enough to try to limit their rights by using documents entitled "Lodger Agreement". The Applicant complained that he did not understand the difference between lodger and tenant until he came to leave the property and criticised the Respondents for trying to limit his rights in this way.

42. The Applicant complained that the Respondents were slow to respond to repair complaints about the toilet and the internet connection on a few occasions, albeit the delay was no more than 2 days or so. However, in the context of a property which he admitted was otherwise in good condition, this does not amount to misconduct relevant to the amount of the RRO.

43. The Applicant also pointed to matters which the Respondents said were simply mistakes. In his unsuccessful application to be removed as a party, the First Respondent claimed never to have met the Applicant. He admitted in the Tribunal hearing that this was not true because he had conducted the viewing with the Applicant and had met him on at least one other occasion. There was also a reference to the London Borough of Brent, rather than Barnet.

44. While the latter appears to have been a simple slip of the pen, as it were, the Tribunal struggles to understand how the First Respondent could possibly claim never to have met the Applicant. He admitted in his oral evidence that he had had a conversation with the Applicant at the viewing, even getting him to sign the agreement. This undermines his credibility when he and the Second Respondent claim ignorance of their legal obligations.

45. Taking into account all the circumstances, the Tribunal concluded that the Respondents' failure to licence was a serious default which is not mitigated by any ignorance of the relevant obligations and warrants a proportionate sanction. The Respondents submitted that the RRO should be only 10-20% of the maximum figure (less deductions) but that is far too low in the light of the matters set out above. The Applicant submitted that 9 months' rent should be repaid but that equally appears too high.

46. In the light of the above matters, the Tribunal has concluded that the RRO should be set at 60% of the maximum amount after deduction of the amount included in the rent for utilities (£596.70). That produces a final figure of **£6,049.98** (60% x £10,083.30).

47. The Applicant also sought reimbursement of the Tribunal fees: a £114 application fee and a £227 hearing fee. The Applicant has been successful in his application and had to take proceedings to achieve this outcome. He has comfortably beaten an open offer to settle for £1,600 The Tribunal concluded that it is appropriate that the Respondents reimburse the fees.

Name:	Judge Nicol	**Date:**	30th June 2026

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Appendix of relevant legislation

Housing Act 2004

Section 72 Offences in relation to licensing of HMOs

(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 (see section 61(1)) but is not so licensed.

(2) A person commits an offence if–

(a) he is a person having control of or managing an HMO which is licensed under this Part,

(b) he knowingly permits another person to occupy the house, and

(c) the other person's occupation results in the house being occupied by more households or persons than is authorised by the licence.

(3) A person commits an offence if–

(a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 67(5), and

(b) he fails to comply with any condition of the licence.

(4) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time–

(a) a notification had been duly given in respect of the house under section 62(1), or

(b) an application for a licence had been duly made in respect of the house under section 63,

and that notification or application was still effective (see subsection (8)).

(5) In proceedings against a person for an offence under subsection (1), (2) or (3) it is a defence that he had a reasonable excuse–

(a) for having control of or managing the house in the circumstances mentioned in subsection (1), or

(b) for permitting the person to occupy the house, or

(c) for failing to comply with the condition,

as the case may be.

(6) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine.

(7) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7A) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).

(7B) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.

(8) For the purposes of subsection (4) a notification or application is “effective” at a particular time if at that time it has not been withdrawn, and either–

(a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or

(b) if they have decided not to do so, one of the conditions set out in subsection (9) is met.

(9) The conditions are–

(a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of the appropriate tribunal) has not expired, or

(b) that an appeal has been brought against the authority's decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.

(10) In subsection (9) "relevant decision" means a decision which is given on an appeal to the tribunal and confirms the authority's decision (with or without variation).

Housing and Planning Act 2016

Chapter 4 RENT REPAYMENT ORDERS

Section 40 Introduction and key definitions

(1) This Chapter confers power on the First-tier Tribunal to make a rent repayment order where a landlord has committed an offence to which this Chapter applies.

(2) A rent repayment order is an order requiring the landlord under a tenancy of housing in England to—

(a) repay an amount of rent paid by a tenant, or

(b) pay a local housing authority an amount in respect of a relevant award of universal credit paid (to any person) in respect of rent under the tenancy.

(3) A reference to *"an offence to which this Chapter applies"* is to an offence, of a description specified in the table, that is committed by a landlord in relation to housing in England let by that landlord.

	Act	section	general description of offence
1	Criminal Law Act 1977	section 6(1)	violence for securing entry
2	Protection from Eviction Act 1977	section 1(2), (3) or (3A)	eviction or harassment of occupiers
3	Housing Act 2004	section 30(1)	failure to comply with improvement notice
4		section 32(1)	failure to comply with prohibition order etc
5		section 72(1)	control or management of unlicensed HMO
6		section 95(1)	control or management of unlicensed house
7	This Act	section 21	breach of banning order

(4) For the purposes of subsection (3), an offence under section 30(1) or 32(1) of the Housing Act 2004 is committed in relation to housing in England let by a landlord only if the improvement notice or prohibition order mentioned in that section was given in respect of a hazard on the premises let by the landlord (as opposed, for example, to common parts).

Section 41 **Application for rent repayment order**

(1) A tenant or a local housing authority may apply to the First-tier Tribunal for a rent repayment order against a person who has committed an offence to which this Chapter applies.

(2) A tenant may apply for a rent repayment order only if —

(a) the offence relates to housing that, at the time of the offence, was let to the tenant, and

(b) the offence was committed in the period of 12 months ending with the day on which the application is made.

(3) A local housing authority may apply for a rent repayment order only if—

(a) the offence relates to housing in the authority's area, and

(b) the authority has complied with section 42.

(4) In deciding whether to apply for a rent repayment order a local housing authority must have regard to any guidance given by the Secretary of State.

Section 43 **Making of rent repayment order**

(1) The First-tier Tribunal may make a rent repayment order if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which this Chapter applies (whether or not the landlord has been convicted).

(2) A rent repayment order under this section may be made only on an application under section 41.

(3) The amount of a rent repayment order under this section is to be determined in accordance with—

(a) section 44 (where the application is made by a tenant);

(b) section 45 (where the application is made by a local housing authority);

(c) section 46 (in certain cases where the landlord has been convicted etc).

Section 44 **Amount of order: tenants**

(1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 in favour of a tenant, the amount is to be determined in accordance with this section.

(2) The amount must relate to rent paid during the period mentioned in the table.

If the order is made on the ground that the landlord has committed	***the amount must relate to rent paid by the tenant in respect of***
an offence mentioned in row 1 or 2 of the table in section 40(3)	the period of 12 months ending with the date of the offence
an offence mentioned in row 3, 4, 5, 6 or 7 of the table in section 40(3)	a period, not exceeding 12 months, during which the landlord was committing the offence

(3) The amount that the landlord may be required to repay in respect of a period must not exceed—

(a) the rent paid in respect of that period, less

(b) any relevant award of universal credit paid (to any person) in respect of rent under the tenancy during that period.

(4) In determining the amount the tribunal must, in particular, take into account—

(a) the conduct of the landlord and the tenant,

(b) the financial circumstances of the landlord, and

(c) whether the landlord has at any time been convicted of an offence to which this Chapter applies.