FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
RESIDENTIAL PROPERTY

Case reference	**:**	**MAN/00EJ/HNA/2025/0623 - 626**
Properties	**:**	**104 Redworth Road, Shildon, Co Durham DL4 2JS** **10 Freville Street, Shildon, Co Durham DL4 1JT** **54 Dale Road, Shildon, Co Durham DL4 2LA** **18 Albion Avenue, Shildon, Co Durham DL4 1ER**
Applicant	**:**	**John Bell**
Respondent	**:**	**Durham County Council**
Type of Application	**:**	**Appeal against financial penalties - Section 249A & Schedule 13A Housing Act 2004**
Tribunal Members	**:**	**Tribunal Judge S Moorhouse LLB** **Mr A Davis MRICS FAAV**
Date of Paper Determination	**:**	**5 May 2026**
Date of issue of decision	**:**	**12 May 2026**

DECISION

DECISION

1. The tribunal **confirms** the four Final Notices of decision to impose a financial penalty issued to the Applicant by the Respondent on 5 February 2025 imposing financial penalties of £21,000 in relation to each of the Properties.

REASONS

The Applications

2. Four simultaneous applications were made to the First-tier Tribunal on 5 March 2025 by John Bell, the Applicant, appealing financial penalties of £21,000 imposed on the Applicant by the Respondent authority, Durham County Council, in respect of each of four Properties: 104 Redworth Road, 10 Freville Street, 54 Dale Road and 18 Albion Avenue, all in Shildon, County Durham.

3. Directions were issued on 13 January 2026 pursuant to which the Respondent submitted a bundle of documents, including a case summary, witness statements, evidence obtained prior to imposing the financial penalties, details of decisions reached together with the Respondent's Civil Penalty Policy and relevant extracts from the related Banding Guidelines.

4. The Applicant was required by the tribunal's directions to then submit a bundle of relevant documents including the application forms and accompanying documents, and expanded statement of the reason for the appeals, including any additional grounds upon which the Applicant intends to rely and any response to the Respondent's case, any expert evidence and witness statements of facts to be relied on, and any other documents to be used in the appeal.

5. In response to directions the Applicant made a one page submission repeating the ground for his appeals set out in the application forms, and adding additional grounds.

6. The grounds of appeal are first that the Respondent failed to take into consideration the Applicant's exceptionally difficult personal circumstances including his wife's second bout of cancer and the care of his ageing mother-in-law who has since died. Second, the Respondent's correspondence was submitted to addresses to which he no longer had a connection. Third, the process has seen him unable to continue with his business and the failure of his company, he has no meaningful assets and the fines are officious and draconian.

7. It is not disputed by the Applicant that each of the Properties was required to be licensed under the Respondent's Selective Licensing Scheme and was not so licensed.

8. The tribunal's directions permitted the Respondent to submit a reply to the Applicant's case, and the Respondent has confirmed it intends to submit nothing further.

9. The Applicant indicated in the application forms that he would be open to mediation and that he considered a paper determination to be appropriate. HMCTS invited the parties to agree to mediation, the Respondent agreed however no response was received from the Applicant. The cases were therefore listed for paper determination before the present tribunal.

10. The tribunal considered it appropriate to determine the appeal on the papers because neither party had requested a hearing, a comprehensive bundle of documents had been received from the Respondent, the Applicant had had the opportunity to make any written representations he wished to make and submit any documentary evidence in support of his case, and there were no material facts in dispute that the tribunal considered would require oral testimony and cross-examination. The tribunal considered it unnecessary to arrange an inspection of the Properties in view of the issues in the appeal.

11. The tribunal's determination is by of a re-hearing of the Respondent's decision and may be made by reference to matters of which the Respondent was unaware. The tribunal may confirm, vary or cancel each of the Final Notices imposing the financial penalties issued by the Respondent.

Facts

12. The four Final Notices imposing financial penalties of £21,000 in respect of each of the Properties were issued to the Applicant by the Respondent on 5 February 2025. The Applicant was the freehold proprietor of 104 Redworth Road and 18 Albion Avenue, and the sole director of BIW Properties Limited which held the freehold title to 54 Dale Road and 10 Freville Street.

13. The alleged offences were committed under section 95(1) of the Housing Act 2004 ('the Act'). Section 95(1) states that a person commits and offence if he is a person having control of or managing a house which is to be licensed under this Part (see section 85(1)) but is not so licensed. It is not in issue that the Respondent's Selective Licensing Scheme in force from 1 April 2022 applied to each of the Properties, nor that the Applicant was a person in control or management of the Properties.

14. The Applicant was notified or reminded of the licensing requirement on numerous occasions from 2022 to 2024. Some of the events and items of correspondence are noted below.

15. On 16 September 2022 the Applicant was telephoned by the Respondent regarding the licensing requirement for 54 Dale Road and the Applicant advised that he would complete the application as soon as possible. On 23 March 2023 the Applicant created an account to commence the licensing application for 18 Albion Avenue but did not submit the application. On 31 May 2023 the Applicant responded to an email from the Respondent and confirmed that he was aware of the licensing requirement in relation to 18 Albion Avenue, requesting extra time to complete the application.

16. On 28 November 2023 the Applicant was in contact with the Respondent by email in the context of the eviction of a tenant at 104 Redworth Road and was advised that he has not applied for a license. On 15 February 2024 in an email exchange relating to 18 Albion Avenue and three other properties the Applicant was advised that the Respondent had still not received licensing applications and the Applicant replied:

"My apologies for this but we have had a difficult time with my wife being treated for cancer - she is recovering now and should be OK. I will get into this but if you could give me a little more time than the 7 days, I would appreciate it."

17. On 23 February 2024 a formal letter in relation to the Properties and 8 other properties was sent to BIW Properties Limited at the address in Seaham the Applicant has used in his applications to the tribunal specifying the section 95(1) offence and including the following warning: 'Private Landlords who own property in the area or

any person that controls or manages property within a Selective Licence Designation after 1 April 2022 and before 31 March 2027 must ensure a licence is applied for. Failure to licence a property, if required, may lead to prosecution with an unlimited fine or a civil penalty up to £30,000.' The Applicant was notified of the commencement of an investigation and invited to an interview under caution. The same letter was sent to the registered office of BIW Properties Limited.

18. In an email of 29 February 2024 the Applicant apologised that the matter had not been attended to sooner but he had had significant personal matters to attend to, his wife had been having treatment for cancer and this had taken up a great deal of his time. He couldn't attend a proposed interview on 12 March 2024 as he would be out of the country visiting Athens.

19. An interview took place on 8 April but the Applicant had to leave before it was completed, and so it was reconvened on a later date.

20. On 7 May 2024 a Community Protection Notice was served on the Applicant as director of BIW Properties Limited relating to the accumulation of waste at 104 Redworth Road.

21. On 7 October 2024 the Respondent served on the Applicant a Notice of Intent to impose a financial penalty in relation to each of the Properties in the sum of £22,500. The sum of £22,500 was calculated pursuant to the Respondent's Civil Penalty Policy. This refers to the statutory framework and in particular guidance issued by the Government pursuant to Schedule 13A of the Act.

22. A Civil Penalty Matrix is included in the Respondent's policy which was applied by the Respondent as follows. Failing to obtain a licence is viewed by the Respondent as a significant issue since tenants and the wider community are not protected by the additional regulatory controls afforded by licensing. The seriousness grading (in the range 'mild' to 'very severe') was 'serious' giving a starting level of £12,500. The starting level is varied upward or downward by reference to the size of the landlord's portfolio and experience, in this case increasing by £5,000 as the Applicant was viewed as controlling/owning/managing a large portfolio, being six or more dwellings and/or three or more HMO's and/or having demonstrated experience in lettings/management.

23. Adjustments for aggravating factors are limited under the Respondent's policy to an additional £5,000 save in exceptional circumstances. Aggravating factors were found totalling £9,000, namely awareness of the requirement for licences (£3,000), knowledge the offence was occurring and continuing the offence (£1,000) and continuing the offence over 21 months or longer (£5,000). Exceptional circumstances were not found therefore the financial penalty for each of the properties totalled £22,500 (being the starting level of £12,500 plus the £5,000 adjustment for portfolio/experience plus the aggravating factor adjustment capped at £5,000).

24. Written representations were made by the Applicant on 10 January 2025. The representations referred to (1) the health issues experienced by the Applicant's wife and her mother; (2) the Applicant having submitted 25 licensing applications on behalf of friends and family whose properties he manages; (3) the use of a local letting agent to help with day to day operations; and (4) working hard with the selective licensing team to ensure all cases are complete, which they are bar a couple of outstanding queries. The representations were accompanied by medical information relating to the Applicant's wife and information on property management.

25. The final notices for the Properties issued on 5 February 2025 imposed a financial penalty for each of the Properties in the reduced sum of £21,000. The Respondent reduced the penalty on account of two mitigating features/factors. First, a £500 reduction was made for admittance of guilt within 28 days after the Notice of Intent. Second, a £1,000 reduction was made since the offender or a close relative had suffered a diagnosis or health incident during or in the 12 weeks before the offence was committed that would cause significant concern or distress.

Determination

26. The Applicant's first ground of appeal is an alleged failure by the Respondent to take into consideration his exceptionally difficult personal circumstances, including his wife's second bout of cancer. The Respondent did not specifically raise the defence of 'reasonable excuse' set out at section 95(4) of the Act, nor did he specify any further adjustments in the Respondent's calculation of the financial penalties he considered should have been made under the Respondent's policy, or specify the variations sought on appeal to the tribunal and any legal basis for these. Nevertheless the tribunal addressed all of these considerations.

27. The tribunal considered that the Applicant should have been aware that the Selective Licensing requirements had been introduced in the areas in which the Properties were situated. He was a professional landlord owning numerous rental properties personally or through the company of which he was sole director, and involved in the management of numerous rental properties for others. The events and items of correspondence listed earlier show that the Applicant was aware of the selective licensing requirements from September 2022 at the latest and had many reminders subsequently.

28. Whilst the tribunal accepts that the Applicant's personal circumstances were difficult owing to his wife's illness and the care needs of her mother, a considerable period of time elapsed prior to the issue in October 2024 of the Notices of Intent. It would be reasonable to expect that if it were not possible for the Applicant to comply with legal requirements personally, he would have appointed a property manager or agent to do so on his behalf. Indeed the Applicant was able to delegate some property management responsibilities to an agent in order to reduce his workload at this difficult time.

29. In the circumstances of this case, the tribunal does not consider the Applicant to have had a reasonable excuse for failing to complete applications for the necessary licences. Accordingly the tribunal determines that the offences under section 95(1) of the Act set out in the Final Notices have been committed.

30. In terms of the calculation of financial penalties, the Respondent accepted the medical evidence submitted by the Respondent following receipt of the Notices of Intent and made a £1,000 deduction to each penalty by way of mitigation. The Respondent's Banding Guidelines provided for this. Greater deductions by way of mitigation on health grounds are provided for in the guidelines, but only in the event that the recipient of the financial penalty is themself unwell.

31. The tribunal is not bound by the Respondent's policy, however the burden is upon the Applicant to persuade the tribunal that it is appropriate to depart from the policy. In this case the Applicant has not specifically contended that the Respondent's Financial Penalty Policy or Banding Guidelines are deficient in any respect. They appear to the tribunal to broadly reflect the Government Guidance referred to earlier. Mitigation has been given by the Respondent for the health issues referred to by the Applicant

and, as already noted, it would have been reasonable to expect the Applicant to have put alternative arrangements in place if it were not possible for him to comply with legal requirements personally.

32. The Applicant's second ground of appeal concerned the addresses used by the Respondent. It is not specified by the Applicant which items of correspondence were received and which were not. It is clear from the events and correspondence listed earlier however that the Applicant was aware of the selective licensing requirements from September 2022 at the latest and was reminded of this on numerous occasions subsequently.

33. The Applicant's third ground of appeal concerned his financial circumstances and the impact of the Respondent's actions on his business. No adjustments were made to the financial penalties by the Respondent by reference to the Applicant's means.

34. The Applicant submits that he has no meaningful assets and has been unable to continue his business. He has had the opportunity, indeed he was required under the tribunal's directions, to submit to the tribunal any supporting evidence on which he intended to rely. In the absence of any material evidence to support the Applicant's contention that he is of limited means, the tribunal makes no finding to this effect. It is unnecessary to go on therefore to consider what, if any, adjustment might have been made under the Respondent's policy in this respect, or whether there is a case for departing from the Respondent's policy on this issue.

35. The Applicant submits that the Respondent's actions have been officious and draconian. The Selective Licensing Scheme was confirmed by the Secretary of State on 30 November 2021 with the aim of securing improvements in the management of private rented housing in the areas identified, the Respondent is responsible for the implementation and enforcement of the scheme and its officers have been working with the Applicant to secure compliance.

36. No compelling argument has been made in this case by the Applicant that would cause the tribunal to vary the Respondent's calculation of the financial penalties, or cause the tribunal to depart from the Respondent's Civil Penalty Policy or Banding Guidelines.

37. The tribunal therefore confirms the four Final Notices issued to the Applicant by the Respondent on 5 February 2025 imposing financial penalties of £21,000 in relation to each of the Properties.

S Moorhouse

Tribunal Judge