FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/00MR/HNA/2025/0636 HAV/00MR/HNA/2026/0004
Property	**:**	151 Chichester Road, Portsmouth, PO2 0AQ
Applicant	**:**	Fazlul Haque
Representative	**:**	
Respondent	**:**	Portsmouth City Council
Representative	**:**	Mr O Capildeo, of Counsel
Type of Application	**:**	Appeal against a financial penalty - Section 249A & Schedule 13A to the Housing Act 2004
Tribunal Members	**:**	Regional Surveyor Clist MRICS Mr M Williams FRICS Mr J Reichel MRICS
Date of Hearing	**:**	30 June 2026
Date of Decision		12 August 2026

DECISION

Summary of Decision

The Tribunal varies the first Financial Penalty in respect of an offence under Section 72(1) Housing Act 2004 to £10,000.

The Tribunal confirms the second Financial Penalty in respect of offences under Section 234(3) Housing Act 2004 of £4,000.

Background

1. The Tribunal has received two appeals from the Applicant against Financial Penalty notices made under section 249A of the Housing Act 2004.

2. The first received on 17 November 2025 against the Notice of Financial Penalty dated 20 October 2025 for a penalty in the sum of £12,500.00 with respect to an alleged offence under Section 72(1) Housing Act 2004.

3. The second received on 5 December 2025 against the Notice of Financial Penalty dated 13 November 2025 for a penalty in the sum of £4,000 with respect to an alleged offence under Section 234(3) Housing Act 2004.

4. The appeals are to be dealt with together, by way of a re-hearing of the Respondent's decision to impose the penalty and/or the amount of the penalty, but it may be determined having regard to matters of which the Respondent was previously unaware.

5. The Tribunal was provided with a hearing bundle comprising 536 electronic pages. References in this determination to page numbers in the bundle are indicated as [ ].

6. These reasons address in summary form the key issues raised by the parties. The reasons do not recite each point referred to in submissions but concentrate on those issues which, in the Tribunal's view, are critical to this decision. In writing this decision the Chairman has had regard to the Senior President of Tribunals Practice Direction – Reasons for Decisions, dated 4 June 2024.

7. The hearing was audio recorded, and the recording serves as the official record of the proceeding.

The Law

8. There is a fair amount of applicable law, case law and guidance as to how the local housing authority on the one hand and how the Tribunal on the other hand are to address matters.

9. The most pertinent law is outlined below.

10. Firstly, in terms of the offences, the relevant law is contained in the Act and in particular sections 72 and Section 234 Housing Act 2004.

11. Section 72 provides that:

(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 n accordance with section 67 (5), and (b) he fails to comply with any conditions of the licence.

....

(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.

....

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

12. It is section 72(1) and the defence at 72(5) which are the relevant sub-sections in respect of this application.

13. Section 234 provides that:

(1) The appropriate national authority may by regulations make provision for the purpose of ensuring that, in respect of every house in multiple occupation of a description specified in the regulations—

(a) there are in place satisfactory management arrangements; and

(b) satisfactory standards of management are observed.

(2) The regulations may, in particular—

(a) impose duties on the person managing a house in respect of the repair, maintenance, cleanliness and good order of the house and facilities and equipment in it;

(b) impose duties on persons occupying a house for the purpose of ensuring that the person managing the house can effectively carry out any duty imposed on him by the regulations.

(3) A person commits an offence if he fails to comply with a regulation under this section.

(4) In proceedings against a person for an offence under subsection (3) it is a defence that he had a reasonable excuse for not complying with the regulation.

(5) 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.

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

(7) 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.

14. The relevant Management Regulations were introduced in 2006 by statutory instrument.

15. Section 263 of the Act defines a "person having control" and "person managing" of a property and often it is relevant to identify the person as one or other.

16. By amendments to the Act, effected by Schedule 9 to the Housing and Planning Act 2016, the power for local housing authorities to impose a civil penalty as an alternative to prosecution was introduced.

17. Section 249A of the Act deals with the imposition of a financial penalty on the basis of commission of a relevant offence, in relation to which it states the following:

> (1) The local housing authority may impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person's conduct amounts to a relevant housing offence in respect of premises in England.
> (2) In this section "relevant housing offence" means an
> offence under—
> ………………….…
> (b) section 72 (licensing of HMOs),
> ……………………..
> (3) Only one financial penalty under this section may be imposed on a person in respect of the same conduct.
> (4) The amount of a financial penalty imposed under this section is to be determined by the local housing authority, but must not be more than £30,000.
> (5) The local housing authority may not impose a financial penalty in respect of any conduct amounting to a relevant housing offence if— (a) the person has been convicted of the offence in respect of that conduct, or (b) criminal proceedings for the offence have been instituted against the person in respect of the conduct and the proceedings have not been concluded.

18. Schedule 13A to the Act sets out the procedure to be followed by the local housing authority and the requirements of the Notices required to be served, including the requirement for a notice of intent within six months, the information to be contained and the right to make representations and then the requirement to decide whether to serve a final notice and the contents of that. As no issue arises as to the procedure adopted by the Respondent, it is not necessary to set out the requirements in full.

19. The entitlement to apply to the Tribunal is also provided for in Schedule 13A of the Act and specifically Paragraph 10. That states as follows:

> (1) A person to whom a final notice is given may appeal to the First-tier Tribunal against
> (a) the decision to impose the penalty, or
> (b) the amount of the penalty.
> (2) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.

20. It is further explained that:

> (3) An appeal under this paragraph
> (a) is to be a re-hearing of the local housing authority's decision, but
> (b) may be determined having regard to matters of which the authority was unaware.

21. In terms of the powers of the Tribunal, it is added:

> (4) On an appeal under this paragraph the First-tier Tribunal may confirm, vary or cancel the final notice.
> (5) The final notice may not be varied under sub-paragraph (4) so as to make it impose a financial penalty of more than the local housing authority could have imposed.

22. So, as set out above, the Tribunal re- hears the matter but does so including on the basis of matters of which the Respondent may have been unaware and the Tribunal may decide to leave the Final Notice in place as issued, may quash it entirely or may appropriately vary it. The Tribunal has the power to determine that there was or was not an offence for which a civil financial penalty may be imposed and, if so, to confirm or vary the level of any penalty.

23. There is no mental element to a licensing offence. It is, subject to there being a reasonable excuse, what is termed a strict liability offence. In the case of *Mohamed and Lahrie v London Borough of Waltham Forest* (2020) EWHC 1083 (Admin), it was said as follows:

> "48. For all these reasons we find that the prosecution is not required to prove that the relevant defendant knew that he had control of or managed a property which was a HMO, which therefore was required to be licensed. As noted above the absence of such knowledge may be relevant to the defence of reasonable excuse."

24. There is Government guidance in respect of the Act and the offences created. The Ministry of Housing, Communities and Local Government published non-statutory guidance in April 2018 entitled “Civil penalties under the Housing and Planning Act 2016 - Guidance to Local Authorities”, (“the Guidance”) [6-25]. Local authorities must, pursuant to paragraph 12 of Schedule 13A to the Act, have regard to the guidance in respect of their functions in respect of civil penalties, as the Guidance itself repeats.

25. The Guidance states the Government’s intention to crack down on a “small number of rogue or criminal landlords [who] knowingly rent out unsafe and substandard accommodation” and to disrupt their business model.

26. Paragraph 1.9 of the Guidance states that civil penalties are intended to be used against landlords who are in breach of one or more of the sections of the Housing Act 2004 and Housing and Planning Act 2016 listed in the Guidance.

27. Paragraph 3.5 of the Guidance addresses in some detail the factors that a local housing authority should consider when deciding on the level of a civil penalty, as follows:

a) **Severity of the offence.** The more serious the offence, the higher the penalty should be.

b) **Culpability and track record of the offender.** A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.

c) **The harm caused to the tenant.** This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.

d) **Punishment of the offender.** A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.

e) **Deter the offender from repeating the offence.** The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.

f) **Deter others from committing similar offences.** While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying civil penalties where the need to do so exists and (b) that the civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.

g) **Remove any financial benefit the offender may have obtained as a result of committing the offence.** The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

28. The Guidance also states that local housing authorities are expected to develop and document their own policy on when to impose a civil penalty and should decide which option to pursue on a case- by- case basis and also says that housing authorities "should develop their own policy on determining the appropriate level of civil penalty in a particular case", in line with that policy.

29. So, the local housing authority must have a policy to cover when a penalty should be imposed and how much that should be.

30. The approach to the Tribunal's consideration of local policies was summarised in the Upper Tribunal by Judge Cooke in *Marshall v Waltham Forest LBC* [2020] UKUT 35 (LC); [2020] 1 WLR 3187, which involved appeals against penalties imposed under section 249A of the Act. At para 54 the Judge stated:

> "The court [or Tribunal] is to start from the policy, and it must give proper consideration to arguments that it should depart from it. It is the appellant who has the burden of persuading it to do so. In considering reasons for doing so, it must look at the objectives of the policy and ask itself whether those objectives will be met if the policy is not followed."

31. Judge Cooke also considered the weight to be attached to the local housing authority's decision in any appeal at para 62, stating as follows:

> "the court is to afford considerable weight to the local authority's decision but may vary it if it disagrees with the local authority's conclusion".

32. In *Sutton* it was said by the Upper Tribunal that:

> "It is an important feature of the system of civil penalties that they are imposed in the first instance by local housing authorities, and not by courts or tribunals. The local housing authority will be aware of housing conditions in its locality and will know if particular practices or behaviours are prevalent and ought to be deterred. The authority is well placed to formulate its policy and in *London Borough of Waltham Forest v Marshall* [2020] UKUT 35 (LC) the Tribunal (Judge Cooke) gave guidance on the respect that should be afforded to a local authority's policy by the FTT when

hearing an appeal from a civil penalty imposed by the authority. As Wilkie J put it, concerning the approach which should be taken by magistrates, in *Darlington Borough Council v Kaye* [2004] EWHC 2836 (Admin): "The Justices ... ought to have regard to the fact that the local authority has a policy and should not lightly reverse the local authority's decision or, to put it another way, the Justices may accept the policy and apply it as if it was standing in the shoes of the council considering the application.
If a local authority has adopted a policy, a tribunal should consider for itself what penalty is merited by the offence under the terms of the policy. If the authority has applied its own policy, the Tribunal should give weight to the assessment it has made of the seriousness of the offence and the culpability of the appellant in reaching its own decision."

33. Nevertheless, as explained in Marshall at paragraph 76:

> "... if a court or tribunal finds, for example, that there were mitigating or aggravating circumstances of which the original decision-maker was unaware, or of which it took insufficient account, it can substitute its own decision on that basis."

34. The policy of the local housing authority is therefore the starting point, although not the end point.

35. With regard to the amount of the penalty, the Tribunal's power to vary it includes a power to increase as much as it does to reduce it, subject to the maximum of £30,000.00.

36. It was also explained in Sutton as follows:

> "The ability to pay, or the means of the offender, is relevant to any financial punishment; although not mentioned specifically in the Secretary of State's Guidance, it is an important component of both punishment and deterrence.
>
> A corporate or individual appellant who wishes the Tribunal to have regard to their own financial standing when considering the appropriate financial penalty to impose, should provide up-to-date evidence of their assets and liabilities."

The Hearing

37. The hearing took place at 10am on the 30th June 2026 at Havant Justice Centre. Mr Haque, the Applicant was in attendance as a litigant in person. For the Respondent, Mr Capildeo of counsel represented, Ms Clare Green (Housing Regulation Officer at Portsmouth City Council) attending as a witness and was accompanied by her colleague Mr Michael Conway.

38. The Tribunal is grateful to both parties' for their submissions and their helpful conduct throughout the hearing.

39. At the commencement of the hearing, Mr Capildeo confirmed that his skeleton argument had been received by the Tribunal and stated that the parties had held discussions prior to the hearing whereby the Respondents confirmed with Mr Haque that he had a sufficient level of understanding and spoken English language to proceed with the hearing. Mr Haque confirmed the same to the Tribunal who noted that there had been no prior concerns or requests for an interpreter made to the Tribunal.

40. The Tribunal noted that Mr Haque's appeal notices were focused upon the level of the financial penalties imposed. Liability for both offences was accepted by Mr Haque.

41. In Mr Haque's opening statement, he accepted that he had made mistakes and described the offences as defects arising from his lack of understanding of the relevant requirements. He stated that he did not realise a licence was required and explained that the occupiers were only intended to live in the property temporarily.

42. He had become aware of the HMO licensing requirement only after the occupiers had moved into the property. As the property was rented by him and not owned by him, he believed that he could not apply for an HMO licence himself. Upon learning of the licensing issue, he said that he sought either to reduce the number of occupiers or to give up the property entirely.

43. Mr Haque stated that he informed the occupiers that he wished them to find alternative accommodation and move out once he returned from a holiday abroad. Whilst away, he suffered a heart attack and subsequently underwent surgery in Portsmouth once he had returned home. It was said that within some seven to ten days of the Council becoming involved, all of the occupiers had left the property.

44. Upon returning to the Property following his surgery, Mr Haque found that all occupiers had left. He cleaned the house and later returned possession to the landlord.

45. Mr Haque stated that he had no intention to avoid the law, explaining that his actions arose from a misunderstanding of the regulatory requirements. He stated that he had since attended an HMO course to improve his understanding of the licensing regime.

46. Mr Haque told the Tribunal that he was not currently working because of his health condition and could not afford the level of financial penalty imposed. He nevertheless stated that he intended to pay whatever sum the Tribunal ultimately decided was appropriate.

47. Mr Haque confirmed the contents of his witness statements.

48. In cross-examination by Mr Capildeo, Mr Haque confirmed that he had taken a tenancy of the property under an assured shorthold tenancy and did not live there himself. He accepted that he had sublet five rooms to occupiers, including Mr Bhuiyan and Mrs Sujana who he had provided written tenancy agreements to dated 1 September 2023. It was accepted that these arrangements had been in place well before June 2025.

49. Mr Haque confirmed the tenants had made rent payments directly to him and that he had paid the council tax in his own name despite not living at the property.

50. Mr Haque explained that he had originally taken the property for occupation by his nephew, but his nephew had subsequently decided not to live there. He stated that he had decided to surrender the tenancy before the Council became aware of the situation. He had instructed his tenants to seek alternative accommodation, and that he had rehoused one couple in another property. Furthermore, he had served notice on Mr Miah to bring the tenancy agreement to an end. It was accepted that these were all the steps available to him and within his control.

51. Mr Haque accepted that he had not checked whether the property required an HMO licence before subletting the rooms. He stated that he had not discussed the licensing requirements with Mr Miah, although Mr Miah had been aware of the occupants as he had visited the Property many times.

52. Mr Haque reiterated that he had not applied for a licence because he did not believe he could do so as a tenant rather than the owner. He said that once he became aware that a licence was required, he gave up the property. He also stated that he had not known it was possible to apply for a temporary exemption notice.

53. Mr Haque said that he knew the identities of all occupiers and recognised them as members of the local community, although he maintained no written list of residents.

54. It was said that whilst Mr Haque was in Bangladesh, another individual, Mr Rahman, visited the property on his behalf and undertook management functions.

55. Mr Haque accepted that his illness arose after the Property had already been sublet and that his health problems had not caused him to establish the letting arrangements in the first place.

56. He accepted that management information was not displayed at the property but stated that occupiers knew his name and contact details. He further accepted that he now understood that fire safety, management of common parts and maintaining cleanliness were his responsibilities.

57. When questioned about inspections carried out before June 2025, he stated that the property was frequently untidy and that he would ask

occupiers to clean it. He accepted that these interventions were not always effective and said that on several occasions he cleaned the property himself, although he had retained no records.

58. Mr Haque relied upon his current ill-health and limited income and submitted that a penalty of £2,000 would be more appropriate. He accepted, however, that the offences themselves were not caused by his health or financial circumstances and that these matters arose after the letting arrangements had been established.

59. In response to questions from Mr Williams, Mr Haque confirmed that he had relocated one couple to another property. He stated that he owned three buy-to-let properties in addition to his own home. He said that he did not currently rent any other properties from any third parties.

60. Mr Haque added that he had recently been granted an HMO licence for another property owned by him, namely 23 Queens Road, Portsmouth, although this was only after the Council had informed him that a licence was required. He stated that the application process had taken almost a year.

61. Mr Haque confirmed to the Tribunal that he had not included any further evidence relating to his financial circumstances or rental income.

62. Ms Green, a Private Sector Housing Regulation Officer for the Respondent, confirmed her witness statement.

63. It was explained that the Council had made enquiries into another property let by Mr Haque situated at Queens Road following Mr Conway's investigation of a property at Derby Road. During that investigation, Mr Haque disclosed information which led the Council to identify Queens Road as another unlicensed HMO.

64. In relation to 151 Chichester Road, Ms Green confirmed that the property was neither licensed nor had any exemption been granted. Following reports from neighbours, the Council inspected the property and found seven adults and four children residing there. The Property said to be in poor condition and there was excessive refuse in the garden. The Council undertook a second visit to the Property and gathered witness statements from occupiers to establish the nature of the occupation and management arrangements. Following those investigations, a Notice of Intent and subsequently a Final Notice were issued.

65. Ms Green stated that the Council considered both the offence of operating an unlicensed HMO contrary to section 72 and various breaches of the Management of Houses in Multiple Occupation Regulations. She described the conditions at the property as poor and unsatisfactory for the occupiers.

66. As to the assessment of the financial penalty, Ms Green explained that the Council's starting point for the S.72(1) licensing offence was £10,000.

A further £2,500 premium was added for high culpability. She explained that the Council had encountered difficulties obtaining information regarding the rent-to-rent arrangement and that it was apparent that Mr Haque was controlling the property whilst not residing there. The Council was unable to locate tenancy agreements for all occupiers, there had been no tenancy deposits taken or registered, no council tax registrations for the occupiers or planning applications lodged. In her view, this was a model of a rent-to-rent employed to have the effect of avoiding any regulation. She therefore considered the culpability premium justified.

67. In relation to the four management regulation offences, Ms Green explained that a penalty of £1,000 per breach had been applied without any additional premium.

68. Upon questioning by the panel, Ms Green explained the Council's investigation process. A triage exercise had first been undertaken to assess the reliability of the information received. The Council examined planning records, council tax information and other available information sources. Ultimately, the most important evidence came from the occupiers themselves. The Council concluded that Mr Haque exercised control and management of the property, while Mr Miah benefited as the owner of the Property.

69. Ms Green stated that the information and intelligence gathered suggested arrangements which would likely have remained unknown to the Council in the absence of any licence applications.

70. Ms Green confirmed to the Tribunal that Mr Haque had not been interviewed under caution. No formal representations had been submitted in response to the notices, although correspondence had been received from Tiger Consultants. She regarded that correspondence as an attempt to explain the circumstances and raise mitigation. She confirmed that at no point had Mr Haque denied committing the offences.

71. Ms Green also confirmed that the Council had no information about Mr Haque's financial circumstances when determining the penalties and therefore had no evidential basis upon which to assess financial mitigation. She further stated that there were a number of properties associated with Mr Haque which remained under investigation and, for that reason, she was not able to increase the penalty further.

72. At the conclusion of the evidence, Mr Haque confirmed that he did not dispute that the offences had been committed.

73. In closing, Mr Capildeo submitted that there was no dispute that the property required a licence and that neither a licence nor an exemption had been in place. He submitted that Mr Haque was not a passive tenant but exercised active control over the property by subletting rooms, collecting rent and managing occupation. He submitted that the tenancy agreements from September 2023 were particularly significant because

they demonstrated that the subletting arrangements pre-dated Mr Haque's health problems by a considerable period.

74. Mr Capildeo argued that Mr Haque had taken no meaningful steps to resolve the licensing issues before the Council intervened and that all remedial action occurred only after the Council's investigation commenced. He submitted that the case involved more than technical breaches. The Council had identified serious management failings, including the absence of management information, blocked escape routes, deficiencies in fire detection, refuse accumulation, poor hygiene, damp, mould and general disrepair. He submitted that the property was densely occupied and that there remained uncertainty about the precise number of occupiers. Although Mr Haque claimed to know the occupiers, he had maintained no formal records identifying who occupied which rooms.

75. Mr Capildeo submitted that the Council had properly applied its enforcement policy and that Mr Haque's operation had deprived the Council of the opportunity to exercise its licensing and regulatory functions. He argued that no reasonable excuse had been established and invited the Tribunal either to uphold the penalties in full or, given the seriousness of the case, to increase them rather than reduce them.

76. In his closing submissions, Mr Haque accepted that he had made a mistake and stated that he had acknowledged this throughout. He emphasised his current financial difficulties and poor health. He said that he was no longer working, supporting a household of five people and was unable to afford the penalties imposed. He sought either a substantial reduction in the penalties or an instalment arrangement. He explained that when the notices were served he was suffering significant health difficulties, including heart palpitations and insomnia, and was regularly requiring ambulance assistance. He said that these circumstances affected his ability to engage properly with the Council and contributed to misunderstandings in his communications with Ms Green. Mr Haque became visibly upset when discussing his financial position and stated that if the penalties were to be reduced to £2000, he would be in the position to pay the same within his remaining lifetime.

Consideration and Reasons

77. The first matter for the Tribunal to consider is Mr Haque’s liability in relation to the offences under Section 72(1) and Section 234(3) of the Housing Act 2004.

78. Mr Haque confirmed to the Tribunal at the outset of the hearing that he admitted committing both offences and the issue was narrowed to that of the quantum of the penalties imposed.

79. In respect of such an admission, and the evidence before the Tribunal including Mr Haque’s tenancy agreement with Mr Miah for the Property, the tenancy agreements issued by Mr Haque to Bhuiyan and Sujana, rent

payments received by Haque in respect of the individual rooms occupied by his tenants in addition to the statements of the tenants gathered by the Respondent, photographic evidence of the Property and Ms Green's witness statement, the Tribunal is satisfied beyond reasonable doubt that Mr Haque committed the aforementioned offences as a person both in control of and managing the property, as per the definitions under Section 263 Housing Act 2004.

Reasonable Excuse Defence

80. Having established that offences under Sections 72(2) and 234(3) Housing Act 2004 had been committed, the Tribunal next turns its attention as to whether Mr Haque had a reasonable excuse for the same.

81. Much of Mr Haque's evidence surrounded his health condition, to which he provided medical evidence for. Mr Haque suffered a heart attack in June 2025 whilst in Bangladesh, upon return to England, Mr Haque underwent surgery and further investigations, having been diagnosed with multiple cardiac conditions including significantly impaired left ventricular systolic function [43] to which he is under the care of the heart failure team.

82. Mr Haque's evidence relating to his health was accepted by the Respondent.

83. During the course of Mr Capildeo's cross-examination, Mr Haque accepted that his health deteriorated after he had sublet the Property with reference made to the tenancy agreement with Bhuiyan and Sajana dated 1 September 2023, some two years prior to the heart attack.

84. It had been Mr Haque's evidence that he had taken no advice as to the subletting of the Property. Once he became aware of the licensing requirements, which he said was prior to the Council's inspection of the Property, he had assumed that he could not obtain a HMO licence as a tenant of the Property and had not been aware that temporary exemption may have been available upon application.

85. Whilst the Tribunal accepts Mr Haque's evidence relating to his health, it does not accept that the same amounts to a reasonable excuse for committing the offences under Sections 72(1) and 243(3) Housing Act 2004 as Mr Haque had been operating the Property as a HMO for some two years prior to his heart attack and ongoing health issues.

86. Further, the Tribunal did not identify any other matter that would constitute a reasonable excuse as to committing the said offences throughout the course of its questioning.

The amount of civil penalty

87. Having failed to have identified any reasonable excuse, the Tribunal next turns to the civil penalty.

88. There has been no suggestion by the Applicant that the Respondent had failed to follow the correct procedure in imposing the financial penalties, nor has the Tribunal identified any issues with the same.

89. The Tribunal reminds itself that this is a re hearing. It is for the Tribunal to determine the penalty, although regard ought to be had to the local authority policy in so doing and considerable weight should be applied to the same. The Tribunal is satisfied that Portsmouth City Council's enforcement policy [399] should be followed in determining the amount of the penalty:

Failure to obtain Property Licence (section 72(1)) *(note 1)*	£10,000
2nd subsequent offence by same person/company and any subsequent offences *(note 2)*	£30,000
Premiums **The following additional charges will be added to the charges above. All relevant charges will be applied i.e. more than one premium can be applied if relevant.**	
Acts or omissions demonstrating high culpability *(note 8)*	+£2,500
Housing portfolio of 10 or more units of accommodation *(note 3)*	+£2,500
Vulnerable occupant and/or significant harm occurred as result of housing conditions *(note 5)*	+£2,500
Perpetrator demonstrates to the satisfaction of the Council that their income is less than £450 per week *(note 6)*	-50% of overall charge

F. Offences of failure to comply with management regulations in respect of Houses in Multiple Occupation (HMOs) under the Housing Act 2004 (Section 234)	
1st relevant offences *(note1)*	£1,000 per offence
Second subsequent offences by same person/company for the same offence	£3,000 per offence
All subsequent offences by same person/company for the same offence	£5,000 per offence
Premiums (use all that apply)	
Acts or omissions demonstrating high culpability *(note 8)*	+£2,500
Housing portfolio of 10 or more units of accommodation *(note 3)*	+£2,500
Vulnerable occupant and/or significant harm occurred as result of housing conditions *(note 5)*	+£2,500
Perpetrator demonstrates to the satisfaction of the Council that their income is less than £450 per week *(note 6)*	-50% of overall charge

90. With respect to the first offence under Section 72(1) Housing Act 2004, the Tribunal applies the local authority's base level of £10,000 as the starting point.

91. In consideration of any premium, the Tribunal reviewed Note 8 in relation is 'High Culpability':

Note 8 – Acts or omissions demonstrating high culpability

This premium will be applied where, the person to which the financial penalty applies, acted in the opinion of the Council in a reckless or deliberate manner in not complying with the statutory notice or previous relevant formal advice. This premium may also be added where the Council considers that the person / company has also sought to mislead the Council in the exercise of its statutory duties.

92. The Tribunal does not find that Mr Haque had acted in a reckless or deliberate manner in not complying with 'the statutory notice or 'previous relevant formal advice'. The Tribunal considers Ms Green's evidence at paragraph 52 of her witness statement [114] in relation to Mr Haque's failure to respond with notices served under Section 235 Housing Act 2004 and Section 16 Local Government (Miscellaneous Provisions) Act 1976, to which Mr Haque had advised of his health condition [233]. Having accepted Mr Haque's health condition, the Tribunal does not find that Mr Haque was reckless or deliberate in his failure to comply with the same. In relation to the Notice of Intent, Mr Haque had used a representative who provided the local authority with a brief statement admitting to having sub-let the property without having a HMO license in place. The Tribunal does not consider this to amount to a failure to comply with a statutory notice in a reckless or deliberate manner.

93. With regards to the second part of the guidance under Note 8, the Tribunal did not consider that Mr Haque had sought to mislead the Council in the exercise of its statutory duties. Whilst the Council submitted that Mr Haque's payment of council tax in his own name and lack of tenancy deposit registrations was an attempt to conceal the arrangement, the Tribunal were not convinced of the same. It was Mr Haque's evidence that he was unaware of the requirement to hold a HMO licence. This is accepted by the Tribunal. Whilst Mr Haque should have been aware as a professional Landlord, it was clear to the Tribunal that Mr Haque had not conducted his letting business in a professional manner, adhering to proper practices. The Tribunal were not convinced that the payment of council tax in Mr Haque's own name was an attempt to deliberately mislead the Council, but rather poor management practice.

94. The Tribunal has considered whether to apply a premium for vulnerable persons, having regard to the very young infants in the Property, however, in accordance with Note 5, the premium relates to a limited number of stipulated hazards under the Housing Health and Safety Rating System to which applies to specific vulnerable groups. Thankfully, there had been no evidence of any significant harm having been caused to any occupiers. In this instance, under an offence for S72(1) Housing Act 2004, it does not appear appropriate to apply this premium and concluded that the matter was reflected in the financial penalty for the management regulation offences under Section 234(3) Housing Act 2004.

95. In consideration of Mr Haque's submissions relating to his financial circumstances, whereby he stated that he was no longer able to work as an Uber driver owing to his health condition, the Tribunal considered a reduction in line with the Respondent's policy whereby an income of less than £450 per week is demonstrated.

96. Whilst Mr Haque adduced evidence of Uber income for the year 2025/26 at £1783.10 [105], in addition to a monthly breakdown whereby he had

nil income from Uber for several months, there had been no evidence presented to the Tribunal of the income derived from Mr Haque's portfolio of three buy-to-let properties.

97. Whilst Mr Haque had submitted bank statements for the period November 2025-April 2026 for two separate bank accounts, no overview or explanation was given as to his income. Some statements appeared to show income exceeding £4000 per month. As such, the Tribunal does not consider a reduction in line with the Council's policy to be appropriate.

98. Appendix 3 [430] of the Council's enforcement policy provides guidelines as to mitigating factors. The Tribunal did not consider that any reduction was warranted for steps taken to mitigate the offence whereby Mr Haque removed his tenants from the Property at speed following the Council's inspection. No evidence had been adduced that lawful steps had been taken to obtain possession. Nor was the surrender of Mr Haque's own tenancy considered to be a mitigating factor.

99. Further, the Tribunal did not consider the letter from Tiger Consultants dated 20 October 2025 to be a full written admission in relation to all the offences.

100. Whilst it was Mr Haque's oral evidence that he has since completed a educational course and now understands the regulatory requirements to managing a HMO, there has been no evidence provided of the same. Whilst this may have been a matter potentially capable of falling under mitigating circumstances, the Tribunal did not consider that a reduction was warranted on the basis of his oral evidence alone.

101. With respect to the four offences under Section 234(3) Housing Act 2004, the Tribunal notes that there are four offences committed by Mr Haque as a person managing:

- Regulation 3(a) Duty to provide information to occupiers
- Regulation 4(1) Duty to maintain common parts, fixtures, fittings and appliances
- Regulation 7 Duty to maintain common parts, fixtures, fittings and appliances
- Regulation 8 to ensure that each unit of living accommodation and any furniture provided with it are in a clean condition at the beginning of the person taking occupation of it

102. The Respondent's policy in respect of such is a penalty of £1000 per offence. The Tribunal has applied the same, resulting in a penalty of £4000.

103. With respect to any premiums, the Tribunal notes that the Respondent had not applied any premium to the base level penalties. The Tribunal had given consideration to the appropriateness of applying a premium for

the vulnerable occupants within the Property although concluded that the seriousness of the same was reflected in the totality of the financial penalties imposed. Notwithstanding, the Tribunal records its concern that infants had been living in such conditions, considering that it is most fortunate that no harm appears to have occurred despite this.

104. The Tribunal notes that the letter from Tiger Consultants suggests that as the Property had undergone decorative works with the Property returned to the freeholder vacant, mitigating steps had been taken. The Tribunal rejects this submission on the basis that no evidence had been provided that any lawful eviction process had been followed to obtain possession, nor was it clear when decorative works had taken by place and by whom, although it appeared to have occurred after the tenants had left.

105. With respect to other mitigating factors, the letter from Tiger Consultants includes an admission that Mr Haque did not hold a HMO licence. The offences under S234(3) were not addressed directly and did not constitute to be a full admission under the council's policy.

106. As above, the Tribunal did not consider Mr Haque's oral evidence as to attending a course relating to HMO management to be sufficiently evidenced to justify applying a reduction for a mitigating factor.

107. In respect to Mr Haque's financial circumstances, the Tribunal does not consider a reduction to be warranted on the basis of the loss of his Uber income for the reasons provided in relation to the S72(1) offence.

108. The Tribunal therefore determines a penalty in respect of the four offences under S234(3) of £4000.

109. The Tribunal considers a financial penalty of £10000 for the S72(1) offence and £4000 for the S234(3) Housing Act 2004 to be fair and appropriate levels under the circumstances. This is also in line with the Respondent's enforcement policy.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.