



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

**Case Reference** : **HAV/00HB/HMF/2025/0637**

**Property** : **1 Manor Road, Fishponds,  
Bristol, BS16 2JD**

**Applicant** : **Sze Wai Chin**

**Representative** : **Will Todd**

**Respondent** : **Rihana Kouser**

**Type of Application** : **Application for a rent repayment order by  
Tenant**

**Tribunal Members** : **ss. 40, 41, 42, 43, 44 & 45 of the  
Housing and Planning Act 2016**  
**Mr D Cotterell FRICS**  
**Mr D Jagger FRICS**

**Date of Hearing** : **2 July 2026**

**Date of Decision** : **18 August 2026**

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**DECISION**

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## **Summary of Decision**

1. **The tribunal orders the Respondent to repay to the Applicant the sum of £1,750 by way of rent repayment, such repayment to be made within 28 days of the date of this decision.**
2. **The tribunal also orders the Respondent to reimburse to the Applicant the application fee of £114 and the hearing fee of £227 (amounting to £341 to be reimbursed in total), such repayment to be made within 28 days of the date of this decision.**

## **Introduction**

3. The Applicant has applied for a rent repayment order against the Respondent under sections 40-44 of the Housing and Planning Act 2016 (“the 2016 Act”). She had rented a room (Room 7) at 1 Manor Road, Fishponds, Bristol, BS16 2JD (“the Property”) under the terms of an agreement dated 25 June 2025 styled as an “*Assured Shorthold Tenancy Agreement – Room Only*”.
4. The basis for the application is that the Respondent was controlling and/or managing an HMO which was required to be licenced under Part 2 of the Housing Act 2004 (“the 2004 Act”) at a time when it was let to the Applicant but was not so licensed and that she was therefore committing an offence under section 72(1) of the 2004 Act.
5. The Applicant’s claim is for repayment of rent paid during the period from 25 June 2025 and 24 August 2025, amounting to £ 1,750. The application is dated 30 November 2025; the Tribunal issued directions on the 23 April 2026.
6. The Tribunal was provided with a bundle running to 45 pages. The contents of all these documents were noted by the tribunal. The hearing was conducted using the CVP service. The Applicant’s representative, Mr Todd and the Respondent joined in this manner.
7. The Respondent claimed that she had not received the bundle from the Tribunal and was unfairly disadvantaged as a result. The Tribunal’s office confirmed that all correspondence had been properly served. The Respondent had filed no documents or evidence with the Tribunal or, according to Mr Todd, had served any on the Applicant. The Tribunal was satisfied, as a preliminary matter to the hearing, that the Respondent had been given proper notice of the Application and had due opportunity to reply to it and to participate in the process and that it was just in the circumstances to proceed with the hearing, giving full opportunity to the Respondent to cross examine the Applicant’s evidence and make submissions.

## **Relevant statutory provisions**

8. The relevant statutory provisions are set out in the Schedule to this decision.

## **Alleged Offence**

### **House in Multiple Occupation**

9. The Applicant rented a room in the Property as mentioned above. A copy of the agreement dated 25 June 2025 was included in the bundle. This document was signed by the Respondent as landlord, the Applicant as tenant, and was witnessed. The Tribunal is satisfied that this agreement sets out the terms of the letting that is the foundation of the subject application.
10. The Applicant argues that the Property was, during the term of her occupation, an unlicensed HMO and relies on the evidence of Mr Piotr Robert Toporowski, a Private Housing Team Leader working for the Licence Enforcement & Rogue Landlord Team in Bristol City Council. His statement included in the bundle and dated 16 October 2025 mentions: “... *Following an inspection on 19 August 2025, it was determined that the property required an HMO licence from 25 June 2025 ... Based on evidence BCC collected, the property was occupied as an unlicensed HMO for 10 weeks and 3 days.*” That period includes the whole of the period of occupation by the Applicant.
11. The Tribunal is satisfied that the Property and its occupation met the requirements to be an HMO for the purposes of section 254 of the 2004 Act and that the Respondent was therefore committing an offence under section 72(1) of the 2004 Act during that period.

### **Reasonable Excuse**

12. Accordingly, having established the ground for potentially making a rent repayment order, the Tribunal considered whether the Respondent had a reasonable excuse for committing the offence. This would operate as a defence to the claim and mean that a rent repayment order could not be made.
13. The Respondent had submitted no evidence to the Tribunal asserting any Reasonable Excuse. As a result, the tribunal finds that the Respondent does not have a reasonable excuse to the offence.

### **Conclusion**

14. On the evidence of Mr Toporowski’s statement, the Tribunal is satisfied beyond a reasonable doubt that the offence was committed and that the relevant dates when the offence was committed was a period of 10 weeks and 3 days from 25 June 2025.

### **Rent Repayment Order**

15. Section 43 of the 2016 Act provides that where a tribunal is satisfied beyond reasonable doubt that a landlord has committed a relevant offence, it may make a

rent repayment order. The tribunal does therefore have a discretion as to whether to make an order although it has been established that it would be exceptional not to make a rent repayment order (per Wilson v Campbell [2019] UKUT 363 (LC)).

16. In this case, the Tribunal is satisfied beyond reasonable doubt that an offence has been committed and that there is no reasonable excuse for the offence. It does not consider that there are any exceptional circumstances preventing it making an order and therefore determines that a rent repayment order should be made.

### **Submissions on amount of order**

17. Having determined that a rent repayment order should be made, the tribunal next considered what the amount of such order should be.
18. The Applicant argued that the full rent paid by them for the period from 25 June 2025 amounting to 2 months' rent at £875 per month should be repaid to her. The Respondent disagreed.

### **Method of assessing amount of order**

19. Section 46 of the 2016 Act specifies circumstances where a tribunal is obliged to make a rent repayment order in the maximum amount (subject to exceptional circumstances). These do not apply where the tenant is seeking to rely on offences under section 72(1) of the 2004 Act, as is the case here. The tribunal therefore has discretion as to the percentage of the rent it can order be repaid.
20. Section 44 of the 2016 Act specifies the factors that a tribunal must take into account in making a rent repayment order. This has been qualified by the Upper Tribunal in guidance given in the case of Acheampong v Roman [2022] UKUT 239. That guidance is summarised as follows:
  - (i) ascertain the whole of the rent for the relevant period;
  - (ii) subtract any element of that sum that represents payment for utilities that only benefited the tenant, e.g. gas, electricity and internet access;
  - (iii) consider how serious the 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?
  - (iv) finally, 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), namely the matters the tribunal must 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 identified in the table at section 45 of the 2016 Act.

### **Tribunal assessment of amount of order**

21. The Tribunal is asked to consider an amount of £1,750 being 2 months' rent exclusive of utilities.
22. The Tribunal considers the offence to be a serious one, although not so serious as some other offences in respect of which a rent repayment order could be made. The tribunal considered the conduct of the Respondent and the Applicant. The Tribunal found no evidence of poor conduct by the Applicant.
23. The Tribunal does not consider any deduction should be made having regard to the factors set out in section 44(4).

### **Tribunal determination**

24. The tribunal determines that it is satisfied beyond all reasonable doubt that the Respondent was controlling and/or managing an HMO which was required to be licenced under Part 2 of the 2004 Act but was not so licensed for a period 10 weeks and 3 days from 25 June 2025 so that she was therefore committing an offence under section 72(1) of the 2004 Act during that period. It also determines that the Respondent had no reasonable excuse for that offence. Taking all these factors into account, the Tribunal determined that the amount payable by the Respondent should be £1,750
25. The tribunal has determined that it should make a rent repayment order for it and has calculated the amount of that order as £ 1,750. Accordingly, the Tribunal orders the Respondent to repay to the Applicant the sum of £ 1,750 by way of rent repayment, such repayment to be made within 28 days of the date of this decision.

### **Cost applications**

26. The Applicant has applied under paragraph 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for an order that the Respondent reimburse the application fee of £114.00 and the hearing fee of £227.00. As the Applicant has been successful in this claim, the Tribunal is satisfied that reimbursement of these fees should be made.
27. The Tribunal therefore orders the Respondent to reimburse to the Applicant the further sum of £ 341, such repayment to be made within 28 days of the date of this decision.

### **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 to the First-tier Tribunal at the Regional office which has been dealing with the case. Where possible you should send your application for permission to appeal by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
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.
5. Either party seeking to appeal a decision are referred to form RPPTA.

## SCHEDULE

### Relevant statutory provisions

#### Housing and Planning Act 2016

#### Section 40

- (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 ...
- (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.

|   | <i>Act</i>                           | <i>section</i>               | <i>general<br/>description of<br/>offence</i>      |
|---|--------------------------------------|------------------------------|----------------------------------------------------|
| 1 | Criminal Law Act 1977                | section 6(1)                 | violence for<br>securing entry                     |
| 2 | Protection from<br>Eviction Act 1977 | section 1(2),<br>(3) or (3A) | eviction or<br>harassment of<br>occupiers          |
| 3 | Housing Act 2004                     | section<br>30(1)             | failure to comply<br>with improvement<br>notice    |
| 4 |                                      | section 32(1)                | failure to comply<br>with prohibition<br>order etc |
| 5 |                                      | section 72(1)                | control or<br>management of<br>unlicensed HMO      |

|   |          |               |                                           |
|---|----------|---------------|-------------------------------------------|
| 6 |          | section 95(1) | control or management of unlicensed house |
| 7 | This Act | section 21    | breach of banning order                   |

#### Section 41

- (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.

#### Section 43

- (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 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) ...

#### Section 44

- (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.

|                                                                                  |                                                                                         |
|----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| <b><i>If the order is made on the ground that the landlord has committed</i></b> | <b><i>the amount must relate to rent paid by the tenant in respect of</i></b>           |
| 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.

#### Housing Act 2004

##### Section 30

- (1) Where an improvement notice has become operative, the person on whom the notice was served commits an offence if he fails to comply with it.
- (3) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.