



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

Case Reference	:	HAV/29UL/HNA/2026/0002
Property	:	Flat 1, 28 St Michaels Street, Folkstone, CT20 1LL
Applicant	:	Mr S Dudley
Representative	:	No representation
Respondent	:	Folkestone and Hythe District Council
Representative	:	Mr T Tyson (Counsel)
Type of Application	:	Appeal against a financial penalty – s249A and Schedule 13A to the Housing Act 2004
Tribunal Members	:	Judge R Cooper Mr A Crawford MRICS
Date and venue of Consideration	:	Havant Justice Centre (by CVP) 27 August 2026
Date of Decision	:	7 September 2026

DECISION

The Tribunal varies the Final Notice issued by Folkestone and Hythe District Council ('the Council') dated 3 November 2025.

A financial penalty of £5,000 is imposed on Mr Dudley under s249A of the Housing Act 2004, for an offence under s30(1) of failing to comply with an Improvement Notice.

Pages from the Respondent's bundle, where referred to are marked [].

Background

1. On 18 December 2025 the Tribunal received an appeal from Mr Dudley under section 249A(1) of the Housing Act 2004 ('the 2004 Act') against a financial penalty imposed on him by Folkestone and Hythe Council ('the Council').
2. He appeals the Final Notice issued to him by the Council on 3 November 2025 which imposed a financial penalty of £6,000 for conduct amounting to a criminal offence in respect of Flat 1, 28 St Michaels Street, Folkestone CT20 1LL ('the Flat').

The Appeal

3. Mr Dudley's grounds of appeal against the Final Notice are set out in the application and his statement of case. The grounds can be summarised as follows:
 - (i) He was never given an electric certificate after the new circuit board was installed, but this was passed on 2 August 2025 and he has provided the Council with the certificate.
 - (ii) He had installed a new boiler and obtained gas safe certificates annually.
 - (iii) He immediately dealt with the leaking roof to the utility room by using sealant.
 - (iv) He was unable to afford the works requested by the Council as he was reliant on benefits, lived off the rental income and Personal Independence Payment (PIP) and has had mental health issues (including PTSD) since being deliberately run over in 2016.
 - (v) Although the tenants had been happy, he had had to serve them with a s21 notice because he could not do the works.
 - (vi) He could not afford the £6,000 penalty.

The Response

4. The Respondent's response is set out in the statements of Mr Tobin and the exhibits thereto which are included in the Respondent's bundle (47 pages), the photographs and skeleton argument of Mr Tyson sent on 26 August 2026. It can be summarised as follows:
 - (i) Mr Dudley is the leaseholder of the Flat which he let out to tenants. Following complaints from the tenant in August 2024,

the Council inspected on 10 December 2024 and sent Mr Dudley a letter outlining various defects asking him to deal with them.

- (ii) The Council inspected on 18 March 2025 and found none of the defects had been addressed.
- (iii) On 13 May 2025 they served an Improvement Notice requiring various works to be carried out by 13 August 2025 in order to remedy the category 1 and category 2 hazards found at the property. That notice was not appealed.
- (iv) When the property was inspected again on 26 August 2025 although the category 1 electrical hazard had been dealt with all the others remained outstanding.
- (v) On 19 September 2025 the Council served a Notice of Intention to impose a Financial Penalty on Mr Dudley. Representations were invited within 28 days.
- (vi) Although Mr Dudley had responded on 29 October 2025 his email had not been seen by 3 November 2025 when a Final Penalty Notice was issued to Mr Dudley including all relevant prescribed information and details of how to appeal. The Council considered Mr Dudley's representations on 17 November 2025 but did not vary the Penalty Notice.
- (vii) The decision to impose a penalty was appropriate and proportionate and was in line with the Council's policy. It reflected the seriousness of the breach, the risks posed to the occupants and the lack of any effective action during the enforcement process.

The Documents

5. The documents considered by the Tribunal are:
- (a) Mr Dudley's notice of appeal and copy of the final Penalty Notice of 3 November 2025
 - (b) Mr Dudley's statement of case and supporting documents (Building Regulation Certificate, Gas Safe Certificate)
 - (c) Witness Statement of Mr Tobin (28 July 2025)
 - (d) Respondent's bundle of documents (47 PDF pages)
 - (e) Photographs taken 18 March 2025 and 26 August 2025
 - (f) Land Registry Office Copy Entry for 28 St Michaels Street (the freehold property)

- (g) Mr Tyson's skeleton argument
- (h) Various directions and decisions of the Tribunal

Inspection

- 6. The Property was not inspected. No party had requested an inspection, and it was not considered necessary by the Tribunal for a fair decision to be made.

The Hearing

- 7. The hearing took place remotely by video. Mr Dudley did not attend. The Council was represented by Mr Tyson of counsel. Mr Tobin attended as witness for the Council and Ms Petts attended as an observer from the Council.

Preliminary issues

- 8. The Tribunal's first consideration was whether to proceed in Mr Dudley's absence. Having considered the overriding objective in Rule 3 and Rule 34 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the Rules), the Tribunal decided that it would proceed in the absence of Mr Dudley for the following reasons:
 - (i) Mr Dudley had emailed HMCTS on 26 August 2026 stating that he was not able to attend a video hearing because of his mental health and asked the Tribunal to proceed on the papers in his absence.
 - (ii) The Tribunal offered Mr Dudley a reasonable adjustment of attending the hearing by telephone as an alternative, but by 10.10am he had not attended. Mr Dudley emailed at 10.26am to confirm that he would not attend by telephone and wanted a paper determination.
 - (iii) As Mr Dudley had originally in his application requested the appeal be dealt with on the papers without a hearing, the Tribunal considered that it was unlikely that he would attend if we adjourned.
 - (iv) Mr Dudley had had the opportunity to provide the evidence that he wanted to rely on supporting his appeal. He had provided a statement of case and some documents setting out his position. Although the Tribunal may have been able to obtain further information from him if he attended, ultimately it is up to appellants to provide the information they want the Tribunal to consider. The appeal form, accompanying notes and the directions sent by the Tribunal had set out the issues that were relevant.

- (v) The Council had no objections to the Tribunal proceeding in his absence, and
 - (vi) The Tribunal was satisfied that it could make a fair decision based on the information it had available and that it was proportionate and in the interests of justice to proceed in Mr Dudley's absence as he had requested.
9. In relation to the 'minded to strike out' notice issued on 25 August 2026, the Tribunal considered whether the appeal should be struck out under Rule 9 on the grounds that the Appellant had failed to comply with the directions given on 17 June 2026 to provide an appeal bundle by 12 August 2026. Having heard from Mr Tyson, it decided that it would not be fair or in the interests of justice to strike out the appeal for the following reasons. It appeared on the evidence available that Mr Dudley had difficulties managing to comply with directions in a timely fashion and he referred to requiring assistance from a third party to do so on account of his mental health issues. The Respondent had received sufficient information as regards the Appellant's case (albeit late) and had provided their response and relevant supporting evidence. Mr Tyson confirmed he was ready and able to proceed, despite the documents not being in a paginated bundle. The Tribunal was satisfied, therefore, that, although inconvenienced, the Respondent had not been substantially prejudiced by the Appellant's failure to comply. The Tribunal had itself been able to read all the documents.
10. For the avoidance of doubt, in relation to Mr Dudley's appeal being received on 18 December 2025 and therefore outside the 28 days period required by Rule 27, the Tribunal also decided it was in the interests of justice to extend time under Rule 6 when considering the overriding objective.
11. The Tribunal then proceeded to hear oral evidence from the Council's witness, Mr Tobin, who answered the Tribunal's questions. It also heard submissions from Mr Tyson. The recording of the hearing stands as the record of proceedings. Judgment was reserved and is now given with reasons.

REASONS FOR THE DECISION

The Legal Framework

Power to impose a financial penalty

12. Section 249A of the Housing Act 2004 ('the Act') allows a local housing authority to impose a financial penalty on a person if it is satisfied to the criminal standard - beyond reasonable doubt - that the person's conduct amounts to a 'relevant housing offence' in respect of premises in England.

13. The relevant housing offences are listed in section 249A(2). They include the offence of failing to comply with an Improvement Notice (s30(1) of the Act).
14. Only one financial penalty under section 249A may be imposed on a person in respect of the same conduct. The amount of that penalty is determined by the local housing authority (to a maximum of £30,000). The imposition of a financial penalty is an alternative to instituting criminal proceedings for the offence in question.

Procedural requirements

15. Schedule 13A to the 2004 Act sets out the procedure which local housing authorities must follow.
16. Before imposing a financial penalty on a person under s249A, the local housing authority must give them a 'notice of intent' (paragraphs 1 and 3) setting out:
 - (a) the amount of the proposed financial penalty
 - (b) the reasons for proposing to impose it; and
 - (c) information about the right to make representations.
17. Unless the conduct to which the financial penalty relates is continuing, the notice of intent must be given before the end of the period of six months beginning on the first day on which the local housing authority has sufficient evidence of that conduct (paragraph 2).
18. A person who is given a notice of intent has the right to make written representations to the local housing authority about the proposal to impose a financial penalty within a 28-day period beginning the day after the date on which the notice of intent was given (paragraph 4). After the end of that period, the local housing authority must decide whether to impose a financial penalty and, if it decides to impose a penalty, the amount (paragraph 5).
19. If the local housing authority decides to impose a financial penalty on a person, it must give that person a final notice setting out the following (paragraphs 6 and 8):
 - (a) the amount of the financial penalty,
 - (b) the reasons for imposing it,
 - (c) information about how to pay the penalty,
 - (d) the period in which the penalty should be paid,
 - (e) information about rights of appeal, and
 - (f) the consequences of a failure to comply with the notice.

Relevant guidance

20. Local housing authorities must have regard to any guidance given by the Secretary of State about the imposition of financial penalties (paragraph

- 12). The relevant statutory guidance is the *Civil penalties under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities* issued by the Ministry of Housing, Communities and Local Government in April 2018 ('the 2018 Guidance'). That guidance states local housing authorities are expected to develop a policy about when to prosecute and when to issue a financial penalty. They should also develop a policy on determining the appropriate level of penalty in a particular case. However, the 2018 Guidance makes it clear that local housing authorities should decide which option to pursue on a case-by-case basis.
21. The 2018 Guidance states that in general the maximum amount (£30,000) should be reserved for the very worst offenders and '*the actual amount levied in any particular case should reflect the severity of the offence as well as taking account of the landlord's previous record of offending.*'
22. The guidance sets out a number of factors which local housing authorities should consider in order to ensure that financial penalties are set at an appropriate level. These are as follows:
- the severity of the offence
 - the culpability and track record of the offender
 - the harm caused to the tenant(s)
 - punishment of the offender
 - deterrence of the offender from repeating the offence
 - deterrence of others from committing similar offences, and
 - removal of any financial benefit the offender may have obtained as a result of committing the offence.
23. Folkestone and Hythe District Council's policy adopted in accordance with the 2018 Guidance came into effect on 21 January 2021 [14 to 31] and sets out their policy relating to financial penalties.

Appeals

24. If a final notice is given under Schedule 13A to the 2004 Act, the penalty must be paid within 28 days of the day after the date on which the notice was given. However, this is subject to the right of the person to whom a final notice is given to appeal to the Tribunal (under paragraph 10 of Schedule 13A).
25. An appeal may be made against the decision to impose the penalty or the amount of the penalty. An appeal must be made within 28 days of the date on which the final notice was sent to the appellant.
26. If an appeal is made, the final notice is then suspended until the appeal is finally decided or is withdrawn (paragraph 10(2)).

Discussion and conclusions

27. This appeal takes the form of a re-hearing. In other words, the Tribunal is not simply reviewing the action taken by the Council, but it stands in the shoes of the Council, and it may make any decision the Council had the power to make. This can include cancelling the Final Penalty Notice, varying or confirming it. The Tribunal may take into account evidence that was not considered by the Council at the time it made the Final Notice on 3 November 2025.

The procedural requirements

28. Mr Dudley has not challenged the procedure adopted by the Council.

29. However, when considering an appeal against a financial penalty, the Tribunal has to be satisfied the necessary procedural steps were taken by the Council required by Schedule 13A of the Act. The Upper Tribunal has confirmed that because a civil penalty is an alternative to a criminal prosecution, local housing authorities must treat their responsibilities with the same degree of seriousness and transparency (*Welwyn Hatfield BC v Wang* [2024] UKUT 24 (LC) at [18])

30. The Tribunal is satisfied that a Notice of Intent was served on Mr Dudley with a covering letter by post on 19 September 2025 [32 and 33]. The Notice provided clear reasons enabling Mr Dudley to know what offence he was accused of and the reasons, how much the proposed penalty was and what factors had been taken into account so he could respond to the allegations.

31. The Notice of Intent gave Mr Dudley the opportunity to make representations to the Council stating why he disagreed and explained that they had to be received within 28 days. The Tribunal is satisfied that Mr Dudley did not make any representations by 17 October 2026, and the Council proceeded to issue a Final Notice on 3 November 2025 [38 to 44].

32. The Final Notice sets out again the reasons the Council decided the Appellant had committed a Housing Act offence under s30, why it had decided to issue a financial Civil Penalty rather than prosecuting him, the legal basis for doing so, how it had decided the amount of the penalty and the Council confirmed no representations had been received within 28 days of the Notice of Intent. The Final Notice also explained how it could be paid, what would happen if the penalty was not paid, and how the decision could be appealed (including the time limits) [42 to 44]

33. The Tribunal finds that Mr Dudley had in fact made representations by email on 29 October 2025 [45]. This was outside the 28-day period but the representations were received before the final notice was issued on 3 November 2025. However, it accepts Mr Tobin's evidence that he had been unaware of those representations at the time the Final Notice was issued.

34. The Appellant's reasons, in summary, were that he was unable to afford the list of works as he only had the rental income and PIP to live off. He said safety checks had always been done, he had installed a new boiler, did gas and electricity checks and he always made sure the tenants were safe and happy. He had now had to evict them.
35. Having received those representations, the Tribunal is satisfied that on 17 November 2025 a Private Sector Housing Manager of the Council reviewed the Final Notice in the light of the representations but decided to maintain it [47]. The Manager set out reasons for that decision.
36. Having considered these matters and having made those findings, the Tribunal was satisfied that the correct procedural steps had been taken by the Council.

The offence

37. Having considered the totality of the evidence the Tribunal was satisfied beyond reasonable doubt that Mr Dudley had committed an offence under s30(1) of the Act for the following reasons.

Conduct

38. The conduct complained of by the Council is Mr Dudley's failure to comply with the Improvement Notice that had been served on him on 13 May 2025.
39. Having considered the totality of the evidence, in particular the witness statement of Mr Tobin, the correspondence sent to the Appellant by the Council and the photographs taken on 18 March 2025 and 26 August 2025, the Tribunal is satisfied that a complaint was made to the Council by the Appellant's tenant regarding disrepair at the property.
40. At an inspection, which took place on 10 December 2024, the Council identified a number of defects at the property which required remedying in order to make the property safe and free from hazards for the occupiers. A list of items was sent by the Council to Mr Dudley on 11 December 2024 [2]. These included:
- Defects to the electrics in the ground floor of the Flat (non-functioning plug sockets) and the light fitting of the utility room,
 - Defects to the windows in both bedrooms, the lounge and utility room (which either failed to close or could not be opened),
 - Defects to the bathroom and toilet doors (both of which were hanging by the top hinge only),
 - Defects to the lounge floor
 - Defective plasterwork under the stairs
 - Defects to the external steps (which were uneven and dangerous)
 - A partially collapsed retaining wall to the lower part of the garden

- Electrical equipment above the front door which was not housed in a 30-minute fire resistant cabinet.
41. In the light of the defects to the electric circuiting, the Council requested a copy of the Electric Installation Condition Report (EICR) and the current gas safe certificate. The Council asked the Appellant to put matters in hand to remedy the defects and report with his proposals and warned that if he did not do so, they would be arranging for a full assessment under the Housing Health and Safety Rating System (HHSRS) under the 2004 Act [4].
42. The Tribunal is satisfied that Mr Dudley did not respond to that letter, and this led to the Council inspecting the property on 18 March 2025 and serving an Improvement Notice on him on 13 May 2025. The Improvement Notice was served because the Council had identified Category 1 hazards at the Flat - Excess Heat, Electrical, Excess Cold, Falling on Stairs and Fire [9]. It also identified a number of Category 2 hazards – Falling on Level Surfaces, Collision and Entrapment, Structural Collapse and Falling Elements, Damp and Mould, and Food Safety [10]. The Council set out details of the remedial works that were required, the date by which they should be started (12 June 2025) and completed (13 August 2025). The Improvement Notice set out the Council's reasons for deciding to serve one (rather than taking any other action under the Act) and explained to Mr Dudley how he could appeal the Notice if he disagreed with it. The Tribunal finds on the evidence before it that Mr Dudley did not appeal the Improvement Notice.
43. The Council confirms that Mr Dudley did provide a copy of the Gas Safe Certificate (dated 16 March 2025) and Mr Tyson also confirmed in his submissions that the Council accepts that the electric hazards were dealt with. Although it was not an EICR, the Tribunal finds Mr Dudley had provided a Building Regulations Certificate of Compliance dated 2 August 2025, and there was evidence that the defective plugs had had back plates fitted (CHECK). However, on the evidence before it the Tribunal is satisfied that none of the other defects had been remedied. It was, therefore, satisfied that Category 1 and 2 hazards identified in the Improvement Notice had not been remedied and continue to exist. In particular the Tribunal found in particular there were risks from:
- fire spreading due to the lack of a 30-minute fire resistant cabinet around the main electric meter and installations above the front door,
 - falls due to the dangerous and defective the external stairs (which were uneven, had no handrail and a trailing cable),
 - excess cold and excess heat because of the defective windows,
 - damp in the utility room,
 - danger from the collapsed retaining wall in the lower garden (which had not been fenced off to prevent access).

44. In reaching this decision the Tribunal gave particular weight to the photographic evidence of the poor state of repair of the Flat at the inspection on 26 August 2025 which clearly supported Mr Tobin's witness statement and showed beyond reasonable doubt that the majority of the works required by the Improvement Notice had not been carried out by 13 August 2025 (in other words in the five months since it was served). Mr Dudley appears from his representations and Notice of Appeal in relation to the Financial Penalty Notice to accept that he has not carried out any work apart from applying sealant to the utility room ceiling and supplying the Council with the gas safe and electricity certificates.

Was there reasonable excuse?

45. Mr Dudley's principle ground of appeal is that he was unable to afford the works required by the Council and so had had to evict his tenants.

46. The Tribunal of its own volition also considered other matters that might have indicated there was reasonable excuse for his failure which would potentially amount to a defence under s30(3) of the Act.

47. Firstly, the Tribunal was satisfied from viewing the property on Google Street View that the Flat formed part of 28 St Michael's Street which appeared to have been divided at some point into two or more flats. It therefore raised with the Respondent during the hearing the question of whether it was Mr Dudley's responsibility as leaseholder to repair the windows, garden and external stairs or whether it was the freeholder's responsibility. Mr Tyson submitted that even as leaseholder, as a landlord the Appellant would have been responsible for repairing the external structure of the property (under the terms implied into every tenancy agreement by s11 of the Landlord and Tenant Act 1985). However, Mr Tobin confirmed that as well as being the leaseholder of the Flat, Mr Dudley was the joint freeholder of 28 St Michaels Street with the owner of Flat 2 as confirmed by HM Land Registry's office copy which was produced in evidence in response to the Tribunal's request.

48. The Tribunal found there was nothing that would have legally prevented the Appellant from carrying out any of the works required. This is because even if the works required fell within the freeholder's repairing obligations, Mr Dudley as joint freeholder would have been either required to do them or was able to consent to them being undertaken.

49. In relation to whether his impecuniosity gave rise on the balance of probabilities to a 'reasonable excuse' the Tribunal concluded that it did not. Mr Dudley is the sole owner of the Flat which is unencumbered by any mortgage. On that basis, the Tribunal is satisfied that finance for the works could reasonably have been raised through, for example, an equity release loan or other finance secured on the property.

50. Mr Dudley has provided no documentary evidence demonstrating that he was unable to afford to pay for repairs from the money he received in

rent. He had produced no evidence regarding his finances or benefit entitlement demonstrating that he would have been unable to afford loan repayments. This is all evidence that it would have been reasonable for him to produce to support what he says.

51. In his evidence to the Tribunal, Mr Tobin confirmed that had the Appellant engaged with the Council when they initially contacted him in December 2024 or when the Improvement Notice was served, there could have been negotiation for example regarding the timing of works to take into account any financial difficulties. The Tribunal accepted Mr Tobin's evidence that Mr Dudley had not communicated with the Council at any point until 29 October 2025 after the Notice of Intent to impose a Civil Penalty had been issued.
52. Having considered all these matters, the Tribunal was not satisfied that Mr Dudley has demonstrated on the balance of probabilities that he had a reasonable excuse for his failure to comply with the Improvement Notice.
53. The Tribunal is, therefore, satisfied beyond reasonable doubt that Mr Dudley committed an offence under s30(1) of the Act by failing to comply with the Improvement Notice dated 13 May 2025 without reasonable excuse.

Financial penalty

54. Mr Dudley objects to the Financial Penalty because he says he is unable to afford it.
55. The Tribunal is satisfied, however, that the Council was acting in accordance with its duty to regulate the conditions in the private rented sector. Given that the Council had identified a number of separate Category 1 hazards existed in the Flat which put the health and safety of the tenants at risk in more than one way, and our findings set out at paragraphs [43 and 44] above, the Council was under a legal duty to take action. When considering both the Council's own policy and the 2018 Guidance, the Tribunal finds that it would not have been appropriate for no penalty or a lesser sanction such as a caution to be issued. Such a step would not be adequate either in terms of its punitive effect or for acting as a deterrent more generally. Nor would they have made the property any safer for the tenants who were living in the Flat.
56. The Tribunal, therefore, considered the financial penalty that was appropriate in the circumstances.
57. In doing so, the Tribunal had regard to the factors specified in the 2018 Guidance as being relevant to the level at which a financial penalty should be set. These include consideration of the severity of the offence, culpability and track record of the offender, actual or potential harm to the tenant, punishment of the offender (which should be proportionate

but have a real economic impact), deterrence (both of the offender and others) and removal of the financial benefit to the offender.

58. The Tribunal also had regard to the Council's policy which guided their decision-making process in this case. The Tribunal is not bound to adopt that policy, but we considered it provided a sound basis for quantifying financial penalties on a reasonable, objective and consistent basis. The Tribunal, therefore, gave it weight and used it as a tool to assist in our own decision-making.
59. The Council's policy on civil penalties is based on the relevant factors specified in the 2018 Guidance, set out above. It confirms that each offence under Housing Act 2004 would be dealt with on a case-by-case basis but in general the Council's starting point would be the imposition of a civil penalty rather than a prosecution, unless the particular circumstances merited it (for example very serious or repeat offences).
60. The Council policy provides a matrix and relevant guidance setting out how it applied the 2018 Guidance, in particular in determining the starting point for the appropriate penalty reference to
- culpability (rated from low to very high),
 - the offender's track record (rated from none or negligible to significant),
 - size of the offender's portfolio of units of accommodation and
 - the risk of harm (levels 1 to 4) which is an assessment of the seriousness of the harm and likelihood of harm.
61. Offenders holding larger portfolios of properties attract higher penalties under the policy.
62. The table of civil penalties in section 3 of the Council's policy [23] sets out the starting point for each of the combinations of the factors set out above.
63. The policy also sets out that the Council will make adjustments to the starting point in appropriate cases based on aggravating or mitigating factors, and it sets out examples of the types of factors they take into account.
64. In relation to his level of culpability, the Tribunal finds that rather than engaging with the Council at the time Mr Holley first wrote to him in December 2024 identifying the disrepair at the property or by responding to the Council's Improvement Notice, Mr Dudley simply ignored the matter. He appears to have failed to recognise the seriousness of the issues or his responsibilities as a landlord. Indeed, in his representations to the Council in October 2025 he says that he *'always made sure [his] tenants where safe and happy'* when clearly the level of disrepair and the hazards identified at the property put them at

significant risk of harm or ill-health, and the tenants had complained to the Council.

65. Whilst the Tribunal accepts that some of the works might have been very costly, others would have been less so (for example fencing off the lower part of the garden to prevent access or installing fire resistant casing around the meters and electrical installations above the front door). By failing to undertake the works required or to speak to the council or at least explore options for undertaking the works the Tribunal is satisfied that Mr Dudley wilfully failed to take appropriate action and therefore demonstrated a high degree of culpability.
66. The Tribunal accepts the breach was the first offence committed by Mr Dudley that the Council had identified. There is no other evidence suggesting other Housing Act offences or that he had let the Flat out again after evicting his tenants. However, the breach is a continuing one which did not end simply when the tenants left the property.
67. Mr Dudley confirms in his Notice of Appeal that he owns only the Flat and lives with his parents. There is no other evidence to the contrary, and the Tribunal therefore finds that his portfolio amounts to one unit of accommodation.
68. In relation to the risk of harm the Tribunal finds that the evidence demonstrates Category 1 hazards carrying a risk of severe to extreme harm. In particular, the Tribunal finds there to be risk of fire from the unenclosed electrical equipment, and the likelihood is at a medium to severe level as domestic fires typically start in electric meter boxes and given the other apparent defects to the electric circuiting. The Tribunal also gave weight in this regard to the evidence indicating a high risk of falls on the uneven and unsafe external steps, where the harm would potentially be severe. Given the combination of category 1 hazards the Tribunal found level 3 to be the appropriate measure of risk of harm.
69. Putting these matters together the Tribunal found that the starting point for a penalty of £6,000 to reflect the matters set out at paragraphs 62 to 67 above, was in line with the Council's policy and matrix at [23] and was appropriate in the circumstances.
70. The Tribunal considered the imposition of a penalty was necessary to punish Mr Dudley for his actions and deter him from future offending. This is because the Tribunal found that he was putting his desire for income before his obligations as a landlord to provide safe accommodation for his tenants.
71. Mr Tobin provided no evidence of the rental income Mr Dudley was receiving from letting the two-bedroom property. The Tribunal found, based on the publicly available information regarding the local housing allowance rates for a two-bedroom property in the area that it was more likely than not that Mr Dudley's annual income from the property would have exceeded £8,000 per year indicating that the starting penalty point

of £6,000 would not be disproportionate. In making this determination, the Tribunal had regard to the 2018 Guidance that requires consideration of factors including punishment of the offender which is proportionate and has a real economic impact, and removal of the financial benefit obtained by the offender as a result of committing the Housing Act offence.

72. The Tribunal found the Council had not produced any evidence of aggravating factors that should result in an increase in the penalty from the starting point of £6,000. It had not produced any evidence regarding the number of occupiers living in the Flat. Mr Tobin was candid in his evidence that he was unsure of how many people were living there. There was no evidence of any other offences or of actual harm having been caused to the occupiers.
73. Mr Dudley's main defence and reason for appealing related to his impecuniosity. On balance, although Mr Dudley has provided no documentary evidence to support what he said, the Tribunal found that it was more likely than not that Mr Dudley did have mental health problems and was of limited means. This is because Mr Dudley's failure to engage with the Council and his inability to comply with the directions of the Tribunal as regards time limits and instructions regarding the appeal bundle are all matters which are consistent with the difficulties faced by those with mental health conditions such as depression, anxiety or PTSD. The Tribunal noted that Mr Dudley had failed to pay the fee for his appeal as he had been awaiting the outcome of a fee waiver application. Mr Dudley had also evicted the tenants because he said he was unable to afford the works. These matters are all consistent with his claim to have limited financial means.
74. The Tribunal concluded, therefore, that it would be appropriate for the penalty to be reduced to reflect the economic hardship that would be caused to Mr Dudley.
75. Having put all these matters together and for the reasons set out above, the Tribunal was satisfied that a financial penalty of £5,000 was appropriate and proportionate in all the circumstances.

DECISION

76. The Tribunal varies the Final Notice issued by Folkestone and Hythe District Council dated 3 November 2025 and imposes a financial penalty on Mr Dudley of £5,000 under s249A of the Housing Act 2004, for an offence under s30(1) of the 2004 Act.
77. The sum of £5,000 must be paid by Mr Dudley to Folkestone and Hythe District Council within 28 days of the date on this decision is sent to Mr Dudley. If he requires more time to pay Mr Dudley will need to contact the Council directly.

Note: Appeals

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 that 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, and should be sent by email to rpsouthern@justice.gov.uk.
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.