

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	BIR/00CN/HNA/2025/0037
Property	:	First Floor Flat, 640 Washwood Heath Road, Ward End, Birmingham B8 2HQ
Applicant	:	Tayba Sajid
Respondent	:	Birmingham City Council (Ian Weston (Ref: BCC-502306891222H-NOT2)
Application	:	Financial Penalty Housing Act 2004 Section 249A and Schedule 13A
Date of Hearing	:	30th September 2026 Centre City Tower, Birmingham
Tribunal	:	Judge D Jackson R Chumley-Roberts MCIEH
Date of Decision	:	30th October 2026

DECISION

Nature of application and parties

1. This is an appeal against a Final Notice to Issue a Financial Penalty in the sum of £5625 dated 15th September 2025.

2. The offence alleged to have been committed is that on 19th March 2025 the Applicant was a person having control of or managing a house which was required to be licensed but was not so licensed.

3. The Applicant was represented by her mother Rukhsana Kousar. The Respondent was represented by Callum Styring, solicitor.

4. The hearing took place in Birmingham. Both parties participated by way of remote video platform.

Procedural History

5. On 7th October 2025 the Tribunal received an appeal under Paragraph 10 to Schedule 13A of the Housing Act 2004 ("the Act") against the Financial Penalty imposed under section 249A of the Act.

6. On 31st October 2025 the Tribunal issued Directions.

7. In accordance with Directions the Applicant has filed a Bundle running to 40 pages and the Respondent has filed a Bundle running to 179 pages

Law and Burden of Proof

8. Section 249A(1) of the Act provides:

   "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"

9. The relevant housing offence is section 95(1) of the Act which, prior to amendment by Renters Rights Act with effect from 1st May 2026, provided that:

   "A person commits an offence if he is a person having control of or managing a house which is required to be licensed under this Part (see section 85(1)) but is not so licensed."

10. The burden of proving that a person's conduct amounts to a relevant housing offence to criminal standard rests on the Respondent Local Authority.

11. Reasonable excuse defence, prior to 1st May 2026, is set out in sub-sections 95(4):

    "(4) In proceedings against a person for an offence under subsection (1) or (2) 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 failing to comply with the condition,

as the case may be."

12. The burden of proving reasonable excuse defence rests on the Applicant to the civil standard.

Parties Position

13. The Respondent's case is that the Tribunal should give weight to the decision of the Local Authority. The facts are not disputed. The Applicant is the owner of the rented property which is within an area designated for selective licensing. The Applicant's case does not amount to a reasonable excuse and amounts to mitigation only. The matters raised by the Applicant have been taken into account by the Respondent in determining the amount of the Financial Penalty.

14. The Applicant's case is that she had no knowledge of the selective licensing scheme. Day to day management of the property was dealt with by her mother, Rukshana Kousar who is dyslexic. Any financial penalty would cause significant financial hardship. Rukshana Kousar explains that she too was unaware of selective licensing. The property was only let to two tenants. The other two tenants, present at the time of the alleged offence, were allowed to stay without her knowledge or consent. The property has been vacant since March 2025. All works required have been carried out. The Applicant has now applied for a licence.

Evidence taken into account

Respondent's case

15. The Tribunal has considered Witness Statement of Ian Weston dated 25th November 2025. Mr Weston is a Complex Case Officer employed in the Respondent's Private Rented Sector Licensing Team.

16. At the hearing Mr Weston told the Tribunal that the property was a flat above commercial premises. The property was within an area subject of a selective licencing designation. Media posts, public events, press release, social media posts and adverts were issued at the time of designation to raise awareness amongst landlords.

17. Mr Weston attended the property with police and trading standards on 19th March 2025. Trading standards were investigating the ground floor commercial premises, Mr Weston gained access, via an external staircase, to the first floor. Access was through a bathroom leading to kitchen, lounge and two bedrooms. In the loft above there were a further two beds. Mr Weston spoke to Ali Raza and Taiha Rasool who said that there were four tenants in total and that they paid their rent to another of the tenants, Mohammed Farhn. The Applicants mother, Rukshana Kousar was telephoned and attended at the property.

18. Disrepair including no carbon monoxide alarm and no smoke alarm were noted.

19. On the basis of 4 tenants the Respondent proceeded on the basis of Additional Licensing for Houses in Multiple Occupation (HMO). However, the tenancy

agreement (page 22 of Applicant's Bundle) shows only 2 tenants – Muhammed Farhan and Hamza Abass. On that basis the Respondent has proceeded with failure to comply with selective licencing regime.

20. Mr Weston conformed that the Applicant had endeavoured to apply for a selective licence on 7th April 2025, but she encountered problems with the META Street computer system. The Applicant finally applied for licence on 20th May 2025 and made payment on 4th June 2025.

Applicant's case

21. The Tribunal has considered Witness Statements of Tayba Sajid and Rukshana Kousar. Tayba Sajid told the Tribunal that her mother managed the property on her behalf. She was unaware of the additional tenants. She did not know about the selective licensing regime. Tayba Sajid is recently married. Her husband earns £24,000 p.a.

22. Ruksana Kousar said she had made a mistake but was unaware of licensing requirements. She said that in a big city like Birmingham the council should have sent information packs to landlords.

23. Under cross examination Ruksana Kousar told the Tribunal that the property was now rented by Paramount Housing Association as an HMO at a rent of £1,100 per month. She said that she did not own any other property but knew people who did and that they did discuss property matters.

24. Rukshana Kousar told the Tribunal that the family has owned the property since 2006. The ground floor shop is still let at £600 p.c.m. The value of the property is approximately £200,000.

Reasons

25. We are satisfied beyond reasonable doubt that the Applicant's conduct amounts to a relevant housing offence under section 95(1) of the Act. She was the legal owner of the property and in receipt of the rent. She was a person having control of the house which was required to be licensed but was not so licensed.

26. In Thurrock Council v Daoudi [2020] UKUT 209 (LC) it was said that no matter how genuine a person's ignorance of the need to obtain a licence, unless their failure was reasonable in all the circumstances, their ignorance cannot provide a complete defence. In Raja v Salford City Council [2021] UKUT 261 (LC) it was accepted that there was force in the FTT's observations that it was Mr Raja's responsibility, as a landlord of residential property, to be aware whether a selective licensing scheme was in operation. In Marigold v Wells [2023] UKUT 33 (LC) the Upper Tribunal approved the approach of the Upper Tribunal Tax and Chancery Chamber in Perrin v HMRC:

"When considering a "reasonable excuse" defence, therefore, in our view the FTT can usefully approach matters in the following way:

(1) First, establish what facts the taxpayer asserts give rise to a reasonable excuse (this may include the belief, acts or omissions of the taxpayer or any other person, the taxpayer's own experience or relevant attributes, the situation of the taxpayer at any relevant time and any other relevant external facts).

(2) Second, decide which of those facts are proven.

(3) Third, decide whether, viewed objectively, those proven facts do indeed amount to an objectively reasonable excuse for the default and the time when that objectively reasonable excuse ceased. In doing so, it should take into account the experience and other relevant attributes of the taxpayer and the situation in which the taxpayer found himself at the relevant time or times. It might assist the FTT, in this context, to ask itself the question "was what the taxpayer did (or omitted to do or believed) objectively reasonable for this taxpayer in those circumstances?"

27. The Tribunal does not find the Applicant's case that she was unaware of the obligation to apply for a selective licence to be credible. The property comprises both residential and commercial lettings which have been let by the family since 2006. The Applicant and her family have been involved in letting both residential and commercial property over a number of years. The Applicant knows and speaks with other landlords. As a residential landlord she was responsible for taking steps to ensure that she was reasonably familiar with her regulatory responsibilities as a landlord. The Applicant has omitted to do that which was objectively reasonable. We find that the Applicant has failed to establish reasonable excuse defence.

Amount of Financial Penalty

28. Mr Weston has adopted a starting point of £12,500 and applied the following reductions:

    - 10% - no previous convictions
    - 10% - Cooperation and voluntary steps
    - 15% - medical issues
    - 20% - proportionality

29. We find that the starting point is entirely appropriate for a failure to obtain a selective licence. The Respondent has appropriately reflected lack of previous convictions and cooperation in terms of carrying our remedial works and belated application for a licence. The medical issues relate to the Applicant's mother's dyslexia only. Overall, we find that the reductions are, if anything, over generous.

30. The Applicant is in work. She owns the property and receives rent of some £1,100 p.c.m. from the Housing Association and £600 from the commercial premises. The penalty will not cause financial hardship. No other reason for reducing the penalty has been put forward by the Applicant.

Decision

31. The appeal is dismissed.

32. The Tribunal confirms the Final Notice dated 15th September 2025 in the sum of £5,625.

D Jackson
Regional Judge

Either party may appeal this Decision to the Upper Tribunal (Lands Chamber) but must first apply to the First-tier Tribunal for permission. Any application for permission must be in writing, stating grounds relied upon, and be received by the First-tier Tribunal no later than 28 days after the Tribunal sends its written reasons for the Decision to the party seeking permission.