FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AB/HIN/2025/0664**
Property	**:**	**Keele House, Academy Way, Dagenham, RM8 2 FQ**
Applicants	**:**	**Aviva Investors Ground Rent GP Ltd Aviva Investors Ground Rent Hold Co Ltd**
Representative	**:**	**Mr J Bates KC (Counsel)**
Respondent	**:**	**London Borough of Barking and Dagenham**
Representative	**:**	**Mr R Bhose KC (Counsel)**
Type of application	**:**	**Appeal against two Improvement Notices under Chapter 2 and Schedule 1 of the Housing Act 2004**
Tribunal members	**:**	**Ms H C Bowers Mr A Parkinson**
Date and venue of hearing	**:**	**30 June 2026 by CVP at 10 Alfred Place, London WC1E 7LR**
Date of Decision	**:**	**2 November 2026**

DECISION

Decision

1. Ground 1 of the Applicants' Appeal is dismissed. The London Borough of Barking and Dagenham was entitled to make the decision that it made.

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It was a rational decision within the scope of the statutory framework to serve the Improvement Notices on the Applicants.

REASONS

Background

2. This is an appeal against the service of two Improvement Notices served under the provisions of section 11 of the Housing Act 2004 (the 2004 Act) on Aviva Investors Ground Rent GP Ltd and Aviva Investors Ground Rent Hold Co Ltd (the Applicants) as the freehold owners of Keele House, 43, Academy Way, Dagenham. RM8 2FQ (the subject property). The London Borough of Barking and Dagenham is the Respondent Local Housing Authority.

3. The parties say that there are either 38 (Applicants) or 35 (Respondent) flats on the subject property. All flats are let on long, tri-partite leases. The leases make provision for the management company to carry out the repairing obligations, and the Applicants have a "step in" power. However, since 27 February 2017 the management functions have been vested in Academy Central (Keele) RTM Co Ltd (the RTM company) under the provisions of the Commonhold and Leasehold Reform Act 2002 (the 2002 Act). The RTM company is also the Accountable Person under the Building Safety Act 2022 (the 2022 Act)

4. The Respondent carried out an inspection of the subject property in October 2024 and concluded that there was a category 1 hazard. On 15 July 2025 the Respondent served an Improvement Notice on each of the two Applicants. The Notices stated that the Applicants are "owners" of the common parts; that in the opinion of the Respondent the Applicants "ought" to take the action specified in the Notices; that the work must commence before 26 January 2026 and completed by 28 August 2026 and that the required works are those set out in Schedule 2 of the respective Notices. Those works relate to the external walls and other internal and external common parts.

5. In brief, the required works are the removal of the combustible materials associated with the render wall system and replacement with compliant materials and to do associated works. Alternatively, if the system is to be retained then to provide appropriate cavity barriers/fire stopping and provide evidence of the type and fixture of the cavity barriers and ensure all ducting, penetrating the wall system, achieves Euro Class A1 or Euro Class A2-s1, d0; to provide evidence of the exact products used in and make up of the wall system and provide a successful BR125 classification on the completion of an appropriate BS 8414 test. To remove all combustible materials associated with the spandrel panel wall system; replace with compliant materials and cavity barriers and fire stopping. To replace the timber decking to the balconies with a non-combustible alternative. To carry out a risk assessment of surrounding areas as

potential additional sources of ignition and to take precautionary measures. To undertake works to the lightning protection system. To undertake a survey of the fire stopping arrangements and to carry out necessary works to the required level of fire stopping. To remedy the defects to the fire doors and to ensure the gaps are within acceptable limits, that there are adequate self-closers, intumescent strips and cold smoke seals and ensure all fire doors are installed correctly. To repair/replace the emergency light on the seventh floor in the lift lobby and provide testing/maintenance records. To install fire exit signage. After all the work is done to do a further Fire Risk Assessment to ascertain whether the automatic fire detection system is adequate.

Law

6. The Right to Manager (RTM) provisions are set out in the Commonhold and Leasehold Reform Act 2002 (the 2002 Act)**.** The provisions regarding enforcement action and Improvement Notices are set out in the Housing Act 2004 (the 2004 Act).

7. The relevant statutory provisions are set out in the Appendix to this decision.

The Hearing

8. In attendance at the hearing held on 30 June 2026, on behalf of the Applicants was Mr J Bates KC, Ms Smalley, in-house counsel for the Applicants and Ms Aylmer from Penningtons Manches Cooper LLP. The Respondent was represented by Mr R Bhose KC. Also in attendance for the Respondent was Mr Mendy, Ms Majid and Mr Mwansa.

9. Although not relevant to the preliminary issue to be decided, Mr Bates provided a brief update at the start of the hearing and explained that under the Building Safety Pledge, Taylor Wimpey UK Limited, the original developer, went onto site in January 2026 and it is understood that they are carrying out works to the external cladding. There is no update in respect of the internal works, but it is understood that negotiations are ongoing.

Submissions

Applicants' Case

10. Mr Bates explained that the leaseholders have been served with a copy of the application to the Tribunal. But they have not been served with a copy of the pleadings, reply and the skeleton arguments. He confirmed that this is an appeal under paragraph 10 to Schedule 1 of the 2004 Act and not an appeal under paragraph 11. The parties agreed that it was appropriate for the Tribunal to consider the preliminary issue as to

whether the Applicants, as owners, should have been served with the Improvement Notices. This is a point of law and as pleaded the leaseholders are not exposed to a variation of the Improvement Notices, so that they are substituted as recipients of the Notices. Paragraph 15 of the 2004 Act sets out the nature of the appeal as a re-hearing and the question was a consideration of the Local Housing Authority's decision at the time that decision was made, as confirmed in Manaquel Co Ltd v Lambeth LBC [2025] UKUT 97.

11. The Applicants' position is that although the Improvement Notices were served on them, because of the RTM regime, they are prohibited from carrying out the works. Therefore, the Tribunal should quash the Improvement Notices.

12. This is a 'common parts' case and Mr Bates briefly went through the hazards and proposed works in one of the Improvement Notices. There is also a demand for the payment of £610 under section 49 of the 2004 in relation to each Notice.

13. Mr Bates summarised the relevant statutory framework. The 2004 Act introduced a risk-based analysis of hazards. If a hazard is identified, then the Local Authority has various options as to how to proceed. Improvement Notices are an enforcement action under section 11 of the 2004 Act and section 11(3) (b) and (c) deal with common parts. Section 13 deals with the contents of any Notice and specified premises are defined under section 13(5) as being premises in relation to which remedial action is to be taken in respect of the hazard. The Applicants take no issue with this aspect. The procedure and appeals for Improvement Notices are set out in Schedule 1 to the 2004 Act. There are significant consequences of non-compliance that include potential criminal liability, exposure to a civil penalty of up to £30,000 per offence and may be a gateway to applications for Rent Repayment Orders. Paragraph 4 of Schedule 1 makes provision for the service of an Improvement Notice in common part cases and provides that the Local Authority must serve an Improvement Notice on an "owner" and who, by Paragraph 4(2)(b) "*in the authority's opinion ought to take the action specified in the notice*". Section 262(7) of the 2004 Act defines "owner" as "(*a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple of the premises whether in possession or in reversion and (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds 3 years*". It is common ground that the freeholders (the Applicants) and the leaseholders of the flats are "owners" within the statutory definition. It is also common ground that the RTM company is not an owner and cannot be served with an Improvement Notice.

14. Mr Bates submitted that the Applicants can't be a person who "ought" to take the action. Section 96 of the 2002 provides that when an RTM

company takes over the management functions under the lease, it takes over complete control of the building. Section 97(2)(c) prevents a landlord from carrying out a function that has been transferred to the RTM. There is provision for the landlord and the RTM to reach an agreement to allow the landlord to carry out a transferred function. Under Schedule 7 of the 2002 Act there are provisions for a number of statutory functions/obligations to be transferred from the landlord to the RTM such as the Defective Premises Act 1972 and the repairing obligations under section 11 of the Landlord and Tenant Act 1985. As such the RTM takes over full control other than the exceptions made under section 96(6) of the 2002 Act. Therefore, Mr Bates submitted that it is impossible to see how the Applicants can be the persons who "ought" to be served with the Notices when Parliament has expressly prohibited them from doing the works.

15. It is the Applicants' position that they have no power to comply with the Improvement Notices, all that power is with the RTM Company. As the Applicants can't comply, then the Improvement Notices should be quashed. In this case comfort can be taken from the fact that the building is being remedied under the Building Safety Pledge.

16. Mr Bates highlighted that the problem of sections 35 and 36 of the 2004 Act is that for those sections to apply, the Improvement Notice would need to be "operative" and therefore the window for appeal would be closed. Section 35 is relevant when an occupier of the premises will not allow access. Section 36 would allow an owner to apply to the Magistrates Court for an order to enable the owner to enter onto the premises and to take any required action. Mr Bates explained that it is not the occupiers who would be the barrier to the Applicants, but the RTM company. It is Mr Bates' position that it is not the access arrangements that are the problem but that there needs to be a solution to section 97. Sections 35 and 36 do not provide for section 97 to be disapplied.

17. It is submitted that if sections 35 and 36 do not provide the answer, then the approach suggested Hastings BC v Braear Developments Limited [2015] UKUT 0145 (LC) (Braear) should be adopted. At paragraph 38 of Braear the potential solutions to the dilemma of how the works required by an Improvement Notice could be achieved were raised and these included that the parties could reach an agreement to allow the landlord to enter to do the works and an application under section 36 of the 2004 Act for an order enabling a landlord to enter the premises and undertake the remedial action. At paragraph 59 the obiter comments of the Deputy President were that "*Where an RTM company has the management of the building the freeholder will have no power to undertake works and no entitlement to recoup the costs of works from the lessees. The cumbersome mechanisms suggested in paragraph 38 above by which the freeholder who receives such a notice may comply with it are all indirect and time-consuming means of procuring improvements*." The choice about who should be served should be driven by who can ensure practical compliance with a Notice. As that practical compliance cannot

be the freeholders as they have no power to do the works, the Improvement Notices should be quashed. For the freeholders to reach agreement with the RTM company would be cumbersome, indirect and time-consuming.

18. Although the comments made by the Deputy President are obiter, there is a degree of weight that should be given to those comments. In An NHS Trust v X [2021] EWHC 65 (Fam) at paragraph 59 the comments of Megarry J from Brunner v Greenslade [1971] Ch 993 were quoted "*A mere passing remark, or a statement or assumption on some matter that has not been argued, is one thing; a considered judgement on a point fully argued is another, especially where, had the facts been otherwise, it would have formed part of the ratio. Such judicial dicta, standing in authority somewhere between a ratio decidendi and an obiter dictum, seems to me to have a weight nearer the former than the later*." Mr Bates explained that whilst the comments in Braear were obiter, they were fully argued by the Local Authority and at the closer end of the spectrum to be binding. Accordingly, Mr Bates submits that paragraph 59 of Braear could not be clearer and that the better and indeed proper course is that the Improvement Notices should be served on the lessees who are the members of the RTM company.

19. Mr Bates acknowledged that there were two FtT decisions that had not followed Braear. These were Priory Heights (CAM/00KC/HIN/2022/0006 & 39), where the Local Authority argued that the leaseholders were the correct recipients. The Tribunal did not answer why the fully argued issue in Braear was not followed. The second case was Gallery Lofts (LON/00BE/HIN/2025/0611) (Gallery Lofts). Mr Bates submitted that in the absence of a solution to the prohibition under section 97(2), then the Tribunal should follow the analysis of the Upper Tribunal in Braear. It is a superior court of record and the appellate body for the FtT; that Braear was a consideration of the relevant statutory provisions and is not altered by the passage of time nor the circumstances of the Grenfell tragedy; that the Building Safety Act 2022 did not made any changes to the 2002 and 2004 Acts and that a problem that RTM company may experience about the full recovery of funds has a potential solution with the RCOs regime and that the remediation Pledge is also a potential solution.

20. In Mr Bates submissions the leaseholders are owners and could be served with the Improvement Notices. As to the question of who "ought" to be served, this should take account of practical considerations. It is appreciated that the leaseholders who "ought" to be served cannot be individual leaseholders who in their own right have no power to undertake/require the work to be done. But those leaseholders who are members of the RTM company and can direct that company to do the work should be the appropriate recipients of any Improvement Notice. This would be a better solution as set out in Braear as to who ought to be to be served. In Braear the Deputy President commented that *"In circumstances where the freeholder is precluded from undertaking*

work except by one of those methods, because an RTM company manages the building, the better course would seem to be to direct any improvement notice at those lessees who are members of the company and who are therefore collectively in a position to exercise control over its decisions. In the ordinary case the RTM company will be in a position both to carry out the necessary works and to recoup the expense of doing so from those who, by the terms of their leases, have agreed to bear that expense."

21. It is proposed that perhaps Improvement Notices should not be the tool to ensure safe buildings but instead the use of Remediation Orders (ROs) and Remediation Contribution Orders (RCOs) and that for the subject property there is the Building Safety Pledge. Even if the Tribunal concludes that the Local Authority should serve on the Applicants, then the appropriate enforcement action would be a Hazard Awareness Notice and that no criminal liability can arise from that.

22. In reply to Mr Bhose's submissions, Mr Bates stated that in Braear section 36 was considered a problem and that the word "ought" is not a moral decision but a practical decision and that the wording of "ought" should be a consideration of the most appropriate recipient of the Improvement Notices. It is not the Applicants who should be the recipients as they do not have the relevant power or undertake the works. The appeal provisions under paragraph 10 and 11 of Schedule 1 to the 2004 Act are different. The distinction is that paragraph 10 is a "not me argument" whilst paragraph 11 is a "not me but someone else argument" and it is the first argument that the Applicants are pursuing. The use of Improvement Notices are RCOs by another route. But in the case of Improvement Notices the consequences of non-compliance are criminal enforcement. But a RCO could still place a financial liability on the Applicants.

Respondent's Case

23. For the Respondent Mr Bhose stated that this is a simple question of law and is irrespective of the facts and that Taylor Wimpey has signed the 'Pledge' and is undertaking works. The Applicants' first ground is that as there is an RTM Company that exercises all the management functions, then in accordance with the decision in Braear the Improvement Notices should have been served on the leaseholders who are also members of the RTM Company. The Respondent's position is that Braear does not compel that conclusion as a matter of law as it is obiter guidance. The comments in Braear are not a short cut that bypasses the assessment of the evidence in a particular appeal.

24. Mr Bhose submitted that there is a distinction between the two schemes, under the 2002 Act for the RTM procedures and the 2004 Act for the enforcement provisions. Section 5 of the 2004 Act requires a Local Housing Authority to take action if a category 1 hazard exists. Whilst the

Building Safety Act 2022 introduced ROs and RCOs it did not amend the requirements of section 5 for the Local Authority to take action. The Applicants are seeking an interpretation so that when an Improvement Notice is to be made in relation to common parts and if the statutory right to manage has been exercised (under the 2002 Act), then the "owner" who is to take the necessary action in relation to the Improvement Notice are the individual members of the RTM company. The Respondent submits that this is not correct. Paragraph 4 to Scheule 1 of the 2004 Act requires the consideration of two issues, who are the owners of the specified premises and of those "owners", who is the owner that "ought" to take the action specified in the Improvement Notice. It is accepted that the Applicants and the leaseholders of the individual flats within the subject property that has an unexpired term of over three years are "owners".

25. The question for the Tribunal was whether the Local Housing Authority was wrong, when it made its decision, to form its opinion as to whom "ought" to take the specified action. Paragraph 4 of Scheule 1 to the 2004 Act has no criteria as to who "ought" to be served.

26. There is a specific provision that if a Local Housing Authority has got the wrong "owner" and if the paragraph 11 of Scheule 1 to the 2004 Act grounds of appeal are adopted, then the Tribunal can consider if another owner is the more appropriate recipient of an Improvement Notice and if so, then rather than quashing the Improvement Notice, it can be varied. This will mean that works can be carried out swiftly rather than if there is the need to serve further notices if the correct "owner" had not been identified in the first place. In the context of paragraph 11, the Tribunal must take into account the matters set out in paragraph 16(3). Those matters include the owners' *(a) the relative interest in the premises concerned (considering both the nature of the interests and the rights and obligations arising under or by virtue of them); (b) their relative responsibility for the state of the premises which gives rise to the need for the taking of the action concerned*". To follow this route will allow the Tribunal to vary an Improvement Notice to substitute another owner. Any variation will allow the hazards to be addressed, whilst to quash the Improvement Notices will result in delays in the remedy of the hazards.

27. Although the Respondent referred to sections 35 and 36 of the 2004 Act, Mr Bhose confirmed that he relied upon section 36 as the mechanism for the Applicants to proceed with the works. This allows the Applicants to apply to the Magistrates Court for an order to allow entry upon specified premises and undertake necessary remedial works. This is important as it reflects Parliament's intention that an Improvement Notice can be served on many people. An order obtained under section 36 would be made on a summary basis and as such would not be cumbersome. It is very unlikely in the circumstances of this case that the magistrates would refuse to make an order. But if an order was refused, then this would become a reasonable excuse defence.

28. The comments made by the Deputy President in Braear are obiter and Hastings Borough Council was acting on its own account, and it could not act for other Local Housing Authorities. Paragraph 53 of the decision sets out the context of the Deputy President's comments. He was asked to make comments which may be useful but are non-binding guidance. Next Mr Bhose draws a distinction between the decision in An NHS Trust v X [2021] EWHC 65 (Fam) which was a discrete question of law in family law and subject to extensive submissions and the guidance given by the Deputy President in Braear was in a single paragraph. There are an endless variety of facts that could arise and the facts of each case would need to be considered when then question on whom the Improvement Notice "ought" to be served arose.

29. The Tribunal should not determine this case on the basis suggested by the Applicants. In Braear the Deputy President was not determining this as a point of law. Paragraph 59 of the decision stated that it will be a matter of consideration in each case. The conclusion that a better course would be to serve the Improvement Notice on the leaseholders is a generality. Reference is made to "*It will be a matter for consideration in each case which of these owners "ought to take the actions specified in the notice*" and that "*the better course would seem to be to direct any improvement notice to at those lessees who are members of the company ….. In the ordinary case …..*". No rule is given, just some guidance and the answer as to who "ought" to be served is dependent on the evidence in each case. If Braear was to set down a rule to be followed, then the Deputy President would have examined these mechanisms in more detail.

30. The Deputy President acknowledged that it may be possible for an owner such as the Applicants to do the work. The possible mechanisms being section 97(2) of the 2002 Act which allows the freeholder and the RTM to come to an agreement to allow access for the works and the use of section 36 of the 2004 Act for a magistrate's order. It is the Respondent's position that in isolation neither is cumbersome.

31. Two Tribunal decision (Priory Heights and Gallery Lofts) rejected the guidance in Braear and treated the comments as obiter.

32. If the Applicants are not served with the Improvement Notices, then the statutory framework enables service on the leaseholders to the extent that the come within the definition of owner. Any leaseholder who is not a member of the RTM would have no way to enforce the works and could be subject to criminal enforcement. Even if a leaseholder who is a member of the of the RTM can only require the RTM to act in a certain way if there is a majority.

33. The Applicants state that this is not an appeal under paragraph 11 but a general appeal and are seeking for the Improvement Orders to be quashed. The other leaseholders have not participated, and the Tribunal

would have no ability to vary the Improvement Notice, the only options available would be to confirm or quash the Notices; and to quash the Notices would undermine public safety and create delays in remediating defective buildings. It is the Respondent's position that paragraph 11 needs to be considered. If the Local Authority serves the Improvement Notices on the RTM members, and the Applicants' position is correct about Braear, there is no scope for the RTM members to appeal under paragraph 11 and say that the freeholders are the appropriate owner on whom the Improvement Notice ought to be served. Braear did not consider paragraph 11(1)(b) in the context that the freeholders should "*pay the whole or part of the cost of taking that action*". If that could be a viable ground of appeal, then logic would extend that to paragraph 11(1)(a). It is stated that these problems are avoided if the statutory scheme is followed.

34. The Building Safety Act 2022 provided certain service charge protections for some works for qualifying leases. Part of those protections is that "*no service charge is payable under a qualifying lease in respect of cladding remediation*". If the Applicants were correct in their submissions this would mean that for a building covered by the 2022 Act, even if the freeholder had installed the original cladding, there would be no scope for the freeholders to do the works, even if they were the original developer or associated with the original developer. The backdrop to the 2022 Act is that in this sort of scenario, the freeholder should do the works. If the RTM undertakes the works, then it may be exposed in respect of financing those works. The decision in Priory Heights identified this problem. Also, in Gallery Lofts the Tribunal found that, when considering on whom the Improvement Notice was to be served, it was not irrational for the Local Authority to consider the government's policy to Part 5 and Schedule 8 of the 2022 Act, that the freeholder/developer should bear the costs of remediating the defects rather than the leaseholders. In cases when a freeholder had granted leases and received premiums, there would be a strong case that they would be the correct recipient.

35. Section 96(2) of the 2002 Act gives the RTM the right to step into the shoes of the landlord when carrying out the functions under the lease. It does not grant a wider set of rights. However, under section 97(2) a landlord and the RTM can reach an agreement and that could include allowing a landlord to enter onto the property to undertake works. Deputy President in Braear accepted that section 97(2) could be a solution.

36. The Respondent's position is that the disposal of this preliminary issue would be to dismiss Ground 1. The second ground of appeal, namely that the service of a Hazard Awareness Notice as being a more appropriate course of action is still outstanding.

Decision and Reasons

37. It is accepted that in Braear the UT heard arguments on the issue of upon whom Improvement Notices may be served and following An NHS Trust v X [2021] EWHC 65 (Fam), it is appreciated that this is closer to "a ratio decidendi than an obiter dictum". However, at the end of the day, this part of the decision is obiter. In Braear the Deputy President explained that it would be the facts in a particular case that should be considered as to whom "ought" to be served. We find that it provides us with some useful general guidance rather than being a binding precedent.

38. The Tribunal agrees with the comments in Braear that it would be to some extent, cumbersome, indirect and time-consuming for the freeholders to seek to undertake the works. However, we do not agree with the Applicants' submissions that they are truly prohibited from carrying out the works. The Applicants have two statutory options. Section 97(2) of the 2002 Act provides a mechanism whereby the landlord could be permitted to enter onto the property with agreement and carry out works. Also, by Section 36 of the 2004 Act there appears to be a mechanism whereby the magistrates could order access and the ability for the Applicants to take any required action. It is accepted that there are risks that either agreement with the RTM could not be reached or that the magistrates do not make an order allowing access for the works. It is also accepted that there could be a conflict in the two schemes in that there is a risk that an order under section 36 does not circumvent the prohibition under section 97(2). However, if agreement under section 97(2) is not reached or an order under section 36 that would negate the effect of section 97(2) is not granted, we consider that these would be reasonable defence excuses under any enforcement of an Improvement Notice.

39. It is accepted that the leaseholders are also 'owners' for the purpose of the statutory regime. However, a distinction needs to be made between their position as leaseholders in the property of individual units, and therefore "owners" and the different role as shareholders of the RTM company. Even if those roles could be merged, those leaseholders who are served with an Improvement Notice could also have a cumbersome, indirect and time-consuming route to ensure that the RTM undertakes any necessary works to ensure compliance with the Improvement Notice. As individuals those leaseholders may have fewer resources than the Applicants and no clear statutory route to ensure works are completed and as individuals exposed to criminal sanctions that may arise in any enforcement measures. These are factors that help to answer the question as who "ought" to be served. In our opinion these factors do not make it a clear decision that the leaseholders are the ones upon whom the Improvement Notices ought to have been served.

40. The Applicants suggested that when considering on whom an Improvement Notice ought to be served, the leaseholders who are

members of the RTM could be appropriate owners. However, they did not rely on the grounds of appeal under paragraph 11 of Schedule 1 to the 2004 Act.

41. Given that the Applicants have two particular remedies to pursue to ensure compliance when served with the Improvement Notices, as set out above, we determine as a matter of law that the London Borough of Barking and Dagenham was entitled to make the decision that it made. It was a rational decision within the scope of the statutory framework to serve the Improvement Notices on the Applicants. Therefore, ground 1 of the Applicants' Appeal is dismissed.

Next Steps

42. It is appreciated that there may be practical considerations that affect how this case should proceed. Therefore, the Tribunal directs that by **20 November 2026** the parties provide to the Tribunal an update on the case and any remaining issues to be determined and endeavour to agree Directions.

Name: Ms H C Bowers **Date**: 2 November 2026

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Appendix

Commonhold and Leasehold Reform Act 2002

74 RTM companies: membership and regulations

(1) The persons who are entitled to be members of a company which is a RTM company in relation to premises are—
(a) qualifying tenants of flats contained in the premises, and
(b) from the date on which it acquires the right to manage (referred to in this Chapter as the *"acquisition date"*), landlords under leases of the whole or any part of the premises.
(2) The appropriate national authority shall make regulations about the content and form of the [articles of association][1] of RTM companies.
(3) A RTM company may adopt provisions of the regulations for its articles .
(4) The regulations may include provision which is to have effect for a RTM company whether or not it is adopted by the company.
(5) A provision of the articles of a RTM company has no effect to the extent that it is inconsistent with the regulations.
(6) The regulations have effect in relation to articles—
(a) irrespective of the date of the articles , but
(b) subject to any transitional provisions of the regulations.
(7) Section 20 of the Companies Act 2006 (default application of model articles) does not apply to a RTM company.

75 Qualifying tenants

(1) This section specifies whether there is a qualifying tenant of a flat for the purposes of this Chapter and, if so, who it is.
(2) Subject as follows, a person is the qualifying tenant of a flat if he is tenant of the flat under a long lease.
(3) Subsection (2) does not apply where the lease is a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) (business tenancies) applies.
(4) Subsection (2) does not apply where—
(a) the lease was granted by sub-demise out of a superior lease other than a long lease,
(b) the grant was made in breach of the terms of the superior lease, and
(c) there has been no waiver of the breach by the superior landlord.

(5) No flat has more than one qualifying tenant at any one time; and subsections (6) and (7) apply accordingly.
(6) Where a flat is being let under two or more long leases, a tenant under any of those leases which is superior to that held by another is not the qualifying tenant of the flat.
(7) Where a flat is being let to joint tenants under a long lease, the joint tenants shall (subject to subsection (6)) be regarded as jointly being the qualifying tenant of the flat.

96 Management functions under leases

(1) This section and section 97 apply in relation to management functions relating to the whole or any part of the premises.
(2) Management functions which a person who is landlord under a lease of the whole or any part of the premises has under the lease are instead functions of the RTM company.
(3) And where a person is party to a lease of the whole or any part of the premises otherwise than as landlord or tenant, management functions of his under the lease are also instead functions of the RTM company.
(4) Accordingly, any provisions of the lease making provision about the relationship of—
(a) a person who is landlord under the lease, and
(b) a person who is party to the lease otherwise than as landlord or tenant,
in relation to such functions do not have effect.
(5) "Management functions" are functions with respect to services, repairs, maintenance, improvements, insurance and management.
(6) But this section does not apply in relation to—
(a) functions with respect to a matter concerning only a part of the premises consisting of a flat or other unit not held under a lease by a qualifying tenant, or
(b) functions relating to re-entry or forfeiture.
(7) An order amending subsection (5) or (6) may be made by the appropriate national authority.

97 Management functions: supplementary

(1) Any obligation owed by the RTM company by virtue of section 96 to a tenant under a lease of the whole or any part of the premises is also owed to each person who is landlord under the lease.
(2) A person who is—
(a) landlord under a lease of the whole or any part of the premises,
(b) party to such a lease otherwise than as landlord or tenant, or
(c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,
is not entitled to do anything which the RTM company is required or empowered to do under the lease by virtue of section 96, except in accordance with an agreement made by him and the RTM company.

(3) But subsection (2) does not prevent any person from insuring the whole or any part of the premises at his own expense.
(4) So far as any function of a tenant under a lease of the whole or any part of the premises—
(a) relates to the exercise of any function under the lease which is a function of the RTM company by virtue of section 96, and
(b) is exercisable in relation to a person who is landlord under the lease or party to the lease otherwise than as landlord or tenant,
it is instead exercisable in relation to the RTM company.
(5) But subsection (4) does not require or permit the payment to the RTM company of so much of any service charges payable by a tenant under a lease of the whole or any part of the premises as is required to meet costs incurred before the right to manage was acquired by the RTM company in connection with matters for which the service charges are payable.

Schedule 7

2 Defective premises

(1) Section 4 of the Defective Premises Act 1972 (c. 35) (landlord's duty of care by virtue of obligation or right to repair demised premises) has effect with the modifications provided by this paragraph.
(2) References to the landlord (apart from the first reference in subsections (1) and (4)) are to the RTM company.
(3) The reference to the material time is to the acquisition date.

Housing Act 2004

1 New system for assessing housing conditions and enforcing housing standards

(1) This Part provides–
(a) for a new system of assessing the condition of residential premises, and
(b) for that system to be used in the enforcement of housing standards in relation to such premises.
(2) The new system–
(a) operates by reference to the existence of category 1 or category 2 hazards on residential premises (see section 2), and
(b) replaces the existing system based on the test of fitness for human habitation contained in section 604 of the Housing Act 1985 (c. 68).
(3) The kinds of enforcement action which are to involve the use of the new system are–
(a) the new kinds of enforcement action contained in Chapter 2 (improvement notices, prohibition orders and hazard awareness notices),
(b) the new emergency measures contained in Chapter 3 (emergency remedial action and emergency prohibition orders), and
(c) the existing kinds of enforcement action dealt with in Chapter 4 (demolition orders and slum clearance declarations).
(4) In this Part *"residential premises"* means–

(a) a dwelling;
(b) an HMO;
(c) unoccupied HMO accommodation;
(d) any common parts of a building containing one or more flats.
(5) In this Part–
"building containing one or more flats" does not include an HMO;
"common parts", in relation to a building containing one or more flats, includes–
(a) the structure and exterior of the building, and
(b) common facilities provided (whether or not in the building) for persons who include the occupiers of one or more of the flats;
"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling;
"external common parts", in relation to a building containing one or more flats, means common parts of the building which are outside it;
"flat" means a separate set of premises (whether or not on the same floor)–
(a) which forms part of a building,
(b) which is constructed or adapted for use for the purposes of a dwelling, and
(c) either the whole or a material part of which lies above or below some other part of the building;
"HMO" means a house in multiple occupation as defined by sections 254 to 259, as they have effect for the purposes of this Part (that is, without the exclusions contained in Schedule 14);
"unoccupied HMO accommodation" means a building or part of a building constructed or adapted for use as a house in multiple occupation but for the time being either unoccupied or only occupied by persons who form a single household.
(6) In this Part any reference to a dwelling, an HMO or a building containing one or more flats includes (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, the dwelling, HMO or building (or any part of it).
(7) The following indicates how this Part applies to flats–
(a) references to a dwelling or an HMO include a dwelling or HMO which is a flat (as defined by subsection (5)); and
(b) subsection (6) applies in relation to such a dwelling or HMO as it applies in relation to other dwellings or HMOs (but it is not to be taken as referring to any common parts of the building containing the flat).
(8) This Part applies to unoccupied HMO accommodation as it applies to an HMO, and references to an HMO in subsections (6) and (7) and in the following provisions of this Part are to be read accordingly.
(9) But unoccupied HMO accommodation is "qualifying residential premises" for the purposes of this Part only to the extent provided for by section 2B(1)(c).

2 Meaning of "category 1 hazard" and "category 2 hazard"

(1) In this Act–
"category 1 hazard" means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score of or above a prescribed amount;

"category 2 hazard" means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score below the minimum amount prescribed for a category 1 hazard of that description; and
"hazard" means any risk of harm to the health or safety of an actual or potential occupier of a dwelling or HMO which arises from a deficiency in the dwelling or HMO or in any building or land in the vicinity (whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise).
(2) In subsection (1)–
"prescribed" means prescribed by regulations made by the appropriate national authority (see section 261(1)); and
"prescribed band" means a band so prescribed for a category 1 hazard or a category 2 hazard, as the case may be.
(3) Regulations under this section may, in particular, prescribe a method for calculating the seriousness of hazards which takes into account both the likelihood of the harm occurring and the severity of the harm if it were to occur.
(4) In this section–
"building" includes part of a building;
"harm" includes temporary harm.
(5) In this Act *"health"* includes mental health.

3 Local housing authorities to review housing conditions in their districts

(1) A local housing authority must keep the housing conditions in their area under review with a view to identifying any action that may need to be taken by them under any of the provisions mentioned in subsection (2).
(2) The provisions are–
(a) the following provisions of this Act–
(i) this Part,
(ii) Part 2 (licensing of HMOs),
(iii) Part 3 (selective licensing of other houses), and
(iv) Chapters 1 and 2 of Part 4 (management orders);
(b) Part 9 of the Housing Act 1985 (c. 68) (demolition orders and slum clearance);
(c) Part 7 of the Local Government and Housing Act 1989 (c. 42) (renewal areas); and
(d) article 3 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860).
(3) For the purpose of carrying out their duty under subsection (1) a local housing authority and their officers must–
(a) comply with any directions that may be given by the appropriate national authority, and
(b) keep such records, and supply the appropriate national authority with such information, as that authority may specify.

5 Category 1 hazards: general duty to take enforcement action

(1) If a local housing authority consider that a category 1 hazard exists on any residential premises, they must take the appropriate enforcement action in relation to the hazard.
(2) In subsection (1) *"the appropriate enforcement action"* means whichever of the following courses of action is indicated by subsection (3) or (4)–
(a) serving an improvement notice under section 11;
(b) making a prohibition order under section 20;
(c) serving a hazard awareness notice under section 28;
(d) taking emergency remedial action under section 40;
(e) making an emergency prohibition order under section 43;
(f) making a demolition order under subsection (1) or (2) of section 265 of the Housing Act 1985 (c. 68);
(g) declaring the area in which the premises concerned are situated to be a clearance area by virtue of section 289(2) of that Act.
(3) If only one course of action within subsection (2) is available to the authority in relation to the hazard, they must take that course of action.
(4) If two or more courses of action within subsection (2) are available to the authority in relation to the hazard, they must take the course of action which they consider to be the most appropriate of those available to them.
(5) The taking by the authority of a course of action within subsection (2) does not prevent subsection (1) from requiring them to take in relation to the same hazard–
(a) either the same course of action again or another such course of action, if they consider that the action taken by them so far has not proved satisfactory, or
(b) another such course of action, where the first course of action is that mentioned in subsection (2)(g) and their eventual decision under section 289(2F) of the Housing Act 1985 means that the premises concerned are not to be included in a clearance area.
(6) To determine whether a course of action mentioned in any of paragraphs (a) to (g) of subsection (2) is *"available"* to the authority in relation to the hazard, see the provision mentioned in that paragraph.
(7) Section 6 applies for the purposes of this section.

11 Improvement notices relating to category 1 hazards: duty of authority to serve notice

(1) If–
(a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and
(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,
serving an improvement notice under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).
(2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsections (3) to (5) and section 13.

(3) The notice may require remedial action to be taken in relation to the following premises–
(a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may require such action to be taken in relation to the dwelling or HMO;
(b) if those premises are one or more flats, it may require such action to be taken in relation to the building containing the flat or flats (or any part of the building) or any external common parts;
(c) if those premises are the common parts of a building containing one or more flats, it may require such action to be taken in relation to the building (or any part of the building) or any external common parts.
Paragraphs (b) and (c) are subject to subsection (4).
(4) The notice may not, by virtue of subsection (3)(b) or (c), require any remedial action to be taken in relation to any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied–
(a) that the deficiency from which the hazard arises is situated there, and
(b) that it is necessary for the action to be so taken in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.
(5) The remedial action required to be taken by the notice–
(a) must, as a minimum, be such as to ensure that the hazard ceases to be a category 1 hazard; but
(b) may extend beyond such action.
(6) An improvement notice under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.
(7) The operation of an improvement notice under this section may be suspended in accordance with section 14.
(8) In this Part *"remedial action"*, in relation to a hazard, means action (whether in the form of carrying out works or otherwise) which, in the opinion of the local housing authority, will remove or reduce the hazard.

13 Contents of improvement notices

(1) An improvement notice under section 11 or 12 must comply with the following provisions of this section.
(2) The notice must specify, in relation to the hazard (or each of the hazards) to which it relates–
(a) whether the notice is served under section 11 or 12,
(b) the nature of the hazard and the residential premises on which it exists,
(c) the deficiency giving rise to the hazard,
(d) the premises in relation to which remedial action is to be taken in respect of the hazard and the nature of that remedial action,
(e) the date when the remedial action is to be started (see subsection (3)), and
(f) the period within which the remedial action is to be completed or the periods within which each part of it is to be completed.
(3) The notice may not require any remedial action to be started earlier than the 28th day after that on which the notice is served.
(4) The notice must contain information about–
(a) the right of appeal against the decision under Part 3 of Schedule 1, and

(b) the period within which an appeal may be made.
(5) In this Part of this Act *"specified premises"* , in relation to an improvement notice, means premises specified in the notice, in accordance with subsection (2)(d), as premises in relation to which remedial action is to be taken in respect of the hazard.

18 Service of improvement notices etc. and related appeals

Schedule 1 (which deals with the service of improvement notices, and notices relating to their revocation or variation, and with related appeals) has effect.
35 Power of court to order occupier or owner to allow action to be taken on premises

(1) This section applies where an improvement notice or prohibition order has become operative.
(2) If the occupier of any specified premises–
(a) has received reasonable notice of any intended action in relation to the premises, but
(b) is preventing a relevant person, or any representative of a relevant person or of the local housing authority, from taking that action in relation to the premises,
a magistrates' court may order the occupier to permit to be done on the premises anything which the court considers is necessary or expedient for the purpose of enabling the intended action to be taken.
(3) If a relevant person–
(a) has received reasonable notice of any intended action in relation to any specified premises, but
(b) is preventing a representative of the local housing authority from taking that action in relation to the premises,
a magistrates' court may order the relevant person to permit to be done on the premises anything which the court considers is necessary or expedient for the purpose of enabling the intended action to be taken.
(4) A person who fails to comply with an order of the court under this section commits an offence.
(5) In proceedings for an offence under subsection (4) it is a defence that the person had a reasonable excuse for failing to comply with the order.
(6) A person who commits an offence under subsection (4) is liable on summary conviction to a fine not exceeding £20 in respect of each day or part of a day during which the failure continues.
(7) In this section *"intended action"* , in relation to any specified premises, means–
(a) where an improvement notice has become operative, any action which the person on whom that notice has been served is required by the notice to take in relation to the premises and which–

- (a) (in the context of subsection (2)) is proposed to be taken by or on behalf of that person or on behalf of the local housing authority in pursuance of Schedule 3, or

- (b) (in the context of subsection (3)) is proposed to be taken on behalf of the local housing authority in pursuance of Schedule 3;

(b) where a prohibition order has become operative, any action which is proposed to be taken and which either is necessary for the purpose of giving effect to the order or is remedial action specified in the order in accordance with section 22(2)(e).

(8) In this section–

"relevant person" , in relation to any premises, means a person who is an owner of the premises, a person having control of or managing the premises, or the holder of any licence under Part 2 or 3 in respect of the premises;

"representative" in relation to a relevant person or a local housing authority, means any officer, employee, agent or contractor of that person or authority.

Section 36 Power of court to authorise action by one owner on behalf of another

(1) Where an improvement notice or prohibition order has become operative, an owner of any specified premises may apply to a magistrates' court for an order under subsection (2).

(2) A magistrates' court may, on an application under subsection (1), make an order enabling the applicant–

(a) immediately to enter on the premises, and

(b) to take any required action within a period fixed by the order.

(3) In this section *"required action"* means–

(a) in the case of an improvement notice, any remedial action which is required to be taken by the notice;

(b) in the case of a prohibition order, any action necessary for the purpose of complying with the order or any remedial action specified in the order in accordance with section 22(2)(e).

(4) No order may be made under subsection (2) unless the court is satisfied that the interests of the applicant will be prejudiced as a result of a failure by another person to take any required action.

(5) No order may be made under subsection (2) unless notice of the application has been given to the local housing authority.

(6) If it considers that it is appropriate to do so, the court may make an order in favour of any other owner of the premises which is similar to the order that it is making in relation to the premises under subsection (2).

262 Meaning of "lease", "tenancy", "occupier" and "owner" etc.

(1) In this Act *"lease"* and *"tenancy"* have the same meaning.

(2) Both expressions include–

(a) a sub-lease or sub-tenancy; and

(b) an agreement for a lease or tenancy (or sub-lease or sub-tenancy).

And see sections 108 and 117 and paragraphs 3 and 11 of Schedule 7 (which also extend the meaning of references to leases).

(3) The expressions *"lessor"* and *"lessee"* and *"landlord"* and *"tenant"* and references to letting, to the grant of a lease or to covenants or terms, are to be construed accordingly.

(4) In this Act *"lessee"* includes a statutory tenant of the premises; and references to a lease or to a person to whom premises are let are to be construed accordingly.
(5) In this Act any reference to a person who is a tenant under a lease with an unexpired term of 3 years or less includes a statutory tenant as well as a tenant under a yearly or other periodic tenancy.
(6) In this Act *"occupier"* , in relation to premises, means a person who–
(a) occupies the premises as a residence, and
(b) (subject to the context) so occupies them whether as a tenant or other person having an estate or interest in the premises or as a licensee;
and related expressions are to be construed accordingly. This subsection [...][1] has effect subject to any other provision defining *"occupier"* for any purposes of this Act.
(7) In this Act *"owner"* , in relation to premises–
(a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple of the premises whether in possession or in reversion; and
(b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds 3 years.
(8) In this Act *"person having an estate or interest"* , in relation to premises, includes a statutory tenant of the premises.
(9) In this Act *"licence"* , in the context of a licence to occupy premises–
(a) includes a licence which is not granted for a consideration, but
(b) excludes a licence granted as a temporary expedient to a person who entered the premises as a trespasser (whether or not, before the grant of the licence, another licence to occupy those or other premises had been granted to him);
and related expressions are to be construed accordingly. And see sections 108 and 117 and paragraphs 3 and 11 of Schedule 7 (which also extend the meaning of references to licences).

Schedule 1

1 Service of improvement notices: premises licensed under Part 2 or 3

(1) This paragraph applies where the specified premises in the case of an improvement notice are–
(a) a dwelling which is licensed under Part 3 of this Act, or
(b) an HMO which is licensed under Part 2 or 3 of this Act.
(2) The local housing authority must serve the notice on the holder of the licence under that Part.

2 Service of improvement notices: premises which are neither licensed under Part 2 or 3 nor flats

(1) This paragraph applies where the specified premises in the case of an improvement notice are–
(a) a dwelling which is not licensed under Part 3 of this Act, or
(b) an HMO which is not licensed under Part 2 or 3 of this Act,

and which (in either case) is not a flat.
(2) The local housing authority must serve the notice [on whichever of the following the authority considers ought to take the action specified in it][1] –
(a) (in the case of a dwelling) [...][2] the person having control of the dwelling;
(b) (in the case of an HMO) either [...][2] the person having control of the HMO or [...][2] the person managing it [;][3]
(c) (in either case) if the premises or any part of them are let under a tenancy that is periodic or was granted for a term of 21 years or less, or are occupied under a licence—
(i) the landlord or licensor;
(ii) any superior landlord or licensor.

3 Service of improvement notices: flats which are not licensed under Part 2 or 3

(1) This paragraph applies where any specified premises in the case of an improvement notice are–
(a) a dwelling which is not licensed under Part 3 of this Act, or
(b) an HMO which is not licensed under Part 2 or 3 of this Act,
and which (in either case) is a flat.
(2) In the case of dwelling which is a flat, the local housing authority must serve the notice on a person who–
(a) is an owner of the flat, and
(b) in the authority's opinion ought to take the action specified in the notice.
(3) In the case of an HMO which is a flat, the local housing authority must serve the notice either on a person who–
(a) is an owner of the flat, and
(b) in the authority's opinion ought to take the action specified in the notice,
or on the person managing the flat.

4 Service of improvement notices: common parts

(1) This paragraph applies where any specified premises in the case of an improvement notice are–
(a) common parts of a building containing one or more flats; or
(b) any part of such a building which does not consist of residential premises.
(2) The local housing authority must serve the notice on a person who–
(a) is an owner of the specified premises concerned, and
(b) in the authority's opinion ought to take the action specified in the notice.
(3) For the purposes of this paragraph a person is an owner of any common parts of a building if he is an owner of the building or part of the building concerned, or (in the case of external common parts) of the particular premises in which the common parts are comprised.

5 Service of copies of improvement notices

(1) In addition to serving an improvement notice in accordance with any of paragraphs 1 to 4, the local housing authority must serve a copy of the notice on every other person who, to their knowledge–

(a) has a relevant interest in any specified premises, or
(b) is an occupier of any such premises.
(2) A *"relevant interest"* means an interest as freeholder, mortgagee or lessee.
(3) For the purposes of this paragraph a person has a relevant interest in any common parts of a building if he has a relevant interest in the building or part of the building concerned, or (in the case of external common parts) in the particular premises in which the common parts are comprised.
(4) The copies required to be served under sub-paragraph (1) must be served within the period of seven days beginning with the day on which the notice is served.

10 (1) The person on whom an improvement notice is served may appeal to [the appropriate tribunal][1] against the notice.

(2) Paragraphs 11 and 12 set out two specific grounds on which an appeal may be made under this paragraph, but they do not affect the generality of sub-paragraph (1).

11 (1) An appeal may be made by a person under paragraph 10 on the ground that one or more other persons, as an owner or owners of the specified premises, ought to–

(a) take the action concerned, or
(b) pay the whole or part of the cost of taking that action.
(2) Where the grounds on which an appeal is made under paragraph 10 consist of or include the ground mentioned in sub-paragraph (1), the appellant must serve a copy of his notice of appeal on the other person or persons concerned.

12(1) An appeal may be made by a person under paragraph 10 on the ground that one of the courses of action mentioned in sub-paragraph (2) is the best course of action in relation to the hazard in respect of which the notice was served.

(2) The courses of action are–
(a) making a prohibition order under section 20 or 21 of this Act;
(b) serving a hazard awareness notice under section 28 or 29 of this Act; and
(c) making a demolition order under section 265 of the Housing Act 1985 (c. 68).

15 (1) This paragraph applies to an appeal to [the appropriate tribunal][1] under paragraph 10.

(2) The appeal–
(a) is to be by way of a re-hearing, but
(b) may be determined having regard to matters of which the authority were unaware.
(3) The tribunal may by order confirm, quash or vary the improvement notice.
(4) Paragraphs 16 and 17 make special provision in connection with the grounds of appeal set out in paragraphs 11 and 12.

16 (1) This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 11.

(2) On the hearing of the appeal the tribunal may–
(a) vary the improvement notice so as to require the action to be taken by any owner mentioned in the notice of appeal in accordance with paragraph 11; or
(b) make such order as it considers appropriate with respect to the payment to be made by any such owner to the appellant or, where the action is taken by the local housing authority, to the authority.
(3) In the exercise of its powers under sub-paragraph (2), the tribunal must take into account, as between the appellant and any such owner–
(a) their relative interests in the premises concerned (considering both the nature of the interests and the rights and obligations arising under or by virtue of them);
(b) their relative responsibility for the state of the premises which gives rise to the need for the taking of the action concerned; and
(c) the relative degree of benefit to be derived from the taking of the action concerned.
(4) Sub-paragraph (5) applies where, by virtue of the exercise of the tribunal's powers under sub-paragraph (2), a person other than the appellant is required to take the action specified in an improvement notice.
(5) So long as that other person remains an owner of the premises to which the notice relates, he is to be regarded for the purposes of this Part as the person on whom the notice was served (in place of any other person).