FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/29UN/HUA/2026/0001 HAV/29UN/HUA/2026/0002 HAV/29UN/HNA/2026/0012
Property	**:**	Flat 3 (front) & Flat 3 (rear), 44 Godwin Road, Margate, Kent, CT9 2HF
Applicant	**:**	Lionel Curtis
Representative	**:**	Haroon Razaq
Respondent	**:**	Thanet District Council
Representative	**:**	
Type of Application	**:**	**Appeal against a financial penalty** – Electrical Safety Standards in the Private Sector (England) Regulations 2020 **Appeal against a financial penalty** - Section 249A & Schedule 13A to the Housing Act 2004
Tribunal Members:	**:**	Regional Surveyor Clist MRICS Ms T Wong
Date of Hearing	**:**	8 September 2026, remotely via video
Date of Decision	**:**	17 November 2026

DECISION

Summary

The Tribunal varies the Financial Penalty FPE/2025/06 to £6825

The Tribunal varies the Financial Penalty FPE/2025/06 to £6825

The Tribunal varies the Financial Penalty FPE/2025/71 to £5400

Background

1. On 18 January 2026 the Tribunal received two appeals from the Applicant against financial penalties made under Regulation 12 and Schedule 2 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 and one appeal against a Financial Penalty made under section 249A of the Housing Act 2004.

2. The Notices that are appealed are as follows:

    - Notice reference FPE/2025/06 - Electrical Safety Standards Regulations 2020 - £10,500.00

    - Notice reference FPE/2025/07 – Electrical Safety Standards Regulations 2020 - £10,500.00

    - Notice reference FPE/2025/71 – Housing Act 2004: Section 249A - £9,000.00

3. The Applicant's representative has outlined brief grounds for the appeals at section 10.14 of the application forms.

4. The appeals are to be by way of a re-hearing of the Respondent's decision to impose the penalties and/or the amount of the penalties, but it may be determined having regard to matters of which the Respondent was previously unaware. Further details are contained in the Annex on the last page of these Directions.

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

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

The Law

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

8. The most pertinent law is outlined below.

9. The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 were implemented on 1st June 2020 by the Secretary of State, in exercise of the powers conferred by sections 122 and 123 of the Housing and Planning Act 2016 and section 234 of, and paragraph 3 of Schedule 4 to, the Housing Act 2004.

10. A landlord who breached a duty under the Regulations may be subject to a financial penalty of up to £40,000, imposed by the local housing authority. The local housing authority must be satisfied, beyond reasonable doubt, that a breach has occurred before imposing a penalty.

11. Section 249A of the Housing Act 2004 deals with the imposition of a financial penalty on the basis of commission of a relevant offence, in relation to which it states the following:

> *(1)The local housing authority may impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person's conduct amounts to a relevant housing offence in respect of premises in England.*
>
> *(2)In this section "relevant housing offence" means an offence under—*
>
> *(a)section 30 (failure to comply with improvement notice),*
> *(b)section 72 (licensing of HMOs),*
> *(c)section 95 (licensing of houses under Part 3),*
> *(d)section 139(7) (failure to comply with overcrowding notice), or*
> *(e)section 234 (management regulations in respect of HMOs).*
>
> *(3)Only one financial penalty under this section may be imposed on a person in respect of the same conduct.*
>
> *(4)The amount of a financial penalty imposed under this section is to be determined by the local housing authority, but must not be more than £40,000.*
>
> *(5)The local housing authority may not impose a financial penalty in respect of any conduct amounting to a relevant housing offence if—*
>
> *(a)the person has been convicted of the offence in respect of that conduct, or*
>
> *(b)criminal proceedings for the offence have been instituted against the person in respect of the conduct and the proceedings have not been concluded.*

12. Schedule 13A to the Act sets out the procedure to be followed by the local housing authority and the requirements of the Notices required to be served,

including the requirement for a notice of intent within six months, the information to be contained and the right to make representations and then the requirement to decide whether to serve a final notice and the contents of that. As no issue arises as to the procedure adopted by the Respondent, it is not necessary to set out the requirements in full.

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

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

14. It is further explained that:

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

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

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

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

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

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

18. There is Government guidance in respect of the Act and the offences created. The Ministry of Housing, Communities and Local Government published non-statutory guidance in April 2018 entitled "Civil penalties under the Housing

and Planning Act 2016 - Guidance to Local Authorities", ("the Guidance") [6-25]. Local authorities must, pursuant to paragraph 12 of Schedule 13A to the Act, have regard to the guidance in respect of their functions in respect of civil penalties, as the Guidance itself repeats.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

> "It is an important feature of the system of civil penalties that they are imposed in the first instance by local housing authorities, and not by courts or tribunals. The local housing authority will be aware of housing conditions in its locality and will know if particular practices or behaviours are prevalent and ought to be deterred. The authority is well placed to formulate its policy and in *London Borough of Waltham Forest v Marshall* [2020] UKUT 35 (LC) the Tribunal (Judge Cooke) gave guidance on the respect that should be afforded to a local authority's policy by the FTT when hearing an appeal from a civil penalty imposed by the authority. As Wilkie J put it, concerning the approach which should be taken by magistrates, in *Darlington Borough Council v Kaye* [2004] EWHC 2836 (Admin): "The Justices … ought to have regard to the fact that the local authority has a policy and should not lightly reverse the local authority's decision or, to put it another way, the Justices may accept the policy and apply it as if it was standing in the shoes of the council considering the application.
> If a local authority has adopted a policy, a tribunal should consider for itself what penalty is merited by the offence under the terms of the policy. If the authority has applied its own policy, the Tribunal should give weight to the assessment it has made of the seriousness of the offence and the culpability of the appellant in reaching its own decision."

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

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

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

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

30. It was also explained in Sutton as follows:

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

The Hearing

31. The hearing was attending remotely by the Applicant, Mr Lionel Curtis for the morning session of the hearing and his representative, Mr Haroon Razaq. For the Respondent, Ms Bethan Thistle a Senior Environmental Health Practitioner at Thanet District Council represented the Respondent and attended alongside witnessed Ms Louise Ritchings Housing Licensing Officer and Ms Katie Laird Housing Licensing Applications Officer also of Thanet District Council.

32. As a preliminary issue, the Tribunal raised that the Applicant had failed to submit a final hearing bundle in compliance with the Directions dated 24 June 2026. Only after the Respondent had raised the matter with the Tribunal in the days preceding the hearing did the Applicant supply hearing bundle which included new evidence and submissions. Furthermore, the bundle appeared to be incomplete as to the Respondent's evidence and did not comply with the Tribunal's bundle compliance.

33. The Tribunal further identified that the four documents submitted by the Applicant contained images that were ineligible and had not scanned well.

34. Mr Razaq submitted that there had been compliance as the Applicant had sent its statement and supporting evidence over four documents to the Applicant and the Tribunal on 22 July 2026.

35. The Respondent had submitted its statement of case and witness statements across three documents on 11 August 2026. It was submitted that the breach was liable for strike out in accordance with the Tribunal's Directions.

36. At the outset, Mr Razaq had appeared to have misunderstood the Tribunal's Directions, although he explained that there was no prejudice to the Respondent who had had the benefit of the Applicant's evidence. As far as he was concerned, he had done all that was required of him. It had not been convenient to submit a final hearing bundle due to his other commitments over the summer period.

37. The Tribunal considered that as there had been some degree of compliance, striking out the application would be disproportionate. In such an event the striking out would have a right to apply for reinstatement, which on balance would likely be granted due to the earlier compliance. Notwithstanding, the provision of a final hearing bundle was not just a matter of whether the Respondent had been prejudiced or not, it was of paramount importance for the Tribunal to view and understand the parties' evidence and refer to the same throughout the hearing.

38. The issue appeared to be whether the hearing could proceed or whether an adjournment was required. Both parties had had each other's submissions and evidence in good time prior to the hearing. Whether the hearing could proceed was dependent upon whether the Respondent was content to proceed on the basis of relying upon the 7 individual documents. The Tribunal did not consider it appropriate to use the bundle created on the 5th September 2026 as it was defective and included evidence that had not previously been sent to the Respondent.

39. Ms Thistle submitted that as herself, Ms Laird and Ms Ritchings were in attendance that day and prepared for the hearing to take place, the Respondent was content to proceed utilising the 7 documents.

40. The Applicant agreed to the same.

41. The Tribunal suggested a 45-minute adjournment for the Tribunal and the parties to ensure familiarisation with the documents. Both parties were asked to ensure they had page references and document titles prepared to refer the Tribunal to, as necessary. The Tribunal would attach no weight to any documents that were illegible.

42. After the adjournment, the hearing proceeded.

43. At the outset, Mr Razaq confirmed that Mr Curtis intended to give evidence. Mr Razaq confirmed that he was a property manager working solely for Mr Curtis who had some 45 properties. He was not a member of any professional body, nor was he regulated. He had acted for Mr Curtis over the last ten years but had become more involved in Mr Curtis's affairs over the last two years or so. When asked if Mr Razaq had used AI software to produce the four documents to be relied upon for the hearing, he stated it had not been used as his secretary had prepared the documents. Mr Razaq confirmed that Mr Curtis's witness statement was his own words.

44. The Tribunal explained that as it was a re hearing of the local authority's decision, it would be beneficial to hear submissions and evidence of the Respondent first.

45. On behalf of the Respondent Council, Ms Thistle submitted that the three financial penalties arose from continuing failures by Mr Curtis to comply with statutory and licensing requirements relating to electrical safety and gas safety at Flat 3 Front and Flat 3 Rear.

46. In relation to financial penalties FPE2025/06 (Flat 3 Front) and FPE2025/07 (Flat 3 Rear), the Council's case was that Mr Curtis had failed to comply with the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. The Council had made repeated attempts between October 2021 and March 2025 to obtain evidence of electrical compliance. Despite reminders and ongoing correspondence, the Council did not receive the required documentation. An inspection on 25 March 2025 confirmed that both properties were occupied by private tenants and the Council considered the breaches to be continuing at that date.

47. Ms Ritchings gave evidence that Council records showed a series of communication with Mr Curtis by email and letter. She referred to correspondence demonstrating that Mr Curtis was aware of the need to obtain and provide electrical inspection reports. She stated that although the Council later became aware of electrical inspection reports from 2022 and 2023, these had not been provided before enforcement action was taken. The 2023 Electrical Installation Condition Report ("EICR") was unsatisfactory and identified Category C2 defects. The Council had received no evidence that the defects had been remedied, nor any subsequent satisfactory EICR. In her view, the electrical safety standards therefore remained unmet.

48. Ms Ritchings further stated that, regardless of the existence of the 2023 EICR, the Council had not received evidence that copies had been provided to tenants or supplied to the Council upon request. She considered that the duties under Regulations 3(3), 3(4), 3(5) and 3(6) remained outstanding because there was no evidence of remedial works or a satisfactory follow-up report.

49. In relation to penalty calculation, Ms Ritchings stated that she was involved in assessing the penalties. She considered culpability to be high because Mr Curtis had been given numerous opportunities to comply, had received extensive correspondence from the Council and had previously been the subject of a financial penalty relating to another property. She assessed the risk of harm as medium owing to the existence of unresolved C2 defects. She also considered Mr Curtis to have a significant track record of non-compliance and a property portfolio of approximately 5 to 9 properties.

50. Mrs Laird gave evidence concerning financial penalty FP/2025/71 relating to failure to comply with a gas safety condition attached to the selective licence for Flat 3 Front.

51. She explained that the gas boiler serving both flats was located in the front flat and that the Council's records showed the gas safety certificate expired on 3

March 2024. The Council subsequently sent four letters between April and December 2024 requesting an up-to-date certificate. No response was received.

52. Mrs Laird inspected the property with Ms Ritchings on 25 March 2025 and confirmed that the property was occupied by tenants who identified Mr Curtis as their landlord. The Council concluded that the licensing condition requiring a valid gas safety certificate to be maintained and supplied to the Council had been breached.

53. In assessing the penalty, Mrs Laird considered culpability to be high because Mr Curtis had received multiple reminders and had previously received a financial penalty for a similar breach at another property. She categorised the risk of harm as Level 1 because there was no evidence that the gas installation itself was unsafe; the issue was the absence of a valid certificate. Applying the Council's policy, a starting point penalty of £12,000 was reached. Following written representations raising Mr Curtis' age, health difficulties and dementia, the Council applied a 25% reduction and imposed a final penalty of £9,000.

54. Mrs Laird confirmed that the Council did not receive a gas safety certificate until it was provided by the Appellant during these proceedings. The certificate was dated 11 October 2025 and was valid until 10 October 2026. Accordingly, there was no evidence before the Council that the property was covered by a valid gas safety certificate between 4 March 2024 and 11 October 2025.

55. Mr Razaq appeared on behalf of Mr Curtis.

56. Mr Razaq accepted that the electrical reports and gas safety certificate had not been provided to the Council within the required timescales and accepted that the offences had occurred. However, he submitted that the failures were not deliberate and arose from Mr Curtis' age, health difficulties and management problems relating to his properties in Margate. He stated that Mr Curtis had acted in good faith and had attempted to communicate with the Council.

57. Mr Razaq submitted that safety standards had nevertheless been maintained. He contended that the 2022 EICR remained valid and that the tenants had not been exposed to any actual risk. He also stated that a gas safety certificate had ultimately been obtained in October 2025.

58. The Applicant's case was that the penalties imposed were disproportionate because the breaches related principally to failures to provide paperwork rather than failures to maintain safe properties. It was submitted that the properties were managed, tenants had been looked after, and there had been no complaints or incidents involving occupiers.

59. In closing, Ms Thistle submitted that while the Council had eventually received a satisfactory 2022 EICR, it was not provided until after the Notice of Intent. She emphasised that the subsequently disclosed 2023 EICR was unsatisfactory and that no evidence had been produced demonstrating that the identified C2 defects had been remedied or that a satisfactory replacement

report had been obtained. The Council therefore remained unable to conclude that the electrical safety standards were being met.

60. Ms Thistle further submitted that the only gas safety certificate disclosed was dated 11 October 2025 and had not been provided to the Council before enforcement action. The Council continued to have no evidence of gas safety compliance between March 2024 and October 2025.

61. On behalf of the Applicant, Mr Razaq reiterated that the properties had remained safe and were properly managed, that tenants had not experienced problems, and that the penalties were excessive in light of what was essentially a failure to provide documentation within the required timescales.

Consideration and Reasons

62. The Tribunal records that Mr Razaq telephoned the Tribunal's office during the course of the lunch break stating that Mr Curtis did not wish to return for the afternoon session. Mr Razaq then left Mr Curtis's home to travel to his office which resulted in Mr Razaq returning to the afternoon session late. He explained to the Tribunal upon his return that Mr Curtis was not in the best health and did not wish to have any further involvement in the hearing, as such he would not give evidence that day, nor did he wish to adjourn the hearing to do so on another occasion.

63. The Tribunal further notes that Mr Razaq's connection to the Remote Hearing Platform was unreliable throughout the course of the hearing. This led to several breaks to await reconnection throughout the hearing.

64. The Tribunal would comment that it was disappointed by the lack of full and proper compliance by the Applicant, reference to seven individual documents without indexation and proper pagination was less than desirable and surprising of a professional representative.

65. The Tribunal is grateful to the Respondent for their pragmatism and co-operation throughout the hearing.

66. The first matter for the Tribunal to consider is Mr Curtis' liability in relation to the offences under Section 95(2) of the Housing Act 2004 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

67. There was no dispute that Mr Curtis was the Landlord and licence holder of the Property. Further, Mr Razaq confirmed to the Tribunal that it was admitted that the offences were committed, although the admission with regards to the breach of Regulation 3 of the Electrical Safety Standards was somewhat qualified as Mr Razaq submitted that the EICR dated 24 May 2022 remained valid and in force.

68. With regards to the offence under Section 95(2) Housing Act 2004, that being a failure to comply with selective licence condition 18 by failing to provide a valid gas safety certificate, the Tribunal's accepts the Applicant's admission. The Tribunal further finds that the Property (Flat 3, Front Flat) did not have a

valid gas safety certificate for the period of 4th March 2024 and 10th October 2025.

69. In respect of the Applicant's admission, and the Tribunal's finding, it is satisfied beyond reasonable doubt that Mr Curtis has committed the offence under Section 95(2) Housing Act 2004 for a failure to comply with the selective licence condition 18 by not providing a valid gas safety certificate for the aforementioned period.

70. With regards to the breach of Regulation 3 of the Electrical Safety Standards, Mr Razaq submitted that the EICR dated 24 May 2022 remained valid and in force despite a subsequent EICR with an unsatisfactory rating. Mr Razaq failed to evidence this submission. As such, the Tribunal rejects the same and finds that the EICR dated 5 April 2023 with an unsatisfactory rating, supersedes that of the satisfactory report dated 24 May 2022.

71. Whilst Mr Razaq provided evidence of a quotation for remedial works, he could not confirm or provide any evidence that any remedial works in respect of the 2023 EICR had been undertaken. Nor did Mr Razaq provide any evidence that of a satisfactory EICR since that of 5 April 2023. Furthermore, there was no evidence adduced by the Applicant that a copy of a satisfactory EICR had been provided to the tenants within the front or rear flat.

72. The Tribunal finds that no remedial works, as per the EICR dated 5 April 2023 were undertaken, nor was a copy of a valid EICR provided to the tenants of either flat.

73. The Tribunal considers that Ms Ritchings' evidence relating to the individual breaches under Regulation 3 ((1)(a), (3)(a), (3)(b), 3(c), 3(d), (4), (5)(a), (5)(b), (5)(c), (6)) was thorough and comprehensive. The Tribunal is grateful to her for the same.

74. In light of the Tribunal's findings and in acceptance of Ms Ritchings' evidence, the Tribunal is satisfied beyond reasonable doubt that Mr Curtis failed to comply with electrical safety obligations under The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 for both the front and rear flat of the Property.

Reasonable Excuse Defence

75. Having established that offences under Section 95(2) of the Housing Act 2004 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 had been committed, the Tribunal next turns its attention as to whether Mr Curtis had a reasonable excuse for the same.

76. It was Mr Razaq's submission that Mr Curtis' failure to comply with the licensing condition and breach of the Electrical Safety Standards was an administrative error due to having a diagnosis of mild Alzheimer's, amongst other health concerns. Furthermore, Mr Razaq had stated that it was often a challenge in obtaining documentation or information from Mr Curtis owing to his condition. There had been no deliberate disregard for safety requirements.

77. It was the Respondent's case that it had made requests for the required certification as early as 2021, pre-dating Mr Curtis' diagnosis. Further, Mr Curtis had a history of non-compliance which had led to the imposition of an earlier financial penalty in relation to another property.

78. The Tribunal accepts Mr Curtis' medical evidence and Mr Razaq's submission that Mr Curtis' ability to undertake the required administrative tasks and management duties has been impaired by the same.

79. The Tribunal is not persuaded by the Respondent's submission that as non-compliance began from 2021, some four years prior to the Alzeimer diagnosis in August 2025, the diagnosis has limited effect on matters. The Tribunal notes from Dr Allen's letter that memory issues had been noted from around May 2024 although there were comparisons drawn with an MRI dating back to 2019. Whilst the purpose of the earlier MRI is not detailed, Mr Curtis' other historical health concerns were noted. The Tribunal considers it plausible that his health may have impacted upon his ability to perform tasks prior to the date of diagnosis and preceding year mentioned in the letter.

80. The Tribunal accepts that Mr Curtis' diagnosis of Alzheimer's disease, together with his other health conditions, made the management of his property portfolio more difficult and adversely affected his ability to deal personally with administrative requirements. The Tribunal further accepts that obtaining instructions and documentation from Mr Curtis may, at times, have presented challenges for those assisting him.

81. However, the Tribunal is not satisfied that those matters amount to a reasonable excuse for the purposes of the statutory defence. The Tribunal finds that the Respondent had afforded Mr Curtis numerous opportunities over an extended period to achieve compliance and to provide the required documentation. Requests for certification pre-dated the enforcement action with the failures continuing over a significant period.

82. The Tribunal also places weight upon the fact that Mr Curtis had professional representation. Mr Razaq stated that he had acted for Mr Curtis for approximately ten years and that his involvement in the management of Mr Curtis' affairs increased from around 2024 onwards. Whilst the precise extent of Mr Razaq's authority and involvement prior to that date was not entirely clear from the evidence, the Tribunal is satisfied that Mr Curtis had access to professional assistance before enforcement action commenced.

83. The Tribunal considers that Mr Curtis' medical condition is a mitigating factor of significance. Nevertheless, where a landlord is unable to discharge his management responsibilities personally due to ill health, the Tribunal would ordinarily expect appropriate steps to be taken to ensure that suitable agents or representatives are instructed with sufficient authority to secure compliance with statutory and licensing obligations. On the evidence before it, the Tribunal is not persuaded that Mr Curtis was unable to achieve compliance through the assistance available to him, nor that compliance had become impossible. Rather, the Tribunal finds that the breaches occurred

notwithstanding the availability of professional assistance and repeated opportunities to remedy the deficiencies.

84. Accordingly, whilst the Tribunal regards Mr Curtis' health conditions as significant mitigation, it does not find that they establish a reasonable excuse such as to absolve him of liability for the offences.

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

The amount of civil penalty

86. Having failed to have identified any reasonable excuse, the Tribunal next turns to the civil penalties.

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

88. The Tribunal reminds itself that this is a re hearing. It is for the Tribunal to determine the penalty, although regard ought to be had to the local authority policies in so doing and considerable weight should be applied to the same. The Tribunal is satisfied that Thanet District Council's enforcement policies should be followed in determining the amount of the penalty.

89. The Tribunal turns it attention firstly to the two Financial Penalties under The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 which were based upon the charging schedule found within the Thanet District Council Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 Civil Penalties Policy.

90. The Respondent assessed both penalties on identical terms, considering Mr Curtis' culpability to be high, the risk of harm being at level 2, the track record being significant with a portfolio size of 5-19 units. Applying the same under the policy, the Respondent arrived at a starting point of £14,000. Considering representations following the Notices of Intent, the Respondent had reduced the proposed penalty by 25% to reflect Mr Curtis's medical condition.

91. With regard to Culpability, the Tribunal does not consider the category of high to be appropriate in the circumstances. The policy definition of high culpability states that '*where the offender has foresight of a potential breach, but through wilful blindness, decided not to take timely/appropriate action'*. The Tribunal does not consider that Mr Curtis had been wilfully blind or had decided not to take appropriate or timely action but rather was an unintended consequence of his dementia.

92. The Tribunal considers that the category of medium culpability is more appropriate. Applying the policy wording, the breaches were in the form of omissions, Despite his condition, the diagnosis is classified as mild and the medical evidence suggests that Mr Curtis retains some capacity. Mr Curtis could have, therefore, exercised reasonable care by engaging professional

management services sooner, with the appropriate authority to act accordingly to ensure compilatory requirements were met. The Tribunal further considers that, aside from the diagnosis, it would have been prudent to have had such an arrangement in place given the size of Mr Curtis's portfolio.

93. The low culpability does not appear to be appropriate as the Tribunal does not consider that 'significant efforts' had been made to comply.

94. The Tribunal agrees with the Respondent's assessment of the risk of harm at level 2 and the track record as significant owing to a previous financial penalty.

95. With regard to the portfolio size, the Respondent stated that it could evidence a portfolio size of 6. Mr Razaq confirmed in the hearing that Mr Curtis has some 45 properties. The Respondent did not make any representations that the Tribunal should vary the assessment of the same which would inevitably result in a higher penalty. The Tribunal declines, in the circumstances, to increase the penalty on this basis.

96. The Tribunal reached a starting point of £10,500 using the table provided within the Respondent's enforcement policy.

97. With respect to mitigation, the Tribunal considers Mr Curtis's medical condition to warrant a higher reduction of 35%.

98. In respect to Mr Curtis's financial circumstances, the Tribunal does not consider a reduction to be warranted.

99. The Tribunal's assessment results in varied penalties of £6,825 each.

100. With regards to the Final Penalty Notice FPE/2025/71 for a failure to provide a gas safety certificate under a licence condition, the Tribunal considers the Thanet District Council Housing Act 2004 and Housing and Planning Act 2016 Civil Penalties Policy.

101. The Respondent calculated the penalty by considering Mr Curtis' culpability to be high, the risk of harm being at level 1, the track record being significant with a portfolio size of 5-19 units. Applying the same under the policy, the Respondent arrived at a starting point of £12,000. Considering representations following the Notices of Intent, the Respondent reduced the proposed penalty by 25% to reflect Mr Curtis's medical condition.

102. Although a different policy, Thanet District Council's Housing Act and Housing and Planning Act 2016 Civil Penalties Policy provides identical wording for culpability under the Electrical Safety Standards Civil Penalty Policy. The Tribunal therefore adopts the same rationale, considering Mr Curtis's culpability to be medium.

103. The Tribunal accepts the Respondent's reasoning for the categorisation of risk of harm and adopts level 1.

104. The Tribunal maintains the portfolio size at 5-19 units for the same reasoning as above.

105. Applying the Respondent's table of financial penalties within the enforcement policy, it reaches a starting point of £9000.

106. With regards to mitigation, the Tribunal adopts the same reasoning as above, although increases the deduction by a further 5%, totalling 40%, to reflect the later compliance of a gas safety certificate dated 11 October 2025.

107. In respect to Mr Curtis's financial circumstances, the Tribunal does not consider a reduction to be warranted.

108. The Tribunal's assessment results in a varied penalty of £5400.

109. The Tribunal considers a financial penalty of £6825 for each offence of failure to comply with duties under Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 and £5400 for the offence of failure to comply with a gas safety condition attached to a selective licence to be fair and appropriate levels under the circumstances. This is also in line with the Respondent's enforcement policies.

RIGHTS OF APPEAL

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

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

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

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