FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	BIR/00FK/HNB/2025/0023
Property	:	88 Nottingham Rd, Derby. DE 21 6AQ
Applicant	:	Sejmir Mehmeti
Applicant's Representative	:	Imperial Law, Legal Services Mr Goos Ali
Respondent	:	Derby City Council
Representative	:	Ms F Sadiq. Solicitor Derby City Legal Services
Type of Application	:	Appeal against a financial penalty under S249A and paragraph 10 Schedule 13A of the Housing Act 2004 (the Act)
Tribunal	:	Tribunal Judge P. J. Ellis Tribunal Member Ms J Rossiter
Date of Hearing	:	30 October 2026
Date of Decision	:	18 November 2026

DECISION

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1.The Tribunal is satisfied to the standard required that the Applicant has committed the housing offences of owning a house which required a licence but was not so licensed pursuant to s72 of the Act contrary to section 234(3) of the 2004 Act.

2.The Applicant has no reasonable excuse for the failure to licence the house.

3. The Respondent local housing authority is entitled to impose a financial penalty. In exercising its power to impose a penalty the Respondent has applied its enforcement policy including the obligation to ensure the penalty is proportionate.

4. The Tribunal confirms the Financial Penalty of £15,000.00 for the failure to licence an HMO

5. The Applicant's appeal is dismissed.

REASONS

Introduction

1. This is an appeal from the Applicant against the financial penalty described below, under section 249A and Schedule 13A, paragraph 6 of the Housing Act 2004 ("the Act").

2. The penalty is £15000.00. The appeal was received by the Tribunal on 29 August 2025 against a Penalty Charge Notice issued on 7 August 2025. The appeal is to be by way of a re-hearing of the Respondent's decision to impose the penalty and/or the amount of the penalty, but it may be determined having regard to matters of which the Respondent was previously unaware. Particulars of how the Tribunal will determine the appeal are set out in the annexe to the Tribunal's directions of 13 October 2025.

3. The reason for the penalty was imposed is that the Appellant was the manager of or was a person in control of an HMO which is required to be licensed under Part 2 (s61) of the Act but was not licensed contrary to s72(1) of the Act.

4. The matter came on for a hearing in person on 30 October 2026. The Appellant was not in attendance. He was represented by Mr Goos Ali of Imperial Law Services. Mr Ali is not a solicitor or barrister, but he had been appointed by Mr Mehmeti to represent him. The Tribunal agreed to Mr Ali making representations and submissions on behalf of the Appellant pursuant to Rule 14 & 34 Tribunal Procedure (First-tier Tribunal) Property Chamber Rules 2013, (the Procedure Rules). The Respondent was represented by Ms F Sadiq, a solicitor with the Respondent's legal services department.

The Property

5. The Tribunal did not inspect the property. There was no significant dispute regarding the number of rooms and the layout. This description is taken from the application and the evidence given at the hearing. It is a detached two-storey property consisting of 5 bedrooms bathroom and kitchen on the first floor. The ground floor consists of 2 office rooms on each side of the entrance with the stairs leading to first floor accommodation. There is a car wash operating at the rear of the property.

The Penalty

6. Derby City Council as the local housing authority was satisfied that the upper floor of the property was being used as an HMO without a licence. The property was occupied by 5 or more unrelated individuals from 15 October 2024 to 6 February 2025, the admitted period. The person who received rents during the time the offence was committed was Sejmir Mehmeti who would be classed as the 'person having control' for the purposes of Section 263 of the Housing Act 2004.

7. The Respondent's enforcement policy classed the culpability of the Appellant as Reckless which is second of four classes of culpability. The most serious is

Deliberate. Reckless is a lower category of culpability, Negligence and Low Culpability are two further categories lower than Reckless.

8. According to the matrix the starting point for reckless failure to licence a property is £17500.00. In this case, having served a Notice of Intention to Impose a Financial Penalty and receiving representations from the Appellant, the Respondent determined there was an aggravating factor namely a number of deficiencies in the condition of the property which have been brought to the attention of the landlord who was addressing these concerns. The aggravating factor added £500.00 to the starting point of the penalty. The Respondent then identified six mitigating factors including personal circumstances each justifying a reduction of £500.00 reducing the penalty to £15000.00.

The Parties Submissions

9. Imperial Law on behalf of the Appellant had made written submissions on his behalf. At the hearing Mr Ali repeated the submissions. By the submissions the Appellant admitted that the property was not licensed. It had been his intention to manage in the property so that there were never more than five people in occupation at any time. The property is used as accommodation by employees working for him in the car wash business.

10. Mr Mehmeti was facing an acute personal crisis during the brief period of non-compliance. His son was undergoing life-saving treatment at Great Ormond Street Hospital, and his focus was diverted from day-to-day business operations. It was during this brief and highly stressful period that a temporary occupancy breach occurred. He contended the breach was not a result of wilful negligence or disregard for housing regulations. Upon being made aware of the breach: Mr Mehmeti immediately reduced the number of occupants to within the legal threshold.

11. He maintained he had taken immediate steps to rectify the issue, fully cooperated with the Council, and he has no history of previous offences. He also promptly began the HMO licensing process and completed all required safety improvements. He had spent £15000.00 in making improvements to

the property, creating a better, affordable and quality housing correctly modified meeting statutory requirements. These modifications meet the needs of the local community needing a safe place to live.

12. He relied on the acute personal difficulties of his severely disabled son as a reasonable excuse for failing to licence the property. The circumstances required his full attention and absence from day-to-day operations. During this period, the property was managed by third party to the best of their ability. This was not a deliberate breach. The admitted period of offending occurred during the time the property was managed on his behalf or that there was a temporary occupation by someone taking the occupation above the allowable limit.

13. The penalty is disproportionate, he claimed, because the property was occupied by more than five households for a short period during which his attention was on his son's condition. He proposed a reduction of the penalty to reflect low culpability to £5000.00.

14. The Respondent maintained the landlord was well aware of mandatory HMO licensing prior to the offence being committed but went ahead and let the rooms out regardless.

15. There had been an exchange of correspondence between the Respondent and the Appellant in 2018 in connection with safety matters raised by the fire service. By a letter dated 29 August 2018 the Respondent advised Mr Mehmeti that he should apply for an HMO licence for the property when writing to him with a Hazard Awareness Notice following an inspection.

16. On 5 August 2020 the Respondent wrote to the Appellant with advice on work needed at the property to make it suitable for residential letting in response to a planning application. The need for an HMO licence was referred to again. Although a licence was not required at that time because the intended letting would not exceed 5 households, as the application referred to six bedrooms, the Respondent advised of the need to improve amenities in the property and

referred the Appellant to its housing standards on HMOs available on its website. In the event the planning application was refused at that time.

17. In March 2021 there was a further planning consultation when the need for an HMO licence was stated should occupation exceed the statutory limits.

18. During a telephone call from the Appellant with the Respondent on 05/02/2025 he stated that he knew he needed a HMO licence for 5 or more occupiers. He stated that he usually kept occupancy to 4 tenants to avoid licensing but that he was letting a couple of people stay for a few days. From the information provided by the Appellant the most recent tenant moved in 11/12/2024, some 8 weeks prior. The other tenants moved in 15/10/2024 (more than 12 weeks prior), 15/09/2024 (16 weeks prior), two moved in on 01/03/2023 (nearly 2 years prior) and 17/01/2022 (over 3 years prior).

19. A transcript of the interview under caution was adduced. In the course of interview, the Appellant admitted he did not always know how many people were living in the property.

20. Ms Sadiq submitted the Respondent had imposed a proportionate penalty by rating the level of culpability as Reckless. The Respondent had had regard to the guidance given in the Housing and Planning Act 2016 that a penalty should reflect the severity of the offence, the level of culpability of the offender, be a proportionate punishment ad act as a deterrent to other offenders.

21. All the elements of the housing offence set out in s72(1) were made out. The Appellant received rent. There were six people in occupation of the property during the admitted period The Appellant was aware of his obligation to obtain a licence. The financial benefit gained during the period of excess letting was the rent paid to the Appellant. The total sum was £7118.00.

22. In answer to questions from the Tribunal, the aggravating factors were identified as ignoring repeated warnings and fire safety defects demonstrating

a reckless degree of culpability. The mitigating factors were his cooperation with the Respondent and his personal circumstances. The Respondent had made enquiries into Mr Mehmeti's financial circumstances and produced the information he had supplied. The acute and serious condition of Mr Mehmeti's son was also considered.

23. The Respondent is a businessman who knew of his obligations and should have made arrangements to comply with regulations. The level of culpability was higher than negligence. A caution was not appropriate in the circumstances.

24. The Tribunal asked where members of the public could read the Respondent's enforcement policy. It should have been on the website but was not available to read on the day of the hearing. Ms Sadiq was not able to explain why it was not available.

25. In her closing submission Ms Sadiq reminded the Tribunal of the decision of the Upper Tribunal in *London Borough of Waltham Forest v Marshall*

The Statutory Framework

26. The Appellant admitted that at the time of the inspection and investigation by the Respondent the Property was without a licence contrary to *S72 (1)* of the Act: *If an HMO is required to be licensed under this Part (see section 61(1)) but is not so licensed, an offence is committed by—*
(a)any person within subsection (1A),

27. He also admitted he was within s*721A* being the *person having control of or managing the HMO.*

28. Further he acknowledged that he was *the person who, being an owner or lessee of the premises—*
(a)receives (whether directly or through an agent or trustee) rents or other payments from—

(i)in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; (s263(3).

29. *By s72(4A) In proceedings against a person for an offence under subsection (1)(a) it is a defence for them to prove that they had a reasonable excuse—*
(a)for having control of or managing the HMO, or
(b)for being the landlord or licensor in relation to a person occupying the HMO under a tenancy or licence,
in circumstances in which the HMO was required to be licensed under this Part but was not so licensed.

Discussion and Decision

30. In this case the Appellant with the benefit of independent advice albeit not from legally qualified advisers, has never denied that for some weeks he was the owner and person in control or management of a property which should have been licensed but was not licensed under s72(1) of the Act.

31. He has not advanced a case that he had a reasonable excuse for his default other than that his attention to the issue was distracted by the serious medical condition of his son.

32. The Tribunal is satisfied he was correct to admit the offence. It is also satisfied that the personal circumstances relied on do not amount to a reasonable excuse. The Appellant has owned the Property for over eight years. In that time he has received reminders from the local housing authority of the need to obtain an HMO licence if letting exceeds five people. Although the Tribunal and the Respondent have sympathy for the Appellant and his family for the serious illness with which his son is suffering, he is a businessman who should have made arrangements to ensure his business is compliant with regulations. He admitted in the interview under caution he was unaware sometimes, how many people were resident in the Property. He also admitted there were six people resident at the time of the alleged offence. The Tribunal is satisfied that the culpability assessment of Reckless was correct.

33. The Appellant's representative submitted that the penalty was disproportionate having regard to both the brevity of time during which the residence exceeded the limit and also because of his personal circumstances the time. However, the Appellant's admission of uncertainty regarding the number of occupiers indicates a lack of control over occupation. The Appellant was reckless in failing to ensure the property was managed to ensure it was regulatory compliant. He could not be sure the excess occupation rate was limited to the admitted period.

34. The Respondent's representative maintained that the Respondent had followed the principles set out in its enforcement policy in determining the penalty and reminded the Tribunal of the Upper Tribunal's decision in *Waltham Forest LBC v Marshall [2020] HLR 20.* The Tribunal also refers to *Homes & Housing v LB Of Croydon [2020] UKUT 181 (LC)* in which *Waltham Forest was referred:*

"15. The approach that the FTT and the Tribunal should take to the local housing authority's policy is well-established. In Sutton v Norwich City Council [2020] UKUT 90 (LC) the Deputy President said at paragraph 244:

"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): 7 "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. 245. 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."

35. The Tribunal is satisfied that there had been reckless neglect of the obligations to monitor the occupation rate of the Property to ensure compliance with the obligations associated with residential letting. The Appellant has admitted there was excess occupation during the admitted period and was reckless regarding other periods when occupation may have been excessive. The Tribunal is satisfied to the standard required the Appellant has committed a housing offence contrary to s72(1) of the Act with no reasonable excuse for doing so. The Tribunal sees no reason to vary or quash the penalty imposed. Accordingly, the Tribunal confirms the penalty of £15,000.00

Appeal

36. If either party is dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties (rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

Judge P J Ellis