FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AY/HMF/2021/0209**
HMCTS code		**V: CVPREMOTE**
Property	**:**	**17 Melbourne Mews, London SW9 6PY**
Applicant	**:**	**Thomas Wernham (1)** **Emily White (2)** **Catherine Cooper (3)** **James Craig (4)** **Rachel Ibbetson (5)**
Representative	**:**	**Alasdair Mcclenahan,** **Justice for Tenants**
Respondent	**:**	**Yasser Noeman**
Representative	**:**	**Rea Murray, Counsel**
Type of application	**:**	**Application for a rent repayment order by a tenant** **Sections 40,41,43 & 44 of the Housing and Planning Act 2016**
Tribunal member(s)	**:**	**Judge D Brandler** **Mr P Roberts DipArch RIBA**
Venue	**:**	**10 Alfred Place, London WC1E 7LR** **By remote video hearing**
Date of hearing	**:**	**10th February 2022**
Written submissions	**:**	**21st February 2022**
Date of decision	**:**	**11th March 2022**

DECISION

Decision of the tribunal

(1) The Respondent shall pay to the Applicants a Rent Repayment Order in the sum of £32,400. This is to be paid within 28 days of the date of this order, in the following proportions:

- **To Thomas Wernham (1) the sum of £6,096.00**
- **To Emily White (2) the sum of £6,544.00**
- **To Catherine Cooper (3) the sum of £6,544.00**
- **To James Craig (4) the sum of £6,544.00**
- **To Rachel Ibbetson (5) the sum of £6,672.00**

(2) The Respondent is further ordered to repay to the Applicants the sum of £300 for fees paid to this Tribunal in relation to this application. To be paid within 28 days of the date of this order.

The relevant legislative provisions are set out in an Appendix to this decision.

Reasons for the tribunal's decision

Background

1. The Tribunal received an application dated 03/09/2021 from the applicant tenants for a rent repayment order ("RRO") under section 41 of the Housing and Planning Act 2016.

2. Directions were issued on 30/09/2021.

3. The application alleged that the Dr Yasser Noeman ("the respondent") is the landlord who granted an assured shorthold tenancy to Thomas Wernham ("A1"), Emily White ("A2"), Catherine Cooper ("A3"), James Craig ("A4") and Rachel Ibbetson ("A5") for 17 Melbourne Mews, London SW9 6PY ("the property").

4. The respondent failed to obtain a licence for the property in breach of the HMO licensing requirements administered by Lambeth Council ("the Council").

5. Mr Abdullah Qassem was the agent for the property and the point of contact for the applicant tenants at all times.

6. The property is a five-bedroom house with shared kitchen and bathroom facilities and a shared living room.

7. The history of the occupancy is briefly as follows. The applicants entered into a tenancy agreement with the respondent on 05/09/2020 for a period of one year. Each of the applicants is named on the tenancy agreement. The monthly rent paid was £3,375.00 and a deposit was paid.

8. Each of the applicants occupied a room in the property from 05/09/2020 until 05/09/2021. The application claims a RRO for that same period.

THE HEARING

9. The Tribunal did not inspect the property as it considered the documentation and information before it in the trial bundle enabled the Tribunal to proceed with this determination and also because of the restrictions and regulations arising out of the Covid-19 pandemic.

10. This has been a remote hearing which has not been opposed by the parties. The form of remote hearing was coded as CVPREMOTE with all participants joining from outside the Tribunal. A face-to-face hearing was not held because it was not possible due to the COVID-19 pandemic restrictions and regulations and because all issues could be determined in a remote hearing. The applicants' bundle consisted of 225 pages. Reference to page numbers appears in square brackets preceded by "A". The respondent's bundle contained 34 pages. Reference to page numbers in the respondent's bundle appears in square brackets preceded by "R". The applicants' response to the respondent's reply contained 35 pages. Reference to page numbers in that response appears in square brackets preceded by "A/response".

11. The applicants and their representative, Mr Mcclenahan, joined the hearing remotely by video connections. The respondent was represented by Ms Murray who joined remotely. The respondent was not able to be present throughout the hearing as he was on duty in his role as a hospital consultant, but did join by telephone for a substantial part of the hearing. The respondent's agent, Mr Qassem joined by video connection and was present throughout the hearing, as was the respondent's solicitor Mr Khan.

Preliminary issue:

12. The respondent's counsel objected to the admission of the applicants' response to the respondent's bundle of documents. The basis of the objection was that the applicants were permitted only a "*brief*" response, as set out in paragraph 12 of the Tribunal's directions. Ms Murray asserts that a 35 page document with an index and containing further witness statements is not "*brief*", and should therefore be excluded. Although she was prepared to accept that pages 4-9 of the response were admissible, but none of the following pages which included further witness statements and exhibits.

13. Paragraph 12 of the directions state *"…the tenant may send a brief reply to the issues raised in the respondent's statement and supporting documentation*".

14. Ms Murray further argues that witness statements should have been served as per direction 6(i) which stated that *"The bundle must include….(i) Any witness statements of fact relied upon with a statement of truth…"* and as the additional witness statements were not so included, they should be excluded.

15. Mr Mcclenahan's position was that the applicants' response dealt with the issues raised by the respondent and had to be addressed and should be permitted under the Tribunal's discretion.

16. The Tribunal did not have the benefit of a skeleton argument from either party, nor had any application or written objection been made in relation to the argument. Having not had notice of any objection to that further evidence from the applicants, the Tribunal had already fully considered those documents and considered that they would assist them during the course of the hearing. Nor was there any suggestion that the applicant was in breach of the deadline to file their response.

17. Having considered all of the above, the Tribunal did not consider it to be a breach but even if it was technically one, it was not serious, such as to need to consider the third part of the 'Denton' test. The Tribunal determined that it was in the interests of justice to admit the applicants' response in any event.

18. Ms Murray sought to appeal on the basis that the applicants had not made an application for relief from sanction. This was refused.

The Applicants' evidence

19. In oral evidence the applicants confirmed that when they were first in contact with Mr Qassem he asked whether they were students or professionals. They told him that they were professionals, that they knew each other from their time at university and that 4 of the applicants had previously shared a house together. The applicants' evidence was that at no point did they portray themselves as being from the "*same household",* and they confirmed that at no point did Mr Qassem ask if they were in any way related. They deny absolutely that they tried to give the impression of being related or that they misled the respondent or his agent.

20. The applicants confirmed the rent paid by them for the period 05/09/2020 to 05/09/2021 was £3,375 pcm. The lead tenant (A1) took responsibility for collecting each individual applicant's rent, and paid these sums to Mr Qassem. This was evidenced by bank statements. None of this was in dispute. Nor was it in dispute that the respondent

had failed to protect the deposit nor that when this came to light, the respondent returned the deposit.

21. The proportion of rent paid by each tenant was as follows:

    - A1 paid £635 pcm
    - A2, A3 and A4 each paid £681.66 pcm
    - A5 paid £695 pcm

22. During the course of the tenancy some agreed deductions from the rent were made to reflect expenses that had been incurred. These included expenses for pest control and rubbish collection. These deductions were made with the express agreement of the respondent by his agent, Mr Qassem and this was not in dispute at the hearing.

23. The applicants made various complaints about the condition of the property, including a mouse infestation, which they say was not dealt with promptly or professionally, the respondent's failure to dispose of broken wardrobe doors from the property, one of the applicant's cutting her hand on broken glass from those wardrobe doors, a smell of gas, and lack of fire door to the kitchen.

24. The applicants became aware on or around 16/10/2020 that the property lacked an HMO licence when a Council officer visited the property. She explained that someone had complained in September 2020 about the house being in multiple occupation. The applicants provided Mr Qassem's contact details, and after the Council contacted Mr Qassem, he responded by sending a 'WhatsApp' message to the applicants in which he wrote "*I've had a call from the council stating you have complained about the house and HMO status? Can you please confirm who called and what's the issue? I have directed them to contact the landlord directly*" [84]. When the applicants responded to say it was not them who had contacted the council, Mr Qassem sent them another message in which he stated "*I really don't know what's happened. I will leave that to the landlord. Many thanks*", and in a later message "*I'm sure we will have it sorted ASAP"* [85].

25. Further to that visit from a Council officer, and the 'WhatsApp' correspondence with Mr Qassem, the applicants did not raise the issue of the lack of a licence with anyone until A5's email dated 07/10/2021 to the HMO licencing email address at the Council [103] after they had vacated the property. In that email A5 asks for information on any application for an HMO because "*as far as we understand it, if an HMO license was applied for during the time that we lived in the property, this may affect the value of our claim*" [103].

26. There is no evidence that the applicants made ongoing complaints to Mr Qassem about the lack of a fire door to the kitchen, although other complaints about gas and mice were communicated to him.

The Respondent's evidence

27. The respondent made himself available to the Tribunal, during the course of his work in the hospital, and gave evidence over the telephone. He confirmed that he had been a landlord for some 18 years, and owns eleven investment properties. None of which, he says, require HMO licences. He confirmed in oral evidence that he had been made aware of the requirement of an HMO licence for this property by the Council, but had failed to licence it during the course of the relevant period. Since the applicants have moved out, he told the Tribunal that the property has been let to 5 people in the same household and no HMO licence has been applied for.

28. The respondent's sole basis for opposing this application is by way of a reasonable excuse because he claims that he was lied to by the applicants into believing that they were from a single household.

29. Having been told by the Council that the property required a licence, the respondent did not do anything in relation to applying for a licence. In oral evidence he explained that once he found out that the property did require a licence, he wanted to let the tenants stay until the end of the term and once they left, he could relet the property to a family. He confirmed that he returned their deposit to them, as it had not been protected. The reason for the lack of protection was that he thought Mr Qassem had protected it, and Mr Qassem had thought he had protected it. The respondent said that he felt the best way forward was to keep the applicants happy by returning their deposit and asking Mr Qassem to agree to anything they wanted. They would then have no complaints and would move out of the property at the end of the term.

30. In cross examination, the respondent was asked to clarify his understanding of "*single household*". He explained in his response that it meant "*living in the same place, as one unit, renting a whole property as if they are one person*". He clarified that if none of the rooms had locks on the doors that was very relevant, and distinguished the rooms in the property to rooms in a hotel where all the rooms had locks. He explained that a family would have the whole house as one unit, pay rent as one unit, and contract as one unit.

31. He went on to give an example of his own situation when he arrived in the UK with two good friends, which he found analogous to being a 'single household'. The respondent and his two friends rented a whole flat and lived together as one family. All the rooms were open with no locks. They used the kitchen as if they were one family and they looked after the property as one family. He explained they had access to each other's rooms if, for example, they needed to access a room to resolve a problem. They had rented the property together as one family and paid rent together. It was put to him that him moving into a flat with 2 friends did not make them a single household. His response was that

they came from one household before and we would "*as far as I understand it live as one family*".

32. The respondent's second example of a single household was in relation to 5 foreign students coming to the UK and being granted a tenancy at the property, as a family. Later in questioning he said that example had been a hypothetical situation. He denied having let the property to five foreign students coming to the UK.

33. When asked if he thought the applicants were related by blood, his response was that he hadn't spoken to them but that he relied on what Mr Qassem had reported to him, i.e. that they had come as a family. His understanding of family was that they could be "cousins or adopted" and he said that the applicants had lied or misled Mr Qassem when they told him over the telephone that they were a single household. The respondent said, that Mr Qassem was a nice person with a good heart, who had trusted the applicants. The respondent expressed his anger at what he said was a deliberate lie by the applicants.

34. When asked how he would know if tenants were related, the respondent said he would ask if they were blood relatives, but that he would not make assumptions. Yet he said he saw no problem with Mr Qassem's lack of process of checking whether applicants were related in this way. No documentary evidence was produced to support the assertion that the applicants had portrayed themselves as being related.

35. When asked about his relationship with Mr Qassem, the respondent said that he had been assisted by him for many years. He explained that Mr Qassem was previously employed by a professional agency who managed some of his other investment properties. When Mr Qassem left that agency, he asked him to continue to look after four of his investment properties, the property being one of those. The respondent said that Mr Qassem was honest and trustworthy and that they have no written agreement. The respondent was very vague about the fees he paid to Mr Qassem for the management service he provided, that Mr Qassem takes "*whatever fees from the first month's rent so as to cover his work*" the rest he sends to the respondent. During the remainder of the term of the tenancy, Mr Qassem deducts expenses before paying the rent onto him. When pressed, the respondent could not remember how much he paid in fees to Mr Qassem. He said he thought it was usually 5-6% of the annual rent but could not be sure.

36. The respondent did not know if Mr Qassem was registered with any scheme to protect client money that he receives from tenants, nor did he know that such a scheme existed. Initially he stated that he only ever spoke to Mr Qassem by phone, but then said that they also sent messages by 'WhatsApp' and email. His evidence in relation to whether Mr Qassem was a professional agent or not was rather vague and inconsistent. The relationship was described at times as that of a friend helping out, and at others as Mr Qassem doing everything in relation to tenant contact.

37. The respondent was asked about the incident on 02/12/2020 when the applicants smelt gas in the property and contacted the free national service for gas emergencies. On that occasion an engineer who attended at the property found a gas leak from the cooker and low pressure in gas coming into the property [86]. The evidence in 'WhatsApp' messages, after being told about the engineer's findings, Mr Qassem told the applicants not to call the emergency helpline. He asked them instead just to call him and he would "*get someone out ASAP"*. The respondent said that his advice to the applicants would have differed from that of Mr Qassem. He said he would have asked them to both call the emergency line and contact Mr Qassem, because, he said "*safety comes first*".

38. He was asked about the lack of inspections at the property during the course of the tenancy. The respondents put Mr Qassem's lapse down to the fact that he had a young child at home and would not want to expose the child to COVID, however, he was surprised that Mr Qassem had not met the applicants before they moved in.

39. He was asked about the defective s.21 notice which the applicants were made to sign, but he didn't know anything about that as he said Mr Qassem dealt with all tenant issues.

40. The respondent told the tribunal that he had previously been much more hands on with his investment properties and lettings, but since the pandemic, as a hospital consultant, he had not had time and so relied on Mr Qassem. In relation to the protection of the deposit, he said that he thought Mr Qassem had protected this.

41. The respondent does not dispute the amount of rent paid. He did dispute the issues of complaints about the property. He said he had asked Mr Qassem to do everything the applicants requested to ensure that they were happy with the property. No inspection reports were provided.

42. At the conclusions of the respondent's evidence, he left the hearing to continue with his hospital work.

43. The tribunal then heard from Mr Qassem. Ms Murray asked the tribunal to disregard the words "*I checked the WhatsApp group to find it had been deleted*" at paragraph 12 of his witness statement. It seems that Mr Qassem had previously asked his solicitor to remove that phrase from his statement but the solicitor failed to do so. Mr Qassem had then failed to read his witness statement before signing it because he says he was put under pressure to sign it quickly.

44. That assertion, that Mr Qassem now says is incorrect, is adopted at paragraph 25 of the respondent's statement of case dated 22/12/2021, that it is due to the applicants' deletion of the 'WhatsApp' group

messaging which limits the agent's ability to respond to issues of disrepair [R11].

45. There were further discrepancies between Mr Qassem's written evidence and oral evidence. Specifically, at paragraph 8 of his witness statement he wrote "*As there were five of them I asked if they were a family. I distinctly remember Rachel telling me that "we do come from one household and we have lived together previously". I asked her that question specifically because of the fact that Melbourne Mews has five bedrooms and does not have an HMO licence. There was no reason for Yasser to undertake the necessary work to concert* (sic) *the property in order to obtain an HMO licence as the property Melbourne Mews was in demand and it was not difficult to find suitable tenants from the same household without violating the rules*" [R19]. However, in oral evidence he said that he had looked at the application form and seen that they had come from the same address. He admitted that he hadn't spoken to each applicant about their relationship with the others and said that he had made a mistake. He acknowledged that he should have checked if they were related and kept records, but that he had been busy with his new baby. He did not demonstrate any processes for checking whether applicants were related but told the tribunal that in the past he had obtained email confirmation from applicants which confirmed this issue but hadn't done so in this case.

46. In cross examination he said he had been shocked when the Council contacted him to say that the property required an HMO licence. It was put to him that when he contacted the applicants by 'WhatsApp' he didn't tell them he was shocked or ask them why they had told him they were related, instead his message states "*I really don't know what's happened. I will leave it to the landlord. Many thanks*" [A84]. Mr Qassem's response to this was that at that time he had no interest in the property as he had his new baby.

47. In further discrepancy Mr Qassem in paragraph 27 of his statement claimed that he had asked one of the applicants to allow a viewing at the house and that she had responded "*yes if you buy me a box of chocolates*" [R22]. However, 'WhatsApp' correspondence between them relating to the same event records that it was Mr Qassem who, having asked the applicant for assistance with prospective tenants, wrote "*There's a box of chocolates with your name on it if you can*" [A97]. When this inconsistency was put to Mr Qassem, his response was that "*it's the same thing*".

48. Due to time constraints, the Tribunal asked for written submissions. These were submitted and considered.

FINDINGS

49. The Tribunal finds that the respondent had control of the property and received rent of £3,375.00 pcm from the applicants for the relevant period of 12 months from 05/09/2020 to 05/09/2021. During that period the respondent failed to apply for a licence for the property, although he was aware from at least October 2020 that he was in breach of the requirements. Nor has the respondent applied for a licence since the applicants vacated the house.

50. The applicants did not form a single household (s.258(2)(a) Housing Act 2004), nor did they make any misrepresentation to the respondent or his agent in that regard. Indeed, neither the respondent nor his agent, Mr Qassem had asked them whether they were related.

51. The evidence of Mr Qassem was inconsistent and contradictory. The respondent lacked the understanding of the legal requirements for a landlord.

52. It is submitted by the respondent's counsel that the failure to get a licence was a mistake. The Tribunal reject that. The Tribunal finds the failure was one of neglect in the light of the Council contacting the respondent's agent on 16/10/2020 about the issue.

53. The respondent does not have a reasonable excuse for not having applied for a licence during the relevant period, because the applicants did not form a single household. Moreover, it was clear that the respondent did not understand the legal concept of "*forming a single household*".

54. The Tribunal found beyond reasonable doubt that the respondent was in breach of his requirement to licence the property under the HMO licensing schemes managed by the Council.

55. Therefore, the only further issue for determination by the Tribunal is the amount of the RRO.

56. In determining the amount, the Tribunal must have regard to the conduct of both landlord and tenant, the landlord's financial circumstances and whether the landlord has been prosecuted.

57. The respondent provided no detail about his financial circumstances other than the fact that he owns 11 investment properties and that he is a respiratory consultant. He did not claim any financial difficulty. Nor is there any evidence that he has previously been prosecuted.

58. In relation to the respondent's conduct, he has failed to either understand or comply with a landlord's legal requirements under the HMO legislation. This is despite having been an owner of 11 investment properties, a history of 18 years as a landlord and his assertion of having been more "*hands on*" prior to the pandemic. All this demonstrates poor landlord management and poor conduct. In

addition, he failed to protect the deposit, and there were no processes in place for fire safety in the property.

59. Whilst the relevant period falls within the period of the pandemic, that does not absolve a landlord from ensuring that he complies with the legal requirements put in place to ensure the tenants' safety. His own oral evidence acknowledged that "*safety comes first*". This was in contrast to his actions, or lack of them, during the relevant period as the applicants lived in the property for 12 months without a fire door to the kitchen. The Tribunal found the fire safety to be most serious of the issues complained about.

60. The Tribunal found Mr Qassem to be an unreliable witness and that neither he nor the respondent demonstrated any systems for good management of a large tenanted property.

61. In relation the Applicants' conduct the tribunal found that they had alerted the respondent to the lack of an HMO licence as soon as they were made aware by the Council and they paid their rent. There is no evidence to support the allegation that their application was premeditated from the outset of the tenancy, and this argument is rejected. As such the tribunal found no poor conduct on behalf of the applicants. The responsibility under the legislation falls to the landlord. The tenants have no power in this regard.

62. Having regard to the Upper Tribunal cases of Williams v Parmer & Ors [2021] UKUT 244 (LC), and the joined cases of Aytan v Moore and Wilson v Arrow [2022] UKUT 27 (LC), the Tribunal considered the appropriate award in this case is 80% of the rent paid for the relevant period.

63. The Tribunal keeps in mind that a RRO is meant to be a penalty against a landlord who does not follow the law. It is a serious offence which could lead to criminal proceedings. Taking all of these matters into account together with the conduct of both parties, as well as principles set out in above mentioned Upper Tribunal decisions, the Tribunal considers that the 80% award is fair in the circumstances. Accordingly, we find that an RRO should be made against the respondent, in the sum of £32,400**,** which should be paid to the Applicants within 28 days in the following proportions:

- **To Thomas Wernham (A1) the sum of £6,096.00**
- **To Emily White (A2) the sum of £6,544.00**
- **To Catherine Cooper (A3) the sum of £6,544.00**
- **To James Craig (A4) the sum of £6,544.00**
- **To Rachel Ibbetson (A5) the sum of £6,672.00**

64. The respondent is further ordered to repay the applicants the sum of £300 for fees paid to this Tribunal in relation to this application. To be paid within 28 days of the date of this order.

Name: Judge D Brandler **Date:** 11th March 2022

ANNEX - RIGHTS OF APPEAL

1. 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.

2. 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.

3. 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.

4. 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.

Appendix of relevant legislation

Housing Act 2004

Section 72 Offences in relation to licensing of HMOs

(1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.

(2) A person commits an offence if–

(a) he is a person having control of or managing an HMO which is licensed under this Part,

(b) he knowingly permits another person to occupy the house, and

(c) the other person's occupation results in the house being occupied by more households or persons than is authorised by the licence.

(3) A person commits an offence if–

(a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 67(5), and

(b) he fails to comply with any condition of the licence.

(4) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time–

(a) a notification had been duly given in respect of the house under section 62(1), or

(b) an application for a licence had been duly made in respect of the house under section 63,

and that notification or application was still effective (see subsection (8)).

(5) In proceedings against a person for an offence under subsection (1), (2) or (3) it is a defence that he had a reasonable excuse–

(a) for having control of or managing the house in the circumstances mentioned in subsection (1), or

(b) for permitting the person to occupy the house, or

(c) for failing to comply with the condition,

as the case may be.

(6) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine.

(7) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7A) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).

(7B) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.

(8) For the purposes of subsection (4) a notification or application is "effective" at a particular time if at that time it has not been withdrawn, and either–

(a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or

(b) if they have decided not to do so, one of the conditions set out in subsection (9) is met.

(9) The conditions are–

(a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of the appropriate tribunal) has not expired, or

(b) that an appeal has been brought against the authority's decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.

(10) In subsection (9) "relevant decision" means a decision which is given on an appeal to the tribunal and confirms the authority's decision (with or without variation).

Housing and Planning Act 2016

Chapter 4 RENT REPAYMENT ORDERS

Section 40 Introduction and key definitions

(1) This Chapter confers power on the First-tier Tribunal to make a rent repayment order where a landlord has committed an offence to which this Chapter applies.

(2) A rent repayment order is an order requiring the landlord under a tenancy of housing in England to—

(a) repay an amount of rent paid by a tenant, or

(b) pay a local housing authority an amount in respect of a relevant award of universal credit paid (to any person) in respect of rent under the tenancy.

(3) A reference to "an offence to which this Chapter applies" is to an offence, of a description specified in the table, that is committed by a landlord in relation to housing in England let by that landlord.

Act	section	general description of offence
1 Criminal Law Act 1977	section 6(1)	violence for securing entry
2 Protection from Eviction Act 1977	section 1(2), (3) or (3A)	eviction or harassment of occupiers
3 Housing Act 2004	section 30(1)	failure to comply with improvement notice
4	section 32(1)	failure to comply with prohibition order etc
5	section 72(1)	control or management of unlicensed HMO
6	section 95(1)	control or management of unlicensed house
7 This Act	section 21	breach of banning order

(4) For the purposes of subsection (3), an offence under section 30(1) or 32(1) of the Housing Act 2004 is committed in relation to housing in England let by a landlord only if the improvement notice or prohibition order mentioned in that section was given in respect of a hazard on the premises let by the landlord (as opposed, for example, to common parts).

Section 41 Application for rent repayment order

(1) A tenant or a local housing authority may apply to the First-tier Tribunal for a rent repayment order against a person who has committed an offence to which this Chapter applies.

(2) A tenant may apply for a rent repayment order only if —

(a) the offence relates to housing that, at the time of the offence, was let to the tenant, and

(b) the offence was committed in the period of 12 months ending with the day on which the application is made.

(3) A local housing authority may apply for a rent repayment order only if—

(a) the offence relates to housing in the authority's area, and

(b) the authority has complied with section 42.

(4) In deciding whether to apply for a rent repayment order a local housing authority must have regard to any guidance given by the Secretary of State.

Section 43 **Making of rent repayment order**

(1) The First-tier Tribunal may make a rent repayment order if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which this Chapter applies (whether or not the landlord has been convicted).

(2) A rent repayment order under this section may be made only on an application under section 41.

(3) The amount of a rent repayment order under this section is to be determined in accordance with—

(a) section 44 (where the application is made by a tenant);

(b) section 45 (where the application is made by a local housing authority);

(c) section 46 (in certain cases where the landlord has been convicted etc).

Section 44 **Amount of order: tenants**

(1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 in favour of a tenant, the amount is to be determined in accordance with this section.

(2) The amount must relate to rent paid during the period mentioned in the table.

If the order is made on the ground that the landlord has committed	***the amount must relate to rent paid by the tenant in respect of***
an offence mentioned in row 1 or 2 of the table in section 40(3)	the period of 12 months ending with the date of the offence
an offence mentioned in row 3, 4, 5, 6 or 7 of the table in section 40(3)	a period, not exceeding 12 months, during which the landlord was committing the offence

(3) The amount that the landlord may be required to repay in respect of a period must not exceed—

(a) the rent paid in respect of that period, less

(b) any relevant award of universal credit paid (to any person) in respect of rent under the tenancy during that period.

(4) In determining the amount the tribunal must, in particular, take into account—

(a) the conduct of the landlord and the tenant,

(b) the financial circumstances of the landlord, and

(c) whether the landlord has at any time been convicted of an offence to which this Chapter applies.