



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : **MAN/00BN/HMF/2020/0033**

**Property** : **64 Egerton Road, Fallowfield, Manchester M14 6RA**

**Applicants** : **Jenny Marie Hillel, Anjuli Lara Hookway, Saffron Kaur, Arlo Laurence Dowling Ludewick, Elian Charles Shamkhi Al-Sabti, George John Shreeve, Harvey Catesby Howard Dawson, Rafael Reggio Velasquez Rothwell.**

**Respondent** : **Perveen Ahmad**

**Type of Application** : **Rent Repayment Order, section 41(1) Housing and Planning Act 2016**

**Tribunal Members** : **A M Davies, LLB  
S Kendall, BSc, MRICS**

**Date of Decision** : **3 November 2021**

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**DECISION**

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## DECISION

The application is dismissed.

## REASONS

### THE FACTS

- (1) The Respondent, through her agents Jordan Fishwick, managed the letting of 64 Egerton Road, Fallowfield (“the Property”) to 8 students, as part of a large portfolio of properties she had acquired in her own name and in the joint names of herself and her husband Mr Ahmad.
- (2) In the course of divorce proceedings, the property portfolio was divided up. The Property was already owned by the Respondent in her sole name and remained her property under the terms of an ancillary relief order dated 21 September 2018.
- (3) On 30 June 2015 the Property was licensed as an HMO. Mr Ahmad was named in it as the Licence Holder. The licence was due to expire on 28 February 2020.
- (4) With effect from 1 July 2019 the Respondent let the Property to the Applicants for a period of one year.
- (5) On 12 August 2019 Manchester City Council (“the Council”) issued a letter to Mr Ahmad, the Respondent and their mortgage lender stating that the Council had decided to revoke the licence and enclosing a “Notice to Revoke Licence” also dated 12 August 2019. The decision was said to have been made under section 70(1) of the Housing Act 2004, and the reason given for revocation was that “*The Licence Holder is no longer in control of the property*”. The Tribunal understands that had Mrs Ahmad given evidence she would have said that she did not see this Notice to Revoke Licence until 22 October 2019 or thereabouts, but no finding is made as to whether or when the notice was served on her.
- (6) The Notice to Revoke Licence informed the recipients that they had a right of appeal supposedly as provided by paragraphs 24(b)(ii) and 33(2) of Schedule 5 to the Housing Act 2004 (“Schedule 5”). However the words used were: “*You have a right of appeal.....against the decision of the Council to grant a licence in respect of the House or the terms or conditions of the licence. Any appeal against the decision of the Council to grant a licence or the terms of the licence must be made within the period of 28 days beginning with the date on which the decision to grant a licence was made*”.
- (7) After being repeatedly requested by the Council to do so, on or about 16 January 2020 the Respondent applied for the issue of a mandatory HMO licence in respect of the Property in which she would be named as the Licence Holder. Such a licence was eventually issued to the Respondent on 6 November 2020.
- (8) On 22 January 2020 the Council called the Respondent to a PACE interview which took place on 3 February 2020. On 19 June the Council issued a notice of intent to impose a Financial Penalty of £15,500 on the Respondent. She made a number of written representations opposing this intention. On 4 August 2020 the Council notified her that “*having considered the mitigating circumstances detailed within*

*your representations*” the Council had concluded that it would not be “*within the public interest*” to impose a financial penalty.

- (9) Meanwhile the Applicants had been informed – they told the Tribunal, by Mr Hixon, a Housing Compliance and Enforcement Officer at the Council – that the HMO they occupied was not licensed, and that they could make an application for a Rent Repayment Order. Their application was received by the Tribunal office on 8 April 2020. Directions were issued on 7 October 2020.

#### THE HEARING

- (10) The hearing took place on 3 November 2021 by video link. The Respondent was represented by Dr Michael Wilkinson of counsel. The Applicants attended and were not legally represented.
- (11) Dr Wilkinson presented an initial argument that the application should be struck out on the ground that there was no evidence before the Tribunal that the licence dated 30 June 2015 had effectively been revoked by the Council. This argument was heard and explained to the Applicants prior to any evidence being heard.

#### THE LAW

- (12) Section 70 of the Housing Act 2004 gives a housing authority power to revoke a mandatory licence issued for an HMO either with the agreement of the licence holder, or in circumstances prescribed by regulations, or where the authority considers
- (a) that the licence holder or any other person has committed serious breach of condition of the licence, or
  - (b) that the licence holder is no longer a fit and proper person to hold the licence, or
  - (c) that the manager of the house is not a fit and proper person
- and sections 66 (1) and 64(3) of the same Act are applied to these provisions.
- (13) Section 70(8) reads  
*“...a revocation does not come into force until such time, if any, as is the ... time when the period for appealing expires without an appeal being made...”*
- (14) Paragraph 33 (2) of Schedule 5 provides:  
*“Any appeal .... against a decision to vary or revoke.... a licence must be made within the period of 28 days beginning with the date specified in the notice under paragraph ... 24 ... as the date on which the decision was made.”*
- (15) Paragraphs 22 – 24 of Schedule 5 prescribe the rules relating to revocation of licences as follows:
- 22. *Before revoking a licence, the local housing authority must –*
    - (a) *serve a notice on the licence holder under this paragraph and each relevant person, and*
    - (b) *consider any representations made in accordance with the notice and not withdrawn.*
  - 23. *The notice under paragraph 22 must state that the authority are proposing to revoke the licence and set out*
    - (a) *the reasons for the revocation, and*

(b) *the end of the consultation period.*

24(1) *This paragraph applies where the local housing authority decide to revoke a licence.*

(2) *The authority must serve on the licence holder and each relevant person –*

(a) *a copy of the authority’s decision to revoke the licence, and*

(b) *a notice setting out –*

*(i) the reasons for the decision and the date on which it was made,*

*(ii) the right of appeal against the decision under Part 3 of this Schedule, and*

*(iii) the period within which an appeal may be made (see paragraph 33 (2)).*

(3) *The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.”*

(16) As Dr Wilkinson pointed out, the requirements set out in these provisions are mandatory and compliance with them on the part of the housing authority is of the first importance, since the procedure governs the status of a landlord who risks acquiring a criminal record if he in turn falls foul of his statutory obligations.

#### PROCEDURAL ISSUES

(17) The following failures have been identified

1. The Notice to Revoke Licence dated 12 August 2019 did not specify the date on which the Council had made a decision to revoke it
2. Information contained in the Notice regarding the recipients’ right to appeal referred incorrectly the grant of the licence rather than its revocation
3. The period within which an appeal could be made was not identifiable, as the date of the revocation decision was not provided.

(18) The following lack of evidence was also identified

1. Mr Hixon provided a short witness statement which was contested by the Respondent, but did not attend the hearing for cross-examination.
2. The Applicants were unable to produce evidence that the Notice to Revoke Licence dated 12 August 2019 had been served on the Respondent, or if it had, the date of such service.
3. The Applicants had no evidence that a notice of intention to revoke a licence had been served on the Respondent in accordance with paragraphs 22 and 23 of Schedule 5.

(19) In the absence of any explanation from the Council, it was unclear to the Tribunal whether the reason given for the decision to revoke Mr Ahmad’s licence was a reason permitted by section 70 of the Housing Act 2004.

## CONCLUSION

- (20) The Tribunal concluded that on the basis of the documents before it there was no evidence that the Property had not been licensed during the relevant period or that an offence had been committed by the Respondent. It followed that the Applicants appeared to have been misled by Mr Hixon, and the application must be dismissed.

**Judge A M Davies**  
**3 November 2021**