



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

Case reference : **LON/00AL/HSD/2020/0004**

HMCTS code : **V: VIDEO**

Property : **13 Earlswood Street, London SE10 9ET**

Applicant : **Royal Borough of Greenwich**

Representative : **Ms Laurinder Tennant**

Respondent : **Ms Shiping Peggy Li**

Representative : **A C Gilead solicitors**

Type of application : **Application for a Rent Repayment Order
by a local authority**
Sections 40, 41, 42, 43 and 45 Housing and
Planning Act 2016.

Tribunal members : **Judge Pittaway**
Ms S Coughlin MCIEH

Date of Hearing : **10 June 2021**

Date of decision : **14 June 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote video hearing which has been not objected to by the parties. The form of remote hearing was V: CVPREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents before the tribunal at the hearing were in an applicant's bundle of 283 pages the contents of which the tribunal has noted. The respondent did not provide a bundle.

At the hearing Mr Dewji of counsel represented the Applicant, no one represented the Respondent.

The tribunal heard evidence from Ms Maria Pomoni and Mr Tawfiq Peerally (tenants of the property), and from Mr Kim Rose and Ms Patricia Gravell (witness case officers of the Applicant).

The tribunal heard submissions from Mr Dewji on behalf of the Applicant

Decisions of the tribunal

- 1. The Tribunal make a Rent repayment Order against the Respondent in the sum of £6,244.61.**
- 2. The Tribunal orders that the Respondent reimburse the Applicant with its application and hearing fees in the sum of £300..**

The background

3. On 25 November 2019 a Notice of Intended Proceedings was served by the Applicant on the Respondent, notifying the Respondent that the Applicant intended to apply to the Tribunal to recover from the Applicant by way of a rent repayment order ('**RRO**') housing benefit in the sum of £9,839.96 paid to Mr Peerally from 15 January 2018 to 14 January 2019. The notice stated that during the period from 1 October 2017 to 18 January 2019 the property did not have a requisite House in Multiple Occupation licence.
4. The tribunal received an application dated 9 December 2020 under section 41 of the Housing and Planning Act 2016 ("**the 2016 Act**") for a rent repayment order in respect of 13 Earlswood Road, London SE10 9ET ('the **Property**').
5. On 8 February 2020 the Tribunal issued Directions, which contemplated mediation, which has not occurred. The Directions provided for the Applicant to provide a bundle to the tribunal by 15 March 2021 and for the Respondent to provide her bundle to the Tribunal by 12 April 2021.
6. On 30 March 2021 the Applicant applied to the Tribunal seeking to rely on a further statement explaining why the Applicant now sought an amount less than that originally applied for. The tribunal gave permission for the Applicant

to serve and rely upon such additional statement on 13 April 2021. The new statement amended the last date of the offence to 23 December 2018 and the amount being sought to £9218.21 on the basis that the Applicant considered that an application for a licence had been duly made on 23 December 2018.

7. The Respondent did not produce her bundle in accordance with the Directions and on 16 April 2021 the tribunal warned the respondent that unless the bundle or an explanation for why it had not been produced was provided to the tribunal by 23 April 2021 the tribunal might debar her from the proceedings. On 16 April the respondent's solicitors requested an extension of time to 21 May 2021 to comply with directions, which request was granted on 23 April 2021. No bundle was produced.
8. On 26 May 2021 the Tribunal directed that the Hearing on 10 June 2021 should proceed and that if the Respondent wished to rely upon evidence she would have to apply to the Tribunal prior to the Hearing for permission and explaining why she had not complied with the previous directions and how she proposed to remedy the position.
9. On 9 June the Tribunal received letter from AC Gilead solicitors stating that they were no longer instructed and asking to be taken off the record. On 10 June the Tribunal received an e mail from A C Gilead, one minute before the Hearing was to commence, stating that they had been advised that the Respondent still wanted them to represent her. The e mail requested an adjournment to enable the solicitors to take full instructions and instruct counsel. The Tribunal enquired whether anyone from A C Gilead was attending the Hearing and was advised that no one was going to attend.
10. The Tribunal considered the request for an adjournment as a preliminary issue at the start of the Hearing. It heard submissions from Mr Dewji that the Hearing should not be adjourned as the letter requesting the adjournment lacked detail. It referred to an illness of the Respondent without giving details or explaining how the illness related to the proceedings. Mr Dewji reminded the Tribunal of the previous failures of the Respondent to comply with the Directions despite warnings.
11. The Tribunal rejected the request for an adjournment.

The Issues

12. The issues before the tribunal to determine were
 - Was the Tribunal satisfied beyond reasonable doubt that the Respondent had committed the offence of controlling or managing an unlicensed HMO?
 - The dates of the offence

- The correct 12-month period during which universal credit/housing benefit was received directly or indirectly by the landlord in respect of rent under the tenancy
- Was notice of intended proceedings given in accordance with s42 of the 2016 Act and did the Applicant consider representations made by the Applicant during that period?
- The maximum amount that can be ordered under section 45 of the 2016 Act.
- Any relevant conduct of the landlord, the landlord's financial circumstances, any previous conviction of a relevant offence and any other factors to which the Tribunal should have regard.

The Property

13. The Property is described in the application as a 3-bedroom terraced house. During the course of the hearing the tribunal heard evidence that the property had 2 bedrooms and a bathroom on the first floor and a bedroom, living room, kitchen and shower room on the ground floor.
14. No party requested an inspection and the tribunal did not consider that one was necessary.
15. The Tribunal heard evidence that the Respondent rented the property from Mrs Kakar from August 2018 at a rent of £1655 pcm. In about September 2017 the Respondent, who had previously been living in the property moved out. After that date the property was let to the following persons;

Room	Tenant	Period
Downstairs bedroom	Mr Peerally	1 May 2017 to now
Upstairs front bedroom	Ms Pomoni	1 October 2017 to 31 August 2018
	Ms Bucciarelli	5 September 2018 to 25 January 2019
Upstairs back bedroom	Ms Liddy	19 September 2017 to 2 April 2018
	Ms Rago	19 July 2018 to February 2019

There was some uncertainty in the oral evidence heard as to the exact dates when Ms Bucciarelli and Ms Rago left the property. The above dates are taken from the Notice of Intended Proceedings.

16. From 1 October 2017 all Houses in Multiple Occupation in the Royal Borough of Greenwich were required to be licensed under an Additional Licensing Scheme.

The tribunal's decision and reasons

17. The tribunal has had regard to the witness statements in the bundle, the submissions made at the hearing and the decision in *Irvine v Metcalfe* [2021] UKUT 60 (LC) (*'Irvine'*) referred to during the Hearing in reaching its decision. As appropriate, and where relevant to the tribunal's decision these are referred to in the reasons for the tribunal's decision.
18. The relevant legal provisions are set out in the Appendix to this decision

Control or management of an unlicensed HMO

19. Section 72(1) provides that a person commits an offence if he is a person having control of or managing an HMO which is required to be licensed but which is not so licensed. Section 72(4) provides that in proceedings against a person for an offence under Section 74(1) it is a defence that an application for a licence has been duly made and is still effective.
20. On the evidence before it, as submitted by Mr Dewji, the tribunal finds that the property met the standard test for a house in multiple occupation set out in section 254 of the 2004 Act. The property was sublet by Ms Li as 3 separate rooms. The tenants shared the kitchen, living room and shower room.
21. From 1 October 2017, when the Royal Borough of Greenwich designated the area in which the property is located as an Area for Additional Licensing of Houses in Multiple Occupation.
22. The tribunal finds that for so long as the property was occupied by three tenants in separate households it required an HMO licence. Paragraph 7 of the Schedule 14 to the 2004 Act provides that a licence was not required for so long as the property was occupied only by two persons who formed two households. No offence is committed while the property is occupied by two persons only.
23. Ms Li had a tenancy agreement with the freehold owner of the building Mrs Javinder Kakar. The agreement exhibited in the bundle ran from 12 August 2018 for a period of 6 months. The tribunal heard evidence from Ms Gravell that Mr Kakar, the son of Ms Li's landlord, has initially attempted to apply for a licence on 8 October 2018. Due to difficulties that he had with making the application on line the application was not submitted until 6 December 2018. The application was incomplete in that it did not include plans of the house

showing dimensions of the let rooms. The local housing authority ('LHA') require this information to be provided as part of any application to assess whether the rooms meet minimum standards and they do not regard any application as 'duly made' until they have received it. This mandatory information was received from Mr Kakar on 23 December 2019. The Applicant's additional statement of 13 April 2021 clarified that it was for this reason that the Applicant was amending the end date of the period in respect of which the RRO was sought from 14 January 2019 to 23 December 2018.

24. The tribunal had before it evidence that the Respondent had received rent from all of the tenants listed above in a range of £800 to £855 per week. The applicant submitted that the Respondent was a 'person managing' the property, as defined in section 263 of the 2004 Act.
25. Section 263(1) provides that a person who receives the rack rent of a property has control of it, and section 263(3) provides that a 'person managing' is the person, being the owner or lessee of the premises, who receives rents from the persons in occupation of a house in multiple occupation. The tribunal finds that the Respondent was both a person having control of and a person managing the property and that she committed an offence under section 72(1) of the 2004 Act between 14 January 2018 and 23 December 2018.
26. Section 72(5) of the 2004 Act provides that in proceedings against a person for an offence under section 72(1) it is a defence that that person had a reasonable excuse. There was a letter from A C Gilead dated 2 January 2020 in the bundle in which they submitted that Ms Li had a reasonable excuse in that she believed that her landlord had obtained an HMO licence. In support of this there were various text messages and e mails attached to the letter.
27. Mr Dewji submitted that it is for the respondent to prove on the balance of probability that she had a reasonable excuse and that she had not done so.
28. While not referred to by Mr Dewji the recent authorities *Thurrock Council v Palm View Estates* [2020] UKUT 0355 (LC) and *IR Management Services Limited v Salford City Council* [2020] UKUT 81 (LC) confirm that the burden of proving that she had a reasonable excuse lies with the Respondent and she must prove this on the balance of probability. The tribunal find that on the basis of the limited information before it, unsupported by any witness statement from the Respondent, and by her failure to attend the Hearing, that the Respondent has not proved that on the balance of probability she had a reasonable excuse.

The dates of the offence

29. It was accepted by the Applicant at the Hearing that during the period 1 October 2017 until 23 December 2018 there were two periods when the property was not occupied by three persons, from 3 April to 18 July 2018 (15 weeks) and from 1 September to 4 September 2018(4 days).

30. The decision in *Irvine* (paragraph 29) is authority for the proposition that any period during which no offence is committed cannot be included in the twelve month period by reference to which the rent repayment order is calculated.

Notice of Intended Proceedings

31. On the evidence before it, in particular that of Ms Gravell, the Tribunal find that the Applicant duly served Notice of Intended Proceedings on the Respondent and that it complied with the requirements of section 42 of the 2016 Act. On the evidence of Ms Gravell the Tribunal also find that the Applicant had regard to the representations made by the Applicant, despite the fact that they were not made within the twenty eight day period required by section 42(2)(c). They were not received centrally until 16 January 2020 and by the LHA until 20 January 2020 and were representations in response to the earlier Notice of Intended Proceedings of 29 October 2019 that had been reissued on 25 November 2019 to correct an incorrect postcode.

The maximum amount of any RRO.

32. The Applicant initially sought a RRO in the sum of £9,839.96, reduced to £9,218.21 when it applied to amend the end date of the period to 23 December 2018. Having accepted that the Respondent was not committing an offence during the two periods 3 April 2018 to 18 July 2018 and 1 September 2018 to 4 September 2018 the Applicant deducted a further £2,973.60 from this sum to claim the sum of £6,244.61.
33. Mr Dewji submitted that although the application referred to the relevant period of twelve months being from 14 January 2018 it is possible for the tribunal to adopt a non-continuous period of twelve months and he invited the tribunal to amend the date from which the quantum of the RRO might be calculated from 14 January 2018 to 1 October 2017. He recalculated the maximum amount of the order (using whole weeks and taking into account the lesser amount paid to Mr Peerally until 11 December 2017) to be the universal credit paid to Mr Peerally for a total of 47 weeks, namely the sum of £8,847.71. Mr Dewji submitted that the fact that the Notice of Intended Proceedings referred to the period in respect of which the order would be sought being 15 January 2018 to 14 January 2019 did not prevent the Tribunal from taking into account a period before 15 January 2018 during which the offence was committed, as long as the total sum sought did not exceed the amount of universal credit paid during a twelve month period.
34. By section 45 of the 2016 Act the tribunal may award an amount equivalent to the universal credit paid in respect of a period, not exceeding 12 months, during which the landlord was committing the offence. Following the decision in *Irvine* the tribunal can adopt a non-continuous period of 12 months. Under Rule 6(3)(c) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 the Tribunal can permit a party to amend a document.

35. When the Applicant requested leave to serve Ms Li with a statement that it would be seeking a lesser amount from her it submitted that there was no prejudice to Ms Li if leave was granted. Ms Gravell's second witness statement clarified that the request was being made because the LHA accepted that the licence application had in fact been duly completed earlier than it originally thought and it wished to correct the error. That meant that the LHA was seeking an RRO in respect of a shorter period than the maximum twelve months permitted and it did not seek to backdate the commencement of the twelve month period to before 14 January 2018.
36. The tribunal accepts Mr Dewji's submission that while the Notice of Intended Proceedings specified a start and end date to the period in respect of which the RRO is sought this is not a requirement of the Notice under section 42 of the 2016 Act, which only requires the period to be no more than twelve months during which the Respondent was committing the period. However it would be prejudicial to the Respondent if the tribunal backdated the start date of the period to 1 October 2017, particularly where Ms Li and her solicitors have not been served with notice of intention to do this, and were not present at the Hearing when the request was made.
37. The Tribunal therefore finds that the maximum amount of the RRO which it can award is £6,244.61, as set out in the revised calculation provided to the Tribunal during the Hearing by Ms Gravell, being £9,219.21 less universal credit of £2973.60 paid to Mr Peerally for the period 3 April 2018 to 18 July 2018 and of £108.12 paid to Mr Peerally for the period 1 September 2018 to 4 September 2018.

Relevant conduct of the landlord

38. Section 45(4) provides that in determining the amount of the RRO there are various factors which the Tribunal should take into account, namely the conduct of the landlord, the financial circumstances of the landlord and whether the landlord has at any time been convicted of an offence to which that Chapter of the 2016 Act applies.
39. Mr Dewji drew the Tribunal's attention to the evidence in the bundle that the Respondent had attempted to evict Mr Peerally, that she had failed to provide contact details, failed to keep the property in repair, failed to protect the tenants' deposits, that hazards existed at the property and to Ms Li having provided inaccurate information. He drew the Tribunal's attention to the absence of information as to the Respondent's financial means in the bundle, other than the LHA having established that she is a joint owner of a buy-to-let property, and that she had redacted the financial information provided to the Applicant. He accepted that she had not been convicted of an offence under the Chapter of the 2016 Act. Mr Dewji submitted that there was nothing in the conduct of the Respondent to justify reducing the maximum amount of the RRO available to the Tribunal to award.

40. The Tribunal accept Mr Dewji's submission that there is no evidence before it to justify a reduction in the amount of the RRO.

Fees

41. Mr Dewji submitted that if the Applicant was successful it should have its fees of £300 paid to the tribunal in connection with the application and hearing refunded. He also referred the tribunal to the lack of engagement by the Respondent and submitted that this had made the proceedings more difficult. The Tribunal do not find that success in the application automatically entitles the Applicant to the refund of its fees, however given the persistent failure by the Respondent to engage in the proceedings it is appropriate that the Respondent should reimburse the Applicant its fees of £300.

Name: Judge Pittaway

Date: 14 June 2021

Rights of appeal

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

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

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

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

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

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

Appendix of Relevant Legislation

Housing Act 2004

55 Licensing of HMOs to which this Part applies

- (1) This Part provides for HMOs to be licensed by local housing authorities where—
- (a) they are HMOs to which this Part applies (see subsection (2)), and
 - (b) they are required to be licensed under this Part (see section 61(1)).
- (2) This Part applies to the following HMOs in the case of each local housing authority—
- (a) any HMO in the authority's district which falls within any prescribed description of HMO, and
 - (b) if an area is for the time being designated by the authority under section 56 as subject to additional licensing, any HMO in that area which falls within any description of HMO specified in the designation.
- (3) The appropriate national authority may by order prescribe descriptions of HMOs for the purposes of subsection (2)(a).
- (4) The power conferred by subsection (3) may be exercised in such a way that this Part applies to all HMOs in the district of a local housing authority.

56 Designation of areas subject to additional licensing

- (1) A local housing authority may designate either -
- (a) the area of their district, or
 - (b) an area in their district,
- as subject to additional licensing in relation to a description of HMOs specified in the designation, if the requirements of this section are met.

61 Requirement for HMOs to be licensed

- (1) Every HMO to which this Part applies must be licensed under this Part unless—
- (a) a temporary exemption notice is in force in relation to it under section 62, or
 - (b) an interim or final management order is in force in relation to it under Chapter 1 of Part 4.

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.
- (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.

75 Other consequences of operating unlicensed HMOs: restriction on terminating tenancies

- (1) No section 21 notice may be given in relation to a shorthold tenancy of a part of an unlicensed HMO so long as it remains such an HMO.

254 Meaning of “house in multiple occupation”

- (1) For the purposes of this Act a building or a part of a building is a “house in multiple occupation” if—
 - (a) it meets the conditions in subsection (2) (“the standard test”);
- (2) A building or a part of a building meets the standard test if—
 - (a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;
 - (b) the living accommodation is occupied by persons who do not form a single household (see section 258);
 - (c) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);
 - (d) their occupation of the living accommodation constitutes the only use of that accommodation;
 - (e) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and
 - (f) two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.

263 Meaning of “person having control” and “person managing” etc.

(1) In this Act “person having control”, in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.

(2) In subsection (1) “rack-rent” means a rent which is not less than two-thirds of the full net annual value of the premises.

(3) In this Act “person managing” means, in relation to premises, 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; and

(ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as tenants or licensees of parts of the premises, or of the whole of the premises; or

(b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments;

and includes, where those rents or other payments are received through another person as agent or trustee, that other person.

(4) In its application to Part 1, subsection (3) has effect with the omission of paragraph (a)(ii).

(5) References in this Act to any person involved in the management of a house in multiple occupation or a house to which Part 3 applies (see section 79(2)) include references to the person managing it.

SCHEDULE 14 BUILDINGS WHICH ARE NOT HMOs FOR PURPOSES OF THIS ACT (EXCLUDING PART 1)

- 1(1) The following paragraphs list buildings which are not houses in multiple occupation for any purposes of this Act other than those of Part 1.
- 7 Any building which is occupied only by two persons who form two households.

Housing and Planning Act 2016

40 Introduction and key definitions

- (1) This Chapter confers power on the First-tier Tribunal to make a rent repayment order where a landlord and 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 to that landlord.

	<i>Act</i>	<i>section</i>	<i>general description of offence</i>
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

	<i>Act</i>	<i>section</i>	<i>general description of offence</i>
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).

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.
- (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.

42 Notice of intended proceedings

- (1) Before applying for a rent repayment order a local housing authority must give the landlord a notice of intended proceedings.
- (2) A notice of intended proceedings must—
- (a) inform the landlord that the authority is proposing to apply for a rent repayment order and explain why,
- (b) state the amount that the authority seeks to recover, and
- (c) invite the landlord to make representations within a period specified in the notice of not less than 28 days (“the notice period”).
- (3) The authority must consider any representations made during the notice period.
- (4) The authority must wait until the notice period has ended before applying for a rent repayment order.
- (5) A notice of intended proceedings may not be given after the end of the period of 12 months beginning with the day on which the landlord committed the offence to which it relates.

43 Making of a 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 had 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 with –
 - (b) section 45 (where the application is made by a local housing authority);

45 Amount of order: local housing authorities

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

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

<i>In the order is made on the ground that the landlord has committed</i>	<i>the amount must relate to universal credit paid in respect of</i>
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 the amount of universal credit that the landlord received (directly or indirectly) in respect of rent under the tenancy for that period.

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

- (a) the conduct of the landlord,
- (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.