

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL

Reference: RPT067/01/19

Properties: In the matter of an Application under Section 27 of the Housing (Wales) Act 2014, appeal against refusal of a Licence.

Tribunal: Trefor Lloyd (Legal Chair)
Roger Baynham (Surveyor Member)
Andrew Weeks (Surveyor Member sitting as Lay Member)

Applicant: Mr Sangat Singh

Respondent: Rent Smart Wales

Hearing Date: 11th July 2019 at the Welsh Tribunal's Office, Oak House, Cleppa Park, Newport.

Advocates: Mr Singh (Solicitor from Twinwood Law Practice Ltd for the Applicant)

Mr Richard Grigg (Solicitor for the Respondent)

Witnesses: Mr Sangat Singh (Applicant)
Mr Julian Love (Neighbourhood Services Officer within Cardiff Enforcement Team)
Ms Christina Brown (Senior Housing Surveyor, Rent Smart Wales)
Mr Huw Gronow (Vale of Glamorgan Neighbourhood Services Officer)

THE DECISION

1. The Tribunal unanimously finds that Mr Sangat Singh is not a fit and proper person to be licensed, and his appeal against the decision of Rent Smart Wales dated the 3rd January 2019 to refuse him a Licence under Part 1 of the Housing (Wales) Act 2014 to carry out letting work, and property management is dismissed.

REASONS FOR THE TRIBUNAL'S DECISION

Background

2. The Applicant owns 16 properties in Cardiff and the surrounding area. By way of a letter dated the 3rd January 2019 he was refused a Landlord Licence on the basis that he was not a fit and proper person to be so licensed under the Housing (Wales) Act 2014 ("the Act"). The Applicant has previous convictions that are now spent under the Rehabilitation of Offender's Act 1974 ("the ROA 1974"). The Appellant appeals against the decision on the basis (i) his convictions are spent; (ii) when required to do so he has attended to all repairing obligations imposed by virtue of respective improvement notices and other statutory requirements to carry out work on his properties and; (iii) is continuing to improve the condition of the properties. All the above pointing to the fact that he is a proper person to be granted a Licence.

Legal Framework

3. In Wales, under the Housing (Wales) Act 2014 ("the Act") it has been a requirement since 23 November 2016 for landlords of a dwelling subject to, or marketed or offered for let under a domestic tenancy, to be registered and licensed to carry out lettings and property management activities. Likewise, any person acting as agent on behalf of the landlord of a dwelling marketed, or offered for let under a domestic tenancy must be similarly licensed to carry out lettings and property management work.
4. Section 3 of the Act compelled the Welsh ministers to designate a licensing authority of the whole of Wales. The County Council of the City and County of Cardiff were duly designated and exercise their licensing powers and duties under the name "Rent Smart Wales" ("RSW").
5. Section 6 of the Act requires landlords to be licensed to carry out letting activities which are further described at Section 6(2) as follows:
 - (2) The things are:
 - (a) arranging or conducting viewings with prospective tenants;

- (b) gathering evidence for the purpose of establishing the suitability of prospective tenants (for example, by confirming character references, undertaking credit checks or interviewing a prospective tenant);
- (c) preparing, or arranging the preparation of a tenancy agreement;
- (d) preparing, or arranging the preparation of an inventory for the dwelling or schedule of condition for the dwelling.

Section 7 of the Act contains the requirement for landlords to be licensed to carry out property management activities described in subsection (2) as follows:

(2) The things are -

- (a) Collecting rent;
- (b) being the principal point of contact for the tenant in relation to matters arising under the tenancy;
- (c) making arrangements with a person to carry out repairs or maintenance;
- (d) making arrangements with a tenant or occupier of the dwelling to secure access to the dwelling for any purpose;
- (e) checking the contents or condition of the dwelling, or arranging for them to be checked;
- (f) serving notice to terminate a tenancy.

6. Under Section 18 of the Act the Licensing Authority, Rent Smart Wales may grant a licence to landlords to carry out letting and property management activities in accordance with Sections 6 and 7 of the Act. Section 19 contains details of mandatory requirements for the licence application. Before Rent Smart Wales grant a licence to an Applicant it must be satisfied that certain training requirements have been met, or will be met, and that the Applicant is a fit and proper person to be licensed.

7. Section 20 of the Act sets out the fit and proper person requirement:

- (1) In deciding whether a person is a fit and proper person to be licensed as required by Section 19(2)(a), a Licensing Authority must have regard to all matters it considers appropriate.
- (2) Among the matters to which the Licensing Authority must have regard is any evidence within subsections (3) to (5).
- (3) Evidence is within this subsection if it shows that the person has -

- (a) committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements).
- (b) practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic under Section 4 of the Equality Act 2010, or victimised another person contrary to that Act, in or in connection with the carrying on of any business, or
- (c) contravened any provision of the law relating to housing or landlord and tenant.

8. The Welsh Ministers must give guidance to Licensing Authorities about deciding whether a person is a fit and proper person to be licensed as required by Section 19(2)(a).

9. In October 2015 a document bearing the names of both Rent Smart Wales and the Welsh Government entitled 'Guidance on "The Fit and Proper Person" Test for Licensing of Landlords and Agents' ("the Guidance") was published. Paragraph 2 of the guidance states:

"This requirement is to ensure that those responsible for letting and managing a property in the private rented sector are of sufficient integrity and good character to be involved in the management of the property to which the licence relates. In addition they do not pose a risk to the welfare or safety of persons occupying the property".

10. Whilst the guidance at paragraph 5 states that the Licensing Authority must have regard to all matters it considers appropriate it adds:

"Any evidence considered should be relevant to the person's fitness to hold a licence and let and manage rental properties in Wales".

11. Paragraph 6 of the guidance makes it clear that in respect of criminal offences, Rent Smart Wales *"must have regard to"* any convictions unless the person is not obliged to disclose those convictions in accordance with the Rehabilitation of Offenders Act 1974 and associated statutory instruments. Further, paragraph 12 of the guidance states that:

"In deciding whether a conviction is relevant to a person being a fit and proper person for the purposes of a licence, the Licensing Authority may wish to consider the following factors:

- *the relevance of the conviction in relation to the Applicant's character and integrity to let or manage residential properties;*
- *the seriousness of the conviction, in terms of impact, or potential impact, upon the residents and the wider community, including if more than one conviction is involved, the cumulative impact;*
- *the length of time since any conviction; and*

- *any mitigating circumstances".*
12. An appeal against the decision of Rent Smart Wales may be made to the Tribunal under Section 27 of the Act. The Tribunal may confirm the decision of the Licensing Authority or alternatively direct the Authority to grant a licence on such terms as the Tribunal considers appropriate. Whilst the Act is silent upon this matter, we consider that the Tribunal's task is to look at the matter afresh, effectively by means of re-hearing the application, and that the Tribunal can take into account evidence put before it by either party that may not necessarily have been in the contemplation of each party at the time of the original application and decision to refuse the licence.

Preliminary Issues

13. This matter was to be heard on the 15th May 2019 at the then Tribunal Offices at Southgate House in Cardiff. On the morning of the hearing the solicitor for the Appellant made an Application to adjourn the hearing for the purposes of the Appellant obtaining his own expert surveyor's report to comment on the condition of the respective properties. That Application was acceded to resulting in the hearing being vacated. Directions were laid down providing for the Appellant to instruct his own RICS qualified surveyor to jointly inspect the properties with an officer from Cardiff Council's Housing Enforcement Team. The experts to then file and serve their expert reports together with a summary report prepared jointly indicating matters in agreement and matters in dispute.
14. Mr Arthur Bletchly (Chartered Valuation Surveyor) was appointed by the Appellant and he inspected the properties together with Mr Julian Love on behalf of the Respondent. Despite the hearing date being confirmed at the vacated hearing in May as the 10th July 2019 it latterly became apparent that one of the Respondent's witnesses Mr Huw Gronow would not be available until the 11th. As a result the Tribunal Office wrote to the Appellant and separately to his solicitor asking if they had availability for the 11th July. No response was received and as a consequence the Tribunal relisted the matter for the 11th July 2019
15. Mr Bletchly separately made contact with the Tribunal Office confirming that he would not be available on the 11th July 2019 and wished the matter to be vacated. He was informed that he was not a party to the proceedings. Subsequently Mr Bletchly

attended at the Tribunal Office and provided a further supplemental report dated the 10th July 2019.

16. On the afternoon of 10th July 2019 solicitors for the Appellant sought to adjourn the hearing on paper. The Procedural Chairman dealt with that by confirming that an Application could be made and considered at the commencement of the hearing. RSW indicated that it would strongly oppose any further adjournment.
17. At the commencement of the hearing it became apparent that the supplemental report of Mr Bletchly had been produced following a further inspection of the properties on the 8th July 2019 by himself and Mr Love. There were only two substantive matters in dispute between them, and RSW was agreeable to the supplemental report of Mr Bletchly being admitted as evidence albeit late in the day. Against that background Mr Singh on behalf of the Appellant made an Application to adjourn upon the basis that his client felt Mr Bletchly's evidence would assist the Tribunal in terms of being able to explain the report.
18. Mr Grigg for RSW opposed submitting that it would be disproportionate, he and another three staff were present at public expense. He failed to see the need to adduce oral evidence from Mr Bletchly as all matters near enough were agreed between him and Mr Love. The Application was very late in the day and in the light of no earlier request despite the Appellant and his solicitor having known of the change from the 10th to the 11th July 2019 for some time.
19. The Tribunal having considered the respective submissions declined to accede to the Application to adjourn. We felt it would be disproportionate in all the circumstances of the case. The initial report of Mr Bletchly to a great extent simply agrees with the findings of Mr Love and the supplemental report simply detailed works undertaken sometime between the 11th June 2019 (being the final date of the first set of inspections) and the 8th July 2019.
20. Mr Singh for the Applicant thereafter made a further Application to exclude all RSW witnesses from the hearing room and to only allow them into the hearing room at the time they were giving their own evidence. Mr Grigg again opposed this making the point that it is useful for the witnesses to hear all the evidence as at times some matters arise which can be clarified by other witnesses to assist the Tribunal. Again we

considered the matter and came to a view that it would not be desirable to exclude witnesses and simply only allow them when they are giving their own evidence. It was certainly in our view important to allow, for example, Ms Christina Brown to be present when Mr Singh was giving his evidence and being cross-examined as that would enable her to thereafter comment when, for example, asked if anything she had heard during the course of the live oral evidence would change her view in any way.

Witness Statement Evidence

21. The Tribunal considered the matter by way of a re-hearing based solely upon evidence available to it at the time. Accordingly, it was open to both parties to present evidence or submissions that had not been before the original decision maker.
22. On behalf of the Appellant we were provided with a Witness Statement dated the 12th May 2019 together with a number of exhibits plus the initial report of Mr Arthur Bletchly (Surveyor) dated the 13th June 2019 and his further supplemental report dated the 10th July 2019.
23. On behalf of RSW we received the following:
 - (1) A Witness Statement from Christina Brown dated the 28th March 2019 together with a Skeleton Argument and Appendices, a further Witness Statement from Christina Brown dated the 11th June 2019 together again with a number of exhibits including at page 7 a timeline.
 - (2) An initial Witness Statement from Mr Huw Gronow dated the 20th March 2019 and a further Statement dated the 6th June 2019 together with an unsigned and undated (received at the Tribunal Office on the 14th June 2019) report from Mr Julian Love where he recounts the findings of inspections to the properties as detailed on page 4 of Mr Bletchly's first report on the 5th, 6th and 11th June 2019.
24. By way of a letter dated the 3rd January 2019 RSW informed the Appellant that it was not satisfied that he met the requirements to hold a Licence because he had not been deemed to be a "fit and proper person". The letter makes reference to Section 19 and 20 of the 2014 Act, the Guidance on being a fit and proper person and to (at that stage) an unspent convictions The letter stated that:

"Of significance in reaching this decision was:

- (1) The nature of the conviction and that the offence is of a type specifically included in the Act as being material considerations for the "fit and proper" test to namely having contravened any provision of the law relating to housing or landlord and tenant;*
- (2) The sentence imposed for the offence;*
- (3) That the conviction is recent, determined on the 25th April 2018 and remains unspent;*
- (4) Previous and ongoing housing non-compliance;*
- (5) The mitigation provided, in a formal interview was insufficient to draw any alternative conclusion".*

In the light of this information, the Licensing Authority cannot conclude that you are sufficiently responsible to let and manage property in the private rented sector to which a Licence under Part 1 of the Act would relate.

25. The Appellant's application to this Tribunal dated the 14th January 2019 in box 9 under the heading "Additional Information" sets out the following:

"I believe the Tribunal should allow the appeal on the basis that I have not been given any precise reasons why I do not meet the criteria to be granted a licence. I am appealing a recent conviction to the Crown Court for which Rent Smart Wales are relying on. A charge on this conviction is for not being registered for Rent Smart Wales is incorrect the application was received on the 29th January 2019.

Attached to the Application was a letter addressed to Dear Sir/Madam dated 26th January 2019 which (in summary) sets out the following:

- (1) An assertion that the Rent Smart Wales' application was registered on the 16th November 2016.*
- (2) He has been a private landlord in Wales for over 20 years.*

(3) *He owns and lets 12 self-contained houses, flats and apartments.*

(4) *The 2018 conviction related to only 1 house".*

26. The document then goes on to give details in relation to responses to the 19 convictions. At the hearing the solicitor for the Appellant accepted rightly so that the convictions stood. They had not been appealed, and therefore no further discussion surrounded the specific information and background to the 19 convictions.

27. In his subsequent Witness Statement Mr Singh sets out that he manages 12 properties converted into 16 self-contained flats. He has tried to manage his business to the best of his ability, and realises all of his responsibilities and obligations as a landlord especially the health and safety of his tenants.

28. He is committed to complying with all the rules and regulations as applicable and during the last 20 years having received several improvement notices. He stated *"All the works required by these notices have been completed without any challenge and within the given timescale"*.

29. The remainder of his Witness Statement inter alia confirmed he would visit the properties *"Every month now"*. All work undertaken to his properties was to a good standard. He raised a complaint about Mr Huw Gronow acting unfairly and asserted that he (Mr Singh) was being bullied (paragraph 35, page 5 of his Witness Statement).

30. In relation to the issue of convictions he says at paragraph 36:

"With respect to convictions I have pleaded guilty to most of the offences. I was convicted on the 20th April 2018.

31. Then at paragraph 37:

"I have learnt a lot from my previous convictions and I have made a property plan to manage my properties. The reasons for my previous convictions was also that I was unaware of some of the provisions. It was not a deliberate breach and neither a continuing breach. I have learnt my lesson and will never repeat the mistakes".

32. He asserts that by reference to emails between him and Mr Gronow he has always kept in touch and updated him on progress. Mr Singh concluded in his Statement by saying:

"I am a fit and proper person to be granted a licence. I accept that whilst I breached the law in the circumstances described I dealt with the matters raised by the improvement notice promptly and properly and therefore demonstrating that I take my obligations under the law seriously and demonstrating my fitness to hold such a licence. I would also like point that these breaches (unacceptable as they plainly were) related to only one building (sic) and no compliants has been made in respect of others I manage again showing that I am a fit and proper person".

33. RSW's evidence in writing consists of a Skeleton Argument prepared by Ms Christina Brown which makes reference to Section 20 of the Act, Section 6 of the Guidance which requires RSW to have regard to any unspent convictions and to paragraph 12 of the Guidance which states that:

"In deciding whether a conviction is relevant to a person being a fit and proper person for the purposes of a licence, the Licensing Authority may wish to consider the following factors:

- *The relevance of the conviction in relation to the Applicant's character, integrity to let or manage residential properties.*
- *The seriousness of the conviction, in terms of impact, or potential impact, upon the residents and the wider community, including if more than one conviction is involved the cumulative impact; the length of time since any conviction; and*
- *Any mitigation circumstances".*

34. RSW asserts that:

"Mr Singh has a recent conviction for 19 housing offences (unspent at the time of RSW's determination) by now spent, a history of housing prosecutions that are spent and a history of non-compliance with housing registration and poor property standards showing a pattern, repeated management failures and lack of care towards his tenants".

35. It refers to that Act and Guidance specifying offences that must be considered and that any Housing offences as specifically mentioned. The Statement also (on page 18 and 19 second paragraph) states the following:

"There are additional previous recent repeated and ongoing risks to the health and safety to tenants experiences as a result of a pattern of management failures. Of significance was the fact that Mr Singh was informed that the fire detection system within his property 54 System Street was inefficient on the 10th October 2017 and Mr Singh only carried out the necessary works required on the 26th February 2019".

Evidence

36. At the hearing in evidence in chief Mr Singh made reference to the email correspondence with Mr Gronow referring to pages 23 to 43 of his Statement and also pages 43-133. He referred to paragraph 26 of his Statement and the complaint made following Mr Gronow's visit to 54 System Street and his feeling of being victimised and bullied due to his allegation of unprofessional conduct on the part of Mr Gronow.
37. In relation to the reference at page 17, paragraph 125 of the report of Mr Julian Love to the concern with time taken to complete work in respect of the first floor flat in 54 System Street, Mr Singh maintained he advised on progress and produced a list of work that had been undertaken. He made the same comment in respect of number 29 Piercefield Place.
38. When asked about his convictions he said they were a matter of fact, he had learnt from them and adapted a new structure. He had employed/instructed a building control surveyor, had a proper log to record visits and had engaged a new builder and was intent upon avoiding further improvement notices. He said he had a property plan, was upgrading properties and installed fires, kitchens, some of the kitchens had not been completed as he was waiting for tiling to be done.
39. He was cross-examined by Mr Grigg and put to him that he had not been bullied by Mr Gronow, but Mr Gronow had acted professionally at all times in respect of which he disagreed.

40. He accepted the 19 convictions were correct and it was put to him that he could not have done the work, or he would not have been convicted, to which Mr Singh replied he was advised to plead guilty.
41. When he was asked what he had learned from his previous convictions the answer was he had adopted a policy to make sure things would be correct. It was further put to him that he only addressed matters after being convicted, to which Mr Singh replied that he had done all the work.
42. He was then cross-examined in relation to the report prepared by Mr Love as approved in the main by Mr Bletchly. He initially accepted the contents of the report but maintained that he had done all the work.
43. He was cross-examined in relation to the provision of a fire alarm system in relation to 202 Cowbridge Road East (page 296 of the Appendices to Mr Gronow's Witness Statement which is recorded at page 8 of Mr Love's report) as having not been completed by way of an example that all work had not been done. He replied that the work was done and the certificate amended "two days ago". When the issue of a test was raised and he was questioned why it was not completed and inspected, there was no answer.
44. In relation to item 9 on page 196 being "carry out work to ensure the cistern to the WC is secure..." he maintained that he had initially secured it and it had subsequently become loose, or the floorboards had become rotten. His case being that he had initially done it but it had become defective again. After some lengthy cross-examination he eventually accepted that the content of the report and the further report from Mr Bletchly were correct, and there were concerns raised in relation to every property. He would not however accept that a lot of items had not been attended to, maintaining most had, and that he had latterly during the period from the initial joint inspections (last date being the 11th June 2019 to the further joint inspection on the 8th July 2019) carried out a lot of work.
45. When cross-examined about his previous convictions and the complaint about Mr Gronow it was put to him that he had had contact with Mr Gronow for about 20 years, and had only recently made a complaint, therefore the last 19 years must have been fine, he answered that there were issues in terms of 25 Comet Street. He was

prosecuted in relation to a prohibition notice that was contravened. Mr Singh maintained that at that stage the property was in the hands of his mortgage providers/bank and out of his control a matter that was clarified by Mr Gronow, who stated that enquiries revealed the mortgage provider did not enforce the Order, therefore Mr Singh was still in possession.

46. Questioning then turned to 54 System Street and the 19 convictions. The question put to him being if as he had set out in his evidence in chief, he had learned from all previous convictions, how did he end up with 19 in April 2018?. In answer to this Mr Singh said he learnt to manage improvement notices more carefully, and when asked why only now answered "*they were different issues*". It was put to him that all his properties were in poor condition to which he disagreed, and in terms of some of the issues he maintained they were maintenance matters.
47. When it was suggested to him that due to the quality of the workmanship, the reports now before the Tribunal clearly indicated he would have to return to do the work in a proper manner, he disagreed saying that some of the reasons would be ongoing maintenance. He maintained that as 41, Windsor Road, Penarth had been signed off, the condition of that property was satisfactory. On that basis he was further cross-examined as it was clear from paragraph 207, page 33 of Mr Love's report the notice was signed off as completed, based upon information provided by the Applicant himself and his tenant, and not as a result of a final visit and therefore the work was still outstanding. He was unable to provide any answer other than to maintain again that the work had been completed.
48. When he was asked by the Tribunal as to whether he was confused between maintenance work and work required by the Statutory Orders, he agreed he might have been confused, but then also made the point that he visited the properties every one to three months whereas he was previously visiting his properties on a four to six month basis and depended on information from the tenants. He did not agree that the evidence pointed towards a substantial amount of work not being undertaken, maintaining again that all works had been complied with and anything else was additional issues introduced at a later stage. He agreed that in relation to his properties, he maintained he had 12 in number, sub-divided resulting in 16 apartments Notices had been served in relation to 9 of those over the period.

49. He also confirmed that at times he had used an agent, being Hafren, to do viewings in relation to lettings etc.
50. We then heard from Mr Julian Love. In chief he confirmed that in essence he agreed with Mr Bletchly in terms of most matters but disagreed with Mr Singh's evidence that *"All work had been done"* stating clearly that there was more to be done. Under cross-examination he was asked in relation to the upgrading of meters that there were two different views, what was proposed by the Respondent was not mandatory. In reply Mr Love said that he would always opt for the best practice. He acknowledged that some work had been done since his initial visit in June of 2019, but again made the point when questioned in relation to a number of properties, that there was still outstanding works. For example in respect of 27, Eclipse Street he mentioned that the fire door had been fully fitted, but there was no self-closer. He made the point that a delay was of concern, but accepted that if there was a poor relationship between the tenant and landlord, that in itself could cause delays, but was of the opinion that it was evident from the paperwork that issues which were outstanding in 2017 were still outstanding in 2019. In re-examination he again in answer to a question from Mr Grigg said that *"Lots of items not completed and some were done to a poor standard resulting in additional work being required"*.
51. When asked by the Tribunal as to his general impression of the flats he confirmed that his view was they were poor quality accommodation when he initially visited in June, but by his second visit on the 8th July some matters had been improved and he would consider some of them to be fair, although the workmanship in respect of some items had a realistic chance of failing, resulting in work having to be redone again.
52. He also described to the Tribunal the statutory process in relation to notices being as follows:
- (1) There would firstly be a discussion. If no progress was made and improvements as a result of that discussion an informal notice would be served.
 - (2) If the informal notice was not attended to there would then be notification of an inspection and a formal notice issued. That notice would have timescales and would trigger visits to monitor progress. If progress was being, made albeit not

on all fours with the timescale, the relevant officer had discretion to extend timescales if progress was being made.

(3) If no progress was being made, or if it was very slow, a decision and reasoned judgement as to whether or not to prosecute would need to be invoked.

(4) In some instances if the situation was so bad the relevant officer would recommend immediate prosecution.

53. We then heard from Ms Christina Brown who confirmed the accuracy of her two Witness Statements. In cross-examination she confirmed that she had only visited 27, Eclipse Street two days before the initial May hearing date. She confirmed that the Licence had to be a five year Licence. There was no discretion for a shorter period and when asked specifically as to whether or not she would consider conditions her answer was that she, based upon all the evidence, was not confident that Mr Singh would comply with any condition. She placed minor weight on the historical convictions but of concern was the ongoing pattern, most recent conviction (although spent) and the number of notices and steps that had to be taken in order to get to the current position, which she accepted was an improvement on the previous position. She said in her view it was only the pressure from the Tribunal that had now resulted in the Applicant carrying out some more work.

54. When asked about applying discretion it was put to her that the Applicant had learnt his lesson she said that in her view he was not remorseful, and no lessons had been learnt. He did not deal with matters in a timely or urgent manner. When it was specifically put to her that there was evidence of clear action on the part of the Applicant and that Mr Love's report showed work had been done since between his June and July visits her answer was that the now recent works did not outweigh the historical pattern that had emerged over the years of a reluctance to act in a timely and/or urgent manner to deal with significant defects to the properties.

55. When asked by the Tribunal whether anything she had heard in evidence from the Applicant during the hearing changed her view, she said that whilst she had taken into account the more recent works, she had not changed her opinion. Her view was that she could not be confident that the Applicant would in the future attend to works as a matter of urgency, based upon the fact that relevant authorities had to have been

engaged with him for a lengthy period, she again reiterated that in her view it was only after the Tribunal's involvement that any actual progress was made.

56. We then heard from Mr Huw Gronow. A short adjournment was permitted as it became clear that Mr Gronow had not read the original or supplemental reports provided by Mr Bletchly, and the Applicant's advocate Mr Singh wished to ask him questions in relation to those matters.
57. Thereafter, in cross-examination in respect of the first report of Mr Love (as agreed by Mr Bletchly) it was put to him that most work had been done to which he replied "*some work but not all had been done*". He agreed progress appeared to have been made based upon content of the reports but that he had not re-inspected the properties himself. It was then put to him that he was prejudicial towards the Applicant based upon the Applicant's age, to which Mr Gronow made the point in terms of age that he was older than the Applicant, and disagreed strongly that he was prejudicial in any manner. He recounted when asked in relation to the process by which notices came about that he would initially visit a property, if a complaint had been raised and suggest a timescale for improvement. If there was no progress he would then look towards serving a formal notice for an inspection, but in some instances if the situation was serious would simply proceed initially to serving notices. In terms of houses in multiple occupation if the situation was so bad (he gave an explanation of an absence of a fire alarm or fire doors) prosecution would be the first step.
58. It was put to him that in many instances the Applicant had faced additional works later on, which were not included within the initial notices. He answered that it would be dependent on the circumstances, and in his view in terms of the Applicant's properties some were as a result of the quality of workmanship in the attempts to rectify the initial defects. When he was asked if in the light of the findings of Mr Love and Mr Bletchly that his opinion was changed from that contained within his Witness Statement he said that in his view the additional work had come about due to the pressure of the Tribunal. One of the last questions from the Applicant's Advocate related to putting to Mr Gronow that he had discussed the Applicant's affairs with tenants and neighbours. Mr Gronow answered by saying that he had only informed a tenant that the Applicant had been prosecuted and that was a matter of public record.

59. We then heard submissions firstly from Mr Grigg for the Respondent. He made the point that Section 26(1) of the Housing Act 2014 only provides for a five year Licence unlike the houses in multiple occupation legislation which can allow for shorter Licences. To that end the authority advanced on behalf of the Applicant being the case of **London Borough of Waltham Forest v David Reid [2017]UKUT0396(LC)** could be distinguished.
60. We as a Tribunal were to look at the matter afresh. He recounted the test under Section 20 and the Guidance (as referred to above) and made the point that the surveyors' evidence being that of Mr Love and Mr Bletchly in the main were agreed. He asked us to accept that the evidence of Christina Brown and Huw Gronow was straight forward and consistent, whereas the evidence of the Applicant at times was evasive. The Applicant denied matters or blamed others. He repeatedly said all works were done whereas clearly they were not. As a result Mr Grigg invited us to where there was a disagreement as to evidence to prefer the evidence given on behalf of the Respondent. He made the point the Applicant had to accept he had been served with the notices and there was a long delay before works were undertaken, and a number that were attempted had not been done well. It was not a positive part of the Applicant's case to say work had been done, but done late or not fully done. All the properties were of a poor standard. He referred us to the extensive chronology at page 7 of the Appendix to Christina Brown's Statement which he maintained showed a pattern of behaviour. He accepted the convictions were all now spent, but relied upon the appeal decision in the case of **Rhode [RPT 0047/ 07/18]** making the point that the historic past convictions on their own would carry no weight, but in this instance bearing in mind the number of notices served and convictions it was clear there was a pattern and the Applicant was not learning from his past mistakes. It was not a case of one prohibition notice, notices were served on 9 properties and the photographs in the bundle provided a feel for the poor standard. In all the circumstances we were invited to find that the Applicant was not a fit and proper person as the only proper conclusion from all the evidence.
61. When asked by the Tribunal in relation to conditions Mr Grigg reiterated the point that the Licence had to be a five year Licence, and as per the evidence of Christina Brown nothing had changed, and the Respondent would not be confident that the Applicant could and would adhere with any of the conditions bearing in mind the 20 years of notices and prosecution.

62. Finally we heard from the Applicant's Advocate Mr Singh. He invited us to accept the Applicant's evidence, and that he was a credible witness. He had improved his properties as reflected in the report of Mr Love and Mr Bletchly.
63. He had learnt his lesson, he admitted his mistakes in terms of his historical failings. Mr Gronow for the Respondent accepted improvements had been made to the houses. It was a contentious issue in relation to the complaint made against Mr Gronow and there was a long history of animosity. The Applicant had pleaded guilty in April 2018 in the Magistrates' Court, but those convictions were now spent. He invited us to apply the discretion submitting that Christina Brown had failed to apply the discretion at the time of making the initial decision, and invited us to find that the Applicant as a result of accepting the reports of Mr Love and Mr Bletchly had carried out further work.
64. Mr Singh then started to make submissions in relation to the Equality Act and disability. In relation to this it was pointed out to him that no evidence at all had been adduced in relation to any disability the Applicant was suffering from, and as such it was not relevant to bring up such a matter in closing submissions. Mr Singh accepted this position and thereafter carried on with his submissions culminating in stating that the Applicant would accept any reasonable condition and would abide by those conditions if granted a Licence. He would put in place a plan in terms of maintenance and upgrading of the properties. Although there had been failings, the Applicant had demonstrated a willingness to work with the relevant Authorities by virtue of the email trails, and text messages between him and Mr Gronow.
65. At the end of Mr Singh's submissions the Tribunal allowed Mr Grigg to reply in relation to some of the legal arguments advanced by Mr Singh. In reply Mr Grigg made the point that in terms of any Equality Act argument there was no evidence of any disability. Mr Gronow when cross-examined had made it clear he was not aware of any disability, and neither was Rent Smart Wales. No medical evidence had been adduced in relation to that aspect of the Applicant's case.

Decision

66. The Tribunal having considered carefully all the written evidence including all Exhibits, the evidence presented at the hearing and the submissions unanimously find that in the circumstances of this case Mr Singh is not a fit and proper person to be

licensed, and as such his appeal against the decision of Rent Smart Wales to refuse a Licence under Part 1 of the Housing (Wales) Act 2014 to carry out letting work and property management work is dismissed.

67. In coming to the above conclusion we considered carefully all the written and oral evidence. We found the Applicant Mr Singh's answers in cross examination and in answering the Tribunal's questions at times to be vague and evasive. He, whilst accepting the surveyors' reports on more than one instance, still maintained that all the work that was required to the relevant properties had been done. That we find as a fact clearly cannot have been the case upon consideration of the evidence of Mr Love and Mr Bletchly, and also the concession made by Mr Singh that he accepted the surveyors' reports. That concession in itself we find to be a bizarre stance in the light of his continued view that all the work had been done.
68. We accept the submissions made by Mr Grigg on behalf of the Respondent that the Applicant at times sought to blame others, for example suggesting that some of the defects were caused by tenants and/or were maintenance issues. We find as a fact that could not have been the case and accept the evidence of Mr Love in terms of his answers in cross-examination relating to the fact that defects which were identified in 2017 were still apparent in 2019. It was clear to the Tribunal that for whatever reason the Applicant only chooses to engage with the relevant statutory body when he really has to. That is clear from the fact that nine separate notices have had to be served upon him and although he faced prosecution and was convicted, he still did not attend to outstanding items, some of which as was evidenced by way of comparison between the initial reports of Mr Love and Mr Bletchly and the supplemental report of Mr Bletchly (and accepted by Mr Love) were still outstanding as at the date of the hearing.
69. We find as a fact that the Applicant did not demonstrate any remorse. The answer he gave when cross-examined by Mr Grigg as to what he had learned from his earlier convictions, and why in the light of those convictions he was still convicted in April 2018 that they were for different matters, is telling as to his attitude towards any statutory process and notice.
70. Whilst we accept the Applicant's convictions are spent, in addition to those convictions there is a long history of involvement by various Local Authorities and also irrespective of those convictions the issuing of a number of statutory notices. All this in the

Tribunal's view points towards the Applicant's unwillingness to engage with the proper process, and despite having been offered an opportunity to address matters informally in the first instance a clear refusal, and reluctance to do so.

71. Given the Tribunal's aforementioned findings we do not consider that this is a case where conditions imposed upon the Licence are appropriate as we are of the view that, bearing in mind the Applicant's extensive track record of non-compliance with notices, on the balance of probabilities, it is unlikely that he would comply with any condition.

72. In the circumstances for the reasons as aforesaid this appeal is dismissed.

Dated this 2nd day of September 2019

A handwritten signature in black ink, appearing to read 'M. H. H. H.', written over a horizontal line.

CHAIRMAN