



Case Management Discussion Note of the First-tier Tribunal for Scotland (Housing and Property Chamber) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/25/3986

Re: Property at 26 Nithsdale Drive, Flat 1/1, Glasgow, G41 2PN (“the Property”)

Parties:

Mr Nassar Yousuf and Mr Saleem Yousuf, both of 268 Tantallon Road, Glasgow, G41 3JP (“the Applicant”) per their representatives, Sinclair Services (“the Applicants’ Representatives”)

Mr Colin Lennox Wylie, Flat 1/1, 26 Nithsdale Drive, Glasgow, G41 2PN (“the Respondent”) Govanhill Law Centre, Samaritan House, 79, Coplaw Street, Glasgow, G42 7JG (“the Respondent’s Agents”)

Tribunal Members:

Karen Moore (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory process having been carried out and the Ground being evidenced, it is reasonable to grant the Order sought.

Background

1. By application received between 17 September and 2 November 2025 (“the Application”) the Applicants applied to the Tribunal for an Order for eviction

and possession of the Property based on Ground 1 of Schedule 3 to the 2016 Act.

2. The Application comprised the following:

- i) copy Notice to Leave in terms of Ground 1 of Schedule 3 to the Act with proof of issue to the Respondent;
- ii) copy of tenancy agreement;
- iii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Glasgow City Council being the relevant local authority with proof of issue and
- iv) sales agreement with an estate agent as evidence of intention to sell as required by the Act.

3. The Application narrated a history of issues with the tenancy in support of the Applicants' reasons for selling the Property.

4. The Application was accepted by the Tribunal Chamber and a Case Management Discussion ("CMD") was fixed for 15 May 2026 at 10.00 by telephone conference and intimated to the Parties.

5. Prior to the CMD, the Respondent's Agents, on his behalf, submitted written representations setting out a preliminary plea in respect of the evidence in support of the Ground, and, stating that the Application is opposed in respect of reasonableness, with submissions in support of that position.

CMD

6. The CMD took place on 15 May 2026 at 10.00 by telephone. The Applicants were both present and were not represented. The Respondent was not present and was represented by Ms. McBride of the Respondent's Agents. With regard to the preliminary matters in respect of evidencing the Ground, Ms. McBride confirmed that she is now satisfied that the Ground is sufficiently evidenced. The outcome of the CMD was that a Hearing of evidence was fixed and the following Direction was issued in respect of the evidence likely to be required:-

*“With regard to whether or not it is reasonable for the Tribunal to grant the Order in respect of the facts of Ground 1, **the Applicants** are directed to submit documentary evidence in respect of :*

- i) their portfolio of properties , if any,*
- ii) the impact which not granting the Order will have on them and their immediate family members in respect of their health;*
- iii) the financial impact which not granting the Order will have on them and their immediate family members;*
- iv) any other matters which they consider the Tribunal should have regard to in reaching its decision.*

*With regard to whether or not it is reasonable for the Tribunal to grant the Order in respect of the facts of Ground 1, **the Respondent** is required to submit any documentary evidence on which he intends to rely in respect of:*

- i) His personal circumstances and those of any members of his family who reside with him at the Property;*
- ii) The impact which granting the Order will have on him and, if relevant, any members of his family who reside with him at the Property;*
- iii) The likelihood of suitable alternative accommodation being available to him and, if relevant, any members of his family who reside with him at the Property and*
- iv) any other matters which he considers the Tribunal should have regard to in reaching its decision”*

7. The Parties complied with the Direction. In addition, both Parties submitted further written representations prior to the Hearing.

Hearing

8. A Hearing of evidence in respect of whether or not is it reasonable for the Tribunal to issue an eviction order on account of the facts of the Ground took place on 1 September 2026 at 10.00 by Webex video conferencing. The Applicants were both present and were represented by Mr. Aiton of the Applicant’s Representatives. The Respondent was present and was represented by Ms. McBride of the Respondent’s Agents.

Applicants’ Evidence

9. Mr. Saleem Yousuf gave evidence for the Applicants. His evidence focused on the aspects of the tenancy set out in the written submissions lodged with the Tribunal on the Applicant's behalf.

10. With reference to the submissions and supporting productions, Mr. Yousuf stated that the Respondent, Mr. Wylie's, behaviour was disruptive and problematic as he refused to co-operate with the Applicants in respect of inspections of the Property, including inspections for safety checks, and in carrying out repairs. He stated that Mr. Wylie used threatening and abusive language and, on one occasion, closed the front door on Mr. Yousuf's foot. Mr. Yousuf referred to a recent incident at the end of May and beginning of June 2026, where Mr. Wylie reported a water leak to the downstairs flat. On visiting the Property, Mr. Yousuf found that floorboards had been taken up and a wrench was lying on the hall floor.

11. Mr. Yousuf stated that this is one of many water leaks at the Property caused by the Mr. Wylie's negligence. He stated that a sink had been deliberately choked causing water leaks. He referred to deliberate damage caused Mr. Wylie and described doors in the Property as "jacked in", the kitchen as "wrecked" and the carpets ruined by animal waste and frayed. He stated that Mr. Wylie had tampered with the boilers, including a new boiler, causing water leaks and had refused to co-operate with an insurance loss adjustor dealing with a claim for the flat below. Mr. Yousuf stated that he had obtained a quote in the region of £18,000.00 to bring the Property up to a satisfactory standard. Mr. Yousuf's position was that Mr. Wylie refused entry to tradesmen and shouted and swore at both tradesmen and neighbours. He referred to a Right of Entry Order which had to be obtained from the tribunal chamber in December 2025 to access the Property. Mr. Yousuf stressed that Mr. Wylie's failure to allow access for maintenance, safety and service works has been a consistent and recurring during the tenancy and that his failure example, to allow gas and boiler service checks is of a major concern to the Applicants as landlords as the safety of the Property and the tenement as a whole is at risk. Mr. Yousuf's view was that the water leaks have likely caused structural damage to the tenement building.

12. With reference to correspondence from Ms. P. Miller of Glasgow City Council's anti-social behaviour investigation team, Mr. Yousuf stated that Mr. Wylie had been warned regarding noise nuisance at the Property. He noted that a fridge had been left in the common close causing the property factor to take action and that bikes were left in the close and appeared to be being repaired there. Mr. Yousuf said that he had been threatened by Mr. Wylie saying "don't get wide with me" to him and that his adult autistic son had been asked by Mr. Wylie to explain his presence on the street outside the Property.

13. With regard to the circumstances of the Applicants and the family who reside with them, Mr. Yousuf explained that their family is an extended family of 9 members and we currently living in very cramped and an unsuitable first floor flat. He explained that there are three families: his widowed 86 year old mother who has numerous health conditions and who owns the flat, his younger brother, his brother's wife and two primary school age children and himself, his own wife and his two adult sons, the older of whom has autistic and requires support. Mr. Yousuf stated that the flat has only one toilet facility, which is inappropriate and unsuitable for both his autistic son and elderly mother.

14. Mr. Yousuf stated that the reason for the selling the Property was to purchase suitable separate accommodations for the three family units. He stated that the intention was that his mother would sell the family flat and the sale proceeds of both properties would allow the family to purchase more suitable family homes.

15. In cross-examination by Ms. McBride, Mr Yousuf maintained his position throughout.

16. With regard to the condition of the Property, Mr Yousuf maintained that Mr. Wylie deliberately damaged the Property or caused damage to the Property by refusing access for maintenance. Mr Yousuf accepted that he had not witnessed Mr. Wylie damage the Property nor did he have any direct evidence of Mr. Wylie doing so. He also accepted that no refurbishment work had been

carried out during Mr. Wylie's tenancy. Mr Yousuf maintained that Mr. Wylie refused or obstructed access to the Property but accepted that he that were occasions when access was gained both by him and by tradesmen. He was adamant that the Applicants would have to carry out considerable repair work before being able to sell the Property. With regard to the anti-social behaviour, Mr. Yousuf accepted that Ms. Miller's visit was on one occasion only in February 2025 and that no further action was taken or proposed by the local authority. With regard to the circumstances of the Applicants and their family, Mr. Yousuf accepted that, although, his family could apply for local authority assistance in a variety of family units, none had done so or intended to do so.

17. In answer to questions from the Tribunal, Mr. Yousuf stated the Applicants had four rental properties in their own names and four in the name of a company, some of which are mortgaged, with the Property being mortgage free. He stated that he and his brother are also in employment and explained that their ages make it difficult to obtain a mortgage and so that is not an option.

18. Mr. Yousuf stated that the Applicants would take a reasonable approach in accommodating Mr. Wylie's removal from the Property but emphasised that they had a pressing need to sell.

Respondent's Evidence

19. Mr. Wylie's evidence was that he has lived in the Property since October 2020 and lives alone. He stated that his health is quite bad and he has had three recent operations on his shoulder and spine. Mr. Wylie stated that he suffers from COPD and takes multiple medications. He stated he finds it difficult to get up and down the stairs to the Property and to stand in the kitchen doing things like washing the dishes and making meals. His evidence was that he lives alone and suffers with his mental health which has been made worse because of the stress of the current action. His position was that he has applied to Southside and Govanhill Housing Associations when a previous eviction action was raised. He stated that has not had any offers of housing as he is not yet homeless. Mr Wylie stated that he cannot afford any other private lets in the area as he does not have the income for the rent being asked nor for a tenancy

deposit. He explained that Glasgow City Council had closed his application for housing and explained that this was because he had not been made homeless in respect of the previous action.

20. Mr. Wylie stated that his fear is that, if the eviction order is granted, he will have nowhere to live. He explained that he has two cats aged 13 years and 4 years who would have to be rehomed. Mr. Wylie stated that, if evicted, he understands that he is likely to be placed in a homeless hostel as he could not have his cats, who are like family to him, with him.

21. Mr. Wylie disputed the anti-social behaviour allegation and said that these are not true. He accepted that Ms. Miller of Glasgow City Council had visited the Property and had made a report but denied that he had received a warning or that any action was taken. His view was that the neighbours had made untrue allegations.

22. With regard to repairs, Mr. Wylie denied having caused any damage and said that he reported all of the leaks from the boiler to Mr. Yousuf. He stated that the plumber who called out to fix the boiler had told him that there was low pressure and that a part was needed, but the plumber did not return. Mr. Wylie said that it was the plumber who had lifted the floorboards and did not come back to replace them. With regard to the wrench on the floor, Mr. Wylie explained that his son who had been fixing a bike had left this. With regard to the choked sink, Mr. Wylie said that the issue is that there is a tree growing out of the rhone pipe at the back of the Property and this is causing the blockage.

23. Mr. Wylie denied causing any leaks and tampering with the boiler. He said that he only became aware of a leak when the downstairs neighbour reported it to him and he in turn reported this to Mr. Yousuf. Mr. Wylie denied that he refused access to Mr. Yousuf and explained that Mr. Yousuf would appear with his sons without giving notice. Mr. Wylie denied being aggressive or threatening and stated that it was Mr. Yousuf who would shout "when are you going to leave?" and "it's taking too long to get this flat back". Mr. Wylie

stated that he found both Mr. Yousuf and Mr. Yousuf's sons to be intimidating and that they tried to push and force their way into the Property.

24. Mr. Wylie said the fact that a plumber and other tradesmen had attended at the Property showed that he was not refusing access. He stated that he's lived in the Property for about 9 years and it has always been in the same condition. He said it did not have new carpets and needed painting at the time he took over the tenancy and that no refurbishments have been done

25. In cross-examination by Mr. Aiton, Mr Wylie stated that the tenant/ landlord relationship had been all right at the beginning but had changed since Mr. Yousuf has been trying to evict him since November 2022. With regard to his housing needs, Mr. Wylie stated that he required a one bedroom ground floor flat because of his health condition. He stated that his pets are a big concern as no one could look after them.

Summing Up.

26. Both Parties summed up by recapping the main points of the evidence. Ms. McBride asked that, if granting the Application, the Tribunal would consider an extended period for the Order to come into effect to allow Mr. Wylie to make preparations.

Additional Evidence

27. The Tribunal had the benefit of the productions and statements lodged by both Parties, and, in particular, the letter from Ms. Miller of Glasgow City Council and the Right of Entry Order and the case law submitted on behalf of Mr.Wylie.

Findings in Fact

28. The Tribunal made the following findings in fact: -
- i) There is a tenancy of the Property between the Parties;
 - ii) The correct statutory procedures have been carried out;
 - iii) The Applicants intend to sell the Property to alleviate their current housing situation;

- iv) The Respondent is a single man who is in ill-health and has two cats;
- v) The Respondent is unable to vacate the Property as he does not have suitable alternative accommodation;
- vi) The landlord/tenant relationship has broken down;

Issue for the Tribunal

29. The issue for the Tribunal was to determine whether or not to grant the Order sought. The Tribunal was satisfied that the statutory procedures have been carried out and that there is evidence of the Ground. Therefore, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness and so proceeded to determine the Application.

Decision and Reasons for Decision

30. The Tribunal must establish, consider and properly weigh the “whole of the circumstances in which the application is made” (Barclay v Hannah 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession.

31. The Tribunal accepted the evidence of those who gave evidence and took the view that, in the main, the only differences in that evidence were in respect of the different viewpoints and different ways of articulating that evidence, with Mr. Yousuf being forceful and Mr. Wylie being more reticent. The Tribunal placed greater weight on the letter from Ms. Miller of Glasgow City Council and the Right of Entry Order in having no doubt that relations between the Parties have broken down and are irreparable. The Tribunal accepted that the Applicants are entitled to have control of the Property to sell and are being prevented in doing so, to a degree, by Mr. Wylie who has no suitable alternative accommodation. The Tribunal's view is that the whole circumstances have become untenable for both Parties and that it is in the interest of neither that the tenancy continues. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction Order.

32. The Tribunal was satisfied that, if evicted and made homeless, Mr. Wylie would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance to secure accommodation suitable to his needs. However, the Tribunal was also mindful that, as an older man with health conditions and who has cats who are like family to him, the local authority might require an extended period to source suitable housing for Mr. Wylie and his cats. The Tribunal was also mindful that, if the local authority cannot find suitable accommodation for Mr. Wylie and his cats, he might require an additional period of time to rehome the cats. Therefore, the Tribunal considers it fair and just that the eviction order be suspended for until 15 January 2027.

33. This decision is unanimous.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Legal Member/Chair

1 September 2026

Date