

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**Statement of Reasons for Variation of Repairing Standard Enforcement Order made in terms of Sections 25(1) and 25(2) of the Housing (Scotland) Act 2006**

**Property: 1 Lammonbie Cottages, Lockerbie, Dumfriesshire DG11 2RN (“the Property”/ “the house”)**

**Chamber Reference: FTS/HPC/RT/19/3419**

**Parties:**

**Dumfries and Galloway Council Strategic Housing Services, Council Offices, Buccleuch Street, Dumfries DG1 2AD (“Third Party Applicant”)**

**Wellingtonia LLP, a Limited Liability Partnership incorporated in England (LLP Reg No OC416665) whose registered office is Fairview House, Victoria Place, Carlisle CA1 1EX (“the Landlord”)**

**Interested Party - Mr Ian Lamb, 1 Lammonbie Cottages, Lockerbie, Dumfriesshire DG11 2RN (“the Interested Party”)**

**Tribunal Members - George Clark (Legal Member/Chairperson) and Mike Links (Ordinary Member/Surveyor)**

### **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), decided, in terms of Sections 25(1) and 25(2) of the Housing (Scotland) Act 2006, to vary the Repairing Standard Enforcement Order in respect of the Property made on 5 March 2020 (“the Order”), to allow the Landlord until 31 December 2020 to complete the works required by the Order.**

### **Background**

On 5 March 2020, following an inspection and Hearing, the Tribunal made a Repairing Standard Enforcement Order (“the Order”) in respect of the Property. The Order required the landlord to:

1. Carry out such repairs to the external render of the Property as are necessary to ensure it is wind and watertight.
2. Protect and make safe the electrical cabling along the outer surface of the porch of the Property by encasing it in a suitable conduit.
3. Exhibit to the Tribunal evidence of SEPA consent in respect of the septic tank serving the Property.

The Tribunal ordered that the works required by this Order must be carried out within the period of six months from the date of service of the Order.

On 4 September 2020, the Landlord's agents advised the Tribunal that they believed all the matters included in the Order had been attended to. They attached photographs showing work carried out to the render on the front and side elevations of the Property. They explained that the exposed wood porch area had been painted and that, as there was insufficient space beneath the guttering and its support brackets within which to securely fix a conduit to this section of the porch without disturbing the gutter, brackets or potentially affecting the window below, the cable had been painted with a UV-resistant paint. They also provided evidence from SEPA of the registration of the septic tank and authorisation of the discharge of sewage effluent from the tank.

### **Reasons for Decision**

The Tribunal was satisfied with the SEPA documentation. The Tribunal was not, however, satisfied that the repairs to the render have been carried out satisfactorily. The affected sections have been finished with a base coat only and no render finish has been applied. The Tribunal was also not satisfied with the position regarding the electrical cabling along the outer surface of the porch. The Tribunal acknowledged the reasons given by the Landlord's agents for the manner in which the problem has been addressed, but remained concerned that there are still health and safety issues regarding the cabling, which the work carried out has not resolved.

The Tribunal was not prepared at this stage to issue a Certificate of Completion of Works and to discharge the Order, but determined that, rather than make a Decision that the Landlord has failed to comply with the Order, the Order should be varied to give the Landlord additional time to complete the works satisfactorily.

The Tribunal considered that it was reasonable in all the circumstances to extend the time limit for completing the works required by the Order to 31 December 2020.

The Decision of the Tribunal was unanimous.

### **Right of Appeal**

**In terms of section 46 of the Tribunals (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.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally**

**determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

**G Clark** ..... Legal Member  
10 September 2020

# Housing and Property Chamber First-tier Tribunal for Scotland



## **Variation of Repairing Standard Enforcement Order made in terms of Sections 25(1) and 25(2) of the Housing (Scotland) Act 2006**

**Property:** 1 Lammonbie Cottages, Lockerbie, Dumfriesshire DG11 2RN (“the Property”/ “the house”)

**Sasine Description:** All and Whole the detached cottage known as Lammonbie Number One, Balgray, Lockerbie, Dumfriesshire DH11 2JT with ground pertaining thereto, being part of the subjects more particularly described in and disposed by Disposition by the Trustees of David Jardine Paterson in favour of Michael John Jardine Paterson dated 16 May and subsequent dates and recorded in the Division of the General Register of Sasines applicable to the County of Dumfries on 2 December, all in the year 1980.

**Chamber Reference:** FTS/HPC/RT/19/3419

### **Parties:**

Dumfries and Galloway Council Strategic Housing Services, Council Offices, Buccleuch Street, Dumfries DG1 2AD (“Third Party Applicant”)

Wellingtonia LLP, a Limited Liability Partnership incorporated in England (LLP Reg No OC416665) whose registered office is Fairview House, Victoria Place, Carlisle CA1 1EX (“the Landlord”)

Interested Party - Mr Ian Lamb, 1 Lammonbie Cottages, Lockerbie, Dumfriesshire DG11 2RN (“the Interested Party”)

**Tribunal Members** - George Clark (Legal Member/Chairperson) and Mike Links (Ordinary Member/Surveyor)

### **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) hereby, in terms of Sections 25(1) and 25(2) of the Housing (Scotland) Act 2006, varies the Repairing Standard Enforcement Order (“the Order”) in respect of the Property made on 5 March 2020, to extend the time limit for completion of the works required by the Order to 31 December 2020.

### **Right of Appeal**

In terms of section 46 of the Tribunals (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.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

**IN WITNESS WHEREOF** these presents, typewritten on this and the preceding page, are subscribed by George Barrie Clark, Legal Member/Chair, at Lasswade on 10 September 2020, before this witness Andrew Ian George Clark, 43 Barclay Place, Edinburgh.

**G Clark** ..... Legal Member/Chair  
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**Clark** ..... Witness  
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