



## Repairing Standard Enforcement Order

### Ordered by the Private Rented Housing Committee

Re First floor flat, 18 West Princes Street, Helensburgh, G84 8TD ('the Property')

The Parties:-

Andrew Walsh, residing at 18 West Princes Street, Helensburgh, G84 8TD ('The Tenant')

The Cooperative Group Limited, per Graham and Sibbald, 1 Greenmarket, Dundee, DD1 4QB ('The Landlords')

#### NOTICE TO The Landlords, the said The Cooperative Group Limited

Whereas in terms of their decision dated 1st November 2013, the Private Rented Housing Committee determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular the Landlords have failed to ensure that the Property was wind and water tight and in all other respects reasonably fit for human habitation.

The Private Rented Housing Committee now requires the Landlords to carry out such work as is necessary for the purposes of ensuring that the Property meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the Landlords to repair or replace the windows in the Property to render them wind and water tight and capable of opening.

The Private Rented Housing Committee order that these works must be carried out and completed By 14<sup>th</sup> January 2014.

**A landlord or a tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.**

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

Signed..... **J Taylor** ..... Date 1st November 2013  
Chairperson **S Inglis**  
..... Witness: SYLVIA INGLIS, 65, High Street, Irvine



## Determination by Private Rented Housing Committee

### Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

Re First floor flat, 18 West Princes Street, Helensburgh, G84 8TD ('the Property')

The Parties:-

~~Andrew Walsh, residing at 18 West Princes Street, Helensburgh, G84 8TD ('The Tenant')~~

The Cooperative Group Limited, per Graham and Sibbald, 1 Greenmarket, Dundee, DD1 4QB ('The Landlords')

The Committee: Jacqui Taylor (Chairperson); George Campbell (Surveyor) and James Riach (Housing Member)

#### Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

#### Background

1. By application dated 26<sup>th</sup> April 2013 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords have failed to comply with the duties imposed by Section 14 (1)(b) of the Act.
2. In the application the Tenant stated that he considered that the Landlords have failed to comply with his duty to ensure that the Property meets the repairing standard. He advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the Property was not in a reasonable state of repair and in proper working order; that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order; that the fixtures, fittings and appliances provided by the Landlords under the tenancy were not in a reasonable state of repair and in proper working order and the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.  
  
In particular the application stated that the windows of the Property had not been repaired for over five years. They are dangerous and they are not wind and watertight.
3. The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Tenant contacted the PRHP office on 20<sup>th</sup> August 2013 and explained that he was satisfied with the condition of the smoke alarms and he wished to include the heating in the application.

5. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant, dated 5<sup>th</sup> September 2013.
6. The Committee attended at the Property on 30<sup>th</sup> October 2013. The Tenant was present. The Landlords were not present and they were not represented. The Committee inspected the alleged defects and found as follows:-

6.1 The heating system had recently been repaired and the Tenant confirmed that it was in proper working order.

6.2 ~~There were three battery operated smoke alarms in the Property. The Landlords had installed new alarms in the kitchen and hall recently. The Tenant advised that at the beginning of his tenancy there was one battery operated smoke alarm fitted in the hall, which the Tenant confirmed was still in proper working order. The Committee were unable to test the alarms due to their location.~~

6.3 The windows throughout the Property were in a poor state of repair. The main windows in the Property are original, double hung, sash and case windows. There was a replacement timber casement window in the kitchenette. There was extensive defective external pointing which means that the windows are not securely fitted. Most of the window timbers are rotten and most of the windows had been sealed shut and could not be opened. The Tenant advised that they are draughty and not wind and watertight.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Victoria Halls, Sinclair Street, Helensburgh. The Tenant attended the Hearing. The Landlords did not attend and were not represented.

At the hearing the Tenant explained that the heating system had been satisfactorily repaired. The smoke alarms were in working order and his application was solely concerned with the condition of the windows. He explained that they were in a very poor condition. They are draughty and they are not wind and watertight.

#### **Summary of the issues**

8. As stated above, the Tenant confirmed that the heating had been satisfactorily repaired and the smoke alarms were in working order.

Therefore the issue to be determined is whether the condition of the windows result in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

#### ***Findings of fact***

9. The committee found that the particularly poor condition of the windows does result in the Property not being wind and water tight.

#### **Decision**

10. The Committee accordingly determined that the Landlords have failed to comply with the duties imposed by Sections 13 (1)(a) and 14 of the Act, as stated.

11. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
12. The decision of the Committee was unanimous.

### **Right of Appeal**

13. A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

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### **Effect of section 63**

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

**J Taylor**

Signed ..... Date 1<sup>st</sup> November 2013  
Chairperson