Tribunal for Scotland Housing and Property Chamber) ("the Tribunal")

STATEMENT OF DECISION OF THE TRIBUNAL UNDER SECTION 25 (1) OF THE HOUSING (SCOTLAND) ACT 2006

Chamber Ref: FTS/HPC/RP/24/2549

Sasines Description: Wee Glen, Skyreburn, Gatehouse of Fleet, DG7 2HG being part of the subjects recorded in the General Register of Sasines for the County of Kirkcudbright in the Disposition by Trustees under the Deed of Trust by Claude Langrish Faber proprietor of the lands and farm of Glen extending to 1727 acres in the Parishes of Kirkmabreck and Anwoth referred to in the Disposition to James Robertson Robertson and another recorded 15 August 1960 (under exception of subjects in Disposition to Audrey Mildred Falkner or Surtees recorded 16 September 1965) ("the Property")

Wee Glen, Skyreburn, Gatehouse of Fleet, DG7 2HG ("the House")

The Parties:-

Dumfries and Galloway Council, Housing and Licensing Standard, Militia House, English Street, Dumfries, DG1 2HR ("Third Party and Applicant")

Doreen Parkin residing at Wee Glen, Skyreburn, Gatehouse of Fleet, DG7 2HG and Sarah Wilson, residing at 5 Frensham Drive, Castleford, West Yorkshire, WF10 3RQ Attorney for Doreen Parkin ("The Tenant")

C L Faber Trust, Upton Wold Farm, Moreton-in-Marsh, Gloucestershire, GL56 9TR ("The Landlord and Respondent")

Tribunal Members:

Melanie Barbour (Legal Member) and Donald Wooley (Ordinary Member - Surveyor)

DECISION

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the

Tribunal") having made such further enquiries as it saw fit for the purposes of determining whether the Landlord had 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 Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act, but that it should extend the period of compliance of the Repairing Standard Enforcement Order ("RSEO") by a further 6 weeks from the date of service of the Varied RSEO.

BACKGROUND

 The Tribunal issued a Repairing Standard Enforcement Order dated 16 October 2024 in respect of the Property, which required the Landlord to :-

The landlord must within 12 weeks of the date of this order carry out all of the following:-

- Produce a current Electrical Installation Condition Report for the Property. The Report requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category.
- 2. Provide the Tribunal with independent report from a suitably qualified professional organisation certifying that the private water supply serving the property is an adequate piped supply of wholesome water and complies with current statutory regulations relating to the supply of private water to domestic property as contained in the Private Water Supplies (Scotland) Regulations 2006 (as amended).
- Employ a suitably qualified building contractor to investigate the source of the water ingress at the utility room ceiling and to prepare a report confirming the outcome of that investigation; submit that report to the Tribunal for consideration and approval; and thereafter

complete all repairs and redecoration, all as determined by the tribunal to be necessary.

- 4. Renew, replace or repair all loose slipped and missing roof slates and clear the roof valley gutters of all moss vegetation and other debris ensuring that the property is wind and watertight and in all other respects reasonably fit for human habitation
- Repair or renew all areas of rotted or defective timber at the utility room, bathroom, living room and kitchen windows ensuring that they are all in a reasonable state of repair and in proper working order.
- Clear all moss vegetation and other debris from the utility room window at the rear of the property.

RE-INSPECTION

2. The Tribunal Members attended the Property on 31 July 2025 at 10.00am and carried out an inspection to determine if the required works had been completed. In attendance were also Mr Christopher Ian Claude Bond, for the Landlord; David Leslie, supporter for the Landlord; John Blair, employee of the Landlord and occupier of the Property; and Suzanne Lafferty, from Dumfries and Galloway Council, Third Party representative. The inspection report is annexed and executed as relative hereto.

HEARING

3. The case called for a hearing on 31 July 2025 at 2.15 pm. In attendance at the Hearing were the tribunal members: Mr Christopher Ian Claude Bond, for the Landlord; Sarah Powell, solicitor for the Landlord (Mrs Powell did not represent the Landlord but attended to take a note of the hearing for the Landlord); and Suzanne Lafferty, from Dumfries and Galloway Council, Third Party representative.

- 4. Mrs Barbour, the legal member, referred to each condition in the RESO. Mr Wooley, the Surveyor Member, provided his assessment as to whether the works required to purify each condition had been carried out. Mr Bond provided his explanation in respect of each condition. Mrs Lafferty provided comment on the third-party position. The discussion of the conditions was as follows:-
 - 1. Produce a current Electrical Installation Condition Report for the Property. The Report requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category
- 5. Mr Wooley confirmed that he had been provided with a copy of a current Electrical Installation Condition Report for the Property dated 2 July 2025 at the inspection hearing. He had considered its terms. He confirmed that he was satisfied that this report complied with the terms of Condition 1 of the order. Mr Bond had no comments to make in response. Mrs Lafferty confirmed that she had had sight of the report. She confirmed that the Third Party were satisfied with the terms of the report.
 - Provide the Tribunal with independent report from a suitably qualified professional organisation certifying that the private water supply serving the property is an adequate piped supply of wholesome water and complies with current statutory regulations relating to the supply of private water to domestic property as contained in the Private Water Supplies (Scotland) Regulations 2006 (as amended).
- 6. Mr Wooley confirmed that Mr Bond had provided him with a copy of a letter from Eric Hyslop dated 17 April 2024 at the re-inspection. The letter detailed certain works to be carried out on the private water supply. He noted that this letter had previously been provided to the tribunal. The letter referred to works to be done on 6 houses. There was no certification before the Tribunal

confirming that these works had been carried out. There was no evidence before the Tribunal that the terms of Condition 2 of the RSEO had been complied with.

- 7. Mr Bond advised that the works had been carried out on the private water supply in 2024. He offered to provide invoices in support of this. He believed that the works had been carried out to the standard required by the local authority. He submitted that Dumfries and Galloway Council had carried out testing on the private water supply since the works had been carried out. He submitted that the local authority had tested for colour and bacteria; the testing had passed the supply for bacteria, but it had failed on colour, which was due to poor weather just prior to the testing taking place. He had also had Solway Water Management Limited carry out annual works to the private water supply. They arranged for independent testing of the private water supply as well. He advised that he had certificates which showed that the private water supply had passed the water quality tests.
- 8. Mrs Lafferty advised that Environmental Health had advised her on 29 July 2025 that the last sample taken was on 16 May 2024. The sample taken had failed the test for coliform and E.coli. In June 2024, the landlord had written to advise that the tenant had gone, and the property was being used for family members only. There had been correspondence on 14 May 2025 to the landlord offering to carry out routine sampling for 2025. The landlord had not accepted this offer to do water sampling. There had been no water sampling carried out by Environmental Health for the year 2025.
- 9. Mr Bond advised that he did not agree with what Mrs Lafferty had said in relation to the private water supply. He reiterated that the works had been carried out and restated his position about what the local authority testing had confirmed. He stated that the work to the private water supply had been completed. That there had been an independent appraisal of the private water supply. He confirmed that he can provide the written certification that the private water supply complied with all statutory regulations. He advised that Solway Water Management Limited held certification in relation to the private water supply.

- 10. Given that no written report has been submitted by the Landlord the requirements detailed in Condition 2 remain outstanding. The terms of this condition remain unfulfilled.
 - 3. Employ a suitably qualified building contractor to investigate the source of the water ingress at the utility room ceiling and to prepare a report confirming the outcome of that investigation; submit that report to the Tribunal for consideration and approval; and thereafter complete all repairs and redecoration, all as determined by the tribunal to be necessary.
 - 4. Renew, replace or repair all loose slipped and missing roof slates and clear the roof valley gutters of all moss vegetation and other debris ensuring that the property is wind and watertight and in all other respects reasonably fit for human habitation.
- 11. Mr Wooley advised that in terms of conditions 3 and 4, when he had arrived at the Property on 31 July 2025, he was provided with a letter from a Mr Thomas Smith dated 1 July 2025. It set out a list of works that Mr Smith said he had undertaken at the property. It was not a quote, and it was not clear the extent of the works listed in the letter. He advised that the reinspection did show that work to the roof had been undertaken. He noted that some moss had been removed, and the valley gutters had been mainly cleared, although there was some debris left in them. No report had been provided confirming the outcome of any investigation into the water ingress at the utility room ceiling as required by condition 3. He advised that the reinspection showed that the utility ceiling was still quite wet. He suggested that the likely cause of the damp ingress was the outside guttering; however, it may be something else, and that was why a report had been ordered. He asked if a report had been prepared. He advised that Thomas Smith had addressed the majority of items referred to in condition 4, but not condition 3. The matters set out in condition 3 remained outstanding.

- 12. Mr Bond advised that the works had cost around £1,500. He could provide a receipt of payment. He advised that no report into the water ingress at the utility room ceiling had been prepared. They had thought that a report was overkill, and they had their builder carry out remedial works to the property. Mr Bond acknowledged that the moisture readings taken at the utility ceiling during the reinspection showed the existence of damp there. He advised that he would arrange to get Thomas Smith to come and assess and address the issue. He considered that the issue may be the guttering at the rear of the utility area.
- 13. Mrs Lafferty had no further comments to make on these conditions 3 and 4.
 - Repair or renew all areas of rotted or defective timber at the utility room, bathroom, living room and kitchen windows ensuring that they are all in a reasonable state of repair and in proper working order.
- 14. Mr Wooley advised that the reinspection showed that these matters remained outstanding. He referred to photos 10-13 of the original photo schedule, the photographs showed the existence of rot at the utility room, bathroom, living room and kitchen window frames and sills in the property. It appeared that no work had been done in any of these areas. The repairs required in Condition 5 remained outstanding. He confirmed that what was required was repair to or renewal of the affected sections of the windows; repairs would not necessarily necessitate replacement of all the window frames and sills. Satisfactory repairs could be carried out to the affected areas only.
- 15. Mr Bond advised that he was not aware that the window frames were rotten. He did not have the photographs before him. He had not inspected the windows at the re-inspection. He advised that he could not accept that the windows were rotten without obtaining an independent report on this issue. He apologised that this matter had not been addressed by him before this date.
- 16. Mrs Lafferty had no comment to make on condition 5.

- Clear all moss vegetation and other debris from the utility room window at the rear of the property.
- 17. Mr Wooley advised that the reinspection showed that the issues raised in Condition 6 remained outstanding. Mr Bond accepted that this matter had not yet been addressed. He advised that he would arrange for someone to attend to it. Mrs Lafferty had no comment to make on condition 6.

DECISION AND REASONS

- 18. The tribunal determined that the following items of the RSEO have been satisfactorily completed, as detailed in the re-inspection report.
 - Produce a current Electrical Installation Condition Report for the Property. The Report requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category.
 - 4. Employ a suitably qualified building contractor to investigate the source of the water ingress at the utility room ceiling and to prepare a report confirming the outcome of that investigation; submit that report to the Tribunal for consideration and approval; and thereafter complete all repairs and redecoration, all as determined by the tribunal to be necessary.
- 19. The tribunal determined that the remaining conditions 2,3,5, and 6 had not been complied with. While we note that the landlord advised that he does have the necessary certification, which would demonstrate compliance with condition 2, there was, however, no evidence before the tribunal to satisfy the tribunal that condition 2 had been complied with. The landlord accepted that the other

conditions were outstanding (save for the landlord's position that he would not accept that the window frames were rotten in places, without an independent assessment of the window frames and sills). The landlord undertook to have the outstanding issues addressed. Given that the landlord had carried out works which had addressed two of the conditions; that he stated that he had certification which he would supply which would demonstrate compliance of condition 2; and that he intended to instruct tradesmen to address the remaining outstanding conditions (subject to the comments he made regarding condition 5) then the tribunal considered that it would be reasonable to vary the RSEO by extending the period within which the work required in the order must be completed. The tribunal will therefore extend the period for compliance by a further 6 weeks from the date of service of the accompanying RSEO.

- 20. The tribunal would remind the landlord that if he does not intend to comply with the terms of Condition 5, then he should take legal advice on what rights are open to him to do so.
- 21. The landlord was asked to provide confirmation of the basis upon which the employee is residing in the property; he undertook to provide a copy of his employee's contract of employment. He advised it would set out his employee's tenancy status in the property. He should also submit a copy of any tenancy agreement granted to this employee for the property. The landlord is encouraged to take legal advice on the implications of allowing tenants to reside in the property while a RSEO is in place.
- 22. The decision of the Tribunal was unanimous.

RIGHT OF APPEAL

Landlords, tenants or third-party applicants aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

EFFECT OF SECTION 63

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 date in which the appeal is abandoned or, so determined.

M Barbour

Legal Member

Date 4 August 2025

Photograph Schedule Attached

Housing and Property Chamber First-tier Tribunal for Scotland

First-Tier Tribunal for Scotland (Housing and Property Chamber) Re-inspection report



Property Wee Glen, Skyreburn

Ref No: FTS/HPC/RT/24/2549

Surveyor: Donald Wooley MRICS

Previous inspection

The subject property was originally inspected on 14 October 2024 by the First-tier Tribunal for Scotland (Housing Property Chamber). Following a subsequent hearing a Repairing Standard Enforcement Order (RSEO) was issued.

Access:

A re-inspection of the subject property was arranged for Thursday 31 July 2025 at 10.00 pm. I arrived at the property at 09.50 and subsequently met Melanie Barbour, the legal member of the Tribunal.

The property is no longer occupied by the original tenant and access was provided by Mr John Blair the present occupier. Also in attendance were Mr Christopher I C Bond, representing the landlord, his "supporter" and employee Mr David Leslie and Suzanne Lafferty of Dumfries and Galloway council (Housing Standards),

representing the third-party applicant. The weather at the time of the inspection was dry and overcast. Both Tribunal members left the property at around 11.00 am.

Purpose of re-inspection

The purpose of this re-inspection was to determine if the required works as detailed under the Repairing Standard Enforcement Order had been completed.

Work required under the Repairing Standard Enforcement Order (RSEO):

The landlord was required to:

- Produce a current Electrical Installation Condition Report for the Property. The Report requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self–employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category.
- 2. Provide the Tribunal with independent report from a suitably qualified professional organisation certifiying that the private water supply serving the property is an adequate piped supply of wholesome water and complies with current statutory regulations relating to the supply of private water to domestic property as contained in the Private Water Supplies (Scotland) Regulations 2006 (as amended).
- 3. Employ a suitably qualified building contractor to investigate the source of the water ingress at the utility room ceiling and to prepare a report confirming the outcome of that investigation; submit that report to the Tribunal for consideration and approval; and thereafter complete all repairs and redecoration, all as determined by the tribunal to be necessary.
- 4. Renew, replace or repair all loose slipped and missing roof slates and clear the roof valley gutters of all moss vegetation and other debris ensuring that the property is wind and watertight and in all other respects reasonably fit for human habitation

- 5. Repair or renew all areas of rotted or defective timber at the utility room, bathroom, living room and kitchen windows ensuring that they are all in a reasonable state of repair and in proper working order.
- 6. Clear all moss vegetation and other debris from the utility room window at the rear of the property.

Site Observations:



Utility room damp staining at ceiling 14-10-24



Utility room damp readings present at ceiling 31-07-25

Since the original inspection the property, including the utility room has undergone a scheme of internal redecoration and the previously flaking paintwork on the utility ceiling, repaired. Moisture readings taken at the ceiling adjacent to the rear wall remain high and at a level likely to cause further deterioration if left unrepaired.



Area circled in red highlights badly corroded and broken rainwater goods and chipped slates immediately above and outside the utility area.



14-10-24

Temporary repair between corroded downpipe and gutter outside the utility area.



31-07-25



31-07-25

The corroded gutter and temporary repair at the rear wall of the utility area remain representing a potential/possible source of the damp/water ingress affecting the utility room ceiling



14-10-24Rot and vegetation growth at window and sill of utility room.



31-07-25

Rot and vegetation growth affecting rear window and sill of utility room remains.

The five **photographs** (1/1 – 1/5) on the following page were taken during the original inspection of the property on 14 October 2024 and highlight localised areas of rot affecting sections of the windows and surrounding frames at the living room bathroom and kitchen widows.





1/1 14-10-24

14-10-24 1/2





14-10-24 1/3

1/4 14-10-24



14-10-24 1/5

The following six **photographs (2/1 - 2/6)** were all taken during the reinspection on 31 July 2025 and confirm that no repairs have been completed to the timber window frames and sills where timber decay remains.





2/1 31-07 25









2/4 31-01-25



2/5 31-01-25



2/6 31-01-25





14-10-24



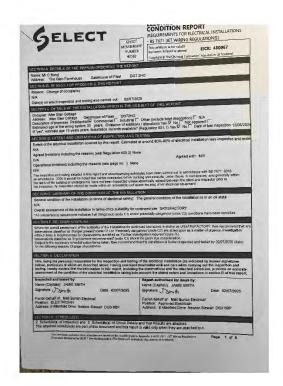
31-07-25



14-10-24

31-07-25

The loose slipped and missing slates around the rear valley gutters have been repaired and or replaced. Small areas of moss remain although the majority of the moss and vegetation has been cleared from the valley gutters since the original inspection.





31-07-25 Front page of EICR

31-07-25 Consumer unit



31-07-25 Date of electrical inspection 02-07-25

On arriving at the property, Mr Bond presented me with a printed copy of an Electrical Installation Condition report by Matt Burton Electrical, dated 2nd July 2025. It assessed the electrical system to be "satisfactory". The company is SELECT registered and the certificate satisfies the requirements of item 1 as described in the RSEO. Mr Bond stated that a copy of the EICR had been emailed to the HPC administration department on 31 July, the day before the re-inspection.

Private Water Supply

Item 2 of the RSEO states

"Provide the Tribunal with independent report from a suitably qualified professional organisation certifiying that the private water supply serving the property is an adequate piped supply of wholesome water and complies with current statutory regulations relating to the supply of private water to domestic property as contained in the Private Water Supplies (Scotland) Regulations 2006 (as amended)."

No satisfactory test certification has been provided to the Tribunal although on arrival, Mr Bond provided me with a further copy of a quotation prepared by Eric Hyslop Ltd dated 17 April 2024 in respect of proposed works to the water supply.

Outstanding Repairs and items in RSEO:

Item numbers 2, 3, 5 and 6 as described in the Repairing Standard Enforcement Order remain outstanding.

Comments:

Following the hearing which took place on Thursday 31 July at 02.00 pm, this report should be considered as an appendix to the Decision of the First-tier Tribunal for Scotland (Housing Property Chamber) arising therefrom.

Donald Wooley MRICS Ordinary Member First-Tier Tribunal for Scotland 2 August 2025