

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) (Hereinafter referred to as “the Tribunal” Under Section 28 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Case Reference Number:** FTS/HPC/RN/25/3056

**Re:** Flat 0/2, 3 Pembroke Street, Glasgow, G3 8LS (“the property”)

**Sanctuary Homes (Scotland) Limited**, Sanctuary House, 7 Freeland Drive, Glasgow, G53 6PG (Applicant and Landlord)

**Mr Ewan MacQueen**, Flat 0/2, 3 Pembroke Street, Glasgow, G3 8LS (Respondent and Tenant)

**Tribunal Members** Iain MacRae (Legal Member) and Kinsley Bruce (Ordinary (Surveyor) Member)

## **Decision**

The Tribunal determines that the rent to be payable by the Respondents in respect of the property is £676.97 per calendar month and that rent shall apply and take effect from 1 February 2026.

The decision of the Tribunal is unanimous.

In terms of Section 30 of the Private Housing (Tenancies) (Scotland) Act 2016 (**the 2016 Act**) the Tribunal’s decision is final and cannot be appealed.

## **Background**

1. An application to the Tribunal was received on 9 July 2025. The landlord is Sanctuary Homes (Scotland) Limited. The tenant is Mr Ewan MacQueen. The tenancy is a private residential tenancy (**PRT**) under the Private Housing (Tenancies) (Scotland) Act 2016 (“**the 2016 Act**”).

2. On 2 April 2025, the Applicant served a notice on the tenant under Section 22(1) of the 2016 Act, indicating that they intended to increase the rent on the property from £645.50 per calendar month to £676.97 with effect from 1 August 2025.
3. The tenant timeously objected to that proposed increase by referring the proposed increase to Rent Service Scotland.
4. By provisional order dated 9 June 2025 the rent officer proposed to set the rent at £645.50 per calendar month. The provisional order referred to two comparable properties. One was a 3 room flat in Elderslie Street, Glasgow with a monthly rent of £825.00 and the other being a 3 room flat in Garnet Court, Glasgow with a monthly rent of £695.25. The Provisional Order stated that "*The Rent Officer has taken into account outstanding maintenance work that has been reported by the tenant.*"
5. The Applicant asked the rent officer to reconsider the proposed rent level of £645.50. After reconsideration, the rent officer issued a Final Order determining that the rent should be £645.50 per calendar month. The final order referred to only the flat in Elderslie Street and made no mention of outstanding maintenance work. The landlord appealed that decision, and the matter was referred to the First-tier Tribunal. Both parties were invited to make written representations. No written representations were received from the tenant.
6. Both parties were notified that an inspection and hearing would take place, and were invited to attend both the inspection and the hearing. The inspection of the property and hearing took place at 10.00am then 11.30am on 9 January 2026. The Applicant was not represented at the inspection but was so at the hearing. The tenant was present during the inspection and at the hearing.

### **Findings in Fact**

7. The property comprises a ground floor flat in a five storey, modern purpose built flatted block, constructed around 2018. It is situated on the corner of Pembroke Street and St Vincent St.
8. The accommodation comprises a hallway, living room with kitchen, bathroom and two bedrooms, one with an en-suite shower room. It has gas central heating, uPVC double glazed windows and a secure entry system. The property is separated from Pembroke Street and St Vincent St by a narrow strip of grass. The gross internal floor area is approximately 74 square metres.

9. The property is located in the Anderston area of Glasgow. It has a good level of local services. The property is next to the Finnieston area to the west and Glasgow City Centre and is approximately one mile to the east.
10. Internally the property is in a reasonable condition. The property does not have allocated parking but there is on street parking nearby.
11. The tenant's rent falls due on the first day of each calendar month.

## **The hearing**

12. The procedure to be adopted at the hearing was explained. Both parties would be able to present their case and ask the other questions. The Tribunal may also have questions. The Tribunal confirmed that it was required to fix the rent based on the concept of open market rent and explained the legal definition.
13. The appellant relied on the paper apart submitted with the application. The rent officer had given no justification in the final order for stating a rent lower than the comparable property relied upon. According to the Scottish Government, the median rent level for a two bedroom property in the Greater Glasgow area is £995.99 per month. The comparator property relied upon by the Rent Officer is not a true comparator as it is not located within the Anderston area where properties attract a higher rental value than those in the area surrounding areas such as Garnet Court. The properties let by the applicant in the area were let at the same rent as they had proposed.
14. The respondent referred to a period of about 6 months in 2025 when he was required to endure a rat infestation due to the landlords delaying to fill in a hole to the outer wall. Work has been carried out. The bathroom floor had been uplifted but part of the floor covering had not been replaced. The grass area outside of the property was not kept well. He paid for this which was private to him. The property required decoration. He had taken the property on the basis that he was led to believe he would be charged a mid-market rent. Twice the Rent Officer has told him the rent at was an open market rent. The rent had initially been £429.22 so there proposed rent would result in an increase of 36% since 2018.

## **The law**

15. Section 32 of the 2016 Act states that the determination is to be made on the basis that the property in question would be let by a willing landlord to a hypothetical willing tenant under a new tenancy which would: (a) be a Private Residential Tenancy, (b) begin on the date on which the rent would have been

increased in accordance with the rent increase notice, had a referral to a rent officer not been made, and (c) have the same terms as the tenancy to which the referral or (as the case may be) appeal relates.

16. The provisions set out in section 31A of the Act were repealed on 30 March 2025. This was before the rent increase notice was served on the Respondents on 23 May 2025. Section 31A does not therefore apply in this case.
17. Section 29 of the 2016 Act provides that, where an appeal is made to the Tribunal under Section 28(1) of the 2016 Act, the Tribunal must make an order stating that from the effective date the rent payable under the tenancy is the rent determined by the Tribunal in accordance with Section 32 of the Act. Under Section 29(2) of the Act, the effective date in the present application is the first payment date falling on or after the day on which the Tribunal makes its Order.

### **Reasons for decision**

18. There two relevant methods of assessing the open market rent in Scotland are:
  - (a) determining the open market rent by reference to market rents of comparable properties or
  - (b) determining the open market rent by reference to the anticipated annual return based on the capital value of the property.
19. Neither of these methods is the primary method. The appropriate method depends on the facts and circumstances of each case. The Tribunal also considered the observations of the Lord President in *Western Heritable Investment Co Ltd v Hunter* (2004) and also the case of *Wright v Elderpark Housing Association* (2017), which requires the Tribunal to proceed on the best available evidence and use the other evidence as a cross check, where possible.
20. There is no public register of rentals in Scotland and valuation is largely by evidence of advertised rentals in the area and the application of the knowledge and experience of the Tribunal Members. The rent officer only provides the briefest of detail of comparisons used in their assessment with no specific address, style, floor area or rationale as to how their valuation is arrived at. Accordingly, the Tribunal cannot analyse the rent officer's assessment.
21. The assessment by the Tribunal is necessarily based on taking what evidence is available and adjusting for the differences in age, style, accommodation, floor area and any other relevant factors, such as location, condition, garden, garage, amenity etc, to arrive at a valuation.

22. The Tribunal carefully considered a variety of properties which were available for let in the area, the application and the oral submissions made at the hearing. The applicant had given the median rent for a two bedroom flat across the Greater Glasgow area but it was difficult to establish where the property would sit (towards the top middle or bottom) of the list of the rents used to reach that figure. The applicant was charging the same rent as other two bedroom flats it let out in the immediate area on private residential tenancies. It was unclear if any of these were rents recently struck for new tenancies. The closest comparable in terms of size, and location available was the property in Elderslie Street referred to by the rent officer in the provisional order. The property in Garnet Court also had a higher rent than was proposed. A two bedroom flat in the area at the proposed rent, other than with a social landlord such as the applicant would be difficult to find. Had the landlord not been a social landlord we may have been persuaded that a rent higher than that proposed. However the applicant is a housing association. Prospective tenants will need to apply to join a waiting list. They will be required to meet certain criteria. On this basis we are satisfied that the proposed rent for the property is the open market rent for the property.
23. None of the points raised by the respondent would have any effect on what the open market rent of the property might be now. He does not pay a separate charge for maintenance. He thought the grass area to the front and side were exclusive to him but that is not reflected in the tenancy. The appellant thought that he should be charged a medium market rent (**MMR**). However the legislation does not differentiate between PRT and those tenants who have a PRT and are paying a mid-market rent. A rent adjudication application and decision is made under 2016 Act and as such the Rent Officer and this tribunal is required to set an Open Market Rent.