



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under section 17 of the Property Factors (Scotland) Act 2011 (“the Act”)**

**Case reference FTS/HPC/LM/23/1221 & FTS/HPC/LM/23/3747**

**Parties**

**Mr Trevor Martin (“the homeowner/Applicant)**

**James Gibb Property Management Ltd (the property factor/Respondent)**

**20 Slackbuie Way, Inverness, IV2 6AT (the property)**

**Tribunal Members:**

**James Bauld (Legal Member) Sara Hesp (Ordinary Member)**

**Background and introduction**

1. A hearing in respect of these applications took place on 2 March 2026.
2. The homeowner was personally present. He was not legally represented. The property factor was represented by Ms. Jo Cooper, their Regional Director and Ms. Gemma McAllister, one of their Associate Directors
3. This hearing was the sixth hearing in respect of these applications dating back to an initial case management of discussion (“CMD”) on 24 March 2024. Further CMDs had taken place on 20 August 2024, 9 January 2025 and 15 July 2025. An initial hearing had taken place on 9 October 2025. After each of these hearings, the tribunal had issued a Note.
4. Application /FTS/HPC/LM/23/1221 related to a complaint that the property factor had failed to comply with the property factors duties as set out in section 14(5) of the Property Factors (Scotland) Act 2011.

5. Application FTS/HPC/LM/23/3747 related to allegations that the property factor had failed to comply with the Code of Conduct for Property Factors ("the Code"). When that application had been accepted by the tribunal, the legal member who prepared the notice of acceptance had indicated in that notice the following warning to the applicant: -

**” please note that although you have been asked to provide evidence that you have notified the property factor of the complaints under the 2021 Code of Conduct you have failed to do so. You have simply provided another copy of the letter to the factor which relates to property factor duties. As previously advised property factor duties are not the same as the obligations specified in the code. This may mean that the tribunal that is allocated this case will only be able to consider property factor duties in connection with this application unless you provide evidence before the CMD that you have notified the factor of the Code complaints prior to 7 December 2023”**

6. The initial legal member who had been involved in the previous hearings had retired and two new members were allocated to deal with the hearing
7. It was noted that at previous case management discussions and hearings various directions had been issued to parties with regard to the preparation and lodging of documents and to the lodging of evidence.

### **The hearing of 2 March 2026**

8. The tribunal commenced the hearing by asking the homeowner various questions. The homeowner owns a house which is part of a development in Inverness. There are 53 properties within the development. All are subject to burdens relating to the maintenance of certain areas within the development described in the title deeds as “public open spaces”
9. It was noted that his complaints appeared to relate to issues which dated as far back in some cases to 2015. He complained that the factor that had not provided what he called a “site specific map”. He complained that the previous factor had failed to attend to site meetings. He complained of what he called substandard work.
10. In respect of the applicant’s property, it was agreed the only matters which were remitted to the property factor were the arrangement of a common public liability insurance policy for the development and the instruction and provisions of the maintenance works to the “public open spaces”.
11. It was indicated to the homeowner that a site map had been provided to him in 2015 and that a copy of the site map was within the papers. He could not explain what he required beyond what was shown on that map. The map had

presumably been extracted from the title deeds to the property and had areas marked in green which were presumably the “public open spaces” which fell to be jointly maintained by the homeowners in his development

12. He accepted that the site meetings which had not been attended dated back to 2019. He accepted that the property factor at that time was the previous property factor (“LPM”) which had been taken over by the respondent in 2020.
13. With regard to the alleged issues of substandard workmanship, the homeowner was unable to provide any specific details of any dates and times where substandard workmanship had been carried out. He simply made unsupported generalised claims relating to the standard of the work carried out. He alleged that on one occasion the then appointed contractor had spent only 14 minutes on a site visit. He was unable to say when that visit occurred.
14. The representatives for the property factor indicated that in their view this matter should proceed no further. They indicated that the homeowner owed £1640.59 and had paid nothing since 2018. The homeowner indicated he had made a partial payment for £500 on 27 February 2026, just three days prior to the hearing. This payment was not yet showing on the file open to the factor’s representatives.
15. It should be noted that at the CMD in July 2025, the homeowner told the tribunal that he would start paying the outstanding factoring bills. At that CMD he had stated there had been a marked improvement in the work being done. At the hearing on 9 October 2025, the issue of non-payment was again raised and the applicant accepted he had not made payment (as promised at the July CMD) but would do so “that afternoon”. He did not do so as payment was not apparently made until 27 February 2026. It would appear that the applicant has thus provided false information to the tribunal on two separate occasions.
16. Ms Cooper took the view that the homeowner’s continued pursuit of these of these applications was simply an attempt to prevent the property factor pursuing a debt recovery action against the applicant at the local sheriff court to recover the outstanding sums. They had carried out a satisfaction survey in October 2025 and the responses received from the residents in this development were generally positive. They have not received any complaints from other owners in the development.
17. Ms McAllister indicated that she had been the site manager for the development and carried out quarterly site visits to the development. She then posts a report on the property factor’s portal which is open to the residents. She stated that the applicant has never accessed these reports to check whether they are correct nor has he ever contacted her to raise any issues or complain that any works have not been done.
18. The homeowner made a claim that on one occasion the then appointed contractor had attended at the development for only 14 minutes. This was disputed by the factor’s witnesses. On questioning the homeowner seemed

to accept that he saw the contractor's van from his house for a period of 14 minutes, but he could not state whether the contractor had been present in other areas of the development for any other time on that date. He was also unable to say when this incident took place.

19. The homeowner had been asked on previous occasions to produce evidence either of his own or from other neighbours to present to the tribunal and he had failed to do so. It was the property factor's view that these applications should be brought to an end. The complaints were essentially unfounded, and the tribunal procedures were causing them to take significant time away from their normal duties to no benefit
20. The homeowner was asked if he could provide any single example of failure to comply with the Code. He stated that Ms McAllister had on one occasion taken ten months to reply to correspondence. He was unable to say when this had occurred. The tribunal noted that within the file of papers there was an email which he had lodged which had been sent to him by another member of staff at the property factor indicating that a particular issue had to be dealt with by Ms McAllister and indicating it had been passed to her. The homeowner was unable to produce a copy of the response which he claimed had been received ten months later. It should also be noted that the copy email was itself undated and that the original email from the homeowner to the factor which had produced that reply was not attached.

### **Discussion relating to further procedure**

21. Having heard parties it was clear to the tribunal that these applications could not be determined at the hearing.
22. The applicant had failed to lodge any semblance of a full narration of his complaints with appropriate links to breaches of the Code or failure to comply with the property factor duties, despite having had significant time to do so.
23. The tribunal then discussed with parties what further action should be taken
24. Two options appeared to be open. The tribunal could adjourn and fix yet another hearing (which would probably require to be "in-person"), or the tribunal could make a decision on the applications which was likely to be to dismiss the applications without making a Property Factor Enforcement Order
25. The property factor wanted the applications to be dismissed. If the tribunal fixed a further hearing and that was to be held "in person", they would not attend but would rely on written representation only.
26. The homeowner indicated that it was a matter for the tribunal but that if given further time, he would try to obtain the evidence required. It was indicated to the homeowner that his applications could only deal with matters which pre-

dated the date of their lodging which was April 2023 and June 2023. These applications could not deal with any issues which had arisen since that date.

### **Reasons for decision**

27. The tribunal has carefully considered these applications and the issues raised at the hearing and at the previous CMDs and the hearing in October 2025.
28. The legal member had been given a case file which extended to 385 pages. Within the case file it is almost impossible to discern any specific matters which have been set out by the homeowner which clearly set out breaches of the Code or failures to comply with the property factor's duties.
29. The homeowner on being questioned was unable to provide any specific instances of any such breaches or failures. His complaint seems to be generic in nature and related to his apparent dissatisfaction with the actings of the property factor and its predecessor.
30. These applications have now been before the tribunal for almost three years. The tribunal, in terms of its overriding objective (as set out in terms of rule 2 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the procedure rules"), is required to deal with proceedings justly and in doing so is required to seek to be informal and flexible and to avoid delay
31. It is not possible for the tribunal to consider issues which have arisen since the applications have been lodged. The applicant appeared to indicate there have been ongoing problems but again was unable to provide any specific instances of these issues.
32. The tribunal required to consider whether it should fix a further hearing. It was clear that if a further hearing was to be fixed, it could not be conducted by telephone case conference and would require to take place in person. The property factors indicated that if such a decision was made, they would not attend such a hearing as they would regard that as a complete waste of time and they would simply submit written representations
33. The homeowner has had sufficient and ample time to provide the tribunal with clear evidence of alleged breaches of the Code. He has been required to do so on a number of occasions by directions issued by the tribunal. Even when his second application was accepted, it was indicated to him that there were still issues that required to be clarified. He has failed to do so. He has provided no explanation for that failure and on questioning by the tribunal could provide no specific indication of any matters which constitute a breach of the Code nor of failure by the factor to comply with the property factor's duties.
34. Even if his submissions were accepted, his position is that the property factor failed to attend two meetings seven years ago and may have been dilatory in

responding to a single email in 2022. The allegations of substandard work also seem to relate to some very isolated incidents, which are again now of some age, and which appear to have been remedied. If the tribunal were to determine that these matters constituted a breach of the Code or a failure to comply with the property factor's duties, then it would require to consider whether it should make a PFEO. In all the circumstances, the tribunal would not regard it as appropriate or necessary to make a PFEO in respect of these matters given their relatively minor nature and their age.

35. It was indicated to the applicant that dismissal of the applications would not prevent him raising fresh proceedings should he think that was the appropriate course of action to take. It was noted that the applicant has not obtained legal advice in respect of any of these matters and the tribunal would encourage him to seek independent legal advice before taking any further steps.
36. Having considered matters carefully and having noted the terms of the overriding objective the tribunal has taken the decision that these applications should now be dismissed
37. The tribunal has determined that it cannot find any evidence of any failures relating to the property factor's duties nor any evidence of any breach of the Code of conduct which would require it to make a property factor enforcement order, and the tribunal dismisses the applications

## **Decision**

**The Tribunal determined that the applications should be dismissed**

## **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.**

**Jim Bauld**

**3/3/26**

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**Legal Member**

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**Date**