



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Section 24(1) of the Housing (Scotland) Act 2006

Reference number: FTS/HPC/RP/25/3407

Re: Property : 3 Westwood, Argyle Terrace, Isle of Bute PA20 OBE (recorded in the General Register of Sasines for the Burgh of Rothesay on 1 July 1999) (“Property”)

The Parties:

Agnes Warn, 3 Westwood, Argyle Terrace, Isle of Bute PA20 OBE (“Tenant”)

Clint Warn and Kelvin Warn, c/o 3 Westwood, Argyle Terrace, Isle of Bute PA20 OBE (“Tenant’s Representative”)

Matthew Price, 6 Argyle Terrace, Rothesay, Isle of Bute PA20 OBD (“Landlord”)

Tribunal Members :

Joan Devine (Legal Member); Andrew McFarlane (Ordinary Surveyor Member)

DECISION

The Tribunal determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property in respect that the Property does not meet the Repairing Standard in respect of Section 13(1)(a) and (c) of the Act. The Tribunal therefore issues a repairing standard enforcement order. The Tribunal's decision is unanimous.

Background

1. By application dated 4 August 2025, the Tenant applied to the Tribunal for a determination that the Landlord had failed to comply with their duties under Section 14(1) of the Act.
2. In the application, the Tenant stated that she believed that the Landlord had failed to comply with their duty to ensure that the property met the repairing standard as set out in Sections 13(1) (a) and (c) of the Act. The Application stated that the Landlord had failed to ensure that:

- The Property is wind and watertight and in all other respects reasonably fit for human habitation.
 - 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
3. The Tenant made the following complaints in the application and in the notification communications to the Landlord :
 - Water penetration in living room, front bedroom and adjacent dressing room, staircase and upper bedroom
 - Rewiring is necessary
 4. The Application was referred to the Tribunal and an inspection and Hearing were fixed for 4 March 2026. On 15 February 2026 the Landlord sent to the Tribunal a copy EICR dated 17 June 2022

The Inspection

5. The Tribunal inspected the Property on the morning of 4 March 2026. The weather conditions at the time of the inspection were overcast and dry. The Tenant and her Representative, Kelvin Warn, were present at the Property during the inspection. The Landlord was not in attendance. The Property is a first floor flat with 2 bedrooms, bathroom, kitchen and living room. Access to the Property is on the ground level. On entering there is a vestibule and stairs leading to the first floor. There is a staircase from the first floor to the second floor where there are two rooms used for storage and an extensive attic space. The attic space, in the area above the living room, front bedroom and adjacent dressing room, has two velux windows on the right and left and a bay window in the centre. A schedule of photographs taken at the inspection is provided with this Decision.

The Hearing

6. The Hearing took place on 4 March 2026 by conference call. The Tenant, her Representatives, Kelvin and Clint Warn, and the Landlord were all in attendance.

7. The Tribunal noted that the Landlord had applied for planning permission to replace a window in the Property. Mr Price said that he understood that planning permission had been granted to replace the bay window in the attic space. He said that he had instructed a window fitter, Garry Higgins, who had ordered a new window and was waiting to hear from the manufacturer when it would be available for fitting.
8. The Tribunal noted that there are a number of areas of water ingress in the Property. Mr Price said he was fairly sure it was all due to the window in the attic space. The Tribunal noted there is damage to the ceiling on the staircase from the first floor to the attic space which appeared to be due to the valley gutter on the other side of the roof. Mr Price said that he did not know about water ingress on the stair. He said that he had contacted a roofer, Ian McMillan trading as Wright Pryce, and he had agreed to examine the roof. Mr Price said that if the roofer does not get to the job within the next month then he will look at the roof himself.
9. Mr Warn said that it was his view that the window in the attic space was the main problem but there are other issues at the Property.
10. The Tribunal asked Mr Warn what his concern was regarding the wiring in the Property. The Tribunal noted that an EICR had been produced. Mr Warn said that works were carried out at the time the EICR was prepared.
11. The Tribunal noted that there is a gas boiler in the Property. The Tribunal noted they did not see a carbon monoxide detector in the Property. Mr Price said he was sure he had paid for one and that it had been installed.

The Evidence

12. The evidence before the Tribunal consisted of:
 - 12.1 The Application completed by the Tenant's Representative
 - 12.2 The tenancy agreement between the Tenant and the Landlord
 - 12.3 Sasines Register report relating to the Property
 - 12.4 Notification to the Landlord by letter dated 21 May 2025 which enclosed copy report from Professor Tim Sharpe dated 8 June 2022.
 - 12.5 The Tribunal's inspection of the Property.
 - 12.6 The oral representations of the Tenant's Representative and the Landlord.

Summary of the Issues

13. The issue to be determined was whether the Property meets the repairing standard as set out in Section 13 of the Act and whether the Landlord had complied with the duty imposed on him by Section 14(1)(b).

Findings in Fact

14. Tribunal made the following findings in fact:

14.1 The Tenant has lived in the Property since October 2007.

14.2 The tenancy is a tenancy of a house let for human habitation, which does not fall within the exceptions set out in Section 12(1) of the Act. The provisions set out in Chapter 4 of the Act therefore apply.

14.3 The Tribunal in its inspection carefully checked the items which were the subject of the application. Inside the Property the Tribunal observed the following :

14.3.1 Living room – water penetration to side of window

14.3.2 Front bedroom – water penetration at ceiling rose near centre of the room; water penetration on ceiling at bay window

14.3.3 Dressing room – damp staining just below cornice on outer wall; water penetration at window

14.3.4 Cupboard below stair to attic – plasterwork damaged following reported water penetration

14.3.5 Stair to attic – water damage indicative of water penetration

14.3.6 Attic landing – exposed electrical wiring

14.3.7 Attic storeroom (road side) – evidence of water penetration from valley gutter

14.3.8 Attic- bay window in poor condition; water penetration at velux window

14.3.9 No carbon monoxide detector in the Property correctly placed in accordance with Scottish Government Guidance.

Reasons for Decision

15. Following its inspection and the hearing, the Tribunal determined that the Property does not meet the repairing standard as required by Section 13(1) (a) and (c) of the Act.
16. The Property is not wind and watertight and in all other respects reasonably fit for human habitation as there is evidence of water penetration in the living room, front bedroom, dressing room, cupboard below attic stairs, the attic stairs and the attic space.
17. The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair as there is exposed wiring at the attic landing. In addition, the Repairing Standard now requires that installations for the supply of electricity must include a residual current device. An electrical contractor should be instructed to inspect the installation and carry out the works necessary to comply with this requirement.
18. The Tribunal noted that the Property has a gas boiler which is situated in a cupboard in vestibule just inside the exterior door. The Tribunal observed that there was no carbon monoxide detector in the vicinity of the boiler. The Tribunal therefore conclude that the Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

Decision

19. The Tribunal determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act, and in particular that the Landlord has failed to ensure that the Property meets the repairing standard in respect of Section 13(1) (a) and (c) of the Act.
9. The Tribunal therefore makes a repairing standard enforcement order as required by Section 24(2) of the Act.

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.

J Devine

**Legal Member
9 March 2026**



Property Address

3 Westwood,
Argyle Terrace,
Isle of Bute
PA20 0BE

Case Reference

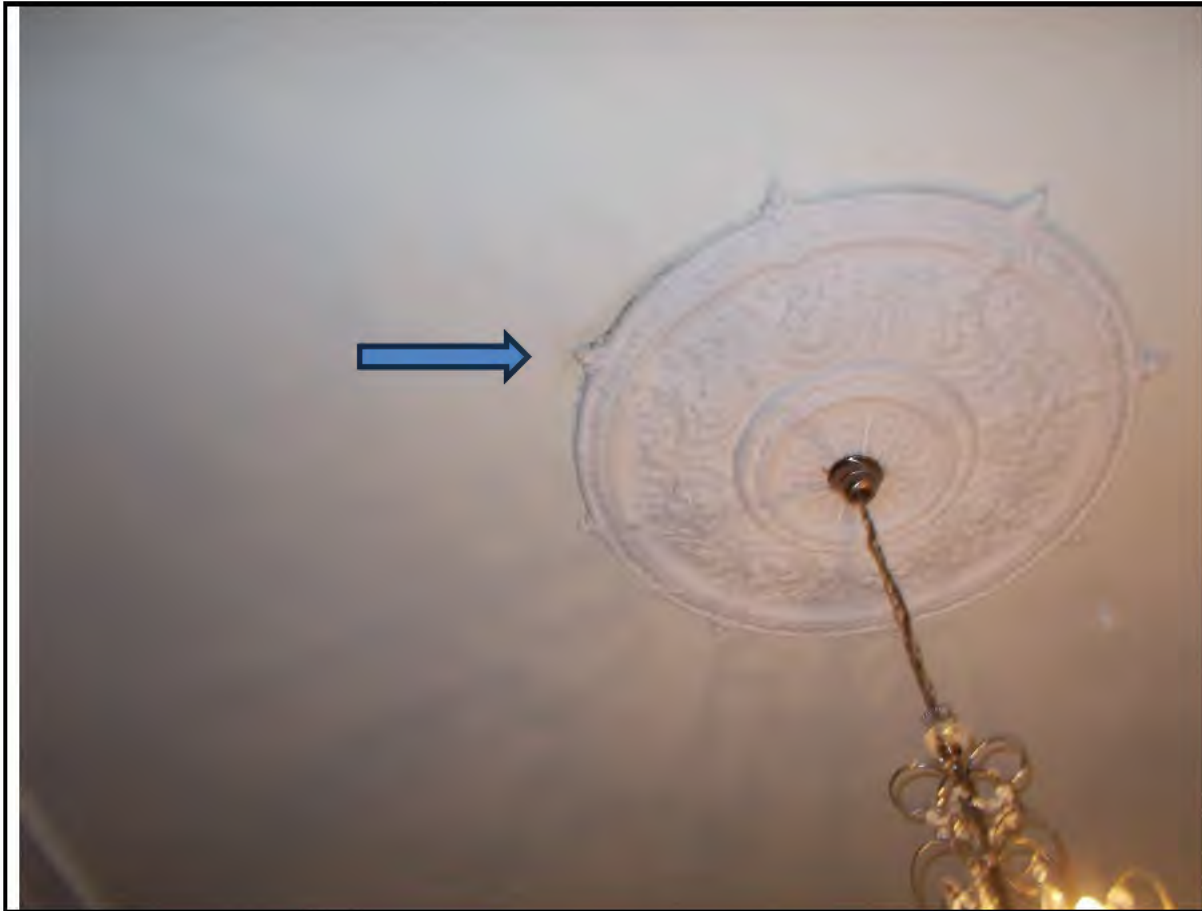
FTS HPC RP 25 3407



Schedule of Photographs taken during the
inspection by tribunal members on 4 March
2026



1. Living Room ceiling near front elevation, to side of window, with reported water penetration from roof above at position arrowed.



2. Front Bedroom near centre of the room at rose around light fitting with reported water penetration in position arrowed. Source not identified as there is an apartment above.



3. Dressing Room at outer wall just below cornice damp staining indicative of defects in roof/Velux/wall/gutter.



4. Dressing Room soffit of window in outer wall with reported water penetration indicative of defects in roof/Velux/wall/gutter.



5. Front Bedroom Bay Window ceiling with signs of previous water penetration reported as not currently active.



6. Front Bedroom Bay Window ceiling with signs of previous water penetration reported as not currently active.



7. Cupboard below stair to Attic Level. Plasterwork damaged reportedly following water penetration.



8. Stair to Attic Level. Water damage reported indicative of water penetration at valley gutter.



9. Stair to Attic Level. Water damage reported indicative of water penetration at valley gutter.



10. Attic storeroom to rear. Indicated previous water penetration from valley gutter.



11. Stripped out attic area.



12. Attic Level Bay Window in poor condition.



13. Velux window over Dressing Room below.



14. Water collected in bucket below Velux window above Dressing Room below.



15. Velux window above Living Room below.



16. Valley Gutter over stair to Attic Level.



17. Elevation of House



18. Detail of Attic Level Bay Window



19. Electrical Consumer Control Unit



20. Electrical Consumer Control Unit



21. Exposed electrical wiring on Attic Level Stair Landing ceiling.



22. Base plate for removed Smoke alarm in Hallway at Kitchen door.



23. Heating Boiler