



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 8(1)(c) of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/PY/26/0227**

**Parties:**

**Jayagowriy Prabakaran, Ravi Prabakaran, 20 Henwood Crescent, Pembury, Turnbridge Wells, TN2 4LJ (“the Applicant”)**

**Tribunal Members: Ruth O’Hare, Legal Member with delegated powers from the Chamber President**

**Decision**

The Legal Member determined that there is good reason to believe that it would not be appropriate to accept this application received by the Tribunal on 16 January 2026.

The Legal Member therefore rejects the application under Rule 8(1)(c) of the Rules.

**Background**

- 1 This is an application under section 5 of the Debtors (Scotland) Act 1987 (“the 1987 Act”). The Applicants sought a time to pay order following the Tribunal’s decision in the applications FTS/HPC/PR/24/5815 and FTS/HPC/CV/25/0786 in terms of which orders for payment were granted against the Applicants.
- 2 In terms of Rule 5(2) of the Rules, a Legal Member of the Tribunal with delegated powers from the Chamber President reviewed the application to assess whether it had been lodged in the required manner. Following said review the Tribunal wrote to the Applicant by email on 21 January 2026 requesting a copy of the charge for payment served upon them in relation to the debt.
- 3 On 26 January 2026 the Applicants responded to the Tribunal with a copy of the Tribunal’s decision in the application FTS/HPC/CV/25/0786. The Applicants advised that they had not received a charge for payment from sheriff officers, and made submissions in support of a time to pay order.

- 4 On 30 January 2026 the Tribunal emailed the Applicants explaining that the application for a time to pay order could not be made unless the creditor had served a charge or some other form of diligence had commenced. The Tribunal advised that if that had not started, the application must be withdrawn and re-submitted once a charge has been served.
- 5 On 10 February 2026 the Applicants responded to the Tribunal stating again that they had not received a charge but had received an email from the creditor. The Applicants provided a copy of the email.
- 6 On 12 February 2026 the Tribunal wrote to the Applicants acknowledging their email. The Tribunal explained that it was not competent for the Tribunal to make a time to pay order unless and until a charge for payment had been served. The Tribunal advised that the email from the creditor was not a charge for payment.
- 7 On 25 February 2026 the Applicants emailed the Tribunal advising that they were not sure what to do. The Applicants sought legal advice from the Tribunal.
- 8 On 2 March 2026 the Tribunal wrote to the Applicants advising that it could not provide them with advice and that they should consult a solicitor or advice service. The Tribunal explained again that the application could not proceed if the Applicants had not been served with a charge for payment by a sheriff officers. The Tribunal advised that the application should be withdrawn and re-submitted once a charge had been served.
- 9 On 17 March 2026 the Applicants emailed the Tribunal stating "*As we didn't receive the notice yet, I would like to proceed this application once it is issued to us*".

### **Reasons for decision**

- 10 The Legal Member has determined that the application should be rejected in terms of Rule 8(1)(c) of the Rules, which states that an application must be rejected if the Tribunal has "*good reason to believe that it would not be appropriate to accept the application*".
- 11 Section 5 of the 1987 Act permits a debtor to apply to the Tribunal for a time to pay order where a charge for payment has been served upon them, an arrestment has been executed, or an action of adjudication for debt has been commenced.
- 12 The Applicants have confirmed that they have not yet been served with a charge. They have been asked to withdraw the application but have not explicitly done so. Accordingly, the Legal Member has concluded that it would not be appropriate to accept the application at this time as the application cannot comply with the requirements of section 5 of the 1987 Act. The

Applicants can re-submit the application to the Tribunal once a charge has been served upon them.

### **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.



**Legal Member/Chair**

**18 March 2026**

**Date**