



**DECISION AND STATEMENT OF REASONS OF MARTIN J. MCALLISTER,  
LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED  
POWERS OF THE CHAMBER PRESIDENT**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property  
Chamber Rules of Procedure 2017 ("the Rules")**

**in connection with**

**54 Millglen Drive, Edinburgh, EH16 4WD ("the Property")**

**Case Reference: FTS/HPC/PF/25/5301**

**Mark Lukowiecki ("the Applicant")**

1. The Applicant applied to the Tribunal on 18 December 2025 in terms of Section 17 of the Property Factor (Scotland) Act 2011 ("the 2011 Act"). On 16 January and 16 February 2026 the Tribunal issued a request for further information to the Applicant.
2. The Applicant was asked to provide evidence that he had notified the Property Factor about the alleged breach of the Code(s) and alleged failure to carry out the property factor's duties. The Applicant was asked to provide a copy of the written statement of services and was asked to provide clarification on the application form which was incomplete and whether he wanted to submit a Form C1 in addition to the application which he had submitted.
3. On 16 February 2026, the Applicant emailed the Tribunal and stated that he was awaiting a further response from the Property Factor and that, if matters could not be resolved, he would contact the Tribunal to advise. The Applicant has submitted no further information.

## DECISION

4. The Legal Member considered the application in terms of Rule 5. Rule 5 provides: - (1) An application is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate. (2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgment have been met. (3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment. “
5. **After consideration of the application the Legal Member considers that the application should be rejected in terms of Rules 5 (3) and 8(1) (c) of the Rules. Rule 8 (1) (c) 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.”**

## REASONS FOR DECISION

6. The Application is in terms of Section 17 of the 2011 Act and Rule 43. Section 17 (3) (a) of the Act states that an application to the Tribunal cannot be made unless the homeowner has notified the property factor in writing as to why the homeowner considers that the property factor has failed to carry out the property factor’s duties or, as the case may be, to comply with the section 14 duty must set out “the homeowners reasons for considering the property factor has failed to carry out the property factor duties or, as the case may be, to comply with the section 14 duty.”

7. Rule 43 (2) (a) requires any application to be accompanied by the notification to the property factor and Rule 43 (2) (d) requires a copy of the written statement of services.
  
8. The Applicant has failed to provide information, having been directed to do so in a request for further information by the Tribunal, in terms of Rule 5(3) of the Rules.
  
9. The Legal Member therefore determines that the application cannot be accepted. The application is rejected on that basis.

### **What you should do now**

If you accept the Legal Member's decision, there is no need to reply.

If you disagree with this decision –

An applicant aggrieved by the decision of the Chamber President, or any Legal Member acting under delegated powers, 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. Information about the appeal procedure can be forwarded to you on request.

Martin J. McAllister, Legal Member  
22 April 2026