

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland Housing and Property Chamber in relation to an application made under Sections 48(1) of the Housing (Scotland) Act 2014 and Sections 2, 5 and 7 of the Letting Agent Code of Practice made under the Letting Agent Code of Practice (Scotland) Regulations 2016

Chamber Ref: FTS/HPC/LA/25/1574

Re: Property at 3/2, 21 Glen Avenue, Port Glasgow PA14 5AA (“the Property”)

Parties:

EllaQuint Limited, Ground Floor, Marlborough House, 298 Regents Park Road. London N3 2SZ (“the Applicants”)

Corbett & Shields Lettings Limited, 1 Ratho Street, Greenock PA15 2BU (“the Respondents”)

Tribunal Members:

George Clark (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The Tribunal determined that the Respondents have failed to comply with Section 2 of the Letting Agent Code of Practice made under the Letting Agent Code of Practice (Scotland) Regulations 2016, published on 31 January 2018 and that it would make a Letting Agent Enforcement Order requiring the Respondents to pay the Applicants the sum of £300.

Background

1. By application, dated 11 April 2025, the Applicants sought an Order that the Respondents had failed to comply with the Letting Agent Code of Practice effective from 31 January 2018 and made under Section 46 of the Housing (Scotland) Act 2014.
2. The complaint was made under Sections 2, 5 and 7 of the Code of Practice and related to a tenancy agreement entered into between the Applicant and Mr Jaskam Singh, commencing on 6 February 2024. The Applicants contended that they were not made aware that the tenant was to be Mr

Singh. They understood that the previous tenants had changed their minds about moving out and had decided to stay on in the Property. The Respondents had failed to promptly advise the Applicants of Mr Singh's occupation of the Property. The Respondents had, in any event, failed to obtain a deposit from Mr Singh. They had failed to carry out proper vetting procedures in relation to Mr Singh and had failed to comply with their undertaking in their contract with the Applicants to inspect the Property every three months. Their handling of their formal complaint had also been inadequate.

3. The Applicants stated that, as a result of the Respondents' breaches of the Code of Practice, they had incurred £5,745 in repairs costs and £2,000 in lost rent. They were seeking an Order from the Tribunal by way of compensation for these costs and provided a copy Invoice dated 20 February 2025, listing various works totalling £5,745 carried out at the Property.
4. The Applicants provided the Tribunal with a copy of a Private Residential Tenancy Agreement entered into by the Respondents on their behalf with Mr Jaskarn Singh, commencing on 6 February 2024, a copy of a Rent Statement taken from the Respondents' Client Portal and copies of email exchanges between the Parties, including an email of 6 February 2024 in which the Respondents apologised for not advising the Applicants that "the tenant now wants to stay in the property". This was in response to an earlier email on the same day, in which the Applicants had said that they had understood that the Property was vacated during the week of 16 January 2024.
5. The Respondents provided written representations on 3 and 28 October 2025. They stated that the original tenant had allowed Mr Singh to move in when they left and he had done so without the Respondents' knowledge. They had been trying unsuccessfully to obtain access to carry out the checkout inspection and "We then received a call from tenants(sic) friend on the 6th of February to say that they wanted to stay in the property. This is when Nickki emailed you to clarify that tenant wished to remain." They had taken advice from Scottish Association of Landlords to the effect that, as they had already accepted a rent payment from Mr Singh, a tenancy was in existence, and they should seek to regularise this with a Tenancy Agreement. They did this with the Applicants' consent. They provided a copy of the Private Residential Tenancy Agreement with Mr Singh, commencing on 6 February 2024 at a rent of £500 per month. It bore to have been signed by Mr Singh on 9 February 2024 and by the Respondents on behalf of the Applicants on 14 February 2024. A Rent Statement submitted by the Respondents showed a receipt of £500 on 6 February 2024, the previous payment having been £475 on 1 January 2024. They also supplied a copy of their response of 28 February 2025 to the Applicants' formal complaint. In it, they stated that they had asked Mr Singh to move out but he had refused "and had started to pay rent". Mr Singh had also refused to pay a deposit, and their view was that they "could not compel payment; landlord chose to proceed." Multiple attempts to gain access for inspection had been

refused and the Respondents had applied to the Tribunal for a Right of Entry Order. They did not accept that they had failed to comply with the Code of Practice and argued that, in any event, the Applicants' alleged losses were exaggerated. The Invoice was dated six months after Mr Singh left the Property and some of the items were upgrades and not present on entry or exit of tenants. The Applicants had changed letting agents in the same month that Mr Singh vacated the Property, and any extended void period thereafter could not reasonably be attributed to a failure on the part of the Respondents.

6. The Respondents included in their submissions a list of the dates on which they inspected the Property. They were unable to gain access on 25 January or 1 February 2024, but they achieved access on 27 February 2024 when, according to their note beside that date on their list, the tenancy agreement was signed.
7. At a Case Management Discussion, held by means of a telephone conference call on the morning of 30 October 2025 and attended by both Parties, the Tribunal Chair told the Parties that the Tribunal could not determine the application on the basis of the evidence before it. There were clear disputes of fact which would require to be tested at a full evidential Hearing. In particular, the Tribunal addressed the Parties to the following issues, which could not be resolved from the information then before the Tribunal:
 - (i) When did the Respondents become aware that Mr Singh had moved into the Property?
 - (ii) When did the Respondents advise the Applicants of this development?
 - (iii) Why, after they knew Mr Singh had moved in, did the Respondents tell the Applicants that the previous tenants had decided to stay?
 - (iv) When did the Respondents receive the first payment of rent from Mr Singh and why did they accept it?
 - (v) When and by what means did the Respondents seek advice from Scottish Association of Landlords? They should provide a copy of any written advice they received.
 - (vi) Did the Respondents seek the consent of the Applicant before entering into a tenancy agreement with Mr Singh? If so, they should provide copies of relevant emails or records of any telephone conversations in support of their argument that they proceeded with his consent.
 - (vii) Why did the Respondents not advise the Applicants that Mr Singh had refused to pay a deposit and why did they then refund to the Applicants a deposit that had been received in respect of the previous tenancy?
 - (viii) The Applicants should provide any photographic evidence they have of the condition of the Property before Mr Singh moved in and dated photographs showing its condition after the tenancy ended in August 2024.
 - (ix) The Applicants should set out the legal basis of their claim that the Respondents should be regarded as liable for loss of rent for a period after they had dispensed with their services, when they would have had no control over the process.

- (x) The Applicants should provide evidence that the works carried out prior to reletting the Property were the former tenant's responsibility as opposed to the consequence of fair wear and tear and should explain how the costs are linked to the actions of the Respondents.
8. The Tribunal issued a Direction to the Parties to provide any further written representations or documents that they wished the Tribunal to consider not later than 14 days prior to the date set for the Hearing, together with a list of any witnesses that they intend to call to give evidence on their behalf.
9. On 25 January 2026, the Applicants, per Mr Brett Pettersen, provided further written submissions in response to the issues raised by the Tribunal at the Case Management Discussion. They stated that at no point prior to termination of the tenancy, when Mr Pettersen had queried the Respondents regarding the condition of the Property, associated damage and the Respondents' actions in pursuing the tenants, were the Applicants aware that Mr Singh was a replacement tenant rather than the existing one(s) staying on. They relied on the Respondents notifying them clearly and explicitly of any material change to the tenancy. Mr Pettersen was not told that Mr Jaskam Singh had been permitted to occupy the Property without vetting or payment of a deposit. On the contrary, the Applicants were led to believe that the previous tenants had decided to remain. They referred the Tribunal to an email of 17 February 2025, in which the Respondents had advised Mr Pettersen "It was Muna who was there and she left and moved Jaskam in without our knowledge which we only found out during a visit". In a further email of 26 February 2025, referring to the tenant, they stated "they signed a new tenancy". The Applicants stated that they did not consent to the substitution of the tenant, to proceeding without vetting or without a deposit. They were not advised that Mr Singh had refused to pay a deposit nor were they given the opportunity to decide whether the tenancy should proceed on that basis.
10. The Applicants attached photographic evidence showing the condition of the Property following full refurbishment in May 2023 and said that 14 months later, further remedial works were required, following Mr Singh's 9 months' occupation. They also referred to the photographs provided by the Respondents showing the state of the Property following Mr Singh's exit in August 2024 and provided a copy of the check-in inspection report carried out by their new letting agents on 3 April 2025. The Respondents contended that the extent of deterioration could not reasonably be attributed to fair wear and tear. The losses claimed flowed directly from the Respondents' failures to comply with the Code of Practice, including failure to vet the tenant, obtain a deposit and carry out inspections and failure to notify Mr Pettersen of material risks. The claim for loss of rent was based on the fact that the Property was returned in an unlettable condition. The necessary remedial works extended the void period. It had been 8 months, but the Applicants limited their claim to 4 months' rent.
11. On 9 April 2026, the Respondents made further written submissions. They stated that, during the original tenancy, regular inspections were carried out

and these confirmed that the Property was in good repair. During Mr Singh's tenancy, inspections were limited due to his refusal to communicate with the Respondents and to allow them to inspect the property. These limited inspections indicated evidence of untidiness and mould/condensation/damp and they instructed Mr Singh on managing these issues. In relation to the Applicants' claimed losses, there were no "before and after" photographs and some of the works were upgrades. They pointed out that the Invoice for the works was dated more than six months after Mr Singh vacated the Property and there was no evidence that the Property was uninhabitable from August 2024 until February 2025. The Applicants had been fully aware of all the circumstances throughout the tenancy and any extended void period following Mr Singh's departure could not reasonably be attributed to the Respondents, as the Applicants had chosen to change agents in the same month that the tenancy ended. As Mr Singh had been introduced by the previous tenant without the Respondents' knowledge, they had not undertaken vetting procedures in relation to him.

12. The Respondents included with their submissions an email of 6 February 2024, saying "the tenant wants to stay in the property and I have been trying to get a date to access the property for inspection", and a further email of 26 February 2024 referring to the tenant having been back in the office. That email makes no mention of the fact that this was a new tenant. The submissions also included evidence that a Right of Access application was made to the Tribunal and an Order made on 27 June 2024 and that a pre-leaving inspection was attempted on 18 July 2024, but access was not given, and Mr Singh vacated the Property on 6 August 2024.
13. The Respondents referred to the Applicants' claim of lack of notification of arrears of rent. They stated that landlords have access to rent accounts in real time and that it was, therefore, unreasonable to claim a lack of awareness. They concluded that the burden of proof lay with the Applicants. The Respondents had referenced the original tenant properly and had regularised Mr Singh's tenancy with advice from the Scottish Association of Landlords. Inspections had been attempted and the matter had been escalated to the Tribunal. The Applicants had full rent account access. The allegations are unsubstantiated. Their referencing obligations were met, and their tenancy obligations were not breached, as no deposit had been received from Mr Singh. Inspections and communication were reasonable and documented. No proven damage or loss had been evidenced, and the Respondents had acted reasonably and in good faith within the Code of Practice.

The Hearing

14. A Hearing took place by means of a telephone conference call on the morning of 23 April 2026. The Applicant was represented by Mr Pettersen. The Respondents were represented by Ms Annette Weston, Ms Mary Sellar and Mr Scott Atkinson. On the day, the Respondents provided the Tribunal with a copy Property Inspection Report dated 27 February 2024, which stated that the Property had been kept in a clean and tidy condition.

It referred to some mould on walls due to condensation and added “tried to advise that windows should be opened daily to reduce condensation but tenant does not speak very good English.”

15. The Respondents told the Tribunal that when they received the rent payment on 6 February 2024, they understood that the original tenant was still there. They only discovered that Mr Singh was there when they carried out a repair. They told Mr Pettersen, who said he wanted an increase in the rent. A call was set up for 29 February 2024, when everything as discussed in detail.
16. Mr Pettersen told the Tribunal that notice had been given to him on 10 January 2024 but on 6 February 2024 he received an email from the Respondents saying the tenant wished to stay on. He agreed to this if the rent was increased to £500. He thought the new tenancy was with the existing tenant. Ms Weston responded that the reason a new lease was signed was that it was a new tenant, so they could insist on the increased rent that Mr Pettersen wanted. They sent an email to Mr Pettersen on 6 February 2024 to tell him that the tenant had moved Mr Singh in without permission.
17. The Respondents told the Tribunal that the deposit was paid in cash and that it was paid back to the Applicant when Mr Singh was still in residence. They did not carry out any verification procedures as Mr Singh had already moved in. They accepted that communication should have been clearer.
18. Mr Pettersen said that the call on 29 February 2024 was set up as the tenant was paying late and improvements were not happening as he expected. By then, though, everything had happened. Mr Singh was in the Property with no vetting and no deposit being taken.
19. In relation to the works carried out after Mr Singh vacated, Mr Pettersen accepted that they were not completed until 5 February 2025. The new letting agents had told him the works were instructed in November 2024 but the contractors could not start before the Christmas period. The Respondents pointed out that no photographs had been taken when Mr Singh moved out. They carried out an inspection at the time, and their normal practice would have been to take a view as what was wear and tear and what was the tenant’s responsibility, but the Applicants moved to new agents. The Respondents would have expected the carpets to be cleaned at the tenant’s expense but did not think it would have been reasonable to ask the tenant to pay for replacements. They had already raised with Mr Singh the issue of mould and provided him with guidance. They would expect a landlord to replace shower curtains between lets. When Mr Singh left, the Respondents had a conversation with Mr Pettersen and it was agreed that they would pursue Mr Singh to try and claim back some costs, but the matter was handed on to the new agents, who contacted the Respondents to obtain a new address for Mr Singh.

20. The Respondents stated that the costs claimed seemed expensive for the works done. The Property was vacated in August 2024 but the new letting agents did not obtain quotes until November 2024. This was not a reflection on the Respondents. Mr Pettersen responded that the photographic evidence provided by the Respondents following their August 2024 inspection was a reasonable benchmark to compare with the photographs provided by the Applicants showing the condition of the Property after refurbishment in 2023 and before the new tenants moved in in April 2025. The fact that the Property may have been habitable when Mr Singh left did not mean that it was lettable.

Reasons for Decision

21. The Applicants' complaints were that the Respondents had failed to comply with Sections 2, 5 and 7 of the Code of Practice. They cited a number of specific paragraphs, but the numbers they have do not correspond to any numbering in the Code of Practice or the Regulations.
22. The Tribunal considered carefully all the evidence, written and oral, that had been presented by the Parties.
23. The Tribunal was very concerned that no notes had been produced of the discussion that took place during the telephone call of 29 February 2024 and that no follow-up email had been sent to the Applicants summarising the discussion and any decisions taken. This was clearly regarded by both Parties as an important event, but in the absence of contemporaneous notes, the Tribunal could not speculate on what was said or agreed, including the Respondents' assertion that "landlord chose to proceed".
24. The Respondents stated in their submissions that the Respondents had access to the rental account in real time. This was, presumably, a reference to the fact that he could access the Respondents' Client Portal. The Tribunal noted, however, that the Client Portal only shows receipts and payments, unlike the statement provided by the Respondents to the Tribunal, which debits the account monthly with the rent that has fallen due. Accordingly, it is not possible from the Client Portal alone to work out any rent arrears. The view of the Tribunal was, that in any event, the Respondents had a duty to advise the Applicants directly if arrears were accruing on a rental account. It was not sufficient to assume clients would find out for themselves by logging on the Client Portal. In addition, the narrative on both the Client Portal and the rent statement provided by the Respondents does not indicate receipt of any rent between 7 December 2023 and 22 February 2024, when three payments totalling £957 are recorded. In the Respondents' rent statement they are shown as coming from Mr Singh. There was no evidence before the Tribunal of any payment made by Mr Singh before 22 February 2024 and no evidence of a rent payment on 6 February 2024.

25. It is not clear when the Respondents became aware that Mr Singh had moved in. In their written submissions, they listed the dates of their inspections, including 27 February 2024 when, according to their list the tenancy agreement was signed. It is clear from the Tenancy Agreement itself, though, that it was signed by the Respondents on 14 February 2024 and it appears to have been signed by Mr Singh on 9 February 2024. The date of his signature is indistinct but the date of signing by the Respondents is in clear type and the version provided by the Respondents states that Mr Singh signed it on 9 February 2024. This indicates that they were aware of Mr Singh being in the Property or on 9 February 2024, before the first receipt of rent from him is recorded on the Rent Statement.
26. It was incumbent on the Respondents to let the Applicants know whenever they became aware that it was not the original tenant who was now living in the Property, and to then discuss the options available, including seeking an Eviction Order. They should have done that even if they had already accepted rent from Mr Singh and should not have proceeded to give him a tenancy agreement without the full knowledge and consent of the Applicants. The wording of their email to the Applicants email of 26 February 2025, when, referring to the tenant, they stated "*they* [Tribunal's italics] signed a new tenancy" is, at best, ambiguous, as is the wording of their email of 6 February 2024 where they said "We then received a call from tenants(sic) friend on the 6th of February to say that *they* [Tribunal's italics] wanted to stay in the property. This is when Nickki emailed you to clarify that tenant wished to remain." The view of the Tribunal was that, based on the evidence before it, the Applicants had no knowledge of the existence of Mr Singh before the Respondents compromised the Applicants' position by "regularising" the arrangement by entering into a tenancy agreement with Mr Singh. They should never have entered into such a contract without seeking their clients' instructions, and, even if they thought a tenancy had come into being by virtue of their having received a rent payment, they should still have undertaken the normal vetting procedures so that they could advise the Applicants of any risks shown up by their enquiries. They also had not advised the Respondents immediately when Mr Singh refused to pay a deposit.
27. Even if the Respondents were not aware before 6 February 2024 that the tenant had changed, it is clear from the emails of 6 February 2024 they failed completely to advise the Applicants of their understanding that the original tenant(s) had changed their minds and now wanted to stay on.
28. The view of the Tribunal was that, in all of these matters, the Applicants were badly let down by the Respondents. The question for the Tribunal to determine, however was whether they had failed to comply with the Sections of the Code of Practice referred to in the application.
29. Section 2 of the Code of Practice lists Overarching Standards of Practice. Paragraph 21 states that letting agents must carry out the services to landlords and tenants using reasonable care and skill and in a timely way. Paragraph 24 provides that letting agents must maintain appropriate

records of their dealings with landlords, tenants and prospective tenants and adds "This is particularly important if you need to demonstrate how you have met the Code's requirements." By Paragraph 27, letting agents must inform the appropriate person, the landlord or tenant (or both) promptly of any important issues or obligations on the use of the property that they become aware of, such as a repair or breach of the tenancy agreement.

30. The Tribunal determined, for the reasons set out in Paragraphs 23-27 of this Decision that the Respondents did not carry out services to the Applicants in a timely way, did not maintain appropriate records of their dealings with the Respondents and did not advise the Respondents promptly of important issues of which they became aware, including the change of tenant, the signing of a new tenancy agreement and arrears of rent. It was not reasonable to expect landlords to pick up on rent arrears by checking the Client Portal. The Respondents had a positive duty to alert the Respondents.
31. Section 5 of the Code of Practice relates to Management and Maintenance, including the obligation to record any issues identified at routine inspections and to bring them to the tenant's and landlord's attention where appropriate. It also requires letting agents to inform a landlord in writing of the late payment of rent.
32. The Tribunal did not uphold the complaint regarding failure to carry out inspections, there being sufficient evidence to establish that they tried several times to gain access and that, when they were unsuccessful, they made a Right of Entry application to the Tribunal. The Tribunal did, however, uphold the complaint that the Respondents had not advised the Applicants of non-payment of rent by Mr Singh.
33. Paragraph 7 of the Code of Practice requires letting agents to respond to enquiries and complaints within reasonable timescales, with the overall aim being to deal with enquiries and complaints as quickly and fully as possible and to keep those making them informed if they need more time to respond. The Tribunal did not uphold the complaint under Section 7, as it was not related to the time taken to respond. Rather, it was a complaint that the response was inadequate. This left the Applicants with the option of applying to the Tribunal, which they had done. The dissatisfaction with the response was that the Respondents had not addressed the issues of the absence of vetting and the failure to secure a deposit from Mr Singh, both of which were dealt with by the Tribunal under Section 2 of the Code of Practice.
34. Having determined that the Respondents had failed to comply with Sections 2 and 5 of the Code of Practice, the Tribunal then considered the financial claims made by the Applicants and, in particular, whether the Applicants had established a causal link between the failures and their alleged losses. The burden of proof in such matters lies with the

Applicants. It was for them to establish on the balance of probabilities that, but for the failings of the Respondents, the losses they have suffered would not have happened. The view of the Tribunal was that, whilst communication by the Respondents had, at critical, moments, had been at best lacking in clarity, particularly regarding the telephone conference call on 29 February 2024, there was no clear evidence of the condition of the Property when Mr Singh moved in. Accordingly, the Tribunal could not make a finding that the Respondents' failure to carry out vetting or to obtain a deposit resulted directly in loss to the Applicants. The Respondents had not been responsible for Mr Singh moving in, and the Tribunal could not speculate on the extent, if any, to which the condition of the Property deteriorated during his tenancy. The Respondents could not be held responsible for an extended void period when they had no control over or input into the process by which the Property was prepared for re-letting as the Applicants had appointed new agents. Accordingly, the Tribunal did not uphold the financial claims made by the Applicants.

35. The Tribunal decided, however, that the Applicants were entitled to compensation for the upset and inconvenience that their failures had caused to the Applicants and that a fair, reasonable and proportionate amount to award would be £300.

5 The Tribunal's Decision was unanimous.

Right of Appeal

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.

George Clark
Legal Member/Chair
20 May 2026.