



First-tier Tribunal for Scotland (Housing and Property Chamber)

Statement of Decision with Reasons under section 17 of the Property Factors (Scotland) Act 2011 (“the Act”) and Rule 17 (4) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Reference number:	FTS/HPC/PF/25/1236,	FTS/HPC/PF/25/1237
FTS/HPC/PF/25/1238,	FTS/HPC/PF/25/1239	FTS/HPC/PF/25/1240,
FTS/HPC/PF/25/1241	FTS/HPC/PF/25/1243,	FTS/HPC/PF/25/1244
FTS/HPC/PF/25/1245,	FTS/HPC/PF/25/1246	FTS/HPC/PF/25/1247,
FTS/HPC/PF/25/1248		

Re: Properties at Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ (“the Property”)

The Parties: Patricia Spence, 2C Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ

Stewart Rutherford, 3A Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ

David Udris, 1B Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ

Lilian MacMillan, 2B Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ

Monica Murray, 3B Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ

Claire Bell, 3C Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ

Ronnie Erskine, 4C Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ

Joan Shaw, 1D Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ

Sheila McCosh, 2D Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ

Morag McKissock, 3D Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ

Lindsey Duncan, 2E Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ

Mary Anderson, 1E Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ

(“the Applicants”)

Newton Property Management limited, 87 Port Dundas Road, Glasgow, G4 0HF (“the Respondent”)

Tribunal Members: Alison Kelly (Legal Member) and Kingsley Bruce (Ordinary Member)

Background

1. The Applicant, along with 11 other Homeowners within the development, made applications dated 20th March 2025 seeking a determination that the Respondent had breached the Code of Conduct for Property Factors.
2. The Applicant's application was accepted as the master case.
3. On 15th October 2025 the Respondent lodged Written Representations. They contended that the applications had been submitted on a C1 form and that each application made reference to the pre-2021 Property Factor Code of Conduct. They contended that none of the submissions made reference to the Overarching Standards of Practice (OSPs), which they said was a requirement under the updated Code. They had not taken over responsibilities for the development until 8th December 2023 and therefore they cannot have breached the pre 2021 Code. Case Management Discussion.
4. The Case Management Discussion ("CMD") took place by teleconference on 31st October 2025. The Applicant represented herself. The Respondent was represented by Mrs Flannigan, their Customer Relationship Manager.
5. The Chairperson introduced everyone and explained the purpose of a CMD in terms of the Tribunal's Rules.
6. The Tribunal addressed the Respondent's Written Representations. The Tribunal noted that the Applicant had used a very old form, but it did not at any stage mention the 2011 Code of Conduct, and the paragraph numbers in the application corresponded with the paragraph numbers in the 2021 Code of Conduct. In addition, there was no requirement to allege any breach of the OSPs. The Tribunal was of the view, following a decision of the Upper Tribunal, that the application forms are not prescribed by statute, and therefore as long as the application made contains all the necessary information it should be allowed to proceed. The point is to give fair notice to the Respondent of the case raised against it and the Tribunal was satisfied that the application did that.
7. The Tribunal took the Applicant through each paragraph of the Code which she was alleging had been breached. It was agreed that all of the paragraphs mentioned under section 1 (in relation to the Written Statement of Services) and paragraphs 3.7, 4.8 and 4.10 were not applicable.
8. It was agreed that Complaints under paragraphs 2.9, 3.5, 3.6, 4.1, 4.6, 4.9 and 7.5 will proceed to a Hearing.
9. It was also agreed that the Tribunal will issue a Direction in relation to further Written Representations which the Tribunal wishes to be lodged, the lodging of documents and lists of witnesses.

10. It was agreed that the Hearing should take place in person in the Glasgow Tribunal Centre. Outcome

Matters Subsequent to CMD

11. The Tribunal issued Directions to each party.

12. The Applicant was required, by 6th December 2025, to:

- Lodge a Written Representation setting out each paragraph of the Code which is alleged to have been breached (as agreed and laid out in the Case Management Discussion Note) and a brief summary of why she thinks the paragraph has been breached.
- Lodge all documents she wishes to refer to (even if already lodged), paginated and indexed in the format suggested. Each item on the Inventory should have the paragraph number of the Code of Conduct to which it relates in brackets.
- A List of the Witnesses the Applicant intends to call to give evidence.

13. The Respondent was required, by 16th January 2026 to:

- Lodge a Written Representation setting out each paragraph of the Code which is alleged to have been breached (as agreed and laid out in the Case Management Discussion Note) and a brief summary of why it thinks the paragraph has not been breached.
- Lodge all documents it wishes to refer to (even if already lodged), paginated and indexed in the format suggested. Each item on the Inventory should have the paragraph number of the Code of Conduct to which it relates in brackets.
- A List of the Witnesses the Respondent intends to call to give evidence.

14. On 3rd December 2025 the Applicant lodged a Written Submission in response to the Direction.

15. On 1st April 2026 the Respondent lodged a Written Submission in response to the Direction.

16. On 8th April 2026 the Respondent lodged a further Written Submission.

Hearing

17. The Hearing took place in person at the Glasgow Tribunal Centre on 22nd April 2026. The Applicant represented herself, and was accompanied by one

of the other Applicants, Mrs Duncan. The Respondent was represented by Ms Flanagan, Customer Relationship Manager.

18. The Chairperson introduced everyone and confirmed that she would go through the CMD Note to clarify what was in issue, then each party would be asked their position on each paragraph of the Code which was alleged to have been breached.
19. It was agreed by both parties that the Tribunal were to deal with paragraphs 2.9, 3.5, 3.6, 4.1, 4.6, 4.9 and 7.5 of the Property Factors Code of Conduct, 2021 Edition.
20. The Applicant confirmed that the floats had now been returned and therefore each party was seeking return of the exit fee of £108 (inclusive of VAT), compensation for the stress and anxiety involved, and the Applicant was seeking £100 for her own time and printer costs in preparing all the applications.
21. **Paragraph 2.9 Where another property factor is due to take over the management of property and land owned by homeowners; the outgoing property factor must co-operate (within the limits of their authority to act and data protection legislation) with the new, formally appointed, property factor (and vice versa), to supply each other with information about the land and properties to be factored and contact details for homeowners. This could be achieved via a letter of authority from the majority of homeowners to confirm their instructions to the outgoing property factor and list the information they wish to be shared.**
22. The Applicant's position was that the owners had received a letter from their existing factor, Morrison Walker, on 6th December 2023 advising that management of the development was transferring to the Respondent . On 9th January 2024 the Respondent wrote to the owners advising that they had taken over the management of the development and enclosing their Written Statement of Services ("WSS"). The owners were not happy with the WSS and contacted the respondent to arrange a meeting. After several attempts to arrange a meeting the Applicant spoke with Fraser Williamson, Director of the Respondent, by telephone. He said that no one would be able to attend a meeting of the owners. The owners felt that there had been deliberate delay so that any cooling off period had expired. The Applicant also said there was a particular issue with the transfer of information in relation to the common electricity supply. She said that Morrison Walker had provided the

Respondents with the details but that it had not had the service transferred. The Applicant lodged a series of emails and documents to evidence her position.

23. Ms Flanagan said that the Respondent had taken over Morrison Walker's portfolio, of well over a thousand properties, and their staff had transferred to the Respondent to assist with continuity for homeowners. The Respondent had hoped that Morrison Walker staff would maintain their positions but that did not happen and several of them left. She accepted that no proper explanation was given and that someone from the Respondent should have had a meeting with the Homeowners.
24. As far as the electricity was concerned Miss Flanagan said that the Respondent received a spreadsheet from Morrison Walker, but six developments were missing from it. She said that the responsibility fell on the outgoing factor to supply all the details. The Respondent was advised by the homeowners a few months after the take over and it pursued the information.
25. **3.5 If homeowners decide to terminate their arrangement after following the procedures laid down in the title deeds or in legislation, or the property factor decides to terminate the arrangement, a property factor must make the financial information that relates to their account available to the homeowners. This information must be provided within 3 months of termination of the arrangement unless there is a good reason not to (for example, awaiting final bills relating to contracts which were in place for works and services).**
26. The Applicant said that due to lack of communication from the Respondent, its refusal to attend meetings, and having no property manager for the development the owners had a meeting in April 2024 and decided to change factor. Termination notice was given to the Respondent on 17th June 2024, with a termination date of 17th September 2024. She said that the Homeowners were issued with an invoice dated 21st August 2024 which apportioned the management fee and common insurance to the date of termination. Given this the Homeowners assumed that this was the final invoice as they were not told otherwise. The Homeowners received an email of 5th September 2024 from Fraser Williamson in which he accepted that a letter was to be sent to all Homeowners outlining the termination process but it had erroneously not been sent. It was sent on 5th September 2024. The Applicant said it would have been helpful if the letter of 5th September 2024 had come with the invoice of 21st August 2024. She said that as at 17th September 2024, the termination date, floats had not been returned, the

Homeowners had not been charged for the common electricity nor had the final gardener's bill been dealt with. Apparently there were also still some Homeowners in debt. The Applicant lodged a series of emails and documents to evidence her position.

27. Ms Flanagan said that the Respondent still provides services until the actual termination date. There are therefore bills for those services which still have to be dealt with. She said that the WSS states that it can take up to six months to deal with everything, and she would have expected that the final bills would be ready around May 2025. She said that a decision was taken by senior management not to distribute the debt among the remaining Homeowners. If they had decided to distribute the debt they would have been able to finalise the accounting. At the time of the termination there was £966 of debt due by Homeowners, which related to common charges. The floats were returned in July 2025 and all debt was paid by then. There had been a delay with the communal electricity supply as it took time to establish if the supplier was going to bill the Respondent or the previous factor.

28. 3.6 Unless the title deeds specify otherwise, a property factor must return all funds due to homeowners (less any outstanding debts) automatically at the point of settlement of final bill, following a change of property factor.

29. The Applicant said that her points here were much the same as for paragraph 3.5. She said that the Respondent said that five or six owners were in debt. She contacted all the owners, and some did not actually know that they were in debt, or they had withheld payment because they were in dispute. Some were in credit and had to chase the Respondent regarding that. Some had withheld the £108 they were being charged for an exit fee. Mrs Duncan confirmed that she had withheld the £108, but had not been advised that she was then considered to be in debt. She had not received any correspondence to suggest that she was a debtor. The Applicant asked the individual owners to contact the Respondent to establish the position. This was slowed up as they were told that only Fraser Williamson could delay with the issue, and it was difficult to get hold of him.

30. Ms Flanagan said that the Respondent has a stringent debt collection process. Owners in debt were being chased on a monthly basis. These were not Homeowners who had failed to pay the exit fee, they were Homeowners who had not paid common charges. Two Homeowners owed more than the amount of their floats. The sums were eventually recovered from them without having to redistribute the debt among the remaining owners.

31. **4.1 Non-payment by some homeowners may affect provision of services to others, or may result in other homeowners in the group being liable to meet the non-paying homeowner's debts in relation to the factoring arrangements in place (if they are jointly liable for such costs). For this reason it is important that homeowners are made aware of the implications of late payment and property factors have clear procedures to deal promptly with this type of situation and to take remedial action as soon as possible to prevent non-payment from escalating.**
32. The Applicant lodged a series of emails and documents to evidence her position in relation to her trying to obtain information about outstanding debt. She made reference to production 9 in that section, being an email from Ms Flanagan dated 15th January 2025. She was of the view that the information given in the email was minimal and not sufficient to address her concerns.
33. Ms Flanagan's position was that the Respondent has a debt recovery procedure in place which complies with the Code.
34. **4.6 a property factor must have systems in place to ensure the monitoring of payments due from homeowners and that payment information held on these systems is updated and maintained on a regular basis. A property factor must also issue timely written reminders to inform a homeowner of any amounts they owe.**
35. In her Written Submission the Applicant said that the Respondent did not issue written reminders to owners to inform them of the amounts they owe. She felt that it had deliberately delayed final invoices and only implemented the debt recovery process in respect of one Homeowner when there were allegedly five in debt. She had to contact the Respondent for information. After discussion of the previous paragraphs at the Hearing she accepted the Respondent did implement debt recovery against others, but it only told her about one. Again she lodged a series of emails and correspondence to evidence her position.
36. Ms Flanagan's position was that the Respondent has a system in place for monitoring payments and for debt recovery.

37.4.9 A property factor must take reasonable steps to keep homeowners informed in writing of outstanding debts that they may be liable to contribute to, or any debt recovery action against other homeowners which could have implications for them, while ensuring compliance with data protection legislation.

38. The Applicant's position was that the Respondent did not take reasonable steps to keep Homeowners informed. The Homeowners had to consistently contact the Respondent for information. They were not advised that two outstanding debts were higher than the float held for the debtor.

39. Ms Flanagan accepted that there had been a lack of effective communication regarding the outstanding debt.

40.7.5 Where a property factor has taken over the management of property and land owned by homeowners from another property factor, the previous property factor must co-operate with the current property factor (and vice versa) to ensure the exchange of all necessary or relevant information. This can include, information about outstanding complaints. Where information about an unresolved issue that was the subject of a complaint has been shared with the new, formally appointed factor, they have the option, if they so choose, to progress this complaint rather than starting a new one.

41. The Applicant's position was that the Respondent did not charge owners for common unmetered electricity for the door entry as they said they had not received the information from the previous factor. She said that the previous factor had passed on the information. She said that the respondent did not advise the new factor, Thomson of Largs, of the alleged outstanding debt due by owners, nor did they pass on information regarding the electricity charges. She said that Thomson of Largs had confirmed to her that they had received nothing.

42. Miss Flangan said that at the time of the transfer Morrison Walker were still in the same building and were still dealing with their incoming mail. Mail did not come to the Respondent that was addressed to Morrison Walker. They did not pass on information regarding the electricity supplier to the Respondent. She was of the view that the fault lay with Morrison Walker. They should have passed on the information, they should not have included the electric charge in their final bill to the Homeowners. They should have had a final meter

reading taken at the date of transfer and notified the supplier. She also said that the Respondent had notified new factor of the electricity supplier.

Procedure Subsequent to Hearing

43. The Tribunal decided that it required more information to allow it to finalise its Decision, and issued a Direction to the parties.
44. The Applicant was asked to provide, by 11th May 2026, copies of any emails or other documentation from the new Factor, Thomson & Co, confirming that they have not received information from Newton Property Management about the properties.
45. The Respondent was asked to provide, by 11th May 2026, copies of any emails or other documentation from the Respondent to the new Factor, Thomson & Co, passing on information about the properties.
46. The Applicant responded on 28th April 2026 and provided an email from Thomson & Co dated 28th April 2026 confirming that the did not receive take over information form the Respondent.
47. On 12th May 2026 the Respondent responded to the Direction. Ms Flanagan said in her email that the new factor did not request any information and therefore none was provided. She said that it would be the responsibility of the new factor to ask for the information. This did not accord with what she told the Tribunal at the Hearing. She said that information regarding the electricity supplier had been provided.

Findings In Fact

- i. The Applicants own properties at Calderhaugh Mill, Main Street, Lochwinnoch, PA12 4AJ;
- ii. The Respondent provided factoring services to the Homeowners in the development until 17th September 2024;
- iii. The development was previously factored by Morrison Walker;
- iv. On 6th December 2023 Morrison Walker sent a letter to the Applicants advising that they were transferring their business to the Respondent from the end of the year;
- v. On 9th January 2024 the Respondent wrote to the Applicants confirming the transfer and enclosing its Written Statement of Services;

- vi. On several occasions the Applicants contacted the Respondent requesting a meeting to discuss their concerns regarding the transfer and the WSS without receiving a reply;
- vii. In April 2024 Fraser Williamson advised the Applicants that no one from the Respondent would be able to meet with them;
- viii. The communal entrances at the development have an electricity supply;
- ix. The outgoing factor, Morrison Walker, did not include this on their spreadsheet of electricity suppliers for the developments they were transferring to the Respondent;
- x. The Respondent did not take steps at handover to ascertain if there was a common electricity supply;
- xi. The Owners Association sent a letter to the Respondent dated 17th June 2024 terminating the contract;
- xii. In terms of the WSS the termination date was 17th September 2024;
- xiii. The Respondent sent invoices to the Applicants dated 21st August 2024 with entries showing the management charges and common insurance apportioned to the termination date;
- xiv. No explanatory letter was sent with the invoice;
- xv. By email of 5th September 2024 Fraser Williamson accepted that a letter dated 11th July 2024 should have been sent to the Applicants explaining the termination process but it was not sent;
- xvi. The letter was sent with a date of 5th September 2024;
- xvii. The letter did not explain that some owners had debt which was greater than their individual float;
- xviii. A decision was taken by senior management at the Respondent not to apportion the outstanding debt among the Homeowners;
- xix. The Respondent did not provide sufficient information to the Applicants to allow them to understand the debt situation;
- xx. The Respondent did not take reasonable steps to keep the Applicants informed regarding the outstanding debt;
- xxi. The Respondent has a debt collection process outlined in the WSS;
- xxii. The Respondent did not pass on information regarding the electricity supply to the new factor, Thomson of Largs.
- xxiii. The floats were returned to the Applicants in May 2025.

Decision

48. The Tribunal considered that there was a breach of paragraph 2.9 of the Code. The duty in terms of the paragraph does not lie solely with the outgoing factor, it is reciprocal. The refusal to meet with the Homeowners was disappointing. Had a meeting been held when requested the Respondent would have been given first hand knowledge by the Homeowners, and it

would also have been obvious to the Respondent that there was a communal electricity supply.

49. The Tribunal considered that there was a breach of paragraph 3.5 of the Code. The Tribunal found that communication by the Respondent was slow and confusing. Mr Williamson's attitude towards the Homeowners seemed dismissive. The Homeowners should have received final accounting and return of the float by 17th December 2025 but they did not. Had the Respondent attended a meeting with the Homeowners when asked to do so the electricity issue may have been resolved timeously.
50. The Tribunal considered that there was a breach of paragraph 3.6 of the Code. The Tribunal found that, again, communication by the Respondent was slow and confusing and all roads seemed to lead to Mr Williamson. There did not seem to be any consideration given to the fact that the Property Factor is the agent of the Homeowners. They were not included in the decision regarding redistribution of debt.
51. The Tribunal considered that there was a breach of paragraph 4.1 of the Code. The Tribunal found that the Homeowners should have been provided with more information regarding the debt and how it was affecting the final accounting.
52. The Tribunal did not consider that there was a breach of paragraph 4.6 of the Code. There was, as admitted, a lack of effective communication, but the Homeowners who had withheld payment due to dispute did know that they had not paid and therefore it is reasonable to say that they did know they owed money.
53. The Tribunal considered that there was a breach of paragraph 4.9 of the Code. The Respondent concede that it did not communicate effectively regarding the outstanding debt.
54. The Tribunal considered that there was a breach of paragraph 7.5 of the Code. The Respondent did not pass on information regarding the electricity supply to the new factor. Ms Flanagan told the Tribunal that details of the electricity supplier had been provided by the Respondent to the new factor. In response to the Direction, she said that no information had been provided to the new factor as they had not requested any, and it was their responsibility to do so. The wording of the paragraph makes it clear that the duty is incumbent on both the old and new factor. It is also clear that the Respondent did nothing proactive to assist in a smooth transfer. The Respondent's attitude to the

Applicants and the customer service throughout was disappointing. They appear to have been treated as a commodity rather than customers/clients.

55. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Property Factor:

Has failed to comply with the Section 14 duty in terms of the Act in respect of compliance with the Property Factor Code of Conduct 2021 Sections 2.9, 3.5, 3.6, 4.1, 4.9 and 7.5.

Property Factor Enforcement Order

39. Having made a decision in terms of Section 19(1)(a) of the Act that the Property Factor has failed to comply with the Section 14 duty and has failed to carry out the property factor's duties, the Tribunal then proceeded to consider Section 19(1) (b) of the Act which states

“(1) The First-tier Tribunal must, in relation to a homeowner’s application referred to it ... decide ... whether to make a property factor enforcement order.”

40. The Property Factor has made errors and therefore, the Tribunal proposes to make a PFEO.

41. Section 20 of the Act states:

“(1) A property factor enforcement order is an order requiring the property factor to (a) execute such action as the First-tier Tribunal considers necessary and (b) where appropriate, make such payment to the homeowner as the First-tier Tribunal considers reasonable.

(2) A property factor enforcement order must specify the period within which any action required must be executed or any payment required must be made.

(3) A property factor enforcement order may specify particular steps which the property factor must take.”

42. The Tribunal proposes to make a PFEO to order the Property Factor to pay to each Applicant the sum of £250 in cumulo in respect of the breaches.

43. Section 19 (2) of the Act states: - “In any case where the First-tier Tribunal proposes to make a property factor enforcement order, it must before doing so

(a) give notice of the proposal to the property factor, and (b) allow the parties an opportunity to make representations to it.”

44. The Tribunal, by separate notice intimates the PFEO it intends to make and allows the Parties fourteen days to make written representations on the proposed PFEO.
45. The decision is unanimous.

Appeal In terms of section 46 of the Tribunals (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.

A handwritten signature in cursive script that reads "Alison J. Kelly".

**Alison Kelly
Legal Member
12th May 2026**