

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)

(Hereinafter referred to as “the Tribunal”)

Under Section 24(1) of the Housing (Scotland) Act 2006 (“the Act”)

Case Reference Number: FTS/HPC/RP/25/3810

Re: 29 Burns Drive, Johnstone, Renfrewshire, PA5 0HA (“the house”)

Land Register Title No: REN108678

Mr Lee Burke and Miss Donna Fagan, 29 Burns Drive, Johnstone, Renfrewshire, PA5 0HA (“the Tenants”)

Mr Brian Wallace, 83 Scott Avenue, Johnstone, Renfrewshire PA5 0HF (“the Landlord”)

Decision

The tribunal, having made such enquiries as it saw fit for the purposes of determining whether the landlord has complied with the duty imposed on him by Section 14 (1) (b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the house, and taking account of all the available evidence, determines that the landlord has failed to comply with the said duty. The tribunal therefore issues a Repairing Standard Enforcement Order. The tribunal’s decision is unanimous.

Background

1. By application received, on 7 September 2025, the first-named tenant, Mr Burke, applied to the tribunal for a determination that the landlord had failed to comply with his duty under Section 14(1) of the Act.
2. In his application, Mr Burke stated that he believed the landlord had failed to comply with his duty to ensure that the house met the repairing standard as set out in section 13(1) (b), (d) and (h) of the Act. His application stated that the landlord had failed to ensure that:

- the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order
- any fixtures, fittings and appliances in a reasonable state of repair and in proper working order
- the house meets the tolerable standard, in the following respects:
 - it has satisfactory thermal insulation
 - it has an effective system for the drainage and disposal of foul and surface water

3. Mr Burke included the following complaints in his application form:

- 1) Kitchen drawer is broken and does not close properly.
- 2) Bath panel is broken.
- 3) No PAT testing certificate or electrical safety stickers on appliances provided as part of tenancy.
- 4) Sewer smell within house on occasions.
- 5) No insulation in hall cupboard causing it to be very cold.
- 6) Roof possibly damaged due to storms, not checked.
- 7) Old debris in back garden not removed.

4. Further to a request from the tribunal administration, further information was received from Mr Burke on 9 October 2025. This included a further notification email to the landlord's representative, which included all of the complaints listed on the application form, together with a complaint that the kitchen flooring moved when it was walked on and needed to be repaired.

5. On 27 November 2025, a notice of acceptance of the application was issued by a Convener with delegated powers of the Chamber President. An inspection and hearing were arranged for 28 May 2026.

6. The parties were invited to submit written representations no later than 5 May 2026. Written representations were received from Mr Burke on 24 April 2026, providing an update on the outstanding repairs.

7. The tribunal issued a direction to the landlord on 22 April 2026, requiring him to: 1) provide an up to date Electrical Installation Condition Report (EICR) and a Portable Appliance Test (PAT) certificate produced by a suitably qualified and registered contractor and 2) confirm the correct identity of the landlord under the tenancy. A response to the direction, together with further information, was received from the landlord's representative, Rentahome Paisley, on 5 May 2026.

8. On 1 May 2026, an email was received from Mr Burke requesting that his partner and co-tenant, Miss Donna Fagan, be added as a party to the

application. Attached to the email was a further email from Miss Fagan dated 30 April 2026, in which she asked to be added as a party to the application.

9. On 8 May 2026, the tribunal made an order under rule 32 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ("the 2017 rules") adding Miss Fagan as a party to the application.

The inspection

10. The tribunal inspected the house on the morning of 28 May 2026. The weather conditions at the time of the tribunal's inspection were warm and sunny. The tenants were present and allowed the tribunal access for the inspection. The landlord was not present or represented at the inspection.
11. Photographs were taken during the inspection. These are attached as a schedule to this decision.

The house

12. The house is a semi-detached two-storey former local authority house which is around 60-70 years old.

The hearing

13. Following the inspection, the tribunal held a hearing at Glasgow Tribunals Centre, York Street, Glasgow.
14. The tenants were present at the hearing and represented themselves. The landlord was present and represented himself. He was accompanied by his partner, Ms Louise Crawford, as a supporter.

The evidence

15. The evidence before the tribunal consisted of:
 - The application form submitted by the tenants.
 - Various notification emails from the tenants to the landlord and to the landlord's representative relating to the outstanding repairs issues, dated between 18 October 2023 and 9 October 2025.
 - Land certificate (title no: REN108678) relating to the house.
 - Landlord registration details relating to the house.
 - Written representations received from the tenants on 24 and 28 April and 1 May 2026.

- Written representations received from the landlord's representative on 5 May 2026 and from the landlord on 20 May 2026.
- EICR relating to the house produced by PRQ Electrical and Property Services Ltd dated 3 February 2022.
- PAT test certificate dated 3 February 2026 produced by GL Electrical Contractors Ltd.
- The tribunal's inspection of the house.
- The parties' oral representations at the hearing.
- Various quotes and invoices in respect of works carried out or proposed to be carried out at the house dated between 16 June 2025 and 4 March 2026.

Summary of the issues

16. The issue to be determined was whether the house meets the repairing standard as set out in Section 13 of the Act, and whether the landlord has complied with the duty imposed by section 14 (1) (b).

Findings in fact

17. The landlord is the owner of the house.
18. The landlord is the registered landlord for the house.
19. The parties entered into a private residential tenancy relating to the house, which commenced on 19 May 2023.
20. The tenant notified the landlord of the required repairs on various occasions, most recently on 9 October 2025.
21. The EICR dated 3 February 2022 was produced by a suitably qualified and registered SELECT contractor. It stated that the electrical installation was satisfactory. It made an observation categorised as C3 that there was no RCD protection within the house.
22. The PAT test certificate dated 3 February 2026 produced by GL Electrical Contractors Ltd confirmed that the washing machine, fridge freezer, tumble drier and dishwasher within the house had all passed the test.
23. At its inspection, the tribunal carefully checked the items which were the subject of the complaint. The tribunal observed the following:
- a) The kitchen drawer had been repaired with the addition of a metal bracket to hold the corners together.

- b) The bath panel was broken.
- c) Several large appliances appeared to be plugged into one socket extension in the kitchen behind the dishwasher.
- d) It was not possible to ascertain whether the electric oven was hard wired into the electricity supply, or was plugged in.
- e) There were no stickers on the large appliances in the kitchen indicating that they had passed a PAT test.
- f) There were several large gaps in the laminate flooring in the kitchen. Several of the boards within the flooring were observed to move around easily when it was walked on, leaving gaps between them.
- g) No smell was observed in the hallway/outside the bathroom.
- h) The hallway was not cold at the time of the inspection.
- i) Insulation had been installed in the outside store which backs on to the hallway.
- j) There were parts missing from the ridge tiles on the roof and areas of render had fallen off the chimney.
- k) There were various items located in the back garden, including a wooden step ladder, a clothes dryer, a wooden chair and two tyres.
 - l) There were parts missing from the ridge tiles on the roof and areas of render were falling off the chimney.
- m) The cast iron waste pipe from the toilet was rusted but appeared to be functioning. There was no condensation visible on the pipe.

Preliminary issue

- 24. The landlord queried why the landlord had been named in the tribunal proceedings as his company, Wallace Developments Ltd, given that he as an individual was the owner and registered landlord of the property. The tribunal noted that it had asked for further information about this in its direction of 22 April 2026, but had received no response.
- 25. It became apparent that the tenants had named the landlord as Wallace Developments Ltd in the application because Mr Wallace had replied to their notification emails from an email address which used the company's name. The tribunal was satisfied that Mr Wallace is the registered owner of the house and is also the registered landlord. It therefore took the view that for the purposes of the application, he is the landlord with regard to the house.

Reasons for decision

- 26. In making its decision, the tribunal carefully considered all of the evidence before it. In doing so, it applied the civil burden of proof, which is the balance of probabilities.

27. The tribunal considered each of the tenants' outstanding complaints in turn. In addition to the 7 complaints included in the application form, as outlined at paragraph 3 of this decision, the tribunal also considered two further complaints which the tenants had notified the landlord prior to submitting the application. These complaints therefore formed part of the application paperwork and could be considered by the tribunal .

28. The two additional complaints are:

- 1) the kitchen floor moves when walked on
- 2) the toilet pipe is in a poor, rusty condition

1. Kitchen drawer is broken and does not close properly

29. The tribunal observed during its inspection that the kitchen drawer indicated by the tenant had been repaired with the addition of a metal bracket to hold the corners together.

30. Mr Burke told the tribunal at the hearing that he had put the bracket on the drawer himself. He said that while the drawer did now close, it was dangerous. It was full of knives and he was concerned for the safety of the tenants' baby.

31. Mr Wallace accepted that the drawer was broken. He said that it was no longer possible to obtain a new drawer to fit the existing unit. He had obtained a quote for a new cabinet to be installed and was currently waiting for the contractor to come back to him regarding carrying out the work.

32. The tribunal noted that Mr Wallace had provided a quote from a contractor dated 4 March 2026 for this work to be done. It determined based on the information before it that the drawer was not in a reasonable state of repair and in proper working order at the time of its inspection.

2. Bath panel is broken

33. The tribunal observed at its inspection that the bath panel was broken. Mr Wallace accepted that the panel needed to be replaced and noted that this work had also been quoted for in the contractor's quote of 4 March 2026 referred to above. He said that the panel had become broken due to the number of times it had been taken on and off due to investigations into the cause of the sewage smell complained about by the tenants.

34. The tribunal determined that the bath panel was not in a reasonable state of repair and in proper working order at the time of its inspection.

3. No PAT testing certificate or electrical safety stickers on appliances provided as part of tenancy

35. The tribunal noted that the EICR dated 3 February 2022 was produced by a suitably qualified and registered SELECT contractor. It stated that the electrical installation was satisfactory. It made an observation categorised as C3 that there was no RCD protection, however.
36. A PAT test certificate dated 3 February 2026 produced by GL Electrical Contractors Ltd had been submitted by Mr Wallace. This confirmed that the washing machine, fridge freezer, tumble drier and dishwasher in the house had all passed the test.
37. Mr Burke told the tribunal that the contractor who had come to carry out the PAT testing had suggested that the electric oven may not be hard wired, and that this should be checked by an electrician.
38. At its inspection, the tribunal observed that several large appliances appeared to be plugged into one socket extension in the kitchen behind the dishwasher. It was not possible to ascertain whether the electric oven was hard wired into the electricity supply, or was plugged in.
39. The tribunal noted that there was no requirement for safety stickers to be attached to appliances which had been PAT tested. It was concerned, however, about: 1) the number of large appliances plugged into the one socket extension and 2) the lack of clarity over whether the oven was hard wired.
40. The tribunal also noted that at the time the EICR had been produced, it was not a requirement under the repairing standard that a house should have a residual current device (RCD). This has, however, been a requirement for compliance with the repairing standard since 1 March 2024.
41. The tribunal also noted that Mr Wallace would in any case be required to obtain a new EICR within 5 years of the previous one i.e. by 3 February 2027.
42. In the circumstances, the tribunal was not satisfied on the balance of probabilities that the installations in the house for the supply of electricity (including residual current devices) were in a reasonable state of repair and in proper working order.

4. Sewer smell within house on occasions

43. During its inspection, the tribunal did not observe any smell in the hallway/outside the bathroom, which were the areas indicated by the tenants as being where a bad smell had been experienced on occasion.
44. Mr Wallace said that various attempts had been made to locate the source of the smell. Rentahome Paisley had instructed contractors to carry out high pressure cleaning, and all the drains had been tested and cleaned.
45. The tenants agreed that this had been done. They accepted that Mr Wallace had tried to address the issue. Mr Burke said that the smell had disappeared for a while, but had come back again recently.
46. There was some discussion with the parties as to whether the soil waste vent pipe had been cleaned and/or whether the issue could be caused by heavy rainfall causing the pipes to back up. Neither Mr Wallace nor the tenants had been in touch with Environmental Health about the issue, or with Scottish Water.
47. The tribunal noted that the smell appeared to be intermittent and that the cause was not clear. It did not consider that this raised a repairing standard issue. The tribunal observes, however, that the parties may wish to contact Environmental Health and/or Scottish Water to find out whether further investigations might be required.

5. No insulation in hall cupboard causing it to be very cold

48. At its inspection, the tribunal observed that the hallway was not cold at the time. It also observed that insulation had been installed in the outside store which backs on to the hallway. The tenants had suggested that this outside store may be the source of the cold.
49. Mr Burke told the tribunal that the hallway can become very cold in the winter months. This means that the tenants need to keep the living room door closed at all times. He pointed out that there is only one radiator in the hallway, which is positioned below the staircase. This meant that all of the heat from the radiator was going upstairs. He was concerned about the impact of the cold on the tenants' baby.
50. Mr Wallace said that the coldness issue was related to the design of the building. He had insulated the outside store in November 2025 with good quality insulation which was designed to stop cold transfer. He did not know what else he could do to address the issue.

51. Mr Burke acknowledged that Mr Wallace had done what he could to address the issue. He said that the hallway had remained cold after the outside store had been insulated.
52. Mr Wallace suggested that the tenants could control the central heating via the thermostat, and should be able to regulate the temperature in that way. The tenants said that they were unable to do so, as the boiler has only the most basic of controls. Mr Wallace said that he would get an electrician to attend to this, if he would have to instruct an EICR anyway.
53. The tribunal noted that the radiator in the hallway appeared to be working. The insulation which had been installed in the outside store was of good quality. The energy performance certificate for the house showed that the entire house was insulated and had an average rating of D (56). While the tribunal accepted that the hallway may be cold in the winter, it determined that the house has satisfactory thermal insulation.

6. Roof possibly damaged due to storms

54. The tenants were concerned that ridge tiles had fallen from the roof during a storm. This had been repaired by the landlord at the time. The tenants had asked for the roof to be checked in case there were any loose tiles or anything else that may come away from the roof and cause someone to be injured. Rentahome Paisley had not confirmed that the roof had been checked. The tenants confirmed that there was no water penetration via the roof at present.
55. Mr Wallace said that he had sent over his own roofer to fix the roof following the storm, as had Rentahome Paisley. The ridge had been replaced. He understood that Rentahome had charged him for the roof to be checked, so he had been under the impression that this had been done.
56. The tribunal had observed at its inspection that there were parts missing from the ridge tiles on the roof and that areas of render were falling off the chimney. It noted that Mr Wallace may wish to consider addressing these issues before they escalated. The tribunal did not consider that there were any repairing standard issues to be addressed at the present time, however. It therefore determined that at the time of its inspection, the roof was in a reasonable state of repair and in proper working order.
57. The tribunal observes, however, that the roof is showing signs of ageing and the landlord may wish to instruct a contractor to look at whether any further work is required before it deteriorates further.

7. Old debris in back garden not removed

58. The tribunal observed during its inspection that there were various items located in the back garden, including a wooden step ladder, a clothes dryer, a wooden chair and two tyres.
59. The tenants said that when they moved into the house, numerous items had been left in the back garden by the previous tenants. Most of these had now been removed, but the remaining items had not been taken away. The tenants had asked Rentahome Paisley several times for these to be taken away.
60. The tribunal took the view that this was not a repairing standard issue. It could not therefore include this in any Repairing Standard Enforcement Order. The tribunal observed, however, that it would be helpful if the remaining items could be removed by the landlord or his letting agent.

8. The kitchen floor

61. During its inspection, the tribunal observed that there were several large gaps in the laminate flooring in the kitchen. Several of the boards within the flooring were observed to move around easily when it was walked on, leaving gaps between them.
62. Mr Wallace said that the flooring had not been in its current state at the start of the tenancy. He alleged that the tenants had snapped the pipe at the back of the previous dishwasher on the day they moved in and the kitchen had been flooded. He said that this was the cause of the issues with the floor.
63. The tenants denied this. Miss Fagan said that the dishwasher had been leaking when she first tried to use it on the day the tenants had moved in. They had left to return to their previous property and when they came back, the kitchen was flooded. She suggested that the flooring had not been fitted properly and that this was a health and safety issue, particularly with a baby in the house. She suggested that the issues with the floor were due to wear and tear, and said that a contractor who had visited the property had said that the flooring needed to be replaced.
64. The tribunal is not in a position to determine what had caused the historic flooding and/or whether this had been the cause of the gaps and movement in the flooring, although it considers this to be unlikely. The tribunal determined, however, that the kitchen floor was not in a reasonable state of repair and in proper working order at the time of its inspection.

9. The toilet pipe

65. The tribunal observed during its inspection that the cast iron waste pipe from the toilet was rusted but appeared to be functioning. There was no condensation visible on the pipe. The tenants told the tribunal that brown water appears on the pipe occasionally. The landlord's plumber had checked it, however.
66. Mr Wallace noted that there was an extractor fan in the bathroom, and that the bathroom window was capable of being opened.
67. The tribunal determined that the rust on the pipe was a cosmetic issue, and that the waste pipe was in a reasonable state of repair and in proper working order.

Additional issue

68. The tenants also raised concerns about the downpipe at the rear of the house. They said that the pipe was poorly fixed and the drain below it was choked resulting in rainwater being discharged above ground from the downpipe. The tribunal noted during its inspection that the drain could be seen to be choked and that there was cracking in the base brickwork around the corner of the building which could be connected to this issue. This complaint was not a part of the application but was drawn to the landlord's attention by the tribunal.

Summary of decision

69. On the basis of all the evidence before it, the tribunal determined that the landlord had failed to comply with the duty imposed by section 14(1) (b) of the Act. In particular, the landlord has failed to ensure that the house meets the repairing standard in that: 1) the structure and exterior of the house is not in a reasonable state of repair and in proper working order; 2) the installations in the house for the supply of electricity (including residual current devices) are not in a reasonable state of repair and in proper working order and 3) some fixtures, fittings and appliances are not in a reasonable state of repair and in proper working order.
70. The tribunal therefore makes a Repairing Standard Enforcement Order (RSEO) as required by section 24 (2) of the Act.
71. 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.

72. Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed.....Date 22 June 2026
Sarah O'Neill, Chairperson



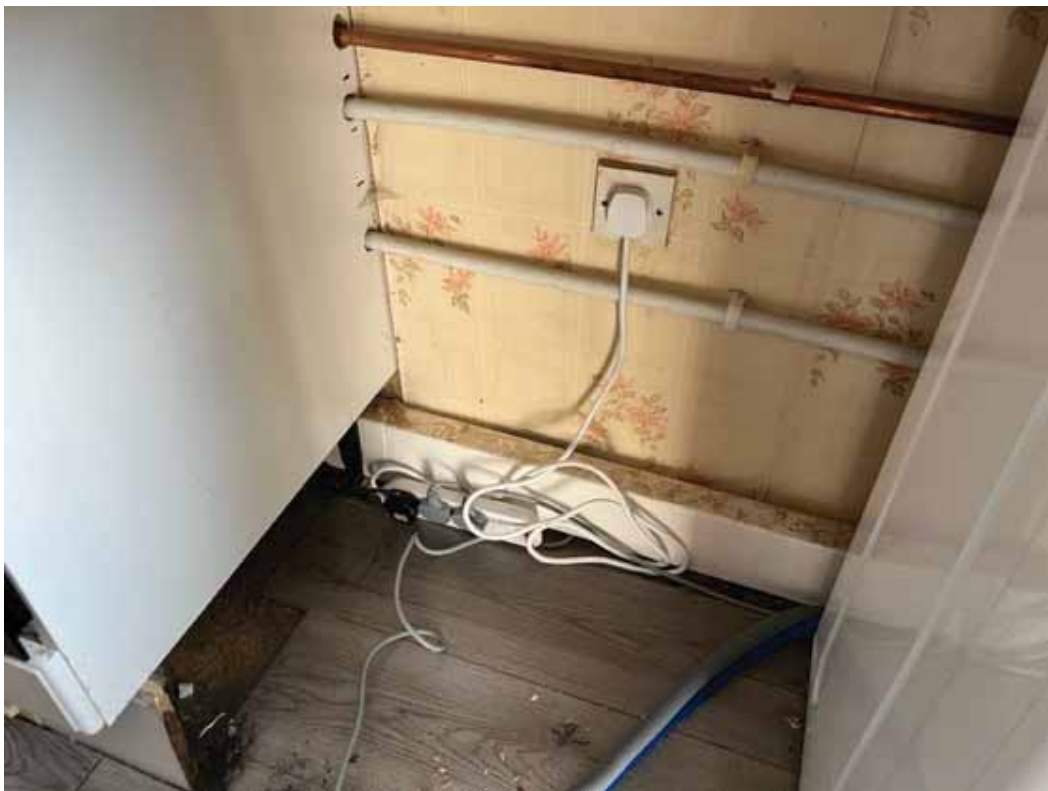
Front



Rear roof



Insulation in outside store



Extension cable in the kitchen



Kitchen drawer



Kitchen flooring

Photographs taken during the inspection of 29 Burns Drive, Johnstone, PA5 0HA

Reference number FTS/HPC/ RP/25/3810



Bath panel



Items left by previous occupiers

Photographs taken during the inspection of 29 Burns Drive, Johnstone, PA5 0HA

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Tyres left by previous occupiers