

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**First-tier tribunal for Scotland (Housing and Property Chamber)**

**Decision Sections 17 and 19 (3) of the Property Factors (Scotland) Act 2011 (“the Act”) and the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors.**

**Chamber Ref: FTS/HPC/PF/24/3874**

**Re: Property at 37 Kings Gate, Aberdeen, AB15 4EL (“the Property”)**

**Parties:**

**Mr Michael Rennie, 37D King’s Gate, Aberdeen, AB15 4EL (“the Homeowner and Applicant”)**

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

**Tribunal Members:**

**Yvonne McKenna (Legal Member) and Robert Buchan (Ordinary/ Surveyor Member )**

1. This decision should be read in conjunction with: -

The Tribunal’s decision with statement of reasons dated 16 December 2025.

The proposed PFEO dated 16 December 2025.

The amended PFEO dated 9 March 2026.

### **DECISION**

2. The Respondent has breached the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors 2021.
3. The Tribunal makes a property factor enforcement order (“PFEO”) requiring the Respondent to;

‘The Factor will reconsider and revise the Written Statement of Services (‘WSS’) and in particular Section B. The revised WSS will be sent to the owners on the development. A copy of the revised WSS shall be submitted to the Tribunal.

All within 28 days of intimation of the PFEO.’

4. The Tribunal determined that a PFEO should be issued in these amended terms.
5. The decision is unanimous

## **Background**

6. This is an application by the Applicant in respect of the Property in relation to the Respondent’s actings as a property factor. The application is in terms of Section 17 of the Property Factors (Scotland) Act 2011 (the 2011 Act).
7. This decision should be read along with the decision dated 16 December 2025, which followed a hearing of evidence and submissions made by both parties.

## **Decision 16 December 2025**

8. Following upon a hearing held on 16 December 2025, it was determined that the Respondent had breached the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors 2021 and had failed to comply with the property factor’s duties.
9. In accordance with Section 19 (2) of the Act, a proposed PFEO was intimated to parties at the same time as the decision and they were invited to make representations.
10. Each party submitted written representations which were considered by the Tribunal.
11. On 21 January 2026, the Respondent e-mailed representations.
12. The Respondent referred to The Construction (Design and Management) Regulations 2015 which places ultimate responsibility for the organisation of safe access, planning and site management on the entity who accepts such responsibility and is designed as the principal in all project documents. They stated that their WSS is clear that they will only enter into contracts with suppliers where the CDM Regulations apply in circumstances where the contractor agrees to accept the CDM management responsibility. Domestic Clients are not expected in terms of the Regulations to have the expertise or knowledge to project manage health and safety. There is therefore a necessary transfer of that responsibility to a designated principal. In these cases, the designed principal is necessarily the contractor, failing which they will not be appointed.
13. The Respondent accepts that the WSS could be misinterpreted. To address any further possible misunderstanding, they proposed to amend their WSS with clearer, improved wording which removes any suggestion of homeowner

involvement in technical matters and avoids the suggestion that somehow homeowners are entitled or required to determine what safe working methods ought to be employed.

14. The Respondent in addition detailed that they will upload a copy of the contractor's insurances to their Portal and a copy of the independent assessor's confirmation of the contractor's competence to work at height.
15. On 23 January 2026, 11 February 2026 and 18 February 2026, the Applicant made representations.
16. The representations of 23 January 2026 related entirely to the terms of the Tribunal's decision of 16 December 2025, and not to the terms of the proposed PFEO.
17. The representations of 11 February 2026 were points the Applicant made in connection with the Respondent's representations to amend the WSS. He stated that the fact that he should be able to engage with contractors as a homeowner was mutually beneficial. He set out his own relevant experience in Risk Assessment and Method Statement assessment / evaluation (on major building projects). He said that he had conducted such exercises thousands of times.
18. The representations of 18 February 2026 related entirely to complaints that the Applicant had in relation to specific works being carried out at the rear of another property on the development on 12 February 2026.

## **Determination**

19. The Tribunal determined that it was appropriate to make a PFEO.
20. It was clear from the representations that some aspects of the proposed PFEO have been considered and progress made towards compliance. The Tribunal considered that it was not appropriate to comment on this, and whether there had been compliance. That was a matter to be determined after the PFEO had been made and the time for compliance had expired. The Tribunal will require in due course to consider the terms of the revised WSS.
21. The Tribunal did, however, have regard to some representations which had been made.
22. The Tribunal note that the Respondent intends to revise the WSS to remove any ambiguities/misunderstandings regarding the homeowners being responsible for safety at the development, and in the circumstances have removed paragraph 2 from the proposed PFEO.

23. In relation to the Applicant's representations of 23 January 2026 directed at the Tribunal's decision of 16 December 2025, the Applicant made 17 proposed changes. The Tribunal accepts that in the decision heading the breach of the code 6.4 has been omitted. It is clear that this breach was confirmed at paragraph 109 of the decision.

24. The Applicant has made some suggestions regarding vocabulary used, and what he claims to have been said at CMDs, along with some changes to dates which do not materially affect the Tribunal's decision on the various alleged breaches of the Code.

25. In terms of Section 19(3) of the 2011 Act,

*"If the First-tier Tribunal is satisfied, after taking account of any representations made under subsection 2(b) 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, the First-tier Tribunal must make a property factor enforcement order."*

A document containing the PFEO is issued of even date with this Decision.

## Appeals

**A homeowner or property factor 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.**

Yvonne McKenna

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Legal Member and Chair

9 March 2026

Date