

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Decision on Home Owners Application Property Factors (Scotland)
Act 2011 Section 19(1)(a)**

Chamber Ref: FTS/HPC/PF/25/3037

Property address: 15 Midfaulds Avenue, Renfrew, PA4 0AS (“the Property”)

The Parties:

Mr Steven Lyon, 15 Midfaulds Avenue, Renfrew, PA4 0AS (“the Applicant and Homeowner”)

Ross + Liddell Ltd, 60 St Enoch Square, Glasgow, G1 4AW (“the Respondent and Property Factor”)

Hearing in Glasgow on 14th July 2026 at 10am

Tribunal Members: B Black (Legal Member), S Hesp (Ordinary Surveyor Member)

Personally Present:

Mr S Lyon (The applicant)

Mr D Doig, Raeside Chisholm Solicitors Limited (Solicitors for the Respondent)

Ms J Johnstone (Representative for the Respondents)

Introduction

In this decision the Property Factor (Scotland) Act 2011 is referred to as “the 2011 Act”; the Property Factor (Scotland) Act 2011 Code of Conduct for Property Factors is referred to as “the code”, effective 16th August 2021, Overarching Standards of

Practice are referred to OSP, and the First-Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2016 are referred to as “the rules”.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that Respondent has failed to comply with the duty under Section 14(5) of the Property Factor (Scotland) Act 2011 (the 2011 Act) and has failed to comply with Section 6. 1 and Section 6.4 of the Code and OSP 2.

Background

1. The Homeowner made an application to the First-tier Tribunal on 15th July 2025 by way of C2 Application.
2. A Case Management Discussion (“CMD”) took place by telephone conference on 20th March 2026 at 2pm. The alleged breaches of the Code were not accepted by the Respondent, and a Hearing was assigned for the Tribunal to hear evidence and determine the Application.
3. The Homeowner purchased the property on 13th February 2025. The Respondent has factored that property throughout that time.
4. The Homeowner asked the Tribunal to determine whether the Property Factor has failed to comply with the Code and has failed in their Property Factor duties. It was agreed both at the CMD and at the start of the Appeal Hearing that there were 4 heads of complaint. These relate to a tree survey and associated work to the trees on communal areas, remedial work carried out to a wall on the right-hand side of the entrance to the development, a late payment charge that had been applied to the Homeowner’s account and the communication between the Homeowner and the Property Factor and the information contained within these communications.

5. By way of written submission, the Homeowner alleges breaches under the Code under Sections 1.1, 1.2, 1.5, 2.2, 2.5, 6.1, 6.4, 7.1 and 7.2. Additionally, the Homeowner alleges breaches of the Overarching Standards of Practice OSP 2,3,4,5,6 and 12.

Hearing

6. An Oral Hearing took place at the Glasgow Tribunal Centre on 14th July 2026.
7. Both parties were present. The Homeowner represented himself. The Property Factor was represented by Mr Doig, Solicitor.
8. Both parties confirmed that they had provided all necessary documentation and both were content to proceed with the Hearing.
9. Enquiry was made by the Tribunal as to whether there was any possible resolution and whether there would be any merit in affording parties some time prior to the hearing of evidence to see if a resolution could be reached. Both parties declined this offer and confirmed that it was unlikely that there would be any resolution.

Findings In Fact

10. The Applicant is the owner of the property at 15 Midfaulds Avenue, Renfrew, PA4 0AS, which he purchased on 13th February 2025.
11. The Applicant had a late payment charged applied to his factoring account on 28th March 2025 in the sum of £25.00 + VAT.
12. A tree survey in relation to communal trees was instructed in July 2025. Cyclical tree surveys were carried out usually every 3 – 5 years. This is standard and best practice.
13. The Property Factor instructed work to be carried out to the external wall on the

right hand side to the entrance of the development.

14. It took thirteen months for the work to the wall to be completed after instruction.

15. The Property Factor issued a letter to the Applicant dated 26th March 2025, containing erroneous information regarding the impact of overgrown trees upon the insurance policy of the development.

The Hearing

16. The Tribunal explained to the parties that each head of complaint would be dealt with in turn with both parties being given the opportunity to explain their position. There was no objection from the parties in relation to the proposed conduct of the hearing.

(a) Late Payment Charge

The Applicant's Position

17. Mr Lyon purchased the property on 15th July 2025. He denied receiving the standard welcome pack from the Property Factor. He said that he was aware that he would be required to pay towards the factor float but was unable to do so as he did not receive an invoice. He said that he spoke to a member of staff, employed by the Property Factor, who worked in the accounts department and advised that his preferred method of communication was via email, but this was not actioned. On 14th March 2025, he received a reminder regarding the float charge. His position was that once again he requested an invoice to allow him to make payment. This was not provided. He accepted invoices would have been uploaded to the Portal, however he did not have access to this, as the log in details would have been contained in the welcome pack, which he never received. Mr Lyon said he contacted a member of the Property Factor's staff called "Sean" on 1st April 2025 at 15:30pm to query the lack of invoice and Mr Lyon was advised that the account would be placed on hold and was assured that no charges would be applied. He said he only received one letter in relation

to this payment. Copies of these emails have not been provided. Mr Lyon's position was that he required to pay the float funds, but the lack of invoice made this impossible and furthermore no prejudice was caused to the development or the other Homeowners, as this was float money as opposed to payment for a repair etc. His position is that he tried to contact the Property Factor to resolve this and eventually made payment on 11th April 2025. Mr Lyon considers the fee to be unreasonable given his efforts to try and contact the Property Factor to attempt to resolve the issue.

The Respondent's Position

18. The Respondent's position was that on 19th February 2025 they issued the first letter to the Homeowner, a few days after he took over ownership of the property. This letter set out that payment was required towards the factoring float. When payment was not made, the first reminder was sent out on 14th March 2025 with a further reminder on 28th March 2025. The Property Factor have no record of Mr Lyon phoning to request an invoice. The late payment fee was applied on 28th March 2025, the same day the final reminder was sent; this is standard practice. The charge had already been added to the account before Mr Lyon contacted them. The Respondent's position is that these charges were applied as part of their standard invoicing process which is dealt with at Section 17 of their written statement of services. The Property Factor's position was that payment was not made on time and they were entitled to apply the charge in line with their written statement of service.

Documents referred to as part of this Head of Complaint

19. Reminder letter dated 14th March 2025, reminder letter dated 28th March 2025, Section 17 of the Written Statement of Services provided by the Property Factor.

Alleged Breaches

20. The Applicant alleges breaches under OSP 2,3,4,5 and 6 and breaches under the Code under Sections 1.1, 1.2, 1.5, 2.1, 2.5, 7.2.

(b) Tree Maintenance work required and carried out at the Development

The Applicant's Position

21. The Applicant's position was that the tree survey was originally instructed in July 2025, such work should be cyclical and good/standard practice dictates that the works required as part of any tree survey should be carried out every 3 – 5 years. The Applicant initially said that following this survey being carried out, the report arising from the site visit, was not communicated to the Homeowners, it was not put onto the portal but charges were applied for work carried out in May 2025. The Applicant's position was that work was carried out without appropriate consent from the majority of the Homeowners and although he accepted that his charges for this work had not been applied to his factoring account, he said the Property Factor did not have the "go ahead" required from the Homeowners. He alleged that this was not an isolated incident. He said that good practice dictates that if you accept a quote from a contractor then there should be a caveat to any contractor stating that they should not proceed to do any work until the work had been confirmed, following Homeowner consent/majority vote. The Applicant said that the Property Factor has a duty to instruct and manage contractors appropriately. He said that there was no majority consent to this work, the tree survey had not been seen by the Homeowners and they (the Homeowners) should be able to make suggestions or decide what work should or should not be done. Additionally the Homeowners were incorrectly advised that if they did not go ahead with the work, then it would impact on the validity of their home insurance. For all these reasons the Property Factors had breached their duties.

The Respondent's Position

22. The Property Factor's position was that within the case bundle they had lodged

documentation dated November 2025 and 30th March 2026. These are emails between the contractor “Callum Ferguson” who was selected to carry out the required works to the trees and the Property Factor. Mr Doig on behalf of the Property Factor directed the Tribunal to the terms of this communication which details that the Property Factor advised Mr Ferguson that he was the successful bidding contractor but within these emails, he was reminded not to complete any work until the information had been circulated to the Homeowners and until they had the appropriate consent. Within the case file there is documentation from the contractor which indicated that he acted out with the scope of his remit and without any permission from the Property Factor to go ahead with the work. The Property Factor accept that Mr Lyon was initially invoiced for this work and then had a credit applied to his account for the same amount. The contractor absorbed the charges given that he had acted erroneously and without permission from the Property Factor. The Property Factor said they have authority to obtain relevant and necessary quotes and to provide options to the Homeowners but ultimately if every Homeowner was asked for their opinion or ideas, no work would ever be done or decisions made.

Documents referred to as part of this Head of Complaint

23. Letter to applicant dated 26th March 2025, copy of proposed work mandate, letter to applicant dated 28th November 2025, quote 1st January 2025, email to C Ferguson dated 26th March 2025 and 9th July 2025, email from C Ferguson to the property factor dated 8th July 2025, Written Statement of Services of the Property Factor.

Alleged Breaches

24. The Applicant alleges that his complaints in relation to the tree survey and associated works breach 1.1, 1.2, 1.5, 2.1, 2.2, 2.5, 6.1, 6.4, 7.2 and OSP 2,3,4,5 and 6.

(c) Remedial work to the wall at the entrance of the Development

The Applicant's Position

25. The Applicant's position was that the Property Factor had carried out remedial work to the wall at the right hand side to the entrance of the development. His position was that there are similar walls on both the right and left hand sides at the entrance of the development. However, the right hand side of the wall was now tied to the property situated right next to this (No 2 on the title deeds plan). He therefore argued that this was not communal property and did not fall within the remit of the Property Factor. He referred to the Deed of Conditions and Title Deeds which he said confirmed that a wall forming part of a Homeowner's private property, falls out with the scope of being classed as communal property and therefore would not be within the remit of the Property Factor. He also alleged that there had been material change in the condition of the wall following repairs instructed by the Property Factor. The wall height had been reduced and the top of the wall had been changed from flat bricks to concrete copes. He also alleged that the quotes provided were not comparable and that the work took 13 months from the original quote until completion. He accepted no charges were applied to his account for said works.

The Respondent's Position

26. The Property Factor's position is that this wall is communal and forms part of their remit. There is an identical wall on the left hand side of the entrance to the development. They obtained quotes for the work, and these were within the case file. They took advice from an appropriate contractor who suggested that the top ledge of bricks be replaced with concrete copes to allow water to run off them and they said this did not constitute a material change. Unfortunately, no before and after pictures of the wall had been lodged. The Property Factor did accept that it took 13 months for the work to be done. They attributed the length of work to overgrown shrubbery and green areas that required to be cut back so that a contractor could properly access the wall to complete the work. Additionally, they referred to communications issued to Homeowners,

spanning from 2nd April 2023 until 25th March 2024, which detail the various quotes obtained and recommendations to the Homeowners. These letters identify issues regarding obtaining majority agreement and funding. It was not until 25th March 2024 that there was agreement from the Homeowners to proceed with the work and the Property Factors were in funds to allow the work to be instructed. The work was instructed on 25th March 2024 with a final bill being issued on 7th April 2025. The Property Factor disputed that the wall was on private property and their position was that it was common property and fell within their remit.

Documents referred to as part of this Head of Complaint

27. Title Deeds Burdens Section, plans of the development, google images on the front of the development, Written Statement of Services of the Property Factor, report dated 15th June 2023 following site visit by Scotia, contractor, quote from NorthWest Roofing dated 4th July 2023, letter to homeowners dated 2nd November 2023, 1st December 2023, 5th January 2024, 29th February 2024, 25th March 2024, order form dated 25th March 2024, invoice dated 9th April 2025, email from B Stuart dated 20th May 2025, email from applicant to property factor dated 14th July 2025,

Alleged Breaches

28. The applicant alleges breaches of the Code Sections 1.1, 2.1, 2.2, 2.5, 6.1, 6.4, 7.1, 7.2 and OSP 2,3,4,5, and 6.

(d) Ineffective and Unreasonable Communications

The Applicant's Position

29. The applicant's position was that over a prolonged period of time the communications issued by the Property Factor were erroneous, misleading and not in line with his preferred communication methods. He alleged that he was

sent a letter which advised him and other homeowners that if the tree survey and associated works were not carried out then it was likely to impact on the individual homeowner's insurance. He said this was incorrect. Additionally, he said the Property Factor's communication fell short as to what would be expected of them, given that an additional tree survey was carried out and only the Applicant and the Property Factor had seen it, despite repeated requests for this to be uploaded to the Portal or be shared with the other homeowners. He also alleged that he told the Property Factor that email was his preferred method of communication and that this was not updated on their system. He said that generic replies were given to his complaint, almost as a holding mechanism as opposed to receiving a response that addressed his points and concerns.

The Respondent's Position

30. Mr Doig on behalf of the Property Factor accepted that information had been sent out in a letter which was wrong. This specific example related to a statement in this letter, in which the Property Factor alleged that a lack of work in relation to the trees on communal grounds, would impact upon the homeowner's home insurance. It is accepted by the Property Factor and by Mr Doig that this was wrong and an apology was issued at the time. He denied that this was deliberately misleading; it was a genuine error. His position was that time limits were complied with in relation to the various stages of complaint raised by the applicant.

Documents referred to as part of this Head of Complaint

31. Letter dated 26th March 2025 and 9th July 2025 to the applicant, Written Statement of Services of the Property Factor.

Alleged Breaches

32. The Applicant alleges breaches of Sections 1.1, 1.2, 2.1, 2.2, 2.5, 6.4 and 7.2 of the Code and OSP 2, 3, 4, 5, 6 and 12.

Tribunal Decisions and Reasons

Tribunal Decision and Reasons in relation to Late Payment Fee

33. The Tribunal considered the Code and the Overarching Standards of Practice. Having heard evidence and having considered all of the information available in the case file, the Tribunal did not find that there had been any breaches in relation to the late payment charge applied to the Applicant's factoring account. The applicant is experienced in property factor work, and he was previously employed by the Property Factor. He confirmed that he knew of the existence of the float fund and that he was required to pay towards this, upon taking ownership of the property. He denied receiving the welcome pack from the Property Factor and the second reminder letter dated 28th March 2025. His Solicitor advised the Property Factors on 13th February 2025 that he had taken ownership of the property. His position was that when he received the reminder on 14th March 2025, firstly this was the first communication he had from the Property Factor and secondly he contacted them to request an invoice. Without an invoice, he was unable to make payment, given he had not received the welcome pack and therefore he was not registered for the Portal. Following him contacting the Property Factor on 1st April 2025, he subsequently made payment of the float on 14th April 2025. The applicant referred to a conversation he alleges that he had with a staff member employed by the Property Factor, however no documentation was produced in relation to this. Section 17 of the Property Factor's Written Statement of Services explains their standard charge process when payment is not received. The Property Factor issued the original letter on 19th March 2025, two further reminders were issued. The charge was applied on 28th March 2025 in accordance with their Written Statement of Services, as they were entitled to do. The Tribunal considered the code and the OSP and found that there were no breaches of the Code or the OSP. It appears from the evidence provided that the Property Factors took all reasonable steps to issue the required documentation. When payment was not received, which they were entitled to request and the Applicant accepts was

due, they applied their standard rate of charges in line with their Written Statement of Services. They were entitled to apply this; their policy and procedure is clear in relation to this; and whilst the Tribunal could accept that the Applicant may not have received the initial welcome pack, it is unclear why an additional two letters were not received by the Homeowner. Accordingly, the Tribunal does not consider there to have been any breach in respect of the late payment charge applied.

Tribunal Decision and Reasons in relation Tree Maintenance work required and carried out at the Development

34. The Tribunal considered the Code and the Overarching Standards of Practice. Having heard evidence and having considered all of the information available in the case file, the Tribunal did not find that there had been any breaches in relation to this issue. It is clear from the documentation lodged within the case file by the Property Factor that the contractor accepted that he acted out with the scope of his authority, he did not have authority from the Property Factor to go ahead with any work and even though he did so, no costs were passed onto the Homeowner. In any event the Written Statement of Services Section 5 and Section 6(3), deal with “Core Management Services” and “Routine Management”, giving the Property Factor authority to have such work carried out, as the tree survey and the associated work would have come under these headings. The applicant had already accepted that it was good practice for such works to be completed on a regular basis. Having considered the necessary Sections of the Code and the OSP’s, the Tribunal failed to identify any breaches of these, under this heading of complaint, by the Property Factor.

Tribunal Decision and Reasons in relation to Remedial work to the wall at the entrance of the Development

35. The Tribunal considered the Code and the Overarching Standards of Practice. work to the wall was originally considered and quotes obtained prior to the applicant owning the property and he was not charged for this work. Over the course of the hearing the Applicant referred to a street view map which was

observed by all parties during the course of the hearing. The image of 2 King George Park Avenue dated April 2024 found by a standard street view, google search, shows that the property at the right hand side of the development has made changes to and utilised the right hand side of what was a the communal wall and are now utilising this as their boundary wall. It can be seen from this picture that gates have been erected and joined onto this wall as well as metal fencing placed on top of the wall, meaning what may have previously been a communal wall, has been utilised by that homeowner and adapted to ensure it is in keeping with the look of the rest of the property and surrounding walls and gates. There was no communal land observed between the wall in question and the property in question. Additionally, during the oral evidence, the Property Factor accepted that it had taken 13 months from the initial quotes were obtained in relation to the work until this was actually completed. The Tribunal having considered the relevant Sections of the Code and the Overarching Standards of Practice considered that there was a breach of Section 6.1 and Section 6.4 of the Code as well as breaches of OSP 2 by the Property Factors.

Section 6. 1 of the Code : “ *This section of the Code covers the use of both in-house staff and external contractors by property factors. While it is homeowners' responsibility, and good practice, to keep their property well maintained, a property factor can help to prevent further damage or deterioration by seeking to make prompt repairs to a good standard.*”

Section 6.4 of the Code: “ *Where a property factor arranges inspections and repairs this must be done in an appropriate timescale and homeowners informed of the progress of this work, including estimated timescales for completion, unless they have agreed with the group of homeowners a cost threshold below which job-specific progress reports are not required. Where work is cancelled, homeowners should be made aware in a reasonable timescale and information given on next steps and what will happen to any money collected to fund the work.*”

Overarching Standard of Practice : 2 “ *You must be honest, open, transparent and fair in your dealings with homeowners.*”

The Tribunal having considered the relevant sections, found that it was clear that there had been a material change to the wall in question. However, it is clear that this change, did not fall within the remit of the Property Factor given that it has been ~~adopted~~ *adapted and used* by that homeowner (Number 2) as their boundary wall and material changes had been made to that wall in the sense that gates have been erected and metal fencing has been erected at the top of it, at the instance of that property owner. Despite all of this, repairs were carried out by contractors on behalf of the Property Factor, when in fact a simple site visit would have clarified the position. Given that it took 13 months from the original quote for the work to be completed, the Tribunal's view is this was far too long. Whilst the Tribunal accepted that there was likely to be some delay seeking Homeowner agreement, payment and the overgrown shrubs being removed, the Property Factors have an obligation to carry out the work within a reasonable time frame and the Tribunal are satisfied that this did not happen in this case.

Tribunal Decision and Reasons in relation to Ineffective and Unreasonable Communications

36. The Tribunal considered the Code and the Overarching Standards of Practice and the communications between the Property Factor and based on the evidence within the case file and having heard oral evidence find breaches of the code or OSP's. Having considered all of the evidence it appears that communication in relation to the Applicant's complaints were dealt with appropriately and in line with the Property Factor's Written Statement of Services. These responses were lodged in the case file and considered by the Tribunal. The Tribunal accepts, as does the Property Factor, a statement in relation to the validity of the home insurance was made in error, however the Tribunal does not believe that this was done in attempt to deliberately mislead anyone. It was a genuine error and was eventually corrected with an apology issued. The Tribunal considered the remaining alleged breaches and was unable to find any of these upheld based on the information available.

37. Based on the evidence available within the case and the oral evidence heard, the Tribunal finds that there has been a breach of OSP 2 and Section 6.1 and 6.4 of the Code. These failures relate purely to the work which was instructed in relation to the wall at the entrance of the development. The street view images provided by the applicant at the oral hearing, show clearly that the wall has been adopted by a private homeowner (no 2) and therefore would not fall within the remit of the Property Factor. When the image was shown to the Property Factor and their Representative at the appeal hearing, they appeared to accept that at some point, a date unknown to all parties, the Homeowner (No 2) had begun using that wall as if it was their boundary wall. It therefore cannot fall under communal property and the applicant cannot be liable for the works instructed in relation to this wall. It is also worth noting that whilst a charge was initially applied in relation to this work, it was refunded and credited to the applicant's account. Therefore, the Tribunal does not consider that the applicant has been financially prejudiced by the work being instructed. However, if the Property Factors had carried out a site inspection, this would have identified this issue straight away. The length of time it took for the work to be completed in the Tribunal's view was far too long. Section 6(1) details that the repairs are required to be done promptly. The Tribunal does not consider a 13 month period to be prompt. It therefore follows Section 6(4) has also been breached because the repairs were not done within an appropriate timescale. Additionally, there is a breach of OSP 2 in terms of fairness as it is not fair that liability was initially attributed to the homeowners for the wall when a simple site inspection would have clarified that position. However, there is no financial detriment to the applicant. He was not charged for this work and the initial instructions pre date his ownership, albeit the work was completed during his period of ownership. The Tribunal considers that this matter could be dealt with by the Property Factor issuing a formal apology to the applicant, in writing, within 14 days of this decision being issued by the Tribunal. A copy of the apology letter should be sent to the Tribunal. The Tribunal does not consider a Property Factor Enforcement order is appropriate or necessary given the circumstances.

B Black

Legal Convenor

Reviewed as at 2nd September 2026