

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

NOTE OF DECISION:

The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 Schedule 1 Section 16

Reference number: FTS/HPC/PF/25/0705

Re: Property at 37 Woodhead Grove, Armadale, West Lothian, EH48 3HU (“the Property”)

The Parties:

Miss Amy Haston, 37 Woodhead Grove, Armadale, West Lothian, EH48 3HU (“the Applicant”)

Residential Management Group Scotland LTD, Unit 6, 95 Morrison Street, Glasgow, G5 8BE (“the Respondent”)

Tribunal Members:

Mr Mark Thorley (Legal Member)
Mr Andrew Taylor (Ordinary Member)

BACKGROUND

1. The Applicant applied to the Tribunal seeking a determination to find that the Respondent had failed to comply with the Property Factors (Scotland) Act 2011; Code of Conduct for Property Factors 2021 (“the Code”).
2. The application was dated 12 February 2025.
3. The Applicant set out that the Respondent had failed to listen to concerns/complaints and had been negligent in dealing with these, especially as a contractor finally admitted in November 2024 that works were not completed to the contracted requirements. There was a failure to communicate over a tender, with the result of additional costs for a tree report.
4. The Applicant set out that the contractor admitted failings and offered a credit. They had accepted this without investigating the failings any further, which had been ongoing for some time.

5. The Applicant sought a fully itemised bill for works carried out and costs deducted for works not completed. This had been requested on numerous occasions.
6. The application was accompanied by a detailed indexed set of documents, amount to 19 documents, but in total, approximately 180 pages of documents.
7. The application was accepted for determination on 17 July 2025.
8. The Respondent did not participate subsequently. Directions were issued to the Respondent requiring a detailed response to the complaints from the Applicant, but none were provided.

THE HEARING

The hearing called by way of teleconference on 31 July 2026. The Applicant, together with a supporter, were present on the telephone. There was no attendance by or for the Respondent. Nothing had been received at all from the Respondent in relation to the application.

The Applicant's Case

The Applicant set out various Heads of Complaint. The Applicant submitted that the Respondent had failed in the following ways:-

1. Failure to liaise with contractor re the many complaints from homeowners regarding the lack of and substandard work. It became apparent in November/December 2024 from the contractor that works had not been carried out. The Respondent had provided wrong information.
2. Failure to notify homeowners of the result of the most recent maintenance tender. The contractor was appointed in January 2025, but no notification was provided until 27 February 2025.
3. Failure to provide fully itemised billing, despite repeated requests to do so since 2020/21.
4. No consent was sought from homeowners for instructing a tree report at a cost of £600, split between 25 households at a cost of £24 each. This was not routine maintenance.
5. No notification of cancelled or delayed maintenance that had been billed for. There was no follow-up on concerns or complaints for missed visits.
6. The Applicant's account was referred on three occasions to debt collectors/solicitors for different amounts under different reference numbers.

7. The Respondent's published complaints process does not detail how they will deal with complaints about contractors as required.
8. A change was made to increase the level of delegated authority from £350 to £1,000 without any discussion or agreement with homeowners. The Code sets out that there can only be "an agreed level of delegated authority".
9. A further complaint was submitted on 11 April 2025 and acknowledged on 25 April 2025. No response was received to this. The complaint was eventually acknowledged on 10 September 2025. A final response was received on 24 September 2025.
10. Having received the complaint correspondence, the Applicant requested information and had to make a Freedom of Information request but no response was ever received to this.

The Applicant had produced, along with her application, detailed correspondence setting out the basis for her complaint. This ran to approximately 180 pages of evidence.

Findings in Fact

Having heard from the Applicant, together with also the documentation lodged, the Tribunal made the following findings in fact:-

1. The Applicant is the owner of the Property at 37 Woodhead Grove, Armidale, West Lothian, EH48 3HU.
2. The Property is factored by the Respondent. The Respondent provided a written Statement of Services dated October 2020. In terms of paragraph 2, "The core services provided cover the maintenance, management and repair of the common parts...".
3. The Applicant has requested, over a significant period of time, detailed invoices for work undertaken. On 29 March 2022, the Applicant wrote to the Respondent in the following terms: "During lockdown 2020, there was no factoring gardening company out. This is what I have been querying...I look forward to receiving the itemised bill requested for a long period of time now."
4. On 10 November 2024, the Applicant wrote to the Respondent querying maintenance visits by the contractor to attend to the communal areas of garden. The Applicant was querying paying for a service that had not been provided and paying for maintenance that had not happened on multiple occasions, especially during the winter, when the contractor did not attend at all. The Applicant went on to indicate that she had been disputing the services provided for a considerable period of time and had not been offered a site visit or any in-depth resolution.

5. Ground maintenance was charged on a monthly basis, between March 2018 and December 2022.
6. A tree condition survey was undertaken by Ayrshire Tree Surgeons Ltd on the instructions of the Respondent and dated 4 December 2024.
7. On 6 November 2024, the Respondent wrote to the Applicant advising that, "We have tendered the grounds maintenance contact for 2025 and will write to owners once we have had all the quotes back".
8. On 13 November 2024, the Applicant raised a formal complaint with the Respondent.
9. On 4 December 2024, the Applicant wrote to the Respondents requesting confirmation as to the outcome of the successful tenderer for the ground works.
10. On 18 November 2024, the Applicant's complaint was acknowledged and she was advised that there would be a response within ten working days.
11. The Applicant's complaint was answered on 25 November 2024, but not to the satisfaction of the Applicant.
12. Further correspondence was received from the Respondent to the Applicant on 6 December 2024 regarding her complaint.
13. On 11 February 2025, the Applicant provided further details to the Respondent of her complaint. The Respondent did not advise the Applicant until 27 February 2025 of the new contractor.
14. The tree report cost £600, which was to be divided between 25 householders at a cost of £24 each. The tree report was referred to as being routine maintenance. However, no evidence was provided that any other tree reports had been prepared, going back to 2018, and accordingly the tree report could not be regarded as being routine.
15. The Applicant identified a variety of cancelled or delayed maintenance visits that appeared to have been billed for and should not have been.
16. The Respondent's complaint procedure, as set out in their Statement of Services, makes reference to a complaints procedure and at Stage 1 requires a resolution within a period of ten working days. Thereafter there is a Stage 2 review, which again requires to be undertaken within a period of ten working days. No reference is made to complaints regarding contractors of the Respondent.
17. In the Statement of Services, at paragraph 1, authority to act to the Respondent for non-emergency repairs is up to an amount of £350. An increase was made to that figure to £1,000 without discussion or agreement with the Applicant or

any other homeowner. The Applicant made a Freedom of Information request for data on a number of concerns or complaints raised by homeowners since 2020.

18. The Applicant submitted a further complaint on 11 April 2025, acknowledged on 25 April 2025.

FINDINGS IN FACT

Having made the above findings in fact, the Tribunal then considered the various sections of the Code alleged to have been breached.

1. Section 6.4: “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.”

The Tribunal concludes that this Code has been breached. One of the issues that the Tribunal had was that the Respondent did not attend at any of the hearings, nor did they provide written submissions in response to the application. The Tribunal accordingly accepted the evidence provided by the Applicant. The Applicant’s evidence was to the extent that in November/December 2024, it became apparent that work had not been carried out by one of the contractors, yet it appeared to have been billed for. The Applicant had made repeated reference in correspondence to the Respondent, setting out that, as far as she was concerned, work had not been undertaken, yet she was being billed for it. On the basis of the evidence provided, it was apparent that work had not been undertaken, so accordingly this head is breached.

Section 6.12: “If requested by homeowners, a property factor must continue to liaise with third parties i.e. contractors, within the limits of their 'authority to act' (see section 1.5A or 1.6A) in order to remedy the defects in any inadequate work or service that they have organised on behalf of homeowners. If appropriate to the works concerned, the property factor must advise the property owners if a collateral warranty is available from any third party agent or contractor, which can be instructed by the property factor on behalf of homeowners if they agree to this. A copy of the warranty must be made available if requested by a homeowner.”

This is a repetition of the earlier breach. This was a third party contractor. The property factor did not appear to liaise with the third party to remedy the defect, i.e. that the third party was not attending to undertake the maintenance as requested. Again, a breach is established.

2. Overarching Standard of Practice: “OSP2. You must be honest, open, transparent and fair in your dealings with homeowners.”

This related to the failure to notify homeowners timeously of the result of the maintenance tender. It was submitted by the Applicant that the tender of services was to be submitted by 6 December 2024. This contractors were appointed in January 2025 but the Respondent did not advise until 27 February 2025.

This is not upheld. It is in any event a standard of practice as opposed to a code, but in any event, the issue here is of honesty, openness, transparency and fairness. This may be more appropriate to bring as a breach of the Code in relation to communication.

3. Section 2.3: "The WSS must set out how homeowners can access information, documents and policies/procedures. Information and documents can be made available in a digital format, for example on a website, a web portal, app or by email attachment. In order to meet a range of needs, property factors must provide a paper copy of documentation in response to any reasonable request by a homeowner."

Section 2.4: "Where information or documents must be made available to a homeowner by the property factor under the Code on request, the property factor must consider the request and make the information available unless there is good reason not to."

Section 3.4: "A property factor must provide to homeowners, in writing at least once a year (whether as part of billing arrangements or otherwise), a detailed financial statement showing a breakdown of charges made and a detailed description of the activities and works carried out which are charged for."

All these alleged breaches relate to the failure to provide itemised bills, despite continuous requests by the Applicant since 2020/21. It is clear from the evidence provided that the Applicant was not given what she sought here. This does appear to be an appropriate breach under 3.4 of the Code. The Code in respect of Section 2 relates more to information as opposed to a detailed breakdown. A breach of the Code under Section 3.4 is established.

4. Section 1B: "(5) the types of services and works which may be required in the overall maintenance of the land in addition to the core service, and which may therefore incur additional fees and charges (this may take the form of a 'menu' of services) and how these fees and charges are calculated and notified to homeowners."

(This is in reference to the WSS making specific reference to the services provided).

Section 2.6: "A property factor must have a procedure to consult with all homeowners and seek homeowners' consent, in accordance with the provisions of the deed of condition or provisions of the agreed contract service, before providing work or services which will incur charges or fees in addition to those relating to the core service. Exceptions to this are where there is an

agreed level of delegated authority, in writing with homeowners, to incur costs up to an agreed threshold or to act without seeking further approval in certain situations (such as in emergencies). This written procedure must be made available if requested by a homeowner.”

Section 6.4: (Already referred to).

Section 6.7: “It is good practice for periodic property visits to be undertaken by suitable qualified / trained staff or contractors and/or a planned programme of cyclical maintenance to be created to ensure that a property is maintained appropriately. If this service is agreed with homeowners, a property factor must ensure that people with appropriate professional expertise are involved in the development of the programme of works.”

The Applicant narrated that no consent was sought for homeowners for instructing a tree report at a cost of £600, split between the 25 householders at a cost of £24 each. This was not a routine part of work undertaken because there was no evidence of a tree report in any of the previous six years.

Breach of the Code under 2.6 is established here. This was not an emergency, nor was it routine work undertaken. The Respondent accordingly should have sought the authority of the homeowners.

5. Section 6.4: (Already referred to).

The Applicant set out that there was no notification of cancelled or delayed maintenance visits that were billed for. There was no follow-up to concerns/ complaints for missed visits.

This is not upheld. It was previously upheld and is a repetition of a previous point.

6. Overarching Standards of Practice 2 and 12.

Overarching Standards of Practice are not the Code themselves. It is the Code that is breached. The Overarching Standards of Practice are the standards that should be aspired to by the Respondent. Accordingly, no breach is established here.

7. Section 7.1: “A property factor must have a written complaints handling procedure. The procedure should be applied consistently and reasonably. It is a requirement of section 1 of the Code: WSS that the property factor must provide homeowners with a copy of its complaints handling procedure on request.

The procedure must include:

- How the property factor will manage complaints from homeowners against contractors or other third parties used by the property factor to deliver services on their behalf.

Clearly, there was no such clause contained within the WSS of the Respondent. The Applicant had a significant complaint against a third party contractor. This section of the Code is accordingly breached.

8. Section 2.6: (Previously referred to)

The Applicant set out here that changes were made in the level of delegated authority from £350 to £1,000 without discussion or agreement. The Respondent did not provide any written response to the application, nor did they attend at any hearing. Accordingly, this is upheld.

9. Section 2.7: "A property factor should respond to enquiries and complaints received orally and/or in writing within the timescales confirmed in their WSS. Overall a property factor should aim to deal with enquiries and complaints as quickly and as fully as possible, and to keep the homeowner(s) informed if they are not able to respond within the agreed timescale."

Section 7.1: "A property factor must have a written complaints handling procedure. The procedure should be applied consistently and reasonably. It is a requirement of section 1 of the Code: WSS that the property factor must provide homeowners with a copy of its complaints handling procedure on request."

The issue here is regarding a complaint made by the Applicant on 11 April 2025. By that stage there was already an application by the Applicant before the Tribunal. The Applicant's position, however, is that this was a separate and distinct complaint. On that basis, the code in respect of both sections is upheld as being breached.

10. Section 2.4: (Previously referred)

The Applicant's position here is that she made a Freedom of Information request for data in connection with other complaints made by homeowners. However, it should be noted that any failure to provided information in accordance with a Freedom of Information request is dealt with through the Freedom of Information request procedure. This, accordingly, is not upheld.

Proposed Property Factor Enforcement Order 34.

The Tribunal proposes to make a property factor enforcement order ("PFEO"). The terms of the proposed PFEO are set out in the attached Section 19(2) (a) Notice.

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.

Mark Thorley Legal Member and Chair

23 August 2026