Housing and Property Chamber
First-tier Tribunal for Scotland

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

Statement of Decision: Housing (Scotland) Act 2006 Section 24(1)

Chamber Ref: FTS/HPC/RP/26/0243

Title Number: GLA 217886

27 Harvie Street, Glasgow, G51 1BW ("the Property")

Parties:

Paul Alexander, 27 Harvie Street, Glasgow, G51 1BW ("the Tenant")

Lowther Homes, 25 Cochrane Street, Glasgow, G1 1HL ("the Landlord")

Tribunal Members:

Josephine Bonnar (Legal Member) and Sara Hesp (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, determined that the Landlord has complied with the duty imposed by Section 14(1)(b) of the Act.

Background

1. By application dated 15 January 2026, the Tenant applied to the Tribunal in terms of Section 22 of the Housing (Scotland) Act 2006. He stated that the Landlord has failed to meet their obligations in terms of the Act by failing to ensure that the property meets the Repairing Standard. In particular, the sound insulation at the property is defective. As a result, the Tenant experiences persistent and excessive noise from the flat above the property and the communal hallway also above the property. The Tenant lodged a copy of his tenancy agreement and correspondence with the Landlord with the application.

2. On 24 April 2026, the Tenant lodged a submission with the Tribunal together with a sound insulation testing report from BRS dated 4 December 2025. This

stated that the property had failed the sound insulation test. The Tenant said that this had only recently been provided by the Landlord although he had made several requests to see it. The Landlord had also advised him that intrusive investigations would be carried out and that he would be provided with a full written summary of the findings together with details of the remedial work and timescales. However, although the intrusive testing had been carried out on 20 March 2026, he had not been provided with the promised information, and no remedial work had been carried out. On 1 June 2026, the Tenant sent a further email to the Tribunal stating that he had been informed that remedial work was being carried out in the neighbouring flat. This included replacement flooring and the installation of acoustic matting to improve sound insulation. He had also been told that further acoustic testing would take place when the work was completed. However, although he had made a written request, he had not been provided with the written findings following the intrusive investigations, the proposed remedial work specification, timescales or whether the investigations and remedial work included the communal hallway. On 1 July 2026, the Tenant sent a further submission to the Tribunal. This stated that the post remedial work acoustic testing had now been completed. He had been advised verbally by the contractor that the property had passed the test. However, he had not been provided with a copy of his report or any of the other information requested, including confirmation that the communal hallway had also been part of the work and testing. The Tenant stated that several matters were still outstanding, including his request for compensation. However, the submission did not confirm whether the noise issues had been resolved.

3. A copy of the application was served on the Landlord, and the parties were notified that the Tribunal would inspect the property on 24 August 2026 at 10am and that a hearing would take place at Glasgow Tribunals Centre, York Street, Glasgow at 11.30 am on the same date.

4. On 4 August 2026, the Landlord lodged written submissions. These stated that the noise nuisance issues had resolved following remedial work carried out in June 2026. The Tribunal was also told that the building in question had been a tram depot which was converted to flats in 2015. A valid completion certificate confirming that the property complied with building regulations had been issued by the Local Authority. The Landlord stated that they were still waiting for the written report on the acoustic testing and would submit this when it was received. The Landlord concluded by stating that, following the completion of the remedial work, the property now meets the repairing standard.

5. On 5 August 2026, the Landlord submitted a report from BRS dated 18 June 2026. This report confirmed that the properties had passed the airborne sound insulation tests and impact sound insulation tests.

6. On 7 August 2026, the Tenant sent further written submissions. These stated that a number of issues remained unresolved. The Landlord had failed to provide requested information and documents. In addition, the Tenant stated that he continues to experience impact noise from the neighbouring property and the communal hallway above his bedroom and plumbing noise. The Tenant also lodged a timeline and documents. He also made a request to submit audio

recordings and asked the Tribunal to issue certain directions to the Landlord. The Tribunal determined that this it was too late for directions to be issued prior to the hearing. The request in relation to the audio recordings was granted. However, due to administrative oversight the parties were not notified of this decision until 21 August 2026 and the audio recordings were not available to the Tribunal and the Landlord until the morning of the inspection and hearing.

7. The Tribunal attended at the property on 24 August 2026. The Tenant was present and provided access. The Respondent was represented by Ms Graham and Mr Lynch. The hearing took place at 11.30. The Tenant attended and the Respondent was again represented by Ms Graham and Mr Lynch.

The inspection

8. The property is a two storey duplex apartment in a converted four storey block comprising a total of twenty similar properties. The accommodation comprises a hallway, kitchen and bathroom on the ground floor and a landing, bedroom, and living room on the upper floor.

9. During the inspection the Tribunal Members did not hear any noise from the upper property, the communal hallway or the plumbing.

10. A schedule of photographs taken at the inspection is attached to this decision.

The Hearing

11. The Legal Member explained that the Tribunal had endeavoured to listen to the audio recordings which had been submitted before the start of the hearing. However, no sound had been detected. The Tribunal also attempted to listen to the recordings using earphones. Some low-level noise had been detected, although it was not possible to identify what was causing the sound. As a result, the recordings did not appear to assist the Tenant with his complaints. It was also noted that the Landlord's Respondent had not yet had the opportunity to listen to the recordings. The parties were advised that they could lodge further submissions in relation to the audio recordings after the hearing.

12. Mr Alexander told the Tribunal that he has lived at the property for two years. Throughout that time the property above his house has been occupied by the same person, a man who lives there with a medium sized dog. Although he sometimes hears barking from another neighbour's house, he has never heard barking from the property above. He only hears it running.

13. In response to questions from the Tribunal, Mr Lynch said that tenants in the block require to obtain permission to keep pets. Usually, they are only allowed small pets. He doesn't know if Mr Alexander's neighbour has permission to keep a dog.

14. In response to questions about the noise disturbance Mr Alexander said there is loud banging, like something being dropped, and loud hammering noise. He can also hear running on the stairs. It can go on for prolonged periods of time. It mainly occurs in the evening and early morning. He doesn't think it often occurs during the day, but he is out at work. He doesn't ever hear music or the television.

15. Ms Graham told the Tribunal that there have been no reports of antisocial behaviour. She said that the conversion of the building into residential accommodation was completed in 2017 and has been fully occupied since that time. She and Mr Lynch are not aware of any previous noise complaints. Mr Lynch has been in post for about two years. Mr Alexander said that the upstairs neighbour told him that his friend used to live in the property and had no issues. However, a neighbour on his level told him that they used to complain to their upstairs neighbour about noise. He also said that there has been no change or improvement in the noise disturbance since the remedial work was carried out. It happens every day.

16. Ms Graham told the Tribunal that the June 2026 report from BRS shows that the property passed the acoustic testing carried out after the remedial work was completed. Intrusive investigations took place in March 2026, and the recommended work was carried out. The replacement flooring and acoustic matting was installed throughout the ground floor of the upper property. In response to questions about the building, the Tribunal was told that there are twenty properties in the building -. ten lower and ten upper apartments. The lower apartments have doors leading to the street. The upper apartments are accessed via the communal hallway/walkway. The properties are duplexes. The sound tests only involved the kitchen of the upstairs property and the living room of Mr Alexander's house. The bedroom was not involved. The work and testing only related to the upstairs property, not the communal hallway.

17. Mr Alexander told the Tribunal that he has not been provided with the results of the intrusive investigations which were carried out in March 2026. His concern is that the investigations and work did not include the plumbing noise or the communal hallway. He believes that a RSEO should be issued in relation to those. He told the Tribunal that the noise is disruptive and has caused stress and anxiety. He can't sleep.

18. Ms Graham told the Tribunal that the Respondent's position is that the property meets the Repairing Standard. She said that there is no reference to sound defects in the Scottish Government guidance on the Repairing Standard. The property is structurally stable and has effective drainage. In relation to the common parts mentioned by Mr Alexander, these are not common to his property. He does not have any common parts. Ms Graham said that if there is excessive noise then the Tenant should complain about that. He has not done so. The test to be applied is whether a fair minded third party would consider the property to meet the required standard. Ms Graham also advised the Tribunal that the Landlord does not have a written report on the intrusive testing. They were only given information about recommended repairs.

Further procedure

19. On 31 August 2026, the Landlord's representative sent a submission regarding the audio recordings. She stated that none of the recordings were date or time stamped and that there was no information about the device used to make the recordings. She also stated that it was difficult to make out any noise and specifically that the representative was unable to hear any loud bangs, dragging or running. On 8 September 2026, the Tenant sent a response to the Landlord's submission. He stated that the recordings were best assessed using headphones and that he disagreed with the Landlord's submission. He stated that he had listened to them again on Objective Connect and could clearly hear banging, dragging and running.

Findings in Fact

20. When the Tenant is in the living room or bedroom of his property, he can hear noise from the property directly above his house and the communal hallway used by the occupiers of the upper level properties in the block where his property is located.

21. When the Tenant is in the living room or bedroom of his property, he can hear the toilet being flushed in the property directly above his house and the sound of water passing through pipes after the toilet has been used.

22. The Landlord carried out work within the upper level property and installed soundproof matting and new flooring. Following completion of the work, the Landlord arranged for sound insulation tests to be carried out. The sound insulation passed the tests.

23. The sound insulation between the Tenant's property and the upper-level property is not defective.

Reasons for Decision

24. Section 14(1) of the 2006 Act states "The landlord in a tenancy must ensure that the house meets the repairing standard – (a) at the start of the tenancy, and (b) at all times during the tenancy." In terms of Section 14(3) of the 2006 Act "The duty imposed by subsection (1)(b) applies only where – (a) the tenant notifies the landlord, or (b) the landlord otherwise becomes aware, that work requires to be carried out for the purposes of complying with it". Section 22(3) of the 2006 Act states that an application can only be made if the person making the application has notified the landlord that work requires to be carried out for the purpose of complying with the repairing standard. The Tribunal is satisfied that the Tenant notified the Landlord of his complaints prior to lodging the application.

25. The Tribunal noted that there are three issues to be determined by the Tribunal:

(a) Does the Repairing Standard apply to the complaints made by the Tenant?

(b) If it does apply, has the Tenant established that the property does not meet the Repairing Standard?

(c) If the property does not meet the Repairing Standard, what remedial action should the Landlord be required to take?

26. There is no reference in section 13(1) of the 2006 Act or in the Repairing Standard Statutory Guidance to noise or sound insulation. The Tenant has identified sections 13(1) (a), (b), (c) and (i) as the relevant provisions. Having reviewed the remaining sections of section 13(1), the Tribunal is satisfied that none of these could apply to this complaint.

27. Section 13(a) states that the house must be "wind and watertight and reasonably fit for human habitation". Section 13(b) requires that the "structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and proper working order." Section 13(c) stipulates that that the "installations in the house for the supply of water, gas, electricity including residual current devices) and any other type of fuel and for sanitation, space heating by a fixed heating system and heating water are in a reasonable state of repair and in proper working order. Section 13(i) states that "any common parts pertaining to the house can be safely accessed and used."

28. The Tribunal is satisfied that section 13(1)(i) is not relevant. As the Landlord's representative pointed out, the Tenant does not share any common parts with other occupiers in the building. His property is accessed by a door leading to the street. The communal hallway and stairs are only shared by the occupiers of the ten upper level properties. Furthermore, the Tenant's complaint does not relate to safety issues associated with the use of (or access to) those areas.

29. The Tribunal is also satisfied that section 13(b) is not applicable. There are no complaints about the exterior. Excessive noise transmission within a building is not mentioned in the Statutory Guidance as an indicator that the structure of the building is not in a "reasonable state of repair and proper working order". The Guidance states that "Private landlords must be satisfied that any house they rent to tenants is fit for the tenants to live in. They should be confident that the house is structurally stable as instability in the structure of a house is a threat to safety". (Annex C.2). The guidance specific to the "structure of the house" (C.5 – C.7) makes reference to ensuring that the "supporting fabric of the house will not move in relation to its foundations or other parts of the building so there is no risk of failure of any building element leading to partial or total collapse". There are references to the main structural elements of the house and the signs of structural instability such as cracking and bulging walls. Having regard to the legislation and guidance, this provision does not appear to apply to complaints about noise and sound insulation.

30. The Tribunal notes that section 13(c) may be relevant to the complaint about the plumbing in the building as it includes sanitation. However, to succeed the tenant must establish that the noise emanating from the toilet is relevant to whether the toilet and pipes are in a reasonable state of repair and proper

working order. The Tenant does not claim that the plumbing is defective. His only complaint is that he can hear the toilet flushing and water in the pipework when the toilet is used.

31. The Tribunal initially took the view that section 13(a) might be relevant the Tenant's complaints if the noise issues meant that the property was not "reasonably fit for human habitation". The statutory guidance states that "When determining whether the privately rented house meets the standard of repair required by section 13(1)(a) the landlord should have regard to the extent (if any) to which the house, by reason of disrepair or sanitary defects, falls short of the relevant building regulations". However, the guidance also states that "problems with damp constitute sanitary defects for this element of the Repairing Standard under sections 13(2) and 70(1) of the 2006 Act." Section 70 defines "sanitary defects" as including "lack of air space or of ventilation, lack of lighting, dampness, absence of adequate and reasonably accessible water supply or of sanitary arrangements or of other conveniences and adequate paving or drainage of courts, yards or passages". It is significant that the guidance focuses on dampness and related issues in connection with Section 13(1)(a). This being the case and given the absence of any reference to noise transmission within the Guidance, it seems unlikely that defective sound insulation within a property means that the property does not meet the minimum standard of repair which must be met.

32. The Tribunal notes also that section 5 of the Statutory Guidance addresses what is meant by "reasonable" in the context of the Repairing Standard. This is not defined in the legislation but the Guidance states: - "Broadly it reflects what a fair minded third party would expect after taking all the circumstances into account….the test is what an impartial spectator would think".

33. In the circumstances the Tribunal is satisfied that the Repairing Standard does not apply to the complaints made by the Tenant in this case. Having regard to both the legislation and the Statutory Guidance, a property does not fail to meet the minimum standard of repair, even if the sound insulation is inadequate, unless the property in question does not meet the relevant building regulations for that type of property. The evidence presented to the Tribunal indicates that the Building Regulations have been met.

34. Although satisfied that the provisions of the 2006 Act do not apply, the Tribunal proceeded to consider each of the complaints made by the Tenant in this case on the premise that the Tribunal's conclusion may be incorrect. The Tribunal concluded that, if section 13(1)(a) or (b) applies, the Tenant must establish that he was affected by noise from the upper property, communal hallway and plumbing, that the noise was excessive or unduly intrusive and that the noise was attributable to a failure in the sound insulation which was a structural defect, a failure to ensure that the property is reasonably fit for human habitation or defective sanitation.

35. The Tribunal had regard to the following evidence; -

(a) The documents lodged by both parties.

(b) The Tenant's oral evidence.

(c) The Landlords oral evidence.

(d) The reports from BRS before and after work was carried out in the upper level property.

(e) The correspondence between the parties.

36. The Tribunal accepts the evidence from the Tenant that he can hear noise from the upper property, hallway and plumbing. That is not uncommon when occupiers of residential accommodation share walls, ceilings and floors. It is most common in blocks of flats. The issues for the Tribunal to determine are the noise levels and the cause(s) of the noise.

37. The Tribunal carefully considered the audio recordings which were submitted by the Tenant. On their own, they are of minimal evidential value. The recordings were made by Tenant, not by an independent third party or someone with particular knowledge or expertise. They are not date or time stamped and the Tribunal was not advised of the type of device used to make the recordings. No information or evidence was provided about the circumstances which existed at the relevant times. For example, whether there was anyone else present in the Tenant's home at the time, whether the neighbour and/or his dog were at home, what the Tenant was doing at the relevant time, whether he had any information about what the neighbour was doing. The fact that the noise on the recordings can only be heard properly with noise cancelling headphones is also an issue affecting their evidential value. Furthermore, although it was possible to identify some of the noise as someone (or something) running when headphones were used, the other noises were not identifiable. The Tribunal accepts the Tenants' evidence that he made the recordings but not that these establish that there was excessive noise.

Impact Noise from the upper level property

38. If the Tribunal is wrong, and sections 13(1)(a) and (b) do require a landlord to ensure that the sound insulation between properties is adequate, the Tribunal is still not satisfied that a breach has been established. The Tribunal notes that, although the Landlord has carried out work in the property above, and the properties passed the second sound insulation tests, the Tenant reports no improvement and states that he continues to experience unacceptable levels of noise. This suggests that the Tenant's problem is not the sound insulation at the property, but some other issue. In particular, it is possible that noise disturbance experienced by the Tenant might be due to the use of the upper level property. It is not clear why the Tenant chose to report a concern about sound insulation and has not made a complaint about his neighbour. He told the Tribunal that some of the noise occurs in the early hours of the morning and includes hammering, items being dropped and dragged. It is also noted that there is a dog in the property, possibly without permission. The Tribunal is also of the view that, although the Tenant may not have made a specific complaint about his neighbour, he has certainly complained about noise. In the circumstances the Landlord should have considered the possibility that the neighbour is responsible and made appropriate enquiries. As the complaints

include the sound of someone (or something) running and possibly jumping, it ought to have occurred to the Landlord that the dog is responsible for some of the disturbance. As they have now addressed the sound insulation deficiency between the properties, this appears to be the only remaining avenue of enquiry and should be investigated.

The plumbing noise

39. Again, assuming that the Tribunal is wrong and that either 13(1)(a) or (c) applies, the Tribunal is not persuaded that a breach has been established. complaint. The plumbing in the building is not defective. The evidence did not establish that the noise from the pipes and the neighbour's toilet is excessive or that an impartial spectator would consider that the property is not reasonably fit for human habitation. There will always be some noise associated with toilets being flushed and water passing through pipes. Occupiers of properties which share walls, floors and ceilings will often be aware of this. In this particular case, the Tenant may be more aware of the issue because of the unusual design of the properties. His bedroom is on the second floor, directly underneath the neighbour's bathroom. The Tenant does not claim that there is continuous noise from the toilet or pipes, which might suggest a defect. The available evidence does not support the conclusion that the noise is excessive or is caused by defective sound insulation.

Impact noise from the communal hallway

40. Again, assuming the Tribunal is wrong and that this is a Repairing Standard issue, the Tribunal is not satisfied that a breach has been established. The only evidence that the noise is excessive came from the Tenant. Even if the audio recordings are taken into account, only one of these related to the communal hallway and the nature of the noise was not identifiable from the recording. The frequency of this alleged disturbance must also be considered. The Tenant did not indicate whether the noise is intrusive every time someone walks on the hallway or whether there are only problems when the occupier of the upper level property is arriving or leaving and making excessive noise when he does so.

41. Based on the available evidence the Tribunal concludes that the Tenant has failed to establish that there is excessive or unduly intrusive noise or a defect which means that the property does not comply with the Repairing Standard. However, it is noted that the Landlord elected only to investigate the sound proofing between the two occupied properties and did not carry out any investigations into sound transmission between the property and the communal hallway. The Tribunal is of the view that it would be appropriate to do this as well as investigating whether the noise from both the upper hallway and property is due to the occupier and his dog.

42. The Tribunal concludes that the Landlord has not failed to comply with the Repairing Standard as set out in Section 13(1)(a), (b), (c) and (i) of the 2006 Act.

Decision

43. The Tribunal determined that the Landlord has not failed to comply with the duty imposed by Section 14(1)(b) of the Act.

44. The decision of the Tribunal is unanimous.

Right of Appeal

A Landlord, Tenant or Third-party applicant 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.

In terms of Section 63 of the Act, 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.

J Bonnar

Josephine Bonnar, Legal Member **5 October 2026**