



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

Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') issued under section 26 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

Property Factors (Scotland) Act 2011 ("The Act")

2021 Code of Conduct for Property Factors ("The 2021 Code")

The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("The Regulations")

Reference number: FTS/HPC/PF/25/3268

Re: Property at 1/1 93 Barrland Street, Glasgow, G41 1RH ("the Property")

The Parties:

Ms Kirsty Cuthbertson residing at 1/1 93 Barrland Street, Glasgow, G41 1RH ("the Applicant")

91BC, Garscadden House, 3 Dalsetter Crescent, Glasgow ("the Respondent" or "91BC")

Tribunal Members:

S Gibb (Legal Member) and K. Bruce (Ordinary Member)

Introduction

In this decision the Property Factors (Scotland) Act 2011 is referred to as "the 2011 Act"; the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors is referred to as "the Code"; and the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016 are referred to as "the Rules"

Background

1. A CMD was held on 2nd February 2026 and a Directions Notice was issued. A oral Hearing was fixed for 13th July 2026 which had to be cancelled due to the illness of the Legal Member.
2. A CMD was held at 10 am on 31st August 2026. By 10.15 the Respondent had not dialled in and there was no message from the Respondent. The Applicant was present and ready to proceed. The Tribunal considered Rules 2 and 29, both parties written submissions and the Respondent's response to the Directions Notice of 2nd February 2026 and concluded that it could proceed to deal with the matters before it as a Hearing. The Respondent's position was laid out in their submission and the interests of justice would not be served by a further adjournment when the Tribunal had sufficient evidence to proceed to a decision.
3. Ms Cuthbertson, the Applicant, is the homeowner. The Applicant represented herself at the Hearing.
4. The Respondent was not present.
5. The Appellant had alleged breaches of OPS 11 and Clauses 2.4, 2.7, 5.5, 5.6, 5.8 and 5.9 of 2021 Code. At the previous CMD she had agreed not to pursue OPS 3, 5 and 6.

The CMD/Hearing

5.1. At the heart of the matter were the circumstances surrounding the selection of a new common buildings insurance policy and the Respondent's alleged failure to provide information and documentation relating to the policy and the tender process to the Applicant. The Applicant addressed the Tribunal on each Section of the Code that she considered had been breached and her case was detailed in her Application Form and accompanying submissions. The Tribunal considered the Respondent's written submissions.

5.2 The Directions Notice dated 2nd February 2026 stated;
The Respondent is directed within 30 days to;

- (a) To provide fuller details of the historic claims intimated to Allianz to include better details of the circumstances arising in each claim, details of the repairs undertaken and, if available, the loss adjuster's reports for each claim.
- (b) A fuller, detailed explanation of the tender process including details of all insurer's approached to provide buildings insurance.
- (c) Details of the commission received by the insurance brokers from Allianz bearing in mind that the brokers are acting for the benefit of the homeowners.

5.3 In response to the Directions Notice dated 2nd February 2026 the Respondent lodged on 8th July 2026 305 pages relating to a tender and description for works at 77, 79, 87 and 89 Barrland Street. The Respondent failed to obtemper the Directions Notice. They failed to deliver the requested documentation and ignored the time limit set by the Tribunal. It took the Respondent approximately five months to deliver the

wrong documentation to the Tribunal.

5.4 Section 2.4 states; “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.” The Applicant had requested documentation and information relating to the insurance policy tender process, claims history and commission payment amongst other documents. Her initial request and subsequent emails between her and 91BC between June and October 2025 are found in her submission. In particular the documentation and information she was seeking are listed in her emails of 5th June and 23rd July 2025. The Applicant laid out fully and clearly her concerns in her initial application from pages 162 to 167 of the case file. In their submission of 5th January 2026 the Respondent said that they had “provided all the information and documents that we held, any further information requests from third parties have been submitted and chased where applicable”. At the CMD on 2nd February 2026 Ms Law on behalf of the Respondent acknowledged that relevant information from third parties remained outstanding. The Respondent failed to provide the requested documentation in relation to the insurance policy tender process and the historic claims despite multiple requests by the Applicant. Not only did they fail to produce it for the Applicant, they also failed to produce it for the Tribunal when directed to do so. The Tribunal found that Section 2.4 of the Code had been breached by the Respondent.

5.5 Section 2.7 states; “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.” The Applicant’s position was that she had repeatedly requested information and documentation which had not been delivered. The Applicant’s initial complaint to the Respondent was not responded to within the timescale laid out in the Written Statement of Services (WSS). It was lodged with the Respondent on 18th June 2025 and acknowledged on 25th June. In accordance with the WSS the acknowledgement should have been received on 19th June 2025. Her initial request for information was made on 2nd May. By 31st August 2026 some of the Applicant’s complaints had still not been fully addressed. In their submission the Respondent said that “they provide 24hr access to (their) online portal where all enquiries or complaints are responded to.” The Tribunal considered that 91BC’s response was entirely inadequate and failed to address the Respondent’s concerns. Taking the evidence as a whole it was the conclusion of the Tribunal that Section 2. 7 of the Code had been breached by the Respondent. Consequently, the Respondent had breached also OPS 11.

5.6 Section 5.5 states; “A property factor must disclose to homeowners, in writing, any commission, administration fee, rebate or other payment or benefit that is paid to them or anyone in control of the business or anyone connected with the factor or a person in control of the business, in connection with the policy. They should also disclose any financial or other interest that they have with the insurance provider or any intermediary. A property factor must also disclose any other charge they make or apply for arranging such insurance.” The Tribunal concluded that there had been no breach of this Section. The Respondent had revealed their commission but had

failed to reveal the commission paid to the broker who organised the policy. However, it was the view of the Tribunal that that failure was not caught by the terms of Section 5.5.

5.7 Section 5.6 states; "If applicable, a property factor must have a procedure in place for submitting insurance claims on behalf of homeowners and for liaising with the insurer to check that claims are dealt with promptly and correctly. This information must be made available if requested by a homeowner. If homeowners are responsible for submitting claims on their own behalf (for example, for work that is not on common parts), a property factor must take reasonable steps to supply to homeowners all information that they reasonably require in order for homeowners to be able to do so." The Respondent submitted that they had in place a system for submitting insurance claims and the Applicant accepted that was the case. The Tribunal agreed and found there was no breach of Section 5.6.

5.8 Sections 5.8 and 5.9 respectively state; "On request, a property factor must be able to demonstrate how and why they appointed the insurance provider, including an explanation where the factor decided not to obtain multiple quotes." "If applicable, documentation relating to any tendering or selection process (excluding any commercially sensitive information) must be made available to homeowners on request." The Respondent submitted the same response to both alleged breaches of these Sections. The Respondent said "91BC provided full insurance tender information to owners upon request". In her email of 25th June 2025 (and others) the Applicant details clearly the information and documentation relating to the tender process that she wishes. Whilst Gillian Law of the Respondent did provide an explanation and some documentation in her email of 6th August 2025, the Applicant sought further clarity in her email of 25th August 2025. In particular, she sought the historic claims information and that request was repeated by the Tribunal in its' Direction Notice. The Respondent failed to provide this information to the Applicant. It may be that it was provided to other proprietors but it should have been provided to the Applicant when requested by her. There are a number of emails lodged by the Applicant which were sent to the Respondent by other proprietors. These are illuminative but the Tribunal is restricted to looking at the Respondent's dealing with the Applicant and not the Respondent's other responses with other proprietors even if they are in respect of the same matters. The Applicant laid out fully and clearly her concerns in her initial application from page 162 to 167 of the case file. The Respondent has failed to address these fully and the Tribunal concluded that Sections 5.8 and 5.9 of the Code were breached

Findings in Fact

1. The Appellant has had a heritable interest in the Property since 6th August 2024.
2. 91 BC have provided factoring services to the Property since 2019.
3. The Appellant lodged her complaint with the Respondent on 18th June 2025 and it was acknowledged on 25th June 2025.
4. The Appellant sought information regarding the tender process and claims

- history at various times including in her emails of 5th June and 23rd July 2025.
5. The Respondent failed to provide the information requested regarding historic insurance claims.
 6. The Respondent confirmed their commission on the policy as 15%.
 7. The Respondent has not provided details of the Insurance Broker's commission.
 8. The Respondent has a process for dealing with insurance claims.
 9. The Respondent failed to obtemper the Directions Notice dated 2nd February 2026

The Decision

The Tribunal finds the Respondent in breach of OPS11 and Sections 2.4, 2.7, 5.8 and 5.9 of the 2021 Code. 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.

This decision takes effect from 31st August 2026

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.

Chairperson of the tribunal; S Gibb

Dated: 18th September 2026