

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Decision on homeowner's application: Property Factors (Scotland) Act 2011
Section 19(1)(a)**

Chamber Ref:

FTS/HPC/PF/25/3320

Property at 0/1, 173 Craighall Road

(“the Property”)

The Parties:-

Mr Jun Fai Simon Fong, 0/1, 173 Craighall Road, Glasgow G4 9TN

(“the Applicant”)

James Gibb Property Management Ltd, Red Tree Magenta, 270 Glasgow Rd,
Rutherglen, Glasgow

(“the Respondent”)

Tribunal Members:

Iain MacRae (Legal Member)

Elizabeth Williams (Ordinary Member)

Representation

Applicant: Self

Respondent: Leanne Holt, Associate Director & Iain MacPherson, Property
Manager

DECISION

1. The respondent has failed to comply with its duties under section 14(5) of the Property Factors (Scotland) Act 2011 (**the 2011 Act**) in that it did not comply with their Written Statement of services in that they (a) were unable to timeously discharge their duty to engage with third party agencies to ensure broadband was installed to the property, (b) were they able to discharge their duty to organise and instruct routine maintenance of the riser which was a common part; and (c) failed to deal with the applicant's complaint and queries regarding the progress it in accordance with their written statement of service (**WSS**).

2. The decision is unanimous

Background

3. This is an application for an order under Rule 43 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 and section 17 of the Property Factors (Scotland) Act 2011 ("**the 2011 Act**"). The application was referred to a case management discussion (CMD) to be held by teleconference on 3 February 2026. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules on 17 December 2025.
4. The Respondent lodged written representations on 21 January 2026 and the applicant replied to these on 4 February 2026.
5. The Factor became the Registered Property Factor in respect of the dwelling on 18 April 2011. In terms of section 14(5) of the 2011 Act it was under a duty to comply with the Code of Conduct for Property Factors Effective from 16 August 2021 (The Code)

The case management discussion

6. The case called for a case management discussion (**CMD**) on 6 February 2026. The purpose of the CMD was explained the parties as was the fact that the Tribunal could make a decision. The applicant's position was as set out in his complaint. He explained that he had arranged for the installation of fibre optic cable at the property on 19 May 2025. When the installers arrived they advised they needed access to the riser (or inspection hatch) outside his door. It was locked. He telephoned the respondent but the property manager was on annual leave. No one else could assist. He was given differing accounts of whether the respondent had a key or not. If the respondent does not have the keys they should replace the locks at their expense. He re-arranged the installation for the 30 May 2026. As the keys had still not been located he drilled out the lock and the installation proceeded. He had complained but apart from an acknowledgment the complaint and emails chasing it up had been ignored.

Applicant's case

7. When the applicant called on 19 May 2025 he was advised that the keys were not logged on the system. The Property manager was on holiday. They had replied to the applicant within 4 business days of his enquiry so in line with their WSS. They emailed the other homeowners to try and track down the keys. Further discussions took place with the applicant. The respondent later identified that they had identified that CityFibre signed the development keys out to carry out on 13th December 2024 had not return these, so there was no log of the keys being returned to the office. CityFibre confirmed on 7th July 2025 that the keys had been found in one of the driver's vans.
8. The applicant's complaint had been formally closed on the basis that the issues raised were resolved through direct and constructive communication between the Property Manager and Mr Fong. No further matters remained outstanding that required intervention, and the case was therefore concluded in accordance with established procedures.
9. The respondent was satisfied that all appropriate steps were taken to address this matter on behalf of the co-proprietors had been taken. They had promptly, followed the correct procedures, and engaged with the relevant parties to ensure the issue was managed as effectively as possible.
10. **Findings in fact:**

General

11. The applicant is the heritable proprietor of flat , 0/1, 173 Craighall Road (**'the Property'**)
12. The property is part of a modern development of 132 flats, spread over 14 stairwells. (**'The Development'**)
13. The property is one of 8 flats accessed from a common close at 173 Craighall Road, Glasgow
14. The respondent has performed the role of the property factor of the Development since before December 2024.

Keys for Riser cupboards

15. Within the common area of the block are 8 service riser cupboards (risers) which are vertical service shafts allowing access to services such as electrical wiring. Access to the risers is obtained from the common close. The doors to the risers are (or should be) locked. The respondent is responsible for holding the keys to the risers.
16. On 13 December 2024 the respondent gave the keys to the risers to CityFibre who were installing fibre optic cabling for broadband access to the blocks.
17. The applicant arranged for the installation of fibre optic broadband to the property to take place on 19 May 2025. The installer required access to the riser to carry out the installation
18. On 19 May 2025 the applicant called the respondent to obtain the riser panel keys. The applicant was advised by the respondent that they did not hold the keys for the risers.
19. On 6 June 2025 the respondent emailed all of the homeowners at the development to ascertain if any of them could assist in determining where the riser keys were.
20. On 7th July 2025 City Fibre advised the respondent that the keys which were in one of their driver's vans
21. The keys were lost to the respondent from before 23 May to 7 July 2025
22. The respondent had no effective system in place allow them to readily ascertain the whereabouts of the keys after they had been passed to a person requiring them , or to ensure that they were timeously return to them

Complaint handing

23. On 21 May 2025 the applicant complained to the respondent in writing. His complaint was that the respondent could not facilitate access to the riser on Monday 19 May;
24. On 25 May 2025 the applicant advised the respondent that he had managed to arrange access to the riser but still wish to complain.
25. At the respondent's insistence, on 29 May 2025 the applicant lodge the same lodged complaint using the respondent's complaint from

26. The applicant's complaint was that the respondent failed in their "Core Management Service" (WSoS Page 3, item 04) to manage common parts effectively, and a failure to facilitate "Engagement with third party agencies to supply services" like broadband (WSoS Page 4, item 18).
27. On 30 May 2025 the respondent acknowledge the complaint, and advised it had been passed to Leanne Holt, Associate Director for investigation and he would receive a response within 28 days
28. On 6 June 2025 the Leane Holt emailed the applicant to confirm she had the the complaint, and advised it would be responded to as provided for in the WSS (28 days)
29. On 10 July 2025 the applicant emailed the respondent asking for an update on his complaint.
30. On 19 July 2025 the applicant emailed the respondent asking for an update on his complaint
31. On 30 July 2025 the applicant emailed the respondent asking for an update on his complaint
32. The respondent did not rely to the applicant's emails to them of 10, 19 or 30 July 2025
33. On 2 August 2025 the applicant made this application to the tribunal;

Reasons for Decision

Riser Keys

34. The fact were largely not in dispute. The applicant had requested the keys to the riser on 23 May 2025 to allow for the installation of broadband. Whilst this may have been important to the applicant the request was not an emergency. When he contacted the respondent for the keys on 23 May 2025 he was initially told they had no record of ever having held the keys. Had the respondent maintained an effective record system in place they would have readily been able to advise the applicant where the keys were. As it turned out the applicant was required to resort to self-help and drill the lock out in order that the re-arranged installation could proceed. Had there been an effective system in place, when he called on 23 May 2025 the applicant would have been told that the keys had been given to CityFibre on 13 December 2024. The respondent

could then have taken steps to track down the keys. Instead there was a denial that the respondent ever had the keys. It had been said during the hearing that this was due to a migration from a paper to computer based system. It is surprise that such migration had not previously been mentioned. Nor does it appear to have been considered by the respondent or it appears considered by Mr Wallace, the property manager as a possible explanation of why the keys could not be found on 23 May 2025. Had that been the reason one might have expected the call handler to check both systems during such a transition. We asked if there a system in place to record when keys signed out were returned and the suggestion was that it was left to the common sense of the property manager. The problem with such a system is of course that the property manager may forget to chase up the return of keys if they are not returned as agreed. Or, as occurred here, the property manager was not at work on 23 May 2025 so there was no way of the respondent knowing where the keys were or is "signed out" when they ought to have been returned. If there was any system in place it did not assist the property manager in locating the keys when he returned to work. The respondent accepted, although not readily, that between 23 May and 7 July 2025 (when CityFibre advised them that they had the master key) the respondent had no knowledge of where the keys, they were holding on behalf of the homeowners were. They were to all intents and purposes lost until CityFibre informed them on 7 July 2025 that they had the keys. Give that the respondent accepts it had lost the keys for a period they were clearly unable to discharge their duty to engage with third party agencies to ensure the broadband was installed to the property. Nor were they able to discharge their duty to organise and instruct routine maintenance of the riser which was a common part.

Complaint handling

35. The applicant's second complaint to the Tribunal was that the respondent had not dealt with his complaint. The complaint was properly made and logged. Rather than uphold or reject the complaint the respondent did nothing. The explanation suggested at the hearing was that as the applicant had obtained access to the riser the complaint was closed off as "resolved". That suggestion is disingenuous. At the time he made the complaint the applicant advised the

respondent that he had obtained access to the riser but wished to complain none the less. He chased up respondent on three occasions but was ignored. The respondent accepted that the complaint was neither upheld nor refused and that they had not replied to his three emails asking for a response to his complaint. Whether the complaint unilaterally closed or simply ignored after the initial acknowledgment is a clear breach of their respondent's complaints procedure.

Proposed Property Factor Enforcement Order

36. Having decided that the respondent has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, we must next decide if we should make a property factor enforcement order ("PFEO") (Section 19(1)(2) of the 2011 Act). The applicant had been inconvenienced by the respondent's failure to have adequate and effective systems in place to ensure they were aware of the location of keys to the risers. Different explanations or possibilities were suggested to the applicant as to the whereabouts of the keys. None of staff seemed to know. The applicant's description of events gave the impression that he felt he was being fobbed off. His complaint was ignored. Right up to the CMD the respondent had failed to address the issues. The claim was not that they had failed to respond to the applicant's queries about the keys but the fact they did not have them. It was not until discussing matters with the tribunal members that the respondent's representatives accepted they had lost the keys and failed to deal with the complaint according to their own WSS.
37. It is within the specialist knowledge of this tribunal that risers provide access to services between floors and so, for fire safety reasons, it is important that they are secured and locked. That safety aspect has been compromised by the respondent's failures. The applicant is entitled to be secure in the knowledge that the risers in his common close are all secure. The respondent should, at their own cost be required to ensure that all the risers in the common close are locked and that they have keys.

38. It was not clear from the discussion at the CMD if the transition from a paper to computer based system for accounting for keys has yet take place as regards the block where the property is. Either way the applicant is entitled to know that there are adequate systems and controls in place and what those are.
39. 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.

Appeal

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.

10 September 2026

Iain MacRae Legal Member

Date