



Decision and Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 19(1) of the Property Factors (Scotland) Act 2011 (“the 2011 Act”)

Reference number: FTS/HPC/PF/25/5360

Re: Property at 91 Curle Street, Glasgow, G14 0RR (“the Property”)

The Parties:

Ms Nikhita Valipe, 91 Curle Street, Glasgow, G14 0RR (“the Homeowner”)

91BC, Garscadden House, 3 Dalsetter Crescent, Glasgow, G15 8TG (“the Property Factor”)

Tribunal Members: Ruth O’Hare, Legal Member, and Ahsan Khan, Ordinary Member

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Property Factor has failed to comply with the Section 14 duty in terms of the 2011 Act in respect of compliance with Sections 2.7, 3.1, 4.4 and 7.1 of the Code. The Tribunal further found the Property Factor had failed to comply with the property factor duties under Section 17(5) of the 2011 Act in terms of their breach of the Written Statement of Services (“WSS”) at Section 3.3.

The Tribunal therefore made a proposed Property Factor Enforcement Order, which should be read with this decision.

Background

- 1 The Homeowner applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) for a determination that the Property Factor had failed to comply with the 2021 Code of Conduct for Property Factors (“the Code”) and their property factor’s duties.
- 2 In summary, the Homeowner alleged that she had disputed electricity charges which the Property Factor had continued to pursue her for, that the Property Factor had failed to respond to her queries on the matter timeously, that they did not have provision in their debt recovery procedure for disputed charges, and that the Property Factor had failed to respond to her stage 1 and stage 2 complaints. The Homeowner alleged that the Property Factor was therefore in

breach of sections 2.7, 3.1, 4.4 and 7.1 of the Code and in breach of their Written Statement of Services ("WSS").

- 3 The application was accepted as valid and a case management discussion ("CMD") was scheduled to take place on 31 August 2026 at 10am. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Parties were advised that the Tribunal could consider the application by written representations if the parties agreed to proceed this way, and if the tribunal considered there was sufficient evidence, and it would be fair to determine the application without a CMD. The Property Factor was asked to make written representations in response to the application by 6 August 2026.
- 4 On 6 August 2026 the Tribunal received written representations from the Homeowner. She confirmed that she was content for the Tribunal to proceed to a decision based on the written representations.
- 5 No written representations were received from the Property Factor.

The CMD

- 6 The CMD took place on 31 August 2026 by teleconference. The Homeowner did not attend. Ms Gillian Law represented the Property Factor.
- 7 The Tribunal proceeded to discuss the sections of the Code and WSS included in the application with Ms Law.
- 8 Regarding Section 2.7, Ms Law conceded that the Property Factor had not responded to the Homeowner in accordance with the timescales outlined in the WSS. She further confirmed that the Property Factor had not responded to the Homeowner's stage 1 or stage 2 complaints.
- 9 Regarding section 3.1 of the Code and section 3.3 of the WSS, Ms Law conceded that the Property Factor did not appear to have provided substantive responses to the Homeowner's enquiries regarding the communal electricity charges. She could see that the Homeowner had initially raised this in June 2024. A reconciliation process had recently been carried out and amended invoices issued which were now due.
- 10 Regarding section 4.4, Ms Law conceded that the Property Factor did not appear to have provision for disputed debts in the debt recovery procedure contained within the WSS. She further confirmed that the Property Factor should have stopped the reminders to the Homeowner for the disputed charges under the debt recovery process.
- 11 Regarding section 7.1, Ms Law confirmed again that the Property Factor had not provided a response to the Homeowner's stage 1 or stage 2 complaint.
- 12 The Tribunal discussed further procedure. Ms Law explained that the Property Factor would have to concede the details of the Homeowner's complaint and

would not therefore be seeking to lodge any further evidence. The Tribunal therefore determined that it would proceed to a decision on the written representations if satisfied it had sufficient evidence to do so.

Findings in fact

- 13 The Homeowner is the owner of the property.
- 14 The Property Factor is the appointed factor for the building to which the Homeowner's property forms part.
- 15 The Property Factor has a WSS that was provided to the Homeowner.
- 16 In June 2024, the Homeowner contacted the Property Factor to highlight a potential discrepancy in the communal electricity charge for the building. The Homeowner requested supplier electricity bills and queried whether individual meters were installed. The Homeowner confirmed that she would withhold payment for the electricity charges pending clarification.
- 17 In July 2024 the Property Factor advised the Homeowner that they would collate prior invoices to review usage. The Homeowner received no further communication from the Property Factor on the matter.
- 18 In November 2024 the Property Factor issued a statement that included unpaid electricity charges. The Homeowner repeated her request for supplier invoices and metering information. The Homeowner asked the Property Factor to pause electricity billing meantime. The Property Factor responded to advise that they would provide the Homeowner with a response. No response was provided to the Homeowner by the Property Factor.
- 19 In May 2025 the Property Factor issued further invoices that included electricity charges. The Homeowner again highlighted the inflated charges and requested supplier invoices. The Property Factor responded to advise that they would provide a response from their finance department within five to seven working days. No response was received from the Property Factor.
- 20 In June 2025 the Property Factor wrote to the Homeowner advising that her account would be passed to a debt recovery agency with additional administrative fees and potential court costs. The Homeowner responded to advise that all charges that were not in dispute had been paid in full and disputed charges could not be considered overdue. The Property Factor responded to advise that they had acknowledged the dispute on their system.
- 21 In July 2025 the Property Factor registered a Notice of Potential Liability for Costs against the Homeowner's property and issued a debt reapportionment notice redistributing alleged debts across the development. The Homeowner lodged a stage 1 complaint. The Property Factor advised the Homeowner that it would wait for the property manager to return before responding. The Property Factor requested the Homeowner provided meter readings.

- 22 The Homeowner's stage 1 complaint was archived by the Property Factor. As such, the Homeowner did not receive a response.
- 23 In August 2025 the Homeowner provided the Property Factor with meter readings. The Homeowner proceeded to escalate her complaint to stage 2. The Homeowner received an apology from the Property Factor for the lack of response to her stage 1 complaint, citing staff bereavement. The Property Factor advised that it would provide a response to the Homeowner's complaint within five days.
- 24 The Homeowner did not receive a response from the Property Factor to her stage 2 complaint.
- 25 In November 2025 the Property Factor sent an invoice to the Homeowner which included her share of the reapportioned debt.
- 26 In February 2026 the Property Factor sent an email to the Homeowner which included an attempt to rectify payment misallocations along with invoices from the electricity supplier. The Property Factor acknowledged that further investigations were required.
- 27 The Property Factor has now carried out a reconciliation process in respect of the communal electricity charges.
- 28 The Property Factor's debt recovery procedure is contained within the WSS. The procedure does not contain information as to how the Property Factor will deal with disputed debts.
- 29 The Homeowner notified the Property Factor of her complaint prior to making the application to the Tribunal.

Reasons for decision

- 30 The Tribunal considered carefully all evidence and documentation before it in reaching its decision, whether referenced or not in this decision. The documents are incorporated herein and referred to in the Tribunal's findings in fact.
- 31 Section 2 of the 2011 Act defines "property factor" for the purposes of the 2011 Act and the Code. The Tribunal was satisfied that the Property Factor meets the definition of a property factor, having confirmed that they are a registered property factor. The Property Factor did not dispute this.
- 32 Section 17(2) of the 2011 Act requires a homeowner to notify the property factor in writing as to why the homeowner considers that the property factor has failed to comply with the Code prior to making an application to the Tribunal. The Tribunal determined based on the correspondence produced by the

Homeowner that she had notified the Property Factor of her complaint prior to making this application. Again, the Property Factor did not seek to dispute this.

- 33 The Tribunal carefully considered the sections of the Code and WSS that the Homeowner claims to have been breached by the Property Factor.

Section 2 – Communications and Consultation

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 15 Version 2.0 as fully as possible, and to keep the homeowner(s) informed if they are not able to respond within the agreed timescale.

WSS – Section 3.3 – Service Level Agreement

- New jobs, comments on existing jobs and messages raised via the factoring software provided will be responded to within one working day.*
- Informal complaints will be acknowledged within one working day and responded to within five working days unless agreed otherwise.*
- Stage one formal complaints will be acknowledged within one working day and responded to within five working days unless agreed otherwise.*
- Stage two complaints will be acknowledged within one working day and responded to within 20 working days unless agreed otherwise.*

- 34 The Tribunal accepted the chronology provided by the Homeowner in her written representations as fact. The Property Factor had not sought to dispute this, therefore there was no contradictory evidence before the Tribunal. Furthermore, the Homeowner had produced a note of a meeting held with the Property Factor in which the Property Factor had admitted various failings in terms of their communication with the Homeowner and handling of her stage 1 and stage 2 complaints. The Tribunal was satisfied that the Property Factor had not responded to the Homeowner's queries nor her formal complaints within the timescales confirmed in the WSS. The Tribunal therefore found a breach of Section 2.7 of the Code and Section 3.3 of the WSS.

Section 3 – Financial obligations

3.1 While transparency is important in the full range of services provided by a property factor, it is essential for building trust in financial matters. Homeowners should be confident that they know what they are being asked to pay for, how the charges were calculated and that no improper payment requests are included on any financial statements/bills. If a property factor does not charge for services, the sections on finance and debt recovery do not apply.

- 35 The Tribunal was satisfied that the Property Factor had not been transparent in financial matters nor had they provided clarity and transparency to the Homeowner in the accounting procedures pertaining to the communal electrical

charges. The Homeowner had sought clarity from the Property Factor on various occasions to no avail. The Property Factor is responsible for ensuring that invoicing is accurate and up to date. Despite having been alerted to potential discrepancies by the Homeowner, they do not appear to have carried out any investigations into the matter, instead continuing to charge the Homeowner and escalating to debt recovery despite being aware of the Homeowner's concerns. The Tribunal therefore found a breach of section 3.1 of the Code.

Section 4 – Debt Recovery

4.4 A property factor must have a clear written procedure for debt recovery which outlines a series of steps which the property factor will follow. This procedure must be consistently and reasonably applied. This procedure must clearly set out how the property factor will deal with disputed debts and how, and at what stage, debts will be charged to other homeowners in the group if they are jointly liable for such costs.

- 36 Having considered the WSS, the Tribunal was satisfied that the debt procedure does not clearly set out how the property factor will deal with disputed debts. There is no mention of disputed debts anywhere in the procedure, leaving the Homeowner without any clarity as to how her own disputed charges would be managed.
- 37 The Tribunal was further satisfied that the Property Factor had not applied their debt recovery reasonably in the Homeowner's case by escalating their debt recovery process despite being aware of the disputed charges.
- 38 The Tribunal therefore found a breach of section 4.4.

Section 7 – Complaints resolution

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.

- 39 The Tribunal was satisfied that the Property Factor had failed to apply its complaints handling procedure consistently and reasonably by virtue of their failure to provide any response to the Homeowner's stage 1 and stage 2 complaints. The Tribunal therefore found a breach of section 7.1.
- 40 The Tribunal therefore determined that the Property Factor had failed to comply with sections 2.7, 3.1, 4.4 and 7.1 of the Code and section 3.3 of the WSS.

Proposed Property Factor Enforcement Order ("PFEO")

- 41 Section 19(1) of the 2011 states "*The First-tier Tribunal must, in relation to a homeowner's application referred to it under section 18(1)(a), decide—*

*(a)whether the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, and
(b)if so, whether to make a property factor enforcement order."*

- 42 Accordingly, having concluded that the Property Factor had failed to carry out the property factor's duties, and comply with the section 14 duty, the Tribunal had to consider whether to make a PFEO, which is at the discretion of the Tribunal. The Tribunal has determined that a PFEO would be appropriate in this case given the extent and nature of the breaches by the Property Factor.
- 43 Section 20(1) of the 2011 Act states "*A property factor enforcement order is an order requiring the property factor to (a) execute such action as the First-tier Tribunal considers necessary, (b)where appropriate, make such payment to the homeowner as the First-tier Tribunal considers reasonable.*"
- 44 The terms of the proposed PFEO are set out in the attached notice under Section 19(2)(a) of the 2011 Act.
- 45 The decision of the Tribunal was unanimous.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party 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.

Ruth O'Hare

Legal Member

11 September 2026

Date