Housing and Property Chamber
First-tier Tribunal for Scotland

Statement of Decision with Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 17 of the Property Factors (Scotland) Act 2011 ("the Act") and Rule 17 (4) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules")

Chamber Ref: FTS/HPC/PF/24/5120

Re: Property at 159 Bannermill Place, Aberdeen, AB24 5EG ("the Property")

Parties:

Mr Robert Kerr, 159 Bannermill Place, Aberdeen, AB24 5EG ("the Homeowner")

PMC Property Management & Letting, PMC House, Little Square, Oldmeldrum, Inverurie, AB51 0AY("the Property Factor")

Tribunal Members:

Fiona Watson (Legal Member)
Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Property Factor has not failed to comply with sections 2 and 4 of the Overarching Standards of Practice which form part of the Property Factor Code of Conduct 2021.

Background

1. By application received on 2 November 2024 ("the Application") the Homeowner applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) for a determination that the Factor had failed to comply with sections 2 and 4 of the Overarching Standards of Practice which form part of the Code of Conduct for Property Factors ("the Code").

2. The Application comprised the following documents: -

   (i) application form in the First-tier Tribunal standard application form C2 (relating to matters after August 2021), indicating that the parts of the Code complained of are sections 2 and 4 of the Overarching Standards of Practice ("OSP");
   (ii) copy correspondence between the Homeowner and Property Factor;
   (iii) a copy of the Property Factor's written statements of services (WSoS)

3. On 9 January 2025, a legal member of the Chamber with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (CMD) was fixed for 11 June 2025 by telephone call.

Case Management Discussion

4. The CMD took place on 11 June 2025 by telephone call. The Homeowner was present on the call and represented himself. The Property Factor had submitted their written answers prior to the CMD and had indicated that they would not be in attendance at the CMD and sought to rely on their written answers. The Property Factor's position was that the breaches of the OSP are denied.

5. The Applicant confirmed that his complaints related to Overarching Standards of Practice 2 and 4 of the Code of Conduct for Property Factors 2021. He confirmed that he was not seeking to include any alleged breaches of the Property Factor Duties in his application.

6. The Applicant's complaint related to a letter sent to homeowners by the Property Factor dated 16th September 2024 which the Applicant stated was inaccurate and misleading. He wanted this letter retracted and a correction issued, and an apology given to him by the Property Factor. A Note of the CMD dated 11 June 2025 sets out the Applicant's submissions at the CMD, the terms of which are not replicated in this

Decision.

7. The Tribunal advised that the Respondent would be given an opportunity to respond to what had been raised at the CMD and to make any further representations they deemed necessary, and the Tribunal would ask both parties if they were content for a decision on the application to be made without a further CMD being fixed.

8. The Tribunal thereafter adjourned the CMD.

9. A Direction dated 29 May 2026 was issued to parties requiring them to provide the following information:

   (i) Their position on whether the Applicant went through all stages of the Respondent's complaints procedure before the application to the Tribunal was lodged or if the final stages of the complaints procedure have been undertaken since the application was lodged, and their views on whether the Tribunal can deal with this application;
   (ii) Any final representations they may wish to make on any issues raised at the case management discussion or in the terms of any document lodged after that date;
   (iii) Confirmation as to whether any homeowners' meetings have been convened since the case management discussion;
   (iv) Confirmation that if there are no issues raised regarding point 1 of this Direction that the Tribunal can issue a final decision on the matter without a hearing, noting that this can only be done with the agreement of both parties.

10. By email of 4 June 2026, the Applicant confirmed the following:

"(*i) I believe that my application went through the two stages of PMC's complaints process. I would add that their two stage process was 1) Susan Ryrie 2) Neal Wallace. These are the staff who were the ones involved in the day to day process regarding our Factoring with Susan reporting to Neal. I am happy for the Tribunal to deal with my application.*

(ii) Apologies for me not being able to quickly locate some of the documents requested as I'm not used to working these by telephone.
(iii)Two further meetings have taken place since the Case Discussion. The first was called by myself to request posting additional location signs 28/2/26). The second was to meet the requirements in our Deeds to have the Factor present 'Validly Vouched Annual Accounts' for the Development. This meeting was abandoned as the Factor chose not to present the Accounts but substituted a Discussion (with no detail) and no follow up has been arranged to date.
(iv)I agree that a decision could be made without another hearing."

11. By email of 22 June 2026 the Property factor confirmed the following:

"*We are concerned the tribunal appears to have accepted additional, unrelated points by the applicant which do not directly relate to his application on made on 02/11/2024 that we are required to respond to, including matters relating to meetings and the title deeds. The application was made on the basis that a letter issued by PMC to the development was false and misleading, as well identifying him as the subject. Our responses to both the applicant via complaint responses and the Chamber in the form of written submissions clearly show this not to be the case. Our position on this point has not changed. In relation to the directions issued, please see below:*

(i) At the time of the complaint replied to in October 2024, the complaints procedure consisted of 3 parts, with the final stage being a response, in writing, from the Managing Director. Stage 3 was never satisfied in this case. Our internal procedure has since been amended to a 2-stage process. The applicant frequently requested "Stage 2 meetings" and "Stage 3 meetings" in order to satisfy stages of the procedure. The procedure has no facility for formal complaints to be dealt with in this manner in absence of a written response. The applicant has been made aware of this on a number of occasions.

(ii) We do not believe there are any further representations to add as our initial submissions clearly outline our stance in relation to the subject of the application – that being a document that was false and misleading. We would comment that the "owners association"

referred to by the applicant during the CMD is not a formalised body, has never been formally ratified and has no elected office bearers. The members of this group are self-appointed. In addition, we also note that the Facebook page the applicant refers to was created and is managed by him. He is a prominent and frequent poster on it. If this behaviour has resulted in other homeowners questioning whether he is the subject of a complaint referenced in the letter issued by Susan Ryrie, we cannot be held accountable for this. PMC has never identified any homeowner in a communication issued to other homeowners without their permission.

(iii) There have been homeowner meetings convened since this application was lodged, most recently on 30/04/2026. The applicant requested and was allowed time on the agenda to address the attendees of the meeting. He requested that PMC representatives left the meeting space while he did this. He was afforded this as requested.

(iv) In relation to point 1, we are happy for the tribunal to deal with this case on the basis that the response issued to the applicant on 16/10/2024 (email 1 in our original submissions) is our final and current response in relation to the applicants claim the letter issued by PMC was false, misleading and identified him as the subject."

Findings in Fact.

12. The Tribunal had regard to the Application, written representations made by both parties in full, the documents lodged by both parties and to the submissions made at the CMD, whether referred to in full in this Decision or not, in establishing the facts of the matter and that on the balance of probabilities.

13. The Tribunal found the following facts established:

i) The Parties are as set out in the Application;

ii) The Property forms part of a development comprising 323 properties;

iii) The Property Factor was appointed as manager of the Property and the development of which it formed part in 2014;

iv) The Homeowner had previously made attempts to set up an owner's

association, but at the time of the CMD such an association is not operating nor has one been formally constituted;

v) The Property Factor issued a letter dated 16 September 2026 to the owners within the development (and which included the Homeowner) and which covered the topics of (i) accounts and invoicing (ii) concierge annual leave (iii) the calling of meetings and (iv) egg & nest removal.

vi) The said letter dated 16 September 2026 within the body of the text does not explicitly identify, nor provide sufficient information or context as to allow one to infer the identity of, the Homeowner nor of any other owner in the development.

vii) The Homeowner made a complaint to the Property Factor, and which complaint was responded to by the Property Factor, prior to the application being raised.

viii) By letter of 15 October 2024 the Homeowner had intimated notification to the Property Factor of his intention to submit an application to the First-tier Tribunal regarding the alleged breaches of parts 2 and 4 of the OSP.

Decision of the Tribunal with reasons

14. From the Tribunal's Findings in Fact, the Tribunal found that the Property Factor has not failed to comply with sections 2 and 4 of the OSP.

15. With regard to the specific parts of the OSP referred to in the Application and the information before it, the Tribunal made the following findings: -

15.1OSP2

"You must be honest, open, transparent and fair in your dealings with homeowners."

15.1.1 The Tribunal was not satisfied on the basis of the evidence before it, that there was sufficient evidence to show that the Property Factor had failed to comply with this part of the Overarching Standards of Practice.

15.1.2 The Homeowner's application makes reference to a letter issued by the Property Factor dated 16 September 2026 to the owners within the development (and which included the Homeowner) and which covered the topics of (i) accounts and invoicing (ii) concierge annual leave (iii) the calling of meetings and (iv) egg & nest removal. The Homeowner seeks that this letter be retracted and a public apology issued by the Property Factor.

15.1.3 The letter states under the heading "Owners Meetings 2024" the following:

"*as some owners will be aware, PMC have not held any owners' meetings in 2024. This has been due to questions being raised by specific owners in relation to the validity of previously held meetings that did not comply with the terms outlined in the Deed of Conditions..."*

15.1.4 The text of said letter dated 16 September 2026 does not explicitly identify, nor provide sufficient information or context, as to allow one to infer the identity either of the Homeowner, nor of any other owner in the development. The letter refers to "*questions being raised by specific owners"* meaning that there appears to have been more than one owner asking questions of the Property Factor regarding the issue of owners' meetings. The letter attached an extract from the Deed of Conditions pertaining to the Property which extract correctly sets out how meetings of the proprietors can be called in terms of the title deeds. The Homeowner has failed to explain or establish how the issuing of this letter provides any evidence of the Property Factor failing to be honest, open, transparent or fair.

15.2OSP 4

"*You must not provide information that is deliberately or negligently misleading or false."*

15.2.1 The Tribunal was not satisfied on the basis of the evidence before it, that

there was sufficient evidence to show that the Property Factor had failed to comply with this part of the Overarching Standards of Practice. Reference is made to the comments under paragraphs 15.1 above regarding the letter issued by the Property Factor. The Tribunal is not satisfied that there is any evidence that the content of the letter constitutes the Property Factor providing information that is deliberately or negligently misleading or false.

Property Factor Enforcement Order (PFEO)

16. Having made a decision in terms of Section 19(1)(a) of the Act that there has been no failure by the Property Factor to comply with parts 2 and 4 of the OSP, the Tribunal dismisses the application.

17. The decision is unanimous.

Appeal

In terms of section 46 of the Tribunals (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.

Legal Member/Chairperson 8 November 2026