Housing and Property Chamber
First-tier Tribunal for Scotland

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 26 and 27 of the Housing (Scotland) Act 2006 ("the 2006 Act")

Reference number: FTS/HPC/RT/25/1988

Re: Property at Foxhole, The Square, Mintlaw, Aberdeenshire, AB42 5EH ("the Property")

The Parties:

Ms Bhamini Morgan ("the Tenant")

Mr Shahid Ali, 8 Woodside Crescent, Mintlaw, Peterhead, Aberdeenshire, AB42 5TE ("the Landlord")

Aberdeenshire Council - Private Sector housing Team, Gordon House, Blackhall Road, Inverurie, Aberdeenshire, AB51 3WT ("the Third Party Applicant")

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 Repairing Standard Enforcement Order (RSEO) dated 16 January 2026, made a determination under section 26(1) of the 2006 Act that the Landlord has failed to comply.

The Tribunal determined to impose a Rent Relief Order of 50% of the monthly rent due and determined that notice of the failure be served on the local authority.

Background

1 This is an application under section 22(1A) of the Housing (Scotland) Act 2006 ("the Act") by the Third Party Applicant for a determination that the Landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Act.

2 On 16 January 2026 the Tribunal made an RSEO requiring the Landlord to:-

(i) Instruct a report from a damp and condensation specialist regarding the condensation in the rear extension and kitchen cupboard, submit the report to the Tribunal for consideration, and carry out any works thereafter as directed by the Tribunal. The report should identify the cause of any

water ingress or condensation, and include remedial recommendations, where appropriate.

(ii) Repair or replace the external door and doorframe and the window of the furthermost room in the rear extension.

(iii) Repair or replace the external windowsill of the window at the front of the property.

(iv) Repair or replace the paving slabs in the back garden.

(v) Repair or replace the cement slab covering the utility access point in the back garden.

(vi) Repair the back garden wall.

(vii) Repair the gas meter box, or provide written confirmation that this is the responsibility of another.

(viii) Provide written confirmation from the electrician who completed the EICR that the C2 observation has been addressed.

Reference is made to the decision of the Tribunal dated 16 January 2026 in this regard.

The re-inspection

3 The Tribunal re-inspected the property on 21 April 2026. The weather was dry and sunny. The Tenant was in attendance. The Third Party Applicant was represented by Mrs Emma Bain. The Landlord did not attend nor was he represented.

4 The Tribunal observed during the inspection that none of the works required by the RSEO had been addressed.

5 A re-inspection report with photographs taken during the inspection was sent to parties on 25 April 2026. Parties were invited to make written representations on the re-inspection report.

6 On 11 May 2026 the Tribunal received an email from the Landlord in response to the report. In summary the Landlord advised that he had faced difficulties in engaging contractors to carry out the works. He was unable to deal with the gas meter box as the gas company would only discuss this with the Tenant due to GDPR. A joiner had been instructed to carry out a repair to the boiler room. The Landlord made mention of rent arrears which are not relevant to the Tribunal's determination of this application.

7 Having considered the Landlord's representations, the Tribunal determined to hold a hearing to hear further from the parties before reaching a final decision on the application.

8 A hearing on the application was scheduled to take place on 22 July 2026 at 10am by teleconference. The Tribunal gave notice of the hearing to the parties.

9 On 21 July 2026 the Tribunal received a request for postponement of the hearing from the Landlord. He advised that he required to attend the funeral of a family member. By emails dated 21 July 2026 the Third Party Applicant objected to the postponement and provided an update on the outstanding works. Given the lateness of the Landlord's postponement request, and the overriding objective to avoid delay in the proceedings insofar as compatible with proper consideration of the issues, the Tribunal determined to proceed with the hearing.

The hearing

10 The hearing took place on 22 July 2026 at 10am by teleconference. The Third Party Applicant was represented by Mrs Emma Bain. Neither the Landlord nor the Tenant joined the call.

11 The Tribunal heard evidence from Mrs Bain on the items in the RSEO which can be summarised as follows:-

(i) No specialist damp and condensation report has been provided by the Landlord. The Landlord indicated to the Tenant that a cleaner will attend the property to remove the mould but did not mention a damp and condensation survey. The Tribunal noted that no such report has been provided to the Tribunal as required by the RSEO.

(ii) Within the last month a contractor has attended the property to look at the rear extension but no works have been carried out.

(iii) A contractor attended the property to inspect the external windowsill of the window at the front of the property but advised the Tenant that he was unable to complete the repair. The contractor was of the view that there are structural issues that will require more extensive works.

(iv) A contractor attended the property to look at the paving slabs in the back garden but advised the Tenant that it was too much work for him due to his age. It appears that the Landlord may need to engage a different contractor to carry out this work.

(v) The cement slab covering the utility access point in the back garden has not been repaired or replaced.

(vi) Repairs have been carried out to the back garden wall with two cement slabs replaced. However, there may be another section of the wall, as

identified in the Tribunal's decision, that has not yet been repaired.

(vii) No repair has been carried out to the gas meter box. The Tribunal noted that the Landlord has provided no evidence to date that this is the Tenant's responsibility, other than his own comments on the issue.

(viii) No written confirmation has been provided from the electrician who completed the electrical installation condition report ("EICR") that the C2 observation has been addressed.

12 Mrs Bain asked the Tribunal to find that the Landlord has failed to comply with the RSEO, and to make a rent relief order reducing the rent payable for the property by 90%. She pointed to the length of the time the repairs have been outstanding, explaining that there were various things that could have been easily completed within that timescale.

13 Having heard evidence from Mrs Bain, the Tribunal determined that it would provide the Landlord the opportunity to set out his position on compliance with the RSEO prior to reaching a final decision on the matter, particular as the Landlord had been unable to attend the hearing.

14 The Tribunal therefore determined to adjourn the hearing and issue a Direction requiring the Landlord to submit written representations in the following terms:-

(i) The Landlord should address each item on the RSEO and confirm whether the required works have been carried out.

(ii) Where works have been carried out, the Landlord should provide evidence of this in the form of photographs, invoices, or receipts.

(iii) Where works have not been carried out, the Landlord should explain why this is the case and provide supporting evidence, where available.

15 The Landlord was required to submit said written representations within 14 days of the Direction being issued to the parties.

16 The Direction was issued to the Landlord by both email and recorded delivery post on 31 July 2026. The recorded delivery mail was returned marked "refused". The email was delivered to the address the Landlord had been using for corresponding with the Tribunal. The Tribunal was therefore satisfied that the Landlord had received proper notice of the Direction.

Reasons for decision

17 The Tribunal determined the application having regard to the terms of the application, the findings from the re-inspection, the oral evidence at the hearing and the written representations from the parties. The Tribunal was satisfied having regard to all of the available evidence that it could proceed to a decision on the Landlord's compliance with the RSEO.

18 In terms of section 26(1) of the 2006 Act the Tribunal must decide whether the Landlord has complied with the RSEO. It was clear to the Tribunal that he has not. Whilst the Landlord has attempted some of the repairs, the majority of works required by the RSEO have not been addressed.

19 The Tribunal had regard to section 25(1) of the 2006 Act which states:- "*(1) The first-tier tribunal which has made a repairing standard enforcement order may, at any time (a) vary the order in such manner as they consider reasonable, or (b) where they consider that the work required by the order is no longer necessary, revoke it".* Regarding Section 25(1)(b), the Tribunal gave consideration as to whether the RSEO should be revoked. The Tribunal concluded that the works remain necessary for the reasons outlined in its decision of 16 January 2026 and therefore it would not be appropriate to revoke the RSEO at this time.

20 The Tribunal then considered section 25(1)(a), and whether it should vary the RSEO and allow further time for the Landlord to comply. The Landlord's engagement with the Tribunal on the application has been sporadic. He did not attend the recent hearing, therefore the Tribunal provided him with the opportunity to submit further written representations on his compliance with the RSEO. He did not do so. The issues identified by the Tribunal involve concerning matters of health and safety, particularly the damp and mould, and the items in the rear garden. The Landlord has failed to provide a reasonable explanation as to why he has not made much progress on the works, other than the scarcity of contractors. It has now been over seven months since the RSEO was made. Accordingly, the Tribunal determined that there was no cause shown to vary the RSEO and allow further time for the Landlord to comply.

21 The Tribunal is conscious that the consequence of a decision by it that a Landlord has failed to comply with the RSEO could lead to criminal prosecution. However, the Tribunal could identify no reasonable excuse on the Landlord's part as to why the works had not been carried out. Accordingly, the Tribunal determined in terms of section 26(1) of the 2006 Act that the Landlord has failed to comply with the RSEO.

22 Having concluded that the Landlord has failed to comply with the RSEO, the Tribunal considered whether to make a rent relief order ("RRO") under section 27 of the 2006 Act. The Tribunal took the view that, in the circumstances of the application and procedure to date, a RRO is appropriate. The repairs have been outstanding for a prolonged period of time. The Tribunal agrees that there appears to be no reasonable explanation as to why that is the case. However, whilst the Third Party Applicant had sought a 90% rent reduction, the Tribunal was not satisfied that 90% is justified in this case. The Tenant is still able to have enjoyment of the majority of the rooms in the property, with outstanding repairs predominantly restricted to the rear extension and rear garden. Although the Tenant had mentioned problems with the structure of the house highlighted by a contractor, the Tribunal has no evidence of this. The Tribunal

therefore considered that in the particular circumstances of this case, a 50% reduction would be appropriate.

23 The Tribunal further determined in terms of section 26(2)(a) of the 2006 Act that notice of the decision be served on the local authority.

24 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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or 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 determined.

Ruth O'Hare

22 September 2026

Chairperson **Date**