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) in terms of Section 23 of the Property Factors (Scotland) Act 2011 ("the Act")

Chamber Ref: FTS/HPC/LM /24/5852

Re: Property at 8 St Leonards Court, Bath Street, Stonehaven, Aberdeen AB39 2FQ ("the Property")

Parties:

Dr Henry George Deans, 8 St Leonards Court, Bath Street, Stonehaven, Aberdeen AB39 2FQ ("the Applicant")

Atholls Ltd in Liquidation, 16 North Silver Street Aberdeen, AB10 6RL per ("the Respondent") per Mr Michael Reid, MHA,12, Carden Place,,Aberdeen,AB10 1UR ("the Respondent's Liquidator")

Tribunal Members

Karen Moore (Chairperson) and Ahsan Khan (Ordinary Member)

Decision

The Tribunal determines that the Property Factor has failed to comply with the Property Factor Enforcement Order imposed by it in respect of the Property and dated 5 September 2026.

The Tribunal determines to serve notice of that failure on the Scottish Ministers in terms of Section 23(2) of the Act.

Background

1. By application received on 23 December 2024 ("the Application"), the Homeowner applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) for determinations that the Property Factor had failed to comply with the Code of Conduct for Property Factors which came into force on 16 August 2021 ("the Code") and failed to comply with property factor duties.
2. The Application was accepted by the tribunal chamber and a Case Management Discussion (CMD) was held on 7 August 2025 at 10.00 by telephone conference call. Prior to the CMD, both Parties submitted written submissions with supporting documents. The outcome of the CMD was that a Hearing was fixed and Direction issued setting out evidence required for the Hearing.

3. Prior to the Hearing, the Property Factor was subject to voluntary liquidation proceedings and Mr. Michael Reid of MHA,12, Carden Place, Aberdeen,AB10 1UR was appointed Liquidator. Also, prior to the Hearing and in response to the Direction, the Homeowner, Dr. Deans restricted his complaint to OSPs 2,4,10 and to a breach of property factor duties.

Hearing

4. The Hearing took place on 13 July 2026 at 10.00 by telephone conference call. The Homeowner, Dr. Deans, was present on the call and was not represented. The Property Factor was not present on the call and was not represented. The Tribunal was satisfied that the Hearing date had been intimated to Mr. Reid as liquidator. As Mr. Reid advised that he would not attend, the Tribunal proceeded in the absence of the Property Factor.

5. The outcome of the Hearing was that the Tribunal made a finding of failure to comply with the Code and property factor duties, and, after giving notice to the Parties of a proposed Property Factor Enforcement Order (PFEO), made the following PFEO: "*No later than 5 October 2026 the Property Factor must at their own cost and expense 1. pay £500.00 to the Homeowner to compensate him for inconvenience and time spent in pursuing his complaints 2. Evidence to the Tribunal that this sum has been paid."*

Compliance with PFEO

6. Following a PFEO compliance check, Mr. Reid advised the Tribunal that the Property Factor had not complied with the PFEO due to the on-going liquidation and advised that no payment could be made until the liquidation was finalised.

7. Section 23(1) of the Act states: "It is for the First-tier Tribunal to decide whether a property factor has failed to comply with a property factor enforcement order made by the First-tier Tribunal".

8. On the information before it, the Tribunal, accordingly, determines that the Property Factor has failed to comply with the PFEO.

9. Section 23(2) of the Act states *"Where the First-tier Tribunal decides that a property factor has failed to comply with the property factor enforcement order, the First-tier Tribunal must serve notice of the failure on the Scottish Ministers."* The Tribunal, accordingly, serves notice on the Scottish Ministers.

10. This Decision is 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.

_____ 6 November 2026

Legal Member/Chair Date