Housing and Property Chamber
First-tier Tribunal for Scotland

Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Section 20 of the Property Factor (Scotland) Act 2011 ("the PF Act")

Reference number: FTS/HPC/PF/19/2307 and PF/23/1461 ("the Applications")

Re: Property at Flat 4/1, 11 Kent Road, Glasgow G3 7EH ("the Property"), being part of a development of 66 flatted houses and commercial properties ("the Development")

The Parties:

Mrs Tolani Hassan of Flat 4/1, 11 Kent Road, Glasgow G3 7E ("the Homeowner")

Miller Property Management Ltd, Suite 2.2, Waverley House, Caird Park, Hamilton ML3 0QA ("the Property Factor")

Tribunal Members:

Karen Moore (Legal Member) and Andrew Taylor (Surveyor Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) revokes the Property Factor Enforcement Order dated 15 October 2025.

Background to Decision

1. By application received between 23 July 2019 and 28 August 2019, the Homeowner applied to the Tribunal for a determination under Section 17 of the Property Factors (Scotland) Act 2011 ("the PF Act") that the Property Factor had failed to comply the Property Factor Code of Conduct effective

until 16 August 2021 (the 2012 Code). By a further application received between 10 May 2023 and 2 August 2023, the Homeowner, applied to the Tribunal for a determination that the Property Factor had failed to comply the Property Factor Code of Conduct effective from 16 August 2021 (the 2021 Code). The applications also complained of that the Property Factor failed to comply with the Property Factor Duties.

2. By Decision dated 27 June 2025 and issued on 15 July 2025, the Tribunal determined that the Property Factor had failed to comply with both the 2012 Code and the 2021 Code. The Tribunal further determined that the Property Factor failed to comply with the Property Factor Duties. The Tribunal proposed to make a Property Factor Enforcement Order, and, in accordance with Section 19(2)(a) of the PF Act, gave Notice inviting the Parties to make representations no later than 31 August 2025. Neither Party made representations and so the Tribunal issued the following Property Factor Enforcement Order dated 15 October 2025:
"1. No later than 15 November 2025, the Property Factor must at its own cost and expense, compensate the Homeowner in the sum of £1,000.00 by a direct payment and not by a credit to her common charges account for the additional costs, inconvenience, stress and frustration caused to her by the Property Factor's actions and evidence to the Tribunal that payment has been made;
2. The Property Factor is ordered to treat the water ingress issue from flat 5/1 into the Property as a Development common repair and no later than 30 November 2025 must a) take all steps to ascertain that works carried out to date have been an effective solution to the problem and b) if the works carried out to date have not proven to be an effective solution, must take forward the carrying out of the repair with the Development owners in terms of the Deed of Declaration of Conditions;
3. No later than 30 December 2025, evidence to the Tribunal that these steps have been taken and, in the event that the works have not proved to be an effective solution, to provide the Tribunal with a timeline for action b) above
4. In the event that further repair is required, and the Development owners' consent to the repair, the Property Factor must within two weeks of that decision being made, report to the Tribunal every two months on the progress of the repair process until it is completed;

5. In the event that further repair is required, and the Development owners do not consent to the repair, the Property Factor must evidence this to the Tribunal no later than two weeks after the date on which it is apparent that no consent has been given."

Compliance with Property Factor Enforcement Order.

3. By separate emails dated 14 November 2025, both Parties advised the Tribunal that the payment required by paragraph 1 of the PFEO had been made and so that part of the PFEO had been complied with.

4. The Tribunal is not aware if the remainder of the PFEO has been complied with.

5. The Tribunal is aware that one or both Parties lodged appeals which were unsuccessful. The Tribunal is aware further that the Homeowner has vacated the Property and no longer has any interest in it.

Issue for the Tribunal

6. The issue for the Tribunal is whether to make a finding that the PFEO has not been complied with in full or to revoke it.

7. Section 23(1) of the PF 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. Section 20 of the PF Act states: *"(1) Where the First-tier Tribunal has made a property factor enforcement order it may, at any time (a)vary the order in such manner as it considers reasonable, or (b)where it considers that the action required by the order is no longer necessary, revoke it."*

Decision and reasons for decision

9. The Tribunal had regard to all of the information before it. The Tribunal had regard to its Decision dated 27 June 2025 and its reasoning in making the PFEO, which was two-fold: to compensate the Homeowner for her troubles with

the Property Factor and to have the Property Factor take steps to remedy the water ingress into the Property.

10. The Tribunal noted that the compensation element of the PFEO has been complied with. Although the Tribunal has no information to show that paragraphs 2- 5 of the PFEO have been carried out by the Property Factor, the Tribunal also has no information to show that water ingress remains an issue or that the Property Factor has authority from the Development owners to proceed with a common repair.

11. The Tribunal had regard to the fact that the Homeowner no longer has an interest in the Property and so has no interest in whether or not the water ingress has been resolved. It is the Tribunal's view that that is a matter for the new owner of the Property who, if need be, can avail themselves to the tribunal procedure.

12. Accordingly, the Tribunal is of the view that it is disproportionate to make a finding of failure to comply with the PFEO and that, in all the circumstances, it is appropriate to revoke the PFEO as being no longer necessary. Therefore, the Tribunal revokes the PFEO.

13. This decision is unanimous.

Appeal

In terms of section 46 of the Tribunals (Scotland) Act 2014, a party aggrieved by this 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 Upper Tribunal. That party must seek permission to appeal from the Upper Tribunal within 14 days of the date this decision was sent to them.

Legal Member/Chair **Date 09 November 2026**