**First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Statement of Reasons for Variation of Repairing Standard Enforcement Order: Housing (Scotland) Act 2006 Section 25**

**Chamber Ref: FTS/HPC/RP/25/4288**

**RE: Property known as 98 Calder Place, Hallglen, Falkirk FK1 2QQ ("The Property")**

**The Parties:-**

**Martha-Marie Mooney, 98 Calder Place, Hallglen, Falkirk FK1 2QQ ("the Tenant")**

**Gail Paterson, James Paterson, Dunislay Cottage, Halls of Airth, Falkirk FK2 8PM ("the Landlords")**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') following re-inspection of the Property on 12 October 2026 determines that the Repairing Standard Enforcement Order (RSEO) relative to the House served on 5 August 2026 should be varied as follows:

1) By deleting paragraph 1 of the RSEO and substituting therefore the following:

"To instruct a qualified chartered building surveyor or another competent person as defined and required by The Investigation and Commencement of Repair (Scotland) Regulations 2026 along with the associated Scottish Government guidance in force from 6 October 2026 to investigate the source of dampness and mould within the upstairs rear bedroom of the Property and to prepare a report identifying the cause and source of dampness and recommending any remedial works to eradicate the dampness and mould in order to ensure the Property meats the Repairing and Tolerable standards and to submit the report to the tribunal for further consideration."

2) By deleting paragraph 3 of the RSEO and substituting therefore the following:

"To repair or replace unused television aerial to ensure that it along with any associated wiring is secured to the roof of the Property."

3) The period allowed for the completion for the provision of the detailed schedule and specification be extended for a period of 28 days from the date of service of this Notice.

**Reason for Variation**

Following expiry of the period allowed for repairs under the original RSEO, a reinspection was arranged for 12 October 2026 with a further hearing assigned for afterwards. Prior to the reinspection, the Tenant lodged further representations, but the Landlords did not. At the reinspection, the Tenant was present along with Gail Paterson of the Landlords. On reinspection it was noted that the Landlords had remedied the issues in paragraph 2 of the original RSEO in respect of the access gate to the rear garden; and that the television aerial that had been loose on the roof of the property and dealt with in paragraph 3 had been secured to the roof of the Property along with the loose wiring rather than removed as had been discussed and provided for in the original RSEO. No report from a chartered building surveyor had been lodged with the Tribunal.

At the hearing following the reinspection the Tenant appeared along with her mother Kathleen Mooney and the Landlords were represented by Gail Paterson. Both parties agreed that the access gate in the back garden had been resolved satisfactorily. In terms of the television aerial, Mrs Paterson indicated that she had not initially realised that the aerial had been secured rather than removed and made a motion to have the terms of the RSEO varied to reflect this. The Tenant indicated she had no objection to that motion. The Tribunal therefore agreed to vary the terms of the RSEO accordingly.

The remaining issue was the issue of paragraph 1 of the RSEO which required that the Landlords obtain a report from a chartered building surveyor and submit that to the Tribunal to consider same for further orders. No such report was obtained or lodged by the Landlords prior to reinspection or the hearing. Mrs Paterson indicated that she had "misread" the terms of the RSEO and had not realised that it was the responsibility of the Landlords to obtain such a report. She asked for the period allowed under the RSEO to be varied to allow more time for her to obtain such a report. After discussion, the Tenant agreed to that request. That being the case and because works had been carried out to the Property, the Tribunal agreed to vary the RSEO to allow more time for the Landlords to take the necessary action. It was a matter of discussion at the hearing that, had the report of damp and mould been made on or after 6 October 2026, then the Landlords would have been under strict statutory duties in terms of investigation and reporting imposed by The Investigation and Commencement of Repair (Scotland) Regulations 2026 and that the Landlords had been given 2 months from the date of the RSEO to obtain a report whereas under the new rules, they would have had 10 working days to investigate and 3 working days to produce a report (duties that apply under the Repairing Standard and prior to any referral to the Tribunal). As such, the Landlords have already had significantly more time to investigate matters that they would have had than under the new rules. Notwithstanding the new rules and the discussion at the hearing, the minimum period that can be fixed for compliance with a RSEO is 28 days. As this is the minimum period the Tribunal can set for compliance, that is the period so fixed.

**A landlord, tenant or third-party applicant 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 finally 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 so determined.

R Cowan

Signed... Date..... 16 October 2026.....

**Chairperson**

## Schedule of photographs

**FTS/HPC/RP/25/4288**

**98 Calder Place, Hallglen, Falkirk FK1 2QQ**

All photographs were taken on 12 October 2026 apart from Photograph 1 which was taken on 13 July 2026.

*Photograph 1: Front elevation*



*Photograph 4: Rear elevation: Loose wires removed*



*Photograph 5: Rear bedroom: Mould staining to ceiling*



*Photograph 8: Bathroom: Extractor fan fitted to ceiling*

