

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

**CERTIFICATE OF COMPLETION OF WORK: Housing (Scotland) Act 2006  
Section 60**

**Chamber Ref: FTS/HPC/RP/17/0053**

**Land Register Title number: INV1304**

**Property address: First floor left flat, 125 High Street, Fort William, PH33 6DG**

**The Parties:-**

**Ms Alexandra Fabiszewska, First floor left flat, 125 High Street, Fort William,  
PH33 6DG ('the Tenant')**

**David and Carol McCulloch, 34 Donaldson Avenue, Alloa, FK10 2ET ('the  
Landlords')**

The First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal') hereby certifies that the work required by the Repairing Standard Enforcement Order relative to the House dated 16<sup>th</sup> May 2017 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the House has been discharged.

**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.**

**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.**

**In witness whereof these presents typewritten on this and the preceding page are executed by Helen Forbes, solicitor, Legal Member and Chairperson of the tribunal at Inverness on 14<sup>th</sup> September 2017 before this witness:-**

H Forbes

**Witness**

**Chairperson**

**Witness:**

**Margaret C Forbes**

**67B Glenurquhart Road**

**Inverness**

**IV3 5PB**

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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### **DETERMINATION BY FIRST-TIER TRIBUNAL FOR SCOTLAND (HOUSING AND PROPERTY CHAMBER)**

**Statement relative to the Certificate of Completion of work issued by the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 63 of the Housing (Scotland) Act 2006**

**Chamber Ref: FTS/HPC/RP/17/0053**

**Land Register Title number: INV1304**

**Property address: First floor left flat, 125 High Street, Fort William, PH33 6DG**

#### **The Parties:-**

**Ms Alexandra Fabiszewska, First floor left flat, 125 High Street, Fort William, PH33 6DG ('the Tenant')**

**David and Carol McCulloch, 34 Donaldson Avenue, Alloa, FK10 2ET ('the Landlords')**

#### **Decision**

1. Further to a decision of the First Tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') dated 9<sup>th</sup> May 2017, the tribunal issued a Repairing Standard Enforcement Order ('RSEO') dated 16<sup>th</sup> May 2017 in respect of the House. The members of the tribunal were Helen Forbes, Chairperson, and Harry MacLean, Ordinary Member. Within eight weeks of the date of service of the RSEO, the Landlord was required to:-

1. Ensure that the rhones and gutters are in a reasonable state of repair and in proper working order, and are not contributing to the water ingress within the House. In the event that the rhones and gutters are contributing to the water ingress, repair or replace the rhones and gutters to ensure that they are in a reasonable state of repair and proper working order;
2. Ensure that the leaking living room window is fully sealed to prevent water ingress;

3. Install a vent in the living room wall where the chimney stack was removed;
  4. Repair or replace the storage heater in the second bedroom;
  5. Install a heater within the bathroom.
2. A re-inspection conducted by the Ordinary Member of the tribunal took place on 14<sup>th</sup> August 2017 to verify that the works had been carried out.
  3. On 14<sup>th</sup> August 2017 the Ordinary Member produced a report with photographs for the tribunal demonstrating that the above requirements of the RSEO had been complied with to a satisfactory standard. Said report with photographs is produced as relative hereto.

#### **Decision**

4. Thereafter, the tribunal considered whether or not it was appropriate to find that the works required by the RSEO had been completed and whether the appropriate Certificate of Completion in terms of section 60 of the 2006 Act should be issued. The tribunal agreed that the appropriate Certificate should be issued. The decision of the tribunal was unanimous.

#### **Right of Appeal**

5. 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.

Where such an appeal is made, the effect of the decision and the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decisions and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

Helen Forbes, Legal Member and Chairperson

First Tier Tribunal for Scotland (Housing and Property Chamber)  
Date: 13<sup>th</sup> September 2017

# Housing and Property Chamber

## First-tier Tribunal for Scotland



### Re-inspection Report



**Front Entrance – August 2017**

**HPC Ref:** FTS/HPC/RP/17/0053

**Re:** Property at 1<sup>st</sup> floor left flat, 125 High Street, Fort William, PH33 6DG

**Surveyor** Harry J Maclean MSc MRICS MCIOB

*This is the Reinspection report dated 14th August 2017 referred to in the foregoing Determination dated 13th September 2017*

H Forbes

*Legal Chair*

**Access:**

I re-inspected the property at 1100 on 14<sup>th</sup> August 2017 and was shown around by the landlord's son.

The weather was 16 degrees Celsius, wet and raining.

**Purpose of the re-inspection:**

The purpose of this re-inspection was to establish whether the repairs directed by the RSEO had been completed and to a satisfactory standard.

The RSEO had previously been issued by HPC Committee Legal member Helen Forbes and Ordinary member Harry Maclean after visiting on 9<sup>th</sup> May 2017.

Under the RSEO, the Committee determined at this time that the landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act").

In particular, the Committee required the Landlord:

1. To ensure that the rhones and gutters are in a reasonable state of repair and in proper working order, and are not contributing to the water ingress in the house.
2. Ensure that the leaking living room window is fully sealed to prevent water ingress.
3. Install a vent in the living room wall where the chimney stack was removed.
4. Repair or replace the storage heater in the second bedroom.
5. Install a heater within the bathroom

**On Re-inspection I observed the following;**

1. The gutters and rhones were working and although the weather was very wet, they showed no evidence of leaking. All appeared to be functioning correctly. This is now completed.
2. The living room window was in good order and recently decorated. No evidence of water ingress, even in the current wet conditions. This is now completed.
3. The living room wall where the fireplace had previously been blocked up now had a white plastic air vent attached to the wall. This will allow the chimney stack to breathe and ventilate and should prevent further dampness to this area of the property. At the time of re-inspection, moisture levels to this wall were elevated, as indicated on the photographs, however, they were lower than at the initial inspection in May. As can be seen on the photos the newly painted white emulsion to this area of the wall has stained at the extremities of the old fireplace. Presently the moisture in this area is moderate, but decreasing, and should continue to decrease. This is now completed.
4. The second bedroom now had a permanent wall mounted electric convector heater fitted to the wall. This is now completed.
5. The bathroom now has a wall mounted electric fan heater fitted. This is now completed.



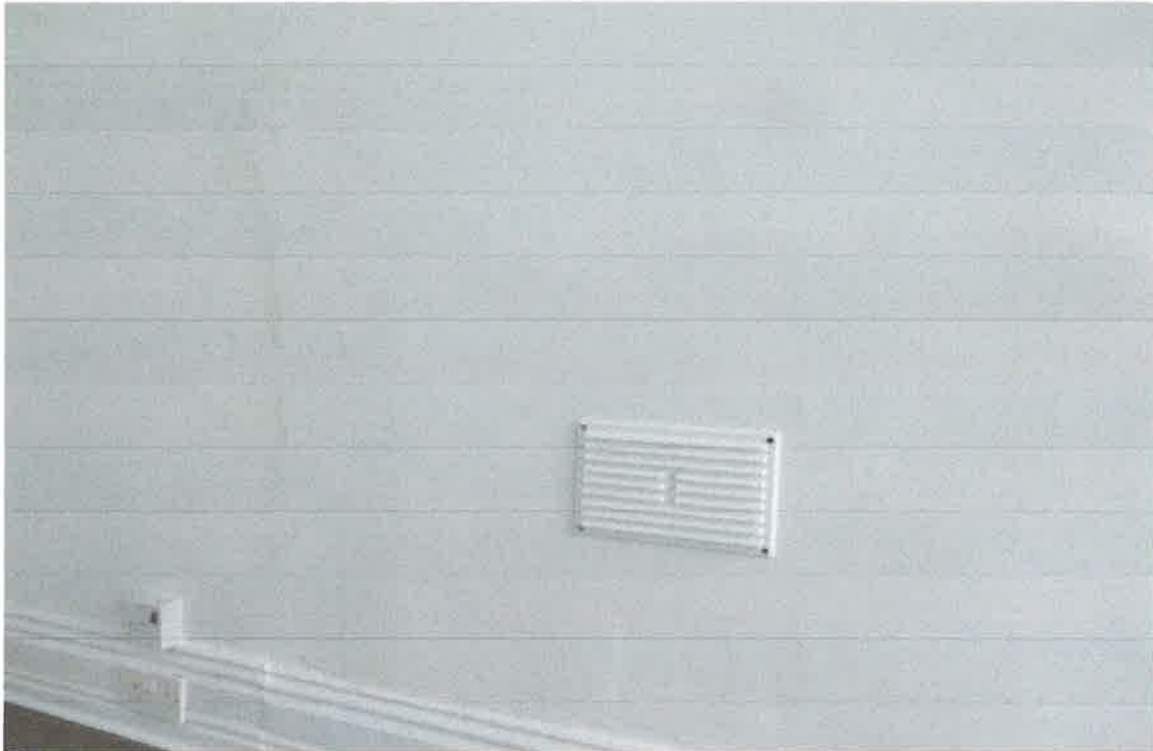


Lounge bay window – no evidence of water ingress



Bay window gutters – clear of debris and working





Lounge gable wall – fresh air vent to ex-fireplace now reinstated. Stains to Left-hand side.



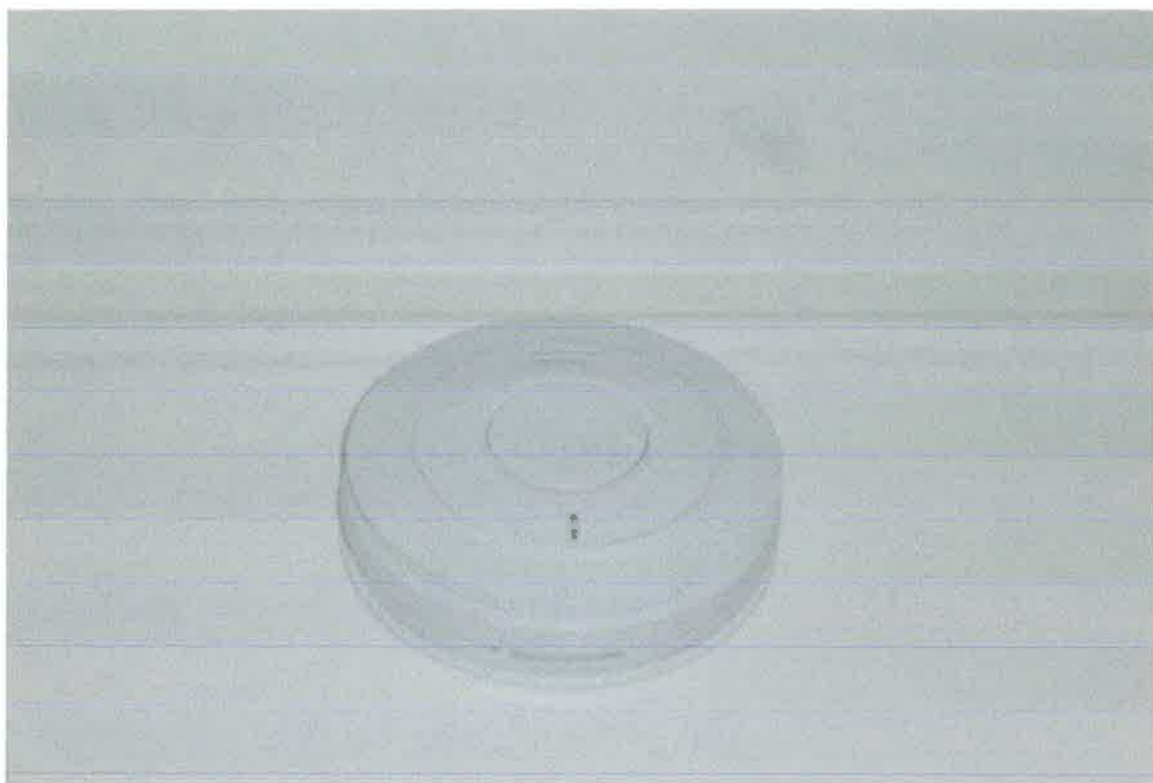
Lounge wall – reduction in moisture levels since initial visit



**Kitchen – convector heater to wall**



**Bedroom 2 – permanent convector heater now fitted to wall.**



Brand new smoke & heat detection system now installed to the public areas



Windows – trickle vents mostly open



Bathroom – brand new electric fan heater fitted to wall





Front main elevation – flat is on 3<sup>rd</sup> level down (first floor)

### **Outstanding matters**

All matters requested in the original RSEO have been attended to. The landlord has also installed new mains powered smoke detectors which were recommended at time of initial inspection.

### **Comments**

The elevated moisture levels around the ex-fireplace are becoming lower and should continue to reduce. They were high in May and are now more moderate. A further period of drying out is recommended to allow this to fully dry and be decorated without stains leeching through the emulsion.

This report will be distributed to the landlord and his representatives for their comment and will be referred afterwards to the Committee of the Housing and Property Chamber for their consideration and further action.

Harry J Maclean

Surveyor Member

Housing and Property Chamber

14<sup>th</sup> August 2017