Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case Reference Number: PRHP/RP/15/0349

Re: Top Floor Left, 116 Auchmill Road, Bucksburn, Aberdeen AB21 9LR ("the property")

The Parties:-

Mr Michael Ogston, residing at the property ("the tenant")

Mrs Elaine Paterson, 4 Market Square, Insch, Aberdeenshire AB52 5LD ("the landlord")

Committee Members – Sarah O'Neill (Chairperson); Mark Andrew (Surveyor Member)

NOTICE TO: Mrs Elaine Paterson (the landlord)

Whereas in terms of its decision dated 17 February 2016, the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed on him by Section 14 (1) (b) of the Act, and in particular that the landlord has failed to ensure that the house meets the repairing standard in that:

- the property is not wind and watertight and in all other respects reasonably fit for human habitation,
- the structure and exterior of the premises are not in a reasonable state of repair and in proper working order,
- the installations in the property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order
- some of the fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purpose of ensuring that the property meets the repairing standard and that any damage caused by the carrying out of any work in terms of this order is made good before the date specified in this order.

In particular the Private Rented Housing Committee requires the landlord to:

1. Have the kitchen ceiling checked by a reputable contractor to establish whether it is safe, and repair the ceiling as necessary to ensure that it is wind and watertight, free of draughts and in all other respects reasonably fit for human habitation.

2. Repair or replace the front and rear windows, including the window panes, as necessary to ensure that they are in a reasonable state of repair and in proper working order.

3. Engage a suitably qualified and registered SELECT or NICEIC electrical contractor to carry out an Electrical Installation Condition Report (EICR) on the entire electrical installation of the property.

4. Carry out works as recommended by that EICR to ensure that any Category 1 or Category 2 repairs are addressed and that the electrical installation is safe, functional and in proper working order, and provide a Domestic Electrical Installation Certificate for any works carried out.

5. Repair or replace the light in the landing above the front door as necessary to ensure that it is in a reasonable state of repair and in proper working order.

6. Have the close ceiling on the top floor of the tenement checked by a reputable contractor to establish whether it is safe, and repair the ceiling as necessary to ensure that it is in a reasonable state of repair and in proper working order.

7. Fix the bathroom sink securely to the wall, so that it is in a reasonable state of repair and in proper working order.

8. On completion of all the above works, ensure that all affected finishes and decoration are restored to an acceptable standard, particularly the ceiling in the kitchen.

The Private Rented Housing Committee orders that the works specified in this order must be carried out and completed within the period of **two months** from the date of service of this notice.

Rights of Appeal

A landlord or tenant aggrieved by the decision of the committee may appeal to the sheriff by summary application within 21 days of being notified of that decision.

Where such an appeal is made, the effect of the decision and of any order made in consequence of it is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

IN WITNESS WHEREOF these presents typewritten on this and the preceding page are signed by Sarah Frances O'Neill, solicitor, Chairperson of the Private Rented Housing Committee, at Glasgow on the seventeenth day of February, Two Thousand and Sixteen before this witness -

J McAnulty ness S O'Neill chairperson

name in full

450 ARGYLE STREET Address
GLASGOW
G2 8LH

CASEWORKER Occupation

Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the committee")

Under Section 24(1) of the Housing (Scotland) Act 2006 ("the Act")

Case Reference Number: PRHP/RP/15/0349

Re: Top Floor Left, 116 Auchmill Road, Bucksburn, Aberdeen AB21 9LR ("the property")

The Parties:-

Mr Michael Ogston, residing at the property ("the tenant")

Mrs Elaine Paterson, 4 Market Square, Insch, Aberdeenshire AB52 5LD ("the landlord")

Committee Members – Sarah O'Neill (Chairperson); Mark Andrew (Surveyor Member)

Decision

The committee, having made such enquiries as it saw fit for the purposes of determining whether the landlord has complied with the duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, and taking account of all the available evidence, determines that the landlord has failed to comply with the duty imposed on her by Section 14 (1) (b) of the Act. The committee therefore issues a Repairing Standard Enforcement Order. The committee's decision is unanimous.

Background

1. By application received on 21 December 2015, the tenant applied to the Private Rented Housing Panel ("the panel") for a determination that the landlord had failed to comply with his duties under Section 14(1) of the Act.

2. In his application, the tenant made reference to his notification letter to the landlord dated 3 November 2015, which set out the following complaints with regard to the property:

    1. Although there has been an outside roof repair, the kitchen ceiling has a hole in it, and there are mould, fungus and black patches growing.
    2. The wooden surrounds of the PVC windows show severe signs of decay and wood rot, and the front windows have detached from their frames. The rear window cannot be closed.
    3. The wall socket in the kitchen over-heats and has caught fire on two occasions.
    4. The window on the outside landing was removed and boarded up, and as a result the landing is now in total darkness. There is no lighting in the landing due to an electrical fault, and there is debris from the roof in the stairwell.
    5. Due to the hole in the kitchen ceiling, poorly fitting windows and being unable to close the rear window, it is impossible to maintain a reasonable temperature in the flat, and as a result the rooms are constantly cold and damp.
    6. The bathroom sink is not fixed to the wall, and cannot be used as a result.

3. The tenant stated in his application that the following work required to be carried out at the property:

    - Kitchen ceiling needs repaired
    - Landing ceiling and lighting
    - Windows need repaired
    - Electrics
    - Heating
    - Shower
    - Sink

4. On 12 January 2016, the President of the panel issued a minute of decision stating that she considered that in terms of section 23 (3) of the Act there was no longer a reasonable prospect of the dispute being resolved between the parties at a later date; that she had considered the application paperwork submitted by the tenant, comprising documents received between 21

December 2015 and 11 January 2016; and intimating her decision to refer the application to a panel committee for determination.

5. The President of the panel wrote to the parties on 15 January 2016, notifying them under and in terms of the 2006 Act of her decision to refer the application under Section 22(1) of the Act to a private rented housing committee and that an inspection and a hearing would take place on 8 February 2016. Written representations were requested by 5 February 2016. No written representations were received from the tenant by the deadline. Written representations were received from the landlord on 2 February 2016.

6. On 22 January 2016, the committee issued a direction to the landlord, requiring her to provide an up to date Electrical Installation Condition Report (EICR) in respect of the property by a suitably qualified and registered SELECT or NICEIC contractor, showing that all electrical installations, fixtures and fittings and all appliances have been checked and are working safely, by 5 February 2016. No EICR in respect of the property was received from the landlord by the deadline.

The inspection

7. The committee inspected the property on the afternoon of 8 February 2016. The weather conditions at the time of the committee's inspection were dry and bright. The tenant was present at the property during the inspection. The landlord was not present at the property during the inspection. Photographs were taken during the inspection and are attached as a schedule to this decision.

The property

8. The property is an attic flat within a block of six flats, estimated to be in the region of 80 years old. The property comprises: hallway, living/bed room, kitchen and bathroom.

The hearing

9. Following the inspection, the committee held a hearing at the Credo Centre, 14-20 John Street, Aberdeen AB25 1BT. Both the tenant and the landlord were present at the hearing and each gave evidence on their own behalf. The landlord was accompanied by a friend and supporter, Ms Susan Killoh.

The evidence

10. The evidence before the committee consisted of:

- The application form completed by the tenant.
- Registers Direct copy of Land Register title ABN6942.
- Tenancy agreement between the parties in respect of the property dated 1 October 2011.
- The notification letter from the tenant to the landlord dated 3 November, together with certificate of posting dated 18 December 2015.
- Letter from the tenant to the panel received on 11 January 2016, together with photographs of the property.
- The written representations from the landlord received on 2 February 2016.
- The committee's inspection of the property.
- The oral representations of the parties.

Summary of the issues

11. The issue to be determined was whether the property meets the repairing standard as set out in Section 13 of the Act, and whether the landlord had complied with the duty imposed on her by section 14 (1) (b).

Findings of fact

12. The committee made the following findings in fact:

- Mrs Elaine Paterson is the owner of the property. The land certificate for the property shows the owner to be Elaine Summers. Mrs Paterson confirmed that this was her maiden name.

- The tenant entered into a tenancy agreement with the landlord on 1 October 2011 to rent the property from 1 October 2011 until 1 April 2012. The agreement states that where the tenant fails to give written notice to the landlord three calendar months prior to the end date, the tenancy will continue for a further period equal in length to the original period (unless terminated by the landlord). This appears to be a contractual tenancy, where the landlord agreed to let the property to the tenant in exchange for the payment of rent. The tenancy is a tenancy of a house let for human habitation, which does not fall within the exceptions set out in section 12 (1) of the Act. The provisions set out in Chapter 4 of the Act therefore apply.

- The committee in its inspection carefully checked the items which were the subject of the complaint. The committee observed the following:

i. There was a sizeable hole in the kitchen ceiling exposing the lath beneath the plaster which had fallen off. The gaps between the laths would admit draughts from the loft to the kitchen below
ii. The kitchen ceiling appeared to be damp and cracked in other areas.
iii. The double glazed UPVC window in the living/bed room at the front of the building was not secure within its frame. It was held in place by brackets. The wooden frame surrounding the window and holding it into the stonework had failed; the double glazed panes were misted; and the traffic noise from the street below was louder than might have been expected if the window had been functioning correctly.
iv. The double glazed UPVC window in the kitchen to the rear of the building did not close properly. As a result, it was tilted slightly backwards, leading to draughts. The tenant had put a wooden board across the top of the window to keep it closed.
v. The socket plate on the kitchen wall, which incorporated a cooker switch, was located beneath the hole in the ceiling and had, according to the tenant, become unsafe. Use of the socket was dangerous as smoke had appeared around the socket when it had been tried.
vi. The committee also observed that the electrical consumer unit appeared to be of some age, and may also be unsafe.
vii. The communal landing serving the property and the next door flat, and the stairs leading down to the next floor were very dark at the time of the inspection (1.30pm) and it was very difficult to see anything.
viii. There was a fluorescent light fitting above the front door of the property, but this was not working.
ix. The skylight in the roof within the communal area had been boarded up.
x. There were signs of debris on the communal landing, which appeared to be plaster which had fallen from the ceiling in the communal hallway. There was a section of missing plaster above the stairwell.
xi. There was no central heating in the property. The sole sources of heating were a panel heater and a rail heater in the living/bedroom, neither of which were fixed to the wall.
xii. The bathroom sink was very loose, and appeared to be secured only by its pipework.
xiii. There was one battery operated smoke alarm in the property, which was in the hallway. There was no heat alarm in the kitchen.

Reasons for decision

13. The landlord told the committee that she was not a registered landlord. She and Mr Ogston were related to each other by marriage (he is her mother-in-law's stepson), and she said that she had let the property to Mr Ogston as a family favour. At the time she had agreed to let the property to him, she had contacted the local authority housing department and was told that she did not need to

register as a landlord because of the family relationship. She appeared to believe that, as a result, she was not required to comply with the statutory duties of a landlord. She indicated that this was the reason why she had not provided an EICR to the committee as required by its direction.

14. It appeared to the committee that the landlord believed as a result of what she had been told by the local authority that she was not obliged to comply with the repairing standard. As the chairperson pointed out to her, however, section 14(1) of the 2006 Act states that 'a landlord in a tenancy must ensure that the house meets the repairing standard...' A' landlord' is defined in section 194 as 'any person who lets a house under a tenancy'. It was clear from the evidence before the committee that there was a tenancy agreement in place between the parties and that the tenant has been paying rent to the landlord under this agreement since October 2011.

15. The committee has some sympathy with the landlord, who has clearly misunderstood the repairing standard implications of letting out the property, and had received advice which may have misled her in this regard. Despite what she may have believed, however, Mrs Paterson is clearly a landlord in terms of the 2006 Act, and accordingly has a legal duty to ensure that the property meets the repairing standard.

16. The landlord also argued that she had been given insufficient notice of the tenant's complaints. She said that she had not received the tenant's notification letter, which was dated 3 November, until 19 December. This was supported by the certificate of posting, which showed that the letter had been posted on 18 December. The tenant told the committee that he had notified the landlord verbally of the various repairs on numerous occasions, on the telephone or via family members. He said that he had originally sent the letter to her on 3 November by ordinary post, and had then sent it again by recorded delivery on 18 December, when advised by the panel office that this was necessary. He said he had notified the landlord of the problems with the sink shortly after moving in in 2011; the ceiling issues in early 2012; the windows and electric socket in 2012; and the issues with the landing in 2013/14. He told the committee that he would usually notify her immediately if there were problems with the property, although this was disputed by the landlord.

17. The landlord told the committee that she had not received any phone calls from the tenant- she said she had to contact his stepmother on 21 December, after receiving his letter, in order to obtain his mobile phone number. She had sent him a text message on that date, which she showed to the committee on her mobile phone, to say that she would come to the property on 5 January with tradespeople to look at the issues complained about, but the tenant had

refused to agree to this. He told the committee that this had been very short notice, and he had to work on that date.

18. The landlord did admit to the committee that she had been aware of the problem with the bathroom sink in 2011 and had been aware of the kitchen ceiling issue since 2014. She also told the committee that the tenant had previously notified her that the front window was not closing properly. She said she had checked it around 2 years ago, and had concluded that it just required to be lifted before closing it, to ensure that it closed properly. She said that she was otherwise unaware of any problems with the windows, and that she had not authorised the temporary repairs which had been done. She said that when she had visited the flat around 2 years ago, she had opened and closed both windows in order to ventilate the property, and had observed no issues with either of them. She told the committee that she had not been aware of the other issues complained about by the tenant until receiving the tenant's notification letter on 19 December 2015.

19. The committee asked the landlord whether she had taken any action to address the matters complained about since she was notified of them. She said that she had been awaiting the outcome of the inspection and hearing before doing so, and intended to go to the property with a relative who was a qualified joiner to put up plasterboard over the hole in the kitchen ceiling. She told the committee that she did not carry out regular inspections of the property, and said that she had not visited the property for approximately two years.

20. The landlord told the committee that she had given the tenant notice to quit as at the end of March 2016. She said she did not intend to register as a landlord or to let the property again, and planned to sell it as a 'renovation project'.

21. It was clear to the committee that there was a difficult relationship between the parties, which was exacerbated due to the family connection between them. As a result of the family relationship, the landlord appeared to believe that the tenancy was an informal family arrangement, when in fact there was a tenancy agreement in place between the parties and rent was being paid by the tenant.

22. As regards whether adequate notification had been given to the landlord by the tenant, to some extent this came down to the tenant's word against that of the landlord. The committee found the tenant to be a credible witness, and notes that the landlord did admit that she had been aware of some of the issues for some time. The committee accepted the tenant's evidence that he had initially sent the notification letter to the landlord on 3 November, but in the absence of any proof of receipt, it is possible that the landlord did not in fact receive this.

23. The committee notes that the second notification letter was received just before the Christmas holidays, and accepts that the landlord tried to contact the tenant on 5 January. It appears, however, that she had made no further attempt to assess the repairs required, or to have these carried out, in the subsequent month before the inspection and hearing. The President of the panel made the decision to refer the application to a committee on 12 January, following confirmation from the tenant by letter received on 11 January that there had been no further contact from the landlord since before Christmas. In making such a referral, the President must have been satisfied that the tenant had provided adequate notification to the landlord in terms of section 22 (3) of the Act.

24. In terms of section 14 (4) of the Act, the landlord complies with the repairing standard duty only if the work which requires to be carried out for the purposes of complying with that duty is completed within a reasonable time of the landlord being notified by the tenancy, or otherwise becoming aware, that the work is required. The committee considers that the landlord had a reasonable time to carry out the repairs between 19 December and the date of the inspection and hearing, even taking the Christmas holidays into account.

25. By her own admission, she had been aware of the issues with the kitchen ceiling and the bathroom sink for some considerable time. She also admitted that the tenant had notified her about problems with the front window around two years ago, although she felt that repairs were not required. As regards the other complaints about the windows, electric socket, and the lighting and ceiling in the communal landing and stairwell, all of these raise issues with major health and safety implications. In these circumstances, the committee considers that the period of 6-7 weeks between the notification letter being received and the inspection and hearing date was a reasonable length of time to address these.

26. In any case, the fact that the landlord intends to sell the property as a renovation project also suggests that she was aware that there were some outstanding repairs issues.

27. While the committee accepts that the landlord intends to sell the property once the tenant has moved out, there is no guarantee that it will sell quickly, and in that event, she may change her mind. In any case, if the property were to be sold in its current state, there would be nothing to stop any new owner from letting it out again, unless the committee issues a Repairing Standard Enforcement Order (RSEO). The committee therefore has an obligation to ensure that the property meets the repairing standard, in order to ensure that any potential future tenants are protected. If the property is to be sold on the

basis that work is required, as the landlord has indicated is her intention, the existence of a RSEO may not deter any potential buyer.

28. The complaints before the committee as set out in the tenant's application and the committee's determinations in relation to each of these are set out below.

1. *Kitchen ceiling*

29. It was clear from the committee's inspection that there was a large hole in the kitchen ceiling, and that it was not therefore wind and watertight. The exposed gaps in the lath would admit draughts from the loft above. The kitchen ceiling was cracked in other areas and showed lines of dampness along the cracks. Further failings of the plasterwork could not be ruled out and the committee considers that the ceiling needs to be checked to ensure that it was safe.

30. The landlord admitted that she was aware of the issue with the kitchen ceiling in 2014. There had been a communal repair to the roof, which had caused the kitchen ceiling to collapse. She said she had been trying to get the other owners to agree to pay towards fixing it, as it had been caused as a result of a communal repair, but had not been successful in doing so. While the committee notes that the roof repair was a common repair, the landlord has a duty to ensure that the property meets the repairing standard. The kitchen ceiling is clearly part of the internal structure of the property, and is not wind and watertight. Neither is it in a reasonable state of repair and proper working order.

2. *Windows*

31. The tenant told the committee that the property was cold and damp as result of the problems with the windows. He was concerned that the front window was unsafe and could fall onto the street below and injure a passer-by. His brother had carried out an emergency repair to the window at the front by fitting four brackets to hold it in place. He said he was unable to open it as he was concerned that it would fall out. The tenant also told the committee that the rear window did not close at all, causing the property to be cold and damp.

32. The committee observed at its inspection that the front window was not secure within its frame and was held in place by brackets; that the wooden frame that surrounded the window holding it into the stonework had failed; the double glazed panes were misted; and the traffic noise from the street below was louder than might have been expected, suggesting that it was not capable of operating properly. The committee also observed that the rear window did not close properly, and that the tenant had put a wooden board across the top of the window to keep it closed. The windows are not therefore wind and

watertight. They are also not in a reasonable state of repair and proper working order.

3. *Wall socket in the kitchen*

33. The tenant told the committee that the socket was dangerous, that it over-heats and had caught fire on two occasions, with smoke coming from it. He said that as a result, he could no longer use the socket, which was the only one at that side of the room. The landlord told the committee that she was unaware that there was any issue with the socket until she received the tenant's notification letter on 19 December.

34. The committee observed that on the basis of the tenant's evidence the socket appeared to be dangerous. The Committee noted the position of the socket beneath the hole in the ceiling which had been caused by water ingress. The committee has not seen an Electrical Installation Condition Report for the property, as required in its direction. It appeared to the committee, however, that the socket is not in a reasonable state of repair and in proper working order. The committee also observed that the electrical consumer unit appeared to be of some age, which suggests that the wider electrical installation within the property may also be unsafe.

4. *Landing- lighting*

35. The tenant told the committee that it was very difficult to see when walking up the stairs to the property and on the communal landing serving the property and the neighbouring flat. He said that when the communal roof repairs had been carried out around the end of 2013, the skylight in the communal roof space, which had previously provided some light, had been boarded up. The electric light fitting above the front door on the outside had stopped working, and as a result the landing was now in total darkness, which was a safety issue. He said that he had tried to replace the bulb in the light, but that the switch did not appear to work.

36. The landlord told the committee that she had only become aware that the skylight had been boarded or slated over during the communal roof repairs after this had been done. She confirmed that there was no communal lighting in the stair, and said she had not been aware of the issue with the electric light above the front door until she received the tenant's notification letter of 19 December. She confirmed that the switch for the light was inside the property, rather than in a communal area.. It appeared to the committee that the light was not in a reasonable state of repair and in proper working order, and that this raised health and safety issues for the tenant and for anyone else visiting the property.

5. *Landing- ceiling*

37. The committee observed that there was debris from the close ceiling in the stairwell and a section of plaster missing above the communal stairwell. The committee considers that the ceiling may be unsafe and that further falling plaster cannot be ruled out. The committee therefore determines that the close ceiling is not in a reasonable state of repair and proper working order. The committee noted that any repairs to the close ceiling will constitute common repairs, as the title deeds provide that the landlord is responsible for a one sixth share of the cost of repairs to the common passages and stair within the tenement.

38. Section 15 of the Act states:

'(1) Where a house forms part only of any premises, the reference in section 13(1) (b) [i.e. the requirement to ensure that the structure and exterior of a house is in a reasonable state of repair and in proper working order] includes reference to any part of those premises which the owner of the house is responsible for maintaining (solely or in common with others) by virtue of ownership, any real burdens or otherwise'.

(2) Nothing in subsection (1) requires the landlord to carry out any work unless any part of the premises, or anything in the premises, which the tenant is entitled to use is adversely affected by the disrepair or failure to keep in proper working order.'

39. The effect of this is that the landlord is required to ensure that the structure and exterior of premises which include a flat which she owns is in a reasonable state of repair and in proper working order, where she has a responsibility to maintain the common parts of those premises. This applies where any part of those premises which the tenant is entitled to use is adversely affected by the disrepair or failure to keep in proper working order.

40. It is clear in this case that the landlord has a legal obligation to maintain the close ceiling under a real burden contained in the title deeds for the property. It is equally clear that the disrepair or failure to keep those common parts in a reasonable state of repair and in proper working order has resulted in part of the property which the tenant is entitled to use i.e. the close and the stairwell being adversely affected.

41. In other words, the landlord has a duty to comply with the repairing obligation here, regardless of the fact that others share the responsibility to carry out and pay for common repairs. While the landlord is entitled to pursue the other owners in the tenement to pay for their share of the repairs, that is a matter for

the landlord and does not affect her legal responsibility to ensure that the property meets the repairing standard.

6. *Heating/ cold/dampness*

42. The tenant did not make any specific complaints with regard to the heating system provided within the property. The committee therefore concluded that this complaint was essentially a consequence of the kitchen ceiling and window issues. The committee did observe, however, that the heating appliances provided – one electric panel heater and one bar heater in the living/bedroom, which the tenant said he had found in the loft - did not appear to be adequate to heat the property.

7. *Bathroom sink*

43. The tenant told the committee that he had notified the landlord that the sink was loose shortly after moving in, and that he had been told that the necessary part would be obtained to fix this, but this had never happened. The landlord admitted that this was the case, and told the committee that this was an oversight. The tenant told the committee that he was unable to use the sink. The committee observed at its inspection that the sink was very loose, and appeared to be secured only by its pipework. It is not therefore in a reasonable state of repair and in proper working order.

44. The tenant had also mentioned the shower in his application form as requiring repairs, but there was no evidence that any repairing issue relating to the shower had been notified to the landlord. The committee was therefore unable to consider any issues with regard to the shower.

Observations by the committee

45. The committee wishes to make observations on an additional matter which was not included in the tenant's application. The committee notes that the landlord does not intend to re-let the property when the tenant leaves, but nevertheless wishes to draw her attention to the following repairing standard requirements for privately rented properties.

46. The committee observed that there was only one battery operated smoke alarm within the property, in the hall. This does not comply with the current statutory requirements for rented properties. The repairing standard includes a requirement under section 13 (1) (e) of the 2006 Act that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. In determining whether a property has satisfactory provision for detecting fires and for giving warning in the event of fire or

suspected fire, section 13 (5) of the Act states that regard is to be had to any building regulations and any guidance issued by the Scottish Ministers on these matters.

47. The current Scottish Government statutory guidance states that there should be at least:

- one functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes
- one functioning smoke alarm in every circulation space, such as hallways and landings.
- one heat alarm in every kitchen
- and all alarms should be interlinked

Summary of decision

48. Following its inspection and hearing, the committee determines that the landlord has failed to comply with the duty imposed on her by Section 14 (1) (b) of the Act, and in particular that the landlord has failed to ensure that the house meets the repairing standard in that:

- the property is not wind and watertight and in all other respects reasonably fit for human habitation
- the structure and exterior of the premises are not in a reasonable state of repair and in proper working order
- the installations in the property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order
- some of the fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order.

49. The committee therefore makes a Repairing Standard Enforcement Order as required by section 24 (2) of the Act.

Right of Appeal

50. A landlord or tenant aggrieved by the decision of the committee may appeal to the sheriff by summary application within 21 days of being notified of that decision.

51. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the panel or the committee which made the decision.

Effects of Section 63 of the 2006 Act

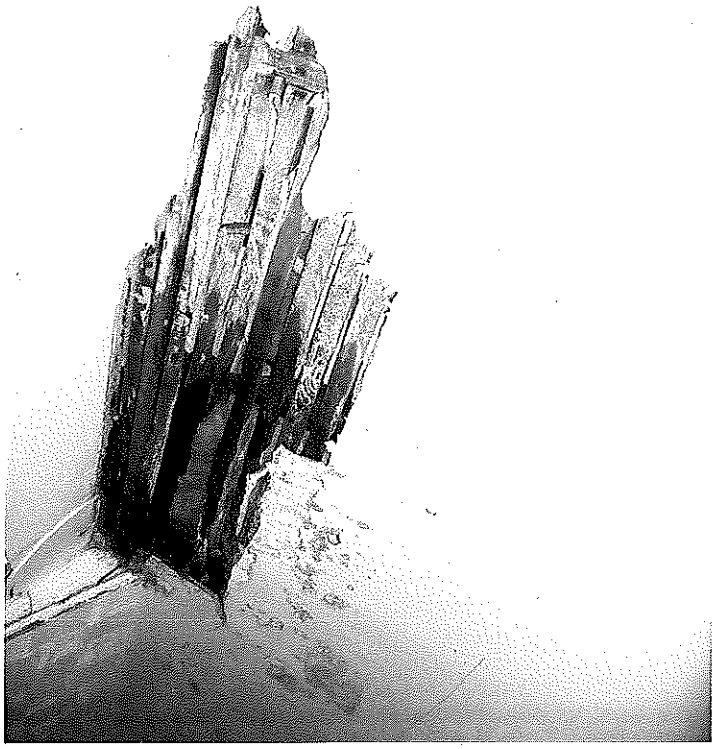
52. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed. S O'Neill .....Date.....17/2/16.....

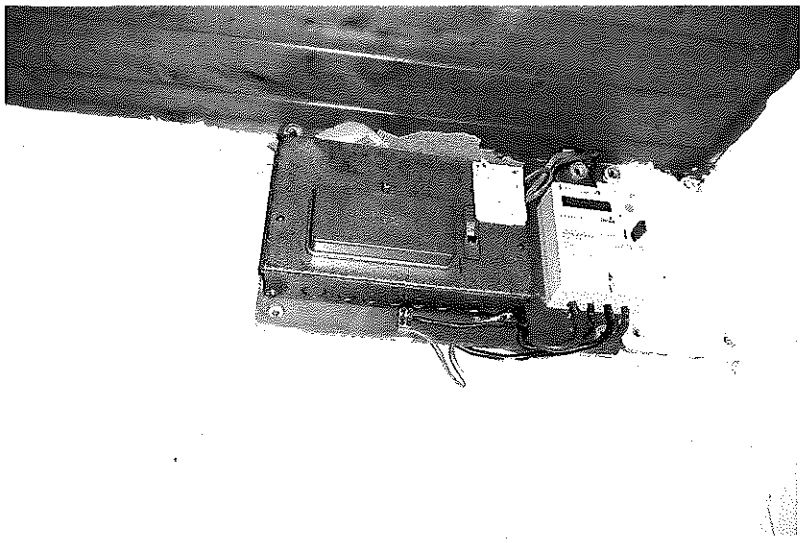
Sarah O'Neill, Chairperson

Schedule of photographs of Top Floor Left, 116 Auchmill Road, Bucksburn, Aberdeen, AB21 9LR

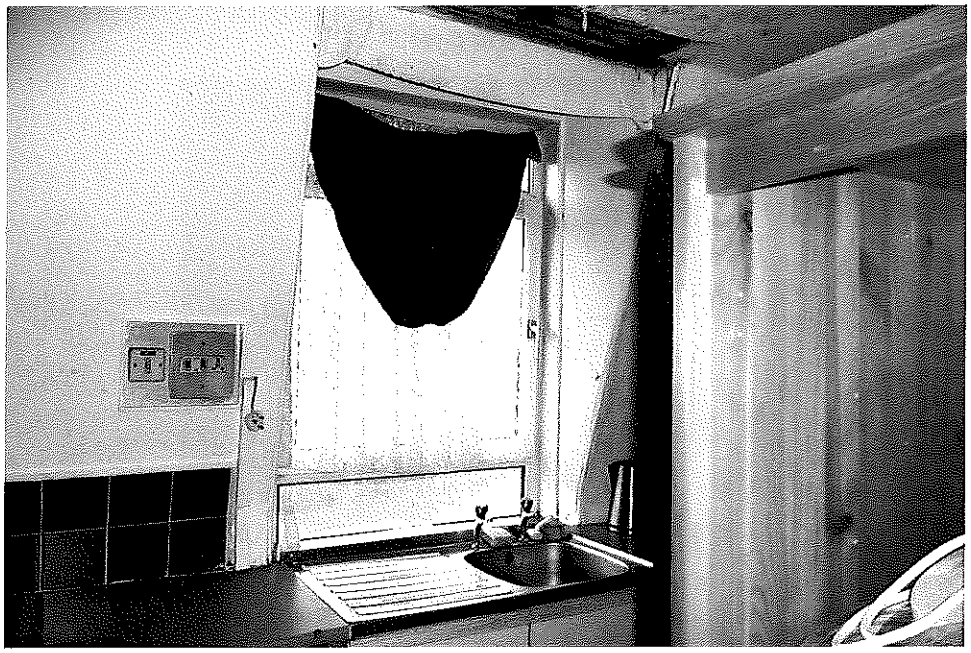
Exterior view – top floor flat window



Kitchen ceiling – above sink



Electric meter and consumer unit – fuses



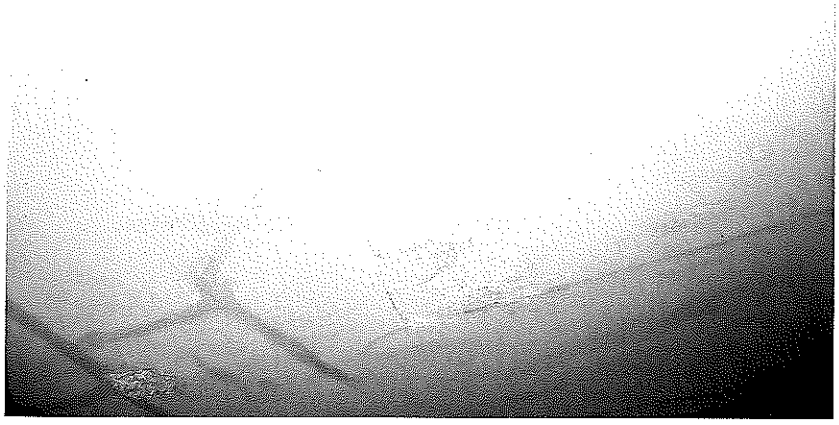
Kitchen window – does not fully close

One of bottom brackets holding window in place

Bracket at top of window

Panel heater in living room – not fixed to wall

Rail heater found by tenant in loft not fixed to floor/wall



Condition of stairwell ceiling – damp and cracked

Former roof light boarded and slated over