



**Decision by the Private Rented Housing Committee**

**Statement of Reasons of the Private Rented  
Housing Committee under Section 24 (1) of the  
Housing (Scotland) Act 2006**

**Re: The residential dwellinghouse at**

**The Bookshop Flat  
Cheadle House  
High Street  
Dornoch  
IV25 3SH  
("the Property")**

**The Parties:-**

**Ms Susan Waters resident at the Property  
("the tenant")**

**and**

**Sinclair Colquhoun MacKintosh & Mrs Sandee MacKintosh  
Halladale  
Bishopfield Road  
Dornoch  
IV25 1LJ  
("the landlords")**

**The Committee's Decision**

**The Committee, having made such enquiries as it saw fit for the purposes of determining whether the landlords had 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 the written evidence before it, unanimously determined that the landlords had failed to comply with the duty imposed by Section 14(1)(b). The Committee therefore requires that the landlords carries out such work as is necessary for ensuring that the Property meets the Repairing Standard and that any damage caused by the carrying out of any work in pursuance of this Order is made good. The Committee issued a Repairing Standard Enforcement Order as annexed to this Statement of Reasons.**

## **The Background**

1. On 12 November 2009 the tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the landlords had failed to comply with the duties imposed by Section 14(1)(b) of the Act.
2. Following receipt of the tenant's application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee in accordance with Section 22(1) of the Act.

## **The Application**

3. In her application the tenant alleged that the landlords had failed to comply with their duty to ensure that the Property met the Repairing Standard (as defined in the Act). In particular the landlords had failed to ensure that the Property was wind and water tight and in all respects reasonably fit for human habitation. It was submitted that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were not in a reasonable state of repair and not in proper working order. It was suggested that the fixtures, fittings and appliances provided by the landlords under the tenancy were not in a reasonable state of repair and not in proper working order. Moreover the Property did not have satisfactory provision for detecting fires and giving warning in the event of fire or suspected fire.

## **The Evidence**

4. The Committee had before it documents which included a copy of the application form, a copy of the lease of the Property, letters from the landlords dated 10 December 2009, 30 December 2009, 25 January 2010, 5 March 2010 and letters from the tenant dated 10 December 2009, 25 January 2010 and 16 February 2010.

## **The Inspection**

5. The Committee inspected the Property on 11 March 2010 at 11.00am. The tenant was present at the inspection as was Ms McCrury of Citizens Advice (on behalf of the tenant). The landlords did not attend the inspection and were not represented.

## **The Hearing**

6. A Hearing was arranged for 1.45pm on 11 March 2010 in the West End Community Centre, Firhill, Alness. The tenant attended with Ms McCrury but the landlords did not attend and were not represented. The date, time and place of the Hearing had been intimated to both parties and the

Committee considered it appropriate to proceed with the Hearing in the absence of the landlords.

7. The Chairman welcomed the tenant and Ms McCrury to the Hearing and reminded them of the issues raised in the application form. At the Hearing it was agreed that the following issues had been remedied since the application had been lodged.
  - (i) The electrical wires in the downstairs utility room which had previously been exposed were no longer so.
  - (ii) The exposed wires in the ceiling of the kitchen area had been repaired.
  - (iii) The extractor fan in the bathroom had been replaced.
  - (iv) The light fitting in the bathroom had been repaired.
  - (v) The installation for heating water was in proper working order.
8. In regard to the central heating, the tenant explained that the radiators on the first floor, in her son's bedroom and in her daughter's bedroom, were not functioning properly. As far as she knew the central heating system had not been serviced since the start of her Tenancy Agreement.
9. The tenant accepted that the extractor fan in the kitchen (above the cooker) was functioning but she did not consider that it was effective.
10. In regard to the dampness in the ceiling above the stairs in the hallway, the tenant thought that this was caused by water ingress from the window and from the leaking shower.
11. The tenant told the Committee that the WC on the upper floor of the Property leaked and was not working properly.

### **Summary of the issues**

12. The issue to be determined by the Committee was whether the landlords had complied with the requirements of the Act in ensuring that the Property met the Repairing Standard.

### **Findings of fact**

13. The Committee found the following facts to be established:-
  - On 13 March 2009 the tenant and the landlords entered into a Tenancy Agreement which related to the Property.
  - The Property is a two storey dwelling house situated above commercial premises. The Property comprises a bathroom, kitchen/living room, pantry, three bedrooms, study/box room, utility room and separate WC.

- The roof of the Property is a traditional slate roof.
- The Property is heated by propane gas central heating system.
- The light fitting in the pantry is not in proper working order.
- The extractor fan above the cooker in the kitchen is in proper working order and in a reasonable state of repair.
- The shower unit (in the bathroom) is leaking and causing significant dampness to the ceiling of the hallway above the stairway. The shower unit is not in a reasonable state of repair or in proper working.
- The heating system has not been maintained/inspected since the commencement of the Tenancy Agreement and the tenant has not received a Certificate of Compliance.
- The Property has one functioning smoke alarm on each floor. The smoke alarms are ceiling mounted and mains wired. They are not fully interlinked.
- There is evidence of some dampness in the walls of the bathroom but this dampness is caused by condensation.
- The WC on the upper floor leaks and is not in proper working order.

#### **Reasons for the Decision**

14. The Committee noted that a number of the issues identified by the tenant in her application form had been resolved. In particular the exposed wires in the downstairs utility room had been concealed and the exposed wires in the kitchen ceiling had been repaired. It was also accepted that the light fitting and extractor fan in the bathroom had been repaired/replaced.
15. The tenant submitted (in her application form) that the extractor fan above the cooker in the kitchen was defective. On inspection the Committee noted that this extractor fan functioned properly. However it was also noted that the filter in the fan required to be replaced. The Committee considered that it was reasonable to expect the tenant to replace the filter and the Committee was satisfied that if the filter was replaced, the extractor fan would be in proper working order.
16. It was clear to the Committee that the light fitting in the pantry was not in proper working order and consequently the tenant has been required to make alternative arrangements to provide light in that area.
17. The Committee noted that there was evidence of dampness in the ceiling above the stairway leading to the first floor. The Committee found that the source of this dampness was from the shower unit in the bathroom (situated immediately above the area of dampness). The Committee found little evidence to suggest that the dampness was caused by water ingress from the external hallway window. The Committee concluded that the shower unit was not in a reasonable state of repair and not in proper working order.
18. The Property is centrally heated. At the Hearing the tenant told the Committee that some of the radiators did not function properly. She

also advised the Committee that the system had not been maintained or subjected to inspection and she had not been issued with a Certificate of Compliance. The landlords were aware of the issues raised in the tenant's application but did not attend the inspection and did not attend the Hearing where matters could have been clarified. The Committee were not satisfied that the central heating system was in proper working order and in a reasonable state of repair.

19. Whilst it was clear to the Committee that the WC on the upper floor was leaking, no mention of this was made in the tenant's application form. Consequently the landlords had not received formal notification of this matter and in these circumstances it was not appropriate for this issue to be considered by the Committee. However it was clear to the Committee that the WC was not in proper working order.

### **Decision**

20. The Committee determined that the landlords had failed to comply with the duty imposed by section 14(1) (b) of the Act.
21. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act.
22. The decision of the Committee was unanimous.

### **Right of Appeal**

23. A landlords(s) or tenant aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

### **Effect of section 63**

24. Where such an Appeal is made, the effect of the decision and of the Order 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 will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed..... **R Handley** ..... Date..... 30. JANU. 2010  
Chairperson



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re: The residential dwellinghouse at

The Bookshop Flat  
Cheadle House  
High Street  
Dornoch  
IV25 3SH  
("the Property")

The Parties:-

Ms Susan Waters resident at the Property  
("the tenant")

and

Sinclair Colquhoun MacKintosh & Mrs Sandee MacKintosh  
Halladale  
Bishopfield Road  
Dornoch  
IV25 1LJ  
("the landlords")

### NOTICE TO THE LANDLORD

Whereas in terms of their decision dated 30 March 2010, the Private Rented Housing Committee determined that the landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the landlords had failed to ensure that:-

- (a) the installations in the Property for the supply of space heating are in a reasonable state of repair and in proper working order;
- (b) the fixtures, fittings and appliances are in a reasonable state of repair and in proper working order;
- (c) there is satisfactory provision in the Property for detecting fires and for giving warning in the event of a fire or a suspected fire.

The Private Rented Housing Committee now requires the landlords to carry out such works as are necessary for the purposes 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.

In particular the Private Rented Housing Committee requires the Landlord to:-

- (a) repair or replace the light fitting in the pantry;
- (b) repair the shower unit (in the bathroom) to ensure that it is in proper working order and to make good any damage to the plasterwork and the decorations in the stairwell;
- (c) arrange an inspection of the central heating system and to carry out such works as may be required to ensure that the central heating system is in proper working order;
- (d) ensure that the smoke alarms installed within the Property are in accordance with the recommendations contained in BS 5839, Part 6.

The Private Rented Housing Committee order 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.

**A Landlord or a Tenant aggrieved by the decision of the Private Rented Housing 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 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 decision and the Order will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof this and the preceding pages are subscribed by Ronald G Handley, solicitor, chairperson of the Private Rented Housing Committee at Edinburgh on the 30 day of March 2010 before this witness:-

**M Beveridge**

witness

Martin Beveridge

name in full

City of Edinburgh Council

address of witness

City Chambers, High Street,  
Edinburgh

Solicitor

Occupation

**R Handley**

chairperson