

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Decision on Homeowner's application: Property Factors (Scotland) Act 2011
Section 19(1)(a)**

**Chamber Ref: FTS/HPC/PF/23/4074
FTS/HPC/PF/23/4075**

Re: 2 Dean Court, Clydebank, G81 1RX

Parties:

Ms Frances Courtney, Flat 2/2, 2 Dean Court, Clydebank, G81 1RX ("the First Applicant")

Miss Helen McDougall, Flat 2/1, 2 Dean Court, Clydebank, G81 1RX ("the Second Applicant")

James Gibb Residential Factors, 65 Greendyke Street, Glasgow G1 5PX ("the Respondents")

Tribunal Member:

**Graham Harding (Legal Member)
Robert Buchan (Ordinary Member)**

DECISION

The Respondent has failed to carry out its property factor's duties.

The Respondent has failed to comply with section 14(5) of the 2011 Act in that it did not comply with Sections OSP 5,11, 2.1, 6.4 and 7.2 of the 2021 Code of Conduct.

The decision is unanimous.

Introduction

In this decision the Property Factors (Scotland) Act 2011 is referred to as "the 2011 Act"; the Property Factors (Scotland) Act 2011, the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors July 2021 as "the Code"; and the First-

tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 are referred to as “the Rules”

The Respondent became a Registered Property Factor on 1 November 2012 and its duty under section 14(5) of the 2011 Act to comply with the Code arises from that date.

Background

1. By emails dated 14 November 2023 the First and Second Applicants submitted applications complaining that the Factor had failed to carry out its property factors duties and was in breach of Sections OSP 2, OSP5, OSP 11, 2.1, 6.4, 6.9 and 7.2 of the 2021 Code. The Applicants submitted written statements outlining their complaints together with copies of correspondence between the parties. In particular the Applicants complained that the Respondent had (i) failed to respond to telephone calls and emails; (ii) failed to deal timeously with repairs to an entrance door; (iii) failed to pursue a contractor to remedy inadequate work; and (iv) failed to comply with their complaints procedures. The Applicants submitted that these failures demonstrated a failure on the part of the Factor to carry out its property factors duties to a reasonable standard and were also breaches of the Code.
2. By Notices of Acceptance dated 18 December 2023 a legal member of the Tribunal with delegated powers accepted both Applicants’ applications and the cases were conjoined and a Case Management Discussion (“CMD”) was assigned.
3. By email dated 17 January 2024 the Respondents submitted written representations to the Tribunal.
4. A CMD was held by teleconference on 6 February 2024. Both Applicants attended in person and the Respondents were represented by Ms Lorraine Stead, Regional Director, Mr Alasdair Wallace, Operations Manager and Mr Jason Millar, Senior Development Manager. It was accepted by the Respondents that they had been in breach of Sections OSP5, OSP11, 2.1, 6.4 and 7.2. The Respondents thought that a complaint under Section 6.9 was not applicable. As it seemed to the Tribunal that some progress was being made to install a new door at the property the Tribunal adjourned the CMD to a further CMD to allow matters to be progressed and for the parties to discuss any financial settlement.
5. By email dated 27 March 2024 the First Applicant submitted written representations to the Tribunal.
6. By email dated 15 May 2024 the Respondents submitted written representations to the Tribunal.

7. A Case Management Discussion ("CMD") was held by teleconference on 4 June 2024. Both Applicants were in attendance and the Respondents were represented by its Operations Manager, Mr Alasdair Wallace and Senior Development Manager, Mr Jason Millar. The Applicants expressed concern that the original contractors had been instructed to reinstall the new door and the Tribunal noted that no agreement had been reached as regards financial compensation or on the reimbursement of the cost of the lock repair or the cleaning of the carpet. The Tribunal continued the CMD to a further CMD to allow the new door to be installed and to see if any further progress could be made.
8. By email dated 8 July 2024 the Second Applicant submitted a Direction Request to the Tribunal that the Respondents provide all correspondence from Zurich plc relating to the Applicants insurance claim regarding the damage to the door at the property. The Applicant also submitted a request to be allowed to provide video evidence to the Tribunal. The Tribunal granted both applications.
9. By email dated 25 July 2024 the Second Applicant submitted further written representations to the Tribunal.
10. By directions dated 12 August 2024 the Tribunal issued Directions to the Respondent requiring them to provide the Tribunal with 1. Copies of all correspondence between them and their insurance brokers and/or Zurich Insurance relative to the claim in respect of damage to the entrance door at 2 Dean Court, Clydebank G81 1RX that occurred in April 2022 and 2. Copies of all correspondence between them and their contractors, McGregor Property Maintenance Limited in respect of the repair and or renewal of the entrance door at 2 Dean Court Clydebank G81 1RX.
11. By email dated 3 September 2024 the Respondents submitted their response to the Tribunal's Directions dated 12 August 2024.
12. By email dated 6 September 2024 the Second Applicant submitted further written representations to the Tribunal.
13. By email dated 2 October 2024 the First Applicant submitted written representations and photographs to the Tribunal.
14. By email dated 10 November 2024 the First Applicant submitted further written representations to the Tribunal.
15. By email dated 23 December 2024 the Respondents submitted written representations to the Tribunal together with photographs.
16. A CMD was held by teleconference on 25 February 2025. Miss McDougall attended for the Applicants. Mr Wallace attended for the Respondents. Miss McDougall explained that the Applicants had reluctantly agreed to the original contractors installing the new door to the property but that it was not to the same specification of the door that it replaced. Miss McDougall said

that the Applicants had submitted numerous complaints and photographs to the Respondents and that they had met with Mr Wallace in August 2024 and shown him the defects. Miss McDougall said that the door slammed shut a lot and in a way that the previous door had not. She said that there had been a whole list of items that were not satisfactory. Miss McDougall also said that once again the contractor's painter had left paint spots everywhere on the carpet. And there was silicone on the glass in the door. Miss McDougall also complained that the contractor had reused the old door fittings including the lower strip that was rusted and buckled and the inside kick plate did not cover the whole door. Miss McDougall also said that a piece of wood had come off the door and still had not been fixed. Miss McDougall said that from the whole list of snagging prepared by the Respondents only three or four had been addressed. Miss McDougall concluded by saying that the Applicants were quite embarrassed with the door and disgusted with the Respondents for the way they had conducted the whole process. Mr Wallace said that he had attended at the site following the installation of the new door which had been fitted in July 2024 and a list of snagging items had been sent to the contractor. Mr Wallace said that the contractors maintained that the door had been replaced on a like for like basis and that they had returned in October 2024 to undertake some snagging work and that they now said they had completed the contract. Mr Wallace referred the Tribunal to the drawing produced by MacGregors showing the design of the door (Respondent's Inventory page 84). Mr Wallace confirmed that the contractors had installed a new door. After considering the parties submissions the Tribunal determined to adjourn the CMD to a further CMD and to issue written directions to the Respondents to instruct a Chartered Building Surveyor at the Respondents sole expense to prepare an independent report on the door and once the report was received the Tribunal would determine if a further CMD was necessary.

17. By Directions dated 28 March 2025 the Tribunal issued Directions to the Respondent as follows:-

The Respondents are required at their own expense to instruct a Chartered Building Surveyor to prepare a report for the tribunal. The instruction to the surveyor should be in the following terms:

*"A door to a residential block, 2 Dean Court, Clydebank, G81 1RX, was damaged and a replacement door has been fitted. There is a dispute about the new door. An independent report is required to address the following:
Are the materials used for the door (which should include the frame) suitable for the use for which they are intended and suitably similar to the existing rear door?*

Is the door suitably secure and wind and water tight?

Is the operation of the door, door closure and locking satisfactory having regard to the noise impact on residents?

Is the workmanship of the door satisfactory?

Please provide an overall assessment on whether or not the door is satisfactory, requires some improvement/repair or should be replaced.

The report will be provided to the residents of the block and may be discussed as part of a dispute but is not intended to be subject to challenge."

18. By email dated 23 April 2025 the Respondents submitted their response to the Directions including a report by Graham & Sibbald Technical Services LLP which report indicated that the installed door was unsatisfactory in several respects.
19. A CMD was held by teleconference on 2 September 2025. Both Applicants were in attendance and the Respondents were represented by Mrs Gillian McPeake and Ms Sophie Fairhurst. Mrs McPeake said that she had become involved in the applications following the departure from the company of Mr Alasdair Wallace and had referred the surveyor's report to the Insurance Brokers, Marsh and had only been advised that morning that the insurers, Protector, will consider the cost of installing a new door. Mrs McPeake confirmed that the new door would not be installed by the previous contractors, McGregors. Mrs McPeake said that an on-site meeting had been arranged to take place on 9 September 2025 and that following this a further update would be sent to the insurers. For the Applicants, Ms Courtney expressed concern that there were only empty promises and Miss Mc Dougall spoke of finding the previous contractors, McGregors, comments quite insulting and of being disillusioned and felt that the Respondents were employing delaying tactics. Miss McDougall said that she did not feel comfortable about there being further delay. She spoke of the carpets at the entrance still not being cleaned and not having the cost of the lock repair refunded and there being no acceptable offer of compensation. After considering the parties submissions the Tribunal advised the parties that it had sufficient information before it to allow it to make a decision without the need for a hearing. It did not consider that there were any significant facts in dispute. However, in the circumstances as it appeared that some progress towards a resolution was being made it was appropriate to allow the Respondents some additional time before making a decision. The Tribunal therefore determined that it would delay making a decision until 10 October 2025. If in that time the Respondents managed to resolve all the outstanding issues complained of by the Applicants then both parties should advise the Tribunal administration that the matters were resolved and the applications could be withdrawn. If matters were not resolved then the Tribunal would issue its decision.
20. By email dated 9 October 2025 the Respondents advised the Tribunal that a new door had been installed at the property to the satisfaction of the Applicants, that the carpet had been cleaned, the cost of the lock repair reimbursed and that an offer of £150.00 compensation previously offered to each Applicant remained in place.
21. By emails dated 6, 7, 8, 9 and 10 October the Applicants confirmed that the new door had been installed and was satisfactory, that all other snagging matters were in hand but that they did not consider the Respondents' offer of compensation was reasonable.

Findings in Fact

22. The First Applicant is the owner of Flat 2/2, 2 Dean Court, Clydebank G81 1RX.
23. The Second Applicant is the owner of Flat 2/1, 2 Dean Court, Clydebank G81 1RX.
24. The Respondents performed the role of the property factor of the Development of which the Applicants' properties form part.
25. In April 2022 the front door of the property was vandalised and the matter was reported to the police and the Respondents were advised of the damage.
26. The Respondents instigated an insurance claim on behalf of the owners of the development to Protector Insurance and McGregors Property Maintenance Limited, Glasgow, were instructed to supply and fit a new front door.
27. McGregors initially did not fit a new front door but instead repaired the existing front door.
28. The quality of work by McGregors was unsatisfactory.
29. The door did not open and close properly. There was paint on the carpet at the entrance to the property.
30. The Applicants complained to the Respondents about the repairs and between December 2022 and February 2023 emails and voice messages from the Applicants to the Respondents went unanswered.
31. A repair to the door lock was carried out in February 2023 at a cost of £90.00 by Smart Property Maintenance and both Applicants were billed for 1/8th of the cost.
32. The Applicants submitted a formal complaint to the Respondents that was not responded to within the Respondents' Complaints Procedures in its Written Statement of Services.
33. On 17 July 2024 McGregors installed a new front door at the property.
34. On 4 October 2024 McGregors carried out repairs to the door at the property.
35. A report by Graham & Sibbald Technical Services LLP dated 11 April 2025 revealed that the door installed by McGregors was lighter than the door to the rear of the property and not fit for purpose.

36. The Respondents arranged with the Applicants' insurers for another new door to be fitted by another contractor, Daz Mac, on 30 September 2025.
37. Following some snagging works being completed the Applicants have confirmed the new door is satisfactory.
38. The Respondents have reimbursed the Applicants the cost of a lock repair incurred in February 2023 and have also met the cost of cleaning the cost of the carpet at the entrance to the property.
39. The Respondents have offered the Applicants £150.00 each by way of compensation for their admitted breaches of the Code.
40. The Applicants have refused the Respondents' offer.
41. The Respondents have admitted there have been failings on its part and that it was in breach of various sections of the Code as claimed by the Applicants.

Reasons for Decision

42. The Respondents accepted from early in the proceedings that there had been significant failings on its part and offered limited opposition to the complaints. It is however unfortunate that it has taken some eighteen months for matters to be resolved with the installation of a new door at the property that ought to have been installed in the summer of 2023 at the latest. The Tribunal considers that the choice of McGregors as the contractor to replace the door was clearly ill advised although whether this was at the insistence of the insurers or the Respondents is unclear. However, it is quite clear that the continuing use of the same contractor was wrong and led to not only significant delay but also poor workmanship and an unsuitable replacement door.
43. The Respondents have accepted that there were failings in communication on their part and that they were in breach of Sections OSP5, OSP 11 and 2.1 of the Code. The Respondents have also accepted that they had not provided a Stage 2 response to the Applicants' complaint and from the emails and oral submissions the Tribunal is satisfied that the Respondents are in breach of Section 7.2 of the Code. The Tribunal is also satisfied from the email correspondence and the oral submissions of both parties that there was a lack of information provided to the Applicants as regards the timescales for progressing the repairs to the property and generally keeping the Applicants informed particularly in 2022 and 2023 prior to the involvement of the Tribunal. The Tribunal is therefore satisfied that the Respondents are in breach of Section 6.4 of the Code. Overall, the Tribunal is satisfied that the Respondents have failed to properly manage the work that was instructed and failed to adequately supervise the original

contractors to ensure that a new door was installed and that when a new door was eventually installed it was of the same quality as the door it replaced. Taking everything into account the Tribunal is in no doubt that the Respondents have failed to carry out their property Factor's duties.

44. The tribunal was not satisfied that the Respondents were in breach of Section OSP2 or 6.9 of the Code. The Tribunal did not consider that the actions of the Respondents were dishonest or unfair but rather that they were slow to communicate or explain matters to the Applicants. With regards to Section 6.9 of the Code the Tribunal was not made aware of any tendering or selection documentation that had been requested by the Applicants and all communications between the Respondents and the original contractors were provided by the Respondents to the Tribunal. The Tribunal did not consider the Respondents to be in breach of this section of the Code.
45. Although it has taken an inordinate amount of time the Respondents have at last managed to have a new door installed at the property to the satisfaction of the Applicants and they have attended to the remaining snagging items and paid for the cleaning of the carpet at the entrance to the property as well as reimbursing the Applicants for the cost of the lock repair incurred in February 2023.
46. The only outstanding matter is the issue of compensation. The Respondents have offered each Applicant £150.00. The Applicants consider that nothing less than £300.00 each would be acceptable. The Tribunal considers that it is appropriate to make a financial award to the Applicants in light of the length of time it has taken to resolve the issues and the stress and inconvenience caused. The Tribunal does not consider that the sum of £300.00 sought by the Applicants is in any way excessive and accordingly will make an order for payment of £300.00 to each Applicant by the Respondents.

Proposed Property Factor Enforcement Order

47. The Tribunal proposes to make a property factor enforcement order ("PFEO"). The terms of the proposed PFEO are set out in the attached Section 19(2) (a) Notice.

Appeals

A homeowner or property factor 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.

Graham Harding Legal Member and Chair

20 October 2025 Date