

Housing and Property Chamber

First-tier Tribunal for Scotland



**Decision of the First-tier Tribunal for Scotland Housing and Property Chamber
in relation to an application made under Section 17(1) of the Property Factors
(Scotland) Act 2011**

Chamber Ref: FTS/HPC/PF/23/1269 and FTS/HPC/PF/24/1270

**Property: 32 Colonsay Gardens, St Leonards, East Kilbride G74 2HF (“the
Property”)**

The Parties:-

**Mrs Jacqueline Younger, 32 Colonsay Gardens, St Leonards, East Kilbride G74
2HF (“the homeowner”)**

**South Lanarkshire Council, Almada Street, Hamilton ML3 0HQ (“the property
factors”)**

**Tribunal Members: George Clark (Legal Member/Chairman) and Nick Allan
(Ordinary Member)**

Decision

**The First-tier Tribunal for Scotland Housing and Property Chamber decided that
the application could be decided without a Hearing and determined that the
property factors have failed to comply with Section 7.2 of the Property Factors
Code of Conduct effective from 16 August 2021 and with Section 6.1 of the
Property Factors Code of Conduct effective from 1 October 2012. The Tribunal
proposes to make a Property Factor Enforcement Order.**

Background

1. By applications, dated 17 April 2023, the homeowner sought a Property Factor Enforcement Order against the property factors under the Property Factors (Scotland) Act 2011 (“the Act”). She later amended the applications and, as amended, they alleged failures to comply with Sections 6.1, 6.3, 6.9, 7.1 and 7.2 of the Property Factors Code of Conduct effective from 1 October 2012 and Sections 6.1, 6.2, 6.6, 6.7, 7.1 and 7.2 of the Property Factors Code of Conduct effective from 16 August 2021 (“the 2021 Code”). She also contended in her

original applications that the property factors had failed to comply with the Property Factor's Duties, but the relevant boxes (to include failure to comply with the property factor's duties) were not ticked in the amended applications, so the Tribunal considered the applications under the Codes of Conduct only.

2. The homeowner's complaint, in summary, is that, in December 2016, while attempting to install new windows in the Property, significant water ingress was identified by the window fitters. This was reported to the property factors, but, as at the date of the applications, there had been no satisfactory resolution of her complaint. She had made representations through her local councillors, but, despite their efforts, no positive outcome was achieved. The property factors had insisted that her windows were to blame and suggested in one of their many conflicting reports that she remove and refit all her windows, which she did at her own expense, at a cost of £1,000. The water continued to come into the Property and the property factors decided to remove and refit her bathroom window and then blamed the cavity tray. The contractor acting for the property factors told the homeowner that if water was still coming in, there was something wrong with the roof. When she asked what was to happen next, the property factors told her that they would withdraw their factoring service and, if she was not happy, she should take her complaint to the Tribunal. The Factoring manager told her, in front of witnesses, that they had wasted £15,000 on repairs to the Property. The homeowner's response had been that if a roofing inspector had inspected the roof in 2016, a great deal of time, hassle and money could have been saved.
3. The homeowner stated that the situation had had a significant effect on her, emotionally, mentally and financially. She had been consistently told by the property factors that the water ingress was caused by her windows, despite pointing out to them on many occasions that the water ingress, as witnessed by one of their inspectors, was present when the old windows were removed and before the new windows were fitted. She had internal damage to her Property, including walls, blinds and tiling which had to be removed in the bathroom and was part of a very expensive renovation project when she purchased the Property.
4. The homeowner stated in her application that she was seeking a full apology from the property factors for the way her complaint has been handled, the way she has been treated and particularly the threatening, aggressive and bullying attitude of one of their property managers, in front of a witness. She wished repayment of £1,200 for unnecessary roughcast work and reimbursement of £1,000 for removal and refit of her windows, along with the cost of decorating and retiling and compensation for the stress, upset and time wasted during this painful process.
5. The homeowner provided the Tribunal with a copy of the property factors' WSS, and several hundred pages of copy correspondence relating to the issues in the applications. This correspondence is too voluminous to summarise in this Decision, but individual emails and documents will be referred to as required. They include all the documents, letters and emails referred to at the Hearing.

6. On 18 September 2023, the property factors made written representations to the Tribunal. They denied any breaches of the Codes of Conduct. It was their view that the water ingress was caused by a combination of factors, as the external fabric of the building was reaching the end of its natural life, with failures in different elements of the fabric occurring at different times in different locations. The aspect they believed to have contributed to the water ingress were deteriorating external roughcast coating on the rear elevation of the building, the installations of replacement windows in the Property, damaged/missing cavity trays at the windows of the Property and the deteriorating condition of the roof of the building.
7. A routine stock condition survey at the Block on 7 September 2016 had identified the building as being in need of refurbishment within the next five years and it was, therefore, added to South Lanarkshire Council's Investment Programme.
8. The property factors' position regarding the water ingress, based on investigations undertaken by South Lanarkshire Council professional and those of an independent Chartered Building Surveyor, was that the original issue of water ingress in December 2016 was caused by defective roughcast, which was replaced. The subsequent water ingress in December 2018 was caused by the incorrect installation of replacement windows in the Property. The property factors acknowledged that the roof, having reached the end of its life, was allowing water to penetrate, but the investigations carried out at the roof found that the volumes entering were not sufficient to be causing the issues experienced in the Property. The flat above, which is directly below the roof, was not experiencing water penetration or dampness. The property factors recognised that the deteriorating condition of the roof from 2019 did increase the volumes of water ingress to the fabric, and they sought agreement from the owners to have a new roof installed, but the owners did not vote in favour on three separate occasions, preventing the necessary work from being carried out for over two years.
9. In response to the homeowner's assertion that a representative of the property factors had advised that the Council had "wasted" over £15,000 on the property, the property factors asked the Tribunal to note that the statement referred to was in response to comments by the Applicant and was a statement that the Council had so far committed £15,000 of resources to the issue, which they had chosen not to recharge to the owners. There was no reference to these resources having been wasted.
10. The property factors provided a Description of Events. They stated that, following a report of water penetration to the windows/cavity of the Property, work was carried out to the windows of the flat above. The contractors noted that areas of roughcast and cement render on the exterior walls and ingoes above the Property had de-bonded and were bossed. The roughcast was renewed. During this work, the cavity was opened at various locations outside the Property and the flat above to check the cavity fill, which was found to be

dry. There was a second report of water penetration at the rear windows of the Property on 10 December 2018. On inspection, it was found that some of the roof tiles were loose/displaced, but the flat above the Property had no water penetration and the sub-structure of the roof was found to be largely dry. As no defects were noted to the external fabric that correlated with the water ingress to the Property, the pipework in the flat above was checked and no leaks were found.

11. In December 2019 there was a third report of water penetration to the Property. A section of roof was stripped of tiles, but the indications were that this was not allowing significant amounts of water to penetrate to the extent reported in the Property. Roof repairs were carried out and the bathroom window of the flat above was removed to allow an inspection of the wall cavity above the Property. The cavity was found to be dry at that location. A water test involving a high-pressure hose was employed to hit areas of the building with water in an attempt to trace the source of the penetration. When the water was directed at the windows of the Property, ingress commenced.
12. It was noted that the windows of the Property had been renewed but had not been traditionally fitted, inside the outer leaf of the cavity wall, as the original windows had been. They had been installed on the outer leaf, between the rendered external window ingoies. The interior had been finished with pvc plates covering the wall cavity and internal brick leaf of the cavity wall. A video submitted by the homeowner had shown a window fitter cutting through the living room cavity tray with a knife, and it was believed that this was exacerbating the water penetration.
13. An external Building Surveyor was then commissioned, and their findings were that the likely cause of water ingress was a combination of the roof condition and the window installation within the Property. The Council then costed roof replacement works but, after consultation, none of the private owners voted in favour, and the works could not be instructed. After a thermal imaging survey and further consultation, the Council as owners of the flat above the Property voted in favour of a roof replacement option, but none of the five private owners, including the homeowner, supported it.
14. Following a suggestion by the homeowner that the cavity might be filling from ground level, the cavity was opened on 18 February 2021 and the cavity fill and internal leaf of the cavity wall were found to be dry.
15. In June 2021, a consultation on a common area fabric upgrade, including a replacement roof, was held, with owners being invited to vote on the necessary fabric upgrade works. None of the five private owners voted in favour.
16. Brown + Wallace, who had prepared the report that led to the various consultations, had recommended that a window of the Property be removed to allow inspection of the cavity. This was done on 3 November 2022, and the

cavity was found to be dry, but parts of the original mineral felt cavity tray were damaged and missing in areas. New cavity closers were installed and the window was re-fitted.

17. A further consultation in September 2022 resulted in four of the private owners voting in favour of the works, and a new roof was installed and completed in March 2023.
18. On 22 December 2023, the homeowner provided responses to the property factors' written representations. She asserted that the external roughcasting work made no difference to the water ingress, which had been present before the installation of the new windows, as was witnessed by the property factors' housing inspector and by (then) Councillor Wardaugh. Historic water ingress had been caused by excessive water collecting at the window heads and not by the position of the new windows. She had repeatedly asked for the roof to be thoroughly checked and noted that there has been no water ingress since the roof was replaced.
19. On 5 and 7 February 2024, the homeowner provided the Tribunal with further information and documentation. This included quotes for removal and replacement of tiling in the bathroom, with one option requiring the removal of all the bathroom fittings and refitting them after tiling, at a cost of £3,820. The estimate for a less invasive retiling job was £380. There was also an estimate for complete redecoration of the lounge (£325). She also appeared to considerably expand the number of Sections of both Codes under which her complaints were made. But no evidence was provided that she had gone through the process required by Section 17(1) of the Act of formally notifying the property factors that she believed they had failed to comply with these additional Sections of the Codes, so they were not further considered by the Tribunal. In a Direction of 27 October 2023, the Tribunal had required the homeowner to lodge a paginated list of evidence lodged, and to detail each breach of the Codes with reference to the paginated list. The Tribunal had not intended that the homeowner be given the opportunity to expand the list of Sections under which the applications were being made, and could not, in any event, consider such expansion without evidence of formal notification to the property factors.

Case Management Discussions

20. Case Management Discussions were held on 27 October 2023 and 8 February 2024. No part of either application was decided at the Case Management Discussions, and, following the second Case Management Discussion, the Tribunal decided to continue the case to a full evidential Hearing.

Hearing

21. An in-person Hearing was held at Glasgow Tribunals Centre on 28 October 2024. The homeowner was present and was represented by Mr Jordan Bird, Lay Representative, Hamilton Citizens Advice Bureau, who was supported by Mr Alan Fraser. The property factors were represented by Ms. Angela McMahon, their Factoring Manager.
22. The homeowner had intended to call her daughter, Kimberley Younger, as a witness, but told the Tribunal that Miss Younger was unable to attend as she had a job interview. She had, however, submitted a written statement. The property factors did not object to its being admitted and the Tribunal agreed that it was in the interests of justice to allow it to be considered, albeit its evidential value would be limited due to the property factors not having the opportunity to cross-examine Miss Younger.
23. In her Statement. Miss Younger said that, in 2016, she had witnessed the removal of all the windows in the Property, as they were being replaced. This revealed that the old windows and frames had been affected by water ingress. This was reported to the property factors and the new windows were installed after they advised that the problem had been fixed. Over the following years, however, this proved not to be the case. Whenever there was heavy rain, the windows would leak, meaning that towels had to be placed on the windowsills and floors directly beneath the windows. These would have to be changed at regular intervals during inclement weather. Internal decoration, such as tiling, plaster and paintwork became damaged, and the homeowner contacted the property factors on many occasions to ask them to investigate the issue and solve it. The property factors attempted this on several occasions, causing disruption and expense to the homeowner and the other owners in the Block. None of their attempts, including forcing the homeowner to remove and reposition her windows, fixed the issue and the property factors refused to acknowledge that the issue was arising from the roof, despite being advised by many parties that this was the case.
24. Miss Younger said that she was in attendance when Mr Jerry Fawbert visited the Property on 26 March 2021 to observe the removal of the windows by Advance Windows prior to having them repositioned. He was incredibly rude from the outset and made it clear this was a waste of his time. During the conversation, he admitted that the property factors had "already wasted £15,000 on repairs." Miss Younger submitted a formal complaint regarding Mr Fawbert's behaviour at the meeting. She had had to remind him several times that her mother was his customer and that his attitude was not acceptable. When he failed to change his manner, Miss Younger asked him to leave, which he did. The joiners from Advance Windows also submitted a complaint about Mr Fawbert's behaviour at the time.
25. Miss Younger described the worry that the issue had caused to the family. By the time the property factors admitted that the roof was leaking, it was too late to try and repair it and the property factors advised that a full refurbishment, including a replacement roof, was required, at huge cost to each resident. The residents

were left with little choice but to agree, despite the unfairness of the situation, and this, in addition to having had needlessly to reposition her windows, had left her even further out of pocket.

26. Mr Bird called, as the first witness for the homeowner, Mr James Wardaugh, who confirmed that he had been a local councillor from 2009 until 2022. He said that the homeowner had telephoned him to say that she had just bought a flat but could not move in as she wanted new windows and the fitter had told her he could not start, as the inside wall was wet. Mr Wardaugh had contacted the Council's Head of Housing, and, after inspection, the Council decided that the cause was cracks in the roughcasting. Mr Wardaugh said that he could see water running into the Property, not just dampness. The roughcasting was fixed and the new windows fitted, but the problem remained. The Council then sent a surveyor, who said the roof space was dry. She could not, however, have inspected the wallhead (eaves), due to the presence of insulation material. The problem lay in the area that she could not have seen. She had not been provided by the property factors with a key to the roof space, which suggested to Mr Wardaugh that her instructions may have been limited to inspecting the windows. The Council then said the new windows had not been properly fitted. They eventually said they would pay for one to be taken out at their expense. The contractor stuck a penknife through the bitumen intended to deflect water from the window and water gushed out of the cavity. The question then was whether the repair or replacement of the roof was required. A programme of refurbishment had begun in East Kilbride, due to the age of many of the flats and, as a result, a lot of repairs had not been carried out in recent years, the Council preferring to wait for refurbishment. In this case, Mr Wardaugh said, it all came down to a failure to maintain the roof.
27. Mr Wardaugh confirmed that he had several discussions with Mr Jerry Fawbert, Head of Factoring, who. He said, could be dogmatic and abrupt in his manner. Mr Wardaugh stated that he had not been particularly involved in the homeowner's complaint of 21 February 2020 to the Chief Executive of the Council, as property factors and that he was not aware of other complaints from other owners in the vicinity. He was referred by Mr Bird to an emailed letter of 11 February 2020 from the Council's Building Services Officer to Mr Stewart Neville and agreed that it confirms the issues to which he had spoken, namely water getting into the cavity from the roof. He was also referred to a report by Brown + Wallace dated 18 November 2020, which had raised issues about the sizing of the windows in the Property and expressed the view that the property factors had used this to brush aside the real cause of the problem, namely the roof.
28. Mr Bird then called his second witness, Mr Derek Lynn, who told the Tribunal that he is a retired chartered quantity surveyor, mainly with a construction company where he had ended up as chairman. He had been involved in the design and build of many developments of social housing. In January 2020, a friend had asked him to look at an issue the homeowner had with water ingress around her windows. He inspected the Property and concluded that the volume of water

involved could only have come from above and not from driven rain coming through the window sealants. In his view, the issue lay with cracked and missing roof tiles and that water was coming down the wallhead bridge roofing felt that was dressed into the gutter. The flat above also had water ingress. His opinion had been set out in a letter to the homeowner of 21 January 2020. Mr Bird referred him to his response to the property factors' written representations. This had been sent in response to the property factors' representations to the Tribunal, in which they had said that at a Microsoft Teams meeting, which Mr Lynn had attended, the homeowner and her representatives suggested that the wall cavity had filled from ground level upwards to the wall head. Mr Lynn stated in evidence that such a scenario would have been absurd and that at no time had the homeowner or Mr Lynn himself suggested it. In his response to the written representations, he had stated that from day one his opinion had been that the water ingress problem was solely attributable to defects on the roof. The problem could have been addressed simply with minor maintenance and isolated repairs to roofing felt, tiles and pointing of ridge tiles. Works to open and inspect the condition of the cavity had been instigated by the Council and, as he had expected, all elements were dry. He told the Tribunal that his opinions were given as a person of skill with 40 years' experience in the design and build of social housing.

29. In cross-examination, Mr Lynn said that he was not aware of any repairs or investigations carried out prior to 2020. He did not agree with the reports of the chartered surveyors. He agreed that Brown + Wallace are highly regarded, but he did not agree with their conclusions. He had been present when the window was taken out and that proved to him that his view was correct. Mr Fawbert kept insisting the problem lay with the plane of the windows. Mr Lynn had suggested to Mr Fawbert that re-bonding and pointing of roof tiles and checking the layers of roofing felt draped into the gutter would have solved the problem, taking two men two days to carry out.
30. The property factors then called their witnesses, the first of whom was Mr Thomas Reid, Building Services Co-ordinator at South Lanarkshire Council, who manages the workforce in the Council's Building Division. He referred first to the homeowner's replacement windows. He said that the building was a double-leaf construction. Windows are meant to be installed in the cavity area, not over the inner or outer leaves, as that would bridge the cavity, which acts as a barrier. Water always gets into cavities, but it would normally evaporate through airflow. The windows in the Property were sitting too far out. He had never seen the original windows, but those in the flats above and below were contained within the cavity. He stated that identifying the source of the water ingress was a process of elimination. Repairs were carried out to areas of bossed roughcast, followed by repairs to ridges, and the windows of the flat above were resealed. After a few unsuccessful repairs, Mr Reid instructed further investigations and it became clear that the roof needed to be replaced.
31. Questioned by the Tribunal. Mr Reid stated that his department is given an annual budget. It is not maintenance-driven. There is planned maintenance plus an investment programme. Apart from emergencies, spending is based on priorities,

especially keeping properties wind and watertight. It is on an “as-required” basis rather than being programmed. There are no individual budgets for blocks or developments. When he inspected the roof, he concluded that it would need replacement, as he stated in his email of 11 February 2020 to Mr Stewart Neville, a copy of which was provided as part of the case papers. In this case, the private owners outnumbered the Council as flat owners, so, whilst there would be grants available, his report would not have given the roof of the Block special priority. He added that no other flats were being affected.

32. In cross-examination, the homeowner told Mr Reid that water was coming in before the windows were replaced and asked why it was not dealt with then. Mr Reid responded that it was not reported at the time. The homeowner put it to him that the original window frames were soaking when they were replaced. Mr Reid pointed out that the dpc seals at the top of the windows were broken and asked why water was not coming in now. The response of the homeowner was that this was because the roof had been replaced. Mr Reid was then referred to an email to the homeowner from Mr Alex Parish, Architect. Housing and Technical Resources Consultancy Services at South Lanarkshire Council, included in the case papers. The email was undated, but was attached to a letter to the homeowner from her MSP, Collette Stevenson, dated 8 March 2023. In that email, Mr Parish stated that, from the account previously provided of a considerable quantity of water coming in at the window heads of the Property, he considered that the most likely reason was water entering the cavity at roof level, finding its way into the cavity at high level and trickling down the cavity, collecting at the window head before coming into the Property. He had inspected the Property on 24 January 2023, when Ailsa contractors formed two openings in the outer leaf of the external wall of the Property and found both the cavity and the inner leaf of masonry to be dry. The external masonry leaf, however, was still damp in places. His view was that the (now, as the roof had by then been replaced) historic water ingress issues were likely caused by excessive water in the external wall cavities collecting at the window heads of the Property, and not by the position of the windows. Mr Reid’s comment on the email was that it did not change his view. The external leaf will always be damp and the cavity would have to have been breached by the positioning of the new windows.
33. The property factors’ second witness was Mr Stewart Neville, the Area maintenance Manager of Property Services for the areas of East Kilbride, Rutherglen and Cambuslang. He has been employed by the Council for 37 years. He stated that analysis of the problem was a process of elimination, with work to mastic above the window and then replacement of bossed roughcast. The cavity was then opened up to look for water ingress. This identified that some roof tiles required to be replaced, and that further roughcast work was needed. The owners in the Block refused two recommendations to carry out the works to the roof and the other elevations. The homeowner’s windows had been fitted incorrectly and her joiner had cut the dpc cavity tray. Mr Reid said that the process he followed when a complaint came to the Factoring Manager was that he would discuss it with Mr Reid and take it to the Factoring Manager who, at the relevant time, was Mr Fawbert. Mr Reid could not comment on what Mr Fawbert then did, but he was then asked to take out one window of the Property. The work was done by a

contractor, but Mr Neville was present on site. Mr Reid was referred to an email of 2 September 2020 from Mr Fawbert to the homeowner and confirmed that he would not have had sight of it. That email, a copy of which is included in the case papers, enclosed a copy of the Brown + Wallace report and repeated that the windows in the Property had been fitted incorrectly and that the window sealant was noted to be excessive, indicating that the windows were undersized. Mr Fawbert also stated that the fact that the roof was found to be at the end of its economical life and that some areas of water penetration had been noted did not correlate with the water penetration to the Property.

34. Mr Neville was then referred to emails between (then) Councillor Wardaugh and Mr Daniel Low of South Lanarkshire Council, expressing his frustration and the continued stress on his constituent (the homeowner). Mr Neville confirmed that he would not have seen that email. He also stated that, having now seen the email from Mr Parish to the homeowner, attached to the letter from her MSP of 8 March 2023, his view was unchanged. The homeowner had shown him a video, taken when the one window had been taken out by the property factors, from which it could be seen that the cavity tray dpc had been breached. Its function would have been to divert any water coming down the cavity.

35. The Parties then made their closing remarks.

36. Mr Bird told the Tribunal that the main issues had been going on for more than 8 years and had been very challenging for the homeowner. There was extensive correspondence with the Council and MSPs, with the complaint having to be escalated to the highest levels within the Council during a period when the homeowner had considerable personal issues. She had complied with every requirement of the Tribunal and had attended all proceedings. Some of the answers from the property factors suggested that "the right hand did not know what the left hand was doing" at the Council.

37. The Codes of Conduct require that repairs and complaints should be dealt with in a timeous manner. There had been a lot of personnel changes at the Council, but no accountability. The homeowner is seeking a letter of apology from the CEO of the property factors, and compensation, as set out in Paragraph 4 of this Decision. She had suggested mediation, but the property factors had told her that would require them to involve their loss adjusters and that would have added more stress and prolonged the process.

38. Mrs McMahon told the Tribunal that she was picking up the complaint as a legacy issue. The repairs were all attended to, but the refusal of the owners to agree to and provide funding for the roof replacement had inevitably caused delays and it had been necessary to await rounds of grant funding. Replies had been issued to all complaints.

39. The homeowner interjected to tell the Tribunal that no grant assistance had been offered. It would only be available for the comprehensive refurbishment of the Block.

Findings of Fact

- i. The homeowner is the proprietor of the property, which is a middle floor flat in a three-storey mixed-tenure Block, Numbers 28-38 Colonsay, East Kilbride. The Block comprises six flats, one of which remains in the ownership of South Lanarkshire Council, as successors to East Kilbride Development Corporation, who built the Block in the 1960s as part of the then New Town of East Kilbride.
- ii. The property factors, in the course of their business, manage the common parts of the block of which the Property forms part. The property factors, therefore, fall within the definition of "property factor" set out in Section 2(1)(a) of the Property Factors (Scotland) Act 2011 ("the Act").
- iii. The property factors were under a duty to comply with the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors from the date of their registration as a Property Factor.
- iv. The property factors are registered on The Scottish Property Factor Register.
- v. The homeowner has notified the property factors in writing as to why she considers that the property factors have breached the Codes of Conduct under the Act.
- vi. The homeowner made applications to the First-tier Tribunal for Scotland Housing and Property Chamber on 17 April 2023, under Section 17(1) of the Act.
- vii. There was an issue of water ingress to the Property before the homeowner replaced the windows. It was identified by the contractors when they began to remove the old windows.
- viii. Water ingress continued after the replacement windows were taken out and refitted, at a cost to the homeowner of £1,000.
- ix. Roof replacement works were carried out and completed in March 2023. Since then, there has been no evidence of further water ingress to the Property.

Reasons for Decision

40. The Tribunal considered carefully all the evidence before it, namely the written representations of both Parties and the oral evidence given at the Hearing. This included several hundred pages of copies of email exchanges between the homeowner and (then) Councillor Wardaugh and between both of them and various officers of South Lanarkshire Council, as property factors. Not every email is referred to in the following statement of Reasons for Decision, but the Tribunal took all of them into account in arriving at its Decision.

41. The Tribunal noted that no evidence had been provided from the contractors instructed to fit the replacement windows as to the condition of the windows that they were removing, but accepted the unchallenged statement of the homeowner's daughter that, in December 2016, she witnessed the removal,

which revealed that water ingress had affected the old windows and frames in such a way that they were very damp and that, as a result, work was stopped to allow an inspection by the property factors. Mr Wardaugh also stated in evidence that he saw water running into the Property before the windows were replaced. Accordingly, the Tribunal determined that there was a problem of water ingress before the homeowner replaced the windows.

42. In their written representations, the property factors confirmed that they received a report of water penetration to a window at the Property on 28 December 2016 and that an inspection, carried out four days later, noted that the sealant around the windows of the flat above (Number 36) was in poor condition. On 23 January 2017, the windows of Number 36 were sealed. Further works to renew bossed roughcast and cement render on the exterior walls and ingoies above the Property were carried out on 31 January 2017, as the trades carrying out the window sealing to the flat above had reported they had de-bonded and bossed. It became apparent that the roughcast problem was more extensive than originally anticipated and on 19 May 2017, the roughcast to the rear elevation was renewed. The property factors stated that, during this work, the cavity was opened at various locations outside Numbers 36 and 32 and it was found to be dry.
43. The homeowner had stated in her application that she was seeking reimbursement of the cost of the replacement roughcast, as it had not resolved the problem with the windows, but the view of the Tribunal was that there was no evidence that the roughcast would not have required replacement in any event.
44. The homeowner replaced the windows, understanding from the property factors that the water ingress problem had been resolved by the works carried out. The issue, however, persisted, and the homeowner reported it to the property factors in December 2017, December 2018 and December 2019.
45. On 11 February 2020, the property factors' Building Services Officer reported that water was clearly dripping down above the inside of each window of the Property and that the rear roof needed to be completely re-done, because its poor condition was causing water to run down the cavity and exit at the first weak point of the building. The report added that the windows of the Property were too far forward and bridging the cavity, explaining why the water always poured into the Property.
46. The homeowner lodged a formal complaint with the property factors' Chief Executive on 21 February 2020. Her complaint was that she had had issues with the water ingress problem for three years and that, after significant dialogue and correspondence over the period, including repairs that were paid for when the problem was diagnosed incorrectly, her Councillor, Mr Wardaugh, had been called to a meeting 8/9 days ago and had been told the property factors had now found the problem and were taking full responsibility for putting it right with all due haste. Since then, she had heard nothing. She explained that when water came in she had to constantly change towels at the windows and that her Property,

which was fully renovated at great cost, was being damaged. She asked the Chief Executive to look into it as a matter of urgency “and bring this whole sorry mess to a satisfactory conclusion”. She referred to an email she had received that day, advising her that the property factors were arranging an independent survey to investigate both the common areas at the Block and her windows, and, on completion of the survey, the property factors would contact her directly with their findings. This, she said, appeared to contradict what had been agreed at the meeting with Councillor Wardaugh.

47. On 24 February 2020, the Administration Officer, Administration and Legal Services, Finance and Corporate Resources, acknowledged receipt of her complaint and stated that it had been passed to Housing and Technical Resources, who would respond in due course. She received no further response and wrote again to the Chief Executive on 10 March 2020. This was acknowledged the following day, with the same response that Housing and Technical Resources would respond in due course. On 12 March 2020, Mr Neville, Building Services Coordinator, Housing and Technical Services, advised the homeowner by email that he had received the report he had been instructed to obtain and was also able to progress with the roof repairs as discussed when they last met. The work would start the following week and Mr Neville was seeking to arrange a time suitable to the homeowner to go over the report. He did not mention the homeowner’s complaint, and the Tribunal did not regard the email as a response to the complaint. Due to COVID-19 restrictions, the meeting could not take place. The view of the Tribunal is that the property factors failed to treat the homeowner’s complaint in line with the Complaints procedure set out in their WSS, which stated that they would issue a response to a Stage 1 complaint within 5 working days.
48. On 23 July 2020, Brown + Wallace, building surveyors, Glasgow, inspected the Property. Their Report is dated 17 August 2020. They noted water ingress through the roof slope to the front elevation, manifesting itself in dampness within the roof void. The ridge tiles were generally in poor condition and their opinion was that the roof had reached the end of its economic lifecycle and its replacement would be required in the short term. They stated that the area of water ingress within the roof void did not correlate with the damp staining observed around the fenestration to the rear elevation. They said that the windows of the Property had been installed incorrectly and were located on the outer leaf of the elevation. They recommended that at least one window be taken out and correctly refitted, at which time a very close inspection of the window aperture could be undertaken along with ascertaining whether cavity closers are present as, if they were absent, it might lead to water ingress internally manifesting itself in a similar manner to the issues currently being exhibited around the rear elevation windows.
49. On 2 September 2020, Mr Jerry Fawbert, Building Services Coordinator (Factoring) sent a copy of the report to the homeowner. He repeated the recommendation that at least one window should be “removed and fitted correctly

in the first instance". He also said that the window sealant was excessive, which indicated the windows were undersized.

50. On 22 October 2020, the company who installed the replacement windows stated, in an email to the homeowner, that all windows were measured correctly and fitted by a fully qualified and experienced window fitter. They had been trading in double glazing for over 20 years and had never been told their windows were the wrong size or fitted incorrectly, nor had they come across their windows letting in water. The silicone they had used was not excessive and it ensured there were no gaps between the frame and the brick/render of the building, making it impossible for water to get through. They stated that they had advised the homeowner that there had been constant water ingress on the original windows, the plywood boxes around them being black, damp and mouldy. The plywood was severely water marked, indicating that the water had been dripping for a long period of time. They were confident that the issue had not been caused by the replacement windows.
51. On 3 November 2020, in response to an enquiry by Councillor Graham Scott, Mr Frank McCafferty, the Head of Property Services, stated that all of the reports received to date indicated that the installation of the homeowner's windows "is the most likely reason for the water ingress to her home." He added that, having written to the owners requesting their approval to renew the roof covering, 4 out of 5 had responded to say they did not wish the works to proceed.
52. In a further report dated 18 November 2020, Brown + Wallace stated that thermographic imaging indicated moisture ingress above the windows to the bathroom, kitchen and lounge, all positioned to the rear elevation and not sheltered from prevailing weather conditions. They commented again on the positioning of the windows and recommended that one window be taken out, to check the presence or absence of a cavity tray.
53. On 23 November 2020, the property factors' Head of Property Services advised the homeowner that they were offering to remove, inspect and re-install one of the windows at no cost to the homeowner.
54. Brown + Wallace re-inspected the Block on 18 February 2021. Through no fault of the homeowner, who was not advised of the inspection in advance, they did not gain access to the Property, but in their report, dated 19 February 2021, they recommended that "In order to address the water ingress experienced at the head of the windows to the subject property we recommend that the roof is replaced and the windows are taken out and re-installed correctly".
55. On 26 March 2021, Advanced Windows, East Kilbride removed and refitted the windows. This was observed by Mr Jerry Fawbert. The homeowner subsequently made a formal complaint, on 29 March 2021 to the property factors regarding his conduct. The window fitters also signed a letter dated 26 March 2021, saying that

they had been shocked at the way Mr Fawbert spoke to the homeowner and that he was completely disinterested and confrontational. The complaint was acknowledged on 30 March 2021 and on the following day, Alison Graham, the Repairs/Home Improve Manager, Property Services Maintenance, confirmed it was being dealt with as a Stage 1 complaint. She apologised for any upset/distress caused to the homeowner and her daughter and confirmed that Mr Fawbert had been interviewed and would have no further involvement with common area repair or maintenance works relating to the Property.

56. On 8 April 2021, the homeowner having stated that she was not satisfied with the response to her complaint, Ms Graham emailed the homeowner to advise the homeowner that her complaint had been escalated to Head of Service, as Stage 2 of the property factors' complaints procedures. Ten minutes later, the homeowner sent a formal complaint about Mr Fawbert to Mr Daniel Lowe, Executive Director, Housing and Technical Resources at South Lanarkshire Council. She said that she was now unwilling to deal with Mr Fawbert and that he was no longer welcome to attend the Property or any meetings regarding the issues with the Property and that there would be a further report with him shortly, regarding the windows and the current situation.
57. On 13 April 2021, Mr Lowe advised Councillor Wardaugh that he had forwarded the documentation provided by the homeowner to Property Services to have it reviewed by Brown + Wallace and that he would feed back further comment. On 30 April 2021, Mr Lowe emailed Councillor Wardaugh and confirmed the Council's view that the roof of the Block was beyond economic repair and that they would be recommending refurbishment work. If the owners did not agree to take this forward, the Council would give consideration as to whether they wished to continue to operate as the factor for the Block. Councillor Wardaugh forwarded the email to the homeowner, who. On 3 May 2021 sought information from Mr Lowe regarding the process, as the work was crucial to her, as she was still suffering water ingress despite refitting the windows at the Council's insistence. This email was acknowledged on 4 May 2021.
58. On 5 May 2021, the property factors' Head of Property Services sent the Stage 2 complaint response to the homeowner. He advised that Mr Fawbert considered that the discussions at the meeting in the Property on 26 March 2021 had been carried out in a professional and cordial manner and did not accept that his discussions with the window fitters had been in any way confrontational. He did, however, accept that the discussion with the homeowner and her daughter had become fractious, and apologised if his action contributed to this. He now understood the level of professionalism expected of council officers when dealing with customers. The property factors did not consider any further actions to be necessary in respect of the complaint and reiterated that they were keen to work with the homeowner to determine the cause of the water ingress and the extent of any repair/upgrading works that were needed to have this resolved. They stated that if she remained dissatisfied, she could make an application to the Tribunal.

59. On 30 March 2021, Advanced Windows had stated in a "To whom it may concern" letter that they had removed and refitted 5 windows at the Property. In their opinion, the windows were not the cause of the water ingress. It appeared that the water was travelling from above down through the cavity.

60. On 25 May 2021, Mr Lowe responded to the homeowner's email of 3 May 2021. He stated that the rendering work carried out in 2017 was a necessary repair and the Council had no plans to reimburse the homeowner for the cost. He said that it was apparent from a review of video footage sent on by the homeowner that the windows were installed in the incorrect position and that, again, the property factors did not intend to reimburse her for this work or for the decoration required as a consequence of it. Brown + Wallace had reviewed the video footage and remained of the opinion that the water ingress was being caused by a defective closer/tray at the window head. Mr Lowe concluded by stating that if the homeowner remained dissatisfied, she could, as set out in the Stage 2 response of 5 May 2021, consider writing to the Tribunal.

61. On 22 July 2021, in response to an email from the homeowner of 2 July 2021, Mr Lowe repeated that the property factors remained of the opinion that the roof was not the primary cause of water ingress to the Property. This had been reinforced by the comments of Brown + Wallace after they reviewed the video footage. They had commented that the cavity tray of one of the windows had clearly been cut by a window fitter and that the property factors were not proposing to undertake any further investigation works. The homeowner responded on 29 July 2021, pointing out that the property factors and Brown + Wallace had clearly stated that the roof was at the end of its life, was unrepairable and required to be replaced. At the property factors' insistence and at significant personal cost she had had all the windows moved, but had still subsequently had water ingress. No cavity tray had been cut. When damp proofing was removed from the bathroom window, water had poured in and, having experienced this, the window fitter simply pierced the damp proofing in the lounge window to allow any water to drain and video footage to be taken. The water ingress had been present when the original windows were in place.

62. The property factors responded on 16 August 2021. They repeated again that, in their opinion, the cause of water ingress was due to "damaged/defective, cavity trays/closers at your windows". They confirmed that, despite having extended the timescales to respond to a consultation in relation to proposed fabric upgrades, only one owner had responded and they had not agreed that the work should proceed. The property factors had sought independent professional advice and had followed through on the recommendations given. Mr Lowe concluded by again signposting the service of the Tribunal.

63. On 16 September 2021, the property factors, in recognition of the failure of a majority of owners to agree to the proposed fabric improvements and the fact that the homeowner had a continuing issue of water penetration, the Council would arrange the removal of one window to carry out a detailed inspection of the cavity

closer/tray, and reinstate the window, all at no cost to the homeowner. It was agreed that this would be done on 3 November 2021. The window was removed on that date, cavity closers were fitted and the window was refitted.

64. After a further consultation with the owners, agreement was reached and a new roof was installed, the work being completed on 31 March 2023.

65. There has been no report of further water ingress since the roof was replaced.

The 2012 Code

66. Section 6.1 states “You must have in place procedures to allow homeowners to notify you of matters requiring repair, maintenance or attention. You must inform homeowners of the progress of this work, including estimated timescales for completion, unless you have agreed with a group of homeowners a cost threshold below which job-specific progress reports are not required. **The Tribunal did not uphold** the complaint under this Section as, whilst the view of the Tribunal, as detailed in Paragraph 74 of this Decision, was that the property factors had wrongly decided that the windows were the sole cause of the water ingress, they had carried out various work and there was no evidence that they had failed to keep the homeowner informed of the progress of the work they had instructed.

67. Section 6.3 states “on request, you must be able to show how and why you appointed contractors, including cases where you decided not to carry out a competitive tendering exercise or to use in-house staff.” No evidence was presented to substantiate this ground of complaint and **the Tribunal did not uphold it.**

68. Section 6.9 states “You must pursue the contractor or supplier to remedy the defects in any inadequate work or service provided. If appropriate, you should obtain a collateral warranty form the contractor.” Again, no evidence was provided and **the Tribunal did not uphold the complaint under this Section.**

69. Section 7.1 states “You must have a clear written complaints resolution procedure which sets out a series of steps, with reasonable timescales linking to those set out in the written statement, which you will follow. This procedure must include how you will handle complaints against contractors.” **The Tribunal did not uphold the complaint under this Section**, for the reasons set out in its Decision relating to Section 7.1 of the 2021 Code (see paragraph 81 of this Decision).

70. Section 7.2 states “When your in-house procedure has been exhausted without resolving the complaint, the final decision should be confirmed with senior management before the homeowner is notified in writing. This letter should also provide details of how the homeowner may apply to the Tribunal”. **The Tribunal**

upheld this complaint under the 2012 Code in relation to the homeowner's formal complaint to the Chief Executive, which began with a letter of 21 February 2020. It did not appear that she/he had ever produced his/her formal response. The complaint was acknowledged on 24 February 2020 and, having received no substantive response, the homeowner sent a chasing email on 10 March 2020. This was acknowledged on the following day. The property factors sent a further email on 12 March 2020, but it made no reference to the complaint itself, and the view of the Tribunal was that its timing was simply coincidental. The Tribunal accepted that efforts were being made by the property factors at the time to progress roof repairs, but they do not appear at any time to have issued a final response to the formal complaint and did not, therefore, advise the homeowner of her right to make an application to the Tribunal. There should have been a clear distinction between answering the complaint and working to resolve the water ingress issue.

71. The homeowner made a second complaint, this time regarding the conduct of Mr Fawbert, on 29 March 2021. It was acknowledged on the following day and on 31 March 2021, the homeowner was advised that it was being treated as a Stage 1 complaint. She was not satisfied with the response and, on 8 April 2021, the property factors told her that it had been escalated to Stage 2 of their complaints process. The issue was confused by the fact that the homeowner, only a few minutes after receiving this email, submitted a further complaint on the same matter to the Executive Director, Housing and Technical Resources, who then emailed Councillor Wardaugh to say he had passed the documentation provided by the homeowner to Housing Services and would respond further in due course. This he did on 30 April 2023 and Councillor Wardaugh forwarded the response to the homeowner. She sought some further clarification on 3 May 2021. On 5 May 2021, the Head of Property Services sent a Stage 2 response to the homeowner, concluding that he did not think any further actions were necessary and signposting her to the Tribunal if she remained dissatisfied.
72. The view of the Tribunal was that, albeit by a process that became confused, the property factors had issued their final response within 20 working days of advising the homeowner that her complaint had been escalated to Stage 2. They had, therefore, not failed to comply with Section 7.2 of the Code in relation to the second complaint.

The 2021 Code

73. **Section 6.1** states: "This section of the Code covers the use of both in-house staff and external contractors by property factors. While it is homeowners' responsibility, and good practice, to keep their property well-maintained, a

property factor can help to prevent further damage or deterioration by seeking to make prompt repairs to a good standard.

74. The view of the homeowner was that the property factors should have had the roof inspected by a qualified roofer at the outset. The Tribunal noted that the property factors' own Building Services Officer, in his report of 11 February 2020, concluded that "the rear roof needs completely re-done due to its age and location, which is getting hit with severe weather most of the year". He commented that the positioning of the replacement windows was such that the water was coming into the homeowner's flat, but the Tribunal's interpretation of the report was that this water was coming from the roof and that was where the principal problem lay. Further, in their written submissions, the property factors accepted that the report by Brown + Wallace following their survey on 23 July 2020 concluded that the likely cause of the water ingress was a combination of the roof condition and the window installation within the Property. The Tribunal agreed with the homeowner's view and held that the property factors had failed to take full account of the fact that the reports presented to them clearly indicated that the condition of the roof was at least a contributory factor to the water ingress in the Property. They insisted that the replacement windows were incorrectly fitted, even after, at the expense of the homeowner, they were taken out and re-fitted, when the evidence indicated that water ingress continued after this work was carried out. They were aware that the roof was in need of replacement but refused to accept that the roof might be the true source of the water ingress. Despite the recommendation of their own Building Services Officer in his report of 11 February 2020, the property factors appear to have determined at a very early stage that the issue lay entirely with the replacement windows, ignoring the evidence that their installation had had to be delayed due to the contractors finding significant water ingress and water damage to frames etc. This is a clear indication that the problem was not caused by a failure to correctly install the replacement windows. As late as 3 March 2023, the property factors' Head of Property Services repeated in a letter to Collette Stevenson MSP the Council's view that "the primary cause of water ingress was caused by the installation of the windows in Mrs Younger's home and that the condition of the original roof was also allowing rainwater to enter the wall cavity".

75. **The view of the Tribunal was that the property factors failed to comply with Section 6.1 of the Code**, as they failed to seek to make prompt repairs to the roof (in this case by replacing it) when it was clear to them that significant work was necessary. They did not impress on the owners that the condition of the roof was causing water ingress to one of the flats in the Block, so, whilst they were recommending replacement, they did not stress the urgency of the situation, because they refused to accept what the homeowner was repeatedly telling them. This continued beyond 16 August 2021 when the 2021 Code came into force.

76. The homeowner also contended that, had the problem been correctly identified in 2016, the roof might have been capable of being repaired rather than, by 2022/23, requiring to be completely replaced. The Tribunal could make a finding to that effect as to do so would be speculative. The property factors had a report

on 11 February 2020, recommending the replacement of the roof, and it would be reasonable to suppose that the condition of the roof worsened between then and March 2023, when it was eventually replaced, but the Tribunal has no way of estimating the extent of any further deterioration and, in any event, the owners in the Block contributed significantly to the delay in replacing the roof, by failing on three occasions to agree to a proposal to do so. In September 2020. The property factors sought, unsuccessfully, agreement to replace the roof. A further consultation began in January 2021, with the three options being to replace the roof, to completely overhaul it or to undertake no works. None of the private owners, including the homeowner, voted in favour of the replacement option. In June/July 2021, only one owner, apart from South Lanarkshire Council themselves as the owner of one flat, responded to a consultation regarding fabric repairs, and that person voted against the proposal. These works would have included a replacement roof.

77. The Tribunal accepted that the property factors could not have forced the five private owners within the Block to agree to replace the roof. Property factors act as agents on behalf of the owners and they tried, unsuccessfully on three occasions, to obtain the necessary majority agreement to substantial works. It was only at the fourth time of asking, in September 2022, that a majority vote was achieved. Accordingly, the property factors could not be responsible for reimbursing the effect on cost of deterioration between September 2020 and March 2023, even if the cost of any such deterioration could be quantified. The crux of the issue is that, whilst they did try to seek agreement to have the roof replaced or at least repaired, they did not approach the matter with the urgency that they should have, and did not stress to the other owners that something had to be done immediately, as the homeowner was suffering water penetration to her flat.

78. **Section 6.2** states “Property factors may also agree, by contract, to instruct that specific maintenance duties are undertaken by specialist contractors on behalf of homeowners which contribute to fire safety. For example, the requirement in fire safety law to maintain any measures provided in communal areas for the protection of firefighters e.g. firelighters lifts, rising fire mains etc. or to ensure that common areas are kept free of combustible items and obstructions.” No evidence was provided in support of the complaint under this Section and **the Tribunal did not uphold it.**

79. **Section 6.6** states “A property factor must have arrangements in place to ensure that a range of options on repair are considered and, where appropriate, recommending the input of professional advice”. The Tribunal found no evidence to support the complaint under this Section and **did not uphold it.**

80. **Section 6.7** states “It is good practice for periodic property visits to be undertaken by suitable qualified/trained staff or contractors and/or a planned programme of cyclical maintenance to be created to ensure that a property is maintained appropriately. If this service is agreed with homeowners, a property factor must ensure that people with appropriate professional expertise are involved in the development of the programme of works”. The homeowner’s complaint was that

the property factors should do periodic property visits with trained staff to ensure the property is maintained. The Tribunal **did not uphold the complaint under this Section**. The Section merely refers to good practice. It does not impose an obligation on property factors.

81. **Section 7.1** states “A property factor must have a written complaints handling procedure. The procedure should be applied consistently and reasonably. It is a requirement of Section 1 of the Code:WSS that the property factor must provide homeowners with a copy of its complaints handling procedure on request. The procedure must include:

- The series of steps through which a complaint must pass and maximum timescales for the progression of the complaint through these steps. Good practice is to have a 2 stage complaints process.
- The complaints process must, at some point, require the homeowner to make their complaint in writing.
- Information on how a homeowner can make an application to the First-tier Tribunal if their complaint remains unresolved when the process has concluded.
- How the property factor will manage complaints from homeowners against contractors or other third parties used by the property factor to deliver services on their behalf.
- Where the property factor provides access to alternative dispute resolution services, information on this”.

82. The Tribunal noted that the property factors’ Complaints Procedure is set out in their Written Statement of Services (“WSS”). It is a two-stage process. At Stage 1, the property factors will issue a response within 5 working days. If a homeowner is not satisfied with the response, they can ask for a further review of the complaint by a member of the senior management team and the response to a Stage 2 complaint will be provided within 20 working days. It states that if the homeowner remains dissatisfied with the property factor’s response, they are entitled to apply to the Tribunal for a determination, but that they must first notify the property factors in writing of the reasons they consider there has been a failure to carry out its duties or failed to comply with the Code. The Procedure does not specifically say how the property factors will manage complaints against contractors or other third parties, but the Tribunal did not regard that as relevant to the present applications but would suggest that the property factors review their procedure to cover such complaints. Accordingly, **the Tribunal did not uphold the complaint under this Section**.

83. Section 7.2 states “When a property factor’s in-house complaints procedure has been exhausted without resolving the complaint, the final decision should be confirmed in writing”. The Tribunal **did not uphold** the complaint under Sectio 7.2, as the homeowner’s complaints pre-dated the coming int force of the 2021 Code on 16 August 2021 and had, therefore, been considered by the Tribunal under the 2012 Code.

84. The Tribunal noted that, in her written representations, the homeowner referred to a number of other Sections of both Codes, which the Tribunal had been unable to consider, as there was no evidence that she had notified the property factors in writing that she believed they had failed to comply with them. The Tribunal's view was that, whilst it could not speculate on whether it would have upheld complaints under those additional Sections, it believed that the issues at the heart of the applications had been fully covered by the Tribunal's Decision.

Property Factor Enforcement Order

85. The Tribunal may only have upheld the complaints under two Sections of the Codes, but that does not in any way minimise the impact on the homeowner of the property factors' failings. She had to endure many years of water ingress, the stress being compounded by intransigence on the part of the property factors, who consistently blamed the water ingress on the replacement windows in the Property, despite the fact that it had occurred before the new windows were installed and the fact that it continued after the windows were taken out again and re-fitted at a cost to the homeowner of £1,000. All the reports they received indicated that the roof was at the end of its life, but they persistently failed to accept that it might be the only or principal or even a contributory cause of the very serious problems with which the homeowner was having to live.

86. The Tribunal's view is that the homeowner suffered actual loss of £1,000. The Tribunal does not consider that the property factors should be required to refund the cost of the reharling of the external wall of the Block, as this was work that might have been necessary in any event. In relation to the decoration and tiling work in the bathroom necessitated by the removal of the window for inspection, the Tribunal decided that it would not be reasonable to expect the property factors to pay for work that involved removing all the bathroom fittings but that it was reasonable to require them to make a contribution to the cost of minor re-tiling and redecoration, as they had assured the homeowner that the removal of the window would be done at no cost to her. The Tribunal considered that a contribution of £250 would be reasonable.

87. The property factors' failings caused the homeowner enormous worry and inconvenience, and the view of the Tribunal was that a Property Factor Enforcement Order requiring the property factors to pay compensation would be appropriate. The Tribunal decided that the sum of £1,000, in addition to the £250 awarded towards the cost of bathroom works, would be fair, reasonable and appropriate in all the circumstances. The Tribunal proposes making a Property Factor Enforcement Order in terms of the Section 19(2)(a) Notice attached to this Decision.

88. The Tribunal's Decision was unanimous.

Right of Appeal

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.



Legal Member

17 December 2024
Date