

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision and statement of reasons on homeowner's application: Property Factors (Scotland) Act 2011, Section 19(1)(a)

Chamber Ref: FTS/HPC/PF/25/1067

Property Address: Flat 20, Main Street,
The Village, East Kilbride,
G74 4JH ("the property")

The Parties Ms Georgia Buchan,
29 Kirktonholme Crescent,
East Kilbride, G74 1BA ("the
applicant")

South Lanarkshire Factoring
Services, Property Services,
Hamilton Business Unit,
Pollock Avenue, Hillhouse,
Hamilton, ML3 9SZ
("the respondent")

Tribunal Members: Mr Mark Thorley (Legal Member)
Mr Robert Buchan (Ordinary Member)

Decision

1. The tribunal determined that the respondent had breached Sections 6.1, 6.4, 6.6 and 7.2 of the Code and accordingly had failed in their property factor's duty, as defined in Section 17(1)(a) of the Act. The tribunal resolved to make a Property Factor Enforcement Order, as set out below.
2. The decision was unanimous.

Background

1. In this decision, the Property Factors (Scotland) Act 2011 is referred to as "the Act". The Property Factors (Scotland) Act 2011 and Code of Conduct for Property Factors is referred to as "the Code" and the First-Tier Tribunal

(Housing and Property Chamber) (Procedure) Regulations 2018, as amended are referred to as “the Regulations”.

2. The respondent is a registered property factor.
3. The applicant applied to the First-Tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) by application dated 10 March 2025.
4. The application was accepted for determination on 10 April 2025. A case management hearing took place on 1 September 2025.
5. At the case management discussion, the applicant attended. There was no appearance by or for the respondent.
6. The respondent was no longer the property factor for the property, with effect from 2 July 2025.
7. The applicant maintained that the respondent had breached the Code, by reference to Sections 6.1, 6.4, 6.6 and 7.2.

Findings in Fact

The tribunal made the following findings in fact:-

1. The applicant is Georgia Buchan. She is a director of GBUCHS Ltd, who own and rent out a property at 20 Main Street, East Kilbride (“the property”). The respondents were the property factors to that property. The respondent has provided to the applicant a written statement of services.
2. An initial report of water ingress was made to the respondents on 24 February 2022. The respondents indicated by email on 15 March 2022 that they would contact direct works department to request that the works be undertaken.
3. A further notification was made by the applicant to the respondent on 9 August 2022, in connection with continued water ingress to both the living room and bedroom of the property.
4. On 9 January 2023, the respondents indicated that a technical officer would investigate and a request was made for an update on the outstanding work.
5. On 31 January 2023, the applicant made a further request for an update on the progress.
6. On 3 February 2023, an email was sent by the applicant indicating that this was a second complaint regarding the same ongoing issue.

7. On 6 May 2023, the applicant reported there was still water ingress. The words “formal complaint” were not written on the email.
8. On 10 May 2023, an email was received by the applicant, indicating that their email had been received and was forwarded to the chargehand.
9. On 13 August 2023, the applicant emailed the respondent, querying the invoices for work that would address the water ingress, as the problem remained ongoing.
10. On 16 August 2023, the respondent emailed providing factoring breakdown charges for various works to the roof and requesting access for a technical officer to visit the property.
11. On 17 August, the respondent’s technical officer met with the applicant’s stepfather. A further email was received that day, indicating that the repair was successful.
12. On 22 November 2023, the applicant visited the respondent’s office to report recurring damp and mould problems.
13. On 27 November, the respondent emailed, indicating that scaffolding was to be erected to investigate the issue.
14. On 12 February 2024, the applicant requested an update from the respondents. The applicant was clear that this was not a new issue, but an ongoing problem.
15. The applicant involved Environmental Health, who contacted the respondents to confirm large areas of dampness and mould within the property.
16. In November 2024, the applicant contacted Environmental Health regarding an update. By this stage, the applicant’s position was that the water ingress had failed to have been repaired over a period of two years and five months.
17. On 21 September 2024, the applicant emailed the respondent, indicating that the complaint was formal.
18. On 6 October 2024, the applicant emailed the respondent with a civil engineer’s report and requesting to see reports of work undertaken in previous years to address water ingress.
19. On 5 November 2024, the applicant emailed the respondent to say she was dissatisfied with their response, as it was out of time, and requesting that the complaint be escalated to Stage 2.

20. On 6th November 2024, the respondent advised the applicant that they would refund the cost of the unsuccessful repairs carried out by way of credit to the applicant's account. This sum amounted to £798.81
21. On 21 November 2024, the applicant received a response from the respondents, which provided an apology for the length of time that matters had taken, due to staffing issues. It was further indicated that repairs recommended by an architect would be progressed and short-term repairs would be undertaken.
22. On 10 December 2024, the respondents indicated that work had not been completed.
23. As far as the applicant is concerned, none of the issues arising from both repairs, nor indeed her complaint, have been resolved.

Section 6: Carrying out repairs and maintenance

- 6.1: This section of the Code covers the use of both in-house staff and external contractors by property factors. While it is homeowner's 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.

As has been narrated in the findings in fact, it is the applicant's position that prompt repairs simply have not been made, nor to a good standard. There is a lengthy history, from the outset of contact being made with the respondent in February 2022, and the work still being incomplete, certainly as far as February 2024 was concerned. This was the time when Environmental Health identified large areas of dampness and mould. The applicant still remains unclear as to whether the work identified has in fact been undertaken. In order to get any understanding of what had taken place, the applicant was forced to continuously contact the respondent.

The respondent, by letter dated 21 November 2024, seems to acknowledge to the applicant that "firstly, I would like to offer our apologies for the length of time it has taken for us to survey your property to allow the issues to be progressed and ultimately repaired. This was due to an oversight on our part, largely due to staffing issues".

The tribunal concludes that this section of the Code has been breached.

- 6.4: Where a property factor arranges inspections or repairs, this must be done in an appropriate timescale and homeowners informed of the progress of this work, including estimated timescales for completion, unless they have agreed with the group of homeowners a cost threshold below which job-specific progress works are not required. Where work is cancelled, homeowners should

be made aware in a reasonable timescale and information given on next steps, what will happen to any money collected to fund the works.

Again, the timeline, as set out in the findings in fact, establishes that the applicant was certainly not informed of the progress of any works that were being undertaken. Indeed, the applicant had to chase the respondent to establish the work being completed. The respondent sets out that repairs were completed by 16 January 2025. If this was the case, they had taken almost three years to complete. The file of papers produced by the applicant discloses continuous attempts by her to understand progress.

In this case, the applicant was not made aware of a reasonable timescale and information given on next steps.

The tribunal concludes that this section of the Code has been breached.

- 6.6: A property factor must have arrangements in place to ensure that a range of options on repair are considered and, where appropriate, recommend the input of professional advice. The cost of the repair or maintenance must be balanced with other factors, such as likely quality and longevity and the property factor must be able to demonstrate how and why they appointed contractors, including cases where they have decided not to carry out a competitive tendering exercise or use in-house staff. This information must be available if requested by a homeowner.

Again, as narrated within the findings in fact, the homeowner was simply not provided with information to enable her to be fully conversant with what was going on in relation to the repairs. Any information obtained had to be chased by her.

Again, the tribunal concludes that the respondent has breached this section of the Code.

- 7.2: When a property factor's in-house complaints procedure has been exhausted without resolving the complaint, the final decision should be confirmed in writing.

As far as the applicant is concerned, this simply has not happened. Although the respondent wrote to the applicant on 12 February 2025, the applicant did not believe that this resolved her complaint. The applicant wrote requesting further information. As far as the applicant was concerned, the complaint was not at an end.

The tribunal concludes that this head of the complaint is upheld.

Property Factor Enforcement Order

1. Having considered that breaches of the Code of Conduct have been established, we consider an appropriate remedy.
2. Proposed Property Factor Enforcement Order: The respondents are no longer factors to the property. Accordingly, seeking to enforce anything apart from an order for payment is not possible.
3. The applicant has been significantly inconvenienced as a result of the amount of work. She has had to undertake to progress repairs to the property.
4. She has had to redecorate the property, which she did, along with her stepfather.
5. Her stepfather provided her with a report in relation to the state of the property.
6. Section 19(2)(a) of the Property Factors (Scotland) Act 2011 Act requires the Tribunal to give notice of any proposed Property Factor Enforcement Order to the respondent and allow parties an opportunity to make representations to the Tribunal.
7. In all the circumstances, having regard to the losses and the stress-related inconvenience suffered by the applicant, the Tribunal proposes to make the following order :-
8. "A sum of Two Thousand Pounds (£2000) to be paid by the respondent to the applicant within twenty eight days of the date of the order."

The intimation of this decision to the parties should be taken as notice for the purpose of Section 19(2)(a) of the 2011 Act and the parties are hereby given notice that should they wish to make any written representations to the proposed order that they must lodge with the Tribunal within 14 days of the date of this decision. If no representations are received then the Tribunal will proceed to make the order proposed. If representations are received, they will be considered by the Tribunal prior to the making of any order

A copy of the proposed PFEO is contained in the accompanying notice under Section 19(2)(a) of the Act.

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 a First-

Tier Tribunal. That party must seek permission to appeal within seven days of the date the decision was sent to them.

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a long horizontal stroke at the bottom.

Signed:

Date: 1 September 2025

Chairman: Mark Thorley