

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision

Section 17 and 19 (3) of the Property Factors (Scotland) Act 2011 (“the Act”) and the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors.

Reference number: FTS/HPC/PF/25/2804

Re: 18 King Street, Aberdeen AB24 5AX (“the Property”)

The Parties:

Mr Mark Brankin (“the Applicant”)

**Mrs Cheryl Brankin
 (“the Applicant’s Representative”)**

**Newton Property Management Limited
 (“the Respondent”)**

Tribunal Members:

Martin J. McAllister, Solicitor, (Legal Member)

**Peter McEachran, Chartered Surveyor, (Ordinary Member)
 (the “tribunal”)**

Decision

I) The Respondent has breached the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors 2021.

II) The tribunal makes a property factor enforcement order in the following terms: The Respondent will provide an undertaking that it will communicate effectively with the Applicant in relation to the programme of works to be carried out on the tenement building at 18 King Street, Aberdeen, AB24 5AX, and ensure that regular updates with regard to progress of any grant application(s) and interaction with contractors engaged in the repairs. The Respondent will also provide an undertaking that it will do all within its power to ensure that the said works are progressed in an efficient and proper manner. The undertakings will require to be provided within fifteen days of service of the property factors enforcement order on the Respondent.

Background

1. This decision should be read alongside the decision of the Tribunal dated 2 June 2026.
2. This is an application by Mr Mark Brankin in respect of the property which he owns. It is in connection with the Respondent's acting as a property factor. The application is in terms of Section 17 of the Property Factors (Scotland) Act 2011 (the 2011 Act) and alleged breaches of the Property Factors (Scotland) Act 2011 Code of Conduct. The application also states that the Applicant considers that the Property Factor has not carried out the property factor's duties in terms of the Act. The applications were accepted by the Tribunal for determination on 11 August 2025. The application was accompanied by a number of documents.
3. A hearing was held at Aberdeen Sheriff Court on 21 May 2026.
4. Following the hearing, a decision and a proposed property factor enforcement order (PFEO) were issued, both dated 2 June 2026.
5. In terms of section 19 (2) (a) of the 2011 Act, parties were invited to make representations on the proposed PFEO.
6. The Applicant made no representations on the proposed PFEO but, on 16 June 2026, he made an application for review of the Tribunal's decision in terms of Rule 39 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Tribunal rejected the application as being completely without merit.
7. Following upon the application for review, the Applicant was asked again if he wanted to make representations on the proposed PFEO. No response was received.
8. Although the Applicant has not given a formal response to the request for representations on the proposed PFEO, the tribunal considered it would be fair to consider if he had included in the application for review any information on his views on the proposed PFEO.
9. The application for review included a number of matters not pertinent to the proposed PFEO. What was relevant was that the Applicant considered that there should be timeframes for commencement of works to the tenement in which the Property is situated, and that account should have been taken of the "blatant delays" of the property factor.
10. The Respondent made written representations on the proposed PFEO on 23 June 2026.

11. The Respondent stated the following:

“The Respondent hereby provides a formal undertaking that it will communicate effectively with the Applicant in relation to the programme of works to be carried out at the tenement building known as 18 King Street, Aberdeen, AB24 5AX.

In particular, the Respondent undertakes to:

- *Provide clear, timely and regular updates to the Applicant regarding the progress of any proposed or ongoing works to the property;*
- *Keep the Applicant fully informed in respect of the progress of any grant application(s), including submissions, outcomes, and any associated requirements;*
- *Maintain appropriate communication with contractors engaged in relation to the works and provide updates to the Applicant on such interactions, including commencement dates, and any delays arising; and*
- *Respond to reasonable enquiries from the Applicant within an appropriate and timely manner.*

The Respondent further undertakes that it will do all within its power to ensure that the said works are progressed in an efficient, timely, and proper manner, having regard to all relevant obligations and standards expected in the management of the property.”

Discussion and Determination

12. Section 19 (3) of the Act:

If the First-tier Tribunal is satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the First-tier Tribunal must make a property factor enforcement order.

13. The tribunal confirmed its original decision that the Respondent had failed to comply with the Code.

14. The tribunal noted the concerns of the Applicant with regard to trying to have timeframes for repairs and for the Respondent made to abide to such timeframes. For the reasons outlined in its decision of 2 June 2026, the tribunal determined that it could not include this in a PFEO. Because of the need to have agreement amongst all proprietors in the tenement and the involvement of the Council in respect of a grant application and also the interaction with contractors, it would not be possible to set out timeframes for the works to be done.

15. Having considered the representations of the parties, the tribunal determined that there was nothing to persuade it that there should be a departure from the terms

of the proposed PFEO which it had issued. It noted that the terms of the undertaking given by the Respondent went further than the proposed PFEO, and that this included reference to an application for a grant from the Council. It is to be hoped that this should give some comfort to the Applicant and reassurance to him that the Applicant has undertaken to do certain things which should hopefully lead to stringent compliance with the Code.

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.

**Martin J. McAllister,
Legal Member
27 July 2026**