



Written Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 19 of the Property Factors (Scotland) Act 2011 (“the 2011 Act”)

Reference number: FTS/HPC/PF/25/5283 and FTS/HPC/PF/25/5284

Re: Properties at Flat 2/1 and Flat 3/2, 164 St Andrews Road, Glasgow, G41 1PG (“the Property”)

The Parties:

Mr Surjit Chowdhary, 47 Aytoun Road, Glasgow, G41 5HW (“the Homeowner”)

James Gibb Property Management Ltd, Red Tree Magenta, 3rd Floor, 270 Glasgow Road, Glasgow, G73 1UZ (“the Property Factor”)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Property Factor has complied with the Section 14 duty in terms of the Act.

Background

- 1 This is an application under rule 43 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 17 of the 2011 Act. The Homeowner sought a determination that the Property Factor had failed to comply with the Code of Conduct for Property Factors and the property factor’s duties. The application referred to two properties owned by the Homeowner therefore the application has been given two reference numbers.
- 2 The Homeowner stated that the Property Factor had breached the Overarching Standards of Practice (“OSP”) 1, 2, 3 and 4, and Sections 1, 2.2 and 2.8 of the Code. The Homeowner also alleged that the Property Factor had breached their property factor’s duties in terms of compliance with the Written Statement of Services. In summary, the Homeowner’s complaint was founded upon an alleged data breach by the Property Factor and transfer of management duties to another company, inclusion of the wrong registration details on communications and abuse by the Property Factor of their dominant market position.
- 3 The application was accepted as valid and referred to a tribunal for determination. A case management discussion (“CMD”) was scheduled to take

place on 26 August 2026 at 10am. The Tribunal administration gave notice to the parties of the CMD under Rule 17(2) of the Rules.

- 4 On 4 August 2026 the Property Factor submitted written submissions in response to the application to the Tribunal administration. On 17 August 2026 the Property Factor confirmed in writing that they wished to rely upon their written submissions and would not attend the CMD.
- 5 On 20 August 2026 the Homeowner submitted written submissions to the Tribunal administration.

The CMD

- 6 The CMD took place on 26 August 2026 at 10am by teleconference. The Homeowner joined the call and was represented by Miss Nicola Rolland. The Property Factor was not represented. The tribunal noted they had confirmed their intent to rely upon their written representations and therefore determined to proceed in their absence.
- 7 The tribunal explained the purpose of the CMD and proceeded to hear submissions from Miss Rolland on the application, with input from the Homeowner at appropriate points. The following is a summary of the key elements of the submissions on each part of the Homeowner's complaint.

Data breach

- 8 The Homeowner's position is that the Property Factor breached data protection legislation by disclosing his personal information to an employee of Speirs Gumley, a separate entity to the Property Factor. Miss Rolland explained that the Homeowner has other properties that are factored by Speirs Gumley. He has previously been taken to court by that factor for sums he does not believe are due. Mediation had found in his favour. The Homeowner is therefore not keen for Speirs Gumley to have his information. He does not want their influence to pass over to his other properties where they are not the factor.
- 9 In response to questions from the tribunal, Miss Rolland advised that a complaint had been made to the Information Commissioners Office ("ICO") regarding the data breach but they had found against the Homeowner. Miss Rolland does not believe the ICO fully investigated the issues, such as the fact that the Property Factor and Speirs Gumley are two separate entities. There were elements of the case that the ICO would not have taken into consideration. Miss Rolland referred to her own personal experience with the Property Factor in which an employee of the company had advised her that the Property Factor and Speirs Gumley were not connected in any way and did not share resources. This was at odds with what had happened in the Homeowner's case.
- 10 The tribunal explained that it appeared from the case papers that the issue was with an individual who had been authorised by the Property Factor to carry out

duties, rather than Speirs Gumley, the legal entity, taking over the factoring for the properties. Miss Rolland explained that the individual would still be subject to data protection legislation. That gave rise to issues with the ICO registration for the Property Factor. The individual in this case has a history with the Homeowner which should be taken into account. Miss Rolland also referred to the requirement for formal secondment arrangements to be put in place and the absence of any evidence of this from the Property Factor. If the Homeowner required to complain about the individual, it was unclear as to where the complaint should be directed. Where individuals were working across the two entities, there required to be clear information as to what the arrangements are. Miss Rolland also referred to the HMRC requirements that would apply to employers in such situations.

Email communication with wrong factor registration number

- 11 The Homeowner's position is that the Property Factor sent him correspondence with a Speirs Gumley email signature and registration number. Miss Rolland had nothing further to add to the written submissions on this point.

Abuse of dominant market position

- 12 The tribunal explained that it could only look at whether the Property Factor's conduct had breached the Code of Conduct. It did not have any jurisdiction to consider matters of competition law. Miss Rolland explained that the Homeowner owns many properties across Glasgow. He is under the belief that he can choose his property factor but with the factoring companies merging, as in this case, that was becoming less likely. The Homeowner had serious concerns about the Property Factor's umbrella company's expansion into the market, particularly given their treatment of him.
- 13 The tribunal asked Miss Rolland to confirm which section of the Code she believed had been breached by the Factor in their umbrella company's acquisition of Speirs Gumley. Miss Rolland referred to OSP4. She believes homeowners have been misled into thinking that they have different options in terms of the two separate entities of the Property Factor and Speirs Gumley, when they are in fact working together as one. That was misleading.
- 14 The tribunal advised that it would be helpful for the Homeowner to confirm the position regarding the ICO complaint. Miss Rolland advised that, having considered matters further, she was unclear as to whether the complaint she had made on behalf of the Homeowner was related to this case. She would investigate further and revert to the tribunal.
- 15 Both Miss Rolland and the Homeowner confirmed that they would be content for the tribunal to proceed to a decision on the written submissions thereafter in the absence of a hearing.
- 16 The tribunal therefore determined to adjourn the CMD and issue a Direction requiring the Homeowner to confirm the position regarding his ICO complaint. Both parties were also given the opportunity to make any further written

submissions they wished the tribunal to take into account in its determination of the application.

- 17 Following the CMD, the tribunal received further written submissions from both the Homeowner and the Property Factor. In his submission of 27 August 2026 the Homeowner has sought to introduce a new issue relating to insurance premiums. The tribunal is unable to consider this as it was not included in the original complaint.

Findings in fact

- 18 The Homeowner is the registered owner of the properties at Flat 2/1 and Flat 3/2, 164 St Andrews Road, Glasgow.
- 19 The Property Factor is the appointed factor for the development to which the Homeowner's properties form part.
- 20 The Property Factor is a limited company. The limited company is a subsidiary of the parent company Strathspey Capital.
- 21 In June 2023 Strathspey Capital acquired Speirs Gumley, a registered property factor. The Property Factor advised homeowners of the acquisition by way of a newsletter issued in the autumn of 2023.
- 22 In spring 2024, the Property Factor provided a further update on the aforementioned acquisition in its newsletter to homeowners.
- 23 The Property Factor continued to be the appointed factor for the development following Strathspey Capital's acquisition of Speirs Gumley.
- 24 On 20 October 2025, Ross Moffat wrote to the Homeowner outlining maintenance issues at the development following complaints from homeowners regarding the Property Factor's service provision.
- 25 Ross Moffat is employed as an Associate Director of Speirs Gumley. Ross Moffat was engaged by the Property Factor to address the homeowners' complaints.
- 26 On 28 October 2025 and 4 November 2025 Ross Moffat wrote to the Homeowner inviting him to an owners meeting. On 19 November 2025 Ross Moffat wrote to the Homeowner with a note of the meeting and action points.
- 27 On 6 November 2025 the Homeowner submitted a complaint to the Property Factor regarding the disclosure of his personal information to Speirs Gumley.
- 28 On 10 November 2025, Mr Iain Friel provided a response to the Homeowner's complaint. Mr Iain Friel is a managing director of the Property Factor and Speirs Gumley. The response confirmed that the Property Factor continued to be the

appointed factor for the development and that no personal information had been shared outwith the Property Factor. It confirmed that Mr Ross Moffat had been authorised by Mr Friel by way of an internal secondment to assist and resolve client complaints within the Property Factor. It explained that was the reason why responses may have been submitted with a Speirs Gumley profile.

- 29 The Property Factor has a data protection policy. The policy states that a homeowner's personal information may be shared with service providers, business partners, and other organisations and businesses who provide services to the Property Factor for the purpose of managing the services provided and performing services and internal processes.

Reasons for decision

- 30 The tribunal considered carefully all evidence and documentation before it in reaching its decision, whether referenced or not in this decision. The documents are incorporated herein and referred to in the tribunal's findings in fact. The tribunal considered it could proceed to a decision in the absence of a hearing as it had sufficient information to do so and both parties had confirmed their agreement with this.
- 31 Section 2 of the 2011 Act defines "property factor" for the purposes of the 2011 Act and the Code. The tribunal was satisfied that the Property Factor meets the definition of a property factor, having confirmed that they are a registered property factor. The Property Factor did not dispute this.
- 32 Section 17(2) of the 2011 Act requires a homeowner to notify the property factor in writing as to why the homeowner considers that the property factor has failed to comply with the Code prior to making an application to the tribunal. The tribunal determined based on the correspondence produced by the Homeowner that he had notified the Property Factor of his complaint prior to making this application. Again, the Property Factor did not seek to dispute this.
- 33 The tribunal carefully considered the sections of the Code in the application that the Homeowner claims to have been breached by the Property Factor.

OSP1. You must conduct your business in a way that complies with all relevant legislation.

Section 2 – Communication and Consultation

2.2 - Factors are required to comply with current data protection legislation when handling their client's personal data, and to ensure that this information is held and used safely and appropriately.

- 34 The Homeowner's position is that the Property Factor breached the General Data Protection Regulations ("GDPR") by disclosing his personal information to an employee of another company. The Homeowner has indicated that a complaint has been made to the Information Commissioner's Office ("ICO"). The ICO rejected the Homeowner's complaint.

- 35 The tribunal can identify no basis upon which it would disagree with the decision of the ICO. The Homeowner's data was shared with a third party authorised by the Property Factor to assist in addressing complaints regarding service provision from the Homeowner. Regardless of which email account was being used, the communication from Mr Friel was clear in that Mr Moffat was acting on behalf of the Property Factor, not in the course of his employment with Speirs Gumley. The Property Factor's data protection policy confirms that a homeowner's personal information may be shared with third parties for the purpose of managing service delivery. Accordingly, that suggests that the Property Factor may bring in resources from business partners if considered necessary. This may naturally lead to information being shared with email accounts out with the organisation. The tribunal was not persuaded by the Homeowner's argument that this would cause issues with the Property Factor's ICO registration. The Homeowner would be entitled to pursue a complaint to the ICO, whether that involved the handling of data by the Property Factor or by those acting on their behalf.
- 36 The tribunal is of the view that is a matter for the Property Factor as to how they discharge their duties in terms of allocation of resources, including relying upon resources within the wider corporate group structure where appropriate. The Homeowner has clearly had difficulties with Speirs Gumley in the past. Whilst the tribunal can understand why the Homeowner would have been unhappy at receiving correspondence from an individual who he had previously had dealings with it appears that the Homeowner's previous experience with the individual concerned may have coloured his view of the situation. Although that is understandable, the tribunal did not find that the Property Factor had breached OSP1 and Section 2.2 of the Code.

OSP2. You must be honest, open, transparent and fair in your dealings with homeowners

- 37 The Homeowner's position is that the Property Factor has misled owners into believing that there is competition in the market and choice between the Property Factor and Speirs Gumley when in fact they are the same entity. The evidence before the tribunal did not suggest there had been any intent by the Property Factor to hide this from homeowners. The tribunal had particular regard to the newsletters in which details of the acquisition of Speirs Gumley were communicated. What impact that may have in terms of market competition is not a matter for the tribunal in determining compliance with the Code. The tribunal takes the view that any consideration of corporate structures and market forces goes far beyond the tribunal's jurisdiction in terms of consideration of the section 14 duty under the 2011 Act. As such the tribunal found no breach of OSP2.

OSP3. You must provide information in a clear and easily accessible way.

- 38 As previously stated, the tribunal had evidence that the Strathspey Capital's acquisition of Speirs Gumley had been communicated to the Homeowner in the newsletters produced. Furthermore, upon querying the involvement of Speirs

Gumley, the Homeowner was provided with a clear response from the Property Factor as to the nature of the individual's involvement in addressing issues that had arisen at the Homeowner's development. The Homeowner was therefore made aware that the Property Factor continued to be the appointed factor for the development. The tribunal therefore found no breach of OSP3.

OSP4. You must not provide information that is deliberately or negligently misleading or false

- 39 The tribunal found no evidence that the Property Factor had provided information to the Homeowner that was deliberately misleading or false. The Homeowner has made reference to emails being sent to him with a Speirs Gumley signature. He has suggested that he should be provided with the relevant HR documentation authorising Mr Moffat to carry out duties on behalf of the Property Factor. It is the view of the tribunal that requiring a Property Factor to provide such documentation goes far beyond what is required of the section 14 duty. The Homeowner was made aware of the nature of Mr Moffat's involvement. He was advised that his factor remained the same. He was told that Mr Moffat's involvement was authorised by Mr Friel. He could reasonably assume therefore that any complaints he had regarding Mr Moffat's conduct could be directed to Mr Friel. Again, the tribunal considers that the Homeowner's experience with Mr Moffat has perhaps led him to view the situation through a different lens than he would have had the individual been previously unknown to him. The tribunal therefore found no breach of OSP4.

Section 1 – Written Statement of Services

1.2 Any changes must be clearly indicated on the revised WSS issued or separately noted in a 'summary of changes' document attached to the revised version;

1.5 The WSS must make specific reference to any relevant legislation and must set out the following:

A. Authority to Act

(1) a statement of the basis of the authority the property factor has to act on behalf of all the homeowners in the group³. Property factors operating under a custom and practice arrangement with no formal appointment should clearly indicate this arrangement to homeowners in the WSS. Where this is the case, homeowners and property factors may wish to consider formalising their appointment.

(2) where the property factor has purchased the assets of another property factor, a clear statement confirming whether the property factor has taken on the outstanding liabilities of the previous property factor, and any other implications of the takeover for homeowners;

- 40 The tribunal accepted based on the evidence before it that the Property Factor did not purchase the assets of Speirs Gumley. The Property Factor is a separate limited company, albeit part of the same corporate group. There was therefore no requirement to make any changes to the WSS. There was no change to the appointed factor for the development, nor the Property Factor's

authority to act. The tribunal therefore found no breach of these sections of the Code.

Section 2 – Communications and Consultation

2.8 A property factor must take all reasonable steps to ensure that their property factor registered number is included in any document sent to a homeowner.

- 41 The tribunal accepted that the Homeowner may have received emails that included the property factor registration number for Speirs Gumley as opposed to the Property Factor. However, following his initial complaint, the Homeowner was made aware of the arrangements by Mr Friel and was explicitly told that the Property Factor continued to be the appointed factor for the development. The tribunal therefore determined that the use of a Speirs Gumley email on occasion was not sufficient to amount to a breach of the Code.
- 42 The tribunal therefore concluded that the Property Factor had complied with the section 14 duty under the 2011 Act.
- 43 The decision of the tribunal was unanimous.

Right of Appeal

In terms of Section 46 of the Tribunal (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.