Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) (formerly the Homeowner Housing Panel) issued under Section 26 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules)' in an application under section 17 of the Property Factors (Scotland) Act 2011 ('The Act').

Chamber Ref:FTS/HPC/PF/24/3738, FTS/HPC/PF/24/3739, FTS/HPC/PF/24/3742, FTS/HPC/PF/24/3743, FTS/HPC/PF/24/3749, FTS/HPC/PF/24/3750 and FTS/HPC/PF/24/3751.

11H Hanover Court, Glasgow, G1 2BG ('the Property')

Stephen McLarty, 48 West George Street, Glasgow, G12 BP('the Homeowner and Applicant')

Speirs Gumley Property Management Limited ('the Factor and Respondent')

Tribunal members:

Jacqui Taylor (Chairperson) and Mary Lyden (Ordinary Member).

Background

1. The Homeowner had been heritable proprietor of the property ('the Property').

2. Speirs Gumley Property Management Limited are registered factors of the Property.

3. The Homeowner submitted seven C2 applications to the Tribunal.

4. By email dated 11th October 2026 he advised that he was withdrawing two of the applications FTS/HPC/PF/24/3743 and FTS/HPC/PF/24/3749. The email dated 11th October 2026 also clarified the sections of the Property Factor Code of Conduct 2021 that were the subject of his application. The Factor confirmed to the Tribunal by email dated 12th October 2026 that they did not require additional time to consider and respond to the Homeowner's email dated 11th October 2026.

5. In terms of the remaining five applications the Homeowner applied to the Tribunal for a determination that the Property Factor had failed to comply with specified sections of the Property Factor Code of Conduct 2021, as follows:

C2 application FTS/HPC/PF/24/3738: Increase in pest control traps.

Sections 2.4; 2.6; 2.7; 3.4; 6.9; 6.10 and 6.11 of the 2021 Code of Conduct.

C2 application FTS/HPC/PF/24/3739 dated 13th August 2024: Landscaping works. Plant species that was used in restructuring of landscaping. Most of the species failed.

Sections 2.6; 3.4 and 6.7 of the 2021 Code of Conduct.

C2 application FTS/HPC/PF/24/3742 dated 13th August 2024: Inaccurate invoices.

C2 application FTS/HPC/PF/24/3750 dated 13th August 2024: Bulk Uplift. The Factor arranges bulk uplifts that should be the responsibility of the council.

Sections OSP 5; OSP6; 2.6 and 2.7 of the 2021 Code of Conduct.

C2 application FTS/HPC/PF/24/3751 dated 13th August 2024: Legal action the Factor raised against the Homeowner in September 2021 and legal expenses of £217.50.

Sections OSP 2; 2.1; 4.1; 4.2; 4.3; 4.6 and 4.9 of the 2021 Code of Conduct.

6. By Notices of Acceptance by Martin McAllister, Convener of the Tribunal, dated 16th September 2026 he intimated that he had decided to refer the applications (which application paperwork comprises documents received between 16th August 2024 and 2nd September 2024) to a Tribunal.

7. Case Management Discussion (CMD).

7.1 A Case Management Discussion was held on 23rd May 2025 before different Tribunal members.

7.2 Following the CMD the Homeowner sent the Tribunal seven revised letters of notification he had sent to the Factor dated 6th July 2025.

8. Hearing.

An inperson hearing took place in respect of the application at the Glasgow Tribunal Centre at 10am on 19th October 2026.

Stephen McLarty, the Homeowner, attended. The Factor did not attend and was not represented. The Factor had sent the Tribunal an email dated 12th October 2026 which stated that they were not going to attend the hearing. The Tribunal were satisfied that the Factor had been notified of the hearing and that the terms of Procedure Rule 29 had been satisfied and proceeded with the hearing in the absence of the Factor.

8.1At the start of the hearing the Homeowner confirmed the following factual information:

8.1.1The Homeowner had purchased the Property in 1982 from the original developer Barratt Glasgow Limited.

8.1.2 The Factor was the original factor of the development and had been appointed by the developer.

8.1.3 The Property is a one bedroom flatted property.

8.1.4There are 60 Flats in the development and seven separate blocks.

8.1.5 There has not been a Residents Association of the development since the mid 1980's.

8.1.6 All of his complaints relate to the 2021 Factors Code of Conduct.

8.2 The Homeowner withdrew application number FTS/HPC/PF/24/3742.

8.3 The detail of the main points of the Homeowner's application and the Homeowner's oral and written representations in relation to the detailed complaints and the Factor's written representations are as follows:

C2 application FTS/HPC/PF/24/3738 (Pest Control).

The Homeowner's complaint.

The Homeowner explained that this complaint concerns the decision of the Factor to undertake a wholesale replacement of the existing sixteen rodent traps and the addition of six additional traps. He explained that he considered that the Company making the assessment (EPCS) had a financial interest in replacing the traps. He had spoken to the Company and they had explained that they provide branded traps. He asked the Factor what would happen if the owners employed a different company to handle the pest control at the development would EPCS remove the traps. The Factor did not reply.

The Factor's response:

The pest control contract which had been held by Environmental Pest Control Services until they were bought over by Graham Pest Control. Graham Pest Control acquired EPCS in August 2022 and they ran the business independently for a period of time to allow continuity for staff, customers and suppliers. During the period between August 22 – December 23, there was a slow merger process hence why Graham Pest Control branding started to appear on bait boxes but invoices were still from EPCS. From January 2024, all pest control related services are through Graham Pest Control. They referred to the two reports from EPCS. The contractor recommends replacing the bait boxes which had been in place for several years due to them becoming rusty, faulty etc and considering the serious concerns regarding rodent activity they also recommended an additional 6 bait boxes, a total of 22 new bait boxes. They manage a large number of pest control contracts and it is normal practice for the contractor to make these types of recommendations. In this particular situation, the contractor sent reports containing photo's showing the poor condition of some of the boxes all of which were of the same age, therefore it would be reasonable to assume, all would be of a similar condition and would therefore benefit from replacement. The Factor appreciates this is a fairly considerable cost, however they consider it to be a competitive cost. This is a one-off cost for new bait boxes which will be a long term investment as there should be no requirement to replace these for several years. If the pest control company was to change in the future there would be no rebate offered for the traps as they would remain in place. An issue would only arise if there was a contractor in place carrying out the maintenance and another contractor was replacing the bait boxes to be maintained by others.

Section 2.4 of the 2021 Code of Conduct. Where information or documents must be made available to a homeowner by the property factor under the Code on request, the property factor must consider the request and make the information available unless there is good reason not to.

The Homeowner's Representations

The Homeowner wants justice for the wholesale removal and replacement of the old bait traps. The Factor did not confirm if the traps would be removed by EPCS if the contractor changed. He confirmed that he had received the report by EPCS dated 30th August 2023.

The Tribunal's Decision.

The Factor's email to the Homeowner dated 23rd February 2024 states that if the pest control company were changed in the future there would be no rebate offered for the traps and they would remain in place. The Tribunal find that the Factor has not breached section 2.4 of the Code of Conduct in relation to the Homeowner's complaint.

Section 2.6 of the 2021 Code of Conduct A property factor must have a procedure to consult with all homeowners and seek homeowners' consent, in accordance with the provisions of the deed of condition or provisions of the agreed contract service, before providing work or services which will incur charges or fees in addition to those relating to the core service. Exceptions to this are where there is an agreed level of delegated authority, in writing with homeowners, to incur costs up to an agreed threshold or to act without seeking further approval in certain situations (such as in emergencies). This written procedure must be made available if requested by a homeowner.

The Homeowner's Representations

The Homeowner advised that the Factor did not seek prior approval for the additional expense of replacing the pest traps at a cost of £1500. He acknowledged that the cost per owner was £25.13 but he objects to the decision in principal as there does not seem to have been any detailed investigation as to whether it was truly necessary to replace all of the existing bait traps. He also advised that the Factor holds a float of £80 per property. He does not know if the old traps were removed.

The Tribunal's Decision.

Section 2.6 of the Code of Conduct requires the Property Factor to have a procedure in place to consult with Homeowners before providing works that will incur costs in addition to the core service. The lack of a procedure does not form part of the Homeowner's complaint and was not included in his original application or letter of notification to the Factor dated 6th July 2025. The Tribunal find that section 2.6 is not relevant to this Homeowner's complaint in relation to the Pest Control issue.

Section 2.7 of the 2021 Code of Conduct: A property factor should respond to enquiries and complaints received orally and/or in writing within the timescales confirmed in their WSS. Overall a property factor should aim to deal with enquiries and complaints as quickly and as fully as possible, and to keep the homeowner(s) informed if they are not able to respond within the agreed timescale.

The Homeowner's Representations

The Homeowner accepted that the Factor was not unresponsive and withdrew this complaint.

Section 3.4 of the 2021 Code of Conduct A property factor must provide to homeowners, in writing at least once a year (whether as part of billing arrangements or otherwise), a detailed financial statement showing a breakdown of charges made and a detailed description of the activities and works carried out which are charged for.

The Homeowner's Representations

The Homeowner withdrew this complaint.

Section 6.9 of the 2021 Code of Conduct: If applicable, documentation relating to any tendering or selection process (excluding any commercially sensitive information) must be made available if requested by a homeowner.

The Homeowner's Representations

The Homeowner explained that he asked the Factor about the relationship between Environmental Pest Control Services and Graham Pest Control. One company supplied the invoices and the other took over the contract he did not think that this arrangement looked right. There should have been a tendering process for the replacement of the bait traps. There was no tendering selection process.

The Tribunal's Decision.

Section 6.9 of the Code of Conduct applies if a tendering process had taken place. The Tribunal determine that as there was no tendering process section 6.9 is not applicable to the Homeowner's pest control complaint.

Section 6.10 of the 2021 Code of Conduct A property factor must disclose to homeowners, in writing, any commission, administration fee, rebate or other payment or benefit that is paid to them or anyone in control of the business or anyone connected with the factor or a person in control of the business, in connection with the contract and Section 6.11 of the 2021 Code of Conduct A property factor must disclose to homeowners, in writing, any financial or other interests that the property factor has with any contractors appointed by them.

The Homeowner's Representations

The Homeowner asked the Factor if they received commission and they said they did not. He wants this information to be verified.

The Tribunal's Decision.

The Factor advised the Homeowner that they did not receive any commission in connection with the pest control contract. The Tribunal notes that the Factor's Written Statement of Services specifically states that the Factor does not receive payment of any kind from contractors and there is no mark up of their charges. There is no requirement on the Factor to verify the information in the absence of any evidence that the Factor does receive commission. The Tribunal determine that the Factor did not breach sections 6.10 and 6.11 of the Code of Conduct in relation to the Homeowner's complaint.

C2 application **FTS/HPC/PF/24/3739** (Landscaping).

The Homeowner's complaint.

The Homeowner explained that this complaint relates to the planting of vinca minor plants as part of major landscaping works in 2019. The cost of the contract was approximately £17,000. The Factor took suggestions for the landscaping works from one of the residents. Her suggestions formed part of the scope of works. He received an email from the Factor regarding the proposed works in 2019. He remembered the timing as the email arrived during the height of covid. The vinca minor plants failed immediately. They cost £4525 which equates to a cost of £75.41 per owner.

The Factor's Response.

The Factor advised that they referred the Homeowner's complaint to Technical Tree Services who advised that not all plants will be successful. Even more so in areas where people walk over plants or litter is dropped covering plants etc as an example - In trees, the success rate for planting is 70%. Meaning 30% of planted trees do not survive the first year. There are various factors attributing to the perceived failure of the Vinca on the banked area RHS and they felt they had ended up in a good place with the bank looking much improved.

● The soil quality although having had additional organic material added at time of planting had not been ideal for the growth.

● The amount of tree roots and shade from the same trees also contributed to the struggles of the plants in this area to survive. Although it can be referred to as "wild grass" area it does certainly still contain Vinca although for tidyness they have been keeping it cut with the grass at a low level as we felt this helps the area look better.

It was suggested that perhaps Vinca Minor was not the correct choice for this area. This species was not selected by them. They have however over the last few years since planting put in considerable extra work in order to try a facilitate the improvement of this sloped area. They did remove some Vinca from this area and re-planted them in the cherry tree area to help fill in some gaps from high traffic areas, which they have continued to manage through the regular maintenance visits.

Section 2.6 A property factor must have a procedure to consult with all homeowners and seek homeowners' consent, in accordance with the provisions of the deed of condition or provisions of the agreed contract service, before providing work or services which will incur charges or fees in addition to those relating to the core service. Exceptions to this are where there is an agreed level of delegated authority, in writing with homeowners, to incur costs up to an agreed threshold or to act without seeking further approval in certain situations (such as in emergencies). This written procedure must be made available if requested by a homeowner.

The Tribunal's Decision.

The Property Factor 2021 Code of Conduct became effective from 16th August 2021. The Homeowner's complaint relates to landscaping that was carried out in 2019, which predates the effective date of the 2021 Code of Conduct. The Tribunal are unable to make a determination in relation to the Homeowner's landscaping complaint.

Section 3.4 A property factor must provide to homeowners, in writing at least once a year (whether as part of billing arrangements or otherwise), a detailed financial statement showing a breakdown of charges made and a detailed description of the activities and works carried out which are charged for.

The Homeowner withdrew this complaint.

Section 6.7 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 Tribunal's Decision.

As already stated, the Property Factor 2021 Code of Conduct became effective from 16th August 2021. The Homeowner's complaint relates to landscaping that was carried out in 2019, which predates the effective date of the 2021 Code of Conduct. The Tribunal are unable to make a determination in relation to the Homeowner's landscaping complaint.

C2 application **FTS/HPC/PF/24/3750** Bulk Uplift.

The Homeowner's Complaint:

The Factor has employed private contractors to carryout bulk uplifts at the development over the last six or seven years. Glasgow City Council had moved the recycling bins from near to the fenced bin store to the access paths within the development and this has resulted in the bins being used by both residents and non residents. He had been told that the access paths had been adopted by Glasgow City Council but he has no evidence of this. As the bins have been getting filled

faster the Council does not always empty them with the result that bulky refuse has been discarded within the development. He does not know the dates that he has been charged for private bulky uplifts. His complaint is that the Factor did not engage with Glasgow City Council to resolve the problem. He is paying for refuse collection through his council tax and also paying for the private bulky uplifts that were arranged by the Factor. He is paying twice.

The Factor's Response:

The Factor noted the Homeowner's comments and concerns regarding the mis-use of bins and bulk refuse being discarded within the development and that the Homeowner had acknowledged that Speirs Gumley has a limited liability in this regard and that Ms Brownlee made some effort to inform and discourage residents from discarding landfill waste in recycling bins. The Homeowner is of the view that Speirs Gumley was wrong to contract private refuse collectors to deal with these issues at a cost to the homeowners, however the Factor has no control over the local authority and there will be certain situations whereby they need to engage a contractor to attend to ensure the development is maintained and any potential health and safety issues resolved. Glasgow City Council have various criteria that residents need to adhere to before they will empty the bins and/or collect bulk waste and in this case, there have been various occasions where fly tipping has occurred and bins mis-used which do not meet the Councils criteria therefore they are not duty bound to assist. They noted the Homeowners request for Speirs Gumley to help the owners pursue compensation from the Council for the costs incurred by the owners over the years, however this is not something that they can assist with and dealing with council related refuse collection issues, is not part of the core services we provide as the Managing Agent.

OSP 5 You must apply your policies consistently and reasonably.

The Homeowner's complaint:

The Homeowner acknowledged that the problem with the bulky uplift within the development was chiefly the responsibility of Glasgow City Council. If it was the Council's responsibility the Factor should not have contacted private contractors. The Factor should have consulted Glasgow City Council and rectified the position.

He does not have the precise details of the charges for the private bulky up lifts but he was regularly charged over a two and a half year period.

The Tribunal's Decision:

The Tribunal acknowledge that the Factor's written statement of services states that their services do not include raising disputes with the Local Authority. As the Factor's written statement of services specifically states that the Factor does not raise disputes with the Local Authority the Tribunal determine that the Factor has not breached OSP 5 in relation to the Homeowner's complaint.

OSP6 You must carry out the services you provide to homeowners using reasonable care and skill and in a timely way, including by making sure that staff have the training and information they need to be effective.

The Homeowner's complaint:

The Homeowner acknowledged that Ms Brownlie of Speirs Gumley put up signs throughout the development asking that care was taken in disposing of rubbish and bulky items. However, he was concerned that it was not just the residents of the development that were using the communal bins.

The Tribunal's Decision:

The Tribunal determine that the Homeowner's complaint is not a breach of OSP 6 of the 2021 Code of Conduct.

Section 2.6 A property factor must have a procedure to consult with all homeowners and seek homeowners' consent, in accordance with the provisions of the deed of condition or provisions of the agreed contract service, before providing work or services which will incur charges or fees in addition to those relating to the core service. Exceptions to this are where there is an agreed level of delegated authority, in writing with homeowners, to incur costs up to an agreed threshold or to act without seeking further approval in certain situations (such as in emergencies). This written procedure must be made available if requested by a homeowner.

The Homeowner's complaint:

The Factor employed private contractors without consulting the owners. If the complaint is that the presence of litter throughout the development was an environmental or health issue the Factor should have taken this matter up with Glasgow City Council and not engaged a private contractor.

The Tribunal's Decision:

The Tribunal acknowledge that the Factor's Written Statement of Services details the Factor's Core Management Service which includes organizing and instructing maintenance of the common parts. The Tribunal also acknowledge that the Homeowner has not provided the Tribunal with details of the costs that were involved in the private bulky uplifts. The Tribunal determine that the arranging of the private bulky uplifts is part of the Factor's core services of maintenance of the common parts and therefore the Factor has not breached section 2.6 of the 2021 Code of Conduct in relation to this complaint as section 2.6 of the Code of Conduct relates to costs in addition to the cost of core services.

Section 2.7 property factor should respond to enquiries and complaints received orally and/or in writing within the timescales confirmed in their WSS. Overall a property factor should aim to deal with enquiries and complaints as quickly and as fully as possible, and to keep the homeowner(s) informed if they are not able to respond within the agreed timescale.

The Homeowner's complaint:

The Homeowner explained that the Factor failed to deal with his complaint adequately. Whilst they did reply to his complaint they stated that if he wanted to contact Glasgow City Council that was up to him. The Factor was not sufficiently proactive regarding this complaint. The Factor should have consulted Glasgow City Council regarding this matter.

The Tribunal's Decision:

The Homeowner's complaint is that the Factor breached section 2.7 of the Code of Conduct by not dealing with this complaint as fully as possible by not consulting with Glasgow City Council. As already noted, the Factor's written statement of services states that their services do not include raising disputes with the Local Authority.The

Tribunal determine that the Factor has not breached section 2.7 of the Code of Conduct in relation to the Homeowner's complaint.

C2 application FTS/HPC/PF/24/3751 (Legal Expenses)

The Homeowner's complaint:

The Homeowner explained that he had missed two Factor's invoices and the Factor raised court proceedings for recovery of the outstanding amounts. He did not think that the Factor should have started court proceedings. He had separately made a Property Factor application to the Tribunal and the Tribunal had determined to make a Property Factor Enforcement Order (PFEO). The Proposed PFEO indicated that the Factor should pay the Homeowner £300. After representations from the Factor this sum was reduced to £200. In addition, the PFEO required the Factor to provide some documents. He eventually confirmed to the Tribunal that the PFEO had been complied with. He had expected this to be the end of the matter. However, the Factor pursued legal expenses in connection with the court application through the sheriff court. The legal expenses amounted to £217.50. That application had been paused pending the outcome of his Tribunal application. He had paid the Factor £217.50 on 9th February 2023.This is confirmed in the Factor's statement dated 16th May 2024, which he has produced. The Factor's solicitors eventually advised him that their application for an award of expenses had been successful. He has not provided the Tribunal with a copy of the email he received from the Factor's solicitor. He was not advised by the court that they had granted the decree for the award of expenses. He applied to the court for recall of the award of expenses but the application was refused. In addition, when he sold his Property in 2025 he found out that the Factor had registered a Notice of Potential Liability for Costs (NPLC) over the title of his Property. He had to pay the Factor £1995 to have the NPLC released. That occurred in July 2025. Mrs Taylor advised that as the matter relating to the NPLC occurred after the date of his application to the Tribunal and was not included in the application the Tribunal are unable to consider the matter as part of this application.

The Factor's Response:

With regard to the sum of £217.50 which was added to the Homeowner's common charges account for court expenses. They referred to correspondence previously sent to the Homeowner which explains why such expenses were being added to his account. In terms of the PFEO issued by the First Tier Tribunal for a credit to be issued by Speirs Gumley, following communications, a credit of £200 was applied to the Homeowner's common charges account in May 2022 and this matter was deemed as closed. With regard to his common charges balance, they noted that the Homeowner had recently made a payment of £671.73 which left a small outstanding balance of £46.82.

In addition, the Factor had sent the Homeowner a letter dated 26th April 2024.It was in the following terms:

The letter referred to a letter the Factor sent to the owners of the development dated 11th April 2024 regarding development debt. They confirmed that the debt figure referred to in that letter of £972.58 related to the decree the Factor had obtained at Glasgow Sherif Court on 24th June 2022. There were recoverable costs incurred by Sheriff Officers in pursuit of the decree which they applied in line with relevant legislation. The court action was required to prompt payment. The action was raised in relation to arrears of £1663.38 which ultimately led to payment. That was the reason they asked for an award of expenses. They state that the Homeowner's claim that he paid £217.50 is contradictory to his email of 14th November 2022 which states that he made payment to the account less the £217.50 that had been applied to his account. Since then they cannot see £217.50 specific to his account. If he made payment he was asked to provide the details. They explained that the figure of £217.50 was an estimate of what the court was likely to award against him for the expenses of raising and serving the court action based on previous experience in dealing with similar matters. The estimate was provided to him so they could dispose of the action in court. Had the figure been paid the Factor would have absorbed any additional cost.

Expenses were actually awarded in the sum of £275.28. The Homeowner's position of refusing to pay the expenses awarded in the decree led to an increased balance that was due for payment. The Homeowner's account was not subject to proceedings in the Tribunal at the time the court action was raised nor was it subject

to any legitimate dispute. Formal court action was required as the common charges account had substantial arrears.

The initial action was raised in October 2020 and following his defence the Sheriff paused the action to allow him time to apply to the Tribunal. As a result of a complaint from the Homeowner received during 2021 a credit was processed in the sum of £145.09 on 2nd July 2021. No correspondence was received from the Tribunal and they therefore applied to restart the court action in September 2021 for amended arrears of £1518.29. The Sheriff ordered the action to be restarted on 28th October 2021, which coincided with his application to the Tribunal. They subsequently applied for the court action to be paused to allow the Tribunal process to be followed. The court action was paused by the Sheriff on 18th November 2021. The decision from the Tribunal from 19 April 2021 was an order to credit £200 to his common charges account, processed by the Factor on 10th May 2022. To their knowledge he did not appeal the Tribunal's order.

Following payment of £1932.17 on 30th May 2022 they asked the court to dismiss the action and requested the expenses of the action be granted against him. Since then they repeatedly requested payment of expenses against him as a result of non payment and the decree was pursued.

They agree that all owners within the development should have the background to the matter should they require to issue correspondence under the Code of Conduct.

Their intention is not to alienate owners within the development. They react to owners non payment in line with debt recovery procedure and the terms of the Deed of Conditions of the development. The arrears which had accrued on his account led to escalated credit control action being required to secure payment. He refused to accept the costs incurred in doing so are his liability, despite a decree against him by Glasgow Sheriff Court. They also drew his attention to his application for recall the decree being rejected by Glasgow Sheriff Court with a further order of the sheriff being issued on 20th December 2023 confirming the original decree was enforceable.

OSP 2: You must be honest, open, transparent and fair in your dealings with homeowners.

The Homeowner's complaint:

The Homeowner advised that he had paid the legal expenses of £217.50 on 9th February 2023 but notwithstanding this fact the Factor applied for decree for expenses.

The Tribunal's Decision:

The letter from the Factor to the Homeowner dated 26th April 2024 sets out the detail of the arrears of the account and the decree for expenses. The Homeowner applied to the Sheriff Court for recall of the decree of expenses. The recall application was refused. The Tribunal determine that the Factor has not breached section OSP2 of the Code of conduct in relation to the Homeowner's complaint.

Section 2.1 Good communication is the foundation for building a positive relationship with homeowners, leading to fewer misunderstandings and disputes and promoting mutual respect. It is the homeowners' responsibility to make sure the common parts of their building are maintained to a good standard. They therefore need to be consulted appropriately in decision making and have access to the information that they need to understand the operation of the property factor, what to expect and whether the property factor has met its obligations.

The Homeowner's complaint:

He had been asked to pay £217.50 before the Factor applied for decree for this amount. He paid the legal expenses on 9th February 2023 but the Factor still applied to the Court for the award of expenses.

The Tribunal's Decision:

As already stated, the letter from the Factor to the Homeowner dated 26th April 2024 sets out the detail of the arrears of the account and the decree for expenses. The Homeowner applied to the Sheriff Court for recall of the decree of expenses. The recall application was refused. The Tribunal determine that the Factor has not breached section 2.1 of the Code of conduct in relation to the Homeowner's complaint.

Section 4.1 Non-payment by some homeowners may affect provision of services to others, or may result in other homeowners in the group being liable to meet the nonpaying homeowner's debts in relation to the factoring

arrangements in place (if they are jointly liable for such costs). For this reason it is important that homeowners are made aware of the implications of late payment and property factors have clear procedures to deal promptly with this type of situation and to take remedial action as soon as possible to prevent non-payment from escalating.

The Homeowner's complaint:

The Factor sent a letter to the Homeowner dated 11th April 2024 regarding development debt. That letter included the sum of £217.50 which he had already paid.

The Tribunal's Decision:

The Tribunal determine that the Homeowner's complaint is not a breach of section 4.1 of the Code of Conduct. That section required the Factor to advise homeowners if there is development common charges debt.

Section 4.2 It is a requirement of section 1 of the Code (written statement of services) that a property factor informs homeowners of any late payment charges and the property factor's debt recovery procedure is made available to homeowners.

The Homeowner withdrew the complaint.

Section 4.3 Any charges that a property factor imposes in relation to late payment by a homeowner must not be unreasonable or excessive and must be clearly identified on any relevant bill and financial statement issued to that homeowner.

The Homeowner withdrew the complaint.

Section 4.6 A property factor must have systems in place to ensure the monitoring of payments due from homeowners and that payment information held on these systems is updated and maintained on a regular basis. A property factor must also issue timely written reminders to inform a homeowner of any amounts they owe.

The Homeowner withdrew the complaint.

Section 4.9 A property factor must take reasonable steps to keep homeowners informed in writing of outstanding debts that they may be liable to contribute to, or any debt recovery action against other homeowners which could have implications for them, while ensuring compliance with data protection legislation.

The Homeowner withdrew the complaint.

12.Decision.

In all of the circumstances narrated above, the Tribunal finds that the Factor has not failed in its duty under section 17(1)(b) of the 2011 Act, to comply with the specified sections the 2021 Code of Conduct detailed in this decision and dismissed the applications.

13. Appeals

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.

Signed ……..Date 25th October 2026

Legal Member