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 numbers: FTS/HPC/PF/25/1833 and FTS/HPC/PF/25/3316
Re: 2/2, 37 Annette Street, Glasgow, G42 8EH ("the Property")

The Parties:

Mrs Jasbir Kaur Aulakh ("the Applicant")

Mr Jasbir Virhia
("the Applicant's Representative")

W.M. Cumming, Turner and Watt
("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 Codes of Conduct for Property Factors 2021 (2012 and 2021 versions) and has failed to comply with the property factor's duties.

II) The tribunal makes a property factor enforcement order ("PFEO") requiring the Respondent to pay the sum of SEVEN HUNDRED and FIFTY POUNDS (£750) to the Applicant within twenty -one days of service on it of the Decision and the PFEO.

III) The tribunal makes a property factor enforcement order ("PFEO") requiring the Respondent to provide to the Applicant copies of all documents relating to the Covea property insurance policy from 2016 to date. The documents should include policy schedules, renewal notices, correspondence with insurance brokers and a statement showing insurance premia charged to and paid by the Applicant. The documents should also include correspondence

relating to the claim the Respondent submitted to the Insurers, including correspondence to and from Covea Insurers and any agents or loss adjusters appointed by it. The information requires to be provided within twenty- one days of service of the decision and the PFEO.

Background

1. These are applications by Jasbir Kaur Aulakh in respect of the property which she owns. They are in connection with the Respondent's actings 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. A version of the Code was promulgated in 2012 ("2012 Code") and it was replaced by the 2021 version of the Code which was effective from 16 August 2021 ("the 2021 Code"). One application (1833) is in respect of the 2012 Code and the other (3316) is in respect of the 2021 Code. The applications also state 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 1 August 2025. The applications were accompanied by a number of documents.

2. At a hearing on 18 March 2026, the Applicant made some concessions in relation to the sections of both versions of the Code which she considered had been breached.

3. A hearing was held on 11 September 2026. The Applicant was in attendance and was represented by Mr Virhia. The Respondent was not present but had submitted written representations.

4. The alleged breaches of the Code considered at the hearing were:

   4.1 2012 Code:
   Paragraphs 2.1,2.4,5.5,6.4 and 7.2

   4.2 2021 Code:
   Overarching Standards of Practice 2,3,4 and 11
   Paragraphs 2.1,2.4 and 7.2

5. The tribunal also considered an allegation that the Respondent had failed to carry out the property factor's duties.

6. Oral evidence was given by the Applicant, Mr Virhia and Mr Haq. The tribunal also considered the written representations submitted by the Applicant and the Respondent.

7. The tribunal issued a Decision dated 6 October 2026 which was sent to parties on 7 October 2026. This should be read along with this Decision.

8. In terms of section 19 (2) of the 2011 Act, the tribunal issued a proposed property factor enforcement order ("PFEO") and invited comments from parties within 14 days.

9. The terms of the propose PFEO were:

I) The tribunal proposes to make a property factor enforcement order ("PFEO") requiring the Respondent to pay the sum of SEVEN HUNDRED and FIFTY POUNDS (£750) to the Applicant within thirty days of service on it of the Decision and the PFEO.

II) The tribunal proposes to make a property factor enforcement order ("PFEO") requiring the Respondent to provide to the Applicant copies of all documents relating to the claim it submitted to Covea Insurers. This should include correspondence to and from Covea Insurers and any agents or loss adjusters appointed by it. The information requires to be provided within thirty days of service of the decision and the PFEO.

10. The Respondent submitted no representations in respect of the proposed PFEO.

11. On 22 October 2026, Mr Virhia submitted representations on behalf of the Applicant. He enclosed a copy of a letter from the Respondent dated 22 October 2026 in which it states that it has been unable to secure insurance for the tenement from 27 November 2026. In the letter, the Respondent intimated that that it was withdrawing its services as property factor with effect from 28 November 2026. The Respondent also stated that it had been supporting the homeowners in the tenement by paying the insurance premium for some years.

12. Mr Virhia requested that the PFEO be issued as soon as possible, given the impending withdrawal of the property factor's services.

13. Mr Virhia also suggested an amendment to the PFEO in respect of documents which the Respondent should provide to the Applicant. He suggested that the Respondent should produce evidence of the Applicant's payment of the insurance premia due by her since 2016. He also suggested that the Respondent should be required to provide more details of the building insurance and relevant correspondence.

Discussion and Determination

14. In terms of section 19(3) of the 2011 Act, the tribunal requires to consider any representations made on a proposed PFEO. The tribunal determined that the representations were timeous.

15. The tribunal considered the representations made on behalf of the Applicant and considered it reasonable, in all the circumstances, that the Respondent should be required to provide more information on the buildings insurance policy, and that it would be appropriate for appropriate amendments to be made to the proposed PFEO.

16. In view of the Respondent's decision to remove itself from management of the tenement from 28 November 2026, the tribunal considered it reasonable for the period of compliance to be twenty -one days, rather than 30 days.

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
29 October 2026