

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

Property Factor Enforcement Order

Property Factors (Scotland) Act 2011, Section 19(2)

Chamber Ref: FTS/HPC/PF/17/0255

**43 North Anderson Drive, Aberdeen, AB16 6HP
("The Property")**

The Parties:-

**MRS ANGELA COOPER, 86 Summerhill Crescent, Aberdeen, AB15 6ED
("the Applicant")**

**ABERDEEN CITY COUNCIL, Communities, Housing and Infrastructure, Marischal
College, Business Hub 11, Broad Street, Aberdeen, AB10 1AB
("the Respondent")**

Tribunal Members:

GRAHAM HARDING (Legal Member)

MIKE SCOTT (Ordinary Member)

("the tribunal")

This document should be read in conjunction with the decision of the tribunal of even date under the reference number noted above.

1. By decision of even date with this notice, the tribunal determined that the Respondent had breached its duties in terms of Section 17(1)(b) of the 2011 Act in that it had failed to comply with Sections 1, 2, 3 and 6 of the Code of Conduct for Property Factors ("the Code") as required by Section 14(5) of that Act.
2. Therefore, the tribunal proposes to make the following PFEO:-

Within 28 days of the communication of the PFEO to the Respondent, the Respondent must:-

- (i) Pay compensation to the Applicant in the sum of ONE HUNDRED AND FIFTY POUNDS (£150) in respect of the time and inconvenience suffered by the Applicant occasioned by the Respondent's failure to comply with its duties under the code.
- (ii) Provide a draft Statement of Services for approval by the owners of the properties in the block in which the Applicant's property is located.

Within a further 28 days thereafter provide the Applicant with:-

- (iii) a final Statement of Services compliant with the Code (subject to any appeal lodged in terms of S5(4)(b) of the Tenements (Scotland) Act 2004)"
 - (iv) Provide documentary evidence of compliance with the above Orders to the tribunal within 7 days of having done so.
3. Section 19 of the 2011 Act provides as follows:-

"(2) In any case where the First-tier Tribunal proposes to make a property factor enforcement order, it must before doing so –

- (a) give notice of the proposal to the Property Factor; and
 - (b) allow the parties an opportunity to make representations to it.
- (3) 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."

The intimation of the First-tier Tribunal's Decision and this proposed PFEO to the parties should be taken as notice for the purposes of Section 19 (2) (a) and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19 (2)(b) reach the tribunal by no later than 14 days after the date that the Decision and this proposed PFEO is sent to them by the tribunal. If no representations are received within that timescale, then the tribunal is likely to proceed to make a final PFEO without seeking further representations from the parties.

Failure to comply with a PFEO has serious consequences and may constitute an offence.

Graham Harding / Legal Member
13 April 2018 Date