

# Housing and Property Chamber

## First-tier Tribunal for Scotland



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

**Property Factors (Scotland) Act 2011 ("the Act")**

**Property Factor Enforcement Order ("PFEO") Section 19**

**The First-tier Tribunal for Scotland, Housing and Property Chamber (Rules of Procedure)**

**Amendment Regulations 2017 ("the regulations")**

**Chamber Ref:** FTS/HPC/PF/21/0459

**Re.: 18 Silvertrees Wynd, Bothwell, G71 8FH ("the property")**

**The Parties:-**

Ms Caroline Adams, 18 Silvertrees Wynd, Bothwell, G71 8FH (**"the homeowner"**)

Miller Property Management Limited, Suite 2.2 Waverley House, Caird Park, Hamilton ML3 0QA (**"the property factor"**)

**Tribunal Members:** - Simone Sweeney (Legal Member) Andrew Taylor (Ordinary Member)

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 dated 20<sup>th</sup> June 2021, the Tribunal determined that the property factor has failed to comply with sections 2.1, 2.5, 5.2 and 6.3 of the Code of Conduct for Property Factors ("the Code") as required by section 14 of the Act.

2. Therefore, the Tribunal makes the following PFEO:

*Within 21 days from the date of issue of this order, for the property factor to:-*

- *Make payment to the homeowner the sum of £200 in recognition of the inconvenience arising from the failures of the property factor and the time incurred in bringing the application.*
- *(In respect of the insurance for plant and machinery at the development) provide to the homeowner clear information showing the basis upon which their share of the insurance premium is calculated, the sum insured, the premium paid, any excesses which apply, the name of the company providing the insurance cover and the terms of the relevant insurance policy.*
- *Provide to the Tribunal's administration evidence that the property factor has complied with the order.*

3. Section 19 of the 2011 Act provides:

*"(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.*

*(4) Subject to section 22, no matter adjudicated on by the First-tier Tribunal may be adjudicated on by another court or tribunal."*

Failure to comply with a PFEO may have serious consequences and may constitute a criminal offence.



Legal chair, at Glasgow on 15<sup>th</sup> February 2022