



**Decision of the Homeowner Housing Committee issued under the
Homeowner Housing Panel (Applications and Decisions)(Scotland)
Regulations 2012 ("the Regulations")**

HOHP reference: HOHP/PF/14/0016

Re: 34 Glen Brae, Bridge of Weir, Renfrewshire, PA 11 3BH ("the Property")

The Parties:-

Mr Gordon Airs, residing at 34 Glen Brae, Bridge of Weir, Renfrewshire, PA 11 3BH ("the Homeowner")

And

Trinity Factoring Services Limited, having a place of Business at 209/211 Bruntsfield Place, Edinburgh, EH10 4DH ("the Factor")

**Decision by a Committee of the Homeowner Housing Panel in an Application under Section 17
of the Property Factors (Scotland) Act 2011 ("the Act")**

Committee Members

Andrew Cowan – Chairman/Legal Member
Elizabeth Dickson – Housing Member

Decision

The Homeowner Housing Committee have determined that the Factor has not failed to carry out the Property Factor's duties in terms of Section 17 (1)(a) of the Act and has not failed to ensure compliance with the Property Factor Code of Conduct as required by Section 14(5) of the Act.

Background

1. By an application dated 3 February 2014, the Homeowner made a complaint to the Homeowner Housing Committee ("the Committee") with reference to a potential breach of the Code of Conduct for Property Factors ("The Code") relative to the management of the property at 34 Glen Brae, Bridge of Weir, Renfrewshire, PA 11 3BH.

2. In terms of his application the Homeowner complains that the Factor has failed to comply with the provisions of the Code and in particular makes reference to the Section 5.6 therein ("insurance").

3. Section 5.6 of the Code states that:-

"On requests you [the Factor] must be able to show how and why you appointed the Insurance Provider including any cases where you decided not to obtain multiple quotes".

4. The parties have lodged a series of exchange of emails where they have corresponded on this matter:-

(a) on or around September 2013, the Homeowner raised a query about insurance commission with the Factor. The Committee have not had sight of the original initiating correspondence from the Homeowner in this respect;

(b) by email dated 25 September 2013, the Factor replied to the Homeowner's query regarding insurance commission and attached to their email an information sheet which set out in some detail the Factor's role in relation to the administration of common insurance, together with further information in relation to the commission that the Factor receives in relation to such insurance policies;

(c) on 31 January 2014, the Homeowner emailed the Factor and specifically asked to be given information as to "what other insurance providers you contacted and what commission they would have offered." The Homeowner made reference in that email to paragraph 5.6 of the Code;

(d) on 31 January 2014, the Homeowner sent a second email to the Factor indicating that he did not accept reasons given by the Factor for charging a "high commission" and that he was taking the complaint to the Homeowner Housing Panel.

(e) on 11 February 2014, the Homeowner wrote to the Factor and again stated that he believed the Factor had failed to comply with the Code. The Homeowner made reference to his emails of 31 January 2014 and indicated that he had not received replies to either of these emails.

(f) on 12 February 2014, the Factor responded by resending an email of 4 February 2014, to the Homeowner which gave further breakdown of 3 insurance quotations which they had obtained in relation to the common insurance policy. They also confirmed in their email that they would have received 25% commission from any of the insurers from whom quotations had been obtained;

5. on 12 March 2014, the Factor lodged a response to the Homeowner's application to the Panel. The Factor made reference to their emails of 4 February 2014 and to their email of 19 September 2013;
6. on 14 May 2014, the Committee issued a preliminary direction under the Regulations. In terms of that direction, the Committee directed that the Factor should lodge with the Committee copies of each of the insurance quotations from the 3 Companies from whom quotations had been received and in particular should disclose such papers as were necessary to confirm the amount of commission which each of these insurance Companies would have paid in the event that their quotation was accepted.
7. On 20 May 2014, the Factor lodged with the Committee papers from Messrs Deacon Insurance Brokers which gave certain figures in support of quotations had been obtained for the properties at Glenbrae, Bridge of Weir.
8. On 23 June 2014, the Committee issued a second direction to the parties. In terms of that direction, the Committee directed the Factor to lodge clear and unequivocal evidence of each of the insurance quotations from the 3 Companies concerned, together with clear and unequivocal evidence of the amount of commission that each of these insurance Companies would have paid in the event that their quotation was accepted.
9. On 14 July 2014, the Factor lodged with the Committee a letter dated 3 July 2014 from Messrs Deacon Insurance which provided further information on each of the insurance quotations which had been obtained in respect of the property at Glenbrae. A copy of the Factor's response, together with a copy of the letter from Deacon Insurance Brokers was sent to the Homeowner who was given an opportunity to respond if he so wished. The Homeowner has made no further response in relation to that information.

Procedure to obtain insurance quotation

10. On the evidence of the Factor, taken alongside the evidence of the Insurance Brokers, the Committee are satisfied that, through their Brokers, the Factor obtained 3 separate quotations for the common block insurance policy relative to the properties at Glenbrae. The total payment due in respect of each of the insurance proposals (inclusive of insurance premium tax) were:-
 - (a) Covea - £5894.70;
 - (b) Zurich - £6777.72; and
 - (c) Aviva - £7756.20.

On the basis of this information, the Committee are satisfied that the quotation obtained for the Covea insurance was the most economic and that accordingly the Factor accepted the most economic quotation available to them.

Commission

11. The Homeowner complains that the commission which is paid to the Factor at the rate of 25% is a "ridiculously high percentage". The Homeowner makes reference to a "Surveyor friend" who has "experience in this field" and who has suggested that the commission rate of 25% is excessive with 10% being more acceptable. No further evidence was provided by the Homeowner in respect of these averments.

The Factor have, through the letter they have exhibited from their Insurance Broker, confirmed that the Factor would have been paid 25% of the gross buildings premium as commission regardless of which insurer's quotation was accepted. The Factor has further confirmed to the homeowner (in their information sheet) services which they provide in relation to the administration of the insurance.

The Committee are not satisfied that there is any credible evidence which has been presented by the Homeowner to substantiate his claim that the commission paid at the rate of 25% is excessive. In terms of the Code, the Factor is obliged to disclose to the Homeowners any commission which they receive, and they have done so. In terms of Clause 5.6 of the Code, on request, the Factor must be able to show how and why they appointed the insurance provider. Taking account of the explanation given by the Factor's Insurance Brokers, the Committee are satisfied that the Factor has exhibited information which shows how and why they appointed the insurance provider, in this case, the most economic premium available.

General comments

12. It would have been useful if the Factor had been able to exhibit the information which was finally made available by the Insurance Brokers in their letter of 3 July 2014, at an earlier date to the Homeowner - as this may have answered the Homeowner's queries at an earlier opportunity. Some of the information which the Factor supplied at earlier stages of communications between the parties was confusing particularly in relation to the amounts of premiums which would have been paid to each of the 3 proposals for the premiums.

Further, the letter from Deacon confirms in unequivocal terms that the Factor would have been paid 25% commission regardless of which insurance provider was selected in the quotation process. It would have been useful if this could have been clarified by reference to the Insurance Brokers at an earlier stage.

Decision

13. Notwithstanding the comments in relation to the Factor's communications, the Committee are satisfied that the Factor has complied with the Code and that accordingly there is no requirement to make any Property Factor Enforcement Order in this case.

Right of Appeal

14. The parties' attention is drawn to the terms of Section 22 of the Act regarding their right to appeal and the time limit for doing so. Section 22 provides:-

- (a) an appeal on a point of law only may be made by summary application to the Sheriff against a decision of the president of the Homeowner Housing Committee or a Homeowner Housing Committee; and
- (b) an appeal under subsection (1) must be made within the period of 21 days beginning with the day on which the decision appealed against is made..."

Signed,
Andrew Cowan, Chairperson

Date..... 15/8/14

