



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

Case Reference Number: HOHP/14/0201

Re: 34 Savoy Park, Ayr, KA7 2XA ('the Property')

The Parties:

James Anderson residing at 34 Savoy Park, Ayr, KA7 2XA ('the homeowner')

Speirs Gumley Property Management, 194 Bath Street, Glasgow, G2 4LE ('the factor')

**DECISION IN RELATION TO REQUEST FOR VARIATION AND/ OR
REVOCATION OF THE PROPERTY FACTOR ENFORCEMENT
ORDER DATED 21st June 2015 ('The PFEO') AND CERTIFICATE OF
COMPLIANCE with the PFEO**

in terms of Sections 19(3) and 21 of the Property Factors (Scotland) Act 2011.

Committee members:

Jacqui Taylor (Chairperson) and Sara Hesp (Surveyor Member).

Decision of the Committee

The Homeowner Housing Committee having considered the parties' representations determine:

(First) That they refuse the application by the homeowner for the PFEO to be varied or revoked and

(Second) That the PFEO relating to the Property has been complied with, and certify that the factor has complied with the PFEO.

Reasons for the Decision

1. The letter from the homeowner dated 22nd September 2015 states that he has not cashed the cheque and that he requests a variation or revocation.

The homeowner explains *inter alia* that he wishes a variation or revocation of the PFEO as representations made after the issue of Decision by the Committee and the Notice of the Proposed PFEO had not been considered by the Committee before issuing the PFEO.

The Committee confirm that they did consider the representations of both the homeowner and the factor that were received. These representations are:

1. Letter from the homeowner dated 5th June 2015.
2. Email from Iain Friel, Managing Director of Speirs Gumley dated 15th June 2015.
3. Email from the homeowner dated 17th June 2015.
4. Email from Iain Friel, Managing Director of Speirs Gumley dated 23rd June 2015.

The Committee having considered these representations determined that the representations were not relevant to the terms of the proposed PFEO. The representations commented on the terms of the Decision and not the terms of the proposed PFEO. Also the letter from the homeowner dated 5th June 2015 tried to introduce fresh evidence in relation to his professional experience. The Committee considered that it was not appropriate to consider additional evidence as the hearing on the evidence took place on 8th May 2015. The Committee advised the homeowner of this by letter dated 7th October 2015. The homeowner replied by letter dated 19th October 2015. He indicated that he did not accept the Committee's decision. The Committee reconsidered the terms of their decision, as intimated to the homeowner in their letter dated 7th October 2015, and confirmed their decision not to vary or revoke the PFEO.

Consequently the Committee decided that it would not vary or revoke the PFEO.

2. The actions required by **The PFEO** are:

'The factor must pay the homeowner £200 for the inconvenience he had suffered from their own funds and at no cost to the owners. The said sums to be paid within 28 days of the communication to the factor of the Property Factor Enforcement Order.'

Iain Friel, Managing Director of Speirs Gumley sent the homeowner an email dated 16th September 2015 explaining that he had sent him a cheque dated 17th August 2015 and requesting that he acknowledge receipt.

The homeowner replied to Iain Friel by email dated 22nd September 2015 acknowledging receipt of the cheque and explaining that the cheque will remain uncashed pending the Committee's decision on his application for variation or revocation of the PFEO.

As stated, the letter from the homeowner to the Homeowner Housing Committee dated 22nd September 2015 also states that he has not cashed the cheque.

The Committee acknowledge that the factor has sent a cheque in payment of the said sum of £200 to the homeowner, but the homeowner has chosen not to cash the cheque.

The Homeowner Housing Committee is therefore satisfied that the factor has complied with the PFEO.

It therefore issues this Certificate of Compliance. No further action is required by the factor in terms of the PFEO.

Right of Appeal

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. It provides:

(1) An appeal on a point of law may only be made by summary application to the sheriff against a decision of the president of the homeowner housing panel or homeowner housing committee.

(2) 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.

More information regarding appeals can be found in the information guide produced by the homeowner housing panel. This can be found on the panel's website at: <http://hohp.scotland.gov.uk/prhp/2649.325.346.html>

Jacqui Taylor

Signed..... Date 9th November 2015

Chairperson