

# 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”)**

**Proposed 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/20/1742**

**Re.: Braemar Gardens A9, 1 Robertson Street, Greenock, PA16 8JE (“the property”)**

**The Parties: -**

Mr Lorna Lutz, Braemar Gardens A9, 1 Robertson Street, Greenock, PA16 8JE (“**the homeowner**”)

McTavish & Company, Accountants and Property Agents, 18 Nicolson Street, Greenock, PA15 1JU (“**the property factor**”)

**Tribunal Members:** - Simone Sweeney (Legal Member) Andrew McFarlane (Surveyor 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 of even date with this Notice, the Tribunal determined that the property factor has failed to comply with section 6.5 of the Code of Conduct for Property Factors (“the Code”) as required by section 14 of that Act and the property factor’s duties in terms of section 17 of the Act.
  
2. Therefore, the Tribunal makes the following PFEO:

*Within 14 days from the date of issue of this order, for the property factor to:-*

- *Issue a letter to the homeowner providing an undertaking to produce to homeowners details of the system by which the property factors ensure that all those appointed by them to undertake a contract or provide materials or labour for a job at the development have public liability insurance.*

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 chairing member, at Glasgow on 21st December 2020