

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Notice of proposal regarding the making of a Property Factor Enforcement
Order: Property Factors (Scotland) Act 2011 Section 19(2)**

Chamber Ref: FTS/HPC/PF/17/0346

**2/1, 6 Ratho Drive, Springburn, Glasgow, G21 1NA
("the Property")**

The Parties:-

**Ms Fiona Taylor, 57F Drumbathie Mansions, Drumbathie Road, Airdrie, ML6
6EW
("the Homeowner")**

**James Gibb Property Management Limited, 65 Greendyke Street, Glasgow, G1
5PX
("the Property Factor")**

Tribunal members

**Susanne L M Tanner Q.C. (Legal Member)
Sara Hesp (Ordinary Member)**

1. This document should be read in conjunction with the decision of the same date of the First-tier Tribunal ("the tribunal") under Section 19(1) of the Property Factors (Scotland) Act 2011 ("the 2011 Act").
2. By decision of even date with this Notice, the Tribunal determined in terms of Section 19(1) of the 2011 Act that the Respondent had failed to carry out the property factor's duties and had failed to comply with the duty under Section 14(5) of the 2011 Act to comply with **sections 1 and 5.2 of the Code of Conduct for Property Factors ("the Code")**.
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 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. The First-tier Tribunal ("the tribunal") proposes to make a property factor enforcement order ("PFEO") in the following terms:

Within 30 days of intimation of the PFEO the Property Factor must:

- a. Pay to the Homeowner the sum of £250 in respect of the delay, worry and inconvenience occasioned by the Factor's failure to carry out its property factor's duties and to ensure compliance with its duties under the Code (said payment to be made directly to the Homeowner and not as a credit to the Homeowner's account with the Property Factor); and provide documentary evidence to the tribunal of said payment.
 - b. Send a written apology to the Homeowner in respect of (i) the delay in answering her enquiries about insurance charges, (iii) the delay in providing a copy of its written statement of services, (iii) the delay in providing details of its in-house complaints procedure and (iv) the delay until 28 August 2016 in refunding the advance insurance charges; and provide a copy of the same to the tribunal.
5. The intimation to the parties of the tribunal's decision in terms of Section 19(1) of the 2011 Act and this proposed PFEO should be taken as notice for the purposes of section 19(2)(a).
 6. 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 property factor enforcement order without seeking further representations from the parties.
 7. Failure to comply with a PFEO has serious consequences and may constitute an offence.

Susanne L M Tanner QC
Legal Member

26 February 2018