



Decision/Certificate of Compliance with a Property Factor Enforcement Order (PFEO) following upon a Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under Section 17(1) of the Property Factors (Scotland) Act 2011 ("the 2011 Act")

Chamber Ref: FTS/HPC/PF/24/2715

Flat 33, 1 Donaldson Drive, Edinburgh, EH12 5FA ("the Property")

Parties:

Dewar Place Lane Ltd, Flat 33, 1 Donaldson Drive, Edinburgh, EH12 5FA ("the Applicant" / "Homeowner")

FirstPort Property Services Ltd; FirstPort Property Services Scotland Ltd, PO Box 7730, New Milton, BH25 9EP ("the Respondents" / "Property Factor")

Tribunal Members:

Nicola Weir (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

The Tribunal determined that the Property Factor Enforcement Order ("PFEO") dated 18 June 2025 has now been complied with and that a Certificate of Compliance should be issued.

The Tribunal's decision is unanimous.

Background Reasons for Decision

1. In the Tribunal's Decision dated 12 May 2025, it determined that the Property Factor had failed to comply with Sections 3.1 and 3.2 of the Code of Conduct. Following further procedure, a final PFEO was issued to parties dated 18 June 2025, with a 35-day compliance period running from the date of issue of the PFEO. The PFEO was in the following terms:-

"The Property Factor is ordered to provide the Homeowner with either:-

- (1) *Valid, individual VAT invoices, addressed to the Homeowner, containing a valid VAT registration number in respect of the annual management fees plus VAT of 20% thereon that they have charged the Homeowner in the years since 2021, together with the Property Factor's written confirmation that this will be done on an ongoing basis and credit notes (or similar) issued to the Homeowner in respect of the original invoices, in order that the original invoices are cancelled and the Homeowner is not 'double-charged'; or*
- (2) *Written confirmation from HMRC that the Property Factor's existing invoicing and accounting practices to the Homeowner (being a VAT-registered limited company) in respect of the VAT of 20% on their management fees that they have charged the Homeowner are compliant with applicable VAT legislation/regulations; or*
- (3) *Written confirmation that they will now accept the Homeowner adopting the practice of "self-billing" in respect of the Property Factor's management fees plus VAT thereon at the rate of 20%, backdated to 2021, and on an ongoing basis.*

The Property Factor shall provide evidence to the Tribunal of compliance with Paragraph 1 within a period of 35 days of intimation of issue of the PFEO."

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

2. On 20 June 2025, the Applicant (Homeowner) applied for a Review of the Tribunal's Decision in respect of the final PFEO. This was refused and the Decision on the Review application was issued to parties on 29 July 2025.
3. Neither party applied for Permission to Appeal the Tribunal's Decision in respect of the final PFEO.
4. Following further procedure, and having noted that the time-limit for compliance with the PFEO had expired, the Tribunal determined that the Respondents (Property Factor) had failed to comply with the PFEO and the Decision in this regard was issued to parties dated 10 October 2025.
5. On 27 October 2025, solicitors now instructed by the Respondents lodged submissions on their behalf, requesting that the Tribunal issue a Certificate of Compliance/revoke the PFEO on the basis that the Respondents had now complied with paragraph 1(1) of the PFEO, albeit late, by issuing individual VAT invoices to the Applicant (Homeowner) in the manner required by the PFEO. This was stated to have been done by email and letter to the Applicant direct from the Respondents' representative, also on 27 October 2025. Supporting documentation was submitted, including a copy letter from the Respondents to the Homeowner dated 21 October 2025, Management Fee Invoices between

2022 and 2025, Credit Notes for management fees between 2022 and 2025 and a copy of an email from the Respondents' representatives to the Applicant dated 27 October 2025 attaching the foregoing items.

6. On 27 October 2025, the Applicant (Homeowner) responded to state that they had not yet received the VAT invoices in question and were still also awaiting further documentation from the Respondents regarding bank accounts relating to the development which had been requested by the Applicant. The Applicant requested the Tribunal delay making a decision on revocation of the PFEO for 20 days to allow the documentation to be received and considered.
7. On 28 October 2025, the Applicant submitted further representations, now requesting a further delay in the Tribunal making a decision in the matter for 40 days. The reasons stated were that the Applicant wished an opportunity to submit the VAT invoices with their next VAT return after 30 November 2025 and to have confirmation that their position had been "regularised", and also that they were in direct discussions with the Respondents regarding settlement of all remaining issues and hoped this too would be finalised by the end of November 2025.
8. On 31 October 2025, the Tribunal clarified to parties that the bank details sought by the Applicant were not part of the PFEO and urged the Applicant to respond as soon as possible once they had received and considered the invoice documentation from the Respondents. The Applicant responded to the Tribunal on the same date confirming that he was aware the bank details were not part of the PFEO. However, the customer numbers on the four invoices received did not tie up with their own account references so they had requested amended invoices be issued by the Respondents. The Applicant reiterated that they wished their position "validated" by HMRC after 30 November 2025 before the PFEO could be considered complied with.
9. On 7 November 2025, the Respondents' representatives submitted further representations, stating that amended invoices had now been issued to the Applicant on 4 November 2025 and that the Applicant had confirmed receipt; that the PFEO had been complied with and did not require the Applicant to have received validation from HMRC; that the Tribunal must have regard to the overriding objective and seek to avoid delays as much as possible; and that, although not part of the PFEO, the bank information requested by the Applicant had been added to the agenda for the AGM due to take place on 19 November 2025 and that the Applicant had been advised of this.

Reasons for Decision

1. The Tribunal considered the terms of the PFEO and the further documentation and submissions received from both parties since the Tribunal had made its Non-Compliance Decision on 10 October 2025. The Tribunal is in agreement with the position stated on behalf of the Respondent and is satisfied that

paragraph 1(1) of the PFEO has now been fully complied with by the issuing of the VAT Invoices and related documentation by the Respondent to the Applicant on 27 October 2025, followed by amended invoices on 4 November 2025 addressing an anomaly with the customer reference numbers stated on the invoices issued on 27 October 2025.

2. The Tribunal did not consider it appropriate or just to delay its decision in respect of compliance in the manner suggested by the Applicant as this was considered by the Tribunal to be outwith the wording of the PFEO and a 'step beyond' what had been required of the Respondent Property Factor.
3. The Tribunal being satisfied that the Respondent has complied with the PFEO, determined that a certificate to that effect should be issued.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Nicola Weir

Legal Member/Chair

17 November 2025

Date