

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Chamber Reference: FTS/HPC/PF/24/1381

Property address: 85 Whiteford Road, Stepps, Glasgow, G33 6GA ("the Property")

The Parties

Mr Stephen McDougall, 11 Pear Tree Drive, Stepps, Glasgow, G33 6NT ("the Homeowner")

Hacking and Paterson, 1 Newton Terrace, Glasgow, G3 7PL ("the Property Factor")

This document should be read in conjunction with the First-tier Tribunal's Decision of the same date.

The First-tier Tribunal proposes to make the following Property Factor Enforcement Order ("PFEO"):

"The Property Factor is required, within 30 days of the making of this Property Factor Enforcement Order, to:

- (i) Issue a fresh Written Statement of Service to the Homeowner which deletes the reference to custom and practice as the source of its authority to act and states the correct basis of that authority as being derived from the Deed of Conditions registered by Taywood Homes Ltd. on 9th August 2000;
- (ii) Make payment of the sum of £200.00 as compensation for its failure to comply with the Code of Conduct and the failure to carry out its property factor duties.'

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 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."

The intimation of the First-tier Tribunal's Decision and this proposed PFEO to the parties should be taken as notice for the purposes of section 19(2)(a) and 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 First-tier Tribunal by no later than 14 days after the date that the Decision and this proposed PFEO is sent to them by the First-tier Tribunal. If no representations are received within that timescale, then the First-tier Tribunal is likely to proceed to make a PFEO without seeking further representations from the parties.

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

Right of Appeal

In terms of section 46 of the Tribunals (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.

Helen Forbes

Legal Member and Chairperson

3rd February 2025