

Housing and Property Chamber

First-tier Tribunal for Scotland



Notice of Proposal of the First-tier Tribunal for Scotland (Housing and Property Chamber) Under section 19(2)(a) of the Property Factors (Scotland) Act 2011

Chamber Ref:FTS/HPC/PF/19/1857

10/150, Second Avenue, Clydebank, G81 3BH; 12/150 Second Avenue, Clydebank, G81 3BH; 12/12 Green Street, Clydebank, G81 3AY and 2/2 John Street, Clydebank, G81 1 ND ('the Properties')

The Parties:

Simon and Gail Downes, 14 Brandywell Road, Abernethy, Perth, PH2 9GY ('The Homeowner')

West Dunbartonshire Council, 6-14 Bridge Street, Dumbarton, G82 1NT ('the Factor')

Tribunal members:

Jacqui Taylor (Chairperson) and Andrew Taylor (Ordinary Member).

NOTICE TO THE PARTIES

Whereas in terms of their decision dated September 2019, the Tribunal decided that the Factor had failed to comply with sections 2.1, 2.5, 6.3 and 6.6 of the Code of Conduct, all as stated in the said decision, the Tribunal proposes to make a Property Factor Enforcement Order in the following terms:

First, the Factor is directed to provide the Homeowners and the Tribunal with details and evidence of the tendering process carried out for the purposes of selecting a contractor to carry out the proposed external insulated render programme in relation to the Homeowners' properties. The Tribunal acknowledges there may be some commercially sensitive information which cannot be divulged and consequently will accept anonymised details by naming the contractors A, B, C etc. The following details are required:

1. How many contractors were invited to provide quotations for the external insulated render programme in relation to the Homeowners' Properties?
2. How many quotes were provided?
3. Advise if a price/ quality selection matrix was used and if so what were the weightings and quality criteria.
4. Identify the contractor the external insulated render programme was placed with.

5. A full breakdown of the costs of the external insulated render programme in relation to the Homeowners' Properties.
6. Specific details of the guarantees that the supplier will provide for the completed works and future remedial action.

Second, The Factor is directed to pay the Homeowners £150 in respect of each of the properties totalling £600 as compensation from their own funds. The said sums to be paid within 28 days of the communication to them of the Property Factor Enforcement Order'

This intimation of the Tribunal's Decision and this Notice to make a Property Factor Enforcement Order to the parties should be taken as notice for the purposes of section 19(2)(a) of the Act and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2)(b) of the Act reach the Housing and Property Chamber's office by no later than 14 days after the date that the Decision and this notice is intimated to them. If no representations are received within that timescale then the Tribunal is likely to proceed to make a Property Factor Enforcement Order (PFEO) without seeking further representations from the parties.

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

Appeals

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.

Signed

J Taylor

Chairperson Date: 28th October 2019