

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Proposed Property Factor Enforcement Order ("PFEO"): Property Factors
(Scotland) Act 2011 Section 19(2)**

Chamber Ref: FTS/HPC/PF/19/0834

**47 Jubilee Park, Peebles EH45 9BF
("the Property")**

The Parties:-

**Mr Jerry Rimmer, 47 Jubilee Park, Peebles EH45 9BF
("the Homeowner")**

**Charles White Limited, Citypoint, 65 Haymarket Terrace, Edinburgh EH12 5HD
("the Factor")**

Tribunal Members:

Graham Harding (Legal Member)

Elizabeth Dickson (Ordinary Member)

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"):

- (1) That the Factor within a period of 30 days reviews and if necessary amends its Communal Landscape Maintenance Specification to accurately reflect the scope and extent of the work to be carried out by the landscape contractor in the common woodland areas also known as the shelter belt and to provide a copy to all owners.
- (2) That the Factor confirms to the Homeowner and the Tribunal within a period of 30 days that it will provide each owner prior to the annual renewal of the landscape contractor's contract a copy of the gardening specification agreed between the Factor and the contractor for the forthcoming year.
- (3) That the Factor provide the Homeowner within a period of 30 days a written apology in respect of its failure to carry out its property factor's duties and its breaches of Sections 2.1, 2.5 and 6.9 of the Code.

- (4) That the Factor reimburses the Homeowner within 30 days any charges made in respect of its chairing and preparing the minutes of the meetings of 12 February 2019 and 28 March 2019.
- (5) That in respect of the Factor's failures of its property factors duties and breaches of the Code and in respect of costs incurred by the Homeowner for work not carried out by the gardening contractors as well as the trouble, distress and substantial inconvenience caused to the Homeowner it pays to him the sum of £450.00 from its own funds and that within a period of 30 days.

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 property factor enforcement order without seeking further representations from the parties.

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

Legal Member and Chair

30 December 2019

Date