

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**Notice of proposal to make a Property Factor Enforcement Order made under Section 19(2)(a) of the Property Factors (Scotland) Act 2011 ("the Act") following upon a Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') in an application under Section 17(1) of the Act**

**Case Reference Number: FTC/PF/19/0322**

**Re: Flat 3/2, 22 Roxburgh Street, Glasgow G12 9AP (the property)**

**The Parties:**

**Dr Kevin Owusu-Agyemang, residing at the property (the homeowner)**

**Speirs Gumley, Red Tree Magenta, 270 Glasgow Road, Glasgow G73 1UZ (the property factor)**

**Tribunal members: Sarah O'Neill (Chairperson), Andrew Taylor (Ordinary (surveyor) member)**

**This notice should be read in conjunction with the tribunal's decision under Section 19 (1) (a) of the Act of the same date.**

The tribunal proposes to make the following Property Factor Enforcement Order ("PFEО"):

1. Within 28 days of the communication to the property factor of this Property Factor Enforcement Order, the property factor must:
  - a. Issue a formal written apology to the homeowner in respect of the property factor's failure to comply with its duties under sections 2.5 and 5.5 of the code of conduct for property factors ('the code').
  - b. Make payment to the homeowner of the sum of £150 in recognition of the stress and inconvenience caused to him by the property factor's failure to comply with its duties under section 2.5 and 5.5 of the code.
  - c. Prepare a programme of works for the tenement in which the homeowner's property is situated, as required by section 6.4 of the code, clearly setting out when the gutter cleaning will be carried out each year.

- d. Send the programme of works to the homeowner and all other homeowners within the tenement.
- e. Provide documentary evidence to the tribunal of its compliance with the above by sending such evidence to the office of the First-tier Tribunal for Scotland (Housing and Property Chamber) by email or by recorded delivery post.

Section 19 of the 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 them.*

*(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 tribunal’s decision and this notice of proposal to make a PFEO 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 office of the First-tier Tribunal for Scotland (Housing and Property Chamber) 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 Property Factor Enforcement Order may have serious consequences and may constitute an offence.**

Chairing member .

Date.....22/1/20