



Notice of Proposed Property Factor Enforcement Order (“PFEO”)

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

Property Factors (Scotland) Act 2011, Sections 17 and 19

The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017, as amended (“the 2017 Regulations”)

Chamber Ref: FTS/HPC/PF/20/1535

2/3 2 Greenlaw Court, Yoker, Glasgow, G14 0PQ, Title number GLA188424 (“the Property”)

The Parties: -

Mr Graeme Calderwood, residing at the Property (“the Homeowner”)

Newton Property Management Ltd, 87 Port Dundas Road, Glasgow, G4 0HF (“the Factor”)

Tribunal Chamber Members

Maurice O’Carroll (Legal Member)
Sara Hesp (Ordinary Member)

This Notice should be read in conjunction with the decision of the Tribunal of even date under the same reference number noted above.

1. By decision of even date with this Notice, the Tribunal determined that the Factor had breached its duties in terms of s 14(5) of the 2011 Act in that it had failed to comply with sections 3 (preamble), 4.9 ad 7.2 of the Code of Conduct for Property Factors as required by s 14(5) of that Act.
2. In accordance with s 19(3) of the 2011 Act, having been satisfied that the Factor has failed to carry out the property factor duties, the Tribunal must make a Property Factor Enforcement Order. Before making an Order, to comply with s 19(2) of the Act, the Tribunal before proposing an Order must give notice of the proposal to the factor and must allow the parties an opportunity to give representations to the Tribunal **in relation to this Notice and the proposed Order only.**

3. The intimation of this Notice of Property Factor Enforcement Order to the parties should be taken as notice for the purposes of section 19(2)(a) and the parties are hereby given notice that they should ensure that any written representations which they wish to make under s 19(2)(b) must reach the First-tier Tribunal for Scotland (Housing and Property Chamber) by no later than **14 days** after the date the decision and this Notice is intimated to them.
4. If no representations are received within that timescale, then the Tribunal will proceed to make a PFEO in the following terms without seeking further representations from the parties.
5. Therefore, the Tribunal proposes to make the following PFEO:

Within 28 days of the communication of the PFEO to the Factor, the Factor must:

- 5.1 Amend its Written Statement of Services so as to achieve the following:
 - (i) Set a threshold amount for significant repairs and improvements over which sum they become notifiable and competitive quotes will be obtained from tradesmen;
 - (ii) Delete the term “If we think it is in your interests” at paragraph (g) at page 2 and cross-refer to the threshold amount for significant repairs and improvements;
 - (iii) Delete reference to the Deed of Conditions at paragraph (a) at page 3 and cross-refer the threshold amount for repairs and improvements;
 - (iv) Delete the second paragraph (o) at page 5;
 - (v) Explain how the float is used; and
 - (vi) Indicate that the specifications for communal cleaning and gardening services are available for inspection at the offices of the Factor; and make provision for such inspection.
- 5.2 Cease using the term “underwriting fee” in communications with householders and only charge a further or additional management fee by reference to the authority provided for that within the WSS in the appropriate circumstances.
- 5.3 Pay compensation to the Homeowner in the sum of £500 (Five Hundred Pounds) in respect of the time and inconvenience to the Homeowner occasioned by the Factor’s failure to comply with its factor duties under the Code. Said compensation, at the option of the Factor, may be deducted from the amounts currently due and owing by the Homeowner to the Factor.
- 5.4 Provide documentary evidence of compliance to the Tribunal with the above Order within 7 days of having done so.

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

Appeals

6. 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 within 30 days of the date the decision was sent to them.

Signed: M O'Carroll
Chairman

Date: 22 February 2021