

# Housing and Property Chamber

## First-tier Tribunal for Scotland



**First-tier tribunal for Scotland (Housing and Property Chamber)**

**Housing (Scotland) Act 2006, Section 19**

**The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016 (“the 2016 Regulations”)**

**Chamber Ref: HOHP/PF/16/0131**

**Flat 8, 112 Hillpark Grove, Edinburgh, EH4 7EF  
 (“The Property”)**

**The Parties:-**

**Mr Michael Sturgeon, residing at the Property  
 (“the Homeowner”)**

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

**Tribunal Chamber Members**

Maurice O'Carroll (Legal Member)  
John Blackwood (Ordinary Member)

**Decision of the Chamber**

The First-tier Tribunal (Housing and Property Chamber) (“the Tribunal”) unanimously determined that the Factor has complied in full with the terms of the Proposed Property Factor Enforcement Order (“PFEO”) issued on 6 January 2017 and therefore: (1) it is unnecessary for the Tribunal to issue a final PFEO in this case; and (2) no further action on the part of the Factor is required.

**Background**

1. By decision dated 6 January 2017, the Tribunal found that the Factor had breached its duty to comply with the Code of Conduct for Property Factors in respect that it failed to adhere to the terms of section 2.1 thereof. As required by section 19(2) of the Act, the Tribunal issued a Notice of a Proposed PFEO. It did so on the same date as the said decision and invited representations thereon within 14 days of the Notice being received by the parties. Representations were timeously received from the Factor on 16 January 2017.

2. The proposed PFEO required the Factor to carry out the following within 28 days of the Notice:
  - (i) Pay compensation to the Homeowner in the sum of £250 (Two hundred and fifty pounds) in respect of the inconvenience and time occasioned by the Factor's failure to comply with its duties under the Code.
  - (ii) Reimburse the management fees paid by the Homeowner to the Factor during the period from 25 August 2016 to 27 December 2016 in recognition of its failure to comply with its duties under the Code during that period.
  - (iii) Waive the lift maintenance charge levied by Otis as referred to in the said decision between the period 19 January and 20 May 2016.
  - (iv) Provide documentary evidence of compliance to the Homeowner Housing Panel with the above Orders within 7 days of having done so by recorded delivery post.

3. By further correspondence from Factor dated 31 January 2017, the Factor produced evidence demonstrating that the total sum of £339.05 had been credited to the Homeowner's account in compliance with requirements (i) to (iii) of the Proposed PFEO. The Tribunal elected to waive the requirement that proof be provided by means of recorded delivery post as it had been provided with a copy statement of the homeowner's account and a chronology of payments made and relevant correspondence.

## **Decision**

4. The Tribunal therefore finds that the terms of the Proposed PFEO have been complied with. Accordingly, it is unnecessary for it to issue a final PFEO. As there will be no PFEO, no Certificate of Compliance therewith is appropriate. No further action on the part of the Factor is required.

## **Appeals**

5. A homeowner or property factor 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:      M O'Carroll  
                  Chairman

Date 7 February 2017