

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Proposal regarding the Making of a Property Factor Enforcement Order: Property Factors (Scotland) Act 2011 Section 19(2)

Chamber Ref: FTS/HPC/PF/17/0023

**1 Millcroft Road, Cumbernauld, Glasgow, G67 2QE
("the property")**

The Parties:-

**Mr Ian McNaught, 1 Millcroft Road, Cumbernauld, Glasgow, G67 2QE
("the Applicant")**

**Apex Property Factor Limited, 46 Eastside, Kirkintilloch, East
Dumbartonshire, G66 1QH
("the Respondent")**

Tribunal Members:

**Graham Harding (Legal Member)
Carolyn Hirst (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) The Respondent must issue a credit note to the applicant in the sum of £1,345.94 within 28 days of the communication to the Respondent of the Property Factor Enforcement Order.
- (2) The Respondent must not issue any further invoices after 29 September 2017 or if they have issued any further invoices these must be cancelled and a credit note issued within 28 days of the communication to the Respondent of the Property Factor Enforcement Order.
- (3) The Respondents must pay within 28 days of the communication to the Respondent of the Property Factor Enforcement Order the sum of £300 by way of compensation.

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 have serious consequences and may constitute an offence.

Graham Harding

Legal Member

Graham Harding

22 November 2017 Date