

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/17/0207

**Property at 62 Brora Street, Glasgow, G33 2DB
("The Property")**

The Parties: -

Miss Debbie Archibald, residing at the Property ("the Homeowner")

GHA (Management) Limited, t/a Your Place Property Management, Granite House, 177 Trongate, Glasgow, G1 5HF ("the Factor")

Tribunal Members: -

Maurice O'Carroll (Legal Member)
Ahsan Khan (Ordinary Member)

This document should be read in conjunction with the decision of the Tribunal of even date under the 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 17(1)(b) of the 2011 Act in that it had failed to comply with sections 2.5, 4.1, 4.9, 6.1 and 7.1 of the Code of Conduct for Property Factors as required by s 14(5) of that Act.
2. Therefore, the Tribunal proposes to make the following PFEO:

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

- (i) Pay compensation to the Homeowner in the sum of £500 (Five hundred and pounds) in respect of the time, distress, worry and inconvenience occasioned by the Factor's failure to comply with its duties under the Code.
- (ii) Reimburse the management fees (under deduction of the common buildings insurance premium) paid by the Homeowner to the Factor during the period from 1 January to 31 May 2017 in recognition of its failure to comply with its duties under the Code during that period.

- (iii) Amend its Written Statement of Services in relation to its complaints procedures to (a) reflect the timescales within which complaints will be dealt with, by reference to whether they are at Stage 1 or at Stage 2 of the complaints procedure; (b) provide that where further time is required to respond, the homeowner will be so informed upon receipt of the complaint; and (c) provide that where a complaint is to be escalated to a Stage 2 complaint at the instance of the Factor, the homeowner will be so informed.
- (iv) Provide documentary evidence of compliance with the above Orders to the Tribunal within 7 days of having done so.

3. 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."

4. The intimation of the 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 Tribunal by no later than **14 days** after the date that the Decision and this proposed PFEO is sent to them by the Tribunal. If no representations are received within that timescale, then the Tribunal is likely to proceed to make a final PFEO without seeking further representations from the parties.

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

Signed: M O'Carroll
Legal Member

Date 7 November 2017