



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) : Failure to Comply with a Property Factor
Enforcement Order (“PFEO”)**

**Sections 23 and 24 of the Property Factors (Scotland) Act 2011 (“the 2011
Act”)**

Chamber Ref: FTS/HPC/PF/24/2715

Flat 33, 1 Donaldson Drive, Edinburgh, EH12 5FA (“the Property”)

Parties:

**Dewar Place Lane Ltd, Flat 33, 1 Donaldson Drive, Edinburgh, EH12 5FA ("the
Applicant" / "Homeowner")**

**FirstPort Property Services Ltd; FirstPort Property Services Scotland Ltd, PO
Box 7730, New Milton, BH25 9EP ("the Respondents" / "Property Factor")**

Tribunal Members:

Nicola Weir (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

The Tribunal determined that the Respondents (Property Factor) have failed to comply with the PFEO dated 18 June 2025.

The Tribunal’s decision is unanimous.

Background / Reasons for Decision

1. In the Tribunal’s Decision dated 12 May 2025, it determined that the Property Factor had failed to comply with Sections 3.1 and 3.2 of the Code of Conduct and issued a proposed PFEO to parties. Following further procedure and representations, on 18 June 2025, a final PFEO was issued to parties dated 18 June 2025, with a 35-day compliance period running from the date of issue of the PFEO. The PFEO was in the following terms:-

"The Property Factor is ordered to provide the Homeowner with either:-

- (1) Valid, individual VAT invoices, addressed to the Homeowner, containing a valid VAT registration number in respect of the annual management fees plus VAT of 20% thereon that they have charged the Homeowner in the years since 2021, together with the Property Factor's written confirmation that this will be done on an ongoing basis and credit notes (or similar) issued to the Homeowner in respect of the original invoices, in order that the original invoices are cancelled and the Homeowner is not 'double-charged'; or*
- (2) Written confirmation from HMRC that the Property Factor's existing invoicing and accounting practices to the Homeowner (being a VAT-registered limited company) in respect of the VAT of 20% on their management fees that they have charged the Homeowner are compliant with applicable VAT legislation/regulations; or*
- (3) Written confirmation that they will now accept the Homeowner adopting the practice of "self-billing" in respect of the Property Factor's management fees plus VAT thereon at the rate of 20%, backdated to 2021, and on an ongoing basis.*

The Property Factor shall provide evidence to the Tribunal of compliance with Paragraph 1 within a period of 35 days of intimation of issue of the PFEO."

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

2. On 20 June 2025, the Applicant (Homeowner) applied for a Review of the Tribunal's Decision in respect of the final PFEO.
3. On 7 July 2025, the Respondents (Property Factor) emailed the Tribunal with an update as to steps they appeared to be taking towards compliance with the PFEO but did not otherwise comment on the Applicant's request for Review, or any of the Applicant's other written representations. As to compliance they stated;-

"We continue to work on gaining the required response from HMRC to satisfy option 2 from the PFEO. We have also sought direction from a Scottish housing & property sector expert on this matter which is expected within 2 weeks."

4. The Tribunal subsequently considered the Applicant's Review application and determined that its original Decision in respect of the final PFEO should stand. Its Decision on the Review application was issued to parties on 29 July 2025.
5. Neither party applied for Permission to Appeal the Tribunal's Decision in respect of the final PFEO.

6. On 10 September 2025, the Tribunal wrote to the parties, asking for confirmation of the position as regards compliance with the PFEO or any other relevant representations by 24 September 2025.
7. On 10 September 2025, the Applicant responded to say that there has not been any response to the PFEO, no valid invoices have been provided and no undertakings given by the Respondents. The Applicant requested enforcement action be taken to ensure compliance. On 14 September 2025, the Applicant responded further, referring to their previous communication. They now suggested a variation to the terms of the PFEO to remove paragraphs 2 and 3 and providing the Respondents with an extension of the compliance period of a further 35 days.
8. No response was received from the Respondents to the Tribunal's request regarding compliance with the PFEO of 10 September 2025.
9. No update, further information nor representations about compliance have been received from the Respondents since their email dated 7 July 2025 (above) and they have not provided further explanation nor made any request for further time to comply with the PFEO.
10. Having noted that the time-limit for compliance with the PFEO has expired, and that no further representations have been received from the Respondents regarding the matter, the Tribunal accordingly determines that the Respondents (Property Factor) have failed to comply with the PFEO.
11. in terms of Section 23(2) of the 2011 Act, a Notice of Failure to Comply with the PFEO will be served on the Scottish Ministers on expiry of the appeal period. The Respondents (Property Factor) are also reminded that, in terms of Section 24(1) of the 2011 Act, a person who, without reasonable excuse, fails to comply with a PFEO commits a criminal offence.

Right of Appeal

In terms of Section 46 of the Tribunal (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 to appeal within 30 days of the date the decision was sent to them.

Legal Member/Chair

10 October 2025

Date

