



**Decision of the First-tier Tribunal for Scotland Housing and Property Chamber issued under Section 19(1) of the Property Factors (Scotland) Act 2011 ("the Act") and The First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, in an application made to the Tribunal under Section 17 of the Act**

**Chamber reference: FTS/HPC/PF/21/0795**

**The Parties:**

**Mr William Tracey, 11A Murdieston Street, Greenock PA15 4DT ("the homeowner")**

**and**

**River Clyde Homes Limited, incorporated in Scotland (SC32903) and having their Registered Office at Roxburgh House, 100-112 Roxburgh Street, Greenock PA15 4JT ("the property factors")**

**Tribunal Members – George Clark (Legal Member/Chairman) and Elizabeth Dickson (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") decided that, as the property factors have confirmed to the Tribunal that they have amended their Written Statement of Services to include the procedure required of them by Section 2.4 of the Property Factors Code of Conduct ("the Code of Conduct") made under Section 14 of the Property Factors (Scotland) Act 2011 ("the Act"). it is no longer necessary for the Tribunal to make the Property Factor Enforcement Order set out in the Section 19(2)(a) Notice that was attached to the Tribunal's Decision of 1 July 2021.**

**Background**

1. Following a Hearing on 1 July 2021, the Tribunal made a finding that the property factors had failed to comply with their duties in terms of Section 2.4 of the Code of Conduct and the Tribunal attached to its Decision a Notice under Section 19(2)(a) of the Act of a Property Factor Enforcement Notice that the Tribunal intended to make. That Order would have been in the following terms:

**"Within three months of the communication to the property factors of the PFEO, the property factors shall confirm to the Tribunal that they have amended their Written Statement of Services either to include the procedure required of them by Section 2.4 of the Property Factors Code of Conduct or to signpost homeowners to the location at which the procedure can be accessed and read."**

2. On 28 October 2021, before the Tribunal made the proposed Order, the property factors provided the Tribunal with a copy of their new Written Statement of Services.
3. As stated in its Decision of 1 July 2021, it is not the function of the Tribunal to comment on or "approve" the terms of the changes that the property factors decided to make to their Written Statement of Services following on the decision to make a Property Factor Enforcement Order. Accordingly, the proposed Order was limited to a requirement that the property factors amend their Written Statement of Services to include the procedure required of them by Section 2.4 of the Code of Conduct.
4. The Tribunal is satisfied that the new Written Statement of Services includes, in Clause 4.17, the procedure required of them by Section 2.4 of the Code of Conduct and that, accordingly, it is no longer necessary for the Tribunal to make a Property Factor Enforcement Order.
5. The Decision of the Tribunal was unanimous.

### **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/Chairman:

24 November 2021

George Clark