

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 ("PFEO") Property Factors (Scotland) Act 2011 ("the Act"), Section 19 (2)

Chamber Ref: FTS/HPC/PF/20/0046

Re.: 5/2, 72 Lancefield Quay, Glasgow G3 8JF ("the property")

The Parties:-

Mr William Shirriffs, 5/2, 72 Lancefield Quay, Glasgow G3 8JF (**"the homeowner"**)

MXM Property Solutions Ltd., Baltic Chambers, Suite 544 -545, 50 Wellington Street, Glasgow, G2 6HJ (**"the property factor"**)

The Tribunal members: Simone Sweeney (legal chairing member) and Elaine Munroe (ordinary housing 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 property factor has failed to comply with sections 2.5 and 7.1 of the Code of Conduct for Property Factors ("the Code") as required by section 14(5) of that Act and the Property Factor's duties in terms of section 17 of the Act.
2. Therefore, the tribunal proposes to make the following PFEO:

Within 28 days of the communication of the PFEO to the property factor, the property factor must:

- (i) *Provide to the homeowner, in writing, a deadline by which the information requested by the homeowner will be available.*
- (ii) *Provide the Tribunal with a copy of that written communication to the homeowner.*
- (iii) *Provide the homeowner with the requested information by the deadline.*

(iv) Provide confirmation to the Tribunal that the information has been provided to the homeowner by the deadline.

(v) Pay to the homeowner the sum of £100 compensation in recognition of the time and inconvenience incurred by the homeowner in bringing this application as a result of the property factor's inaction.

3. Section 19 of the 2011 Act provides:

"(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 a criminal offence.

Simone Sweeney, legal chair, 17th April 2020.

