

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Property Factor Enforcement Order: Property Factors (Scotland) Act 2011,
Section 19(3)**

Chamber Ref: FTS/HPC/LM/19/1850

**Common Ground, Belvedere Village, Parkhead, Glasgow, G31 4QD
("The Property")**

The Parties:-

**Mr Lewis Cole, 65 Springbank Gardens, Parkhead, Glasgow, G31 4QD
("the Applicant")**

**SG Property Management Limited, 272 Bath Street, Glasgow, G2 4JR
("the Respondent")**

Tribunal Members:

**Susanne L M Tanner QC (Legal Member)
Mary Lyden (Ordinary Member)**

1. This document should be read in conjunction with the decision of the same date of the First-tier Tribunal ("the tribunal") under Section 19(3) of the Property Factors (Scotland) Act 2011 ("the 2011 Act").
2. By decision of even date with this Notice, the Tribunal determined that it must make a Property Factor Enforcement Order.
3. Within 30 days of intimation of the PFOE the Respondent must:
 - 3.1. Produce and exhibit to the tribunal and to the Applicant:
 - 3.1.1. a Written Statement of Services ("WSS") for the Development which complies with Section 1.1aA of the Code of Conduct and is in accordance with the Deed of Conditions for the Development. In particular the WSS should set out:
 - a statement of the basis of any authority the Respondent has to act on behalf of all the homeowners in the group; and
 - b. where applicable, a statement of any level of delegated authority, for

example financial thresholds for instructing works, and situations in which the property factor may act without further consultation.

- 3.1.2. A written procedure to consult with homeowners in the Development to seek their written approval before providing work or services which will incur charges or fees in addition to those in the core service, unless the Respondent can show an agreed level of delegated authority with the group of homeowners to incur costs up to an agreed threshold or to act without seeking further approval in certain situations (such as in emergencies); in accordance with Section 2.4 of the Code of Conduct and the Deed of Conditions for the Development.
- 3.2. Convene a meeting with the Proprietors (or their proxies) in the Development to take place within 30 days of the date of the PFEO, with an agenda which includes measures to put in place an active Owners' Association in accordance with the Deed of Conditions for the Development; and proposals for possible additional measures to prevent rogue parking in other areas of Common Ground in the Development.
- 3.3. Write to all Proprietors in the Development and provide a copy of the letter to the tribunal and the Applicant, to notify the Proprietors:
 - 3.3.1. that the First-tier Tribunal has decided (as conceded by the Respondent) that the Respondent has failed to comply with the Code of Conduct Section 1.1aA to include in its Written Statement of Services for the Development the basis of its authority to act; and where applicable, a statement of any level of delegated authority, for example financial thresholds for instructing works, and situations in which the property factor may act without further consultation;
 - 3.3.2. that the First-tier Tribunal has decided (as conceded by the Respondent) that the Respondent has failed to comply with the Code of Conduct, Section 2.4, and failed to comply with property factors' duties, in that it failed to consult with the Proprietors on the Development prior to instruction of the rock works as a preventative measure for parking on some grassed areas in the Development (particularly by non-residents on football match days) and incurred consequent financial liability to the Proprietors;
 - 3.3.3. that the First-tier Tribunal has ordered the Respondent to revise its Written Statement of Services to ensure that it complies with the Code of Conduct, in particular Section 1.1aA in relation to the basis of its authority to act and where applicable, a statement of any level of delegated authority, for example financial thresholds for instructing works, and

situations in which the property factor may act without further consultation;

3.3.4. that the First-tier Tribunal has ordered the property factor to produce a written procedure to consult with the Proprietors in the Development to seek their written approval before providing work or services which will incur charges or fees in addition to those in the core service; and

3.3.5. that the Respondent will convene a meeting with the Proprietors (or proxies) in the Development with an agenda which includes proposals for measures to put in place an active Owners' Association, in accordance with the Deed of Conditions; and proposals for possible additional measures to prevent rogue parking in other areas of Common Ground in the Development.

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

Susanne L. M. Tanner Q.C.
Legal Member

18 February 2020