

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**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: HPC/PF/19/3395**

**Hillpark Brae Development, Edinburgh, EH4 7EF (" the Property")**

### **The Parties:**

**Aylmer Millen, 5 Hillpark Brae, Edinburgh, EH4 7AP ("the Homeowner")**

**Charles White Limited, Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD  
(" the Property Factor")**

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### **Tribunal Members:**

**Josephine Bonnar (Legal Member)  
Andrew Taylor (Ordinary Member)**

This document should be read in conjunction with the First-tier Tribunal's Decision of the same date.

The First-tier Tribunal proposes to make the following Property Factor Enforcement Order ("PFEO"):

- (1) The Tribunal order the Property Factor to pay to the Homeowner the sum of £100 for his time, effort and inconvenience,
- (2) The Tribunal order the Property Factor to issue a written apology to the Homeowner for their failure to comply with section 2.5 of the Code and carry out their property factor duties, and
- (3) The Tribunal order the Property Factor to provide the Homeowner with information about the re-tendering of the ground maintenance contract, including timescales

All within 28 days of intimation of the PFEO.

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."*

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

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

Josephine Bonnar,  
Legal Member  
27 January 2020