

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Property Factor Enforcement Order (“PFEO”): Property Factors (Scotland) Act 2011 Section 19(3)**

**Chamber Ref: FTS/HPC/PF/21/0188**

**19 Wilderhaugh Court, Galashiels, TD1 1QL  
 (“the Property”)**

**The Parties:-**

**Mr John Mitchell and Mrs Doreen Mitchell, 30 Hillside Terrace, Selkirk TD7 4ND  
 (“the Homeowners”)**

**James Gibb Property Management Ltd, Bellahouston Business Centre, 423  
 Paisley Road West, Glasgow G51 1PZ  
 (“the Factor”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

**Mike Scott (Ordinary Member)**

This document should be read in conjunction with the First-tier Tribunal’s Decision of 7 July 2021

### **Decision**

The Tribunal has decided that it should make a PFEO in the terms originally proposed by it.

The decision of the Tribunal is unanimous

### **Reasons for Decision**

In the Tribunal’s decision of 7 July 2021, it proposed to make a PFEO as follows:

- (1) The Factor must appoint a chartered surveyor to check on the work carried out to the roof and gutters at block 13-20 Wilderhaugh Court, Galashiels by Cleland roofing and completed in February 2021 and to prepare a written report and exhibit same to the Homeowners and the Tribunal within a period of 30 days from the date of the order. The cost of the survey and report to be met by the Factor from its own funds.
- (2) The Factor must send a written apology to the Homeowners within 30 days of the date of the order apologising for its breaches of the Code of Conduct and its failure to comply with its property factor’s duties.
- (3) The Factor must within 30 days of the date of the order make payment to the Homeowners from its own funds the sum of £1200.00.

The Tribunal indicated that prior to making a property factor enforcement order, it would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.

The Tribunal's decision was intimated to the parties on 8 July 2021.

No responses to the proposed PFEO were received from either party.

The Tribunal confirms its decision made in terms of section 19(1)(a) of the Act. The Tribunal agreed that it would be appropriate to make a PFEO.

### **Property Factor Enforcement Order**

The First-tier Tribunal hereby makes the following PFEO:

1. The Factor must appoint a chartered surveyor to check on the work carried out to the roof and gutters at block 13-20 Wilderhaugh Court, Galashiels by Cleland roofing and completed in February 2021 and to prepare a written report and exhibit same to the Homeowners and the Tribunal within a period of 30 days from the date of the order. The cost of the survey and report to be met by the Factor from its own funds.
2. The Factor must send a written apology to the Homeowners within 30 days of the date of the order apologising for its breaches of the Code of Conduct and its failure to comply with its property factor's duties.
3. The Factor must within 30 days of the date of the order make payment to the Homeowners from its own funds the sum of £1200.00.

**Under Section 24(1) of the Property Factors (Scotland) Act 2011, a person who, without reasonable excuse, fails to comply with a property factor enforcement order commits an offence.**

### **Appeals**

**A homeowner or property factor 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.**

Graham Harding      Legal Member and Chair

10 October 2021      Date