

Housing and Property Chamber

First-tier Tribunal for Scotland



PROPERTY FACTOR ENFORCEMENT ORDER

Issued by the First-tier Tribunal for Scotland (Housing and Property Chamber)
Under section 17 of the Property Factors (Scotland) Act 2011

Chamber Ref:FTS/HPC/PF/18/3190

Flat 8, 112 Hillpark Grove, Edinburgh, EH4 7EF ('the Property')

The Parties:

Michael Sturgeon residing at flat 8, 112 Hillpark Grove, Edinburgh, EH4 7EF
(‘The Homeowner’)

Charles White Limited, City Point, 65 Haymarket Terrace, Edinburgh, EH12 5HD
(‘the Factor’)

Tribunal members:

Jacqui Taylor (Chairperson) and Carol Jones (Ordinary Member).

NOTICE TO THE PARTIES

The Tribunal, having made such enquiries as it saw fit for the purposes of determining whether the factor has complied with the property factor’s duties in terms of the Property Factors (Scotland) Act 2011 (‘the 2011 Act’) determined that the Factor had failed to comply with section 2.5 of the Code of Conduct, all as stated in their decision dated 28th February 2019.

The Tribunal intimated to the parties, in terms of their said decision dated 28th February 2019, that they proposed to make a Property Factor Enforcement Order.

The parties made no substantive representations on the terms of the proposed Property Factor Enforcement Order.

In terms of section 19(3) of the Property Factors (Scotland) Act 2011 if the Tribunal are satisfied that the Factor has failed to carry out the property factors’ duties or, as the case may be, to comply with the section 14 duty, the Tribunal **must** make a property factor enforcement order. Consequently, the Tribunal make the following Property Factor Enforcement Order:

1. Charles White Limited are directed to pay the Homeowner £250 as compensation from their own funds and at no cost to the owners. The said sum to be paid by 30th April 2019.

2. *Charles White Limited are directed to provide the Tribunal with evidence that the said sum has been paid within seven days of the payment being remitted to the Homeowner.*

3. *Charles White Limited will give consideration as to how their office systems and procedures can be improved to ensure that section 2.5 of the Code of Conduct and Section 4 of their Written Statement of Services is routinely complied with and provide the Tribunal with a report on the resultant action plan to improve their systems, steps that they will take to implement the required changes and monitor ongoing compliance, all by 30th April 2019*

Failure to comply with a PFE0 may have serious consequences and constitute an offence.

Appeals

In terms of section 46 of the Tribunals (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.

Signed ..

Chairperson Date: 10th April 2019

Jacqueline Taylor