

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



**Proposal regarding the Making of a Property Factor Enforcement Order**

**Following Upon a  
Decision of the First-tier Tribunal for Scotland (Housing and Property  
Chamber)  
In an Application under section 17 of the Property Factors (Scotland) Act 2011**

**by**

**Alastair Thomson, 3/7 West Grange Gardens, Edinburgh EH9 2RA (“the  
Applicant”)**

**James Gibb Property Management Ltd t/a James Gibb Residential Factors, 4  
Atholl Place, Edinburgh EH3 8HT (“the Respondent”)**

**Chamber Ref: FTS/HPC/PF/2556**

**Re: West Grange Gardens, Edinburgh EH9 2RA (“the Property”)**

**Tribunal Members:**

John McHugh (Chairman) and Andrew Murray (Ordinary (Surveyor) Member).

**This document should be read in conjunction with the Tribunal’s Decision of the same date.**

The Tribunal proposes to make the following Property Factor Enforcement Order (“PFEO”):

*“Within 42 days of the date of the communication to the Respondent of this property factor enforcement order, the Respondent must:*

*1 Communicate to the Applicant the identity of the member of the Respondent’s staff who will be responsible for future communication between the Applicant and other owners within the Development on the one part and the Respondent on the other.*

*2 Instruct, at the Respondent's sole cost, a survey by an RICS member Building surveyor as to the current condition of the roof of the Development and the likely requirements and costs of future maintenance and replacement of the roof.*

*3 Provide a full copy of the surveyor's report to the owners and seek their instructions as to the carrying out of works.*

*4 Prepare and provide to owners a programme of works which schedules anticipated future maintenance requirements over the next ten years.*

*5 Confirm in writing to the office of the Tribunal that steps 1-4 have been carried out."*

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

**Failure to comply with a property factor enforcement order may have serious consequences and may constitute an offence.**

J McHugh

**JOHN M MCHUGH**

**CHAIRMAN**

**Date: 2 July 2019**