

# 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/19/1338**

**Flat 7, 29 Brighthouse Park Cross, Edinburgh EH4 6GW  
 (“the Property”)**

**The Parties:-**

**Dr John Howard, 5132 Aldenbrook Way, Glen Allen, VA23059, USA  
 (“the Homeowner”)**

**James Gibb Residential Factors, 4 Atholl Place, Edinburgh EH3 8HT  
 (“the Factor”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

**Mike Links (Ordinary Member)**

This document should be read in conjunction with the First-tier Tribunal’s Decision of 19 February 2020.

### **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 19 February 2020, it proposed to make a PFEO as follows:

- (1) In respect of its failures of its property factors duties and breaches of the Code and in respect of the trouble, distress, worry and substantial inconvenience caused to the Homeowners pay to the Homeowner the sum of £750.00 from its own funds and that within a period of 28 days.

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 20 February 2020. By email of the same date the Factor indicated it was seeking the Homeowner's bank details from the Homeowner.

By email dated 26 February 2020 the Homeowner commented on the Tribunal's decision and the terms of the proposed PFEO and requested an amendment to the PFEO. Following consideration of the Homeowner's request for an amendment to the proposed PFEO the Tribunal did not consider any amendment was appropriate or necessary.

Having considered matters the Tribunal now confirms its original decision to issue a PFEO in the same terms.

### **Property Factor Enforcement Order**

The First-tier Tribunal hereby makes the following PFEO:

1. In respect of its failures of its failures of its property factors duties and breaches of the Code and in respect of the trouble, distress, worry and substantial inconvenience caused to the Homeowners pay to the Homeowner the sum of £750.00 from its own funds and that within a period of 28 days.

**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

22 April 2020      Date