

# Housing and Property Chamber

## First-tier Tribunal for Scotland



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

### Decision in terms of Section 23(1) of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/PF/22/3985; FTS/HPC/PF/23/0884; FTS/HPC/PF/23/0885; FTS/HPC/PF/23/0888; FTS/HPC/PF/23/0889; FTS/HPC/PF/23/0890; FTS/HPC/PF/23/0891; and FTS/HPC/PF/23/1203

Property addresses: Property address: 28E, 30E, 28P, 28R, 30C, 30G, 30L, 30P and 30Q Diriebught Road, Inverness, IV2 3QY

### The Parties

Dr Robert Anderson  
Mrs Lesley Leslie  
Mrs Anita Bennis  
Mr Jamie Stranraer-Mull  
Mr Fred Kelly  
Mr Malcolm Petrie  
Mr Jeffrey Geary  
Miss Mhairi Dalglish (“the Homeowners”)

First Port Property Services, Queensway House, 11 Queensway, New Milton, Hampshire, BH25 5NR (“the Property Factor”)

### Tribunal Members

Ms Helen Forbes (Legal Member)

Mr Mike Scott (Ordinary Member)

### Decision

The Tribunal hereby determines that the Property Factor Enforcement Order (“PFEO”) dated 9<sup>th</sup> October 2023 has not been complied with. The decision of the Tribunal is unanimous

### Reasons for Decision

1. The Tribunal made a PFEO on 9<sup>th</sup> October 2023 in the following terms:



“Within 28 days of intimation to them of the PFEO, the Property Factor is required to:

1. Instruct an independent audit of the development account to ensure that the final account is accurate, the cost of the audit to be borne by the Property Factor;
  2. Pay to the Homeowners the sum of £100 each for the failure to comply with paragraph 3.1 of the Code of Conduct for Property Factors (“the Code”);
  3. Pay to the Homeowner, Dr Anderson, an additional sum of £600 to compensate for the distress, frustration and inconvenience caused as a result of the Property Factor’s failure to comply with the Code.”
2. By email dated 16<sup>th</sup> November 2023, the Property Factor informed the Tribunal that they were in the process of complying with the PFEO in that an approach had been made to an independent auditor who had asked for further information, and that payment to the Homeowners was being processed. The Property Factor requested further guidance in respect of the audit. The Tribunal responded that no further guidance would be provided.
  3. By email dated 13<sup>th</sup> November 2023, the Homeowners’ representative stated that the PFEO had not been complied with.
  4. By email dated 29<sup>th</sup> November 2023, the Property Factor confirmed that item 1 of the PFEO had been complied with.
  5. By email dated 8<sup>th</sup> December 2023, the Homeowners’ representative stated that no payment to homeowners had been made.
  6. By email dated 12<sup>th</sup> December 2023, the Homeowners’ email was circulated to the Property Factor with a request for comment on the matter of compliance. No response was received by the Tribunal.
  7. Accordingly, the Tribunal finds that the Property Factor has failed to comply with the PFEO in respect of points 2 and 3.

## **Right of Appeal**

**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.**



Helen Forbes  
Legal Member and Chairperson  
5<sup>th</sup> January 2024