



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

**Proposal regarding the making of a Property Factor Enforcement Order
Property Factors (Scotland) Act 2011 Section 19(2).**

Reference number: FTS/HPC/PF/23/2830

The Parties:

**Mrs Jane Calder Pyat Shaws Cottage Longyester Near Gifford East Lothian
EH41 4PL, (‘the Homeowner).**

**Charles White LTD 14 New Mart Road Edinburgh EH14 1RL (‘ the Property
Factor’)**

2F1 Chilton Gracefield Court Mussellburgh EH22 (‘the Property’).

**Legal Member: Lesley Anne Ward
Ordinary Member: Nick Allan**

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

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

- (1) The Tribunal order the Property Factor to:
 - (a) Provide a written apology to the homeowner for providing erroneous information in connection with the voting arrangements set out in the title deeds.
 - (b) Contact all of the 72 homeowners in the development at Gracefield Court and advise them that they made an error in advising the homeowners that a majority of owners were required to make a change to the insurance arrangements and to advise them of the correct voting provision set out in clause 19 of the deed of conditions.

Confirmation of the Property Factor's compliance with this order shall be provided to the Homeowner and the Tribunal no later than 2 months of intimation of the PFEO.

(2) The Tribunal order the Property Factor to pay to the Homeowner the sum of £500 for her time, effort and inconvenience, within 28 days of intimation of the PFEO.

Section 19 (2) of the Act provides as follows:

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

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

4 June 2024

Lesley A Ward Legal Member

Date