

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Certificate of Non Compliance with Property Factor Enforcement Order (“PFEO”):  
Property Factors (Scotland) Act 2011 Section 19(3)**

**Reference number: FTS/HPC/PF/23/3408**

**Re: Property at 33 Broomyhill Place, Linlithgow, West Lothian, EH49 7BZ (“the Property”)**

**The Parties:**

**Mr Steven McDade, 33 Broomyhill Place, Linlithgow, West Lothian, EH49 7BZ (“the Applicant”)**

**Hacking & Paterson Management Services, 103 East London Streey, Edinburgh, EH7 4BF (“the Respondent”)**

**Tribunal Members: Alison Kelly (Legal Member) and Helen Barclay (Ordinary Member)**

This document should be read in conjunction with the First-tier Tribunal’s Decision of 27<sup>th</sup> May 2024.

### **Decision**

1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Property Factor: -

Has failed to comply with the Property Factor Enforcement Order which was issued on 24<sup>th</sup> June 2024.

2. The decision of the Tribunal is unanimous.

### **Reasons for Decision**

3. On 24th June 2024 the Tribunal made a PFEO as follows:

*No later than 4 weeks from date of PFEO the Property Factor must:*

1. *Provide reconciliation statements for the Float for the last three financial years.*

4. The Property Factor has not provided reconciliation statements for the Float for the last three financial years.

Section 23 of the Property Factors (Scotland) Act 2011 states:

***Effect of failure to comply with property factor enforcement order***

*(1) It is for the First-tier Tribunal to decide whether a property factor has failed to comply with a property factor enforcement order made by the First-tier Tribunal .*

*(2) Where the First-tier Tribunal decides that a property factor has failed to comply with the property factor enforcement order, the First-tier Tribunal must serve notice of the failure on the Scottish Ministers.*

*(3) The First-tier Tribunal may not decide that a property factor has failed to comply with a property factor enforcement order—*

*(a) unless the period within which the order requires any work to be executed has ended, or*

*(b) if the First-tier Tribunal is satisfied, on the submission of the property factor or otherwise—*

*(i) that the property factor is unable to comply with the order because of a lack of necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights, or*

*(ii) that any action required by the order is likely to endanger any person.*

*(4) Where the First-tier Tribunal is prevented by reason only of subsection*

*(3)(b) from deciding that a property factor has failed to comply with a property factor enforcement order, the First-tier Tribunal must serve notice on the Scottish Ministers stating that **it** considers the property factor to be unable to comply with the property factor enforcement order.*

5. The Tribunal consider that the Property Factor has failed to comply with the Property Factor Enforcement Order.
6. The Tribunal's decision is unanimous.

## 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.

Alison J Kelly Chairperson

16 September 2024