

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Proposed Property Factor Enforcement Order (“PFEO”): Property Factors (Scotland) Act 2011 Section 19(2)

Chamber Ref: FTS/HPC/PF/24/1161

Re: Flat 3/3 34 Thornwood Avenue, Glasgow G11 7QY (“the Property”)

Parties:

Mr John Sherry and Mrs Katharine Sherry, 136 Danes Drive, Glasgow G14 9BH (“the Homeowners”)

James Gibb Residential Factors, Red Tree Magenta, 3rd Floor, 270 Glasgow Road, Glasgow G73 1UZ (“the Factor”)

Tribunal Member:

Graham Harding (Legal Member)

Andrew McFarlane (Ordinary (Surveyor) Member)

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) 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 Applicants that the Factor pay the Applicants the sum of £500.00 from its own funds and that within a period of 28 days.

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 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 has serious consequences and may constitute an offence.

Graham Harding Legal Member and Chair

14 January 2024 Date