



PROPERTY FACTOR ENFORCEMENT ORDER

**Issued by the First-tier Tribunal for Scotland (Housing and Property Chamber)
Under section 17 of the Property Factors (Scotland) Act 2011**

Chamber Ref:FTS/HPC/PF/23/4632 and FTS/HPC/PF/23/4633

Flat 24, Old Courthouse, 31 High Street, Rothesay, PA20 9AS ('the Property')

**Robert McGill residing at Flat 24, Old Courthouse, 31 High Street, Rothesay,
PA20 9AS ('the Homeowner and Applicant')**

Fyne Homes ('the Factor and Respondent')

**Ms Kirstie Donnelly, TC Young, Solicitors ('The Factor and Respondent's
Representative')**

Tribunal members:

Jacqui Taylor (Chairperson) and Donald Wooley (Ordinary Member).

NOTICE TO THE PARTIES

1. The Tribunal, having made such enquiries as it saw fit for the purposes of determining whether the factor has complied with the Code of Conduct for Property Factors, in terms of the Property Factors (Scotland) Act 2011 ('the 2011 Act') determined that the Factor had failed to comply with sections 2.1, the preamble of section 3 and 7.2 of the 2012 Code of Conduct and section 3.1 of the 2021 Code of Conduct, all as stated in their decision dated 3rd February 2025.

2. The Tribunal intimated to the parties, in terms of their said decision dated 3rd February 2025, that they proposed to make a Property Factor Enforcement Order('PFEO'), requiring the Property Factor to pay the Homeowner the sum of £150. The parties were given notice that they should ensure that any written representations they wish to make under section 19(2)(b) of the Act reach the Housing and Property Chamber's office by no later than 14 days after the date that the Decision and the notice of the proposed PFEO was intimated to them.

3. The Homeowner did not provide any written representation in relation to the proposed PFEO, although he did submit an application for review and a separate leave to appeal application.

4. The Property Factor's Representative sent the Tribunal an email dated 5th February 2025 and attached a copy of their letter dated 4th February 2025 to the Homeowner sending the Homeowner a cheque in the sum of £150. They invited the Tribunal to find that a PFEO was no longer necessary.

5. Section 19(3) of the Property Factors (Scotland) Act 2011 requires the Tribunal to make a PFEO where they have determined that the Factor has failed to carry out Property Factor duties or comply with the Code of Conduct.

6. Consequently, the Tribunal make the following Property Factor Enforcement Order:

'The Factor must pay the homeowner £150 for the inconvenience he had suffered from their own funds and at no cost to the owners. The said sums to be paid within 28 days of the communication to the Factor of the Property Factor Enforcement Order'

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

Appeals

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.

Jacqui Taylor

Signed

Chairperson Date: 28th April 2025