

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

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**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)**

**Chamber Ref: FTS/HPC/LM/24/2852**

**Dr Michael Marshall, The Lodge House, Kingsmeadows, Peebles, EH45 9HR  
("the Applicant")**

**James Gibb Residential Factors, Red Tree Magenta 3<sup>rd</sup> Floor, 270 Glasgow Road,  
Rutherglen ("the Respondent")**

**Tribunal Members:**

**Josephine Bonnar (Legal Member) and Sandra Brydon (Ordinary 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"):

The Tribunal order the Respondent: -

1. Within 3 months of intimation of the PFEO, to obtain three quotes from suitably qualified accountants and thereafter consult with the homeowners in the development regarding the instruction of an accountant to prepare the accounts of the Kingsmeadows Owners Association for the financial years from 2021 to 2025. If instructed by the homeowners, to appoint the selected accountant to prepare the accounts and provide the accountant with all requested relevant information and documents to enable them to do this.
2. Within 28 days of intimation of the PFEO, to provide the Applicant with a timetable for inspections for 2025 and 2026, to include the dates and times upon which the inspections will take place.
3. Within 28 days of intimation of the PFEO, to provide the Applicant with a full explanation for the absence of surplus funds by reference to the profit and loss/balance sheet submitted by the Applicant to the Tribunal.

4. Within 28 days of intimation of the PFEO, if there are surplus funds, to reimburse the Applicant and the other homeowners with all sums due to them.
5. Within 28 days of intimation of the PFEO, to pay to the Applicant the sum of £500 for his time, effort, and inconvenience,

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 may have serious consequences and may constitute an offence

Josephine Bonnar, Legal Member

23 April 2025