

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factor Enforcement Order (“PFEO”): Property Factors (Scotland) Act 2011 Section 19(3)

Chamber Reference: FTS/HPC/PF/24/3676

Property address: Flat 5, 30 Eyre Crescent, Edinburgh, EH3 5EU (“the Property”)

The Parties

Mr Aylmer Millen, 5 Hillpark Grove, Edinburgh, EH4 7AP (“the Homeowner”)

James Gibb Ltd., 23 Alva Street, Edinburgh, EH3 8HT (“the Property Factor”)

Tribunal Members

Ms H Forbes (Legal Member) and Ms S Brydon (Ordinary Member)

Decision

The Tribunal has decided that it should make a PFEO in the amended terms set out below. The decision is unanimous.

Reasons for Decision

1. In the Tribunal’s decision of 29th October 2025, it proposed to make a PFEO as follows:

“The Property Factor is required, within 30 days of the making of this Property Factor Enforcement Order, to:

- (1) Arrange a meeting of homeowners to discuss the level of delegated authority set out in the Development Schedule pertaining to the Written Statement of Services to ensure compliance with the provisions of the Development Deed of Conditions.

(2) Make payment of the sum of £200.00 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Property Factor's failure to carry out its property factor duties."

2. The Tribunal indicated that, prior to making a PFEO, it would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act. The decision and proposed PFEO were issued on 31st October 2025.
3. By email dated 3rd November 2025, the Property Factor provided representations stating:

We have received the Proposed PFEO in relation to the above case and wish for the following to be reviewed by the tribunal ahead of issuing the PFEO:

The Development Schedule is no longer active – this ceased in July 2024 when the Written Statement of Services was rewritten – removing any reference to a development schedule. This decision was taken following a change in board members for JGRF and the level of authority noted in the Development Schedule was for non-emergency repairs only.

Whilst we are happy to arrange a meeting of homeowners, which we have done regularly, we would not be looking to set any other delegated authority, other than that noted in the title deeds.

4. By email dated 13th November 2025, the Homeowner submitted an application for review of the Tribunal's decision.
5. By email dated 27th November 2025, the Homeowner submitted an application for permission to appeal the Tribunal's decision to the Upper Tribunal.
6. By decision dated 28th November 2025, which decision was amended due to a typographical error on 11th December 2025, the Tribunal found the review application to be wholly without merit.
7. By decision dated 11th December 2025, the Tribunal determined that the grounds of appeal did not raise arguable points of law and refused leave to appeal.
8. The Tribunal has now decided to amend the proposed PFEO to remove reference to the Development Schedule.

Property Factor Enforcement Order

9. The First-tier Tribunal hereby makes the following PFEO:

The Property Factor is required, within 30 days of the making of this Property Factor Enforcement Order, to:

- (i) Arrange a meeting of homeowners to discuss the level of delegated authority pertaining to the Development to ensure compliance with the provisions of the Development Deed of Conditions.
- (ii) Make payment of the sum of £200.00 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Property Factor's failure to carry out its property factor duties.

10. Under section 24 (1) of the Act, a person who, without reasonable excuse, fails to comply with the Property Factory Enforcement Order commits an offence.

Right of 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.

Helen Forbes
6th February 2026

