

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

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

**Chamber Refs: FTS/HPC/LM/24/2967**

**1 Delamere Drive, Glenboig (“the Property”)**

**Parties:**

**Mrs Mary Ricketts, 1 Delamere Drive, Glenboig (“the Applicant”)**

**Newton Property Management, 87 Port Dundas Road, Glasgow (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)**  
**Ahsan Khan (Ordinary Member)**

This document should be read in conjunction with the First-tier Tribunal’s Decision of 10 May 2026.

### **Decision**

The Tribunal determines that it should make a PFEO in amended terms.

The decision of the Tribunal is unanimous.

### **Reasons for decision**

In the Tribunal’s decision of 10 May 2026, it proposed to make a PFEO in the following terms: -

“The Tribunal orders the Respondent; -

1. To provide the Applicant and all other homeowners in the development with full details of the development debt to include details of all steps taken to recover

the sums due.

2. To consult with the homeowners to adopt a policy for the recovery of debt at the development including the circumstances when court action will be taken.
3. To confirm to all homeowners how much of the debt must be cleared before the Respondent will agree to a termination of the contract.
4. To pay to the Applicant the sum of £250 for her time, effort, and inconvenience”.

The Tribunal indicated that prior to making a PFEO, it would provide the parties with the opportunity to make representations under section 19(2)(b) of the Act.

The Applicant did not lodge any submissions or representations in response to the written decision with statement of reasons and proposed PFEO.

On 24 May 2026, the Respondent lodged a submission which raised the following issues; -

- (a) Part 1 of the proposed PFEO. The Respondent asks for clarification of the requirement to provide full details of the development debt. Firstly, they are concerned that the disclosure of names and addresses would be a breach of GDPR. Secondly, they ask whether there is a threshold for the disclosure or if they are supposed to provide details even when the sum owed is minimal. The Respondent also asks about the “methodology by which such sums are to be calculated”.
- (b) Part 2 of the proposed PFEO. The Respondent challenges the proposed requirement that the Respondent consult with the homeowners in relation to adopting a policy for the recovery of debt. The Respondent states that they have complied with Section 4.4 of the Code as they have a procedure for debt recovery which is applied. The Tribunal did not request a copy of this procedure, and it was therefore not considered in relation to the proposed PFEO. Furthermore, the Code does not require a property factor to consult with homeowners in relation to the adoption or variation of a debt recovery policy. The Respondent asks the Tribunal to clarify the “legal authority or basis” for this part of the proposed order.
- (c) Part 3 of the proposed PFEO. Clause 14 of the DOC states that full payment of all sums due must be paid as a precondition of termination of contract. The Respondent asks whether the Tribunal intends to permit or require the Respondent to accept less than full payment which would conflict with the DOC.

The Tribunal is satisfied that the Respondent failed to comply with its duties under section 14(5) of the Property Factors (Scotland) Act 2011 Act in that it did not carry out its property factor duties to a reasonable standard.

**Section 19(3) of the 2011 Act states that if the Tribunal is satisfied that the Property Factor has failed to carry out its duties and/or comply with its section 14 duty, the Tribunal “must” make a PFEO.**

The Applicant did not lodge a response to the proposed PFEO, and the Tribunal therefore concludes that she is content with its terms. The Respondent makes no comment on the proposed compensation. The Tribunal is therefore satisfied that the award of £250 should be made.

In relation to the Respondent’s submission, the Tribunal notes the following:

1. Part 1 of the proposed order does not state that names and addresses must be provided, although there can be no breach of GDPR where there is a legal obligation to disclose personal data. However, the Tribunal is satisfied that the requirement to provide full details of the development debt can be achieved without the disclosure of all names and addresses. The information can be anonymised but must clearly show the number of people who owe money to the Respondent, how much each person owes, what steps have been taken to recover each debt and full details (including names and addresses) where there has been court action as court proceedings are public. The Tribunal concludes that this part of the proposed order should be amended to clarify this point. The Tribunal does not understand the second part of the Respondent’s submission. At the CMD, the Respondent’s representative provided a figure, being the sum owed at that date. The Respondent had also provided figures to the homeowners at meetings. This suggests that they already have a method for collating this information. Presumably, the development debt does not include sums recently invoiced, and which are not yet overdue. There also appears to be no grounds to include a “threshold” in the order – the non-payment of small sums will contribute to the overall figure although it may be reasonable for the Respondent to restrict their recovery processes for very small debts. The Tribunal was told that there are some homeowners who have large balances. It is these sums which are most relevant.
2. The Respondent appears to misunderstand Part 2 of the proposed PFEO. They conflate the concepts of procedures and policies. The Tribunal did not make any findings in relation to the Code, and the application was based on property factor duties only. It was not disputed that the Respondent has a debt recovery procedure. The Respondent told the Applicant and other homeowners that they would not agree to a termination of their contract until the debt is paid. However, they provided homeowners with very limited information about the debt and no information about what action they have taken, other than very general statements about applying their procedures. At the CMD, the Respondent’s representative was specifically asked about court action and said that she did not have that information to hand. The Respondent then failed to attend the hearing. If the contract can only be terminated upon payment of the debt, the homeowners have a right to decide what action is to be taken, and when. They have a right to be consulted on a policy for debt recovery so that they can make informed decisions and give instructions to the Respondent. The “legal basis” for this part of the order is that it is what the Tribunal has decided to do. The

content of PFEOs is wholly within the discretion of the Tribunal.

3. At the CMD, the Tribunal was told that the Respondent had previously indicated that they would agree to the termination if the debt was under £4000. This was stated by the Applicant and not denied or disputed by the Respondent's representative. The Respondent is correct when they state that the DOC requires full payment. However, this provision is designed to protect the property factor, and it is open to them to accept a lesser sum if they choose. If they now insist on full payment, then they previously misled the homeowners when they agreed to accept a lesser sum. The proposed order only requires the Respondent to clarify the position and does not require them to do anything which conflicts with the DOC.

The Tribunal is therefore satisfied that a PFEO should be issued in the terms originally proposed, with a small amendment to Part 1 of the order only.

### **Property Factor Enforcement Order**

The First-tier Tribunal hereby makes the following PFEO:

The Tribunal orders the Respondent: -

1. To provide the Applicant and all other homeowners in the development with full details of the development debt to include details of all steps taken to recover the sums due. The information can be anonymised for all debtors except those who have been the subject of court proceedings for recovery of the debt.
2. To consult with the homeowners to adopt a policy for the recovery of debt at the development including the circumstances when court action will be taken.
3. To confirm to all homeowners how much of the debt must be cleared before the Respondent will agree to a termination of the contract.
4. To pay to the Applicant the sum of £250 for her time, effort, and inconvenience.

All within two months of intimation of the PFEO.

**Under Section 24(1) of the Property Factors (Scotland) Act 2011, a person who, without reasonable excuse, fails to comply with a property factor enforcement order commits an offence.**

## **Appeals**

**A homeowner or property factor aggrieved by a 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.**

Josephine Bonnar, Legal Member

21 June 2026