



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under section 23 of the Property Factors (Scotland) Act 2011 (“the Act”) relating to Failure to Comply with a Property Factor Enforcement Order

Chamber Ref: FTS/HPC/PF/24/1647

Re: 0/1, 70 Fergus Drive, Glasgow G20 6AP (“the Property”)

Parties:

Dr Ben Snow and Ms Aubrey Bierworth, 01, 70 Fergus Drive, Glasgow G20 6AP (“the Homeowners”)

W.M. Cumming Turner & Watt, 40 Carlton Place Glasgow G5 9TS (“the Property Factor”)

Tribunal Members:

James Bauld (Legal Member) Robert Buchan (Ordinary Member)

Decision

The Tribunal determined that the Respondent (Property Factor) has failed to comply with the Property Factor Enforcement Order (“PFEО”) dated 19 November 2025 January 2025.

Background and introduction

1. The tribunal made a Property Factor Enforcement Order (“PFEО”) dated 19 November 2025 requiring the property factor to do the following;-

(1) The Factor must write to all the owners at 70 Fergus Drive Glasgow apologising for its failure to communicate with them as regards the proposed repairs to the boundary wall and all other outstanding issues and explain to the owners why there has been a lack of communication and provide a copy of the correspondence to the Tribunal.

- (2) The Factor must ensure that all members of its staff are made aware of the importance of good communication with owners and the need to comply with the Code of Conduct for Property Factors 2021 and provide the Tribunal with written confirmation that appropriate training in this regard has been carried out.***
- (3) The Factor shall pay the Applicants the sum of £1000.00 for the worry, distress and inconvenience suffered by them as a result of the Factor's breach of the 2021 Code.***
- (4) The Factor must provide the Tribunal with written confirmation that parts (1), (2) and (3) of this Order have been completed within 30 days of the date of this Order.***

- 2. By emails dated 19 November 2025 and 17 February 2026 the homeowners confirmed they had received the payment of £1000 from the property factor. They indicated that they had sold the property and were no longer residing at the property and could therefore not confirm whether the other elements of the PFEO had been actioned by the property factor
- 3. On 4th February 2026 the tribunal had written to the property factor asking them to confirm whether they had complied with the requirements of the PFEO. No response was received to that correspondence
- 4. On 13 May 2026, the tribunal wrote to the property factor setting out the full terms of the PFEO and then indicating the following :-

“The tribunal has received no further communication from the property factor, and the tribunal is now deciding whether to make a determination in terms of section 23 of the Property Factors (Scotland) Act 2011(“the 2011 Act”) that the property factor that has failed to comply with a PFEO

The tribunal is willing to allow the property factor a further period of time to provide evidence of compliance with the PFEO failing which a determination of failing to comply with the PFEO will be made and notice of that failure will be served upon the Scottish ministers as required by the 2011 Act

The property factor should be aware that it is an offence to fail to comply with a Property Factor Enforcement Order without reasonable excuse.

Please reply to this notification no later than 1 June 2026”

5. No update, further information, nor representations about compliance have been received from the Property Factor. There has been no request for further time to comply with the PFEO.
6. Having noted that the time-limit for compliance with the PFEO has expired, and that no further representations have been received from the Property Factor, the Tribunal determined that the Property Factor has failed to comply with paragraphs 1, 2 and 4 of the PFEO
7. In terms of Section 23(2) of the Property Factors (Scotland) Act 2011, a Notice of Failure to Comply with the PFEO will be served on the Scottish Ministers on expiry of the appeal period. The Property Factor is also reminded that, in terms of Section 24(1) of the 2011 Act, a person who, without reasonable excuse, fails to comply with a PFEO commits a criminal offence.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

05 August 2026

Legal Member

Date