

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/24/4854

Property address: Moravia Court, Market Street, Forres, IV36 1EA (“the Property”)

The Parties

The Executor of the late Mr James Nicol, c/o Grigor and Young LLP, 1 North St, Elgin, IV30 1UA (“the Homeowner”)

Newton Property Management Ltd., 87 Port Dundas Road, Glasgow, G4 0HF (“the Property Factor”)

Tribunal Members

Ms H Forbes (Legal Member) and Mr A Khan (Ordinary Member)

Decision

The Tribunal has decided that it should make a PFEO in the proposed terms.

The decision is unanimous.

Reasons for Decision

1. In the Tribunal’s decision of 11th May 2026, 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) Provide details to the Homeowner and the Tribunal outlining how the Property Factor intends to implement the undertaking given by the Property Factor’s representative during the hearing to calculate the amount of lost interest due to homeowners of the development in respect of the contingency fund during the period of the Property Factor’s appointment;

- (2) Make payment of the sum of £500.00 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 comply with the Code of Conduct and 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.
3. By email dated 1st June 2026, the brother of the Homeowner informed the Tribunal that the Homeowner passed away on 11th May 2026.
4. By email dated 8th June 2026, the Property Factor provided information in respect of requirement (1) of the proposed PFEO.
5. By email dated 16th June 2026, the Property Factor stated that payment had been made to the late Homeowner's bank account to satisfy requirement (2) of the proposed PFEO.
6. By email dated 25th June 2026, the Property Factor informed the Tribunal that payment to the late Homeowner had not been rejected by his bank.
7. No further representations have been received by either party.

PFEO

8. The Tribunal hereby makes the following PFEO:

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

- (1) Provide details to the Homeowner and the Tribunal outlining how the Property Factor intends to implement the undertaking given by the Property Factor's representative during the hearing to calculate the amount of lost interest due to homeowners of the development in respect of the contingency fund during the period of the Property Factor's appointment;
 - (2) Make payment of the sum of £500.00 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 comply with the Code of Conduct and carry out its property factor duties
9. 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.

Legal Member and Chairperson
17th September 2026