

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Decision of the Tribunal: Property Factors (Scotland) Act 2011**

**Chamber Ref: HOHP/PF/15/011**

**Properties at 4 Comelypark Street, 22 and 28 Sword Street, Dennistoun,  
Glasgow G31 1TA**  
**( collectively "the Property")**

**The Parties:-**

**Mr Christopher Lord, 34A Cuthelton Street, Glasgow, G31 4RG**  
**("the Applicant")**

**Charles White Limited, Citypoint, 65 Haymarket Terrace, Edinburgh,  
EH12 5HD**  
**("the Respondent")**

**Tribunal Members:**

**Maurice O'Carroll (Legal Member)**

**David Godfrey (Ordinary Member)**

**Irene Kitson (Ordinary Member)**

### **DECISION**

The Tribunal, having determined that the Property Factor Enforcement Order ("PFE0") relating to the Property dated 11 August 2015 as varied, issued following a decision of the Committee of 27 July 2015 has been complied with, certifies that the Respondent has complied with the PFE0.

### **Reasons for the decision**

1. By decision dated 27 July 2015, the Tribunal's predecessor, the Homeowner Housing Committee ("the Committee") determined that the Respondent had breached its duties in terms of s 17(1)(b) of the 2011 Act in that it had failed to comply with sections 2.4, 2.5, 4.6, 6.1, 6.4 and 6.9 of the Code of Conduct for Property Factors all as further specified within the said decision. It issued a Notice of PFE0 on the same date.
2. Having allowed the parties an opportunity to give representations to the Committee in relation to the Notice of the PFE0, the Committee varied

the Notice on 11 August 2015. The terms of the PFEO as varied required the Respondent within 28 days of the date of the communication of it to:

- (i) Make over and pay the sum of £3,799.80, being the sum held on behalf of the homeowners of the Eastern Court Development under deduction of sums being pursued on their behalf, to the present factors for the Development, Greenhome Property Management, failing which to each resident of the Eastern Court Development who was such a resident as at 30 May 2015 by way of a second final statement of account and individual payment.
  - (ii) Provide an up to date, full and complete statement to the Committee and the Homeowner of all debts outstanding in respect of the Development referred to in the said decision, detailing any sums received and the steps it has taken and is taking to recover any other outstanding sums.
  - (iii) Provide a written undertaking to the Committee and the Homeowner to take all reasonable steps to recover any outstanding sums due by any defaulting homeowners of the said Development (which arose during the course of the period in which they acted as Factors for the said Development and which are recovered pursuant to any legal proceedings whatsoever taken in their own name) and to make them over to the present factors, failing which the residents of the Eastern Court Development forthwith upon receipt without any deductions being made (other than sums properly due by the homeowners to the Factors as at 31 May 2015 in accordance with their Written Statement of Services for the Eastern Court Development).
3. On 21 June 2016, the Committee issued a Direction requiring payment of £65 to each of the 41 homeowners listed in the schedule attached to the Respondent's letter of 13 June 2016.
4. An application was thereafter made by the Respondent to Glasgow Sheriff Court which sought to challenge the Direction.

5. Following correspondence with the Respondent, the Committee was satisfied that that the sum of £65 being due and owing to homeowners at the Development is matched by corresponding liabilities properly due by the homeowners in terms of the Written Statement of Services and as set out by way of exception in requirement (iii) noted above. The Committee therefore accepted that the Respondent did not hold any further sums in its bank account on behalf of the homeowners.
6. By interlocutor of the Court dated 26 August 2016, the application at the instance of the Respondent was dismissed.
7. The Tribunal, considering the matter of new, is satisfied that the Respondent complied with the terms of the PFEO. It therefore issues this Certificate of Compliance. No further action is therefore required by the Respondent in terms of the PFEO, except in furtherance of the ongoing undertaking provided in terms of requirement (iii) noted above.
8. In light of the foregoing, the Direction dated 21 June 2016 is hereby revoked.

## **Appeals**

**A homeowner or property factor 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.**

**Signed:** M. O'Carroll  
Chairperson

**Date:** 14 February 2017