

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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### **Notice of Property Factor Enforcement Order (“PFEO”)**

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

**Property Factors (Scotland) Act 2011, Sections 17 and 19**

**The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017, as amended (“the 2017 Regulations”)**

**Chamber Ref: FTS/HPC/PF/22/0929**

**Property at Ferryhill Court, 85 Whinhill Gate, Aberdeen, AB11 7WF  
 (“The Property”)**

**The Parties: -**

**Mr James Murison, residing at the Property (“the Homeowner”)**

**FirstPort Property Services Scotland, Troon House, 199 St Vincent Street,  
 Glasgow G2 5QD (“the Factor”)**

**Tribunal Members: -**

**Maurice O’Carroll (Legal Member)**

**John Blackwood (Ordinary Member)**

**This Notice should be read in conjunction with the decision of the Tribunal of even date under the same reference number noted above.**

1. By decision of 12 August 2022 and reviewed on 5 October 2022, the Tribunal determined that the Factor had breached its duties in terms of s 14(5) of the 2011 Act in that it had failed to comply with sections 7.1 and 7.2 of the Code of Conduct for Property Factors as required by section 14(5) of that Act.
2. In accordance with s 19(3) of the 2011 Act, the parties were provided with advance notice of the PFEO proposed by the Tribunal. Comments were received from both parties in the context of an application for review having been made by the Homeowner on 27 August 2022.
3. Those comments have been taken into consideration in the course of the decision made regarding the breaches of the Code of Conduct as found by the Tribunal and appropriate amendments made to the PFEO as originally proposed.
4. Therefore, the Tribunal makes the following PFEO:

Within 28 days of the communication of this PFEO to the Factor, the Factor must:

- (i) Provide a written apology from the Factor's CEO addressed to the Homeowner acknowledging the poor service which the Homeowner received in respect of the matters referred to in the Tribunal's decision.
- (ii) Provide a written statement to the Homeowner furnishing an explanation to him regarding tender and complaints procedures applied by the Factor and providing detailed assurance that the shortcomings identified by the Tribunal in its decision (as reviewed) will not be repeated in respect of tender processes conducted by it in the future, or in respect of any future complaints it may receive in the future.
- (iii) Pay compensation to the Homeowner in the sum of £500 (Five Hundred Pounds) in respect of the time and inconvenience to the Homeowner occasioned by the Factor's failure to comply with its factor duties under the Code.
- (iv) Provide documentary evidence of compliance to the Tribunal with the above Order within 7 days of having done so.

**Failure to comply with a PFEO has serious consequences and may constitute a criminal offence.**

## **Appeals**

- 5. 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 within 30 days of the date the decision was sent to them.

Signed: M O'Carroll  
Chairman

Date: 5 October 2022