

# 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 Ref: FTS/HPC/PF/20/1595**

**Flat 7, 137 Stockwell Street, Glasgow G1 4 LR  
 (“the Property”)**

**The Parties:-**

**Mr Stuart Hannah, Flat 5, 31 Great Sutton Street, London EC1V 0NA  
 (“the Homeowner”)**

**James Gibb Residential Factors, Bellahouston Business Centre, 423 Paisley Road West, Glasgow G51 1PZ  
 (“the Factor”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

**Carol Jones (Ordinary Member)**

This document should be read in conjunction with the First-tier Tribunal’s Decision of 5 January 2021.

### **Decision**

The Tribunal has decided that it should make a PFEO in the terms originally proposed by it with the exception of paragraph 3.

The decision of the Tribunal is unanimous

### **Reasons for Decision**

In the Tribunal’s decision of 5 January 2021, it proposed to make a PFEO as follows:-

- (1) The Factor must within a period of 28 days prepare and exhibit to the Tribunal and the Homeowner a detailed schedule of works setting out the scope of the communal remedial works to be undertaken at the window well at Flat 10, 137 Stockwell Street, Glasgow together with such further works if any

at Flats 6 and 7 there. The schedule should include as far as possible a timescale for the completion of the works including obtaining any building consents;

- (2) In the event of any subsequent delay or variation to the remedial works the Factor must within 2 working days of being advised of any such variation or delay communicate this in writing to the Homeowner.
- (3) The Factor must within 28 days make payment to the Homeowner from its own funds the sum of £500.00 for the stress and inconvenience caused to the Homeowner for its breach of the Code and its failure to carry out its property factor's duties.

The Tribunal indicated that prior to making a property factor enforcement order, it would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.

The Tribunal's decision was intimated to the parties on 7 January 2021.

By letter dated 26 January 2021 the Factor advised the Tribunal that they had obtained quotations for the repairs to the window well at Flat 10, 137 Stockwell Street, Glasgow and provided copies to the Homeowner and the Tribunal. The Factor further advised that the Homeowner had been advised of the acceptance of the quote from Cairn Building solutions and the ingathering of funds for the project. Finally, the Factor advised the Tribunal that they had made payment of £500.00 to the Homeowner.

By email dated 15 February the Factor advised the Tribunal that the repairs to the balcony had been instructed and that there was a 10-week lead time to manufacture the new balcony lead tray.

By email dated 25 February the Homeowner advised the Tribunal that he did not accept the Factor had fulfilled the terms of the proposed PFEO as he did not believe the schedule provided was sufficiently detailed and that a variation to the lead time for the manufacture of the balcony lead tray had not been communicated in writing within two days to the Homeowner.

The Tribunal having considered the written representations made by both parties was satisfied that the terms of paragraph 3 of the proposed PFEO had been met. Although it seemed that significant progress had been made with regards to paragraphs 1 and 2 of the proposed PFEO as the works were still to be completed and as the Homeowner had expressed some reservations about the details provided by the Factor it was determined that the Tribunal should proceed to issue the PFEO in its amended terms.

### **Property Factor Enforcement Order**

The First-tier Tribunal hereby makes the following PFEO:

- (1) The Factor must within a period of 28 days prepare and exhibit to the Tribunal and the Homeowner a detailed schedule of works setting out the scope of

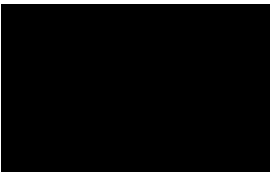
the communal remedial works to be undertaken at the window well at Flat 10, 137 Stockwell Street, Glasgow together with such further works if any at Flats 6 and 7 there. The schedule should include as far as possible a timescale for the completion of the works including obtaining any building consents;

- (2) In the event of any subsequent delay or variation to the remedial works the Factor must within 2 working days of being advised of any such variation or delay communicate this in writing to the Homeowner.

**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 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.**



Graham Harding      Legal Member and Chair

18 March 2021      Date