

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Proposed Property Factor Enforcement Order (“PFEO”): Property Factors (Scotland) Act 2011 Section 19(2)

Chamber Ref: FTS/HPC/PF/21/0188

**19 Wilderhaugh Court, Galashiels, TD1 1QL
 (“the Property”)**

The Parties:-

**Mr John Mitchell and Mrs Doreen Mitchell, 10 Wilderhaugh Court, Galashiels
TD1 1QL
 (“the Homeowners”)**

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

Tribunal Members:

Graham Harding (Legal Member)

Mike Scott (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal’s Decision of the same date.

The First-tier Tribunal proposes to make the following Property Factor Enforcement Order (“PFEO”):

- (1) The Factor must appoint a chartered surveyor to check on the work carried out to the roof and gutters at block 13-20 Wilderhaugh Court, Galashiels by Cleland roofing and completed in February 2021 and to prepare a written report and exhibit same to the Homeowners and the Tribunal within a period of 30 days from the date of the order. The cost of the survey and report to be met by the Factor from its own funds.
- (2) The Factor must send a written apology to the Homeowners within 30 days of the date of the order apologising for its breaches of the Code of Conduct and its failure to comply with its property factor’s duties.
- (3) The Factor must within 30 days of the date of the order make payment to the Homeowners from its own funds the sum of £1200.00.

Section 19 of the 2011 Act provides as follows:

"(2) In any case where the First-tier Tribunal proposes to make a property factor enforcement order, it must before doing so—

(a) give notice of the proposal to the property factor, and

(b) allow the parties an opportunity to make representations to it.

(3) If the First-tier Tribunal is satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the First-tier Tribunal must make a property factor enforcement order."

The intimation of the First-tier Tribunal's Decision and this proposed PFEO to the parties should be taken as notice for the purposes of section 19(2)(a) and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2)(b) reach the First-tier Tribunal by no later than 14 days after the date that the Decision and this proposed PFEO is sent to them by the First-tier Tribunal. If no representations are received within that timescale, then the First-tier Tribunal is likely to proceed to make a property factor enforcement order without seeking further representations from the parties.

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

Graham Harding

Legal Member and Chair

7 July 2021

Date