

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/21/0425 FTS/HPC/PF/21/0379 FTS/HPC/PF/21/0403 FTS/HPC/PF/21/0398 FTS/HPC/PF/21/0424 FTS/HPC/PF/21/0510

The Properties:

**37B Garry Drive, Foxbar, Paisley, PA2 9BX
37A Garry Drive, Foxbar, Paisley, PA2 9BX
41D Garry Drive, Foxbar, Paisley, PA2 9BX
35E Garry Drive, Foxbar, Paisley, PA2 9BX
37D Garry Drive, Foxbar, Paisley, PA2 9BX
35D Garry Drive, Foxbar, Paisley, PA2 9BX**

(“The Properties”)

The Parties:-

**Michelle Devoy, residing at 37B Garry Drive, Foxbar, Paisley, PA2 9BX
Diane Burgess, residing at 37A Garry Drive, Foxbar, Paisley, PA2 9BX
Helen Coulter, residing at 41D Garry Drive, Foxbar, Paisley, PA2 9BX
Elbarsri Simari, residing at 35E Garry Drive, Foxbar, Paisley, PA2 9BX
Catherine Urquhart, residing at 37D Garry Drive, Foxbar, Paisley, PA2 9BX
Irina Delibozova residing at 35D Garry Drive, Foxbar, Paisley, PA2 9BX
(“the Applicants”)**

Miller Property Management Ltd, a company incorporated under the Companies Acts and having a place of business at Suite 2/2, Waverley House, Caird Park, Hamilton, ML3 0QA

(“The Factor”)

Tribunal Members:

**Graham Harding (Legal Member)
Robert Buchan (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 shall prepare a schedule of proposed staff training by an outside third party not employed by the Factor to ensure that all staff are fully aware of the respondent’s obligations:

to have detailed knowledge of the terms of the Code of Practice for Property Factors and to ensure that they comply with it;
to comply with their duties arising from the Deed of Conditions;
to ensure adequate customer relations and to communicate effectively;
to ensure all staff are fully aware of the respondent's complaints procedure and when to implement this;
including details of the provider of the training and timescales for the provision of delivery of the training to be provided to the Tribunal for their approval.

- (2) The Factor must issue an invoice to each Applicant (with the exception of Ms Burgess and Ms Urquhart) removing the apportionment of outstanding debt amounting to £189.00 per property.
- (3) The Factor must organise a meeting with all owners at the development with an agenda circulated in advance and with the intention of resolving all outstanding issues and agreeing the future management of the development.
- (4) The Factor shall refer itself to the Information Commissioner's Office for it to determine if the Factor was in breach of General Data Protection Regulations by disclosing the non-paying owners' names, addresses and sums owed to the other owners and report the IOC findings to the Tribunal and the non-paying owners on receipt.

The Factor shall confirm to the Tribunal that it has complied with the foregoing in writing within a period of 28 days from the date of service of the PFEO.

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

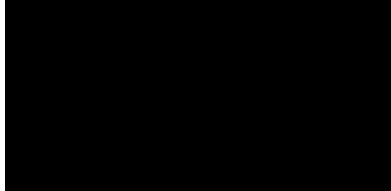
(b) allow the parties an opportunity to make representations to it.

(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

22April 2022 Date