

# 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/20/2159**

**Kingsmeadows, Peebles EH45 9HR  
 (“the Property”)**

**The Parties:-**

**Mr Michael Marshall and Dr Catriona Mackay, The Lodge House,  
Kingsmeadows, Peebles EH45 9HR  
 (“the Homeowner”)**

**James Gibb Residential Factors, 4 Atholl Place, Edinburgh EH3 8HT  
 (“the Factor”)**

**Tribunal Members:**

**Graham Harding (Legal Member)  
Elaine Munroe (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 within 28 days issue to the Homeowner and all other members of Kingsmeadows Owners Association a Written Statement of Services setting out the terms and service delivery standards in place between you.
- (2) As soon as possible and allowing for any Covid -19 restrictions call an Annual General Meeting of the Kingsmeadows Owners Association and present to it an annual budget in terms of Rule 18 of the Development Management Scheme.
- (3) The Factor must within 28 days pay the Homeowner from its own funds the sum of £2500.00.

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

16 May 2021

Date