



**Proposal regarding the making of a Property Factor Enforcement Order following upon a Decision of the Homeowner Housing Committee on an Application under Section 17 of the Property Factors (Scotland) Act 2011 by**

#### **THE PARTIES**

Mr Michael Sturgeon, residing at Flat 8, 112 Hillpark Grove, Edinburgh, EH4 7EF ("the applicant")

And

Charles White Limited, 92 Morningside Road, Edinburgh, EH10 4BY ("the respondent")

HOHP Reference: HOHP/PF14/0018

Property: Flat 8, 112 Hillpark Grove, Edinburgh, EH4 7EF

**The document should be read in conjunction with the committee's decision of the same date.**

The committee proposes to make the following Property Factor Enforcement Order (PFEO) that within 28 days of the date of the communication to the respondent of this PFEO, the respondent must:-

1. Provide evidence to the applicant confirming how the insurer for the development was chosen and how the respondent obtained best value in the procurement of that insurance.
2. Make a payment in refund of all insurance premiums paid by the applicant for the period from 29<sup>th</sup> April 2013 to 10<sup>th</sup> February 2014.
3. Arrange to make a payment in refund of any commission paid on an insurance premium paid by the applicant for the period from 11<sup>th</sup> February 2014 to 31<sup>st</sup> October 2014.
4. Provide clear and transparent information of the method of calculation of the sum insured for property insurance for the policy.
5. Carry out all snagging works listed in paragraph 16 of the decision of even date.
6. Provide clarity with regard to the cleaning schedule for the internal common areas and the external areas of the property.
7. Refund all factoring charges paid by the applicant to the respondent; and
8. Make a payment of £500 to the applicant in compensation with regard to the respondent's continuing and continued failures to act in accordance with the Property Factors Code of Conduct and their failure to carry out their duties as property factor.

Section 19 of the 2011 Act provides as follows:-

- "2. In any case where the committee proposes to make a Property factor Enforcement Order they must before doing so:
- (a) Give notice of the proposal to the property factors; and
  - (b) Allow the parties an opportunity to make representations to them.
3. If the committee are satisfied after taking account of any representations made under sub-section (2)(b) that the property factor has failed to carry out the property factors' duties or, as the case may be, to comply with the Section 14 duty, the committee must make a Property Factor Enforcement Order."

The intimation of the committee'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 Homeowner Housing Panel's office by no later than 14 days after the date that the decision and this proposed PFEO is intimated to them. If no representations are received within that timescale then the committee is likely to proceed to make a PFEO without seeking further representations from the parties.

**Failure to comply with a Property Factor Enforcement Order may have serious consequences and may constitute an offence.**

J Bauld

Signed  
Chairperson

Witness

Date... 6 October 2014

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