

Housing and Property Chamber
First-tier Tribunal for Scotland



Proposal regarding the Making of a Property Factor Enforcement Order

**Following Upon a
Decision of the the First-tier Tribunal for Scotland Housing and Property
Chamber
In an Application under section 17 of the Property Factors (Scotland) Act 2011**

by

**Charles McDonald, 111 Whitehaugh Park, Peebles EH45 9DB (“the Applicant”)
Greenbelt Group Limited, McCafferty House, 99 Firhill Road, Glasgow G20 7BE
 (“the Respondent”)**

Chamber Ref: HOHP/PF/16/0135

Re: Whitehaugh Park Estate, Kingsmeadows, Peebles EH45

Tribunal Members:

John McHugh (Chairman) and Robert Buchan (Ordinary (Surveyor) Member).

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

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

“Within 90 days of the date of the communication to the Respondent of this property factor enforcement order, the Respondent must:

- 1 Credit to the Applicant 's factoring account the sum of £200.*

- 2 *Credit to the Applicant's factoring account any charges which have been imposed in respect of late payment or the pursuit of late payment.*
- 3 *Take steps to invite the views of homeowners of the Development in relation to the future management of the woodland areas.*
- 4 *Confirm in writing to the office of the Tribunal that steps 1, 2 and 3 above have been carried out.*
- 5 *Provide to the Applicant and the office of the Tribunal a report confirming that the Development is currently in a state consistent with it currently being managed "in accordance with good residential land management practice." such report to be written by an independent expert in the maintenance and management of residential estates. The report should explain the author's expertise, confirm that the author is not associated with the Respondent and that the author has been given sight by the Respondent of the Tribunal's Decision, the Deed of Conditions, the Written Statement of Services and any other documents which the author has requested for the purpose of producing his report."*

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 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 Tribunal 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 Tribunal is likely to proceed to make a property factor enforcement order 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 McHugh

JOHN M MCHUGH

CHAIRMAN

Date: 2 March 2018