

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Proposal regarding the making of a Property Factor Enforcement Order:
Property Factors (Scotland) Act 2011 Section 19(2)**

Reference number: FTS/HPC/PF/20/1846

Kirkland Court, 8 Lasswade Road, Edinburgh, EH16 6 RZ (“the Property”)

The Parties:

Robert Buchanan, Kirkland Court, Flat 37, 8 Lasswade Road, Edinburgh, EH16 6RZ (“the Homeowner”)

Trinity Property Factors, 209/211 Brintsfield Place, Edinburgh, EH10 4 DH (“the Property Factor”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Elizabeth Dickson (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 Tribunal order the Property Factor to pay to the Homeowner the sum of £200 for his time, effort, and inconvenience, within 28 days of intimation of the PFEO. This payment is to be made by cheque or bank transfer and not as a credit on the Homeowner’s factoring account.
- (2) The Tribunal order the Property Factor to carry out a ballot of the Homeowners in the development on the issue of payment of the 20% of the Housing Managers salary not covered by the Government, during the period when she was on furlough.

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 may have serious consequences and may constitute an offence.

Josephine Bonnar, Legal Member
17 January 2021