

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**DECISION: Failure to comply with Property Factor Enforcement Order (PFEO);  
Property Factors (Scotland) Act 2011 Section 23**

**Chamber Ref: FTS/HPC/PF/19/1395**

**The Property:**

**22 Jerviston Court, Motherwell Lanarkshire ML1 4BS (“the property”)**

**The Parties: –**

**Miss Sophie Wells, residing formerly at 22 Jerviston Court, aforesaid and now  
at 7 Coronation Street, Carstairs junction, Lanark ML11 8QY (“the homeowner”)**

**and**

**Apex Property Factor Ltd, Company Number SC419173, 46 Eastside,  
Kirkintilloch, East Dunbartonshire G66 1QH (“the factors”)**

**Tribunal Members:**

**David Preston (Legal Member) and Carol Jones, Surveyor (Ordinary Member)  
 (“the tribunal”).**

**Decision:**

- 1. The factors have failed to comply with the PFEO dated 2 February 2020;**
- 2. To serve a Notice of Failure to comply on the Scottish Ministers in terms of  
section 23(2) of the Act; and**
- 3. To report the factors’ failure to comply to the police for prosecution of the  
factors in terms of section 24 of the Act.**

### **Statement of Reasons**

- 1. By its Decision dated 4 February 2020, the tribunal determined that the factor had  
breached: Section 1.a. E.o: Sections 2.1, 2.5, 3.3, 4.6 and 6.3 of the Code and their  
duties under the Act.**

2. On 2 March 2020 the tribunal issued a PFEO (on which the date has been erroneously recorded as 2 February 2020) which required the factors: within one month to pay to the homeowner from their own funds the sum of One Thousand Five Hundred Pounds (£1500) as compensation for the inconvenience occasioned by the factors' breaches of the Code and their duties under the Act.
3. By email dated 18 June 2020 the homeowner returned a PFEO Compliance Check pro forma in which she advised that the factors had not completed the actions required by the PFEO.
4. No information or representations about compliance have been received from the factors and no excuse for the failure has been presented.
5. The tribunal accordingly determines that the factors have failed to comply with the PFEO and that there is no reasonable excuse for the failure.

### **Right of Appeal**

**In terms of Section 46 of the Tribunals (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal within 30 days of the date the decision was sent to them.**

14 July 2020