

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)**

FTS/HPC/PF/21/2397

Flat 1, 182 Slateford Road, Edinburgh (“the property”)

Parties:

Allan Moffat, Margaret Moffat, Braemar, Eaglesfield, Lockerbie (“The Homeowner”)

Melville Property Ltd, 7 West Georgie Park, Edinburgh (“the Property Factor”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Mary Lyden (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 £1000 for their time, effort, and inconvenience,
- (2) The Tribunal order the Property Factor to provide the Homeowner with a detailed financial breakdown of charges made, and a description of the activities and works carried out, for the periods 2020/21 and 2021/22. This must include the annual charge for each of the services provided and, where the service is provided by in-house staff, a breakdown of how the sum is calculated.
- (3) The Tribunal order the Property Factor to provide the Homeowner with a copy of all invoices relating to services carried out at the development by contractors and copies of all electricity bills for communal electricity, for the periods 2020/21 and 2021/22.

(4) The Tribunal order the Property Factor to provide the Homeowner with full details of the services which were withdrawn on 1 August 2022 and a breakdown of how this withdrawal affected their monthly service charge.

(5) The Tribunal order the Property Factor to provide the Homeowner with evidence of a development bank account and payments to this account from the owner of the 19 town houses.

All within 28 days of intimation of the PFEO.

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.