



**Statement of Decision
to serve on the Scottish Ministers a Notice of Failure to
Comply with a Property Factor Enforcement Order
under Section 23 of the Property Factors (Scotland) Act 2011**

HOHP reference: HOHP/PF/15/0063

Re: 190 Bannermill Place, Aberdeen AB24 5EG ('the property')

The Parties:

Christopher McIntyre, 37 Bannermill Place, Aberdeen AB24 5EA ('the homeowner'); and

Select Property Management Services (Aberdeen) Limited, incorporated under the Companies' Acts (SC402142) and having its Registered Office at 28 Broad Street, Aberdeen and having a place of business at Factor's Office, Bannermill Place, Aberdeen AB24 5EG ('the property factor')

Committee Members:

George Clark (Chairman) and Michael Scott (Housing Member)

On 2 December 2015, the Homeowner Housing Committee ("the Committee") issued a Property Factor Enforcement Order on the Respondent in respect of the Property.

The Property Factor Enforcement Order contained the following provisions:

"Within 4 weeks of the communication to the property factor of the PFEO, the property factor shall (1) provide the homeowner with sufficient information to demonstrate that the property factor has complied with Section 4.7 of the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors, ("the Code"), including the number of court actions for recovery of arrears of factoring charges raised during the period that the property factor provided factoring services to the homeowner, the number of such cases in which decree was granted, and the total amounts recoverable and recovered in terms of those decrees and (2) pay to the homeowner the sum of £50 by way of compensation for the inconvenience and distress caused by the property factor's failure to comply with the Code."

The time allowed for compliance with the Order expired and the Homeowner Housing Panel ("HOHP") wrote to the Parties, asking them to confirm by 1 April 2016 whether or not the actions required in the Property Factor Enforcement Order had been completed. Neither party responded to the letter.

REASONS FOR THE DECISION

Neither party had replied to the request for confirmation whether or not the actions required in the Property Factor Enforcement Order had been completed. Accordingly, the Committee determined that the property factor has not complied with the terms of the Property Factor Enforcement Order and that, in terms of Section 23(2) of the Property Factors (Scotland) Act 2011, the Committee is obliged to serve notice of that fact on the Scottish Ministers.

APPEALS

The parties' attention is drawn to the terms of Section 22 of the 2011 Act regarding their right to appeal and the time limit for doing so. It provides:

"...(1) An appeal on a point of law only may be made by summary application to the sheriff against a decision of the president of the homeowner housing panel or a homeowner housing committee.

(2) An appeal under subsection (1) must be made within the period of 21 days beginning with the day on which the decision appealed against is made..."

Failure to comply with a property factor enforcement order may have serious consequences and may constitute an offence.

Signed 
George Clark, Chairperson

Date 22 April 2016