

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**Certificate of Compliance following upon a decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under section 17(1) of the Property Factors (Scotland) Act 2011 (“the Act”)**

**Chamber Reference: FTS/HPC/PF/22/0025 & FTS/HPC/PF/22/0668,**

### **The Parties**

**Dr Yana Berezovskaya, 10 Warriston Road, Edinburgh, EH7 4HJ (“the Homeowner”)**

**James Gibb Residential Factors, 4 Atholl Place, Edinburgh, EH3 8HT (“the Property Factor”)**

**Land Register Title: MID151317**

**Subjects: The Printhouse, 10 Warriston Road, Edinburgh, EH7 4HJ (“the Property”)**

### **Tribunal Members**

**Ms H Forbes (Legal Member)**

**Mr D Godfrey (Ordinary Member)**

### **Decision of the Tribunal**

The Tribunal having determined that the Property Factor Enforcement Order (“PFEO”) relating to the Property dated 16<sup>th</sup> January 2023 has been complied with, hereby certifies that the Property Factor has complied with the PFEO.

### **Reasons for Decision**

1. By decision dated 12<sup>th</sup> December 2022, which was amended on 6<sup>th</sup> January 2023 in terms of Rule 39(3) of the Tribunal Procedure Rules, the Tribunal determined that the Factor had failed to comply with the Section 14 duty in terms of the Act by failing to comply with certain paragraphs of the 2012 and 2021 Property Factor Codes of Conduct.
2. As required by the Act, the Tribunal issued a PFEO dated 16<sup>th</sup> January 2023 after giving parties an opportunity to make representations on the terms of a proposed PFEO. The PFEO was in the following terms:

“The Factor is required to do the following within 21 days of intimation to them of the PFEO:

- (i) Refund to the Homeowner the management fees charged from May 2020 to December 2022.
  - (ii) Pay to the Homeowner the sum of £500 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience in having to deal with the complaints procedure and the tribunal proceedings in respect of the Property Factor’s failure to comply with the Code of Conduct for Property Factors.”
3. By email dated 7<sup>th</sup> February 2023, the Property Factor stated that the PFEO had been complied with.
  4. By email dated 11<sup>th</sup> February 2023, the Homeowner stated that paragraph (i) of the PFEO had not been complied with.
  5. By email dated 13<sup>th</sup> February 2023, the Property Factor stated that the PFEO had been complied with.
  6. By email dated 19<sup>th</sup> February 2023, the Homeowner stated that the PFEO had been complied with.
  7. The Tribunal is satisfied that the PFEO has been complied with by the Property Factor.

### **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 from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

Helen Forbes  
Legal Member  
28<sup>th</sup> February 2023