

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Property Factor Enforcement Order (“PFEO”): Property Factors (Scotland) Act 2011 Section 19(3)**

**Chamber Ref: FTS/HPC/PF/23/1217**

**Re: Flat 1/3 10 Archerhill Square, Glasgow G13 4TD**

**Parties:**

**Mr Kashif Naeem, 223 Auldhouse Road, Glasgow G43 1DF (“the Homeowner”)**

**Lowther Homes Limited, Wheatley House, 25 Cochrane Street, Glasgow G1 1HL (“the Factor”)**

**Tribunal Member:**

**Graham Harding (Legal Member)  
Elizabeth Dickson (Ordinary Member)**

This document should be read in conjunction with the First-tier Tribunal’s Decision of 20 November 2023.

### **Decision**

The Tribunal has decided that it should make a PFEO in the terms originally proposed by it with the exception of parts 1 and 3

The decision of the Tribunal is unanimous

### **Reasons for Decision**

In the Tribunal’s decision of 20 November 2023, it proposed to make a PFEO as follows:

No later than one month from the date of the PFEO the Factor must at its own cost and expense:

- (1) Compensate the Homeowner in the sum of £500.00 by a direct payment and not by a credit to his common charges account for the distress and inconvenience caused by the Factor’s actions;
- (2) Refund the Homeowner all of the management fees and concierge fees charged to the Homeowner’s account since 16 August 2021, the date on which the Code of Conduct came into force;

- (3) Provide the Homeowner with a named property manager or contact for the property with whom the Homeowner can communicate directly in future;
- (4) Evidence the tribunal that items 1 and 2 have been carried out.

The Tribunal indicated that prior to making a property factor enforcement order, it would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.

The Tribunal's decision was intimated to the parties on 21 November 2023.

By email dated 30 January 2024 the Homeowner advised the Tribunal that he had received payment of £500.00 from the Factor and that Mr Scott Fletcher had been assigned as a commercial agent.

By email dated 13 March 2024 the Homeowner advised the Tribunal he had not received any further communication from the Factor.

The Tribunal noted that the Factor made no written representations following the proposed PFEO being issued.

As the Factor has made payment to the Homeowner the sum specified in part 1 of the Proposed PFEO and as it has also been confirmed that the Factor has complied with part 3 of the proposed PFEO the Tribunal determined it should issue an amended PFEO.

### **Property Factor Enforcement Order**

The First-tier Tribunal hereby makes the following PFEO:

- (1) Refund the Homeowner all of the management fees and concierge fees charged to the Homeowner's account since 16 August 2021, the date on which the Code of Conduct came into force; and
- (2) Evidence the Tribunal that item 1 has been carried out within a period of one month from the date of issue of the PFEO.

**Under Section 24(1) of the Property Factors (Scotland) Act 2011, a person who, without reasonable excuse, fails to comply with a property factor enforcement order commits an offence.**

### **Appeals**

**A homeowner or property factor 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**

Legal Member and Chair

\_\_\_\_\_02/04/2024\_\_\_\_\_ Date

