Housing and Property Chamber
First-tier Tribunal for Scotland

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

Written Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 19 of the Property Factors (Scotland) Act 2011 ("the 2011 Act")

Reference number: FTS/HPC/PF/25/4066

Re: Property at Flats 3-5, Cidhmore House, 490 Perth Road, Dundee, DD2 1LR ("the Property")

The Parties:

Dr Sami Shimi, Flat 3, Cidhmore House, 490 Perth Road, Dundee, DD2 1LR ("the Homeowner")

Direct Lettings (A Division of J&E Shepherd), 110 Commercial Street, Dundee, DD1 2AJ ("the Property Factor")

Tribunal Members: Ruth O'Hare, Legal Member and Robert Buchan, Ordinary Member

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Property Factor has failed to comply with the Section 14 duty in terms of the Act in respect of compliance with Sections 1.2, 1.5B, 1.5C, 1.5D, 1.5G, 2.3, 2.4, 2.6, 2.7, 2.8, 3.2, 3.4, 3.7, 3.11, 3.12, 4.2, 4.4, 4.9, 6.4, 6.7, 6.12 and 7.2 of the Code.

The Tribunal therefore made a proposed Property Factor Enforcement Order ("PFEO"), which should be read with this decision.

Background

1 This is an application under rule 43 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 ("the Rules") and section 17 of the 2011 Act. The Homeowner sought a determination that the Property Factor

had failed to comply with the Code of Conduct for Property Factors and the property factor's duties.

2 The Homeowner stated that the Property Factor had breached Sections 1.2, 1.5B, 1.5C, 1.5D, 1.5G, 2.3, 2.4, 2.6, 2.7, 2.8, 3.2, 3.4, 3.7, 3.11, 3.12, 4.2, 4.4, 4.8, 4.9, 6.4, 6.7, 6.12 and 7.2 of the Code. In summary, the Homeowner's complaint was founded upon the Property Factors failure to provide a Written Statement of Services ("WSS") timeously, failure to produce transparent accounts and financial records, failure to act on actions from owners meetings regarding repairs and inspections, poor communication, failure to arrange timely repairs and inspections, failure to address complaints regarding work done by tradesmen, and failure to adhere to their complaints resolution process.

3 The application was accepted as valid and referred to a tribunal for determination. A case management discussion ("CMD") was scheduled to take place on 12 August 2026 at 10am. The Tribunal administration gave notice to the parties of the CMD under Rule 17(2) of the Rules.

4 On 11 August 2026 the tribunal received a request from Ms Laura Weir, a director of the Property Factor. She explained that she needed to attend an eviction on the date of the CMD and she was the only director working within the business. Due to the circumstances surrounding the eviction she had no option but to attend. If the postponement request was refused, Ms Weir advised that she would await the tribunal's feedback and findings.

5 On 11 August 2026 the tribunal refused the postponement request and notified the parties. The tribunal noted that no written representations had been submitted by the Property Factor and the tribunal would expect the Property Factor to arrange for another member of staff to attend the CMD in Ms Weir's absence. The tribunal considered that the Property Factor had failed to demonstrate good cause for the proceedings to be postponed, taking into account the overriding objection to avoid delay insofar as compatible with proper consideration of the issues.

6 On 11 August 2026 the tribunal received a further email from Ms Weir explaining that no written representations had been submitted by the Property Factor as they did not dispute their failings in the management of the development. There were no other staff members who could attend the CMD as they did not have knowledge of the case. Ms Weir acknowledged that a decision would be made by the tribunal which the Property Factor would comply with. Ms Weir advised that she could attend the CMD if it was delayed until 3pm but would otherwise await the tribunal's findings.

The CMD

7 The CMD took place on 12 August 2026 at 2pm by teleconference. The Homeowner joined the call. The Property Factor was not in attendance.

8 As a preliminary matter the tribunal asked the Homeowner whether he would be agreeable to adjourning the CMD to 3pm to allow the Property Factor to attend. The Homeowner advised that he had prior commitments that meant he would be unable to remain on the call beyond 4pm. He was therefore keen for the CMD to proceed. The tribunal considered the terms of the Property Factor's written representations, noting that they had not put forward any opposition to the application. The tribunal further noted that they would have the opportunity to make written representations on any proposed PFEO, if the tribunal were minded to make such an order. The tribunal therefore determined to proceed in their absence.

9 The tribunal explained the purpose of the CMD and proceeded to hear submissions from the Homeowner. The following is a summary of the key elements of the submissions.

10 The Homeowner referred to the application and supporting documents. He explained that he had tried to resolve the disputes with the Property Factor. The situation had been going on for years. Despite repeated requests the Property Factor had still not provided accurate accounts. The Homeowner along with other owners in the development were doing most of the factoring themselves. The Homeowner had received a phone call from Ms Weir on 6 July 2026. She had apologised for the difficulties he had experienced. She indicated that the Property Factor's finance director was on leave but that she had freed up her diary to look at the matter and would forward on the accounts by the end of the week. She had not done so. She had also apologised for the fact that the Homeowner was owed money by the Property Factor in the sum of £2655. It appears that the Property Factor was in the process of deregistration and would no longer be factoring the development. The Homeowner expected the factoring fees charged to be written off by the Property Factor, but nothing had been done in this regard.

11 The Homeowner sought a refund of all management fees he has paid to the Property Factor over a period of four years in the sum of £4800. The Homeowner also paid for roof repairs and was told by the Property Factor that he would receive a refund. The Homeowner does not know what sum is contained within the sinking fund. He believes it should be around £10,000.

12 In response to questions from the Tribunal, the Homeowner confirmed that he is the owner of Flat 3. He is also the director of a limited company which owns Flats 4 and 5. He pays £150 per month, which he believes should be paid into the sinking fund or float. However, not all owners pay the same. The Homeowner does not know where this money has gone. He has not received this information from the Property Factor. The Homeowner has also incurred financial loss for works which were not completed, albeit paid by the Property Factor. The Homeowner has refused to pay anything further for Flats 4 and 5 until he receives the reconciled accounts from the Property Factor. In terms of his share of the factoring costs, he should be paying 25% for Flat 3 and a combined 25% for Flats 4 and 5.

13 The Homeowner went on to outline some of the issues with service provision, including defects in the maintenance of the garden grounds. The Property Factor has continued paying the gardener despite complaints from the Homeowner. They have failed to take any action to rectify the issues.

14 The Homeowner explained that he has tried to work with the Property Factor by insisting on owners' meetings. The Property Factor has repeatedly made promises which have not been fulfilled. The Homeowner explained that he had retired two years ago from a demanding job. It had freed up his time to look more closely at the issues with the Property Factor.

15 The Homeowner confirmed that he would be content for the tribunal to proceed to a decision in the absence of a hearing.

Findings in fact

16 The Homeowner is the registered owner of the property at Flat 3, Cidhmore House, 490 Perth Road, Dundee, DD2 1LR. The Homeowner is the director of Axil Estates Ltd which is the registered owner of Flats 4 and 5 within the same development.

17 The Property Factor is the appointed factor for the development to which the Homeowner's properties form part. The Property Factor was appointed by the owners of the development in 2016.

18 In January 2023 the Homeowner requested updated accounts from the Property Factor, having identified inaccuracies in the financial information they had provided. The Property Factor responded by email on 6 January 2023 to advise that they would check the figures and revert to the Homeowner. The Homeowner received no further response from the Property Factor.

19 On 3 August 2023 the Property Factor sent an accounts spreadsheet to the Homeowner which was subsequently deemed to be inaccurate by both the Homeowner and Property Factor.

20 On 31 August 2023 the Property Factor sent a further set of accounts to the Homeowner which were subsequently deemed to be inaccurate by both the Homeowner and Property Factor.

21 On 22 September 2023 a meeting took place between the Homeowner, the Property Factor and the other owners of the development. The Homeowner highlighted the inaccuracies in the accounts provided by the Property Factor. The Property Factor advised that it would forward on the corrected accounts as soon as possible, and that a director of the Property Factor would attend the next owners' meeting to address the Homeowner's complaints.

22 On 29 September 2023 the Property Factor sent the Homeowner a WSS along with the minutes of the meeting held on 22 September 2023.

23 The WSS does not contain any of the following information: target times for taking action in response to request for routine and emergency repairs; the percentage of the management fees and charges that each homeowner is responsible for; how the homeowner can access information regarding the property factor's operations; the Property Factor's complaints handling procedure; the Property Factor's debt recovery procedure; the Property Factor's privacy notice; or details on how to end the factoring arrangement.

24 A meeting of the owners was scheduled to take place on 2 November 2023. The meeting was postponed due to the unavailability of the director of the company and rescheduled for 21 December 2023.

25 On 21 December 2023, a meeting took place between the Homeowner, the Property Factor and the other owners of the development. The director of the Property Factor was unable to attend. The representative of the Property Factor agreed the accounts provided to date for the development were inaccurate and agreed to correct these prior to the next meeting.

26 In April 2024 the staff member managing the development left the Property Factor's employment.

27 In July 2024, the Homeowner spoke with the staff member who had taken over the development. The staff member advised that correct accounts would be provided to the Homeowner within two weeks, and an owners' meeting scheduled thereafter. The Property Factor did not provide the Homeowner with corrected accounts.

28 On 4 July 2024 the Property Factor emailed the Homeowner proposing an owners' meeting. The meeting was scheduled to take place on 22 July 2024. The Property Factor confirmed that a statement of accounts would be sent to the Homeowner. The Property Factor did not send the Homeowner a statement of accounts and cancelled the meeting.

29 On 27 January 2025 the Homeowner made a formal complaint to the Property Factor. The complaint was acknowledged by the Property Factor on 30 January 2025. The Property Factor advised the Homeowner that they were looking to resolve the issues raised in the Homeowner's complaint. The Property Factor acknowledged that the Homeowner was due payment for works that had been carried out.

30 The Homeowner received no substantive response from the Property Factor to his formal complaint.

31 On 20 March 2025 the Property Factor emailed the Homeowner requesting a copy of the invoice for the works he had instructed to the roof and in respect of which he was awaiting reimbursement. The Property Factor advised that they hoped to send out reconciled accounts the week following.

32 On 10 April 2025 the Property Factor emailed the Homeowner stating that they were in the process of reconciling the accounts and hoped to issue them within three weeks and arrange an owner's meeting. The Property Factor did not send the Homeowner the reconciled accounts and did not arrange an owner's meeting.

33 The WSS states that the Property Factor is responsible for "*inspecting the development on an ongoing basis", "arranging routine repairs and maintenance", "gather quotations for any proposed works", and "producing quarterly accounting".*

34 The Property Factor has not provided the Homeowner with quarterly accounting.

35 The Property Factor has not arranged any routine repairs, maintenance or works, except for the gardening provision.

36 The Property Factor has failed to address defects in service with contractors following complaints from the Homeowner regarding the gardening provision. The Property Factor has continued to pay contractors in circumstances where the Homeowner has identified substandard service provision or incomplete works.

37 The Homeowner has, in consultation with other owners, instructed routine maintenance and repairs because of inaction by the Property Factor. The Homeowner has arranged routine roof inspections and gutter clearance. The Homeowner has arranged pothole repairs. The Homeowner has paid for communal roof repairs in the sum of £2655 and has not been reimbursed by the Property Factor.

38 The Homeowner has paid £150 per month to the Property Factor. The Homeowner does not know where this money is being held. The Homeowner does not know if the money is for a sinking fund or a float.

Reasons for decision

39 The tribunal considered carefully all evidence and documentation before it in reaching its decision, whether referenced or not in this decision. The documents are incorporated herein and referred to in the tribunal's findings in fact. The tribunal considered that it could proceed to a decision in the absence of a hearing. Neither party had requested a hearing and the Property Factor had not sought to dispute the terms of the application. The tribunal therefore considered that it would not be contrary to the interests of the parties to reach a decision following the CMD.

40 Section 2 of the 2011 Act defines "property factor" for the purposes of the 2011 Act and the Code. The tribunal was satisfied that the Property Factor meets the definition of a property factor, having been provided with a copy of their entry on the register of Property Factors. The Property Factor did not dispute this.

41 Section 17(2) of the 2011 Act requires a homeowner to notify the property factor in writing as to why the homeowner considers that the property factor has failed to comply with the Code prior to making an application to the Tribunal. The tribunal determined based on the correspondence produced by the Homeowner that he had notified the Property Factor of his complaint prior to making this application. Again, the Property Factor did not seek to dispute this.

42 The tribunal accepted the chronology and submissions provided by the Homeowner as fact. The Property Factor had explicitly stated that they accepted their failings in their management of the development. There was therefore no contradictory evidence before the tribunal.

43 The tribunal carefully considered the sections of the Code and WSS that the Homeowner claims to have been breached by the Property Factor.

Section 1 – Written Statement of Services

1.2 A property factor must take all reasonable steps to ensure that a copy of the WSS is provided to homeowners:
- *within 4 weeks of the property factor:-*

o agreeing in writing to provide services to them; or
o the date of purchase of a property (the date of settlement) of which they maintain the common parts. If the property factor is not notified of the purchase in advance of the settlement date, the 4 week period is from the date that they receive notification of the purchase;
o identifying that they have provided misleading or inaccurate information at the time of previous issue of the WSS
- *at the earliest opportunity(in a period not exceeding 3 months) where:*

o substantial change is required to the terms of the WSS.

Any changes must be clearly indicated on the revised WSS issued or separately noted in a 'summary of changes' document attached to the revised version;

B. Services Provided (4) the core services that the property factor will provide to homeowners. This must include the target times for taking action in response to requests from homeowners for both routine and emergency repairs and the frequency of property visits (if part of the core service); (5) the types of services and works which may be required in the overall maintenance of the land in addition to the core service, and which may therefore incur additional fees and charges (this may take the form of a 'menu' of services) and how these fees and charges are calculated and notified to homeowners.

Section 1.5B – Services Provided
Section 1.5C – Financial and Charging Arrangements
Section 1.5D – Communication and Consultation
Section 1.5G – How to End the Arrangement

44 The tribunal accepted that the Homeowner was not provided with a WSS within the timescales required under Section 1.2. The Property Factor was appointed in 2016. The Homeowner did not receive a WSS until September 2023.

45 Sections 1.5B, 1.5C, 1.5D and 1.5G of the Code have not been repeated in full within this decision for the sake of brevity. In summary, they require the Property Factor to contain specified information within the WSS. Having considered the WSS provided by the Property Factor, the tribunal is satisfied that it does not contain all information required under these sections.

46 The tribunal therefore found a breach of section 1.2, and sections 1.5B, 1.5C, 1.5D and 1.5G of the Code

Section 2 – Communications and Consultation

2.3 The WSS must set out how homeowners can access information, documents and policies/procedures. Information and documents can be made available in a digital format, for example on a website, a web portal, app or by email attachment. In order to meet a range of needs, property factors must provide a paper copy of documentation in response to any reasonable request by a homeowner.

2.4 Where information or documents must be made available to a homeowner by the property factor under the Code on request, the property factor must consider the request and make the information available unless there is good reason not to.

2.6 A property factor must have a procedure to consult with all homeowners and seek homeowners' consent, in accordance with the provisions of the deed of condition or provisions of the agreed contract service, before providing work or services which will incur charges or fees in addition to those relating to the core service. Exceptions to this are where there is an agreed level of delegated authority, in writing with homeowners, to incur costs up to an agreed threshold or to act without seeking further approval in certain situations (such as in emergencies). This written procedure must be made available if requested by a homeowner.

2.7 A property factor should respond to enquiries and complaints received orally and/or in writing within the timescales confirmed in their WSS. Overall a property factor should aim to deal with enquiries and complaints as quickly and as fully as possible, and to keep the homeowner(s) informed if they are not able to respond within the agreed timescale.

2.8 A property factor must take all reasonable steps to ensure that their property factor registered number is included in any document sent to a homeowner.

47 The WSS provided by the Property Factor does not set out where homeowners can access information, documents or policies and procedures. The tribunal therefore found a breach of section 2.3.

48 As referenced further on in this decision, the Property Factor must provide the Homeowner with a detailed financial statement at least once a year showing a breakdown of charges made along with a description of the activities and works carried out. It is inherent in this obligation that any such statement should contain accurate information. The Property Factor has repeatedly failed to provide accurate financial accounts to the Homeowner. The tribunal therefore found a breach of section 2.4.

49 The Property Factor has not evidenced that they have a procedure in place regarding consultation and consent with homeowners before works are instructed. Given that they appear to have transferred responsibility to the homeowners for arranging such works despite including this within their WSS, the tribunal can reasonably assume that no such procedure exists. The tribunal therefore found a breach of section 2.6.

50 The tribunal's findings in fact detail several examples where the Property Factor has failed to deal with the Homeowner's enquiries in a timely manner. The issue regarding the reconciled accounts has been ongoing for many years now and remains unresolved. On several occasions, the Homeowner has been promised substantive responses from the Property Factor which have not been forthcoming. Owners' meetings have been scheduled and cancelled or have not been arranged as promised by the Property Factor. The tribunal therefore found a breach of section 2.7.

51 The tribunal had before it emails from the Property Factor produced by the Homeowner which do not contain the Property Factor's registration details. The tribunal could not identify any reason as to why this was the case, other than perhaps a lack of experience on the part of the Property Factor. The tribunal notes that the emails do contain a letting agent registration number. The tribunal therefore found a breach of section 2.8.

Section 3 – Financial obligations

3.2 The overriding objectives of this section are to ensure property factors:
- *protect homeowners' funds;*
- *provide clarity and transparency for homeowners in all accounting procedures undertaken by the property factor;*
- *make a clear distinction between homeowners' funds, for example a sinking or reserve fund, payment for works in advance or a float or deposit and a property factor's own funds and fee income.*

3.4 A property factor must provide to homeowners, in writing at least once a year (whether as part of billing arrangements or otherwise), a detailed financial statement showing a breakdown of charges made and a detailed description of the activities and works carried out which are charged for.

3.7 In cases where a property changes ownership, the property factor must confirm the process for repaying any funds that are due and presenting the final financial information relating to the account. This must be provided within 3

months of the property factor being made aware of the actual date of change in ownership (the date of settlement) unless there is a good reason not to (for example, awaiting final bills relating to contracts which were in place for works and services or the property factor has not been provided with the specified period of notice informing them of the change in ownership).

3.11 Homeowners' floating funds must be held in a separate account from the property factor's own funds. This can either be one account for all its homeowner clients or separate accounts for each homeowner or group of homeowners.

3.12 In situations where a sinking or reserve fund is arranged as part of the service to homeowners, an interest-bearing account must be opened in the name of each separate group of homeowners. A property factor must only transfer funds from one such account to another in line with the arrangements in any agreement with homeowners to do so.

52 The tribunal has significant concerns regarding the Property Factor's handling of the Homeowner's funds in this case. Despite repeated requests from the Homeowner for accuracy on charging and funds held, the Property Factor has to date failed to provide clarity and transparency regarding its accounting. They have consistently provided the Homeowner with financial information which they have latterly accepted as incorrect. As such the Homeowner has no clarity as to what he has paid for, and why, nor assurance that his funds have been protected by the Property Factor. The tribunal therefore found a breach of section 3.2 of the Code.

53 The tribunal accepted, based on its findings in fact, that the Property Factor has failed to provide accurate detailed statements to the Homeowner as required by section 3.4. The tribunal therefore found a breach of this section of the Code.

54 In view of the lack of accurate financial accounting by the Property Factor, the tribunal accepted the Homeowner's evidence that the Property Factor has failed to ensure any funds due by departing owners have been addressed and liability apportioned for outstanding charges. The Homeowner has stated that four of the flats have sold in recent years and he has no knowledge of whether or not the owners of these flats have paid some or any of the charges due. The tribunal therefore found a breach of section 3.7 of the Code.

55 Despite requests from the Homeowner, the Property Factor has failed to evidence that the sinking fund or float is being held in a separate account from its own funds, and that the account is interest bearing. The tribunal therefore found a breach of sections 3.11 and 3.12 of the Code.

Section 4 – Debt Recovery

4.2 It is a requirement of section 1 of the Code (written statement of services) that a property factor informs homeowners of any late payment charges and the property factor's debt recovery procedure is made available to homeowners.

4.4 A property factor must have a clear written procedure for debt recovery which outlines a series of steps which the property factor will follow. This procedure must be consistently and reasonably applied. This procedure must clearly set out how the property factor will deal with disputed debts and how, and at what stage, debts will be charged to other homeowners in the group if they are jointly liable for such costs.

4.8 On request, a property factor must provide homeowners with a statement of how service delivery and charges will be affected if one or more homeowners does not pay their bills.

4.9 A property factor must take reasonable steps to keep homeowners informed in writing of outstanding debts that they may be liable to contribute to, or any debt recovery action against other homeowners which could have implications for them, while ensuring compliance with data protection legislation.

56 Having considered the WSS, the tribunal was satisfied that the WSS does not contain information regarding late payment charges, nor a debt recovery procedure. The Property Factor has failed to evidence that they have a debt recovery procedure in place which complies with the requirements of section 4.4. The tribunal therefore found a breach of sections 4.2 and 4.4.

57 Whilst the tribunal was satisfied that the Homeowner has specifically requested accurate reconciled accounts from the Property Factor, there was no evidence to suggest that a specific request had been made by the Homeowner for a statement under section 4.8. The tribunal therefore found no breach of this section of the Code.

58 The tribunal accepted that the Property Factor has failed to provide the Homeowner with information regarding any outstanding debts due by other homeowners which could have implications for him, as part of their overall failure to provide accurate financial information. The tribunal therefore found a breach of section 4.9 of the Code.

Section 6 – Repairs and Maintenance

6.4 Where a property factor arranges inspections and repairs this must be done in an appropriate timescale and homeowners informed of the progress of this work, including estimated timescales for completion, unless they have agreed with the group of homeowners a cost threshold below which job-specific progress reports are not required. Where work is cancelled, homeowners should be made aware in a reasonable timescale and information given on next steps and what will happen to any money collected to fund the work.

6.7 It is good practice for periodic property visits to be undertaken by suitable qualified / trained staff or contractors and/or a planned programme of cyclical maintenance to be created to ensure that a property is maintained appropriately. If this service is agreed with homeowners, a property factor must ensure that people with appropriate professional expertise are involved in the development of the programme of works.

6.12 If requested by homeowners, a property factor must continue to liaise with third parties i.e. contractors, within the limits of their 'authority to act' (see section 1.5A or 1.6A) in order to remedy the defects in any inadequate work or service that they have organised on behalf of homeowners. If appropriate to the works concerned, the property factor must advise the property owners if a collateral warranty is available from any third party agent or contractor, which can be instructed by the property factor on behalf of homeowners if they agree to this. A copy of the warranty must be made available if requested by a homeowner.

59 The tribunal accepted the Homeowner's evidence regarding the Property Factor's failure to carry out inspections and repairs within reasonable timescales. The WSS clearly states that the Property Factor has accepted responsibility for such matters. The tribunal accepted the Applicant's evidence that the only maintenance managed by the Property Factor has been the gardening provision. Due to their inaction the Homeowner has had to take responsibility for progressing works and has incurred costs for which he has yet to be reimbursed despite promises from the Property Factor. The tribunal therefore found the Property Factor in breach of section 6.4 and 6.7 of the Code.

60 The tribunal was satisfied that the Property Factor had failed to take steps to remedy defects identified by the Homeowner regarding the garden maintenance. The tribunal therefore found the Property Factor in breach of section 6.12 of the Code.

Section 7 – Complaints resolution

7.2 When a property factor's in-house complaints procedure has been exhausted without resolving the complaint, the final decision should be confirmed in writing.

61 The tribunal was satisfied that the Property Factor had failed to provide a final substantive decision to the Homeowner's complaint of 27 January 2025. Their response of 30 January 2025 was a brief acknowledgement and did not address the substance of the complaint in full. The tribunal therefore found a breach of section 7.2.

62 The tribunal therefore determined that the Property Factor had failed to comply with all sections of the Code narrated in the application, with the exception of section 4.8.

Proposed Property Factor Enforcement Order ("PFEO")

63 Section 19(1) of the 2011 Act states "*The First-tier Tribunal must, in relation to a homeowner's application referred to it under section 18(1)(a), decide—*
(a)whether 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, and
(b)if so, whether to make a property factor enforcement order."

64 Accordingly, having concluded that the Property Factor had failed to carry out the property factor's duties, and comply with the section 14 duty, the Tribunal had to consider whether to make a PFEO, which is at the discretion of the Tribunal. The Tribunal has determined that a PFEO would be appropriate in this case given the extent and serious nature of the breaches by the Property Factor.

65 Section 20(1) of the 2011 Act states "*A property factor enforcement order is an order requiring the property factor to (a) execute such action as the First-tier Tribunal considers necessary, (b) where appropriate, make such payment to the homeowner as the First-tier Tribunal considers reasonable."*

66 The Homeowner has paid significant sums to the Property Factor over a prolonged period for his properties. In response the Property Factor has almost entirely neglected their duties as the appointed factor for the development. The tribunal has serious concerns about their financial management, and the security of the Homeowner's funds. It is wholly unacceptable that they have been unable to provide accurate and detailed accounts, in view of the length of time since this issue was brought to their attention. The tribunal appreciates that the Property Factor may lack experience in factoring developments, which may explain why they are in the process of deregistering as a factor. Nevertheless, they agreed to be the appointed factor. They had a duty to ensure they could execute their duties competently and efficiently. The tribunal accepts that the lack of transparency from the Property Factor would undoubtedly cause the Homeowner significant stress. It must be of serious concern that some of the owners of the flats that have sold were due money that was never collected and may now never be collected, to the Homeowner's financial detriment. The tribunal accepts that the Homeowner, as the owner of three flats in the development, had allowed the situation to persist over a prolonged period of time before applying to the Tribunal, but the tribunal considered that did not mitigate against the seriousness of the breaches in this case.

67 The Homeowner has requested refund of management charges and fees paid to the Property Factor. It is not, however, within the jurisdiction of the tribunal to determine liability for factoring charges. That remains within the jurisdiction of the sheriff court.

68 The tribunal can however require the Property Factor to make such payment to the homeowner as the Tribunal considers reasonable.

69 The tribunal considers it would be appropriate for the Homeowner to receive a substantial payment in this case to account for the stress and inconvenience caused by the established breaches of the Code, and for the Property Factor to reimburse him for the repairs to the roof.

70 The tribunal also considers that the Property Factor should provide the reconciled accounts within 28 days of the date of the order. The accounts should detail the funds collected and held from the owners. The Property Factor must also provide arrangements for the transfer of the sums held to a common account

held by the owners of the flats at Cidhmore House and reimburse the Homeowner for any overpayments he has made. Finally, the Property Factor should provide the Homeowner with a formal written apology.

71 The tribunal therefore proposes to make a PFEO in the above terms. The terms of the proposed PFEO are set out in the attached notice under Section 19(2)(a) of the 2011 Act.

72 The decision of the Tribunal was unanimous.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

Ruth O'Hare – Legal Member/Chairperson

19 October 2026

Housing and Property Chamber
First-tier Tribunal for Scotland

Notice of Proposal of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 19(2)(a) of the Property Factors (Scotland) Act 2011 ("the 2011 Act")

Reference number: FTS/HPC/PF/25/4066

Re: Property at Flats 3-5, Cidhmore House, 490 Perth Road, Dundee, DD2 1LR ("the Property")

The Parties:

Dr Sami Shimi, Flat 3, Cidhmore House, 490 Perth Road, Dundee, DD2 1LR ("the Applicant")

Direct Lettings (A Division of J&E Shepherds), Direct Lettings, 110 Commercial Street, Dundee, DD1 2AJ ("the Respondent")

Tribunal Members: Ruth O'Hare, Legal Member and Robert Buchan, Ordinary Member

NOTICE TO THE PARTIES

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) In respect of its breaches of the Code, and the stress and inconvenience caused to the Homeowner, the Property Factor must pay to the Homeowner the sum of £2500 from its own funds into the Homeowner's bank account within 28 days of intimation of the final PFEO. For the avoidance of doubt, the sum should be paid in full to the Homeowner and not offset against any outstanding factoring charges.
>
> (2) That the Property Factor provides the Homeowner with accurate reconciled invoices and accounts dating back to the date of their appointment as factor, which should include details of the funds collected and held within 28 days of intimation of the final PFEO.

Should the Property Factor be unable to provide reconciled accounts within the time specified the Property Factor should provide an explanation as to why this cannot be achieved for further consideration by the tribunal.

(3) That the Property Factor provides arrangements for transfer of any sums held to a common account held by the owners of the flats at Cidhmore House within 28 days of intimation of the final PFEO.

Should it be revealed or admitted that sums were not collected by the Property Factor from homeowners who have since sold, then the Property Factor should make good the shortfall out of their own funds.

(4) That the Property Factor refund any overpayments made by the Homeowner, including contributions to the common fund, within 28 days of intimation of the final PFEO.

(5) That the Property Factor reimburse the Homeowner for the cost of the communal roof repairs paid for by the Homeowner in the sum of £2655, within 28 days of intimation of the final PFEO.

(6) That the Property Factor provide the Homeowner with a formal written apology for its breaches of the Code within 28 days of intimation of the final 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 constitute an offence.

Ruth O’Hare – Legal Member/ Chairperson

19 October 2026