

# Housing and Property Chamber First-tier Tribunal for Scotland

---



## **Decision of the First-tier Tribunal for Scotland Housing and Property Chamber issued under Section 19(1)(b) of the Property Factors (Scotland) Act 2011 and The First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016**

**Chamber reference: HOHP/PF/16/0164**

**The Property:** Flat 0/1, 12 Castlebank Place, Glasgow G11 6BW (“the property”)

### **The Parties:**

Mr Scott Murray and Mrs Denise Murray, Flat 0/1, 12 Castlebank Place, Glasgow G11 6BW (“the homeowners”)

Newton Property Management Limited, incorporated under the Companies Acts and having their Registered Office at 87 Dundas Road, Glasgow G4 0HF (“the property factors”)

**Tribunal Members** – Mr George Clark (Legal Member) and Mrs Sara Hesp (Ordinary Member)

### **Decision by the Housing and Property Chamber of the First-tier Tribunal for Scotland under Section 19(1)(b) of the Property Factors (Scotland) Act 2011**

**The Tribunal is satisfied, after taking account of the representations made under Section 19(2)(b) of the Property Factors (Scotland) Act 2011, that the Property Factors have complied with the terms of the Property Factor Enforcement Order that it proposed making following a hearing on 14 March 2017 and that, consequently, it is no longer necessary to make the Order.**

The Decision is unanimous.

### **Introduction**

In this decision, the Property Factors (Scotland) Act 2011 is referred to as “the Act”; the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors as “the Code of Conduct”; and the Housing and Property Chamber of the First-tier Tribunal for Scotland as “the Tribunal”.

## **REASONS FOR THE DECISION**

Following a hearing at Wellington House, 134-136 Wellington Street, Glasgow G2 2XL on 14 March 2017, the Tribunal decided that the property factors had failed to comply with their duties under Section 14 of the Act, in that they had failed to comply with Section 3.6.a of the Code of Conduct. That Decision, together with a Notice issued under Section 19(2)(a) of the Act was sent to the Parties on 18 April 2017. The Notice gave the Parties a period of 14 days from the date of intimation to them of the Decision and Notice within which to make written representations to the Tribunal in terms of Section 19(2)(b) of the Act, and the Decision also included information relating to the right of the Parties to seek to appeal the Decision. Neither Party sought permission to appeal the Decision.

The property factors, by e-mail dated 21 April 2017, sent the Tribunal a copy of a letter that they had sent to the homeowner, also dated 21 April. In that letter, the property factors apologised for the intemperate language used in the e-mail sent to the homeowner on 1 September 2016 and enclosed a cheque for £150 by way of compensation for the upset and inconvenience caused by their failure to respond to the homeowner's complaint within prompt timescales. The Tribunal accordingly determined that, as the property factors had taken the action that the proposed Property Factor Enforcement Order would have required them to take, it was not necessary or appropriate to make the Order.

### **Appeals**

**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.**

G Clark

Signature of Legal Chair

Date 11 May 2017