

Housing and Property Chamber

First-tier Tribunal for Scotland



PROPERTY FACTOR ENFORCEMENT ORDER

Issued by the First-tier Tribunal for Scotland (Housing and Property Chamber)
Under section 17 of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/PF/21/3177; FTS/HPC/PF/22/0285; FTS/HPC/PF/22/0287;
FTS/HPC/PF/22/0288; FTS/HPC/PF/22/0295; FTS/HPC/PF/22/0296;
FTS/HPC/PF/22/0297; FTS/HPC/PF/22/0298; FTS/HPC/PF/22/0299;
FTS/HPC/PF/22/0300; FTS/HPC/PF/22/0301; FTS/HPC/PF/22/0302

Shaw Court, Broomhill Gardens, Newton Mearns, Glasgow, G77 5HP ('the Property')

The Parties:

Chamber Ref	Property Address	Homeowner(s)
FTS/HPC/PF/21/3177	37 Shaw Court	James Hind
FTS/HPC/PF/22/0285	7 Shaw Court	John Wilson
FTS/HPC/PF/22/0287	8 Shaw Court	Alan Steven
FTS/HPC/PF/22/0288	4 Shaw Court	Irene Fisher
FTS/HPC/PF/22/0295	10 Shaw Court	James McIvor
FTS/HPC/PF/22/0296	21 Shaw Court	Carolynn Malone
FTS/HPC/PF/22/0297	39 Shaw Court	Dorothy Ockrim
FTS/HPC/PF/22/0298	45 Shaw Court	Beryl Craig
FTS/HPC/PF/22/0299	29 Shaw Court	Joyce Frew
FTS/HPC/PF/22/0300	47 Shaw Court	John Boyd
FTS/HPC/PF/22/0301	35 Shaw Court	Helen Young
FTS/HPC/PF/22/0295	49 Shaw Court	James Maxwell

('the Homeowners')

Mrs Beryl Craig and James Hind ('The Homeowner's Representatives')

Bield Housing and Care ('the Factor')

Tribunal members:

Jacqui Taylor (Chairperson) and John Blackwood (Ordinary Member).

NOTICE TO THE PARTIES

1. The Tribunal, having made such enquiries as it saw fit for the purposes of determining whether the factor has complied with the Code of Conduct for Property Factors, in terms of the Property Factors (Scotland) Act 2011 ('the 2011 Act') determined that the Factor had failed to comply with sections 2.5, 3.1 and 3.2 of the Code of Conduct, all as stated in their decision dated 12th December 2022.

2. The Tribunal intimated to the parties, in terms of their said decision dated 12th December 2022, that they proposed to make a Property Factor Enforcement Order, requiring the Property Factor to pay each of the Applicants and Homeowners the sum of £300. The parties were given notice that they should ensure that any written representations they wish to make under section 19(2)(b) of the Act reach the Housing and Property Chamber's office by no later than 14 days after the date that the Decision and the notice of the proposed Property Factor Enforcement Order was intimated to them.

3. The Tribunal Administration sent the parties the proposed PFEO on 14th December 2022. The Tribunal subsequently allowed parties until 9th January 2023 to provide written representations on the terms of the proposed PFEO.

4. The Applicants and Homeowners' representatives sent the Tribunal representations in relation to the Proposed Property Factor Enforcement Order by email dated 30th December 2022 requesting that the payment of £300 should be paid to all of the 30 owners of Shaw Court and not simply to the Applicants.

5. The Property Factor did not provide any written representation in relation to the proposed PFEO.

6. The Tribunal considered the representations made and determined that they were only able to award payments to applicants and they were unable to award payments to owners of properties at Shaw Court who had not made applications to the Tribunal.

7. Consequently, the Tribunal make the following Property Factor Enforcement Order:

'The Factor must pay each of the Homeowner Applicants £300 for the inconvenience they have suffered from their own funds and at no cost to the owners. The said sums to be paid within 28 days of the communication to the Factor of the Property Factor Enforcement Order.'

Failure to comply with a PFEO may have serious consequences and constitute an offence.

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.

Signed

Chairperson Date: 12th January 2023