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

Decision of the First-tier Tribunal for Scotland Housing and Property Chamber in relation to an application made under Section 17(1) of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/PF/21/2237

Property: Flat 1/L, 9 Overdale Avenue, Langside, Glasgow G42 9QJ ("the Property")

The Parties:-

Ms Saria Akhter, 7 Holmhills Gardens, Cambuslang, Glasgow G72 8EJ ("the homeowner")

Hacking & Paterson Management Services Limited, registered in Scotland under the Companies' Acts (SCO73599) and having their registered office at 1 Newton Terrace, Glasgow G3 7PL ("the property factors")

Tribunal Members:
George Clark (Legal Member/Chairman) and Ahsan Khan (Ordinary Member)

Decision
The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') decided that the property factors had failed to comply with Sections 2.1, 2.5, 4.1 and 4.8 of the Property Factors Code of Conduct effective from 1 October 2012. The Tribunal proposes to make a Property Factor Enforcement Order as set out in the accompanying Notice under Section 19(2)(a) of the Act.

Background

1. By application, received by the Tribunal on 25 August 2021, the homeowner sought a Property Factor Enforcement Oder against the property factors under the Property Factors (Scotland) Act 2011. She alleged failures to comply with Sections 2.1, 2.2, 2.5, 4.1, 4.3, 4.6, 4.8, 4.9, 7.1 and 7.2 of the Property Factors Code of Conduct. She referred in the application to a court decree against her, a letter from the property factors'

solicitors of 16 December 2020, emails she had sent on 17 December 2020 and 7 January 2021, invoices from the property factors and their account of 9 April 2019, emails from her to the property factors in February and March 2021, an email from the property factors to her of 11 February 2021, emails from her to the property factors of 22 June 2021 and 24 June 2021, her letter of complaint to the property factors dated 1 July 2021 and further invoices from the property factors. The homeowner did not, however, provide copies of any of the documents to which she referred.

2. On 13 January 2022, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the property factors were invited to make written representations by 3 February 2022.

3. On 3 February 2022, the property factors submitted detailed written representations, including a number of documents. They referred, in an email to the homeowner of 23 December 2021, a copy of which was included in their written representations, to emails to the homeowner of 4 October, 25 October, 10 November and 15 December 2021, but did not provide the Tribunal with copies of those emails. In the email of 23 December 2021, they referred to their "final response" to the homeowner's complaint but did not provide a copy of that document.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the morning of 24 August 2022. The homeowner was present, and the property factors were represented by Mr Alastair Leitch.

5. The Tribunal advised the homeowner that it was not possible to decide the application in the absence of the many documents to which she had referred. The homeowner accepted that she would have to provide copies. She advised the Tribunal of her health issues, which might make it impossible for her to sit through a potentially lengthy Hearing and asked whether it might be possible to decide the application on the basis of written representations. The property factors had no objection to this, but wished the opportunity to amend their written representations, as their responses had assumed the complaint was governed by the new version of the Code of Conduct, which applied after 16 August 2021. The Tribunal confirmed that, as the complaint referred to events prior to that date, it would be determined under the first Code of Conduct made under the 2011 Act.

6. The Tribunal was sympathetic to the homeowner's request and decided that the application would be disposed of in due course on the basis of written representations. The Tribunal advised the Parties that it would Direct them to lodge with the Tribunal all documents on which they intended to rely and that it would, in the Note of the Case Management Discussion, indicate, as a minimum, the documents that it had identified from the written representations as requiring to be submitted. These are set out in paragraphs 1 and 3 above, but the Parties were advised to note that it was for them to provide all documents on which they intended to rely, and that the Tribunal's "list" must not be regarded as exhaustive. The Parties were also reminded that all documents they submitted would be cross-copied, with the other Party being given an opportunity to respond to them.

7. The Tribunal also advised the property factors that it would expect to receive details of Notices of Potential Liability registered against the Property, including a breakdown of the items of expenditure they are intended to cover. The Tribunal also expected the property factors to respond to the allegation of the homeowner that they have continued to send correspondence to her at the Property, whilst knowing that she has not been living there since 2009.

8. On 29 September 2022, the property factors submitted further written representations, and the homeowner provided further written representations on 28 and 31 October 2022, together with two Binders containing many hundreds of pages of Productions. The property factors' representations also included productions extending to more than 200 pages. The homeowner's Binders contained copies of all the documents to which she had referred in her application.

Hearing (written representations only)

9. The Tribunal members considered the application and the Parties' extensive written representations on the afternoon of 26 January 2023. For ease of reference, the following sets out the homeowner's complaint and the property factors' response and Tribunal Decision under each relevant Section of the Code of Conduct for Property Factors effective from 1 October 2012 ("the Code"). It is not practicable, given the huge volume of documentation provided by the Parties, to make reference to every adminicle of evidence, but the Tribunal members considered all of the paperwork before them in arriving at their Decisions. This included the property factors' "Terms of Service and Delivery Standards" dated 30

August 2021, referred to in this Decision as the "Written Statement of Services", to tie in with the wording of the Code of Conduct.

10. The homeowner's complaint is best summarised in the letter of complaint that she sent to the property factors on 20 October 2021. It was that the property factors had bullied, threatened to and indeed had taken court action against her for sums they know they are not legally entitled to, in breach of Sections 2.1 and 2.2 of the Code. On 26 February 2019, they had suddenly served her with notice of a court hearing at which they would be seeking her sequestration. They did not notify her of the proceedings until a few days before the hearing, leaving her with little opportunity to obtain legal representation, in breach of Sections 4.1 and 4.8 of the Code. With her family's help, she had made full payment of the sum sought (£3,950) and in court the property factors' solicitors advised the sheriff that this sum was in full and final settlement of the claim. The sheriff dismissed the claim, with no expenses due by the homeowner.

11. On 16 December 2020, the property factors' solicitors demanded payment by the Respondent of £739.60, despite being fully aware that she did not owe this sum. This was a breach of Section 2.1 of the Code. They stated in their letter that the property factors "may consider registering a Notice of Potential Liability with Registers of Scotland against the title to your property". This threat constituted a breach of Sections 2.1, 2.2, 4.1 and 4.9 of the Code. The homeowner responded immediately to the solicitors to say that she had checked her bank account and could see that she had paid the property factors £670 in the current year. She requested a clear and detailed statement of the basis for the sum alleged to be due by her. Not having received a response, she emailed the property factors on 7 January 2021, asking for the information to be provided as a matter of urgency. The property factors responded on 11 January 2022, enclosing copy invoices, which, she stated, showed the account last being in credit in April 2019, which could not conceivably have been correct, as she had paid all sums due to April 2019 in March and April 2019, a total of £3,950 and thereafter paid a further £670 in 2020. She felt that this was an overpayment and had asked the property factors to investigate, but had received no response, a breach of Section 4.1 of the Code.

12. The invoices included multiple and significant charges, without explanation, for court fees from May 2019. These charges were not owed, a breach of Sections 2.1, 2.2, 4.1, 4.3 and 4.9 of the Code. The property factors had acted in direct contravention of the sheriff's decision. The property factors had breaches Sections 2.1 2.2, 4.1, 4.3, 4.8 and 4.9 of the Code by taking legal action, namely registering a Notice of Potential Liability, for a debt that was not due. There had been further multiple and

grave breaches of Sections 2.1, 2.2, 4.1 and 4.9 of the Code, as the debt was not owed at all, in accordance with the decision of the sheriff at the court action and their actions had been “fraudulent in the extreme”.

13. The homeowner stated that the property factors were fully aware that she had not lived at the Property since 2009 and knew the address at which she was living, yet they had sent all legal notifications and intimations to the Property address. Sheriff officers, however, had been sent by the property factors to her correct address on 22 June 2021. The pattern of conduct was evidently deliberate and constituted unethical conduct. All of these matters constituted breaches of Sections 2.2, 4.1, 4.8 and 4.9 of the Code. She had emailed the property factors on 10 February 2021 to say that she was horrified to discover that not only had they instructed solicitors to take legal action against her but had deliberately sent all postal notifications to the wrong address and to an obsolete email address. She had been communicating with them from a different email address for some considerable time. She contended that the property factors knew that, if they used the Property address, it was very likely she would not see correspondence for several months, thus preventing her from any opportunity to defend the legal action. This conduct constituted further breaches of Sections 4.1 and 4.8 of the Code. She had complained in writing to the property factors about these issues in February and March 2020, but on 10 February 2021, received an email from them telling her that if she had any further matters regarding the previous legal action, she should contact their solicitors, who had dealt with it. Her response to them had been to say that it made no sense, as the solicitors had been acting for the property factors and it was not her responsibility to chase them. This refusal to address the complaint was a breach of Sections 2.1, 2.2, 4.1 and 4.7 of the Code. Their response of 11 February 2021 ignored all of the issues she had raised, a breach of Sections 2.2, 2.5, 4.1 and 7.1 of the Code.

14. On 22 June 2021, sheriff officers arrived at the homeowner’s correct address without warning and told her sister that they were there with a Notice of Attachment, which they intended to execute. These actions comprised a breach of Sections 2.1, 2.2, 2.5, 4.1, 4.8, 4.9 and 7.1 of the Code. Her sister had explained that she was at hospital and the sheriff officers stated that they would return on 5 July 2022. This was a breach of Sections 2.2, 4.8 and 4.9 of the Code.

15. On 22 June 2021, the homeowner emailed the property factors, asking them to provide details of the nature of the alleged debt, how it had been calculated, the date of their communications to her advising of same and the address to which that communication was sent. On receipt of the

invoices from the property factors, it had become clear yet again that they had deliberately sent all communications to the Property address, which prevented her from being able to respond to their demands for payment or have any notice that sheriff officers were being instructed, and that the property factors were continuing to demand payment of the legal expenses which the sheriff had not granted. When she advised them of this on 24 June 2021, the property factors insisted that she go through their entire complaints process again, despite their contemptuous dismissal of the complaint she had made earlier in the year. These were breaches of Sections 2.1, 2.2, 2.5, 4.1, 4.8, 4.9, and 7.1 of the Code.

16. On 1 July 2021, the homeowner sent a lengthy and detailed complaint to the property factors. Their complaints process details that their response would be issued within 7 working days. They failed to respond by the end of that period, and she emailed them again on 12 July 2021. On 13 July 2021, they replied to say that their Property Factoring Director and Credit Control Manager were on annual leave and that they would revert to her on their return on 21 July 2021. As at the date of the letter of complaint of which the foregoing is a summary (20 October 2021) they had still not replied and were in breach of Sections 2.5, 4.1, 7.1 and 7.2 of the Code. The homeowner had, however, received further invoices from the property factors in which they continued to demand the legal expenses to which they are not entitled and to threaten legal action as well as imposing charges on those expenses. These were further breaches of Sections 2.1, 2.2, 2.5, 4.1, 4.3, 4.9, 7.1 and 7.2 of the Code.

17. In her application, the homeowner stated that the property factors' behaviour "has caused me and continues to cause me immense distress and anxiety. They have behaved in a manner which clearly demonstrated their contempt for the Code and their obligations under same. They have deliberately harassed and taken legal action against me for sums I do not owe. They have refused to investigate my complaints fairly and address them. Their conduct has been and continues to be malicious."

Reasons for Decision

18. It was clear to the Tribunal that there was one fundamental issue to be determined before the application was considered under each Section of the Code, namely whether the legal expenses and other costs arising therefrom were due by the homeowner. The view of the Tribunal was that the homeowner had misunderstood the decision of the sheriff to dismiss the sequestration petition and make no award of expenses due to or by either party. The expenses to which that decision would relate are only

those incurred in the sequestration application process. It would have no effect on any other proceedings between the Parties, including pursuing her for unpaid invoices for factoring charges and the expenses involved in doing so. The property factors had raised two previous actions for payment and had obtained decrees in both. They then instructed sheriff officers to serve charges on the homeowner and when she still did not pay the amounts ordered by the decrees, the property factors instructed their solicitors to petition for her sequestration. It was in relation to that day's sequestration proceedings themselves that the sheriff did not make an order for expenses. These proceedings had been continued on 4 March 2019 to enable the property factors to monitor payments that had been promised by the homeowner. The property factors' statement to 2 May 2019 shows that the homeowner made four payments in March and April 2019, totalling £3,650, which cleared the arrears on the account and left a small credit balance of £42.58. The same account, however, includes court expenses of £697.16, charged to the account on 9 April 2019. In an email of 4 October 2021, the property factors stated that this was in respect of the sequestration expenses.

19. In principle, the property factors have the right to recover from the homeowner those legal costs or outlays incurred by the property factors which were properly and fairly incurred by them as a result of the homeowner delaying or using to pay sums legally due and attributable to property factor charges pr the homeowner's share of common charges.

20. The decision by the sheriff in awarding no expenses to or by either Party in the sequestration proceedings related to "judicial expenses". Such expenses, if awarded, are calculated on the basis of a process called "taxation" and may be lower than the actual cost of legal fees and outlays incurred by the party in whose favour an award of judicial expenses is made. In the Upper Tribunal case of *MXM Property Solutions Limited v Mallick* (UTS/AP/21/0018), Sheriff O'Carroll set out very clearly the distinction between judicial expenses and non-judicial expenses. In Paragraph 39 of the Sheriff's decision, he states that property factors can recover from a defaulting homeowner all legal costs and outlays arising from the need to raise legal action "*and not restricted to whatever a court may award by way of judicial expenses.*"

21. In Paragraphs 42 and 43, Sheriff O'Carroll states "*The question of whether judicial expenses are awarded and the amount thereof is determined entirely separately from the way in which a solicitor…may charge a client or other person for the legal work done.*

22. *"in a case where the parties to a litigation have a contractual arrangement which includes an obligation to pay legal costs incurred by one party as a result of the default of the other, the determination by the court on the question of judicial expenses…does not determine the entitlement of one party or the other, as a matter of contract, to recover legal costs or charges incurred as a result of pursuing legal action arising from the default".*

23. In the present case, Clause 4.15 of the Written Statement of Services entitles the property factors to take legal action against the homeowner for such unpaid charges. That is the contractual position between the Parties.

24. The Tribunal noted that the property factors invoiced the homeowner for the sum of £697.16. The property factors' solicitors confirmed to them that these were the fees and outlays incurred in the sequestration process and the Tribunal's view is that these are non-judicial expenses, so are payable by the homeowner.

25. The Tribunal has seen the Simple Procedure Decision Form (Case ref. GLW-SG4788-19) setting out a decision of the Sheriff of 13 December 2019. It is an Order for Payment by the homeowner of £881.36, together with expenses of £269.42. The legal expenses element was added to the homeowner's account on 24 January 2020, in terms of property factors' Invoice 2060994. The view of the Tribunal is that this is a legitimate charge to the homeowner, as it relates to separate proceedings which post-dated the dismissed sequestration application. The same applies to their Invoice 2521463 for the sum of £82.59, being recovery of Sheriff Officers' fees, Invoice 2521998 for the sum of £180 for registering a Notice of Potential Liability for Costs, and Invoice 2671973 for the sum of £52.02, which again is a Sheriff Officers' fee following non-payment of the sum due under the outstanding Court Decree of 13 December 2019 against the homeowner.

26. The other main complaint of the homeowner related to the fact that she had not lived in the Property since 2009 and, although the property factors were well aware that she was not living there, they still sent all documents relating to legal actions to her at that address. She advised the Tribunal that she is a disabled person in terms of the Equality Act 2010 and the severity of her condition meant that as of 19 January 2009, she could no longer reside in the Property. She had returned to live with family in Cambuslang. She had advised the property factors at that time and asked them to ensure that all correspondence was sent to her new address. She contended that the property factors knew that, if they used the Property address, it was very likely she would not see correspondence for several

months, thus preventing her from any opportunity to defend the legal action.

27. The Tribunal noted that the Invoices for factoring charges were all sent to the homeowner at her correct address in Cambuslang. In their email to the homeowner of 1 July 2021, the property factors stated that they had been notified by their solicitors on 30 August 2019 that the homeowner had moved back to the Property "and therefore we updated our records accordingly". The Tribunal noted, however, that they continued to send Invoices to the Cambuslang address. They said that they had changed their records back again following receipt of a letter from the homeowner dated 4 December 2019, but their Invoice of 28 November 2019 was not addressed to the homeowner at the Property, as would have been expected if they had updated their records on 30 August as they had said.

28. The Tribunal found no evidence to suggest that the property factors had deliberately sent legal notices and intimations to the Property address because they thought it unlikely she would see them for several months and would be unable to lodge defences timeously. The Tribunal would also have expected that the homeowner would have arranged to check the unoccupied Property and uplift mail, from time to time, or for someone else to do so on her behalf. Nevertheless, the property factors or those instructed by them were sending some communications to the Property and others to Cambuslang, where the homeowner was living. The Tribunal did not regard this as an acceptable situation.

29. The Tribunal considered the homeowner's comments regarding her complaint to the property factors about their not having used the correct address for her and, in particular, their email to her of 10 February 2021 in which they had told her that if she had any further matters regarding the previous legal action, she should contact their solicitors. The Tribunal regarded this response as wholly inappropriate. The solicitors had been engaged by the property factors to pursue a debt against the homeowner and the property factors should have been aware that it would have been professionally unethical for the solicitors to engage in correspondence with the homeowner.

30. **Section 2.1 of the Code** states "You must not provide information which is misleading or false". The Tribunal did not uphold the complaints under this Section, insofar as they related to her contention that the property factors knew that sums they were seeking were not due by the homeowner. The Tribunal had, however, held that this was not the case. The homeowner had also said that the failure to address her complaint as described in the immediately preceding paragraph of this Decision

constituted a breach of Section 2.1. The Tribunal agreed with the homeowner that the information given to her regarding contacting their solicitors was misleading and determined that the property factors had failed to comply with Section 2.1 of the Code of Conduct.

31. **Section 2.2 of the Code** states "You must not communicate with homeowners in any way which is abusive or intimidating, or which threatens them (apart from reasonable indication that you may take legal action." The Tribunal noted that the complaints under this Section related to the reasonable pursuit of debt and to legal action and did not regard any other communication between the Parties as being abusive or intimidating.

32. **Section 2.5 of the Code** states "You must respond to enquiries and complaints received by letter or email within prompt timescales. Overall your aim should be to deal with enquiries and complaints as quickly and as fully as possible, and to keep homeowners informed if you require additional time to respond. Your response times should be confirmed in the written statement." The homeowner had stated that the arrival of sheriff officers at her home and their telling her sister that they were there to execute a Notice of Attachment constituted a failure to comply with Section 2.5 of the Code. It appeared that prior warning had not been given, but the Tribunal did not uphold this complaint, as the sheriff officers were acting in pursuance of a court decree and there would have been no requirement to give the homeowner advance notice of their intended visit.

33. The homeowner had also complained about the manner in which the property factors had dealt with her complaints both in relation to the use of a wrong address for her and in relation to her detailed complaint to them of 1 July 2021. The Tribunal did not agree with the homeowner that the property factors had not replied within 7 working days. 1 July was a Thursday and, the property factors were deemed to have received it on the following day. The seventh working day after that was 13 July. That was the date on which they responded, albeit to say that the relevant personnel were on holiday and that they would deal with it on their return on 21 July. The Tribunal noted that the complaint had been sent by email at 13.46 on I July, but was not prepared to include that afternoon in its calculation. Even if it had included it, the Tribunal would not have regarded an overrun of one day as constituting a failure to comply, as Clause 5.6 of the Written Statement of Services states that the property factors "will endeavour to respond to enquiries received in writing (including electronically) within 7 working days of receipt. If more time is required to respond, you will be notified within that period." The homeowner went on to state, however, that as at 20 October 2021, when she sent a further detailed letter of complaint, the property factors had still not replied. The property factors, in

their written representations, said that they had been in extensive correspondence with the homeowner over a protracted period and only latterly when the homeowner advised that she had referred matters to the Tribunal (20 October 2021) did they confirm that the correspondence would be dealt with under their formal complaints procedure and they had sent their final response, in accordance with that procedure, on 23 December 2021.

34. The Tribunal accepted that the letter of 20 October 2021 was the first communication from the homeowner that specified the Sections of the Code of Conduct with which she believed they had failed to comply. The property factors acknowledged this on 25 October and sent a detailed response on 10 November. The property factors can have been in no doubt, however, that the homeowner's email of 1 July 2021 also constituted a complaint. They had, in an email to her of 24 June, set out their complaints procedure, and their email to her of 13 July 2021 apologised for the fact that she had not yet received a full response to her complaint. Accordingly, the property factors should have dealt with this in accordance with their formal complaints procedure and, as they had failed to do so, the Tribunal held that they had failed to comply with Section 2.5 of the Code of Conduct

35. **Section 4.1 of the Code** states "You must have a clear written procedure for debt recovery which outlines a series of steps which you will follow unless there is a reason not to. This procedure must be clearly, consistently and reasonably applied. It is essential that this procedure sets out how you will deal with disputed debts." Section 4.14 of the Written Statement of Services states that the property factors have a Debt Recovery Procedure which can be found on their website and is also available upon request in hard copy. They provided the Tribunal with a copy of that Procedure document and it sets out a series of steps as required by Section 4.1 of the Code. These include reminder statements, default notices, final notices and recovery of legal costs. It also sets out the procedure which they will apply in relation to disputed charges. The property factors' Debt Recovery Procedure states "When considering debt, we are committed to treating all customers fairly, with forbearance and due consideration, providing them with time to comply with payment requests". The view of the Tribunal was that, in sending statements to the homeowner's correct address and debt recovery communications to the Property address, they had failed to comply with this procedure. They were well aware of the homeowner's disability and this made it even more important that they ensured that such inconsistencies in correspondence addresses did not occur. Accordingly, the Tribunal decided that the

property factors had failed to comply with Section 4.1 of the Code of Conduct.

36. **Section 4.3 of the Code** states “Any charges that you impose relating to late payment must not be unreasonable or excessive.” Section 4.12 of the Written Statement of Services states that additional fees relating to late payment of common charges can be found on their Schedule of Fees. The Tribunal did not have sight of this Schedule, but it did not appear that charges had been imposed for late payment by the homeowner of Invoices, the additional costs over and above the factoring and common repair charges being legal fees and other ancillary costs incurred in the debt recovery procedures taken against the homeowner. Accordingly, the Tribunal did not uphold the complaint under Section 4.3 of the Code of Conduct.

37. **Section 4.6 of the Code** states “You must keep homeowners informed of any debt recovery problems of other homeowners which could have implications for them (subject to the limitations of date protection legislation).” The Tribunal did not uphold the complaint under this Section as no evidence was provided to indicate that any debt recovery problems of other homeowners were relevant to the present application.

38. **Section 4.8 of the Code** states “You must not take legal action against a homeowner without taking reasonable steps to resolve the matter and without giving notice of your intention.” The Tribunal noted the property factors’ view that they had followed their Debt Recovery Procedure, with arrears showing on their quarterly Invoices, reminder letters and letters indicating their intention to raise legal action. It was clear, however, that important correspondence relating to potential and actual legal action had been sent to the Property when the property factors knew the homeowner was not living there. There was no excuse for Invoices being sent to the homeowner in Cambuslang whilst other correspondence was sent to her at the Property. Accordingly, the Tribunal decided that the property factors had failed to comply with Section 4.8 of the Code of Conduct, as their use of two addresses may have prejudiced the homeowner by compromising her ability to defend such legal action as the property factors chose to pursue.

39. **Section 4.9 of the Code** states “When contacting debtors you, or any third party acting on your behalf, must not act in an intimidating manner or threaten them (apart from reasonable indication that you may take legal action). Nor must you knowingly or carelessly misrepresent your authority and/or the correct legal position”. The Tribunal did not uphold the

complaint under this Section for the reasons set out in its determination relating to Section 2.1 of the Code.

40. **Section 7.1 of the Code** states "You must have a clear written complaints resolution procedure which sets out a series of steps, with reasonable timescales linking to those set out in the written statement, which you will follow. The procedure must include how you will handle complaints against contractors". The Tribunal did not uphold the complaint under this Section. Section 5.2 of the Written Statement of Services states that the property factors have a formal complaints handling procedure which can be found on their website and is also available upon request in hard copy. The property factors included a copy of that Procedure in their written representations and the Tribunal was satisfied that it meets the requirements of Section 7.1 of the Code. The failure of the property factors to follow the procedure was dealt with by the Tribunal in its determination relating to Section 2.5 of the Code.

41. **Section 7.2 of the Code** states "When your in-house complaints procedure has been exhausted without resolving the complaint, the final decision should be confirmed with senior management before the homeowner is notified in writing. This letter should also provide details of how the homeowner may apply to the [Tribunal]". The Tribunal noted that the property factors' email of 23 December 2021 stated that it was their final response, was from one of their Directors, and signposted the homeowner to the Tribunal. Accordingly, the Tribunal did not uphold the complaint under Section 7.2 of the Code.

42. Having decided that the property factors had failed to comply with Sections 2.1, 2.5, 4.1 and 4.8 of the Code of Conduct, the Tribunal then considered whether to make a Property Factor Enforcement Order. The Tribunal's view was that the failures on the part of the property factors had been serious and had caused the homeowner considerable distress and inconvenience, not least the enormous amount of work that her application to the Tribunal had entailed. The Tribunal decided that it would be appropriate to make a Property Factor Enforcement Order.

43. The Tribunal proposes, therefore, to make a Property Factor Enforcement Order requiring the property factors to pay the homeowner the sum of £2,500 as reasonable compensation for the inconvenience and distress caused by the property factors' failures to comply with the Code of Conduct. These failures were seriously compounded by their knowledge of the homeowner's disability. Being taken to court for alleged debts without warning would be a worrying and stressful experience for anyone, and very much more so for someone with significant disabilities.

44. The decision of the Tribunal was unanimous.

Signed

Date: 14 March 2023

George Clark (Legal Member/Chairman)