

Housing and Property Chamber First-tier Tribunal for Scotland



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/17/0241

Property at 4/25 Gillsland Road, Edinburgh EH10 5BW (“the Property”)

The Parties:-

Lorence Fizia and Mrs Kathleen Fizia, 4/25 Gillsland Road, Edinburgh EH10 5BW (“the Applicants”)

Bield Housing & Care, registered under the Industrial and Provident Societies Act 1965, 79 Hopetoun Street, Edinburgh EH7 4QF (“the Respondents”)

The Tribunal comprised:-

Mr David Bartos - Chairperson, Legal member
Ms Carolyn Hirst - Ordinary member

This document should be read in conjunction with the First-tier Tribunal’s Decision of 14 February 2018.

Decision

The Tribunal has decided to make a PFEO in terms of its Notice of Proposal dated 14 February 2017.

The decision of the Tribunal is unanimous

Reasons for Decision

1. In the Tribunal’s decision of 31 January 2017 it proposed to make a PFEO as follows:

The Respondents shall within two weeks of the notification of this Order:

- (1) provide a copy of Section 2 of the Code of Conduct for Property Factors to all of their employees whose employment requires or might involve contact with

homeowners in the Gillsland Grove development in Edinburgh, drawing their express attention to section 2.1 thereof; and

(2) lodge with the Tribunal a declaration on their notepaper from their Chief Executive and Director of Asset Management signed by them in the following terms:

" Declaration

We confirm that each employee of Bield whose employment requires or might involve contact with homeowners in the Gillsland Grove development in Edinburgh, has been supplied with copies of:

- (a) Section 2 of the Code of Conduct for Property Factors; and
 - (b) the Statement of Services at Gillsland Grove, Edinburgh;
- and that their attention has been drawn expressly to section 2.1 of the Code and section C3 of the Statement of Services (on page 18) requiring the taking of minutes of meetings between Bield Housing & Care and homeowners at Gillsland Grove.

2. The Tribunal's decision was intimated to the parties on or about 15 February 2018. No representations on the proposed order under section 19(2)(b) of the 2011 Act were received by the Tribunal. The Tribunal remained satisfied that the Respondents had failed to comply with their property factor's duty and their duty under section 2.1 of the Property Factors Code of Conduct. Accordingly under section 19(3) of the 2011 Act the Tribunal was required to make a PFEO.
3. While no representations were received by the Tribunal on whether a PFEO should be made in the terms set out in the proposal, on 27 March 2018 the Tribunal received a letter from the Respondents dated 19 March 2018. That letter contained a declaration virtually in the same terms as that in the proposed PFEO. It has been taken into account in the Notice of Revocation which accompanies this PFEO.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

" The Respondents shall within two weeks of the notification of this Order:

(1) provide a copy of Section 2 of the Code of Conduct for Property Factors to all of their employees whose employment requires or might involve contact with homeowners in the Gillsland Grove development in Edinburgh, drawing their express attention to section 2.1 thereof; and

(2) lodge with the Tribunal a declaration on their notepaper from their Chief Executive and Director of Asset Management signed by them in the following

terms:

“ Declaration

We confirm that each employee of Bield whose employment requires or might involve contact with homeowners in the Gillsland Grove development in Edinburgh, has been supplied with copies of:

(a) Section 2 of the Code of Conduct for Property Factors; and

(b) the Statement of Services at Gillsland Grove, Edinburgh;

and that their attention has been drawn expressly to section 2.1 of the Code and section C3 of the Statement of Services (on page 18) requiring

the taking of minutes of meetings between Bield Housing & Care and homeowners at Gillsland Grove.”

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 within 30 days of the date the decision was sent to them.

David Bartos

Legal Member and Chair

26 April 2018 _____ Date