

# Housing and Property Chamber

## First-tier Tribunal for Scotland



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

**Proposed Property Factor Enforcement Order (“PFEO”): Property Factors (Scotland) Act 2011 Section 19(2)**

**Chamber Ref: FTS/HPC/LM/18/2026  
FTS/HPCLM/18/2031  
FTS/HPC/LM/18/2032  
FTS/HPC/LM/18/2033**

**3 Chandlers Lane, Dundee DD1 3DH  
 (“the Property”)**

**The Parties:-**

**Mr Joseph Duffy, 3 Chandlers Lane, Dundee DD1 3DH, Mrs Lynn Hood, 10 Chandlers Lane Dundee DD1 3DH, Mr Tomasz Kamusella, 12 Chandlers Lane Dundee DD1 3DH and Mr Samit Majumdar, 14 Chandlers Lane, Dundee DD1 3DH  
 (represented by Mrs Lynn Hood 10 Chandlers Lane Dundee DD1 3DH)  
 (“the Homeowners”)**

**SGL Property Limited, Top Floor, India Buildings, 86 Bell Street, Dundee DD1 1HN  
 (“the Factor”)**

**Tribunal Members:  
Graham Harding (Legal Member)  
Helen Barclay (Ordinary Member)**

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) That the Factor provide the Tribunal and the Homeowners within a period of 28 days copies of the following documents:-
  - a) Any contract with Vehicle Control Services affecting the Panmure Development and parking spaces there including any showing income or expenditure relating to any such contract.

- b) All bank statements for the management of the development since the commencement of the contract on 1 April 2016 to date.
  - c) All electricity bills affecting the development from 1 April 2016 to date together with any bills prior to that date if unpaid as at 1 April 2016.
  - d) A copy of the receipted invoices in respect of the cost of repairs to the lighting bollards at the development.
  - e) A copy of the Factor's current public indemnity insurance policy.
- (2) That the Factor provides the Homeowners and the Tribunal with a programme of works in compliance with section 6.4 of the Code in respect of the cyclical maintenance provided for in Appendix 2 of the Factor's written statement of services and that within a period of 28 days.
- (3) That the Factor provides the Homeowners and the Tribunal with a written explanation as to why it believes the number of non-paying owners has risen from 18 in 2017 to 38 in 2018, details of the current number of non-paying owners and confirmation that the Factor's own Debt Recovery Policy contained in Section 5 of Appendix 2 of its written statement of services is being strictly enforced and that within a period of 28 days.
- (4) If the Homeowners have been charged for electricity consumed by owners in the flatted properties within the development for common lighting internally and therefore common only to the flat owners to re-apportion the cost of electricity charged back to the Homeowners accounts and provide documentary evidence of how this has been calculated to the Homeowners and the Tribunal within a period of 28 days.
- (5) If the funds paid by the Homeowners to the Factor in respect of their liability for the debt due to the Forth Ports Authority has been applied by the Factor to meet other debt then the Factor must within a period of 28 days pay to each Homeowner namely Mrs Lynn Hood, Mrs Jane Duffy, Mr Tomasz Kamusella and Mr Samit Majumdar the sum of £218.00 from the Factor's own funds.
- (6) In respect of its failures of its property factors duties and breaches of the Code and in respect of the trouble, distress, worry and substantial inconvenience caused to the Homeowners pay to each of the above the sum of £300.00 from its own funds and that within a period of 28 days.

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—*

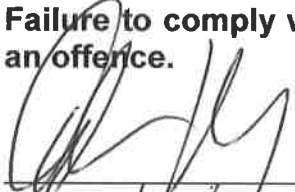
*(a) give notice of the proposal to the property factor, and*

*(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 has serious consequences and may constitute an offence.**



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28/12/18

Legal Member and Chair

Date