

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

**Proposal regarding the making of a Property Factor Enforcement Order:  
Property Factors (Scotland) Act 2011 Section 19(2)**

**Chamber Reference: FTS/HPC/PF/22/3985; FTS/HPC/PF/23/0884;  
FTS/HPC/PF/23/0885; FTS/HPC/PF/23/0888; FTS/HPC/PF/23/0889;  
FTS/HPC/PF/23/0890; FTS/HPC/PF/23/0891; and FTS/HPC/PF/23/1203**

**Property addresses: Property address: 28E, 30E, 28P, 28R, 30C, 30G, 30L, 30P  
and 30Q Diriebught Road, Inverness, IV2 3QY**

### **The Parties**

**Dr Robert Anderson  
Mrs Lesley Leslie  
Mrs Anita Bennis  
Mr Jamie Stranraer-Mull  
Mr Fred Kelly  
Mr Malcolm Petrie  
Mr Jeffrey Geary  
Miss Mhairi Dalglish ("the Homeowners")**

**First Port Property Services, Queensway House, 11 Queensway, New Milton,  
Hampshire, BH25 5NR ("the Property Factor")**

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 ("PFEО"):

"Within 28 days of intimation to them of the PFEО, the Property Factor is required to:

1. Instruct an independent audit of the development account to ensure that the final account is accurate, the cost of the audit to be borne by the Property Factor;
2. Pay to the Homeowners the sum of £100 each for the failure to comply with paragraph 3.1 of the Code of Conduct for Property Factors ("the Code");

3. Pay to the Homeowner, Dr Anderson, an additional sum of £600 to compensate for the distress, frustration and inconvenience caused as a result of the Property Factor's failure to comply with the Code.'

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.*

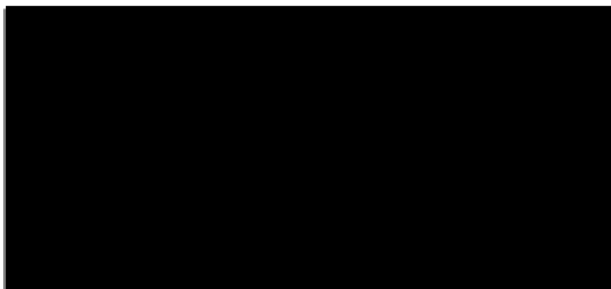
*(3) If the First-tier Tribunal is satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the First-tier Tribunal must make a property 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 PFEO without seeking further representations from the parties.

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

## **Right of Appeal**

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.



Legal Member and Chairperson  
21<sup>st</sup> August 2023