



**Statement of Facts and Reasons  
for  
Decision to Serve a Notice of Failure to Comply with the Property Factor  
Enforcement Order on the Scottish Ministers, under Section 23 of the  
Property Factor (Scotland) Act 2011**

**Hohp ref: HOHP/PF/13/0055**

**Re: 18 Kirkton Drive, Burntisland**

**The Parties:-**

**The homeowner – Dafydd McIntosh (“the applicant”)**

**The property factor – Collinswell Land Management Ltd (“the respondent”)**

**Statement of Facts and Reasons for Decision**

1. On 7<sup>th</sup> August 2013, the Homeowner Housing Committee issued a Property Factor Enforcement Order dated 7<sup>th</sup> August 2013.
2. The Property Factor Enforcement Order contained the following provisions:-

“Within 28 days of this Decision being issued to the parties, the respondent must:-

  1. issue an accurate and comprehensive written statement of services which fully conforms to the Code.
  2. issue a written apology to the applicant for their failure to provide him with a written statement of services complying with the Code timeously; and, for abusing and intimidating him.
  3. make a payment to the applicant in recognition of his hurt feelings and inconvenience caused to him in the sum of £100.
  4. provide to the committee documentary evidence of their compliance with parts 1, 2 and 3 of this Order.”
3. The respondent has complied with parts 2 and 3 of the Order.
4. The respondent has failed to comply with part 1 of the Order. In particular the respondent has failed to ensure that their authority to act

and continuing ability to continue to act is correctly reflected within the applicant's written statement of services. The committee's full findings and reasons are contained within the Decision of the committee dated 8<sup>th</sup> July 2013 and issued 12<sup>th</sup> July 2013.

5. After the time allowed for compliance of the Property Factor Enforcement Order expired, two further informal opportunities were afforded to the respondent to comply with the Order. They have failed to do so. It is accepted that they have corresponded seeking to justify their failure but their response and explanation is unjustified.
6. The committee concludes that the respondent has now clearly indicated that they will not comply, in full, with the terms of the Property Factor Enforcement Order. Accordingly in terms of Section 23(2) of the Property Factor (Scotland) Act 2011, the committee is obliged to serve notice of that on the Scottish Ministers. The necessary notice will be served on the Scottish Ministers forthwith.
7. In terms of Section 22 of the 2011 Act, any Appeal is on a point of law only and requires to be made by Summary Application to the Sheriff. Any Appeal must be made within 21 days beginning with the day on which the Decision appealed against is made.

Signed



Date 15<sup>th</sup> October 2013