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13 June 2025

Dear Mr Carlaw,

SCOTTISH PARLIAMENTARY QUESTION S6W-37778

The Cabinet Secretary in her response to the above PQ indicated that it related to operational matters within the responsibility of the Scottish Courts and Tribunals Service corporate body. I am now writing in response to the matter raised.

S6W-37778 asks: what the current average timescale is for an application that is submitted by a private landlord to evict a tenant to be heard at the First-tier Tribunal for Scotland (Housing and Property Chamber).

Over the period 01 April 2024 to 31 May 2025, the average timescale for an application that is submitted by a private landlord to evict a tenant to be heard (first hearing) at the First-tier Tribunal for Scotland, Housing and Property Chamber is 191.62 days, which equates to 27.4 calendar weeks. This average timescale is derived from 1563 applications submitted during the aforementioned dates and includes statutorily required periods to allow for participants to respond.

Each application received by the First-tier Tribunal for Scotland Housing and Property Chamber (HPC) administration goes through the three-stage process outlined below:

Initial check on receipt of application

When an application is made, it must meet the requirements prescribed by the relevant HPC procedure rule. The application first goes through a process where a tribunal judge (legal member) must decide whether it meets the prescribed requirements for that type of application. When they are first received, applications often fail to meet the prescribed requirements. Required attachments may be missing, while other information relating to the pre-application procedures or other essential information to make out the case may not be included. In property factor, letting agent and repairing standard cases, it is not unusual for applicants to have failed to notify the other party of their complaints in sufficient detail to give them fair notice, as required by the relevant legislation.

One approach to dealing with this could be to reject the application and send it back to the applicant. While this may keep down the HPC's timescale for the end-to-end process, it would be frustrating for applicants, many of whom are individuals without legal representation. Moreover, the HPC is an enabling body, and to return applications which are defective would not be consistent with that approach. Therefore, the HPC instead engages in correspondence with the applicant, explaining the information required or additional documents needed. If after a reminder for information, the applicant has still not provided the information sought (normally at least several weeks after the application was received), the application will be rejected.

Sifting stage

Once an application meets the prescribed requirements, it goes through a sift to check whether it should be referred to a tribunal. The sift involves an assessment by the legal member of whether the application is so fundamentally flawed that it has no prospect of success and should be rejected. This is a high bar. During the year 2023-24, 11% of all applications disposed of were rejected, generally because either they did not meet this test or they did not meet the prescribed requirements, often after a request for information.

Scheduling stage

Once an application is accepted for determination by the legal member and referred to a tribunal, it will be passed to the scheduling team who will assign the case to the next available hearing date and allocate the Tribunal members to the case.

We are constantly looking for ways to ensure that the scheduling process is as efficient and effective as possible, in the light of increasingly caseloads across the Scottish Tribunals. This includes reallocating resources within the administration to target areas of greatest pressure. In the case of the Housing and Property Chamber, the total number of applications received has increased considerably and are at their highest ever volume. The ability to schedule timeously depends heavily on the availability of Tribunal members, all of whom are fee-paid and part-time. The Judicial Appointments Board for Scotland is currently conducting a recruitment round to increase the pool of legal members from which Tribunal panels can be drawn.

A copy of this letter will be placed in the Scottish Parliament Information Centre and published on the Scottish Courts and Tribunals Service website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Malcolm Graham', with a horizontal line underneath.

Malcolm Graham
Chief Executive