

Scottish Courts and Tribunals Service



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Dear Mr Hoy

**SCOTTISH PARLIAMENTARY QUESTIONS S6W-01694, S6W-01698, S6W-01700;
S6W-01702, S6W-01703**

I am writing in relation to your Parliamentary Questions listed above, which seek information about decisions of the Housing and Property Chamber of the First-tier Tribunal for Scotland. The Cabinet Secretary, in his response to these questions, indicated that they related to operational matters within the responsibility of the Scottish Courts and Tribunals Service. I am pleased to provide answers to each question in the annexes to this letter.

By way of general background, I should make clear that the First-tier Tribunal Housing and Property Chamber came into being 1 December 2016 as part of the changes introduced by the Tribunals (Scotland) Act 2014. Prior to that, disputes arising between homeowners and property factors were heard by the Homeowner Housing Panel, a Scottish Tribunal set up under the Property Factors (Scotland) Act 2011. We have included figures from the records inherited by SCTS from the Panel, with the caveat that SCTS was not responsible for the collation of these figures. Annex A contains some further general notes which apply to each of the questions raised.

In relation to S6W-01694 no data is held centrally by Scottish Courts and Tribunal service in relation to property factor enforcement orders being challenged in the Sheriff Courts.

A copy of this letter and annexes 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 'Eric McQueen'.

Eric McQueen
Chief Executive

Annex A: General notes for PQs, S6W-01698, S6W-01700, S6W-01702, S6W-01703

1. The Property Factors (Scotland) Act 2011 (*the Act*) came into force from 01 October 2012.
2. Application receipts do not always correlate to application disposals within the same year. For example; an application received on 01 March 2018 but does not conclude until 20 January 2019.
3. Case data for each year has been collated from 01 January to 31 December except 2021 which has been collated from 01 January to 31 July.
4. The relevant case management systems have undergone significant changes in the way case outcomes are recorded. The trajectory of these changes over a long period of time has resulted in gaps in data, in particular that up to and including 2013 the Homeowner Housing Panel did not possess the functionality to record decision outcomes on a case.
5. Application receipts do not always result in a case progressing to a hearing. Applications are sifted by Legal Members of the First-tier Tribunal – Housing and Property Chamber who have delegated authority from the Chamber President. An application can be rejected at this stage for a number of reasons including; frivolous or vexatious in nature and not compliant with the Act.
6. An application brought before the First-tier Tribunal for Scotland - Housing and Property Chamber, from a Homeowner against a Property Factor can include complaints relating to one or both complaint types: Property Duties and the Code of Conduct.

Annex B

S6W-01698 *To ask the Scottish Government how many complaints against property factors have been brought to the First-tier Tribunal for Scotland housing and property chamber in each year since 2011, and, of these, how many were brought as a result of the property factor failing to (a) carry out their duties and (b) comply with the standards in the Code of Conduct (section 17(1) of the 2011 Act).*

Annex 1:

Year	Number of complaints against Property Factors	Number of complaints received in relation to Property Factor Duties	Number of complaints received in relation to Property Factor Code of Conduct
2012	25	8	17
2013	328	262	66
2014	202	149	53
2015	163	127	36
2016	187	138	49
2017	180	119	61
2018	242	178	64
2019	168	114	54
2020	161	117	44
2021	160	127	33

Annex C

S6W-01702 *To ask the Scottish Government how many property factor enforcement orders have been made against property factors by the First-tier Tribunal for Scotland housing and property chamber in each year since 2011.*

Year	Property Factor Enforcements Orders (PFEOs) issued against Property Factors
2012	General Note 4
2013	General Note 4
2014	7
2015	34
2016	28
2017	33
2018	49
2019	81
2020	68
2021	36

Annex D:

S6W-01700 *To ask the Scottish Government how many of the cases considered by the First-tier Tribunal for Scotland housing and property chamber were found in favour of the (a) complainant and (b) property factor since 2011.*

Note: Cases found in favour of a complainant do not always result in a Property Factor Enforcement Order (PFEO) being issued. The column of cases found in favour of the complainant comprises of both; failure to comply – no PFEO and failure to comply – PFEO. Cases found in favour of the property factor are simply decisions that the property factor has complied with the Code of Conduct and/or Duties.

Year	Cases found in favour of the Complainant	Cases found in favour of the Property Factor
2012	General Note 4	General Note 4
2013	General Note 4	General Note 4
2014	7	15
2015	34	48
2016	31	38
2017	56	38
2018	71	28
2019	89	19
2020	72	21
2021	41	20

Annex E

S6W-01703 *To ask the Scottish Government what information it has on which property factors have been issued property factor enforcement orders in each year since 2011, also broken down by how many orders each factor was issued with.*

It is currently not possible to provide an accurate summary of the property factors against whom property factor enforcement orders have been issued. This is because for each application, the name of the relevant property factor must be recorded as provided on the individual application. This has led to multiple instances of Property Factors being recorded with multiple variations of their registered company name. As such, the case management system cannot readily generate an accurate report to show how many orders have been issued to a specific factor.

The Housing and Property Chamber website contains a database of all published decisions. This database contains certain search parameters in which an individual property factor registration number can be used.