Justice Committee

Inquiry into the effectiveness of the provisions in the Title Conditions (Scotland) Act 2003

Written submission from the Chartered Institute of Surveyors Scotland and the Institute of Residential Property Management

1. This submission is a collaboration of the views requested from members of RICS Scotland and IRPM (Institute of Residential Property Management)

2. In general, the efficiency and effectiveness of a factoring service seems to be highly dependent on the attributes of the individual charged with carrying out the factoring function and that, in the absence of a competent and committed individual, there is little that property owners can do to oblige a factor to act.

3. The new Property Factors Act, which came into force on 1 October 2012, appears to offer a remedial course of action to disgruntled property owners, and the judicial body that will review alleged breaches - the Home Owners Housing Panel - is just being formed, but has yet to hear a case.

4. As RICS Scotland understands, it also has effect of precluding one of a group of property owners in the same block from acting voluntarily on their behalf in the absence of an officially appointed factor as he would be in breach of the Act unless registered.

5. Both parties (RICS Scotland and IRPM) are of the impression that the legislation and the decisions of the Panel will set the tone for Factoring in the years ahead and, at present, do not see how a separate Commission will fit into this process and influence matters.

6. There are currently a large number of potential cases in the pipeline to be put before the Panel. Gradually, the decisions that the Panel makes will be released and these will dictate the future of the factoring industry. The Panel procedure has not yet been seen and so it is difficult to comment on exactly how it will affect factoring services. However, we feel that there is potential for effectual fall out from panel procedures and outcomes.

7. Consequently, RICS Scotland and IRPM feel that to pass comment on the provisions in the Title Conditions (Scotland) Act 2003 in relation to the appointment and dismissal of property factors and the recourse available to homeowners, where they are dissatisfied with the services of land-owning maintenance companies, may be premature at this stage; at least until the case law is clear.

8. RICS Scotland and IRPM would welcome the opportunity to discuss this further with the Scottish Parliament Justice Committee.

Chartered Institute of Surveyors Scotland and the Institute of Residential Property Management
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