

## **Briefing for the Citizen Participation and Public Petitions Committee on petition [PE2180](#): Review the procedures and case progress timelines for the First-tier Tribunal for Scotland, lodged by David Sinclair Aiton**

### **Brief overview of issues raised by the petition**

The petition relates to the procedures used by the First-tier Tribunal for Scotland, Housing and Property Chamber (“the First-tier Tribunal”) in relation to eviction order applications made by landlords in the private rented sector.

The petition argues that the lack of prescribed time periods for dealing with such applications breaches Article 6 of the European Convention on Human Rights on the “right to a fair trial” and leads to anxiety, financial hardship and ill health for applicants.

The petition states:

“At present, there are no prescribed time periods regarding how long it will take for an eviction order application, lodged by a landlord applicant, to be listed for an initial case management discussion/hearing. The frustratingly protracted and timeless nature of the process is contrary to Article 6 of the ECHR (i.e. right to a public hearing within a reasonable time) and causes applicants extreme levels of anxiety, financial hardship and ill health. The majority of landlord applicants only own one rental property and these adverse impacts require them to repossess their sole rental properties.”

### **Eviction order applications at the First-tier Tribunal**

The [First-tier Tribunal for Scotland \(Housing and Property Chamber\)](#) is the body that hears eviction cases for private rented tenancies in Scotland.

While a range of tenancies exist, the most common tenancy is the [private residential tenancy](#) which was introduced by the [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) (“2016 Act”).

Unless tenants agree to leave, landlords can only end a private residential tenancy on the basis of one of [the 18 grounds for eviction](#) and by following the correct procedures and notice periods (in particular serving the tenant with a valid [“notice to leave”](#)).

If the tenant does not move out by the date in the notice to leave, it is necessary for the landlord to apply for [an eviction order from the First-tier Tribunal](#). The tribunal will then consider whether one of the grounds for eviction has been met. These grounds are discretionary which means that the

tribunal must consider whether it is reasonable to issue an eviction order, even if the ground is proven (Schedule 3 of the 2016 Act).

The procedures at the First-tier Tribunal are governed by the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure (“the Rules of Procedure”) which are a schedule to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended.

The Rules of Procedure include various references to procedural steps which need to be taken within certain timeframes; for example, in relation to the lodging of documents for hearings and notice periods for hearings (Rules 22-24).

However, the Rules of Procedure do not require the First-tier Tribunal to convene a case management discussion or, following that, a hearing within a certain period following an application for an eviction order.

The timeframe for case management discussions and hearings will therefore depend on decisions on prioritisation by the First-tier Tribunal and the general capacity of the tribunal to deal with cases which come before it (both in terms of the volume of cases, staff/tribunal member numbers and the procedures used by the tribunal).

[The most recent annual report from the First-tier Tribunal \(2023-4\)](#) notes that there has been an increase in the volume of cases which the First-tier Tribunal has to deal with. It states that:

“A total of 5078 applications were received during the reporting year. This was a 10% increase on the level of applications received in 2022-23, resulting in the highest annual volume of applications received to date.”

[In response to a parliamentary question by Jackson Carlaw MSP \(question S6W-37778\), the Scottish Courts and Tribunals Service \(“SCTS”\) stated on 13 June 2025 that the average timescale for an eviction case to be heard by the First-tier Tribunal is slightly more than six months.](#) The response states:

“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.”

The response by the SCTS also highlights that each application received by the First-tier Tribunal goes through a three-stage process, namely:

- **The initial check on receipt of the application** to assess whether the application complies with the prescribed requirements. The response stresses that “applications often fail to meet the prescribed

requirements” but that the tribunal takes an enabling approach and rather than returning applications which are defective:

“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.”

- **The sifting stage**, which involves an assessment by the legal member of the tribunal whether the application is so fundamentally flawed that it has no prospect of success and should be rejected. The response notes that this is a “high bar” and that, in 2023- 24, 11% of all applications disposed of were rejected either because they did not meet this test or did not meet the prescribed requirements.
- **The scheduling stage**, where the case is assigned to the next available hearing date and tribunal members are allocated to the case. The SCTS’s response explains that the SCTS is:

“ ... 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 recent article in the Scotsman by Paul Forrester-Smith (Senior Associate, Turcan Connell) entitled “[Eviction isn’t as simple as perhaps it could be](#)” argues that “even for the most straightforward tenancy-related applications to the Tribunal, the matter is unlikely to get to an initial case management hearing for at least 6 months”. It also argues that this is:

“a reflection of the pressures the Tribunal system faces in processing and progressing the volume of applications lodged. Even when the matter does reach a hearing there can be no guarantee that in any particular circumstances the Tribunal will allow a landlord to recover possession. The net result is months of uncertainty and potentially great expense for both landlords and tenants.”

## **Parliamentary consideration**

There would not appear to have been specific consideration of the First-tier Tribunal’s workload during this parliamentary session.

However, during Stage 1 evidence on the recent [Housing \(Scotland\) Bill](#) (which contains provisions on evictions and will also place further responsibilities on the First-tier tribunal), the Local Government, Housing and Planning Committee heard some evidence about the pressure on the First-tier tribunal's resources and that the tribunal was taking steps to increase its resources (see [paras 206 to 213 of the Stage 1 Report](#)). The Committee concluded that:

“With additional resources, efforts should be made to reduce the time it takes for the Tribunal hearings to take place. Reducing delays to the conclusion of cases will be to the benefit of both landlords and tenants.”

## **Article 6 of the European Convention on Human Rights**

Article 6 of the European Convention on Human Rights (“ECHR”) states that:

“in the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”

[As a result of the Human Rights Act 1998, it is unlawful for public bodies to breach someone's rights under the ECHR.](#)

[The Council of Europe has published a guide on the civil law aspects of Article 6](#) (updated to 28 February 2025). The guide includes a discussion of the “reasonable time” aspect of Article 6 of the ECHR and notes that the criteria for assessing this are as follows:

“554. The reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and in accordance with the following criteria: the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute.”

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**30 September 2025**

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at [spice@parliament.scot](mailto:spice@parliament.scot)

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