

The Implications of a Housing Tribunal for Scotland?

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Summary of presentation

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- 3 Private rented housing panel
- 4 PHRP Statistics

Private rented sector disputes: the current landscape

Informal dispute resolution

Conciliation

Mediation

Formal dispute resolution

Private rented housing panel

Sheriff court

Court of Session

Lands Tribunal for Scotland

The sheriff court

Procedure	Subject matter
Small claim	All claims with a value up to £3000 (excludes eviction)
Summary cause	All claims with a value between £3000 and £5000 (includes eviction)
Summary application	Miscellaneous appeals and applications under housing legislation
Ordinary cause	All claims with a value greater than £5000

Private rented housing panel

- Disputes about repairing standard
- Disputes about rent
 - fair rents in regulated tenancies under Rent (Scotland) Act 1984
 - rent increases in assured tenancies under
 - rents in short assured tenancies under Housing (Scotland) Act 1988

PHRP Statistics: rent cases (PHRP annual report 2011)

Cases Decided 2008-2011	2008	2009	2010	2011
Fair rent cases	45	58	58	34
Assured tenancies	9	13	9	13
Part VII contracts	0	0	0	0
Total	54	71	67	47

PHRP Statistics: repairing standard cases

	2010	2011
Applications received	229	194
Mediations resulting in agreements	10	4
Withdrawn and rejected	102	88
House complies with standard	11	19
Repairing standard enforcement order	82	59
Reinspections	115	nr
Cert. of Completion & revoc. RSEO	64	26
Failure to comply with RSEOs & referral for Prosecution	30	17
Rent Relief Orders	23	14
carried forward	172	120

Sheriff court cases (Scot. civil law statistics 2011-12)

Summary Cause evictions	2008-09	2009-10	2010-11	2011-12
Initiated	19,944	16,528	14,160	13,979
Disposed off	19,191	16,986	14,906	13,972

What is wrong with the current system?

- Lack of specialism
- Lack of consistency
- Multiplicity of forums & procedures
- Adversarial nature
- Formality
- Speed
- Cost
- Inadequate advice and representation
- Lack of legal expertise
- Lack of mediation/conciliation

See: O'Carroll & Scott (2004)

What is wrong with the current system?

- Court cases should be resolved earlier
- Little use of mediation/conciliation
- Adversarial nature
- Delay
- Tenants moving on/reluctant to go to court
- Housing cases given low priority by courts
- Lack of legal representation
- Unpredictable decisions
- Court outcomes may not 'solve' the problem
- Significant difficulties with unregistered private landlords

See: Scottish Government (2013)

Options for Reform

Option 1

Actively promoting the use of early preventative action and mediation

Option 2

A Housing Panel which would take a problem solving approach to disputes, make interim decisions, plus a fast track to court

Option 3

A Housing Panel to replace the court as the main forum for resolving many housing disputes

See: Scottish Government (2013)

Option 3: A housing panel to replace courts

Jurisdiction

- Private and social rented sector evictions
- Actions for breach of tenancy raised by landlords and tenants (including repairs)
- Appeals by tenants against (mainly local authority) decisions
- Civil cases related to landlord registration

Phased extension of PHRP jurisdiction?

See: Scottish Government (2013)

Structure and nature of panel/tribunal

- Similar powers to courts
- Legally qualified chair + other members (both professional and lay)
- Informal/inquisitorial approach
- Assumed that parties will not require legal representation
- But, assumed advice and advocacy services may be required for vulnerable parties

Evaluating a housing tribunal

- appropriate outcomes
- impartiality and independence
- fair procedures
- speed
- cost
- accessibility

References

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