

PE2006/J: Review and simplify the legislation in relation to dismissal of property factors

Law Society of Scotland written submission, 8 April 2025

Thank you for your letter of 7 March 2025 seeking the Law Society of Scotland's views on the suggestion that the small claims court be given powers to dismiss property factors in situations where excessive charges have been introduced.

We are aware of frustration from residents of factored properties regarding the perceived lack of accountability for actions taken by factors, including in situations where "excessive charges" have been deemed to have been introduced.

We note the Minister for Victims and Community Safety's written submission of 31 March 2025, and the views of the Scottish Courts and Tribunals Service (SCTS) set out in that letter.

We would also observe that, if reforms are to be taken forward in this area, consideration would need to be given to what an "excessive charge" means in practise.

We consider that proper mediation between residents and factors is essential and may avoid recourse to litigation.

We would also observe that modern Deeds of Conditions tend to have robust mediation clauses contained within them. We would suggest that, in line with current Scottish Government policy on such matters, alternative dispute resolution as a first step is something that should be promoted and encouraged.

We hope that this information is helpful and if we can assist further in consideration of this petition, we will be very happy to do so.