

Citizen Participation and Public Petitions Committee
Wednesday 19 February 2025
3rd Meeting, 2025 (Session 6)

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

Introduction

Petitioner Ewan Miller

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to amend the Property Factors (Scotland) Act to cover dismissal of property factors or bring forward other regulations that would achieve the same aim. This could include giving the First Tier Tribunal powers to resolve disputes related to the dismissal of property factors.

Webpage <https://petitions.parliament.scot/petitions/PE2006>

1. [The Committee last considered this petition at its meeting on 13 November 2024.](#) At that meeting, the Committee agreed to invite the Minister for Victims and Community Safety to give evidence at a future meeting.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. [Written submissions received prior to the Committee's last consideration can be found on the petition's webpage.](#)
4. [Further background information about this petition can be found in the SPICe briefing](#) for this petition.
5. [The Scottish Government gave its initial position on this petition on 23 March 2023.](#)
6. Every petition collects signatures while it remains under consideration. At the time of writing, 783 signatures have been received on this petition.

Today's meeting

7. At today's meeting the Committee will hear evidence from –
 - Siobhan Brown MSP, Minister for Victims and Community Safety
 - Jill Clark, Team Leader, Private Law Unit
 - Sandra Jack, Policy Advisor, Private Law Unit

CPPP/S6/25/3/2

- Stephen Leetion, Housing Registers Policy & Customer Focus Team Leader, Better Homes Division
- Megan Stefaniak, Solicitor, Scottish Government Legal Directorate

Action

8. The Committee is invited to consider what action it wishes to take.

Clerks to the Committee
February 2025

Annexe A: Summary of petition

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

Petitioner

Ewan Miller

Date Lodged

28 March 2023

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to amend the Property Factors (Scotland) Act to cover dismissal of property factors or bring forward other regulations that would achieve the same aim. This could include giving the First Tier Tribunal powers to resolve disputes related to the dismissal of property factors.

Previous action

I have contacted Rona MacKay MSP and brought the matter to the attention of the Minister for Public Finance, Planning and Community Wealth.

Background information

I am the Chair of my local Residents Association (RA) of an estate of 860 privately owned properties. After many years of dissatisfaction, the RA ran a vote to dismiss our factor. In our opinion, the motion was passed in alignment with the deeds for the estate.

Subsequent to this, the factor appointed a legal firm who challenged the vote on the basis that 38 (of 860) properties were tenanted in the estate and the RA could not provide evidence the tenant had passed the voting paper to the owner. The First-tier Tribunal confirmed they could not decide on this matter as it involved interpretation of deeds and proposed seeking a decision in a civil court. If the factor is correct, this would appear to set a precedent, making it very difficult to replace a factor in Scotland.

Annexe B: Extract from Official Report of last consideration of PE2006 on 13 November 2024

The Convener: PE2006, lodged by Ewan Miller, calls on the Scottish Parliament to urge the Scottish Government to amend the Property Factors (Scotland) Act 2011 to cover dismissal of property factors or to lay regulations that would achieve the same aim. That could include giving the First-tier Tribunal for Scotland powers to resolve disputes related to the dismissal of property factors.

Our colleague, Sarah Boyack, joins us once again in our consideration of the petition. Good morning, Sarah.

We last considered the petition on 7 February, when we agreed to write to the Minister for Victims and Community Safety to seek an update on work to finalise and publish the voluntary code of practice for land-owning maintenance companies. The response from the Minister highlights the mechanisms that are available to home owners to remove property factors, which have led her to the view that legislative change at this time is neither necessary nor proportionate. The Minister's response also notes that work has not progressed on the voluntary code of practice as anticipated, and adds that

“this code would apply only where homeowners pay a land-owning land maintenance company for management of the open spaces that are owned by the land maintenance company.”

Sarah Boyack, do you have anything to say to the Committee in light of what has progressed—or not progressed, as it turns out—since we last considered the petition?

Sarah Boyack (Lothian) (Lab): Thank you for enabling me to come back and give feedback. It is quite some time since the petition was discussed, but we still have an accountability problem, which our constituents are experiencing daily.

I am disappointed that we have not seen progress on the voluntary code and that we are still reliant on the current legislative framework. Constituents continue to get in touch with me with new cases—I am not just hearing from constituents who have already reported their problems.

The current framework is not user friendly. The First-tier Tribunal is slow and can be daunting, and people have to make a huge amount of investment in order to use it. There is concern that some firms have been found to have failed in their duty on multiple occasions, and yet, in the process, no questions are asked about their being factors. The challenge of relying on the sheriff court means that legal representation is required, which is expensive and is on top of the bills that people are already paying. Fundamentally, it comes down to a lack of independent scrutiny and accountability, and no control over rising costs. At the end of the day, the factors can do what they want.

There is no incentive to seek best value. One issue that has been raised is that factors might be linked to developers who have developed a project. That is another

accountability gap. Although consumer rights are referred to in the legislation, they are not implemented, and that is a major issue that still needs to be addressed.

The last time that I spoke to the Committee, I gave examples of costs. Since then, representatives have made the point to me that quarterly fees in Edinburgh have gone from £300 to £800. That is a huge increase.

For a lot of our constituents, it is really a now issue. I very much welcome the fact that the Minister for Housing offered us a round-table meeting. We have seen the Competition and Markets Authority report, but we have not yet had action. I am very concerned that we have not seen any actual progress since the Committee last took evidence on the petition.

The Convener: Earlier, we heard a similar analogy about many constituents who find themselves in a David and Goliath situation in which they are up against quite insurmountable odds when dealing with such matters.

There are still issues to explore, but I am not sure that doing so in writing will advance us any further. It would be right to invite the Minister to come to the Committee to give evidence, so that we can explore the issues directly and see whether we can make some progress and understand why progress has not been forthcoming. Is the Committee content with that?

Members *indicated agreement.*

The Convener: We will hold the petition open and seek to have that evidence session with the Minister, at which Sarah Boyack will be more than welcome. Sarah, we will find scope to allow you to contribute and put a question or two to the Minister at the end of the evidence session.

Sarah Boyack: I very much welcome that commitment by the Committee and I look forward to hearing when the meeting will happen.