

# **PE2180/B: Review the procedures and case progress timelines for the First-tier Tribunal for Scotland**

## **Petitioner written submission, 15 November 2025**

The Scottish Government acknowledges that the ask is achievable. I would respectfully recommend that the proposed review is fully achievable and merited, from democratic and judicial fairness perspectives. The suggestion of impracticality is without merit.

### **The option of ministerial intervention**

The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 contain rules which regulate the practice and procedure of the Chamber. Amendments to these rules can be made by Scottish Ministers under paragraph 9 of Schedule 9 of the 2014 Act: the Tribunals (Scotland) Act. The requirement, in that regard, is for Scottish Ministers to consult the President of Tribunals and such other persons as they consider appropriate.

### **Waiting times versus expedited hearings**

Reference is made in the Scottish Government's submission to wait times in respect of First-tier Tribunal Hearings. This is deemed to be attributable to the ever-increasing case load which the system has to manage and process. However, this is only one aspect of the systemic problems which prevail, and are preventing full accordance with Article 6 of the European Convention on Human Rights (ECHR) and the right of tribunal applicants to be availed of the opportunity of a hearing within a reasonable period.

The desirability and judicial fairness of expedited hearings is a matter which merits necessary and due attention. The increasingly protracted delays associated with the current system, however, are clearly discordant with Article 6. They are causing relevant parties, landlords and tenants, acute stress, anxiety, and adverse financial and psychological consequences.

Unlike Sheriff Court Hearings, however, there is clearly no defined and delineated opportunity, within the tribunal rules, for an applicant or respondent to seek an expedited hearing on the basis of a relevant cause, such as significant financial hardship, serious illness, protection of life or property, or to prevent crime and potential loss of life or debilitating injuries. I respectfully propose that a relevant new tribunal rule be introduced, whereby applicants can specifically request an expedited, fast track hearing.

### **Case Examples**

The following are examples of recent actual cases, whereby landlord applicants have suffered, or are experiencing, particular hardship and stress as a result of the protracted and disadvantageous nature of the current system.

*Significant financial hardship* (e.g. 6 months plus rent arrears), whereby the landlord is suffering serious indebtedness and the associated consequences, such as possible bankruptcy.

In this particular case, the tenant, although working, has steadfastly refused to pay rent for 6 months. There are now substantial rent arrears and the landlord is struggling to cope with the accrued debt of circa £10,000. Despite the latter's increasingly stressful and difficult financial situation, the Tribunal have refused his request for an early hearing.

*Serious illness or medical circumstances*, whereby the landlord or a close family member has a seriously debilitating health condition, negating their ability to manage the relevant rental property.

One case example concerned an elderly landlord with a serious, degenerative eye disease. The eviction process took approximately one year. During that unnecessarily protracted period the applicant's health suffered significantly.

*Serious criminal and/or anti-social behaviour contact on the part of the tenant(s)*

There are also tenancies whereby the tenants have committed serious offences at the properties and caused significant injuries to the unfortunate victims. The current legislation, however, no longer specifies such criminality and anti-social behaviour as a mandatory ground for eviction. There is also no scope, within the Tribunal Rules, to seek an expedited eviction hearing, despite the disclosed public safety issues and prevention of serious harm requirements.

*Urgent necessity on the part of the landlord to repossess and reoccupy their property due to an adverse and unplanned change in their circumstances*

In one particular case the landlord rented out her property and subsequently moved to stay with her partner, who owned his own house. An irretrievable breakdown in the relationship, however, meant that the landlord in question had to urgently relocate back to her own property. The tenant, however, refused to move out and remains in situ. The landlord has had to initiate formal eviction proceedings. Her repeated submissions to the First-tier Tribunal, requesting an accelerated process, because of the associated risks to her psychological risks to her health and that of her children, have been consistently rejected. In another similar case, the landlord applicant has had to move into a hostel for the homeless, as she is unable to repossess her own property.

### **Rule 18: Power to determine the proceedings without a hearing**

This rule allows the First-tier Tribunal to make a decision without a hearing if it considers that, having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case. Rule 18(2) states that the First-tier Tribunal must consider any written representations submitted by the parties, prior to making a decision.

I am aware of a number of cases, whereby there is no dispute between the landlord applicant and the tenant respondent regarding the eviction. The tenants, however, have been advised, by the local council housing officers to remain in situ until an eviction order is granted. The latter have indicated that only then will tenants be

provided with council accommodation. The costs associated with hearings, in terms of administration and expenses for tribunal panel members, could be saved if a revised Rule 18 was fully applied.

I respectfully suggest that the wording of Rule 18 be slightly amended to include and emphasise a provision for decisions about the granting of eviction orders.