**Where can I get advice?**

Please note that staff in the Scottish Courts and Tribunals Service cannot give you legal advice on your situation, although they can explain and help you to understand the Tribunal procedure that an application will follow.

If you wish legal advice that is available from a solicitor, and a list of solicitors is available on the Law Society of Scotland website. Legal Advice relating to housing issues may also be available from Shelter, Citizens Advice Scotland,  or a University Law Clinic. Citizen’s Advice Scotland also provide advice relating to benefits, debt and money matters. The websites for these and other organisations are available on our website, and some have been copied below:

[Law Society of Scotland: http://www.lawscot.org.uk/](http://www.lawscot.org.uk/)

[Shelter Scotland: http://scotland.shelter.org.uk/](http://scotland.shelter.org.uk/)

[Citizens Advice Scotland: http://www.cas.org.uk/](http://www.cas.org.uk/)

**Can I submit more than one application at the same time?**

In some circumstances, you may have more than one application that you wish to submit to the Tribunal. You can make multiple applications to the Tribunal, however you must ensure that for each application you wish to make you supply all the evidence required, even if this means you may be providing the same document twice. We cannot copy items from one application to another, and we cannot make a decision on what document should go with what application. Therefore, if you are making more than one application, you should ensure there is proper separation of the documents for each application.

If submitting by post, this could mean using a paper clip or folder to group each application with its associated supporting documents.

If you are sending applications by email, you should send a single email for each application you are making, that contains only the relevant application form, and all the required attachments for that application. Do not send one email that contains documents for multiple applications.

If the file size of the attachments exceeds our receipt limit and you have to send more than one email for any individual application, please include a note in the subject line of how many emails are being sent and identify each individual email by number. For example, if you are sending 3 emails they should all have the same subject line, and you should include at the end of the subject line the following text:

for the first email: “(email 1 of 3)”

for the second email: “(email 2 of 3)”

for the final email: “(email 3 of 3)”

This will allow the caseworker to correctly group the application and relevant attachments.

**I want to apply for possession and to claim payment for rent arrears – how do I do this?**

One application cannot be made concerning multiple different issues. You are entitled to submit multiple applications at the same time, and the Tribunal has the power to direct that applications can be heard together. For example, you can complete form E for an eviction/possession application, and also form F for civil proceedings arising out of the tenancy. Since there is no specific Rule that governs rent arrears, you should complete an application under the general rule for civil proceedings for the type of tenancy in question.

**I want to make a counter-claim in an action against me – how do I go about doing this?**

The counter-claim is an action that is associated with court proceedings, but this is not catered for by the Tribunal Rules. You can at any time make an application in terms of the claim you wish to make, and where it is appropriate the Tribunal may direct the new application to be heard at the same time as the original claim by the other party.

**What happens where there are multiple joint tenants/landlords in an application?**

The rules regarding submitting an application where there are multiple joint parties vary according to the primary legislation which applies to the application that is being made. You should seek legal advice if you are unsure of the position, however please note that it may be required for all landlords or all tenants to submit the application together. Similarly, there may be a requirement that the application should include all respondents. For example, it may not be valid to submit an application by a single landlord where there are multiple joint landlords, or to submit an application to evict a single tenant where there are multiple tenants and the landlord is seeking vacant possession of the property.

**How do I apply to the Tribunal?**

The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Tribunal Rules”) list every specific type of application that can be made to the Tribunal. We have guidance on our website that lists all these application types, and each one links to the appropriate application form.

The forms themselves come with detailed notes that explain what information is required when submitting an application.

If the type of application you wish to make is not listed on our website or in the Tribunal Rules, then it may be that your application would come under one of the three “civil proceedings” Rules, whereby any non-criminal matter arising out of a tenancy that does not have its own specific Rule can be the subject of a more general application to the Tribunal. You may wish to seek legal advice on the matter if you cannot locate the application type you wish to make, to ensure that the Tribunal is the appropriate place to make the application.

**I don’t have an address for the person I have named as the respondent– what can I do?**

In certain application types, you are required to serve notices on the other party before you make an application to the Tribunal. If you cannot serve these notices, but wish to proceed with an application, you may be able to request service by advertisement from the Tribunal at the same time as making your application.

A request form is available on the [application forms and guidance page.](https://www.housingandpropertychamber.scot/apply-tribunal/evictions-and-civil-proceedings/forms-and-guidance-evictions-and-civil-proceedings) A guidance note has also been made available which gives details of what information the Tribunal would expect to be provided, as well as what happens once a request is received.

If there is no requirement to serve pre-application notices, but you cannot supply an address to the Tribunal for any party to the proceedings, you may be entitled to submit a request for service of the tribunal paperwork on the other party. The same form as that provided in the link above can be used for this type of request, and the guidance note gives more details of what information the tribunal would expect to see in this type of request, and what will happen next.

**I don’t know the name of the person occupying the let property – what can I do?**

In most cases you will need to know the name of the person you are applying against. However, you can still make an application for possession/eviction even if you do not know the name of the occupier. **Rule 6(6)** states:

“Where an action for removing is against a tenant or occupier in possession of heritable property and the name of the tenant in possession or occupier is not known and cannot reasonably be ascertained, the requirement for the tenant’s or occupier’s name set out in rule 65(a)(iii), 66(a)(iii), 77(a)(iii), 79(a)(iii) or 109(a)(iii) is waived and any formal communication may be served on “the Occupier”.

**Is there a cost for this service?**

Applying to the Tribunal is free of charge. If an Order is made that requires execution, the party who was granted the Order would incur a cost to engage Sheriff Officers to carry out the execution. The Tribunal does not carry out the execution of any Orders they make.

**Does the Tribunal award expenses at the end of an application?**

The Tribunal has the power to award expenses against a party, but only where that party through unreasonable behaviour in the conduct of the case has put any other party to unnecessary or unreasonable expense. Exercise of this power is not linked to the outcome of the case and is not an automatic award.

Parties should be aware that if they instruct an agent to act on their behalf in a case, the expenses incurred for the duration of the case cannot be recovered from the other party on the basis that they are successful in pursuing or defending the application. Only where the party has incurred unnecessary or unreasonable expense, caused by the unreasonable behaviour of the other party in the conduct of the case, could an application for expenses be submitted.

It is at the tribunal’s discretion whether an award should be made. If they decide to award expenses against the party, the amount of the expenses awarded would be the amount to cover the unnecessary or unreasonable expense incurred by the party in whose favour the order for expenses is made. If an award of expenses is granted by the Tribunal, it will be assessed by the Auditor of the Court of Session.

**What happens when an application is received?**

Once an application is received, it will be assessed to check that the form is correctly completed and that the required attachments are present. If something is missing the Chamber President, or another member of the First-tier Tribunal under the delegated powers of the Chamber President, will request this from the applicant through the administration and the application will not be accepted until all the required information and attachments are provided.

If the required information is not provided, the application will not be accepted by the Chamber President or the member with delegated powers, and the case will be closed. The applicant will be advised of this by the administration, and informed that they may submit a fresh application when they have all the required information and documents.

Where the further information requested is sent within the timescale, the application is deemed to have been made on the date the last of the required information is received.

Complete applications will be passed to the Chamber President or the member with delegated powers, who will consider the application.

**Can the President reject an application?**

The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must decide whether the application can be referred to a tribunal or whether it should be rejected. They must reject the application if:

(a) they consider that the application is frivolous or vexatious;

(b) the dispute to which the application relates has been resolved;

(c) they have good reason to believe that it would not be appropriate to accept the application;

(d) they consider that the application is being made for a purpose other than a purpose specified in the application; or

(e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined

A decision to reject an application is appealable, unless the application type is one that is excluded from appeal, either by primary legislation or within the Tribunal Rules.

**Can a dispute be resolved informally through the Housing and Property Chamber?**

There is no in-house mediation service offered by the Chamber. However, in cases identified by the Chamber President as suitable for mediation, the First-tier Tribunal must:

(a) bring to the attention of the parties the availability of mediation at any point in the proceedings as an alternative procedure for the resolution of the dispute;

(b) provide information explaining what mediation involves; and

(c) if the parties consent to mediation, adjourn or postpone the hearing in accordance with rule 28 to enable the parties to access mediation.

In such cases, parties may be invited to consider mediation as a way of resolving the dispute.

It will be for the parties to access mediation and the responsibility on the Tribunal is to bring to the attention of parties the availability of mediation in suitable cases and provide information explaining the mediation process. The section below on “Finding a Mediator” will be helpful if a party wishes to try mediation. The Tribunal cannot offer validation or recommendation of any particular mediator nor refer parties to a mediator.

**What is Mediation?**

Mediation is a flexible process that can be used to settle disputes in a whole range of situations. Mediation involves an independent third party, the mediator, who helps people to agree a solution when there is a disagreement. The mediator helps parties work out what their issues and options are, then use those options to work out an agreement.

With the help of the mediator, the parties with the dispute decide whether they can resolve the issues and what the solution should be. The mediator does not take sides or make judgements. The mediator will ensure that both parties get a chance to state their case, hear the other side, work through the issues that are important to them and make an agreement. Parties in mediation are in control of the solution.

Mediation is a confidential process where the terms of discussion are not disclosed to any party outside the mediation hearing. If parties are unable to reach agreement, they can still follow formal procedures such as grievances and complaints or go to a tribunal or court, if appropriate. The details of what went on in the mediation will not usually be disclosed or used at a tribunal or a court hearing.

**If you are willing to engage in mediation, then you need to approach a mediator as soon as possible.** Please see the section below entitled “Finding a Mediator”. Some mediation services are free and Scottish Mediation will be able to provide information.

**The mediation proceeds at the same time as the application proceeds through the Tribunal process. This means that by trying mediation, the parties do not delay the progress of the Tribunal case.**

If consent to mediation is obtained from both parties and mediation is to take place, you will **still need to respond to requests for information or requests for written submissions sent to you by the Tribunal.** **You may have been given a date by the Tribunal for a hearing or case management discussion and the case will still proceed on this date, unless you are notified by the Tribunal of a postponement or that the application has been withdrawn or dismissed.**

It is likely that mediation will be able to take place quickly after there is an agreement to mediate and will take place before the date fixed for the hearing or case management discussion.

Where mediation is due to take place and you feel this requires the deadline to supply information or written representations to the Tribunal to be extended, or requires the hearing or case management discussion to be postponed, you should contact the Tribunal in writing to make this request as soon as you become aware of this.

If the dispute is resolved at mediation, then the applicant should contact the Tribunal in writing to request that the application be withdrawn.

If mediation is successful and results in an agreement which has a timescale for compliance, and the applicant wishes to await compliance with the agreement before withdrawing the application, the applicant should contact the Tribunal in writing to:

1. confirm the position in relation to when the mediation agreement is due to be complied with, and
2. request a postponement of proceedings until after this timescale has expired.

**Finding a Mediator?**

The Tribunal cannot offer validation or recommendation of any particular mediation service or refer parties to a mediator.

Scottish Mediation acts as the professional body for mediators in Scotland and maintains the Scottish Mediation Register of mediators. Parties who want to use mediation to resolve their case can find a relevant mediator by accessing this Register on the Scottish Mediation web site <https://www.scottishmediation.org.uk/find-a-mediator/> and by selecting Housing and Property in the ‘Types of Mediation’ Box on the lower right hand side of the page.

**An application against me involves payment – can I request time to pay?**

In certain application types, you are entitled to apply for a time to pay direction from the Tribunal before a decision is made on whether to grant a Payment Order. In cases where this applies, the application form to request a time to pay direction and a guidance note on completeing the form and further procedure will all be issued to you at the same time as you receive notice of the case management discussion or hearing.

By submitting the application for a time to pay direction you confirm that you accept the amount claimed is correct and that you do owe the money to the other party. As such, submitting an application for a time to pay direction will mean the Tribunal will grant a payment Order against you for the full amount claimed, irrespective of whether the Tribunal also grant the time to pay direction.

An application for a time to pay direction may only be made during the process and a decision on an application for a time to pay direction must be made by the Tribunal at the same time as they decide to make the Payment Order.

If a Payment Order has been made against you, and you did not make an application for a time to pay direction during proceedings, you may still be entitled to ask the Tribunal to give you time to pay. This is called a time to pay order. Applications for a time to pay order can only be made after the commencement of diligence but before its conclusion. In these circumstances you may submit an application form to request a time to pay Order. The form and guidance note in relation to time to pay orders are available on the forms and guidance page here, and these documents provide more information on the process.

**Can I amend my application or written representations before the hearing?**

The Tribunal Rules do allow for amendment of applications and written representations in certain circumstances. Any party can amend their written representations up to 7 working days prior to the date fixed for a hearing or case management discussion (**Rule 13** refers).

Where the effect of any amendment to the written representations would be to introduce a new issue, the amendment can only be made with the consent of the Tribunal (**Rule 14** refers). If the amendment is accepted, the other party will be given an opportunity to make written representations within 14 days of intimation of the amendment.

Amendments can also be made where no new issues have been raised. **Rule 14A** allows the applicant to amend the application including the amount claimed by intimating the amendment to the tribunal and any other party at least 14 days prior to a case management discussion or hearing. The Tribunal will then decide whether to consent to the amendment, and under what conditions consent will be given.

**Can the Tribunal hear multiple applications at the same time?**

Yes, the Tribunal has the power to direct that two or more applications should be heard together. The Rules state:

“**12.**—(1) The First-tier Tribunal may direct two or more applications to be heard together where they are under consideration by the First-tier Tribunal at the same time and relate to the same—

(a) property;

(b) required work;

(c) property factor;

(d) letting agent; or

(e) landlord.

(2) The First-tier Tribunal may require the parties to take any steps necessary to enable two or more applications to be heard together.”

**Who will the members of the tribunal be?**

Under [The First-tier Tribunal for Scotland Housing and Property Chamber and Upper Tribunal for Scotland (Composition) Regulations 2016](http://www.legislation.gov.uk/ssi/2016/340/made) a tribunal may be composed of:

            a legal member;

            a legal member and one ordinary member; or

            a legal member and two ordinary members

The legal member will always be the chairing member of the tribunal. All legal members appointed to the Chamber are qualified as solicitors or advocates. Ordinary members are either qualified as chartered surveyors, or have other experience of or practical involvement in housing and land related issues.

An exception to the above composition is in applications by a landlord for assistance in exercising a right under section 181(4) of the Housing (Scotland) Act 2006(1). These applications may be decided by the First-tier Tribunal consisting of an ordinary member sitting alone.

**What action can the tribunal take before a hearing takes place?**

The tribunal has the power to make inquiries, and can require the parties to attend a hearing or produce documents or information. If a party is served with a Direction from the tribunal requiring attendance or further information then they must complywith that, otherwise they may be guilty of a criminal offence and could be fined. It is also an offence to knowingly give false information to the tribunal.

The tribunal may also hold a case management discussion to determine how an application should proceed, and this can be held in a hearing venue, or over telephone/video conference.

**What is a Direction?**

Directions either orally or in writing are a method by which tribunals regulate the conduct or progress of the proceedings in a case before them. The provisions in Rule 16 set out some circumstances in which a tribunal may wish to issue a Direction. Tribunals may issue directions to instruct parties on such matters as:

documents that need to be given to the other side and lodged (filed with the Tribunal) prior to the Hearing; and

witnesses and documents the parties should bring to the hearing.

Please refer to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 in full for further information. If Directions are issued they may require one party to do something but the Direction must be intimated on all parties.

**Do I have to comply with the Direction?**

The Scottish Tribunals (Offences in Relation to Proceedings) Regulations 2016 provide that it is an offence to fail to comply with a Direction. If the tribunal considers that such an offence has taken place during the proceedings, they will refer the matter to the police for investigation.

**What is a case management discussion?**

A case management discussion is a discussion between the Tribunal and the parties about aspects of the case that may require to be dealt with in order to efficiently resolve the dispute. Case management discussions will normally take place at hearing venues, and parties will be required to attend. If this is not possible, contact with the Tribunal to explain this should be made in advance and at as early a stage as possible..

At the case management discussion, the Tribunal may wish to:

identify the issues to be resolved;

identify what facts are agreed between the parties;

raise with parties any issues it requires to be addressed;

discuss what witnesses, documents and other evidence will be required; and

discuss whether or not a hearing is required;

As well as the above matters, the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision on the application which may involve making an eviction order or payment order. It is important therefore that you attend the case management discussion if one is arranged. If you do not attend the case management discussion, this will not stop a decision or order being made by the Tribunal if the Tribunal consider that it has sufficient information before it to do so and the procedure has been fair.

**Do I have to attend the case management discussion or the hearing?**

Think carefully before you decide not to attend a case management discussion or hearing. Remember that if you choose not to attend, you will not be able to respond to any of the points the other parties make on the day and the Tribunal will not have the chance to ask you any questions. If you do not attend, then the Tribunal can decide to proceed and make a decision in your absence if the Tribunal consider that it has sufficient information before it to do so and the procedure has been fair.

All subsequent questions which refer to a hearing apply equally to a case management discussion.

**Does the Housing and Property Chamber take account of specific requirements a party has for enabling them to attend at and participate in a case management discussion or Hearing?**

We will do our best to ensure that any hearing venues we use are accessible to all parties.

When you are first contacted by the Tribunal, there will be an accompanying form which asks you to let us know of any requirements the hearing venue should have to enable you to attend at and participate in the proceedings. If you wish confirmation of this or if there are other requirements which you have not told us about, then please let us know as soon as possible. If a party or a witness needs an interpreter for the hearing, we can arrange this if we are told about this in advance.

**When will the Hearing be held?**

Hearings are held on weekdays within normal working hours. You should always receive at least 14 days’ notice of the date for a hearing - unless all parties consent to a shorter period, or there are urgent or exceptional circumstances. In most cases, you will be given at least 28 days’ notice, since the Tribunal will notify parties of a hearing date and request any written submissions at the same time.

**Tribunal hearings are held in public – what does this mean?**

It is a requirement of the Rules that tribunal hearings are held in public. This means that details of the hearing are published on the Tribunal website in advance, and members of the public can attend to view proceedings.

If you have a special reason for wishing the hearing to be held in private then you must write to the Tribunal in advance explaining what the reason is and asking them to hold the hearing in private. The Tribunal will then decide whether or not to agree to your request, but will only agree to hold the hearing in private if they decide it is necessary in the interests of justice to do so.

We will tell you in advance about the hearing time and the hearing venue. We will do our best to make sure the hearing starts on time. This time may be changed to suit individual circumstances.

It’s important you arrive on time. Please let us know if you or your witnesses are delayed. If you decide not to attend, then please let us know. You and the people you are bringing should arrive 10 minutes before the hearing is due to start.

**What happens at the Hearing?**

The Tribunal will decide what procedure is to be followed at the hearing, and the chairing member must take reasonable steps to:

introduce to the parties the members of the First-tier Tribunal conducting the hearing;

explain the purpose of the hearing; and

ensure that the parties to the hearing understand and can participate in the proceedings.

At the hearing you will be able to tell the Tribunal your view on the issues and you can also bring witnesses if you wish but you will have to arrange this and notify the tribunal in in advance. You will be able to ask the other party questions and also question any witnesses he or she has brought to the hearing. The Tribunal have the right to record Hearings and you will be notified at the outset of the Hearing if it is to be recorded. The Chairperson and member(s) will keep a note of the evidence submitted at the Hearing. The Tribunal will want to establish from the evidence:

What they think the relevant facts are,

What conclusions should be drawn from these facts, and

what should be the outcome of the application.

**Can I attend personally or do I have to be represented?**

You can conduct your case yourself or you can have your representative conduct the case for you. Do not be put off attending a hearing – the procedure is fairly informal and the chairperson will ensure that you know what is happening. There are rules that govern representatives and supporters of parties at proceedings. The rule regarding representation is Rule 10:

***10*** *(1) A party may be represented in any proceedings by a representative whose details must be notified to the First-tier Tribunal prior to any hearing.*

*(2) A party may disclose any document or communicate any information about the proceedings to that party’s lay representative or legal representative without contravening any prohibition or restriction on disclosure of the document or information.*

*(3) Where a document or information is disclosed under paragraph (2), the representative is subject to any prohibition or restriction on disclosure in the same way that the party is.*

*(4) A practice direction, an order, or anything permitted or required to be done by a party under these Rules, may be done by a lay representative, except the signing of an affidavit or precognition.*

*(5) The First-tier Tribunal may order that a lay representative is not to represent a party if—*

*(a) it is of the opinion that the lay representative is an unsuitable person to act as a lay representative (whether generally or in the proceedings concerned); or*

*(b) it is satisfied that to do so would be in the interests of the efficient administration of justice.*

*(6) Where a representative begins to act for a party after the application is made, the representative must immediately notify the First-tier Tribunal and any other party of that fact.*

*(7) Where a representative ceases to act for a party, the representative or the party must immediately notify the First-tier Tribunal and any other party of that fact, and give details of any new representative (if known).*

The rule regarding supporters is Rule 11:

***11.****(1) A party who is an individual may be accompanied by another individual to act as a supporter.*

*(2) A supporter may assist the party by—*

*(a) providing moral support;*

*(b) helping to manage tribunal documents and other papers;*

*(c) taking notes of the proceedings;*

*(d) quietly advising on—*

*(i) points of law and procedure;*

*(ii) issues which the party might wish to raise with the First-tier Tribunal.*

*(3) A party may show any document or communicate any information about the proceedings to that party’s supporter without contravening any prohibition or restriction on disclosure of the document or information.*

*(4) Where a document or information is disclosed under paragraph (3), the supporter is subject to any prohibition or restriction on disclosure in the same way that the party is.*

*(5) A supporter may not represent the party.*

*(6) The First-tier Tribunal may order that a person is not to act as a supporter of a party if—*

*(a)it is of the opinion that the supporter is an unsuitable person to act as a supporter (whether generally or in the proceedings concerned); or*

*(b)it is satisfied that to do so would be in the interests of the efficient administration of justice.*

**Can I bring written evidence which has not been sent before to the Tribunal?**

This is covered by Rules 21 and 22:

***21.****(1) The First-tier Tribunal may require any person—*

*(a)to attend a hearing of the First-tier Tribunal at such time and place as the First-tier Tribunal may specify for the purposes of giving evidence; and*

*(b)to give the First-tier Tribunal, by such day as it may specify, such documents or information as it may reasonably require.*

*(2) Paragraph (1) does not authorise the First-tier Tribunal to require any person to answer any question or to disclose anything which the person would be entitled to refuse to answer or disclose on grounds of confidentiality in civil proceedings in a court in Scotland.*

*(3) Where the First-tier Tribunal has set time limits for the lodging and serving of written evidence under rule 22(1), it must not consider any written evidence which is not lodged or served in accordance with those time limits unless satisfied that there is good reason to do so.*

*(4) Where a party seeks to rely upon a copy of a document as evidence, the First-tier Tribunal may require the original document to be produced.*

***22.****(1) Except as otherwise provided in these Rules, or as otherwise specified by the First-tier Tribunal, a party must send to the First-tier Tribunal no later than 7 days prior to any hearing notified under rule 24(1)—*

*(a)a list of any documents and copies of the documents that the party wishes to rely upon; and*

*(b)a list of any witnesses that the party wishes to call to give evidence.*

*(2) Before allowing a document to be lodged late, the First-tier Tribunal must be satisfied that the party has a reasonable excuse.*

If there are documents that a party wishes the tribunal to consider at the hearing (other than the documents which comprise the application and/or any written representations submitted), they **must be sent in advance**. When submitting productions a party must send to the Chamber a list of documents, together with copies of the documents that they wish to rely on, no later than 7 days before the hearing. If a party wishes to rely on a document which has not been sent to the Chamber at least 7 days before the hearing, the tribunal may decide that this cannot be considered as part of the evidence in the case, or the hearing may need to be adjourned until a later date. The tribunal may allow the document to be included with the evidence only if it is satisfied that there is good reason to do so, and considers this to be fair in the circumstances.

**What documentation constitutes a production as opposed to written representations?**

Productions comprise paperwork which did not form part of the application and written representations/ answers received following the issue of the notice of referral. The application is circulated to the parties at the time of notice of referral and the written representations/ answers are received by the Chamber within a designated timescale after the notice of referral is issued, and the Housing and Property Chamber administration will ensure that copies of paperwork submitted at this stage are crossed over and both parties see the others’ written representations/ answers.

Productions can be documents, photographs, statements forming the evidence, skeleton arguments on issues parties wish to advance in some detail at the hearing, etc

#### Can parties bring witnesses to the Hearing?

#### If you wish to bring a witness/ witnesses with you on the day of the hearing to give evidence on your behalf, you must send to the Chamber no later than 7 days before the hearing a list of these witnesses. If you do not send a list of witnesses at least 7 days before the hearing, the tribunal may decide that evidence from this witness/ these witnesses cannot be heard, or the hearing may need to be adjourned until a later date.

**Can parties bring children to the Hearing?**

Please be advised that children under the age of 14 are not permitted to accompany any individual or be present in the hearing room during Tribunal proceedings. Children under 14 may be permitted to wait in designated waiting areas of the venue but **only in circumstances where the party can provide adequate supervision in the form of another adult**.

SCTS staff and those of third party companies working for SCTS on the day of the hearing are not permitted to provide childcare and are not responsible for the supervision of children attending the venue. It is the tribunal’s discretion to take any actions they deem appropriate should a party (or witness) bring a child to a tribunal hearing and that party (or witness) cannot provide adequate supervision for that child in the form of another supervising adult. This may include the tribunal continuing to hear and determine the case in the absence of a party or a witness.

**What happens if someone is disruptive at the Hearing?**

Everyone attending the hearing is expected to behave in a polite and appropriate manner. The Tribunal has the power to exclude any person from the hearing if that person is being disruptive – this includes any party, representative, or supporter.

**An eviction/possession Order has been granted, when does the Order become enforceable?**

Where the tribunal makes a decision to grant an Order for Eviction/Possession, the Order is not enforceable immediately. The Order is not issued until after the time limit for lodging an appeal has expired.

The timescales for appeals are governed by The Scottish Tribunals (Time Limits) Regulations 2016. Regulation 2 provides the appeal time limit.

***Time limits for applying to the First-tier Tribunal or Upper Tribunal for permission to appeal against its own decision***

***2.****—(1) An application for permission under sections 46(3)(a) or 48(3)(a) of the Act (application for permission to appeal the Tribunal’s own decision) must be received by the Tribunal whose decision is being appealed against within the period of 30 days beginning with the relevant date.*

*(2) The First-tier Tribunal or the Upper Tribunal, as appropriate, may on cause shown extend the period beyond 30 days if it considers such an extension to be in the interests of justice.*

*(3) Subject to paragraph (4), the relevant date is the* ***later*** *of the date on which—*

*(a)the decision appealed against was sent to the appellant;*

*(b)the statement of reasons for the decision was sent to the appellant.*

*(4) But where a decision is given orally at a hearing, the relevant date is either—*

*(a)the date on which written reasons were sent to the parties, if—*

*(i)written reasons were requested at the hearing (or were requested in writing within 14 days beginning with the day after the last day of the hearing); or*

*(ii)the First-tier Tribunal or the Upper Tribunal, as appropriate, undertook at the hearing to provide written reasons; or*

*(b)the date of the oral decision, if—*

*(i)written reasons were not requested at the hearing (or were not requested in writing within 14 days beginning with the day after the last day of the hearing); or*

*(ii)the First-tier Tribunal or the Upper Tribunal, as appropriate, did not undertake at the hearing to provide written reasons.*

The 30 day appeal period can only apply from the last day of the hearing if all parties are present at the hearing; if the written decision is given to parties on that day; and the parties do not request written reasons either at the hearing or in writing within 14 days beginning with the day after the last day of the hearing; or the First-tier Tribunal did not undertake at the hearing to provide written reasons.

If the applicant or respondent are not present at the hearing or the written decision is issued after the last day of the hearing, either party has 30 days to appeal from the date that the written decision appealed against is sent to the parties. If a statement of reasons is not provided with the decision, the appellant can request such a statement of reasons in writing within 14 days beginning with the day after the last day of the hearing. If such a request is made, the written statement of reasons requires to be prepared by the legal member and issue to parties. It may take up to 14 days for the legal member to prepare a written statement of reasons. The 30 day appeal period for the parties starts from the date on which the written statement of reasons is sent to the parties. It is likely in most instances that the written decision will be issued after the date of the hearing.

The above timescales may be affected by any challenge of the decision under the recall, review or appeal provisions, details of which are available on our website:

<https://www.housingandpropertychamber.scot/who-we-are/appeals-and-reviews>.

Once the Order for eviction/ possession has been issued by the Chamber the enforcement proceedings can commence. The enforcement proceedings involve the giving of a charge to the respondent to remove from premises. This procedure occurs after the Order for Eviction/ Possession is issued by the Chamber.

**In what format can I send written information?**

You can send information by post, email or fax. Typed submissions are preferable, though handwritten evidence is also acceptable. Any handwritten submissions should be clearly legible, and this may mean it should be written in block letters to aid the Tribunal Members and other parties in understanding your submissions. If we receive a submission that is difficult to read, we may ask if you are able to supply the information in another way, so that your submissions can be considered in full.

**I have documents to attach to an email, is there a size limit for emails sent to the Tribunal?**

We are only able to receive attachments that total 20MB in size. If your documentation is larger than this, then if possible separate the document to be attached over multiple emails. If your file is too large you may have to consider sending the documentation by other means.

For system security reasons we cannot open zipped files sent to us, or follow links to online document storage sites.

**Can I send video or audio evidence?**

Case management discussions and hearings are being conducted by teleconference for the time being. Audio and video evidence can be accepted, a request can be made to the tribunal who will send instructions.

For evidence contained within video recordings, parties should produce still photographs which can be circulated in advance to the tribunal members and other party

**Written Submissions and Requests to the Tribunal**

 In general terms, when a party wishes to make a request for consideration by the tribunal, an example would be a **request for a postponement or adjournment** of a case management discussion or hearing,this request with the reasons for it **should be highlighted at the beginning of the written submission or communication sent**to the tribunal. This makes it easier for the tribunal administration to identify the request and it avoids delay and the risk that such a request is missed.

 When submitting written representations to the tribunal, in accordance with legislation, we are required to cross all correspondence over to the tribunal members and the other party involved in the case. If any party wishes to submit confidential information and request this is not crossed over to the other party, then such a **request, with the reason for non-disclosure,** **must be made clear at the beginning of the written submission**. Requests for non-disclosure of information may not be granted for reasons of fairness and transparency. In the event that the request for non-disclosure is not granted, the whole written submission will not be crossed over to the other party and will be disregarded for the purposes of the tribunal proceedings. As a consequence, to avoid delay in circulation of submissions, which include a request for non-disclosure of information, parties may wish to consider whether it is appropriate to lodge two documents with the tribunal. One document containing their submissions which contain no confidential information, which will automatically be crossed over to the other party and the tribunal members and will form part of the case papers, with another document containing the confidential information with the request at the start of the document for non-disclosure of this document with the reasons for the request.