



PRIVATE RENTED HOUSING PANEL & HOMEOWNER HOUSING PANEL

# ANNUAL REPORT 2012





Laid before the Scottish Parliament by the Scottish Ministers under section 29(4) of the Housing (Scotland) Act 2006.  
Laid before the Scottish Parliament by the Scottish Ministers under section 27(3) of the Property Factors (Scotland) Act 2011 December 2013  
SG/2013/278

APS Group Scotland DPPAS20199 (12/13)

# Contents

## President's Foreword

- Section 1:** The Panels and their Workload
- Section 2:** Our Aim and Values
- Section 3:** The Private Rented Housing Panel (prhp)
- Section 4:** The Homeowner Housing Panel (hoHP)
- Section 5:** Working with Others
- Section 6:** Initiatives for Service Improvement
- Section 7:** Looking to the Future
- Section 8:** How to Contact Us
- Appendix A:** Members of the Private Rented Housing Panel and Homeowner Housing Panel
- Appendix B:** Private Rented Housing Panel
- Appendix C:** Public Service Reform (Scotland) Act 2010
- Appendix D:** Glossary of Terms Appearing in this Report



## President's Foreword

I have pleasure in presenting the Fifth Annual Report of the Private Rented Housing Panel (prhp) and the First Annual Report of the Homeowner Housing Panel (ho hp) covering the work of prhp for the year 1 January 2012 to 31 December 2012 and the work of ho hp from 1 October 2012 until 31 December 2012.

Considerable work has been undertaken during 2012 in preparation for the implementation of the Property Factors (Scotland) Act 2011 which had a commencement date of 1 October 2012. Despite the additional workload in setting up ho hp and preparing for the receipt of applications to that panel, it has been business as usual for the prhp jurisdiction with a slight increase in the number of repairing standard applications received during 2012. We continue to work towards early resolution of disputes between the parties where this is possible. In just under a third of prhp applications, a repairing standard dispute is resolved after the involvement of the panel but before the application is considered by a Private Rented Housing Committee, and it is noticeable that more landlords are taking the opportunity to carry out works which are the subject of complaint before a committee hearing. I believe that this accounts for the slight decrease in the number of Repairing Standard Enforcement Orders issued during 2012 and the doubling of the number of decisions issued by Private Rented Housing Committees showing that a landlord has complied with the Repairing Standard by the date of a hearing. This was achieved with a 12% reduction in the prhp budget due to improved judicial case management and administrative efficiency savings.

During 2012, I have carried out a review of the information available to prhp users with revision of the information guides for landlords and tenants and the production of an information leaflet about what to expect at a hearing before a Private Rented Housing Committee. This should make prhp users better informed about the process of making an application and the hearing and enforcement processes. I have also been involved in responding to consultations on housing issues including the proposed Tenant's Information Pack. The Vice President and I have also attempted during the year to raise the awareness of landlords and tenants by attending and presenting at conferences on the work of the prhp.

During the year a number of new judicial members were appointed by means of a public appointment exercise. These new members will increase the existing Panel membership and this was necessary due to the increasing workload of the prhp and the introduction of the ho hp. Training was undertaken over 3 days for new and existing judicial members and administrative staff on the Property Factors (Scotland) Act 2011 and the new ho hp jurisdiction, and considerable work has been done to ensure that the ho hp was ready to receive applications on 1 October 2012.

Since the commencement of the Property Factors (Scotland) Act 2011, we have seen a gradual increase in the number of applications to the ho hp and the issues of complaint raised in applications by homeowners are very varied. However, a significant proportion of the ho hp applications received involve some type of communication complaint emphasising the importance of good communication as a foundation for positive customer/ property factor relationships.

The work of the prhp and ho hp during 2012 is detailed in this Annual Report and reflects our activities during that period. The Report also refers to our aims and values and focuses on continuous initiatives to improve the organisations. By this approach we hope to create a justice system which is efficient, effective and user focussed.

The significant progress of the Panels is only achievable due to the commitment and professionalism of Panel Members and the Panels' administration and I would like to thank them for their commitment and support.



Mrs Aileen Devanny  
President



# 1: The Panels and their Workload

The Private Rented Housing Panel is a devolved Scottish Tribunal set up under the Housing (Scotland) Act 2006. It deals with 3 main private residential issues – objections to Fair Rents fixed by Rent Officers under the Rent (Scotland) Act 1984; determining market rents for short assured tenancies and terms and/or market rents for statutory assured tenancies under the Housing (Scotland) Act 1988; and for determining referrals from tenants concerning the landlord's duty to meet the repairing standard under the Housing (Scotland) Act 2006. Applications by tenants under the 2006 Act have become the main area of involvement for the prhp.

The Homeowner Housing Panel is a devolved Scottish Tribunal set up under The Property Factors (Scotland) Act 2011. It deals with resolving disputes between homeowners and property factors.

The Panels are independent impartial judicial bodies separate from Scottish Government, Landlord Registration Services, the Property Factor Registration Team and Rent Service Scotland. Panel members consist of a total of 67 members who are specialists in housing issues and who have been appointed by Scottish Ministers. It has a Panel President, who is a solicitor, and a Vice President, who is a surveyor. Details of the Panel membership can be found at Appendix A. A group of members from the Panel have been trained in mediation and this service is being offered as an alternative means of dispute resolution for cases referred under the 2006 Act. There is a specific section later in this report which describes the mediation process.

Since 1 April 2011 the administration of the Panel has been provided by Scottish Tribunals Service with 7 full time members of support staff and a Private Rented Housing Panel Secretary, who fulfils a joint role as Operational Manager for the Homeowner Housing Panel and the Additional Support Needs Tribunal for Scotland. The Staff is responsible for case management, scheduling hearings as well as clerking and support for Committees, finance and communication.

The Panels are based in the Europa Building in Argyle Street, Glasgow where there are facilities for office accommodation and hearing suites.

## 2: Our Aim and Values

### Our Aim

The prhp and hohp will carry out their statutory functions in a fair and impartial manner, and will provide an accessible, high quality and cost effective service to the Scottish community through the committed and professional approach of its staff and members.



Prhp and hohp offices at Europa Building, Argyle Street, Glasgow

### Our Values

- We are an independent body
- We respect diversity and will provide fair treatment for everyone
- We will be fair and unbiased in the decisions we make
- We value our staff and members and will ensure that they are equipped with the training and information they require to fulfil their role most effectively
- We will use our resources efficiently and cost effectively
- We will seek to engage proactively with stakeholders and representatives of the Scottish Government
- We will work as a team to meet the targets we set
- We will provide clear and timely information on our decisions and activities

### Our Pledge

Every Panel member and every member of staff is fully committed to providing the best possible service we can to all who come to us, no matter what their gender, sexual orientation, race, ethnicity, religion, age, or physical or mental ability may be. We will do all we can to make our service efficient, accessible and user-friendly.



A member of prhp staff answering a call

# 3: The Private Rented Housing Panel (prhp)

## Rent Assessment Cases

The jurisdiction of the Panel in rent assessment cases is contained in the Rent (Scotland) Act 1984 (the “1984 Act”) and the Housing (Scotland) Act 1988 (the “1988 Act”). Although the Panel has various statutory functions, the primary work of the Panel in this area is:

- Under the provisions of the 1984 Act, to consider appeals made by landlords or tenants against the rents registered by Rent Officers and to determine ‘Fair Rents’ for properties in accordance with the provisions of that Act. An assessment of ‘Fair Rent’ must disregard the personal circumstances of the tenant and any improvements made by a tenant. There are three accepted methods of calculating a ‘Fair Rent’ and the Committee must decide based on the evidence available, which is the most appropriate method based on the evidence available. The first method of calculating ‘Fair Rent’ is to consider the open market rent and then to make a deduction from this to take account of any inflation in rental levels caused by a shortage of houses available for rent. This is known as the scarcity deduction. The second method involves deciding a ‘Fair Rent’ after comparing registered rents for similar houses in an area, and the third method involves calculating an appropriate level of return on the Capital value of the property. In assessing a ‘Fair Rent’, regard has to be given to the age, character and location of the house, its state of repair and the furniture provided. The Committee will determine a ‘Fair Rent’ and that rent may be lower or higher than the Rent Officer’s assessment irrespective of whether the referral is made by the landlord or tenant. The Committee can bring its own knowledge and experience to the valuation judgement.
- Under the provisions of the 1988 Act -
  - (a) Appeals by tenants against the level of rents set by landlords and to decide a market rent for such properties in accordance with that Act, and
  - (b) Appeals by landlords or tenants where the other party has proposed a review of the terms of the tenancy

## Procedure for applying for a rent assessment

- Appeals against the Rent Officer’s decision under the 1984 Act are referred from Rent Service Scotland to the prhp.
- Appeals under the 1988 Act are started by the completion of a statutory form and sending it to the prhp. The statutory forms can be obtained from the prhp office

The Committees provide an appeal route which is informal and inexpensive against the rental figure set by the Rent Officer or landlord. Legal representation is rare and parties are often unrepresented. There is a further right of appeal, on a point of law, to the Court of Session for a party who is unhappy with the Committee’s decision.

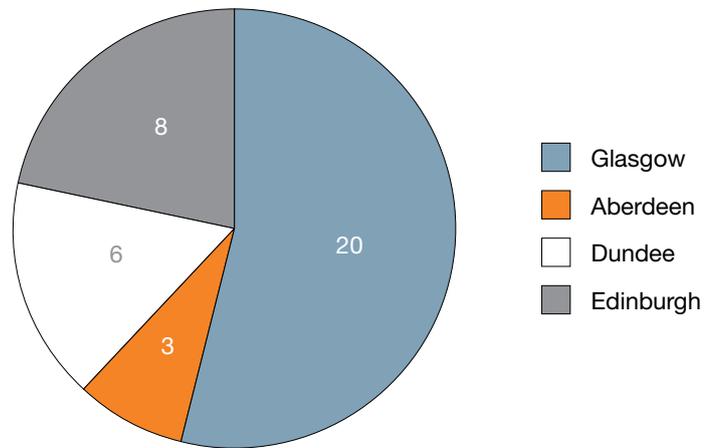
During 2012 the Panel received 37 applications of which 25 were Fair Rent cases and 12 Assured Tenancy referrals. A breakdown of the number of cases decided by the Panel’s Committees over the ten year period to 2012 can be found on the next page.

## CASES DECIDED BY RENT ASSESSMENT COMMITTEES 2003-2012

	2003	2004	2005	2006	2007
Fair Rent Cases	87	223	73	59	151
Assured Tenancies	18	8	5	6	14
Part VII Contracts	-	1	1	-	-
<b>TOTAL</b>	106	242	78	66	165

	2008	2009	2010	2011	2012
Fair Rent Cases	45	58	58	34	25
Assured Tenancies	9	13	9	13	12
Part VII Contracts	-	-	-	-	-
<b>TOTAL</b>	54	71	67	47	37

### Breakdown of Rent Applications by Area for 2012



Approximate areas used for breakdown

Repairing standard cases

## Repairing Standard Cases

The Housing (Scotland) Act 2006 sets a mechanism for tenants in the private rented sector to seek to compel a landlord to carry out necessary repairs to a standard called the “repairing standard”. The Act imposes a duty upon a landlord to ensure that a house meets that standard at the start of the tenancy and at all times during the tenancy.

In determining whether a house meets that repairing standard, the age, character and prospective life of the house and its locality can be considered. Common parts of a flatted property can fall within the repairing standard if the owner has a maintenance responsibility for these parts and the tenant has a right to use these parts of the building.

The repairing standard is set out in section 13 of the 2006 Act. This section states that a house meets the **repairing standard** if -

- a. the house is wind and water tight and in all other respects reasonably fit for human habitation
- b. the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order
- c. the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order
- d. any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order
- e. any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed, and
- f. the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire



Condition of a property before inspection

The repairing standard applies to most tenancies in the private rented sector. However, tenants cannot apply to prhp if the landlord is a local authority, registered social landlord, or Scottish Water.

## Making a Repairing Standard Application

An application form and guidance booklet is available from the prhp offices or may be downloaded from the website [www.prhpscotland.gov.uk](http://www.prhpscotland.gov.uk). The form guides tenants through the information which is required for a valid application. There are actions which a tenant must take before the application can be treated as valid and referred to a committee for a determination. The tenant will be asked to confirm that the landlord has been notified of the works required to comply with the repairing standard; and in addition, the tenant will also be asked for documentation to support that there is a valid tenancy in place. An application can only be accepted from a current tenant of a property.

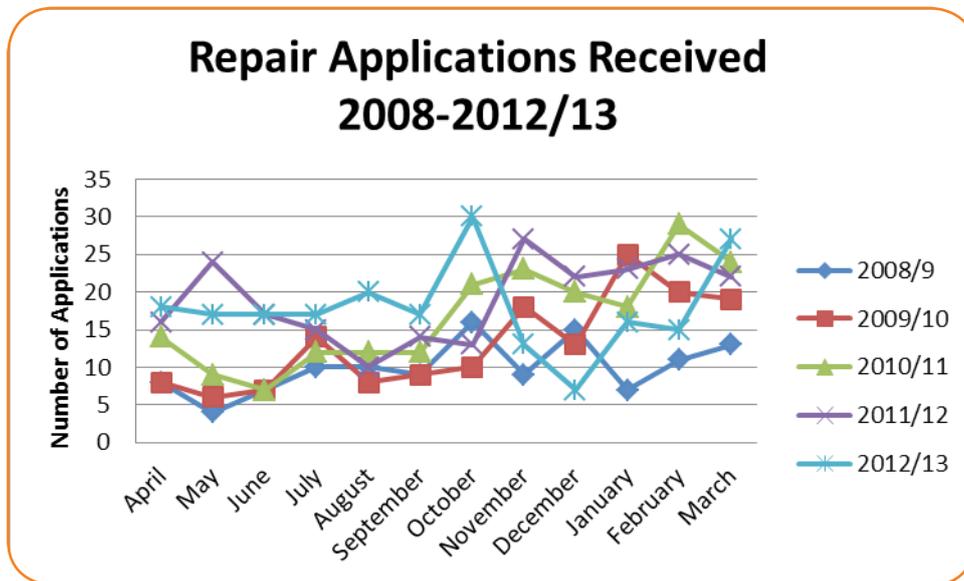
The application will be checked when it is received, and if it does not provide the necessary details then the tenant will be asked for additional information. Once all the necessary information has been provided, it will be treated as a valid application and the President must decide within 14 days whether to refer the application to a Private Rented Housing Committee or whether to reject the application in certain very limited circumstances. The President can reject an application if it is deemed frivolous or vexatious; or if the dispute to which the application relates has been resolved; or where a tenant has made a similar application in relation to the same house and there has not been a reasonable period of time between applications.

If it appears that there is a reasonable prospect of the dispute being resolved by the parties, the President can delay referring the application to a Committee.

Roof issues at a property



The Panel provide a mediation service in appropriate cases but both parties must be willing to engage in mediation for this to proceed. There is a pamphlet available from the prhp offices or from the website describing the mediation process. If no agreement is reached at mediation or the tenant or landlord do not wish to try mediation, then the case is referred to a Committee.



The prhp website contains information on a number of repair issues and it also has information as to how to go about making an application to the Panel. A pro forma notification of repairs letter is available from the Panel offices and can be downloaded from the website. In many cases, tenants report that indicating to the landlord that they propose to submit an application and sending this letter is sufficient to encourage landlords to carry out the required work. During 2012 we noticed that in 71 cases out of a total of 232 applications received, the dispute has been resolved after the involvement of the Panel but before referral to a committee. This figure may indeed be slightly higher as in a further 4 cases the tenants withdrew applications but did not provide a reason in their withdrawal letter. If the tenant withdraws the application or the tenancy is terminated before the application is determined, the President, or if at a later stage, the Committee, can decide whether or not to abandon the application or to continue to determine the application. If the property does not meet the repairing standard, a repairing standard enforcement order will be issued which will prevent a vacant house being re-let without the permission of a Committee, otherwise a criminal offence is committed by the landlord.

Before making a decision to abandon or continue with a case to determination, the President or a Committee will look at all the circumstances of the case and in particular whether the repairs alleged in the application may give rise to issues of health and safety for future occupants. It is common for additional information and in some instances third party reports relating to aspects of the condition of the house to be requested from a landlord before a decision is made to continue or abandon an application in these circumstances. During 2012 the President and Committees abandoned 32 applications following upon withdrawal of applications by tenants or termination of the tenancy agreements. In most cases the decision to abandon was taken only after the landlord provided certificates, payment receipts for works carried out or third party reports before a decision was made to abandon these applications.



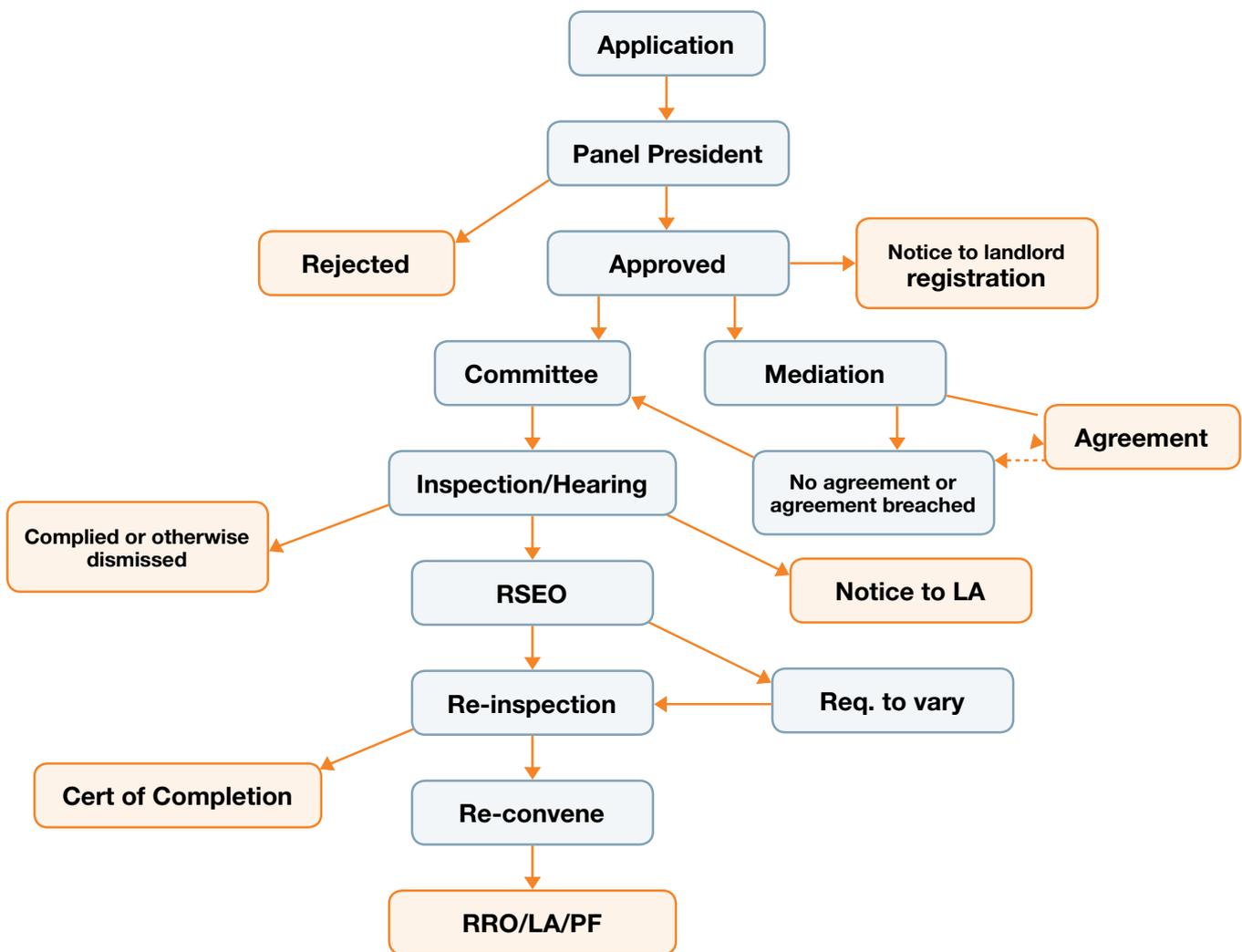
**Inspecting dampness in a property and below,  
roof problems in a property**



## Withdrawn and Rejected Applications in 2012

Abandoned by President or Committee (usually following production of evidence of works undertaken)	32
Withdrawn by tenant (states works are completed)	16
Withdrawn by tenant (no reasons given)	4
Rejected by President as dispute has been resolved	55
Rejected by President for jurisdictional reasons	1
<b>Total</b>	<b>108</b>

## Progress of a Repairing Standard Application



Definitions: **RSEO** Repairing Standard Enforcement Order  
**RRO** Rent Relief Order  
**LA** Local Authority  
**PF** Procurator Fiscal

## Inspections and Hearings

Before determining a repairing standard case or making a rent assessment, the Committee will usually inspect the house which is the subject of the application. Each of the parties is informed in advance of this visit and a suitable date and time is arranged for the inspection.

Following this inspection, a hearing usually takes place in a nearby venue and both tenant and landlord are invited to attend. There is no need for legal representation as these hearings are conducted in a relatively informal manner. Efforts are made by the Panel to cater for any special needs at these hearings with interpreters being provided if required, and efforts are made to ensure that venues are compliant with the Disability Discrimination Act 2005. The Committee's written decision with their Statement of Reasons for that decision is not issued immediately after the Hearing, but will be issued as soon as is practicable and in most cases within 3 weeks.



View of prhp "home" venue

If the Committee decide that the property meets the Repairing Standard then they will issue a complied decision. If the Committee decide after considering all the facts and evidence that there has been a failure on the part of the landlord to comply with the duty to ensure that the property meets the repairing standard, the Committee will issue a Repairing Standard Enforcement Order (RSEO) which will specify the works which require to be carried out at the house and a time limit for completion of the works. Whilst the works are outstanding and the Repairing Standard Enforcement Order is in place, the property cannot be re-let if it is vacated by the tenant; otherwise an offence is committed by the landlord.

Once the time has passed for completing the works, the property will be re-inspected and if the works are completed satisfactorily, a Completion Certificate will be issued.

If the works have not been completed or not completed to a satisfactory standard, the Committee can, after considering any further representations from the landlord or tenant, issue a Failure to Comply Notice and can decide to reduce the rent payable for the house by up to 90%. The Failure to Comply Notice is issued to the Landlords' Registration Section of the appropriate Local Authority. At that stage, the Panel will also refer the matter for prosecution as it is an offence not to comply with a Repairing Standard Enforcement Order without reasonable excuse. If the landlord has good reasons for not completing the works within the timescale given, the Committee can vary the Order giving the landlord further time to complete the works.

<b>Repairing Standard Cases</b>	<b>2012</b>	<b>2011</b>
<b>Applications Received</b>	<b>232</b>	<b>229</b>
<b>Mediations which resulted in Agreements</b>	<b>2</b>	<b>10</b>
<b>Withdrawn and Rejected</b> (see table on page 11)	<b>108</b>	<b>102</b>
<b>Complied</b> (Committee decision that house complies with Repairing Standard)	<b>22</b>	<b>11</b>
<b>RSEOs issued</b> (Committee decision that house does not comply with Repairing Standard)	<b>75</b>	<b>82</b>
<b>Re-inspections by surveyors</b> (to check if RSEOs have been completed)	<b>74</b>	<b>115</b>
<b>Certificates of Completion and decisions to revoke RSEOs</b>	<b>51</b>	<b>64</b>
<b>Failures to comply with RSEOs and referrals for Prosecution</b>	<b>12</b>	<b>30</b>
<b>Rent Relief Orders issued by Committees</b>	<b>5</b>	<b>23</b>
<b>Cases carried forward</b> (this figure includes applications still to be determined as well as cases where RSEOs have been issued and cases where enforcement proceedings are pending)	<b>208</b>	<b>172</b>

Rent Relief Orders (RROs) are granted in fewer cases than Failure to Comply Notices as in some cases the tenancies had been terminated prior to the Committee considering a Rent Relief Order.

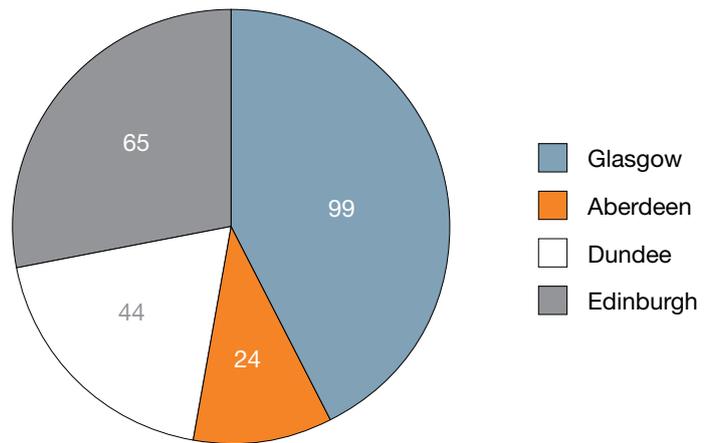
If the committee decide that the landlord has failed to comply with the Repairing Standard Enforcement Order, then a tenant can ask the local authority for the area in which the house is situated to carry out the works detailed in the Order in terms of Section 36 of the Act. The decision as to whether or not a local authority will carry out works rests with the local authority. If the local authority does decide to carry out works then they have powers to recharge the landlord for the cost of works and the other expenses.

Decisions and Orders issued by Committees in both rent assessment and repairing standard cases are published on the Panel's website. It is possible for members of the public to access these details using the postcode of the property.

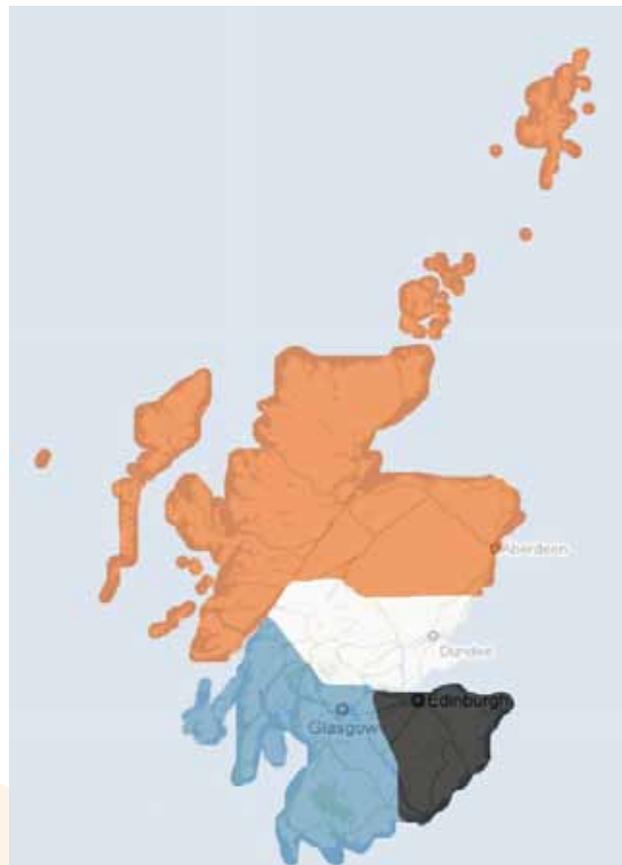
Repairing standard applications are submitted by tenants from across Scotland. There is a wide variety in the nature of the complaints but the lack of and/or cost of heating is a big issue particularly in older houses where ill-fitting single glazed windows, draughts and a general lack of insulation are often complained of. Broken appliances, dampness and condensation are common, related complaints. Interestingly, tenants rarely complain about the lack of a smoke detector although committees often note their absence during inspections.

Unusual complaints have included bed bugs, windows held in place by duct tape and an absence of floorboards.

## Breakdown of Repairing Standard Applications by Area for 2012



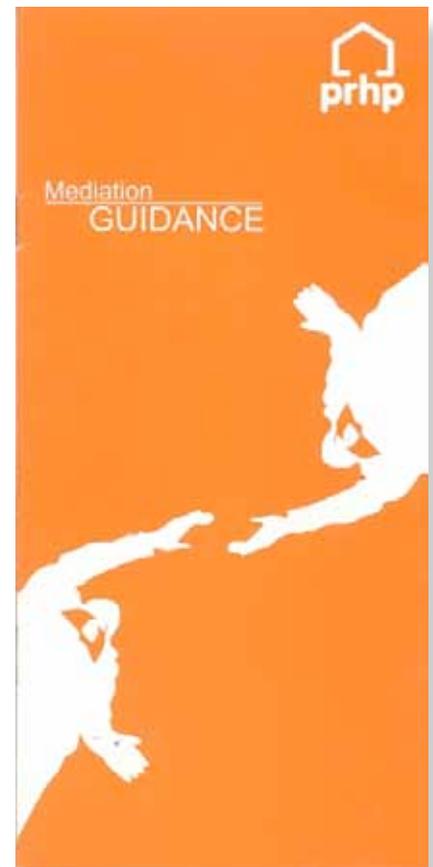
Approximate areas used for breakdown



## Mediation – an Alternative Way of Resolving prhp Disputes

Mediation is a way of settling disputes informally without the expense, time and bad feeling often involved in using formal procedures. Many people find the idea of going to a hearing before a Committee daunting, and mediation can often resolve the problem without the need for a Committee to become involved.

Parties must opt-in to mediation in relation to repairing standard disputes, but, if they do, mediation has advantages. The prhp mediation service is free of charge, flexible and confidential, and is staffed by trained mediators. Choosing mediation allows the tenant and landlord to work out a solution best suited to their needs, instead of having a solution imposed upon them by a Committee. Because people have found their own solution to their problems, they are more likely to carry out what they have agreed to do. Mediation can often improve the relationship between the landlord and tenant. Once people have had the opportunity to talk through the issues, each party is better able to understand the other person's point of view. If mediation is successful, then the parties will sign up to an agreement which removes the prhp's further involvement in the repairing standard case unless either party complains that the agreement has been breached.



The prhp mediation booklet

The Private Rented Housing Panel was the first tribunal body in Scotland to introduce an in-house mediation service as an alternative form of resolving disputes. The Panel mediators are trained impartial people who are skilled in helping establish common ground. We have 15 trained mediators amongst our membership who have all undertaken a 40 hour course of training provided by SACRO, a Scottish Government sponsored organisation which specialises in a wide range of mediation services.

During 2012, there were 2 mediations both reaching agreements between the landlord and tenant. We were subsequently advised by parties to the mediation agreements that 1 of these agreements was breached and in this case the Committee decided after an inspection and hearing to issue a Repairing Standard Enforcement Order.

The take-up of mediation has been disappointing and a number of reasons have been identified, particularly the termination of tenancies which invalidates any attempt to resolve the dispute by agreement. At the setting up of the Homeowner Housing Panel it was decided no budget would be allocated to hohp to provide a mediation service for resolution of property factor and homeowner disputes. However, parties may still wish to consider if mediation is an option worth pursuing as part of the complaint resolution procedure.

## Appeals

Parties have a right to appeal to a Court against a decision made by a Private Rented Housing Committee. In relation to rent assessment cases under the 1984 Act and the 1988 Act, parties have the right of appeal to the Court of Session. In relation to repairing standard cases under the 2006 Act, there is a right of appeal to the Sheriff in the Sheriff Court for the area in which the house to which the application relates is situated. Parties may wish to seek legal representation if they are considering appeal proceedings.

There were no appeals from rent determinations in 2012.

During 2012 there were two appeals to a Sheriff in relation to cases under the repairing standard jurisdiction. One case was sisted pending negotiations between the parties and the other appeal was dismissed by the Sheriff.

## Website

We have made efforts to provide tenants and landlords with more information about the work of the prhp and have expanded our website. We find increasingly that tenants and advisers download our application form from the website and during 2012 there were 14,059 unique visitors to the prhp website seeking information. All decisions of the Panel in repairing standard and rent assessment cases are published on the website and can be accessed by the public using the property postcode.

## Finance

The prhp is funded by the Scottish Government. As outlined previously the Annual Report for 2012 covers the calendar year 1 January to 31 December 2012 in terms of Section 29(5) of the Housing (Scotland) Act 2006 whereas the financial year for the prhp, like all government sponsored bodies, runs from 1 April until 31 March. Since the Annual Report straddles two financial years, the accounting figures for the year 2012 at Appendix B states the budgets for both financial years.

The prhp responds to the number of applications received and is a demand-led service. It follows that the number of cases the Panel considers during the year can be variable and the prhp have little control over service demand. However, year on year the Panel have noticed an increase in repairing standard applications.

The prhp budget for the financial year to 31 March 2013 was £428,000 whilst the actual spend for that period was £377,720.

## Tenancy Management Complaints

In terms of section 29 of the Housing (Scotland) Act 2006 the prhp must record and report the frequency with which applications to the Panel (whether valid or invalid within the terms of section 22) include complaints about the landlord's management of the tenancy.

There is a tenancy management complaint form on our website and 4 forms were returned to prhp during the period from 1 January to 31 December 2012. It was clear from these forms and from the terms of some of the applications that some tenants have experienced problems with management companies.

It should be noted, however, that the prhp has no power to deal with complaints about the landlord's management of the tenancy, and this is made clear in the information leaflets which give details of the services provided by the Panel. The small recording of such complaints, therefore, should not be regarded as evidence that problems relating to the landlord's management of the tenancy do not exist.

## 4: The Homeowner Housing Panel (hohp)

The Property Factors (Scotland) Act 2011 came into force on 1 October 2012 and as a result of this a new Tribunal, the Homeowner Housing Panel (hohp), was established.

The Act made it an offence for a property factor to operate without being registered and introduced a dispute resolution procedure. The Code of Conduct sets minimum standards of practice expected of registered property factors. A Property Factor Register and its administration has been set up by Scottish Ministers to register all property factors operating in Scotland. The Scottish Property Factor Registration Team operate independently from the hohp. The Act covers all property factors operating in Scotland and covers residential and land managers whether they are private businesses, local authorities or housing associations.

Unresolved disputes between property factors and homeowners will go to the hohp. After an initial sift process which is conducted by the President, applications are referred to a Homeowner Housing Committee for a determination of the application. The members of the Committee are drawn from the Panel's membership. There are two grounds for a homeowner to bring an application. These are a complaint that the property factor has failed to carry out property factoring duties in relation to the management or maintenance of land, or a complaint that the property factor has failed to comply with the Code of Conduct.

The Homeowner Housing Committee consider evidence at an oral hearing or on written documentation submitted by the parties. If the Committee determine the application and decide that one or both of the grounds is established, a Property Factor Enforcement Order is made specifying the action which the property factor must undertake, and any payment which has to be made to the homeowner. There is no legislative limit to the amount of such payment. It is criminal offence not to comply with this Order without reasonable excuse. The Registration Team is advised of any failure to comply with an Order and such failure may raise questions about suitability of the property factor to remain on the Property Factor Register. The decision of a committee can be the subject of appeal to the Sheriff Court.

The hearings before a Homeowner Housing Committee are open to the public, and hearing lists of future hearings appear on the hohp website.

The existing members of the prhp have been appointed to the Homeowner Housing Panel and 11 new Chairmen, 6 Surveyor Members and 14 Housing Members were appointed to assist with the increased workload brought by this new jurisdiction and an increase in repairing standard applications.

## Implementation

A Homeowner Housing Panel project team was set up in April 2012, comprising Judiciary, Housing Policy, STS operational staff and IT to ensure that it would be in a state of readiness for the commencement date of 1 October 2012.

A number of work streams were set up to ensure compliance with the commencement date of 1 October 2012, these were:

- Design and develop an IT system
- Training for staff on IT system
- Staff recruitment
- Recruitment of members
- Training for members
- Website
- Logo
- Application process – workflow
- System and hard copy literature
- Transitional arrangements

The project board met regularly to ensure all work streams kept to the time lines required to ensure delivery of a fully functional panel and administration by the commencement date. I am glad to report the Homeowner Housing Panel was fully functional and ready to receive the first application by 1 October.

## Finance

The hohp is funded by Scottish Government. As outlined previously the Annual Report for 2012 covers the calendar year 1 October 2012 to 31 December 2012 in terms of Section 27(4) (a) of the Property Factor Act 2011, whereas the financial year for the Panel, like all government sponsored bodies, runs from 1 April until 31 March. The figures in Appendix B of this report are for the period 1 October 2012 to 31 March 2013.

## Operational Update for First Quarter

The first ho hp application was registered on the 23 October 2012. The Act is not retrospective and ho hp have no jurisdiction for complaints pre-dating 1 October 2012 unless there is a continuing failure of the property factor to comply with property factor duties after that date. The Code of Conduct does not apply to a property factor until the property factor is registered by the Scottish Property Factors Register Team. Therefore the ho hp is only able to deal with complaints under the Code of Conduct from the date of the property factor's registration, not 1 October 2012.

A total of 24 applications had been received by the ho hp to the end of December 2012, comprising one land management and 23 property factor complaints. Cases are registered as land management complaints if they include only land management issues and no other property factoring issues hence the low volume recorded. The applications being received are much more complex than initially predicted and in most cases involve large amounts of paperwork. They often require the issuing of directions to clarify matters. The main issues arising during this period are shown below:

- Float charges
- Insurance
- Non receipt of Written Statement of Service
- Termination fees
- Misleading and false information
- Maintenance of common land
- Landscape issue
- Debt recovery
- Complaint handling procedure

No hearings took place during the period of this Annual Report and the first hearings are likely to take place in April. There is guidance for completing the application form. Decisions of committees will be published on the website along with any associated Property Factor Enforcement Orders. There have been no appeals received during the period of this Report.

A dedicated ho hp website has been created with information available to users on the application and hearing process. The application form can be downloaded from the website. Homeowners are encouraged to use this form although there is no legislative requirement that they do so. The essential requirements of any application are detailed in the legislation.

The legislation provides that no application will be treated as made until the homeowner has notified the property factor in writing as to why the homeowner considers that the property factor has failed to carry out the property factor's duties or, as the case may be, comply with the Code of Conduct. To conform to the legislation the application documentation only becomes a valid application if it includes a copy of this written notification sent to the property factor. If no such evidence of notification is attached at the time of submission, the homeowner will be advised by the ho hp that the application will not be progressed until this requirement is met. Template letters of notification are available on the ho hp website if the homeowner wishes to use them. Following upon this notification, the legislation provides that the property factor must have refused to resolve or unreasonably delayed in attempting to resolve the dispute. It is only after this stage that the documentation meets the requirements of a valid application.

Guidance for completion of an application is given on the hohp website, but it has been observed in almost all cases received in 2012 that the initial application papers received by the hohp from applicants are incomplete in some respect and do not meet the legislative requirements of a valid application. The result of this is that there are delays in progressing applications as the President cannot consider the application for referral to a Committee or rejection until the correct process (of notification of refusal to resolve or unreasonable delay in attempting to resolve) has been followed.

## 5: Working with Others

### Scottish Tribunals Service

Since 1 April 2011, the Scottish Tribunals Service (STS) have provided combined administrative support for six Scottish devolved tribunals, namely, Mental Health Tribunal for Scotland (MHTS); the Additional Support Needs Tribunal for Scotland (ASNTS); Pension Appeal Tribunal Scotland (PATS); Lands Tribunal for Scotland (LTS); Scottish Charity Appeal Panel (SCAP); The Private Rented Housing Panel (prhp), and the Homeowner Housing Panel (hohp). As the various tribunal administrations joined STS, sponsorship functions for the tribunals transferred from their associated policy departments to the STS policy team within the Justice Directorate. This is consistent with the Scottish Government agenda for a modern administrative justice system to support the planned implementation of the report of Lord Philip on tribunal reform for Scotland.

The creation of STS has led to benefits such as a modern streamlined service for users with the avoidance of unnecessary duplication of certain services common to all tribunals leading to the advantages of economies of scale, cost savings and better use of tribunal resources; the creation of a centralised specialist team to provide support to tribunal members and staff in key areas such as finance; an improvement in the governance of tribunals; and a clear demonstration of the independence of tribunals with separation from the policy-related functions of the sponsoring divisions of Scottish Government. However, it is important to acknowledge the need to preserve the identity and ethos of the individual tribunals and the retention within each individual tribunal of the existing staff with specialist knowledge and experience of the jurisdiction of each tribunal.

### User Groups And Local Authorities

During the year efforts have been made to increase public awareness of the Panels particularly among advice organisations, local authorities, user groups and professional organisations. The President and Vice President attended and gave presentations on the work of the Panels to a number of interest groups including Citizens Advice Bureau, Chartered Institute of Housing, Scottish Property Managers Association Scotland, Scottish Association of Landlords, Landlord Accreditation Scotland, local authority environmental health and housing departments, and landlord registration teams.

### Scottish Tribunals Forum

In the course of the year the President attended regular meetings of the Scottish Tribunals Forum and Judicial Heads Group of the devolved tribunals to explore best practice with other Scottish tribunal presidents, members of the judiciary and senior civil servants.

The work of the Forum discussed the options for the reform of tribunals in Scotland and a consultation on forthcoming proposed legislation on tribunal reform in Scotland. This followed in the wake of a discussion paper issued in 2010 by the Scottish Committee on the Administrative Justice and Tribunals Council (AJTC) which explored proposals for Scottish tribunal reform in line with the review by Sir Andrew Leggatt and the report by Lord Philip.

## 6: Initiatives for Service Improvement

### Training - Members

We are committed to relevant and high quality training of members to equip them to carry out their roles effectively and efficiently as members of decision-making committees.

To this end, we provided induction training over three days for existing members of the prhp on the new hohp jurisdiction. The new members appointed to the hohp also received induction training on this jurisdiction and it is planned to give them training on the prhp jurisdiction in the spring of 2013.

In addition to training meetings, the Panel circulate information and guidance to members to improve knowledge on current repairing and rental issues. Quarterly rental and letting statistics are issued to members as well as information on topical repairing and housing issues. This ensures that members are equipped with relevant knowledge to decide cases brought to the Panel.

### Training - Staff

We will continue to ensure adequate and appropriate training for staff and provide opportunities for members of staff to use their initiative and individual skills for the benefit of the Panel.

The staff dealt with increased enquiries in 2012 from service users seeking information about the Panel's application procedure, mediation and the inspection and hearing procedures. A referral process exists where staff can seek support and specialist input if required to answer these enquiries. Because of the specialist nature of the work of the prhp and hohp, it is more appropriate to undertake on-the-job training to meet the needs of staff. However, staff members have been involved in training events of a generic nature involving reporting on service delivery standards, data handling and protecting information.

## 7: Looking to the Future

- We will be involved in the implementation of additional responsibilities which will fall to the prhp as detailed in the Private Rented Housing (Scotland) Act 2011. These responsibilities involve the introduction of a system to allow a landlord to make an application to prhp to authorise, arrange and, if necessary, supervise access to a property for the purpose of carrying out an inspection or for the completion of works.
- In the course of the year, the President will maintain links with other Scottish tribunals through regular engagement in discussions with other judicial members and attendance at the Scottish Tribunals Forum.
- We will continue to seek ways to raise the awareness of service users to the work of the Panels and continue to expand the prhp and hohp websites to include more information on our jurisdictions and relevant housing issues for service users. We will also review our hohp information guide for users and produce a leaflet on what to expect at a hearing before a Homeowner Housing Committee.
- STS, prhp and hohp will explore the use of electronic methods for distributing papers, of recording member's availability for hearings and the administration of the payroll system for members.
- During 2013, STS, prhp and hohp staff will explore and apply a framework for business improvement along best value principles through the operation of "Lean". This will allow analysis, evaluation and refinement of administrative processes to maximise the efficient use of resources.
- During 2013, the prhp and the hohp will review their complaint handling procedures to ensure compliance with the new model provided by the Scottish Public Service Ombudsman.

## 8: How to Contact Us

**Address** Europa Building, 450 Argyle Street, Glasgow G2 8LH

**Telephone** 0141 242 0142 (prhp)  
0141 242 0175 (hohp)

**Fax** 0141 242 0141

**Email** prhpadmin@scotland.gsi.gov.uk  
hohpadmin@scotland.gsi.gov.uk

**Web** <http://www.prhpscotland.gov.uk>  
<http://www.hohpscotland.gov.uk>

# APPENDIX A

## MEMBERS OF THE PRIVATE RENTED HOUSING PANEL AND HOMEOWNER HOUSING PANEL

CHAIRMEN
Mr David Bartos – LLB (Hons) FCIArb
Mr Jim Bauld – LLB (Hons) Dip LP NP
Mr George Clark – LLB (Hons) Dip LP
Mr Andrew Cowan – LLB (Hons) Dip LP
Mrs Aileen Devanny – LLB NP DCPD Dip – PRESIDENT
Mr Pino Di Emidio – LLB (Hons) LLM
Mr Paul Doyle – LLB Dip LP NP
Mr Ron Handley – BA LLB
Mr Derek Hogg
Mrs Judith Lea – LLB Dip L MBA MSC WS
Mr Martin McAllister – LLB NP
Mrs Anne McCamley – BA LLB
Mr John McHugh – LLB (Hons) Dip LP NP
Mr Richard Mill – LLB Dip LP NP
Mr James Millar – LLB NP
Mr Ewan Miller – LLB (Hons) NP
Mrs Karen Moore – LLB
Mr Maurice O’Carroll – LLB (Hons) Dip LP LARTPI
Ms Sarah O’Neill – LLB (Hons) Dip LP NP MBA
Mr David Preston – LLB NP
Mrs Patricia Pryce – MA LLB Dip LP NP
Miss Simone Sweeney – BA (Hons) LLB Dip LP NP
Mrs Jacqui Taylor – LLB (Hons) Dip LP NP MBA TEP
Mr Steven Walker – LLB (Hons) Dip LP

## SURVEYORS

Mr Angus Anderson – MRICS
Mr Mark Andrew – FRICS FAAV
Mr Kingsley Bruce
Mr Robert Buchan – BSc FRICS – VICE PRESIDENT
Mr Richard Burnett – MA FRICS FIRPM
Mr George Campbell – DPA MSc CEng CEnv MICE FRICS
Mr Alexander Carmichael – FRICS
Mr David Godfrey – MRICS
Mr Colin Hepburn – MRICS
Mrs Sara Hesp – LLB (Hons) BA (Hons) MRICS ACI Arb
Ms Carol Jones – MA MRICS
Mr Mike Links – FRICS
Mr Donald Marshall – BA (Hons) FRICS
Mr Ian Mowatt – BSc FRICS
Mr Ian Murning – TD LLB (Hons) LLM DPA FRICS MCI Arb MInst RE
Mrs Susan Napier – BSc FRICS
Mr Andrew Taylor – MRICS
Mr Charles Reid Thomas – MSc Med MRICS MIED
Ms Geraldine Wooley – MA Med MRICS MIED

## HOUSING

Mrs Christine Anderson – BA
Mrs Helen Barclay – Dip Hsg CIHCM
Mr John Blackwood – LLB BD
Mrs Susan Brown – BA (Hons) Dip Hsg Dip human resource management, Dip Youth and Community Work
Mr A Scott Campbell – Dip public health inspection REHIS
Mr Colin Campbell – FCIH
Mrs Elizabeth Dickson
Mr David Hughes Hallett – FRICS
Mr Christopher Harvey – BA (Hons) MA (Hons)
Mrs Brenda Higgins – CIXHM MBA BA Dip housing administration
Ms Carolyn Hirst – BSc (Hons) MBA CIHM FRSA
Mr Tom Keenan – BA DPA
Mr Ahsan Khan – MA BSc (Hons) MPhil MCIH
Ms Irene Kitson – BA CFCIPD
Mrs Mary Lyden – Bed PG Dip housing studies
Mrs Ann MacDonald – MA MCIH
Mr Douglas McIntyre – Bsc (Hons) MCI OB Cert CIH
Ms Elaine Munroe – FCIH MBA ICIOB
Mr James Riach – MREHIS
Mrs Linda Robertson
Mr Mike Scott – BSc (Hons) MSc MRTPI FCIH
Mrs Susan Shone – CICHM PG Dip
Mrs Jean Thomson – DHS CBA FCIH
Mrs Sally Wainwright – BA (Hons)
Mr John Wolstencroft – BSc (Hons) PG Dip CIHM

# APPENDIX B

## PRIVATE RENTED HOUSING PANEL

### Expenditure Statements for the financial year 2012/13\*

#### Panel and Staff Numbers:

President and Vice President  
Members

23 Legal Chairpersons comprising 7 female and 16 male  
17 Surveyor Members comprising 4 female and 13 male  
25 Housing Members comprising 14 female and 11 male

Expenditure Item	Actual 2011/12	Budget 2012/13	Actual 2012/13
<b>Staff Salaries and Expenses:</b>			
Support Staff	86557	114000	126023
Staff Expenses (T&S)	3884	4500	2270
<b>Members Expenses:</b>			
Members Fees	186646	203300	172257
Members Expenses	25017	28000	23661
<b>Committee Costs:</b>			
Training & Expenses	8978	34500	15755
Venue & Hearing Costs	15087	17000	10180
<b>Central Costs:</b>			
Accommodation	92483	0	0
General Expenses	6633	14000	9970
Postal Costs	3882	4700	5286
Computer charges/Website	3286	8000	12318
<b>TOTAL</b>	<b>432453</b>	<b>428000</b>	<b>377720</b>

\* The above expenditure is shown on the basis of the financial year 1 April 2012 to 31 March 2013.

Support Staff 4

## HOMEOWNER HOUSING PANEL

Expenditure Item	Budget 2012/13	Actual 2012/13
<b>Staff Salaries and Expenses:</b>		
Support Staff	94400	50900
Staff Expenses (T&S)	4000	400
<b>Members Expenses:</b>		
Members Fees	151200	71200
Members Expenses	20400	7500
<b>Committee Costs:</b>		
Training & Expenses	33600	31000
Venue & Hearing Costs	10200	300
<b>Central Costs:</b>		
Accommodation	0	0
General Expenses	24800	5800
Postal Costs	3300	300
Computer charges/Website	14000	27600
<b>TOTAL</b>	<b>355900</b>	<b>195000</b>

\* The above expenditure is shown on the basis of the financial year 1 October 2012 (date of commencement of Panel) to 31 March 2013. These figures include transitional and initial set-up costs from October to December 2012.

Support Staff 4

# APPENDIX C

## Public Service Reform (Scotland) Act 2010

To promote openness and transparency across the public sector in Scotland, Section 31 (1) and (2) of the Public Services Reform (Scotland) Act 2010 imposes new duties on public bodies listed in Schedule 8 of the Act to publish as soon as practicable after the end of the financial year a statement of any expenditure incurred on certain matters including:

- Public Relations
- Overseas Travel
- Hospitality and Entertainment
- External Consultancy
- Payments with a value in excess of £25,000, and
- The number of members and staff who received remuneration in excess of £150,000

The Private Rented Housing Panel has made no payments in the above categories for the financial years 2011/12 and 2012/13 with the exception of the following item.

TYPE OF COST	AMOUNT PER FINANCIAL YEAR (£)	
	2011/12	2012/13
Accommodation costs for Panel Office at 140 West Campbell Street	92,483	NIL

The Homeowner Housing Panel has made no payments in the above categories for the accounting period 1 October 2012 until 31 December 2012.

In Terms of Section 32(1) (a) and (b) of the Act, the public bodies listed in Schedule 8 must publish a statement of the steps taken to (a) promote and increase sustainable growth, and (b) to improve efficiency, effectiveness and economy in the exercise of their functions.

During the year the Panels and their administration have made concerted efforts to reduce expenditure, improve efficiency, manage resources more effectively and cut down our ecological footprint.

The following steps have been taken:

- The Panels have promoted the use of electronic systems with more use of email communication and scanning and electronic sending of paper records and documents
- The Panels have increased their use of the Scottish Government and local authority venues for hearings, provided it does not involve the need for participants to travel long distances. The Panels use the conference facilities in Scottish Government venues for training events
- To improve prhp efficiency and make best use of members' time through doubling up hearings and avoiding where possible second hearings after re-inspections by considering parties written representations. The prhp is limited in this approach by the unpredictable geographical spread of cases and the contentious nature of some cases
- The Panels will continue to explore ways of increasing productivity without compromising the rights of Panels' users
- To recycle paper, print cartridges and other resources where possible
- To explore sharing of resources and specialist services among the Scottish based Tribunals of the Scottish Tribunals Service (STS)
- To evaluate and explore refinements to our application and case management processes. We have carried out a value stream-mapping event to improve efficiency with a view to a new case management system

# APPENDIX D

## Glossary of Terms Appearing in this Report

**Appellant** – the person who makes the appeal

**Assured tenancy** – a private rented sector tenancy entered into after 2 January 1989 provided it is the tenant's only or principal home and it does not fall within any of the exceptions listed in schedule 4 of the 1988 Act.

**Corporate governance** – the set of processes, customs, policies, laws and institutions affecting the way the organization is directed.

**Court of Session** – the supreme civil court of Scotland

**Diversity** – the state of being varied

**Fair Rent** – a rent fixed in the way set out in section 48 of The Rent (Scotland) Act 1984

**Housing member** – the member of the Committee who is selected for his or her expertise in housing and land related issues

**Induction** – training for new members

**Jurisdiction** – having the power to make legal decisions and judgements

**Legislative provisions** – that which the law provides

**Mediation** – a process to help parties resolve their differences and reach agreement

**Part VII Contract** – a contract between a tenant and a landlord who lives in the same house and has it as his principal home

**Protected tenancy** – a tenancy where the contract between the tenant and the landlord is still in force

**Regulated tenancy** – a tenancy which gives security of tenure and also protects the tenant from inflated rents arising from a shortage of supply of rented properties

**Rent Officer** – an independent, statutory officer, appointed by the Scottish Ministers, who determines and registers rents for houses let on regulated tenancies

**Rent Service Scotland** – is set up by the Scottish Government and has three main functions, one of which is to provide valuations for tenants and landlords for 'Fair Rent' registrations. Rent Officers working for Rent Service Scotland will assess a 'Fair Rent' for a regulated tenancy. Either the landlord or tenant can then refer the case to the prhp if dissatisfied with the Rent Officer's decision

**Repairing Standard** – the standard set out in section 13 of the 2006 Act

**Reporting period** – 1 January – 31 December in any year

**Respondent** – the party against whom an application or appeal is made

**SACRO** – a Scottish organisation which provides amongst other things mediation services and training for mediators

**Seconded** – temporarily transferred to another position or role

**Sheriff Court** – Sheriff Courts provide the local court service in Scotland with each court serving a sheriff court district within a Sheriffdom

**Short Assured Tenancy** – a special type of assured tenancy which gives the landlord special rights to repossess the house he has let and gives rights to the tenant to apply to the prhp for a rent determination

**Sisted** – held in abeyance until the parties to the action are ready to proceed

**Statutory Tenancy** – the tenancy created when the contractual assured tenancy is brought to an end by the landlord serving a notice to quit, or where a tenant has succeeded to the tenancy

**“The 1984 Act”** – The Rent (Scotland) Act 1984

**“The 1988 Act”** – The Housing (Scotland) Act 1988

**“The 2006 Act”** – The Housing (Scotland) Act 2006







**Address** Europa Building, 450 Argyle Street, Glasgow G2 8LH  
**Telephone** 0141 242 0142 (prhp)  
0141 242 0175 (hohp)  
**Fax** 0141 242 0141  
**Email** prhpadmin@scotland.gsi.gov.uk  
hohpadmin@scotland.gsi.gov.uk  
**Web** <http://www.prhpscotland.gov.uk>  
<http://www.hohpscotland.gov.uk>

