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Dear Michael,

Thank you for your letter dated 28 November 2024 about the Voluntary Code of Practice on dismissing and replacing land-owning land maintenance companies on behalf of your constituents.

Unfortunately, due to other pressures, work has not progressed on the voluntary code of practice as quickly as anticipated. I can, however, confirm that we are committed to bringing this forward. I acknowledge that a considerable time has elapsed since the decision to bring forward a voluntary code of practice on dismissing and replacing land-owning maintenance companies ("Code of Practice").

During this period there were two court cases which examined whether Greenbelt's (a land-owning land maintenance company) model was a "monopoly", the first in 2015 and the other in 2018. You will appreciate that it was important to await the outcome of these cases as if they had concluded that the model was invalid then this would have had a fundamental impact on the necessity of a Code of Practice.

The volume of correspondence received raising concerns about the inability to dismiss a land owning land maintenance company has fallen over this period. This may be due to some extent the property factors act and generally, land-owning land maintenance companies improving their services and communications with homeowners.

The Code of Practice will introduce guidance on the minimum standards expected from any land-owning land maintenance company following a request from homeowners formally requesting to dismiss and replace them.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

Tha Ministearanna h-Alba, an luchd-comhairleachaidh sònraichte agus Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot



This would include information that such companies should provide to homeowners, for example, the costs involved in relation to transferring ownership of the land and any other costs including outstanding maintenance fees and information on what is required to maintain the land once transferred.

You also raise a couple of issues that your constituents have concerns about. The following may be helpful.

Notification of obligations in homeowners title deeds

Homeowners agree to abide by title provisions which specify a named factor or land maintenance company when they buy their properties. This is implied in the agreement of missives. All conditions and monetary obligations arising from the purchase of property should be explained to prospective purchasers by their solicitor or agent before missives are concluded. In addition, the Home Report should contain information on any management fee is payable. If purchasing a new build property any management fees should be highlighted in the marketing material or pre-sales information packs.

Accountability of property factors (including land owning land maintenance companies)

The Property Factors (Scotland) Act 2011 ("the Act") provides protections for homeowners who use the services of a property factor including land-owning land maintenance companies. All registered property factors must abide by the statutory Code of Conduct ("the Code") which sets minimum standards of practice. A revised version of the Code came into force on 16 August 2021 which brought it up-to-date, to further help homeowners understand what they should reasonably expect from their property factor and how to hold them to account. The revised code can be found at:

<https://www.gov.scot/publications/property-factors-scotland-act-2011-code-conduct-property-factors-2/>

Whilst the Code does not specify how much a property factor should charge a homeowner, the principle of transparency is a general theme running through the Code which property factors must adhere to. The Code aims to ensure that homeowners know what services will be provided, how charges will be arrived at, and how to raise any issues of concern. Section 1 of the Code requires property factors to supply each homeowner with a written statement of services, including information on financial and charging arrangements and a statement of the basis of the property factor's authority to act. In addition, the property factor should provide a copy of its complaints procedure that should set out the steps taken by them to resolve such complaints.

Finally, if a property factor fails to comply with the Code, they can be challenged by homeowners. If the factor refuses to resolve or unreasonably delays in attempting to resolve the homeowner's concerns, the homeowner can apply to have their case considered by the [First-tier Tribunal for Scotland Housing and Property Chamber \(First-tier Tribunal\)](#) which has the power to issue a legally binding property factor enforcement order if it finds in your favour. There is no fee to make an application to the Tribunal.

Yours sincerely,



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