



# FACTORING POLICY

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| <b>Written by:</b>       | <b>Director of Operations</b> | <b>Version:</b> | <b>5</b>           |
| <b>Approved by:</b>      | <b>Management Committee</b>   | <b>Date:</b>    | <b>25 May 2022</b> |
| <b>Next Review Date:</b> | <b>May 2027</b>               | <b>Pages:</b>   |                    |

## 1. Introduction

- 1.1 The Association will offer a factoring service to owners and sharing owners whose properties fall within its area of management. The Association recognises the benefits of providing a factoring service, which will encourage good relations with local owners and ensure that all properties and common areas are adequately maintained. The Association will therefore seek to provide the highest possible standard of service to owners, while ensuring that such provision is always practical, legally compliant, and cost-effective.
- 1.2 The Association's provision of a factoring service will always be dependent upon owners making payments whenever requested, whether in respect of work already done or in advance for major works to be carried out. This policy will not duplicate the Deed of Conditions which will always take precedence.
- 1.3 Owners typically have a Deed of Conditions for their property drawn up at the time of sale. This Deed of Conditions clearly expresses the rights and obligations of each party.
- 1.4 The Property Factors (Scotland) Act 2011 was passed by the Scottish Parliament and came into force on 1 October 2012. This legislation is designed to regulate the property factoring industry and provide increased protection for homeowners who receive factoring services.
- 1.5 It is compulsory for all property factors in Scotland to register with the Scottish Government and adhere to the Code of Conduct. The code was updated in 2021 and introduced new Overarching Standards of Practice which must be followed by property factors. Under the Code of Conduct, property factors must issue owners with a Written Statement, outlining the terms and conditions of the services provided and state their "authority to act" as factor.
- 1.6 Each owner is provided with a written statement, which contains the standard conditions and services to be adhered to in the provision of the Association's factoring service. The written statement refers to the Deed of Conditions but does not replace it. Whilst the Deed of Conditions for a property remains constant no matter who becomes the owner, each new owner will receive a written statement. The deed defines the common parts, rights of access, provision for maintenance and share of repair costs to be met by each owner.
- 1.7 The Association discharges its authority as Factor as per provisions of either the title deeds relating to properties or in accordance with the Tenements (Scotland)

Act 2004/Title Conditions Act 2003, if applicable, and therefore any action, which is taken, must be justifiable.

## **2. Regulatory & Legislative Framework**

2.1 This Policy has been developed to recognise and meet the Association's obligations with respect to:

### **2.2 Property Factors (Scotland) Act 2011**

In accordance with the above Act, the Association will:

- Maintain a registration as a Property Factor with the Scottish Government.
- Submit Annual Returns to the Scottish Government and amend the Register of Factored Properties and land in Scotland as appropriate.
- Manage properties and land in accordance with the Code of Conduct for Property Factors.

### **2.3 Regulatory Standards of Governance and Financial Management**

Within the Scottish Housing Regulator's Regulatory Framework, it has outlined its Regulatory Standards of Governance and Financial Management with which all landlords must comply.

The key standards that relate to this policy are set out below:

**Standard 2** - The RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities

**Standard 3** - The RSL manages its resources to ensure its financial well-being and economic effectiveness

**Standard 4** - The governing body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisation's purpose.

**Standard 5** – The RSL conducts its affairs with honesty and integrity.

### **2.3 Scottish Social Housing Charter**

#### **1) Equalities**

Social landlords perform all aspects of their housing services so that: every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.

#### **2) Communication**

Social landlords manage their businesses so that: tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.

### **3) Participation**

Social landlords manage their businesses so that: tenants and other customers find it easy to participate in and influence their landlord's decisions at a level they feel comfortable with.

### **6) Estate Management, ASB, Neighbour Nuisance and Tenancy Disputes**

Social landlords, working in partnership with other agencies, help to ensure that tenants and other customers live in well-maintained neighbourhoods where they feel safe.

### **13) Value for Money**

Social landlords manage all aspects of their businesses so that: tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.

### **14 & 15) Rents and Service Charges**

Social landlords set rents and service charges in consultation with their tenants and other customers so that a balance is struck between the level of services provided the cost of the services, and how far current and prospective tenants and other customers can afford them.

## **3. Definitions**

3.1 The following definitions will be used throughout this policy.

### **3.2 Factoring**

A property management service offered to property owners to plan for, arrange and oversee work on their behalf, e.g., common repairs, planned maintenance works and insurance. Factoring services and responsibilities also relate to areas of common land or space as well as specific properties.

#### **Factor**

The agent appointed to carry out a factoring role, ie, Orkney Housing Association.

#### **Tenement**

A building which comprises two or more separate dwellings which are divided from each other horizontally and including any land attached to that building, eg, gardens, back courts, etc.

#### **Flat**

A dwelling house in a tenement.

#### **Deeds of Condition**

This is a legal document that imposes legally enforceable condition on the property to which it relates. Conditions may cover permitted uses of the property and requirements relating to the division of responsibility for repairs and maintenance of a building in multiple ownership.

### **Terraced Home**

A house in a row of houses that shares a wall with the house next to it.

### **Written Statement**

This is a written statement of the services the Association will provide.

### **Sinking Funds**

A sinking fund is a fund created to save money for infrequent, high value expenditure. It usually covers major structural works like roof and window renewals or component renewals and refurbishments such as door entry systems.

## **4. The Factoring Service**

- 4.1 The Association aims to provide a factoring service to all these owners to ensure that parts owned in common are both satisfactorily maintained and adequately insured (where applicable). In doing this we aim to recover the full costs involved. The terms of the factoring service provided by the Association to owners/sharing owners are detailed in the Written Statements.

The Association shall be responsible for the general management and administration of the property and has the power to perform duties imposed by the Deed of Conditions/Written Statements and any other functions assigned by the owners. The service will include all necessary repairs to the common areas, insurance arrangements (where applicable), and administration of service charges, environmental maintenance, and management of appropriate records.

### **4.2 Insurance**

The Association will comply with the property Deed of Conditions to ensure that the buildings they manage are adequately insured to cover the full rebuilding of all common parts of the building in the event of fire, storm, flood or other major disaster. Cover will be arranged via a major insurance company, at the most competitive rate available for the appropriate level of cover and due to economies of scale this should prove cost effective to owners.

Buildings Insurance will automatically be arranged for all properties with a common close and may be arranged for, flats with their own front doors and terraced homes.

## **5. Financial Arrangements**

### **5.1 Factoring Fees**

Fees to cover general administration costs are payable by owners of factored properties.

The factoring fee covers the following costs:

- Title research and preparation of grounds maintenance plans.
- Calculating shares due by owners.
- Obtaining and maintaining software.
- Creating and updating ownership records.

- Maintaining accurate property repair records.
- Issuing statements of accounts.
- Recording payments and recovering charges in relation to each property.
- Apportioning charges on sale and corresponding with solicitors.
- Accounting for Contribution to Sinking Fund Balances.

These fees will be subject to review on an annual basis. Sinking Funds are held in an interest-bearing account, separately recorded for each group of homeowners.

## 5.2 **Administration Fee**

A standard administration fee on the cost of all services shall be levied at a rate of 8%. This fee covers the costs relating directly to the provision of the ground's maintenance service including:

- Inspecting and instructing works as required.
- Tendering and obtaining estimates (where necessary).
- Discussions and correspondence with owners regarding works.
- Overseeing works and ensuring that they are carried out satisfactorily.

## 5.3 **Procurement of Services**

All services and contractors will be procured in line with the Association's Procurement Policy.

Authority to purchase goods and services is devolved to budget holders to purchase within budgetary limits and is governed by our Scheme of Delegations. The Association believes value for money is achieved through a procurement process which takes account of quality as well as price. The extent to which each influences the selection process will depend on the nature of the procurement.

## 5.4 **Billing & Statements**

Bills/statements will be issued on an annual basis for all of the services that the Association provides.

Where necessary repair costs will be apportioned according to the share shown in the Deed of Conditions and where this is silent reference will be made to either the Written Statement and/or the Tenements (Scotland) Act 2004.

VAT will be charged if/when this becomes appropriate.

## 5.5 **Payment Methods**

All owners will be offered a range of payment methods including direct debit, bank transfer, debit card, and Post Office/Pay Point via Allpay card.

Although the Association will retain the right to levee interest and pursue recovery it will consider negotiating payment plans with proprietors experiencing financial difficulty.

Payment frequencies shall be in line with the Exclusive Occupancy Agreement/Deed of Conditions/Written Statement.

## 5.6 Arrears

The Association will adopt a flexible and reasonable approach to ensure that arrears are minimised, and the outstanding debts are recovered, as set out in the Prevention of Rent Arrears and Debt Collection.

Where the owner fails to pay accounts, the Association may lodge a Notice of Potential Liability in the property register. This warns any prospective purchaser that there is an outstanding liability for which they would become liable.

Accounts that remain unpaid may be subject to an additional recovery fee plus any legal fees incurred in recovering the debt.

## 6. Works to Owners Properties

6.1 Owners are generally responsible for undertaking repair work to their properties except those that are communal in nature and/or will impact on properties the Association owns or has an interest in.

6.2 Where works to owners' properties include planned or cyclical maintenance, we will prepare a programme of works and notify all relevant owners. Any contractors that we appoint to carry out this work will have public liability insurance. Should costs not be covered by sinking funds, owners will be expected to fully fund any deficit.

6.3 Should emergency repair work be required owners should contact the Association immediately to report the repair. Repairs can be reported during normal office hours by contacting the Association or, if out of office hours, by contacting Orkney Islands Councils Out of Hours Emergency Service. Owners will be charged an appropriate share of costs upon the completion of any work.

We define emergency repairs to be where urgent work is required to prevent damage, or in the interests of health and safety work, and where there is not time to use the normal channels of consultation and decision making.

6.4 Where additional works are required as a result of an owner participating in a planned or cyclical repair programme these shall be funded by the owner who shall be advised in writing of the required works and the estimated additional costs.

6.5 Works to owners' properties shall not commence until the Association has received payment of the full amount as detailed below, together with a signed mandate authorising the Association to undertake the works.

6.6 Prior to work commencing, each owner shall pay to the Association the amount of the anticipated works cost, their proportion of consultant's fees, planning and/or building warrant charges, where applicable, and the Association's administrative charge together with a contingency equal to 10% of the anticipated works cost.

- 6.7 Such amounts received by the Association shall be placed in a suspense account, which shall be drawn upon to meet interim and final certificates as they fall due. Once the account has been finally reconciled any overpayments will be refunded to the relevant owners.

## **7. Consultation, Liaison and Information**

- 7.1 The Association will ensure that appropriate information on the factoring service is issued to owners in a variety of ways.
- 7.2 The Association will consult and liaise with owners as required on repairs or maintenance work.
- 7.3 The Association will arrange meetings on factoring services with owners as required or in response to a request from owners.
- 7.4 Where applicable potential owners will be given clear information about the responsibilities, including repair and maintenance obligations and indications of costs, where possible.
- 7.5 After missives have been concluded detailed information will be issued to the owner including:
- Written Statement
  - Information on the Factoring Policy

## **8. Terminating the Factoring Agreement**

- 8.1 The factoring agreement can be ended in line with the deed of condition.
- 8.2 The Association reserves the right to transfer their rights and obligations under this factoring agreement to a third party to act as Factor, should the Association, in its sole discretion deem it appropriate.

## **9. Neighbour Disputes**

- 9.1 Owners are expected to conduct themselves in a manner, which does not cause annoyance or nuisance to their neighbours in accordance with statute and the Deed of Conditions.
- 9.2 Any breaches of statute or conditions laid down in the Deed of Conditions should be referred to the Association for advice or intervention as required. This will not, however, prejudice the right of any owner to take such legal action as they see fit.
- 9.3 It should be noted that whilst owners may contact the Association regarding disputes relating to neighbouring tenants, the Association does not provide owners with the full Housing Management service available to tenants.

## **10. Complaints**

- 10.1 The Association aims to provide a great service to all its residents and other customers. We aim to deal fairly and effectively with anyone wanting to complain about any of our decisions or activities.

Customers may make a complaint about the factoring service under the Association's Complaints Handling Procedure for a range of matters including if they feel there has been:

- A failure to comply with the Association's policy or procedures
- A failure to carry out duties in a satisfactory manner

Details of our complaint's procedure are available from the Association's office or [website](#).

- 10.2 Where an owner is dissatisfied with the outcome of their complaint and believe that we have failed to carry out our factoring duties, they are entitled to contact the Housing and Property Chamber, First Tier Tribunal for Scotland at the following address:

Glasgow Tribunals Centre  
20 York Street  
Glasgow  
G2 8GT

Website: [www.housingandpropertychamber.scot](http://www.housingandpropertychamber.scot)

## **11. Review**

- 11.1 Whilst the factoring charges themselves will be reviewed annually this policy will be reviewed every 5 years.