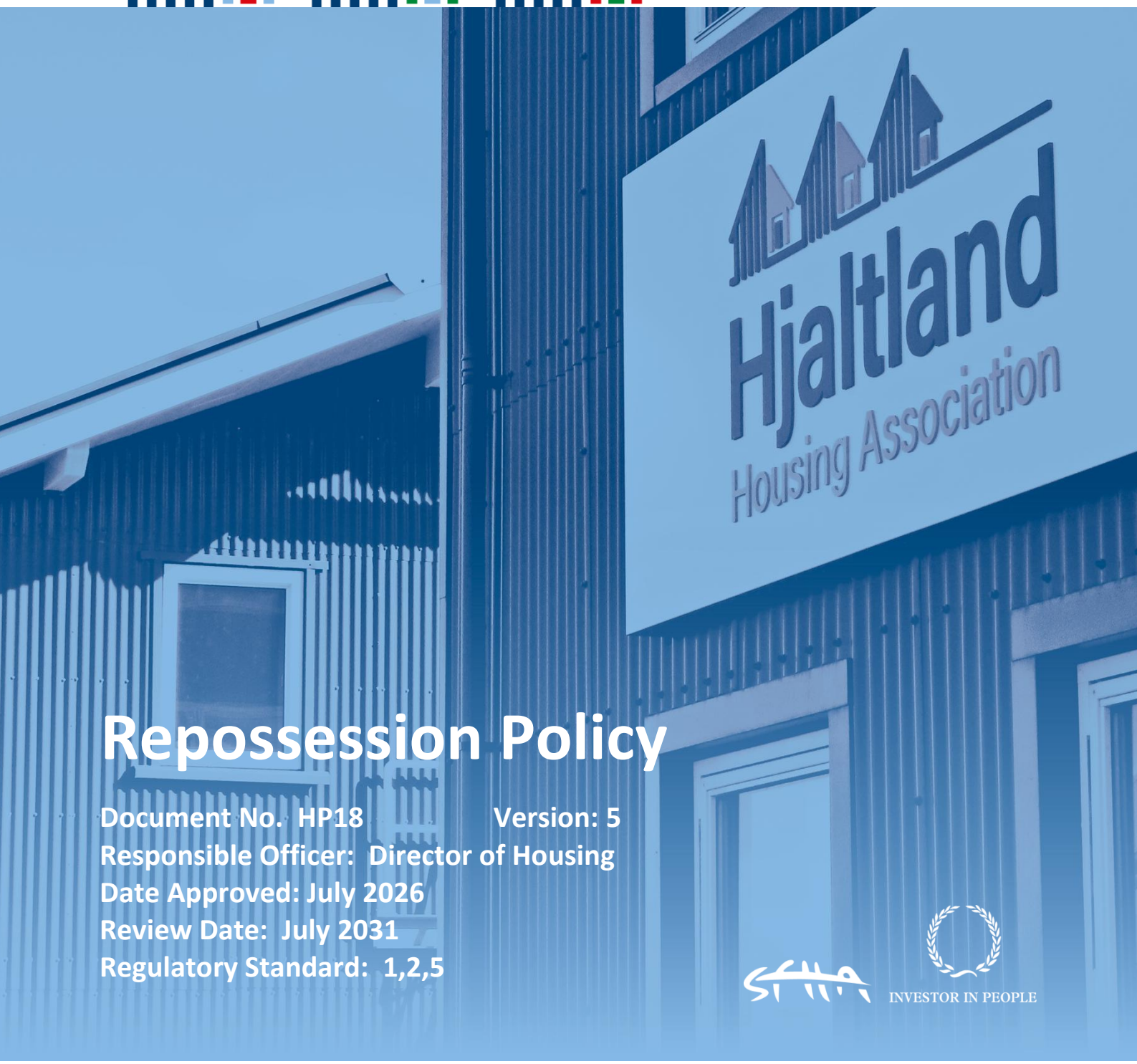
Hjaltland
Housing Association



Repossession Policy

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INVESTOR IN PEOPLE

Providing homes, supporting communities

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1.0 Hjaltland Values

Our Vision

Providing homes, supporting communities

Our Values

Teamwork
Working together as one team, to the benefit of our customers. To demonstrate and extend trust in each other.

Open, Honest & Inclusive
We offer a people focused service that is centred in fairness and integrity. We believe in being open, honest and respectful in everything we do.

Ownership
We expect our staff to take responsibility for their actions and give them the freedom to do their job in a positive working environment.

Quality
We value quality in everything we do from the standard of our product to the level of service we provide. We take pride in making a difference in communities and providing continuous improvement.

Innovation
We seek to ensure we have sustainable housing, fit for future generations, maintained and developed to the highest possible standard.

2.0 Introduction

Hjaltland Housing Association aims to deliver a high-quality housing service throughout Shetland and is committed to supporting communities remain viable through a culture of partnership working, sustainability and continuous improvement.

All tenants have the right to peaceful enjoyment of their homes in a safe and secure environment, within a community free from criminal activity. Where this right is jeopardised through the actions of tenants and their households, The Association has a duty of care to consider the options available to protect the wider community. This may include formal legal action to end a tenancy.

Furthermore, the services delivered by Hjaltland are funded via the rent collected from all tenants. Where a tenant fails to maintain acceptable payments, The Association must look to protect the financial viability of the organisation by taking reasonable and proportionate action, which could include formal legal action to end a tenancy.

3.0 Regulatory Framework / Legal

The Housing (Scotland) Act 2001, as amended by The Housing (Scotland) Act 2014 & The Domestic Abuse (Protection)(Scotland) Act 2021.

4.0 Aims and Objectives

Hjaltland Housing Association's policy is only to seek repossession as a last resort and then only for a serious breach of the conditions of the tenancy e.g. significant rent arrears where no payment plan is in place, anti-social behaviour, drug dealing or any other criminal activity at the property. Tenants cannot be removed from their homes without a court order.

Alternatives to eviction will be considered, including the issuing of a Short Scottish Secure Tenancy – see separate policy for details.

The Association is committed to helping eradicate domestic abuse and gender-based violence and will offer support and protection to victims and survivors. This will include legal civil action to end a tenancy or an interest in a tenancy, in respect of a perpetrator, through new powers under the Domestic Abuse (Protection)(Scotland) Act 2021.

5.0 The process of repossession

For repossession proceedings to start, The Association must serve a Notice of Proceedings (NOP) on the tenant, and all other residents in the property over the age of 16, in accordance with Section 14(2) of the Housing (Scotland) Act 2001.

The notice must be in the prescribed format and must specify:

- the grounds for recovery as outlined in Schedule 2 Part 1 of the Housing (Scotland) Act 2001
- a date four weeks from service of the Notice, or the date on which the tenancy could have been brought to an end by a Notice to Quit had it not been a Scottish Secure Tenancy

The later of these dates applies and the Association can raise proceedings on or after that date.

The Association must ensure that there is proof of service of the Notice of Proceedings for the court in case the tenant chooses not to attend court.

Before a Notice is served, the Association will have followed the requirements of the pre-action requirements of the Housing (Scotland) Act 2010 and contained in the Association's pre-action requirement procedures.

Where the Association is aware that the tenant is receiving support from Local Authority staff, probation services or health, social or welfare practitioners, contact will be made to inform them that the tenant's tenancy is at risk. This action is undertaken to enable the tenant to receive support in maintaining their tenancy and will be done with the full knowledge of the tenant. Where the tenant consistently fails to comply with their tenancy conditions further action will be taken.

Tenants may continue to occupy the house until The Association has obtained an Order for Possession, which the Sheriff will only grant if he is convinced that to do so would be 'reasonable'. Once an order has been granted the Association has the right to recover possession.

The Director of Housing will report to the Management Committee at each Operational Committee meeting updating Members on any Notice of Proceedings issued and the outcome of any court action sought.

Whilst a Notice of Proceedings can be issued no recovery of possession will be taken, against tenants with resident children in full time education, without the sanction of the Management Committee, who will satisfy themselves that all reasonable methods of dealing with the breach have been explored.

Where a Notice of Proceedings is being served in relation to domestic abuse under Ground 15A of the Housing (Scotland) Act 2001, The Association will proceed with extreme caution and only after legal advice has been sought. The service of an NOP will act as notification to the perpetrator that formal legal action is imminent, which will heighten the level of risk for the victim/survivor, especially if co-habiting.

6.0 Streamlined eviction process

Section 14 (2) of the Housing (Scotland) Act 2014 created new legislation whereby social landlords can take action against a tenant referred to as a 'streamlined eviction process'. The purpose of the legislation is to allow landlords to act quickly in relation to serious antisocial behaviour or criminality, thereby reducing the impact and harm on the surrounding community.

This legislation can be used where a tenant, a sub-tenant, an occupant or a visitor has been convicted in court of using the house for immoral or illegal purposes or of a criminal offence, punishable by imprisonment, in our around the locality of the house. Community based sentences, such as a community pay back order as a substitute for imprisonment, are also applicable.

Where all other action to evict a tenant will require the judgement of the sheriff on the grounds of 'reasonableness' to evict, the streamlined eviction process does not require this assessment and will be automatically awarded if the criteria is met.

The court must automatically grant eviction where;

- The landlord has a ground for recovery of possession as set out in paragraph 2, schedule 2 of the 2001 Act; and
- The Notice of proceedings was serviced on the tenant before the first anniversary of the date of the conviction

As part of the evidence when lodging the sheriff court application, The Association should look to obtain the extract conviction from the original offence.

The Association will seek legal advice and consider the following points, prior to raising any court action using the streamlined eviction process;

- the nature and seriousness of the offence, including any recurring nature of convictions or the cumulative effect of several incidents, or the potential seriousness of a one off offence;
- who has been convicted of the offence and their connection to the property;
- where the offence was committed and the connection to the social housing tenancy;
- whether and to what extent the offence has affected neighbours or others in the community;
- the impact on neighbours and communities over time and the impact on the stability of the community;
- what action, if any, the person convicted of the offence is taking to make positive change;
- impact of eviction on household members;
- other steps taken/which could be taken by the landlord or partner agencies to address the antisocial or criminal behaviour.

A tenant does have the option to seek a judicial review of the landlord's decision to use this piece of legislation to evict and/or defend the repossession action.

7.0 Section 11 notification to Shetland Island's Council Housing Service

Section 11 of the Homelessness etc (Scotland) Act 2003 requires landlords, when taking action to recover a property through a court action, to notify the Local Authority so they can consider providing additional advice to the tenant to prevent homelessness.

Whilst the notification is only required to be submitted at the point of raising court action, The Association will maximise the opportunity for the tenant to receive additional advice and support, by issuing the Section 11 Notice to Shetland Islands Council upon a Notice of Proceedings being served.

8.0 Equality, Diversity & Human Rights Impact Assessment

The Association is committed to promoting positive measures that eliminate all forms of unlawful or unfair discrimination on the grounds of age, disability, gender reassignment, marriage & civil partnership, pregnancy

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& maternity, race, religion or belief, sex, sexual orientation. Our aim as landlord, service provider and employer is to recognise the needs of all individuals, and ensure these commitments are evident throughout every aspect of our business and our activities.

The Association assesses and reviews all new and revised policies and procedures, and an Impact Assessment is available.

9.0 GDPR

The Association will treat your personal data in line with our obligations under the current data protection regulations and our own Data Protection Policy. Information regarding how your data will be used and the basis for processing your data is provided in Hjaltland Housing Associations Privacy notices.

10.0 Monitoring and Review

Employees have a duty to co-operate in the operation of this policy by fulfilling the responsibilities placed upon them.

As stated, the operations of the company and this policy will be reviewed at regular intervals or in light of changing company circumstances, procedures and statutes. These changes will be brought to the attention of employees and others whose health and safety may be affected by such changes.

Planned Review Date: July 2031

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