



REGISTERED AS A SCOTTISH CHARITY

**Registered Scottish Charity: 031954**

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Author/ Responsible Officer	Head of Housing and Customer Service
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# Factoring Policy

## **FACTORING POLICY Inc. charging and debt recovery**

### **1. Introduction**

- 1.1.1 This policy outlines the how Hjalmland Housing Association will deliver factoring services.
- 1.2 Factoring can be defined as ‘the maintenance of common parts of a sub-divided residential building containing individual properties and the common surrounding land’.
- 1.3 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.
- 1.4 The Association is registered as a Property Factor, in line with the Act, providing an annual update and re-registration with the Scottish Government. The annual update includes a review of all declared property and land areas applicable for Factoring services, and will be submitted between the submission windows of 1<sup>st</sup> April to 30<sup>th</sup> June.
- 1.5 The Code of Conduct sets out the minimum standards of practice that the Association must follow as a property factor. 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 Hjalmland Housing Association discharges its authority as Factor in line with the provisions of the title deeds relating to properties or in accordance with the Tenements (Scotland) Act 2004/Title Conditions (Scotland) Act 2003, if applicable, and/or the factoring statements issued to all owners.
- 1.7 Hjalmland Housing Association will have regard to the following in carrying out its role as factor: -
  - The Law (i.e. relevant statutes and common law)
  - Deed of Conditions (and/or Factoring Agreement)
  - Decisions of the Land Tribunal for Scotland
  - Guidance issued by The Scottish Housing Regulator or other regulatory bodies

### **2. Principles**

- 2.1 The following principles govern the effective operation of this policy:
  - To provide a high quality factoring service, communicating and liaising closely with homeowners.
  - Full compliance with the Code of Conduct which sets out minimum standards of practice for registered property factors.
  - Openness in regards to resolving complaints from homeowners.

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- Ensure information on all aspects of the factoring service is widely available in easily understood formats
- Owners will be encouraged to take an active part in decisions about property management and will actively encourage owners' groups and meetings.
- The Association will have effective and efficient systems for the monitoring and apportioning costs and raising invoices as well as accounting clearly for monies held on behalf of owners.

## **3. Aim of the Factoring Service**

- 3.1 The Association is the heritable proprietor of a number of properties where other proprietors have acquired an interest. 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 the Association aim to recover the full costs involved.

## **4. Services to Owners**

- 4.1 The services provided to owners are described within the Written Statement of Service for the property and may include any or all of the following:
- Buildings insurance cover.
  - Day to day common repairs
  - Cyclical maintenance.
  - Major repairs to external common fabric of the building
  - Maintenance of common areas.
  - Management & Administration of the factored service
- 4.2 The Association will not carry out repairs to individual properties
- 4.3 The Association will monitor and review regularly all of our service contracts to ensure both quality and value for money is achieved.
- 4.4 Use of contractors and repair work will be carried out in line with the Association's Maintenance Policy.

## **5. Charges and Payments**

- 5.1 The Committee will be responsible for setting the level of service and management fees and these shall be subject to an annual review. The level of fees set will reflect the actual costs of providing the service from 1<sup>st</sup> April to 31<sup>st</sup> March, with each owner receiving a detailed financial breakdown by the following October.
- 5.2 The Association will carry out the following categories of repairs and apply charges as detailed
- Routine Common Repairs the cost of which are apportioned between owners
  - Cyclical Repairs which form part of an agreed planned programme and for which the costs shall be apportioned between owners

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- Private Repairs requested by an individual owner for which they are solely responsible for meeting the costs. The Association will carry these out where it has the scope to do so but will advise Owners of other alternatives where it is unable to provide the service.
- 5.3 In most cases the factoring charges will relate to services that are provided on an on-going basis such as grass cutting etc. These charges are set annually and Owners will receive notification of these charges in writing.
- 5.4 In the event that emergency or additional works are required during the year to maintain the property in a good state of repair or a safe condition the Association will instruct works up to a financial value of £80 per unit.
- 5.5 Owners will be invoiced for this work once the work has been completed. Any works that are considered to exceed this threshold shall not be undertaken unless it is an emergency (needs to be undertaken for reasons of health and safety).
- 5.6 Where the works exceed the £80 threshold the Association will write to all homeowners advising of the work required, the reason for the works and an estimate of the cost.
- 5.7 Works will only be undertaken where the majority of owners agree to the works being undertaken. All Owners, including those who did not agree to the works, will then be invoiced for their share once the work has been completed.
- 5.8 The Association will ensure that Owners are made aware that should agreement not be reached to do the works that it is possible that the work may still be required in the future and the costs could increase if the property deteriorates further.
- 5.9 We will only recommend work where we feel that it is required to maintain the property and the condition of the scheme.

### **6. Debt Management**

- 6.1 The Association will ensure that factored owners are aware of the Association's debt recovery policy, the need to pay charges for services on a monthly basis and the action that the Association will take following failure to make payments.
- 6.2 All factored owners will receive a copy of the Debt Recovery Policy. New factored owner will receive the Factored Owners information pack which will include a copy of this policy.
- 6.3 When a new Owner or Sharing Owner takes occupation of a property they will be required to put in place arrangements to make regular payments to cover the charges associated with the property. To assist them to do so a range of payment options will be made available;
- Direct debit payments that can be taken either weekly or monthly
  - Standing Order payments via their bank
  - Cash, cheque or card payments at the office.

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- 6.4 Debt shall be dealt with promptly, but sensitively, in a consistent manner to minimise the level of debt and to reduce stress to the owner.
- 6.5 Housing Management Staff will ensure that owner's accounts are monitored closely and on a monthly basis. Owners who falter on their payments will be contacted in writing emphasising the importance of making regular payments. Staff will attempt to ascertain the reason for the debt occurring and find ways of supporting the owner to make regular payments towards their outstanding debt.
- 6.6 Support will be given to ensure that owners are obtaining all the benefits they are entitled to. Additionally, advice about seeking the support of other agencies such as Shetland CAB and independent financial advisors will be provided.
- 6.7 The Owner will be advised, in writing, of the level of debt, what the debt relates to and the various payment options available to them.
- 6.8 The Association will require Owners and Sharing Owners to make arrangements to make regular payments to clear their debts.
- 6.9 Failure to clear the debt or agree a payment plan with the Association will result in further action being taken. This may include a range of options, depending on the circumstances of the Owner.
  - Where the owner is employed the Association will seek an arrestment of wages. The costs associated with taking this action will be recharged to the Owner.
  - The case may be passed to a Debt Collecting Firm who will seek direct payment from the Owner. The costs associated with taking this action will be recharged to the Owner.
  - In the case of Sharing Owners, this is a breach of the Exclusive Occupancy Agreement and can lead to the Association approaching the Owner's Mortgage Lender under the co-operation agreement to force the sale of the property in the event that the outstanding debts are not cleared. The costs associated with taking this action will be recharged to the Sharing Owner. Prior to this action being taken the Owner would be advised in writing and given a final chance to clear their debt.
  - The Association reserves the right to apply a Notice of Potential Liability for Costs (NOPL) against the property. Typically a NOPL will be applied where the level of debt is greater than £ 250 and where the Association has been unable to enter into a satisfactory arrangement with regard to settlement of the debt owed. The application of a NOPL against the property ensures that the debt is brought to the attention of potential purchasers and will become their responsibility if not cleared prior to any sale being concluded.
  - The Association reserves the right to apply an Inhibition Notice in respect of outstanding debt. Such a Notice can be applied where the Association has been awarded a court decree for payment and is served against the owner as opposed to against the property. The purpose of this Notice is to prevent the

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owner selling any property that he or she owns until the outstanding factoring debt is settled.

## **7. Complaints**

- 7.1 Any owner who is dissatisfied with any aspect of the factoring services provided by the Association will be referred to our Complaints Policy.
- 7.2 Details of how to make a complaint will also be included within our Written Statement of Service.
- 7.3 Owners will be advised that complaints not resolved can be referred to the Homeowners Housing Panel (HOHP), who can determine whether or not the Factor has failed in their statutory duties, or are in breach of the Code of Conduct.

## **8. Consultation**

- 8.1 The Association will consult with owners to seek their views of the service they receive. This will include undertaking a satisfaction survey.

## **9. Data Protection**

- 9.1 The Property Factors (Scotland) Act 2011 requires the Association to provide information to the Scottish Government on the properties to which it provides factoring services. This will result in certain information being published and available to the public.

## **10. Responsibility**

- 10.1 The Committee delegate authority for the implementation of this policy and meeting the requirements of registration to the Chief Executive.

## **11. Review**

- 11.1 This policy will be kept under review and will be reviewed every 3 years.

Next Review: 2022