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## FACTORING POLICY

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<b>Title:</b>	Factoring Policy
<b>Purpose of Policy:</b>	To provide a framework for Factoring Services
<b>Section:</b>	Housing Management and Maintenance
<b>Date:</b>	May 2023
<b>Review Date:</b>	May 2026
<b>Charter Standards:</b>	<b>The customer/landlord relationship</b>  1. Equalities  <b>Getting good value from rents and service charges</b>  13. Value for money 14 & 15. Rents and service charges

# **BLAIRTUMMOCK HOUSING ASSOCIATION**

## **FACTORING POLICY**

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# **1. INTRODUCTION**

## **1.1 Purpose of Policy**

This policy sets out the legislation and guidance that the Association has taken into account as part of the Factoring Service. The purpose of which is to maintain the fabric of the building and common areas to a high standard and promote a safe and secure environment.

## **1.2 Policy Aims and Objectives**

The aims and objectives of this policy are to:

- Ensure it complies with all relevant legislation and good practice.
- Ensure that factoring practice is carried out effectively and efficiently to minimise disruption and costs, while maximising the quality of the service we provide.
- Monitor the factoring service through effective performance management systems.
- Be clear and easy to understand.

## **1.3 Legislative & Regulatory Compliance**

The Association's Factoring service will conduct its business in a manner that complies with relevant legislation. This includes;

- The Title Conditions (Scotland) Act 2003
- The Tenements Scotland Act 2004 – The Tenement Management Scheme
- The Housing (Scotland) Act 2006, 2016, and 2001/2010
- The Property Factors (Scotland) Act 2011 – The Code of Conduct.
- The Property Factors (Code of Conduct) (Scotland) Order 2021

Blairtummock Housing Association also takes recognition of Scottish Housing Regulator's Housing Charter Standards 1, 13 & 14 which state:

### **The customer/landlord relationship**

#### Standard 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

### **Getting good value from rents and service charges**

#### Standard 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

#### Standards 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
- tenants get clear information on how rent and other money is spent, including any details of individual items of expenditure above thresholds agreed between landlords and tenants

## **2. FACTORING DEFINITION & KEY DOCUMENTS**

### **2.1 Factoring Definition**

2.1.1 The Property Factors (Scotland) Act 2011 defines a Property Factor as:

'a local authority or housing association which manages the common parts of land used to any extent for residential purposes and owned:

(l) by two or more other persons

or

(ii) by the local authority or housing association and one or more other person and a local authority or housing association which manages or maintains land which is available for use by:

(i) the owners of any two or more adjoining or neighbouring residential properties  
or

(ii) the local authority or housing association and the owners of any one or more such properties, but only where the owners of those properties are required by the terms of the title deeds relating to the properties to pay for the cost of the management or maintenance of that land.

### **2.1.2 The Factors Role**

The Factor is the agent appointed by owners to carry out a factoring role. This role includes:

- The provision of a Written Statement of Services;
- The enforcement of title deeds and other property management conditions;
- Maintenance and inspection of communal areas and property;
- Administration;
- Setting up accounts for new owners;
- Holding proprietor meetings;
- Accounts management;
- Raising and collection of charges from owners for common repairs and services.

## 2.2 Key Documents

### 2.2.1 Deed of Conditions

The Deeds of Conditions is a formal legal document (which may form part of the Title Deeds of a property) outlining the rights and responsibilities of the owner in relation to the common parts of the property. The deed defines the common parts, rights of access, provision for maintenance and share of repair costs to be met by each owner, voting rights, insurance, duties of the factor and provision for the resolution of disputes between owners. It applies to all owners of a property in succession of re-sales.

### 2.2.2 Title Deed

The Title Deeds define the location of an owner's property and tells them about their rights & responsibilities for their property and their shared responsibilities for the block. They may also say who owns the common parts and tells owners about their obligation to manage & maintain them.

Where Title Deeds are silent with regard to owner responsibilities, the Association will refer to the Tenements (Scotland) Act 2004 for guidance on the owner's rights and responsibilities on how common repairs may be carried out and recharged.

### 2.2.3 Written Statement of Service

A Written Statement of Service is issued to all owners by the Association. This sets out the terms and service delivery standards provided by the Association to each owner.

The Association will provide a Written Statement to:

- Any new owner within 4 weeks of BHA receiving formal notification and agreeing to provide the Factoring Service to them
- Any new owner within 4 weeks of being made aware of a change in ownership, where BHA already provides the factoring service
- Any owner at the earliest opportunity (not exceeding 3 months) if there is any substantial change to the terms of the Written Statement

The Written Statement will include:

- A statement on what authority we have to act as factors to the owners within the property;
- The core services the Association provides. This will include response times for both common, routine & emergency works;
- Details of non-core services provided;
- The management / administration fee charged at the time of issue and the review process for determining any change to this;
- What percentage of charges for common works and services are the responsibility of owners;
- Details of the common insurance policy;
- Confirmation that the Association has a debt recovery procedure which is available on request;
- Any arrangement for taking payments at termination of service;
- Any arrangement for the collection of payment from owners for specific agreed major works or cyclical works, confirming amounts, payment and repayment (at change of ownership or termination of the service);
- The invoice process, including when and how owners will receive their bills;
- The payment collection process, including timescales and payment methods;
- The complaints process, including how to make an application to the First-Tier Tribunal;
- Information on how owners can change or terminate factoring services.

## **3.0 AUTHORITY TO ACT**

### **3.1 Factor Appointment**

The Association is registered in the Property Factor Register PF000276. The Association will either be named as factor in title deeds or have been appointed.

Further information about management and maintenance responsibilities is detailed in the Deed of Conditions, and this will have been explained to the homeowner by the solicitor at purchase. Copies of these documents Title Deeds, should be requested from the solicitor, or, alternatively the Registers of Scotland. A fee may be payable.

### **3.2 Ending The Arrangement**

Homeowners can call a meeting at any point to discuss and vote on a change of factor in accordance with the Deed of Condition attached to the property. In order for a change to go through a majority decision would be required.

With the exception of buildings insurance, we reserve the right to withdraw services from an individual homeowner, or from a building, where payment is not received for services rendered. We will notify residents in advance of taking such action.

## **4.0. SERVICES PROVIDED**

The factoring service will include the following:

### **4.1 Common Repairs**

4.1.1 The Association will carry out all common repairs. Repairs covered under the heading 'common' will be detailed within the Deed of Conditions for each property.

4.1.2 An emergency repairs service is in operation out with office hours. Owners must be sure when calling out emergency contractors that the repair is of a common



nature and is an emergency, otherwise the owner will have to meet the full costs of the call out.

4.1.3 The maximum expenditure limit for routine common repairs is contained within Deeds of Conditions. Where a repair is likely to reach this limit, the Association will whenever possible, consult with owners beforehand. Repair costs in excess of this limit will be referred to owners for majority approval.

The Association may instruct works above the cap detailed in the Deed of Conditions without consultation if the works are required in an emergency or if it considers them justified on the grounds of health and safety compliance. In these circumstances, the Association shall recover the costs of that work in accordance with the terms prescribed in the Deed of Conditions.

## **4.2 Cyclical Maintenance**

4.2.1 The Association has developed a cyclical maintenance programme to avoid properties falling into disrepair. These are larger jobs that occur over a fixed period of time. Types of work covered by this category would include close painting, roof works and gutter cleaning.

4.2.2 Meetings will be held with owners to discuss proposals/expenditure on cyclical maintenance where expenditure exceeds limits detailed within Deeds of Conditions.

4.2.3 The costs of these cyclical works will be recharged to owners and must be repaid within a 12 month period.

## **4.3. Planned Maintenance / Major Repairs**

4.3.1 The Association, or any owner, may call a meeting of all of the proprietors in a block to discuss issues regarding planned maintenance and major repairs. A minimum period of notice will be provided in writing in accordance with timescales detailed in Deed of Conditions before any such meeting can convene. Owners may be represented by proxy.

Planned Maintenance may be work such as replacement windows, doors and other elements which would maintain consistent aesthetics with neighbouring properties. Where any such works are to be carried out to the properties owned by the Association, an option may be extended to owners who wish to be included in the contract. This will allow owners to benefit from having the works co-ordinated by the Association and from lower costs achieved through competitive tendering and economies of scale.

4.3.2 Under the provisions of the Tenement (Scotland) Act 2004 the local authority can become involved with issues common to a property, such as roof repairs, where there are two or more owners and the property is in decline due to the non-agreement of all interested parties to maintain the property. In addition under the provisions of the Housing (Scotland) Act 2006, the local authority may through its scheme of assistance be able to offer useful advice and information to owners whose properties are in a state of disrepair.

#### **4.4 Environmental Maintenance and Services**

Costs will be recharged to all properties liable to pay a share of the upkeep (e.g. grass cutting, de-littering and general maintenance of common areas). In some cases the Title Deeds refer to wider accountability for areas which owners may consider to be out with the curtilage of their property or common areas.

The cost of the electrical supply for common services (e.g. controlled entry and stair lighting) and common stair lighting repairs will be recharged to all properties liable to pay a share of the cost based on previous year(s) usage. The cost of other common services (e.g. close cleaning, backcourt maintenance,) will also be recharged to all properties liable to pay a share of the cost. Additional Repairs such as door entry doors, electronic keepers are only carried out if all owners involved agree and payment for repairs is made in advance.

#### **4.5. Buildings Insurance**

The Association will comply with the property Deed of Conditions to ensure that the buildings we 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. Appropriate level of cover will be arranged via a major insurance company. Due to economies of scale this should prove cost-effective to owners as we competitively identify, negotiate and procure the best possible insurance premium through the market place. The Association will co-ordinate any claims to be made via the Common Buildings Insurance Policy and inform the owners of the outcome. The policy will also include an element of Public Liability Cover.

The policy covers all of the properties we own or manage, with costs being allocated equally to each individual property.

## **4.6 Management and Administration**

A management fee will be charged for the provision of the factoring service for:

- (i) Staff time in inspecting and organising repairs, tendering, writing to owners, calling and attending meetings and maintaining adequate records
- (ii) Administering the common buildings insurance policy, making claims, etc.
- (iii) Printing, postage and delivery of letters and newsletters
- (iv) Issuing invoices, maintaining accounts, monitoring and recovery of arrears
- (v) Liaising with and providing relevant information to solicitors in sales and re-sales

## **4.7 Apportionment**

The method used to apportion costs amongst owners will be as detailed in the Deeds of Condition and is usually a fraction e.g. an eighth if a property has eight flats.

## **5.0 FINANCIAL PROCEDURES**

**5.1** The Association's Financial Year shall start in April and end in March.

**5.2** In the event that the Quarterly Charge, or the Excess Charge is not paid by the householder within fourteen days of the due date for payment, the Factor shall charge interest on the amount overdue at the rate of 4% per annum above the base rate of the Bank of Scotland at the date upon which the amount became due, until the date upon which the amount is paid in full. The Factor shall have the power to sue for and recover any such outstanding monies as a debt.

## **5.3 The Factor's Remuneration**

The Management and Administration Fee that the Association shall charge will be set at 10% per annum.

## 5.4 Payments

Invoices will be issued on a quarterly basis with payments being due 14 days after the invoice date. Payments can be made by a variety of methods through a collection partner (Allpay) this includes PayPoint and Post Office outlets. Payments can also be made via Direct Debit, by telephone using Debit card and online via [www.Allpay.net](http://www.Allpay.net). Apps to allow payment from your smartphone (android and I-phone) are also available from the allpay website.

## 5.5 Arrears Procedure

If payments are not made within 14 days of invoice being sent out the following procedure will be adopted:

1. First letter - reminder letter after 14 days have passed - FACT1
2. If account not settled within 14 days of reminder, second letter should be issued advising that account has to be settled within 7 days - FACT2
3. If no response to FACT 2 visit to be carried out advising owner that account must be settled immediately.
4. Final warning letter - advising owners that court action will be initiated if they do not contact Association with a repayment proposal - FACT3 - threatening legal action within 7 days. Information on independent debt advice will be provided.
5. FACT 3 - if no response then discuss with Housing Services Manager regarding further action, which may include a letter from Solicitor, dependant on balance outstanding.
6. Housing Management Sub-Committee - report case to next meeting and seek approval to proceed with legal action.
7. Court Action - instruct solicitor to start legal proceedings.
8. Management Committee - report result of court action to Management Committee and request permission to enforce Decree for payment

The Association will have no choice but to begin legal action against owners whom, despite the best efforts of staff, continue to be in arrears with their factoring charges. Examples of legal action the Association may consider include:

Payment Decree	The Sheriff awards a decree for full payment or payment by instalments.
Wage Arrestment	The Sheriff awards a wage arrestment in favour of the Association specifying a weekly sum.

Speculative Arrestment	If employment details are unknown the Sheriff can instruct recovery from the owner's bank account.
Rent Arrestment	The Sheriff can arrest rent payable if the owner is sub-letting.
Attachment	If the owner fails to adhere to the payment decree, an Attachment may be carried out. Sheriff Officers may then attend the premises of a debtor to value goods and then sell them to pay off debt.
Inhibition Order	The Sheriff grants an Order preventing the sale of the property without settling the outstanding factoring debts.
Sequestration	Where an owner has an outstanding debt of £3,000 or more, the Sheriff can declare the owner bankrupt.

## **6. NON- PARTICIPATING OWNERS**

6.1 Owners who refuse to participate in the Association's factoring service will be subject to the conditions detailed in their titles with regard to common repairs.

6.2 Payment of Missing Shares (Section 50 Housing (Scotland) Act 2006) may be applicable.

6.2.1 Where the majority of owners within a property in common ownership agree to undertake common repair/maintenance works, the Council may pay the missing shares of the minority who are unwilling or unable to participate.

6.2.2 Monies will be paid into a maintenance account to facilitate the works and the Council will subsequently pursue these owners for recovery of their full share of the costs on completion of the works plus an additional charge of 15% to cover all professional, administrative and legal expenses.

## **7.0 CHANGE OF OWNERSHIP**

7.1 Where a change of ownership takes place, the Association will liaise with the outgoing owner's solicitor to provide a final account within a reasonable timescale.

Solicitors are required to give a minimum of four weeks' notice of a forthcoming sale to allow the calculation of the outgoing owners common charges. Charges will be apportioned according to the date of entry.

7.2 Upon notification, the Association will issue a 'Welcome Pack' to the incoming owner. This will include:

- A Written Statement of Services (This will be issued within four weeks of the Association being notified of the sale).
- Block building insurance details
- Content insurance details
- The Associations summary complaints policy
- Standard charges
- How to Pay information

## **8. COMMUNICATION**

### **8.1 Blairtummock Housing Association Staff**

#### **8.1 Meetings**

The Association will consult with owners on all factoring issues and hold owners meetings to discuss issues that affect owners. We will also, on request from owners, arrange and hold meetings. All meetings will be convened in accordance with arrangements contained within property Deed of Conditions. Each owner will also receive an annual newsletter informing of our activities. Owners can contact the Association by calling into the office, by telephone, by email, in writing or via our web page. Owners are eligible to become shareholders in the Association in return for £1.

#### **8.2 Emergency Situations**

Should any emergency situations arise out with working hours which relate to a repair of a common nature, owners can contact the Association's out of hours contractor.

Should the repair turn out to be an individual repair, the owner responsible will be recharged the full cost of the work.

Where an emergency requires access to an owner's individual property, the Association will make every effort to contact the owner, failing which, if in the opinion of Association staff and/or the contractor immediate attention is required, the Association will force access. This action would only be taken in extreme situations.

### **8.3 Complaints**

Any owner who is dissatisfied with any aspect of the factoring service or with how they have been treated by a member of staff or contractor should make a complaint directly to the Association. The Association takes all complaints seriously and views each complaint as an opportunity to improve our service. The Association has a separate Complaints Policy which is available on request.

If, after following the Association's Complaints Policy, the owner remains dissatisfied, the Property Factors (Scotland) Act 2011 gives final recourse to:

#### **Housing and Property Chamber First-tier Tribunal for Scotland**

Glasgow Tribunals Centre  
20 York Street  
Glasgow  
G2 8GT

Telephone: 0141 302 5900

### **8.4 GDPR**

The organisation will treat personal data in line with our obligations under the current data protection regulations and our own GDPR Policy. Information regarding how data will be used and the basis for processing data is provided in Blairtummock HA's privacy notice.

### **8.5 Review**

The policy will be reviewed every three years, or sooner in response to any change in legislation.







