

# **Fyne Homes Ltd**

## **Common Factoring Policy**

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# **Common Factoring Policy**

## **1. Policy Statement**

Fyne Homes (hereafter referred to as the Association) recognise the need to safeguard their and other owners, investment in their homes through regular high quality repairs and maintenance. It is also important that any risks are covered by adequate insurance.

To ensure that this investment is protected the Association will act as common factor for properties in common ownership where the association is the majority owner and will consider offering factoring services in properties where the Association has a minority ownership or in new developments where we are named as such in the Deed of Conditions.

The Association's operation of the factoring services reflects the Property Factors (Scotland) Act 2011 and the Code of Conduct referred to in section 14 of the Act. The Association is a Registered Property Factor – Registration No PF000155

This Policy outlines the terms and conditions under which this service will be offered.

## **2. Terms and Conditions**

The Factoring Policy will provide the framework to provide a service covering:

- Property Insurance
- Common Repairs
- Cyclical Maintenance/Planned Maintenance Works
- Services
- Management
- Administration

The Association will offer a factoring service to the following clients:

- Owners living in tenemental properties where the Association owns property
- Owners living in a project where the Association has a major investment and satisfactory Deeds of Conditions are in place
- Shared owners in Shared Ownership or Shared Equity properties owned by the Association.

## **3. Implementation of the Policy**

The primary responsibility for the provision of our factoring service shall lie within the Technical Services Department. The responsibility for factoring services is allocated to the Management Committee.

#### **4. The Legal Framework**

The Association will ensure it conducts its business in a manner that complies with relevant legislation

The following legislation relates to and will be complied with and utilised to address any inconsistencies or gaps in title deeds;

Title Deeds

Property Factors (Scotland) Act 2011

Tenements (Scotland) Act 2004

Title Conditions (Scotland) Act 2003

#### **5. The Scottish Social Housing Charter**

The Scottish Social Housing Charter (The Charter) was approved by resolution of the Scottish Parliament on 14<sup>th</sup> March 2012 and came in to effect from 1<sup>st</sup> April 2012.

It contains a total of 16 outcomes and standards that social housing landlords should aim to achieve. The Association's staff will work to meet these outcomes and standards.

This policy is designed to comply with The Charter.

The Association will ensure that it complies with the Scottish Housing Regulator (SHR) Regulatory Framework for social housing and guidance for monitoring the Association's performance in achieving the outcomes and standards of The Charter.

#### **6. Written Statement of Services**

In accordance with the Code of Conduct for Property Factors the Association will provide each owner with a written statement setting out, in a simple and transparent way, the terms and service delivery standards of the arrangement in place between the Association and homeowner.

#### **7. Service Provision**

The main areas of work that the Association will undertake on behalf of owners are set out below

##### ***i) Buildings Insurance***

Factored properties will be included in the Association's Block Building Insurance Policy. The sum insured will reflect the value of the property, with each owner given the opportunity to confirm if a review is required.

However, should an owner occupier express a wish to opt out of the block policy and arrange their own buildings insurance for the property, we shall have no objection providing that the

terms of their policy meet those of the block policy. In order to ensure that adequate cover is maintained, the owner occupier must provide the Association with a current copy of their policy.

Should a claim be made which relates to the common parts of the block or development, the Association, as Factor, will be responsible for claims administration and for organising reinstatement works. Should a claim be made which relates to an individual owner's property, the Association will provide them with the relevant claim for and contact details for them to pursue the claim directly with the insurers.

For the avoidance of doubt, contents insurance is not included in the services offered.

### *ii) Common Repairs*

Repairs will be instructed to the common fabric of the building up to the maximum level set for the particular property and detailed in our Written Statement of Services. The relevant share, as detailed in the Deeds of Conditions, will be recharged to the owners through half yearly factoring accounts.

Repairs estimated to be in excess of the maximum amount the factor is authorised to instruct will be the subject of a report to the owners and permission to proceed sought in line with the terms laid out in the Deed of Conditions relating to the property.

In the event of emergency repair works being required the factor will act immediately to make safe and secure, the owners being advised as soon as possible.

The tendering procedure will be as the Association's Procurement Policy.

### *iii) Cyclical Maintenance/Planned Maintenance Works*

The Association will have in place a 30-Year Life Cycle programme set for the property in so far as it covers common repairs and maintenance. Owners will be given adequate notice and time to budget for the cost of the works.

The Life Cycle programme is designed to ensure the maximum life of the property, improving and maintaining the fabric of the building in the most effective manner while complying with all Deed of Condition and Planning restrictions.

### *iv) Services*

The Association will organise, manage and re-charge the cost of services, such as grass cutting, lift maintenance, etc.

The costs will be recovered through the half yearly factoring accounts.

### **v) Management**

All factored properties will receive the same property inspections as the Association's properties. The Association do not provide an estate management service for owners whether in the factoring service or not. This means it will not become involved in disagreements between neighbours, except where one of the parties involved is a Fyne Homes tenant and there is evidence of a breach of the Tenancy Agreement.

Meeting of owners will be held, as requested, in line with the Deed of Conditions. In compiling Deeds of Conditions for new properties the Association will endeavour to be as comprehensive as possible, detailing clearly the appointment of a property factor and also maintenance and insurance liabilities. In the event of any dispute arising from the factoring service the arbitration clauses of the Deed of Condition will be implemented.

The Association will obtain authority from owners to carry out works e.g. improvements which are out with the Deed of Conditions.

The selection of contractors for works to owner occupied properties will be as the Association's Procurement Policy, unless this Policy conflicts with the terms of the Deed of Conditions relating to works over a certain limit when, where possible, estimates will be sought. Should such an occasion arise the Association, where possible, will comply with the requirements of the Deed of Conditions.

Owners will be advised of the appointed list of Framework Contractors for repair and maintenance works.

We will ensure that adequate procedures are established and followed for the effective management of the factoring service, including reporting arrangements, performance targets, collection of monies due and arrears control.

### **vi) Administration**

Adequate records will be maintained in respect of all factored properties, these records will include:

- Ownership details and Occupiers details
- Liability for Common repairs and Service charges burdens  
(it should be noted that some burdens contained in the Deeds may have been abolished by the introduction of the Abolition of Feudal Tenure (Scotland) Act 2000 & the Title Conditions (Scotland) Act 2003, e.g. Feu Duty & manager burdens, but others may have been retained)
- Insurance details
- Claims
- Works Orders
- Charges
- Financial Details

## 8. Charging Policy

It is essential that the Association recovers the full cost of providing services from owners. Failure to do so would mean the costs of services which benefit owners being borne by tenants. It is, therefore, the Association's policy to charge owners the full cost of the service provided which will include;

- i) **Annual Management Fee** – this is the cost of administering the provision of services to owners and is separate from and additional to the cost of the actual works themselves. This fee, which is charged at a flat rate rather than a proportion, will be reviewed on an annual basis and increased based on the retail price index in September each year. Owners will be advised of any increase no later than 28<sup>th</sup> February with the increase taking effect from 1<sup>st</sup> April. In setting the charge the Association shall have regard to both the cost of providing the service and the benefits of ensuring that properties are effectively managed.

The Management fee will include the following work;

- Arranging maintenance and repair of the block common parts
- Liaising with contractors and tendering for the best service and price
- Working with an insurance Broker to achieve an arrangement for the owners within the block and handling claims in respect of common areas
- Processing and paying contractors invoices
- Calculating each owner's share of the cost of work carried out and/or planned
- Raising and issuing invoices to each owner
- Processing payments and negotiating with individuals on payment arrangements where appropriate
- Pursuing individuals in relation to outstanding accounts, until we reach a point where an owner fails to make a satisfactory agreement, maintain a payment agreement, or we have to appoint an external body (e.g. solicitor, sheriffs officer), when in line with our Arrears Control and Prevention Policy, as well as costs incurred by us in taking this action, an administration charge will be applied to the owner who has accrued the arrears.
- Dealing with all queries about the nature and standard of the work or invoices issued both in writing and by telephone
- Working together with solicitors to recover outstanding debts on behalf of the owners within the block
- Liaising with electricity companies, to make sure all common charges (where applicable) are accurate and fair, make payment of electricity invoices and recover the cost from the owners within the block
- Arranging servicing contracts (where applicable), making sure adequate cover is in place and at the best cost, making relevant payments and recovering the cost from the owners within the block

- ii) **Works Costs** – This is the direct cost to the Association of all works carried out. Owners will be charged their share of this cost on the basis of the provisions of their Deed of Conditions. Most Deeds provide for owners to pay a proportional share based

on the number of properties within the area covered by the common burdens. The works costs charged to owners will include the cost of professional fees involved in the preparation and management of contracts where this is carried out by external consultants.

- iii) Insurance Premium* - The insurance costs payable in respect of insurance for all common parts of the block/development and individual properties which are covered by the common insurance policy, this will be charged to the owners in equal portions annually in advance. The calculation of the premium will include apportionment of the total cost of the premium and an admin fee.
- iv) Invoicing* - The Association will issue accounts to owners twice yearly for the periods 1<sup>st</sup> April – 30<sup>th</sup> September & 1<sup>st</sup> October to 31<sup>st</sup> March. Half yearly accounts will include 50% of the annual management fee, apportioned costs in respect of works invoiced in the previous six months & servicing contract charges (where applicable). Annual buildings insurance premium (where applicable) will be charged in advance and included in March account. Where a major works contract has been carried out, the Association may issue accounts immediately on completion of the work and receipt of final invoice from the contractor. For major works of a high apportioned cost, or where an owner has an outstanding factoring debt, the Association may on occasions request payment or part payment in advance of works being carried out.
- v) Annual Statements* - An annual statement listing charges billed and payments received shall be issued to homeowners at the end of the financial year.

## **9. Debt Recovery Procedures**

The Association recognises that failure to recover charges that homeowners are legally obliged to meet, could result in income from our tenant's rents being used to subsidise homeowner services. Recovery of homeowner arrears therefore is a priority for the Association and our 'Arrears Control and Prevention' procedures detail the actions to be taken by staff in the prevention and recovery of homeowner arrears.

As well as pursuing the arrear staff will offer homeowners the contact details, or a referral, for agencies which provide money advice in the event of them experiencing difficulties or financial hardship. The Association offers a range of payment methods to try to ensure paying is as easy and convenient as possible for homeowners.

Where an arrear is present the Association Staff will do their utmost to engage with the homeowner and in some circumstances where full payment cannot be made, they may agree a mutually satisfactory payment arrangement. However should the homeowner be unwilling to make payment, or fail to maintain a satisfactory agreement, this may incur additional administration charges and could also result in the debt being passed to a collection agency for recovery.

In addition to the administration charges, where Legal action for debt recovery is necessary, any additional costs incurred by the Association will be added to the original sum owed by the homeowner.



Where a homeowner has an outstanding debt and it is considered that there is a high risk that the debt will not be cleared within a reasonable timeframe, a Notice of Potential Liability for Costs will be raised and registered with the Land Register of Scotland. The Housing Manager will make the final decision as to the perceived risk in each instance. Costs incurred in taking this action will be recharged to the owner.

## **10. Sale of Property**

Homeowners must notify the Association when they sell or dispose of a property factored by the Association, together with the date of change and the identity of the new owner and the new owner's solicitor.

The Association will inform the seller's solicitor of any outstanding costs so that at settlement, any balances can be cleared.

An administration charge (currently £25.00) will be made to any owner selling a property for liaising with solicitors, the apportionment of common charges and updating of information as to ownership. This charge will be reviewed on an annual basis.

Homeowners must inform the new owner that the property is factored and that the Association is the factor.

In order to provide for payment of contractors in advance of half yearly factoring accounts being issued, a deposit (currently £80.00) per house will be payable by each owner within 14 days of the Association's confirmation that it has been appointed as factor. When a property is sold the deposit or balance due will be refunded to the Solicitor acting for the seller. The amount of the deposit will be reviewed from time to time. Unless by agreement, no increase shall exceed 10% of the existing deposit. Owners will be advised of any increase no later than 28<sup>th</sup> February with the increase taking effect for 1<sup>st</sup> April the same year.

On taking ownership of the property the Association shall provide the owner with the following information:

- Written Statement of Services
- Arrangements for consultation and liaison, including summary of service provided
- Responsibility for factoring within the Association
- Information about insurance
- Information about charging and collection of sums due
- Summary of Deed of Conditions (where available)
- Information about our Factoring/Property Management policies

## **11. Dismissal of Factor**

The appointment of the Association as factor may be terminated on the instructions of a majority of the owners in the block, in accordance with the provisions of the title deeds or by the Association, in each case upon giving not less than three months' prior notice in writing.

## **12. Complaints**

The Association has a formal Complaints Policy and Procedure. Owners who are unhappy with any aspect of the Factoring Service have the right to complain to the Association using the formal complaint procedure.

➤ Homeowners Housing Panel

If an owner is still dissatisfied after the complaint has been fully investigated in line with our complaints procedure with the Association's decision or the way the complaint was dealt with they can access the Homeowner Housing Panel (HoHP). The Association will advise on how to do this when they send final notice of their decision.

## **13. Equality of Opportunities**

The Association will at all times carry out its functions with a strict regard to its Equality and Diversity Policy. This means that there will be no discrimination on the grounds of Race, Gender, Gender Reassignment, Disability, Sexual Orientation, Religion or Belief, Age, Marriage or Civil Partnerships, pregnancy and maternity. Further details are available in the Association's Equality and Diversity Policy.

## **14. Data Protection**

The Association recognises the confidential nature of the information given by its tenants, owners and other customers and respects that it should not be disclosed to anyone who does not have both a need and a right to know it. The Association complies with the provisions of the Data Protection Act 1998.

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

## **15. Communications**

Communication with homeowners will take place in a variety of forms, including:-

- Correspondence and telephone calls
- Email
- Information on Fyne Homes Ltd's Website
- Meeting with individuals, as required
- Consultation events
- Consultation and notification letters
- Surveys
- Liaison with residents groups
- Notification and consultation letters on work required

## **16. Training**

The Association will ensure members of staff and contractors used are familiar with the duties and requirements imposed by the Code of Conduct.

## **17. Monitoring**

The Association will establish a clear monitoring system to ensure the effective working of this policy.

It will comply with the Scottish Government guidance on registration as a Factor and maintenance of the properties and land portfolios.

The Association will also ensure that it complies with the Scottish Housing Regulator (SHR) Regulatory Framework for social guidance for monitoring the Association's performance in achieving the outcomes and standards in the Charter.

## **18. References**

A Guide to the Abolition of Feudal Tenure (Scotland) Act 2000 & The Title Conditions (Scotland) Act 2003 (SFHA)  
Title Conditions (Scotland) Act 2003  
The Tenements (Scotland) Bill 2004  
Report on Title Conditions – Prepared by T.C. Young, Nov. 2004  
The Property Factors (Scotland) Act 2011  
Code of Conduct for Property Factors  
Data Protection Act 1998  
The Homeowners Housing Panel (HoHP)  
Scottish Social Housing Charter  
Written Statement of Factoring Services – Fyne Homes Ltd

## **19. Other Related Policies**

Repairs & Maintenance Policy  
Procurement Policy  
Financial Management Policy  
Financial Regulations Policy  
Arrears Control and Prevention Policy  
Policy for Writing Off Bad Debts  
Right to Purchase Policy  
Complaints Policy  
Equality & Diversity Policy