

FACTORING POLICY

Classification: Management

Status: Approved

Policy Lead:	Director of Property Assests
Date Approved:	September 2020
Last Review Date:	June 2021
Review Due Date:	June 2024
Review Period:	3 years unless required earlier due to changes in the law, regulation, best practice or requirement of the Association

REFERENCE PAGE

Document Title:	Factoring Policy
Aim:	To provide key information to factoring customers
Objective:	3 The Eildon Group will ensure the delivery of high quality, responsive and affordable housing and support services
Scope of Policy:	Customers
Nominated Officer:	Private Residential Tenancy Officer
Approval Source:	Executive Team
Legal & Regulatory References:	Property Factors (Scotland) Act 2011
Procedural References:	The Factoring Procedure Register
Consultation Completed:	Yes - Customers
Risk Implications:	1- Existing policy, minimal change
Equalities Assessment:	All Eildon policies and key documents are developed with the clear objective of ensuring that they do not discriminate against any person and have negative impacts for equality groups. We will always welcome comments on the impact of a policy on particular groups of people in respect of, but not limited to, age, disability, gender reassignment, race, religion, sex or sexual orientation, being pregnant or on maternity leave and children's rights and wellbeing.
Accessibility:	Accessible electronically/online and in print. All documents can be translated and made available in audio, braille and large print versions upon request.

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INTRODUCTION

For the purposes of this policy the document refers to 'outright owners' and 'sharing owners' as 'owners' unless there is a need to differentiate between them.

Eildon Housing Association delivers a factoring service to properties that were bought through the Shared Ownership, Shared Equity Scheme, or Stock Transfers where the Right-To-Buy option has been exercised and any other Owners. As factor, Eildon Housing Association (EHA) is responsible for general management and administration of the common property.

The Association may offer a property factoring service to owners whose properties fall within its area of management which covers the Scottish Borders. The Association recognises the benefits of providing a property factoring service, which will encourage good relations with local owners and ensure that all properties and common areas within the development 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.

The Association's provision of a property 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.

This policy has been produced in compliance with the Property Factors (Scotland Act 2011) Code of Conduct for Property Factors, Overarching Standards of Practice, SFHA Factoring Guidance and Scottish Housing Regulator Charter Outcomes 13.

AIMS AND OBJECTIVES

The factoring policy aims to: -

- i. Ensure owners are fully aware of their responsibilities regarding factoring and
- ii. Comply with Title Deed conditions
- iii. Demonstrate open, fair and accountable charges for the services provided
- iv. Ensure there are clear and effective procedures in place to recover factoring charges in a fair and consistent manner
- v. Establish and sustain good communication links with owners
- vi. Maintain effective recording and monitoring systems

LEGAL FRAMEWORK

Every owner has a Title Deed or Deed of Conditions for their property as drawn up at the time of sale. The Title Deeds or Deed of Conditions express the rights and obligations of each party. The Deed defines the common parts, rights of access, provision for maintenance and share of repair, maintenance or improvement costs to be met by each owner.

This policy also takes account of the following legislation

- i. The Abolition of Feudal Tenure (etc.) (Scotland) Act 2000
- ii. Housing (Scotland) Act 2001
- iii. Title Conditions (Scotland) Act 2003
- iv. The Tenements (Scotland) Act 2004
- v. Housing (Scotland) Act 2006
- vi. Property Factors (Scotland) Act 2011
- vii. Compliance with Anti-Money Laundering Legislation and Data Protection Legislation

DEFINITIONS

The following definitions are used throughout this policy: -

- i. **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.
- ii. **Factor**
The agent appointed, by owners, to carry out a factoring role, i.e. Eildon Housing Association Limited.
- iii. **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, e.g. gardens, bin stores etc.
- iv. **Flat**
A dwelling-house in a tenement
- v. **Deeds of Conditions**
This is a legal document that imposes legally enforceable conditions 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.

vi. Owners Obligation

Shared Ownership, Shared Equity Scheme, or Stock Transfers where the Right-To-Buy option has been exercised and any other Owners.

vii. Major Repair

A repair of such a size or complexity where the anticipated cost per resident amounts to or exceeds the sum set out in the Deed of Conditions requiring pre-consent.

THE FACTORING SERVICE

The factoring service will aim to include the following: -

- i. Instructing common reactive maintenance and repairs
- ii. Planning for, arranging and overseeing cyclical maintenance and major repairs
- iii. Co-ordinating environmental maintenance and services
- iv. Ensuring comprehensive buildings insurance for the full rebuilding value
- v. Providing management and administration services
- vi. Select contractors to carry out appropriate works. Contractors will be procured in full adherence to the Public Contract Regulations Scotland
- vii. Provision of regular information and consultation
- viii. Apportioning costs and liaising with solicitors regarding sales and re-sales

Common Reactive Maintenance and Repairs

The Association will arrange common repairs to items such as the roof, the common stair, communal grounds and the tenemental structure which are identified by owners and reported to the Association or identified by the Association during inspections.

Contractors will be selected in accordance with the Association's procurement policy and procedures. Contractors' performance is regularly monitored to ensure that service and quality of works are of an appropriate standard and represent value for money.

Repairs to common areas will be classified as emergency, urgent or routine with targets timescales set for the satisfactory completion of the work.

Cyclical Repairs and Planned Maintenance

Cyclical repairs are carried out by the Association to prevent a property from falling into a state of disrepair, e.g. painting of external and other common areas, gutter-cleaning, etc. Planned maintenance may involve, e.g. replacement windows, doors, etc. and the Association will consult with owners prior to carrying out any work of a major nature.

Environmental Maintenance and Services

Costs will be recharged on a pro-rata basis to all properties liable to pay a share of the upkeep, e.g. grounds maintenance of common areas. The cost of the electrical supply for common services, e.g. stair-lighting will be recovered at cost on a pro-rata basis. This will also apply to other common services such as, stair cleaning, controlled door entry systems, CCTV system etc.

Buildings Insurance

The Association will submit insurance claims on behalf of owners covered by the global insurance policy but thereafter it is the responsibility of the owner to contact the insurer to progress such a claim. Any decisions on whether a claim is settled or not is the responsibility of the insurer and not the Association.

The Association will arrange for public liability insurance in respect of Common Parts of the Development and all owners on the Development will be liable to meet the appropriate share of the premium for same.

Laidlaw Court, Galashiels

The Association provides a common insurance cover insuring the common areas within the block and common areas of the Development for their full reinstatement value at very competitive rates. The rates are subject to regular competitive tendering and are reviewed annually. A full copy of your Summary of Cover will be issued on an annual basis following the review and a copy of the current Summary of Cover is available on request. The Association reserves the right to charge for additional copies of the Summary of Cover. This Association does not provide building and contents insurance for individual properties within the development, which is the responsibility of individual owners.

Bridgegate Court, Peebles and Rennie Court, Kelso

The Association provides a common insurance cover insuring the common areas within the block and common areas of the Development for their full reinstatement value at very competitive rates which all owners are encouraged to join. The Association may, upon receipt of a written request from owners within the Development, effect and keep in force the buildings insurance cover for that owner's property and their relevant share of the Common Parts of the Development in which that owner has an interest. Should any owner or their lenders require any cover to be

increased, they must advise the Association in writing and a revised premium will be charged to the owner.

The premium applicable to your property will be confirmed to you by the Association should you request for the Association to provide insurance cover for your property. The Association will provide details of the insurer, the total sum insured, the premium paid, any excesses which apply and a summary of the policy information to any owner who opts to be covered by the Association's global insurance policy. Any changes to the Association's insurance cover/premium etc. will be communicated to you in writing on an annual basis.

Where owners wish to take out their own building's insurance for their property, they will be required to provide evidence that insurance is in place and covers a share of the common parts of the Development and continues to be in place on an annual basis. This is the responsibility of each owner and should this evidence not be provided, the Association reserves the right to insure the property on the owner's behalf and the whole annual fee will be applied.

Management and Administration

An administration fee will be charged for the provision of the factoring service, e.g.

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

FACTORING CHARGES

The Association will assess the costs of the factoring service annually to ensure that the charges cover the expenditure incurred and identified future expenditure. Owners will be consulted on the proposed annual review and will receive at least 4 weeks' notice of any increase to be applied from 1 April each year.

All charges will be in advance with the exception of any reactive repairs that will be chargeable in arrears. Repair costs will be apportioned according to the share shown in the Deed of Conditions or, where necessary, in terms of the Title Conditions (Scotland) Act 2004. Copies of relevant contractors' accounts will be made available to owners upon request.

Invoices will be issued biannually and will comprise:

- a) the Association's Administration fee
- b) service charges e.g. stair cleaning, common ground maintenance
- c) buildings insurance premiums
- d) actual cost of repairs and maintenance carried out in line with contractors' invoices received since the previous invoice
- e) cyclical maintenance in line with contractors' invoices received since the previous invoice
- f) any other agreed outlays incurred by the Association on behalf of owners.

Prompt payment will be expected, and defaults will be dealt with by our solicitors, acting on our instructions.

ARREARS CONTROL AND RECOVERY

The Association will adopt a reasonable approach to ensure that arrears are minimised, and the outstanding debts are recovered.

Owners will be considered as being in arrears if they do not pay their account in full as per their period in the Term and Conditions of the invoice being sent out, unless they have an agreed payment arrangement to which they are adhering.

The Association will pursue owners in regard to factoring arrears and may also seek to offer assistance and negotiate mutually acceptable payment arrangements, where appropriate. However, where co-operation is not forthcoming, court action will be raised to recover debts, with the costs incurred by the Association being added to the original sum.

Other recovery methods may include raising action through the small claims court, summary cause or normal court proceedings. Should a decree be awarded by the Court against an owner, this may result in lodging of an arrestment of the owner's wages or bank account. In addition, a Notice of Potential Liability may be registered against the property which may affect any future sale.

INFORMATION AND CONSULTATION

Prospective new owners and sharing owners will receive a welcome letter, within 4-weeks. Enclosing copies of the Written Statement, Factoring Policy, Customer Privacy Notice and Direct Debit Mandate explaining the Factoring Service and details of the Association's block buildings insurance and offering to meet to discuss the factoring service if required. The privacy notice sets out Eildon's use of your personal information.

On a regular basis, information about the Association will be provided in a range of formats.

Owners may also have the opportunity for consultation during open meetings.

Where a property factored by the Association is to be sold, owners must advise the Association of the date of transfer and the name of the new owners. The seller must provide a Home Report. In addition to a survey, this includes a Property Questionnaire with questions about maintenance obligations in common property and about charges which are paid to a factor. The factor's name and address must be supplied. If solicitors handling the transaction require copies of Building Warrants, guarantees, or other documents, an administrative charge may be made.

RECORD-KEEPING

The Association will maintain comprehensive records of all relevant information, including ownership details, liability for common repairs, details of insurance cover, apportionment of charges attributable to the property and financial details relating to floats, balances, etc. details of solicitors and lenders will also be held where known.

EMERGENCY SITUATIONS

Owners will be given contact details of the Association's emergency repairs service in case an emergency repair is required to common parts out with normal office hours. Where an emergency repair to common parts is necessary due to an owner's misuse, negligent act or omission to act, the Association will recharge the owner concerned.

Where an emergency common repair 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 the Association, access is needed immediately, the Association will arrange for a forced entry. This action would only be taken in extreme situations.

COMPLAINTS

It is important to the Association that owners are satisfied with the factoring service that the Association provide. Communication and complaints will be dealt with in accordance with our Complaints Policy

Normally, if a complaint to the Association is not resolved at Stage 2 Investigation, the complaint can be considered by the Scottish Public Services Ombudsman. However, this does not apply to complaints regarding factoring. Housing and Property Chamber, First-tier Tribunal for Scotland will try to resolve complaints and disputes between homeowners and property factors and can be contacted at the following address:

Housing and Property Chamber

First-tier Tribunal for Scotland
Glasgow Tribunals Centre
20 York Street
Glasgow
G2 8GT

Telephone: 0141 302 5900

Fax: 0141 302 5901

POLICY REVIEW

This Policy will be reviewed three years from the date of approval, or earlier should the need arise to reflect changing circumstances or changes in legislation or good practice standards.