



## Cloch Housing Association

<b>Policy Name</b>	Factoring Policy
<b>Policy Category</b>	PS
<b>Policy Number</b>	073
<b>Date Adopted</b>	30/09/2004
<b>Last Review</b>	01/03/2018
<b>This Review</b>	25/05/2021
<b>Next Review</b>	May 2024
<b>Equalities Impact Assessment Required</b>	No
<b>Link to other policies</b>	Repairs
<b>Consultation</b>	Board/Owners/Staff
<b>Need for Procedure</b>	Yes

## INTRODUCTION AND AIMS

- 1.1 This policy has been devised to show how Cloch Housing Association (CHA) delivers our factoring services and how we will work in partnership with owners, sharing owners and other agencies.
- 1.2 CHA aims to provide a factoring service to common areas and ground in all of its mixed tenure properties/estates where it has ownership, and promote the benefits of good property management and factoring as outlined in guidance issued in 2015 by the Scottish Federation of Housing Associations (SFHA). CHA is registered with the Scottish Government in the Register of Property Factors (Reg No. PF000171).
- 1.3 A Management Fee (or Admin Fee for landscaping/insurance only customers) will be charged to cover the full costs of providing the management service. This will be reviewed annually with any increases due to take effect in April of each year. Other costs will be invoiced based on the actual costs relating to a property in proportion to the share for maintenance. The Association will endeavour to keep the cost of providing factoring services to a minimum whilst still meeting the aims of the property management service.
- 1.4 The Association aims to operate within either the terms of the deeds of conditions or within the mandate of specific contractual agreement where the deed of conditions is inadequate. When new deeds of conditions are drawn up, they shall give the Association sufficient control over the management of the property to ensure the effective management and maintenance of the building.
- 1.5 The Association will endeavour to consult and involve owners in the property management service in decisions, which affect them. Owners will be provided with accurate and relevant information to allow them to plan ahead and to make suitable arrangements to cover their financial liabilities.
- 1.6 The Association will carry out its property management functions with reference to its policies in relation to: -
  - Planned, cyclical and reactive maintenance.
  - Estate management.
  - Financial Regulations.
  - Reactive Repairs Policy.

- 1.7 The policy outlines the functions and roles of Cloch Housing Association as a Registered Property Factor as required by Law to ensure compliance with the Code of Conduct (revised 2021) in terms of Section 14(5) of the Property Factors (Scotland) Act 2011.
- 1.8 Cloch Housing Association has registered with the Scottish Government as a property factor, and this registration is renewed every three years.

## **2. SCOPE OF POLICY**

### **2.1 Factoring services cover the following activities:**

- Advice and information.
- Provision of written statements.
- Accounts management.
- Arrears management.
- Breach of deed of conditions or other title deeds.
- Estate management.
- Buildings insurance.
- Repairs and maintenance, including services.
- Resident consultation and owners' meetings.

## **3. DEFINITIONS**

- 3.1 Factoring is a property management service offered to owners to co-ordinate and carry out work on their behalf. Factoring services are mainly pertaining to common areas and include reactive, cyclical and major repairs, improvements and maintenance to common areas and building insurance.
- 3.2 Factoring services and responsibilities relate to areas of common land or space as well as to common parts of specific properties.
- 3.3 The factor is the agent appointed by owners to carry out a factoring role. This role is likely to include:
  - The provision of a written statement of service.
  - The enforcement of title deeds and other property management conditions.
  - Maintenance of communal areas and property.
  - Raising and collection of charges from owners for common repairs and services.

- 3.4 The Deeds of Conditions where they exist form part of the Title Deeds and are a legally enforceable set of rights and obligations. In tenements, the common law of the tenement applies in the absence of contractual provisions (such as Deeds of Conditions) to the contrary.
- 3.5 It is the Title Deeds which are the foundation of the factoring service although the Association will, where appropriate, follow the relevant sections of the following pieces of legislation:
- Abolition of Feudal Tenure Etc. (Scotland) Act 2000.
  - Title Conditions (Scotland) Act 2003.
  - Tenement (Scotland) Act 2004.
  - Housing (Scotland) Act 2006.
  - The Property Factors (Scotland) Act 2011.
  - Housing (Scotland) Act 2014.
  - Payment of Missing Shares (Section 50 Housing (Scotland) Act 2006) (Inverclyde Council).
- 3.6 The **Property Factors (Scotland) Act 2011** introduced the compulsory register of property factors and established the requirement for a new code of conduct that sets out minimum standards of practice in relation to homeowners. This Act introduced the First-Tier Tribunal which homeowners may contact if they feel that their factor has failed to comply with the Code of Conduct or otherwise failed to carry out their duties. The Panel was amended in 2016 to the First-tier Tribunal for Scotland (Housing and Property Chamber).
- 3.7 The **Tenements (Scotland) Act 2004** provides a structure for the maintenance and management of tenements if this is not provided for in the owner's title deeds.
- 3.8 The **Title Conditions (Scotland) Act 2003** provides a structure for maintenance and management of houses in estates impacted by the abolition of the feudal system.

## 4. OBJECTIVES

- 4.1 In delivering our factoring service CHA will aim to:
- Ensure that owners and the Association fulfil their respective responsibilities as set out in the Code of Conduct for Property Factors, Written Statement of Service, Deeds of Conditions, legislation and other relevant agreements.
  - Provide a quality factoring service, communicating and liaising closely with owners.
  - Provide a range of opportunities for owners to be involved in how the service is delivered.

- Ensure effective co-ordination between all involved in the delivery of the factoring service.
- Provide clear and comprehensive factoring and property management advice and information to owners.
- Review annually all standard charges, including management fees and administration fees and develop and use effective systems for the monitoring and apportioning of costs and the raising of invoices.
- Ensure that all relevant costs are identified, accounted for and recovered and where we encounter debt recovery issues we will use all available legal remedies open to the Association as factor.
- Establish and implement efficient repair and maintenance services including open and accountable procurement and tendering procedures, in accordance with the Procurement (Scotland) Regulations 2016, the relevant Deeds of Conditions and in consultation with owners.

## **5. RESPONSIBILITIES FOR FACTORING**

- 5.1 Where there is common property the arrangements which are in place for management and maintenance must be clear. These arrangements are determined by title deeds.
- 5.2 The authority for Cloch to act as factor is either found in the title deeds, via the Tenements Act or through Custom and Practice.
- 5.3 Where we have the responsibility to act as factor for landscape maintenance works it is important to identify which properties are included within each estate, as costs can only be charged to a homeowner for work done which is in the designated estate for that homeowner's property.
- 5.4 The specifics of what can be charged e.g. administration, insurance etc., may also vary between different areas and house types. Charging structures will be determined according to what is set out in the relevant title deeds.
- 5.5 Where the title deeds are silent for properties in blocks of flats, the Tenement Management Scheme, which was introduced by the Tenements (Scotland) Act 2004, should inform decision making on what maintenance should be carried out and what costs should be shared.
- 5.6 Where a property is owned by a private landlord, responsibility for payment is always with the owner of the property.

5.7 The Association is involved with the following categories of property service, which may be treated differently according to this policy.

**Factored Property Services** - This is where the Association has majority ownership in a tenemental property or has been appointed as the factor by the majority of owners.

**Common Estate Repair Service** - The Association manages the landscaping and repair services for main door properties where there is common land or where the Association retains ownership of land for which other owners have a repairing obligation.

**Shared Ownership Services** - The Association has sold flats under a shared ownership arrangement. When a sharing owner purchases their property outright, their property would then fall into the category of factored property.

5.8 Staff Responsibilities

5.8.1 The Housing Services Section will be responsible for: -

- Estate Management Inspections.
- Maintaining stair cleaning rotas or inspecting contract cleaning.
- Dealing with complaints against other residents in line with policies and procedures for estate management. The Association have more power to act on complaints against tenants, and can refer complaints against owners to Inverclyde Council's ASIST team and Environmental Services.
- Acquisition of owners homes should they become available and fit within Cloch's strategy.

5.8.2 The Finance Section will be responsible for: -

- Accounting for repairs invoices, common charges, and maintaining financial records on expenditure.
- Negotiating the common insurance policy premium and invoicing owners who participate in the policy.
- Issuing of invoices and processing payments maintaining a financial record for each owner.
- Making repairs invoices available for inspection and dealing with enquiries in relation to owners' financial queries.
- Debt recovery action & write off of bad debts.
- Monitoring management costs to input into calculation of the management fee.

5.8.3 The Property Services Section will be responsible for: -

- Providing information to owners on the factoring service including an owners' handbook, service standards, estimated common charges and a summary of the deeds of conditions.
- Signing up owners to the factoring service at the handover of a new development which involves owners.

- Drawing up new deeds of conditions for new developments in conjunction with the Association's Solicitor.
- Ordering, inspection and approval of payment for common repairs and charges in line with the Reactive and Planned Maintenance Policies and Procurement legislation.
- Maintenance of property records.
- Preparation and submission of insurance claims.
- Preparation of factors accounts and dealing with enquiries relating to the content of invoices.
- Arranging a Common Property Condition Survey at least every 5 years to allow investment decisions and planning.

## **6.0 FACTORING SERVICE PROVIDED**

### **6.1 Factored Properties**

#### **6.1.1 Maintenance of Common Parts**

This involves ordering day to day repairs to common parts, making insurance claims, carrying out regular planned and cyclical maintenance including environmental maintenance and maintaining the stair lighting system. The Association aims to carry out a full inspection of the common parts on a quarterly basis as part of its estate management duties.

The Association will use maintenance contractors to carry out repairs who will be appointed following a tender process based on a balance of quality and price. The general performance and value for money of all contractors will be monitored in the same way as for repairs to tenanted property and in line with the Reactive and Planned Maintenance Policies. Details of our appointed contractor will be available on our website.

If anticipated costs of any work is likely to exceed £1000 in total (unless deeds state to the contrary) (the specified limit may change from time to time as agreed following consultation) the works may only be instructed after a majority of owners have agreed except where they are necessary on the grounds of Health and Safety or to avoid deterioration in the building. If any single item of work is likely to exceed £100 per household, the Association will try to notify owners in advance as a matter of courtesy, except where work is necessary on grounds of Health and Safety or to avoid deterioration in the building. On occasion, we may ask for payment in advance or seek written approval for a specific maintenance project or component renewal or replacement.

#### **6.1.2 Buildings Insurance**

The Association will keep a block insurance policy in force for all Association owned property. Property owners in a tenement flat (or property where there are common maintenance obligations and is therefore factored) are required to

have a contract of insurance for the full reinstatement value of the property and any parts of the building attached to the property. Landscaping only customers will also be offered this insurance. Household contents insurance is not provided by CHA.

Owners in the building will have the option of participating in the scheme or demonstrating on a yearly basis that they have adequate insurance cover, which takes account of the 9 risks referred to in the policy as provided to all owners by finance. Insurance costs for participating owners will be invoiced separately in advance, annually.

#### 6.1.3 Payment of Common Charges

The Association will ensure payment of the landlord's electricity supply accounts and stair lighting and this will be recovered based on each owners' apportionment. We will obtain best value from the market when contracts expire with utility companies.

#### 6.1.4 Estate Management

General property inspections to ensure residents comply with tenancy agreements and deeds of conditions will be carried out on a quarterly basis as a minimum. The Association will deal with complaints from and against owners in line with policies and procedures for estate management.

#### 6.1.5 Liaison with Owners

The Association will liaise with owners in respect of repairs above the specified limits and other matters of general and specific interest in relation to the property management service. The Association will use a cost-effective method of communication, which may be by surveys, public meetings or calling owners meetings for individual closes. The Association may attend individual close meetings called by owners, on request.

#### 6.1.6 Charging

The Association will endeavour to issue factoring accounts to factored customers and sharing owners by the last working day of June & December each year for periods October to March and April to September respectively.

The management fee will be reviewed annually in line with the actual costs of administration of the property management service.

#### 6.1.7 Complaints

Customers may make a complaint about the factoring service under the Complaints Handling Procedure for a range of matters including if they feel there has been:



- A failure to comply with the Association's policy or procedures.
- A failure to carry out duties in a satisfactory manner.

Where an owner is dissatisfied with the outcome of their complaint, they will have recourse to the:

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

Website address – [www.housingandpropertychamber.scot](http://www.housingandpropertychamber.scot)

## **6.2 Landscaping & Estate Maintenance Service**

### **6.2.1 Landscaping & Common Areas**

The Association will maintain amenity landscaping and common areas in line with the deed of conditions for each historical feuing area, with the level of service subject to review in consultation with owners. Where arrears are excessive, the Association may, following consultation, refuse service or reduce the level of service to a minimum level to comply with safety requirements.

The costs are recharged to all owners in the area on the basis of the shares for maintenance laid down in the deed of conditions or as specified in the disposition where relevant. One off costs in relation to amenity land or common areas will be charged on the same basis. Where one off costs exceed £1000 (or other specified limit which may from time to time be agreed), the owners in the relevant area will be consulted in advance regarding the works except where overriding issues of health and safety exist.

## **6.3 Sharing Owners**

Sharing owners in tenement accommodation subject to the factoring service will be provided with the same services as for a factored owner within the property. The sharing owners will pay the costs of buildings insurance, environmental maintenance and landlord's electricity supply as a service element within their occupancy charge. The occupancy charge also covers the cost of managing the property, so no management fee is charged. They will be invoiced separately for the common repairs costs in the same charging cycle

as for the factored property. The relationship with the sharing owner is governed by the Occupancy Agreement.

## **7.0 GENERAL CONDITIONS**

- 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 4 weeks' notice of a forthcoming sale to allow the calculation of the outgoing owner's common charges. Charges will be apportioned according to the date of entry.
- 7.2 The Association will allow 28 days for payment of invoices after which debt recovery procedures will apply. The Association will allow owners, who make a specific arrangement, to pay invoices over an agreed period. The period will be set according to the circumstances of the case including the amount of the debt and any future liability.
- 7.3 No debts will be written off without Sub-Committee or Board's approval unless below the limits specified in the Financial Regulations. Members of the Leadership Team have the authority to write off debts under £50. We will not re-charge arrears to other owners, despite powers to do so. Instead we will invoke our rigorous debt recovery procedures.

## **8.0 CONSULTATION WITH OWNERS**

- 8.1 The Association will inform and consult owners regarding any changes in the service provided, the level of the management fee, the cyclical & planned maintenance programme and any significant issues relating to the maintenance or management of the property.
- 8.2 Where disagreement exists over proposed work, each owner will have a vote, in line with the voting rights in the deed of conditions or factoring agreement as relevant.

## **9. FACTORING CODE OF CONDUCT**

- 9.1 As a registered property factor, we will comply fully with all of the relevant standards set out in the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors (from here on referred to as the 'Code of Conduct').

- 9.2 If our property title deeds conflict with the Code of Conduct, then the title deeds will prevail, unless the title deeds have been replaced or over-ridden by provisions contained in or action taken under the Title Conditions (Scotland) Act 2003, the Tenements (Scotland) Act 2004 or other legislation; or by agreement in writing between the homeowners and the property factor; or by order made by a court or by the Lands Tribunal for Scotland.
- 9.3 If the Code of Conduct contradicts any term or condition set out in any contractual agreement between the property factor and homeowner, the latter shall take precedence.

## **10. WRITTEN STATEMENT OF SERVICES**

- 10.1 As a requirement of the Property Factors (Scotland) Act 2011, CHA will provide each owner with a Written Statement. This will set out the terms and service delivery standards of the arrangement in place between us. This Statement will include our Property Registration Number.
- 10.2 CHA will provide a Written Statement to:
- Any new owner within 4 weeks of CHA 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 CHA already provides the factoring service.
  - Any owner at the earliest opportunity (not exceeding 1 year) if there is any substantial change to the terms of the Written Statement.
- 10.3 In preparing the Written Statement for each property, CHA will take account of any conditions within the Title Deeds and any other formal document with legal effect or any relevant legislation included within the Title Conditions (Scotland) Act 2003 & the Tenements (Scotland) Act 2004.
- 10.4 The Written Statement will include:

### **A. Authority to Act**

- A statement on what authority we have to act as factors to the owners within the property.
- Details where a property factor has purchased the assets of another property factor including outstanding liabilities or other implications.
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- Where applicable, a statement of any level of delegated authority on financial thresholds for instructing works and the specific situations where in which the property factor may decide to act without further consultation with the homeowners.

## **B. Services Provided**

- The core services CHA provides. This will include CHA response times for both common, routine & emergency works.
- The types of services and works which may be required in the overall maintenance of the land in addition to the core services, and which may incur additional fees and charges.

## **C. Financial and Charging Arrangements**

- The management fee charged and the review process for determining any change to this.
- What percentage or fraction of charges for common works and services are the responsibility of owners.
- Arrangements for collecting payment from owners for specific projects or cyclical maintenance, confirming amounts and payment process.
- Confirmation that Cloch 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.

## **D. Communication and Consultation**

- How homeowners can access information, documents and policies/procedures.

- The complaints process, including how to make an application to the First-Tier Tribunal.
- The property factors privacy notice and registration details with the Information Commissioners' Office Data Protection Public Register.

#### **E. Declaration of Interest**

- A declaration of any financial or other interests which the property factor has in common parts of property and land to be managed or maintained.

#### **F. Information about the 2011 Act and duties it places on property factors**

- Includes the duty to register, the use of a Property Factor Registered Number and the duty to comply with the Code.

#### **G. How to End the Arrangement**

- Information on when and how a homeowner should inform the property factor of an impending change in ownership.
- Information on how owners can change or terminate factoring services.
- A statement confirming the property factors procedure for how it will co-operate with another property factor to assist with a smooth transition process in circumstances where another property factor is due to or has taken over the management of property and land owned by homeowners.

Where there is a significant change to the factoring services provided to owners Cloch will re-issue owners with a new Written Statement.

## **11. MONITORING & REPORTING**

11.1 The Finance & Corporate Services Sub Committee will receive a quarterly factoring debtors report detailing:

- Value of debt outstanding
- Number of customers with debt
- Debt recovery action being taken and progress made in relation to these actions
- Analysis of debt between former and current owners
- Comparison of debt to previous periods

Annual reports will also provide an update on the current position with regards to the factoring service including the setting of the management fee, benchmarking information and the setting of targets for all areas of performance.

## **12. POLICY REVIEW**

- 12.1 This policy will be subject to review every three years, or sooner if it is affected by legislative or other significant changes.

## **13. POLICY AVAILABILITY**

- 13.1 This document can also be provided in large print, braille, audio or other non-written format, and in a variety of languages.