

FORTH HOUSING ASSOCIATION LIMITED

FACTORING POLICY

Code: HM08 – Tenant Services

Approval: Sept 2022

Review Date: Sept 2025

Cross Reference: Property Factors (Scotland Act) 2011
Housing (Scotland) Act 2010
Housing (Scotland) Act 2006
Tenements (Scotland) Act 2004
Title Conditions (Scotland) Act 2003
Factoring Services in Scotland
(Scottish Housing Regulator)
Management & Maintenance of
Common Property (Scottish
Government)
Factoring Guidance 2015 (Scottish
Federation of Housing
Associations)
Code of Conduct for Property
Factors (Scottish Government)
Response Procedures for Data
Subject Requests
Access to Information Procedure

Policy Summary

This policy has been developed to show how Forth Housing Association delivers its factoring services in accordance with legal and regulatory requirements including the Scottish Social Housing Charter

Equalities

No equalities issues have been identified in the Equalities Impact Assessment Screening Questions and there is therefore no requirement to do a full Equality Impact Assessment.

Privacy

As information related to undertaking a repair requires to be passed to a third party contractor, from the Association's approved list there is a requirement to note this in the Privacy Impact Assessment. Passing of this information is confidential and in accordance with the GDPR statements signed by contractors upon acceptance of services.

Policy Owner

Name: Mareta Greig

Date of Next Review: Sept 2025

FORTH HOUSING ASSOCIATION LIMITED

FACTORING POLICY

1.0 Introduction

- 1.1 Forth Housing Association will offer a factoring service to owners and sharing owners whose properties fall within its area of management. The Association recognises the benefits of providing a factoring service, which will encourage good relations with local owners and ensure that all properties and common areas 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.
- 1.2 The Association's provision of a 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.
- 1.3 All references to owners will include sharing owners, for the purpose of this policy.

2.0 Principles

- 2.1 Every owner has a deed of conditions for their property as drawn up at the time of sale. This deed of conditions should express the rights and obligations of each party however in cases where it is unclear the Title Deeds would have to be reviewed to determine if there are Deeds of Conditions in place.
- 2.2 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.

It is now compulsory for all property factors in Scotland to register with the Scottish Government and adhere to the Code of Conduct. The Association registered by 01 October 2012 as required. Our registration number is PF000217.

The Code of Conduct sets out the minimum standards of practice that we 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.

Often referred to as a Written Statement of Services or WSOS for short.

Forth Housing Association discharges its authority as Factor as per provisions of either 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 Agreement issued to all owners and therefore any action, which is taken, must be justifiable in terms of same.

- 2.3 Each owner is provided with a written statement, which contains the standard conditions and services to be adhered to in the provision of the Association’s factoring service. The written statement makes reference to the Deed of Conditions, if applicable, but does not replace it. Whilst the Deed of Conditions for a property remains constant no matter who becomes the owner, each new owner will receive a written statement. The Deed of Conditions often defines the common parts, rights of access, provision for maintenance and share of repair costs to be met by each owner, however, sometimes the Deed of Conditions, if there is one, or burdens affecting a title are silent upon such matters. If that is the case the legislation referred to in paragraph 2.2 would need to be referred to in order to try to determine such matters.
- 2.4 The Scottish Social Housing Charter standards in relation to Participation, Consultation and Value for Money. This includes reporting the average annual management fee per factored property and percentage of factored owners satisfied with the factoring service they receive.

3.0 Aim and Objectives

- 3.1 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 we aim to recover the full costs involved. The terms of the factoring service provided by the Association to owners/sharing owners are detailed in the Written Statements.
- 3.2 If appointed in terms of the title deeds for a property, or by a meeting or

the proprietors of properties. The Association shall be responsible for the general management and administration of the property and has the power to perform duties imposed by the Deed of Conditions/title deeds/Written Statements and any other functions assigned by the owners. The service will include all necessary repairs to the common areas, insurance arrangements (where applicable), and administration of service charges, environmental maintenance and management of appropriate records.

- 3.3 The Association will comply with the property Deed of Conditions, where one exists to ensure that the buildings they 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. Cover will be arranged via a major insurance company, at the most competitive rate available for the appropriate level of cover and due to economies of scale this should prove cost effective to owners. The Association will co-ordinate any claims to be made via the Common Buildings Insurance Policy and inform the owners of the outcome.
- 3.4 Buildings Insurance will automatically be arranged for all properties with a common close and may be arranged for cottage flats. In the event that proof of alternative cover and payment of such is produced which the Association regards as satisfactory, the Association may reduce the building insurance cover accordingly and refund the owner as appropriate. The matter will however be one for the Association's discretion.

4.0 Policy Framework

- 4.1 The following definitions will be used throughout this policy:

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 as well as specific properties.

Factor

The agent appointed to carry out a factoring role, ie. Forth Housing Association Limited.

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, back courts, etc.

Flat

A dwelling-house in a tenement

Deeds of Conditions

This is a legal document, which when registered against properties in the Land Register of Scotland or General Register of Sasine, 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.

Written Statement

This is a written statement of the services the Association will provide. The Association will take all reasonable steps to provide this to owners within four weeks of either (A) agreeing to provide Factoring services to the owner or (b) where Factoring services are already provided to the property or Tenement within which a Flat is situated, when the Association becomes aware of the change of ownership of the property.

If there are any substantial changes to the Written Statement, the Association will provide an updated written statement to the owner within three months of these changes.



Factoring Float

This is a one-off deposit of an agreed sum that may be paid to the Factor when the owner purchases or acquires the property and refunded on re-sale, less any outstanding factoring costs. The amount of the float may be determined by the Deed of Conditions. Not all titles provide for the provision of a Factoring Float so if unsure titles should be checked as should any Factoring Agreements / Written Statement of Services issued previously for that property or Tenement or development of which the property forms part.

- 4.2 The Management Committee in its formal approval of the policy acknowledges that it accepts full responsibility for its implementation. Day-to-day responsibility for the operation of this policy lies with the Head of Tenant Services which oversees:



Estate management and general owner liaison-Tenant Services team (housing management)

-  Repairs & maintenance liaison-Tenant Services team (maintenance)
-  Financial liaison-Finance team

4.3 The following outlines proposed financial arrangements:

Factoring Deposit









This is a one-off deposit of £100 paid at the time of purchase. The deposit is held and is refunded to owners as and when they sell the property- less any sums due for works.

Management fee

A standard management fee to cover general administration costs will be levied on all proprietors as follows which is subject to annual review:

- ☐ Proprietors of houses/cottage flats
- ☐ Proprietors of flats within closes






This management fee covers the following costs:

-  title research and preparation of grounds maintenance plans
-  calculating shares due by owners
-  obtaining and maintaining software to co-ordinate the scheme
-  creating and updating ownership records
-  maintaining accurate property repair records
-  issuing statements of account
-  recording payments made and received and recovering charges in relation to each property
-  apportioning charges on sale and corresponding with solicitors

Contract administration fee

A contract administration fee on the cost of all services, repairs etc shall be levied at a rate of 10% of the cost of the repair.

This administration fee covers costs relating directly to the provision of the service including:

-  taking details of repairs
-  inspecting and instructing works as required
-  tendering and obtaining estimates (where necessary)
-  discussions and correspondence with owners regarding works
-  overseeing works and ensuring that they are carried out satisfactorily




- 4.4 All services and contractors will be procured in line with the Association's Financial Standing Orders.

In emergency situations works necessary to address issues of health and safety or property integrity may be instructed by senior staff without estimates or tenders.

Service costs such as electricity for non adopted lighting of common areas, including stairways, will be charged directly based on the bills from suppliers.

- 4.5 Statements/bills will be issued on a quarterly basis as detailed in the written statement.
- 4.6 Repair costs will be apportioned according to the share shown in the Deed of Conditions and where this is silent reference will be made to the Written Statement and/or the Tenements (Scotland) Act 2004 if the costs relate to a Tenement, or if not a tenement potentially the Title Conditions (Scotland) Act 2003. The 10% administration fee will be added as appropriate.
- 4.7 VAT will be charged if/when this becomes appropriate.
- 4.8 All owners will be offered a range of payment methods including direct debit, bank transfer, debit card, Post Office, Pay Point or via the Allpay app.
- 4.9 Although the Association will retain the right to levey interest and pursue recovery it will consider negotiating payment plans with proprietors experiencing financial difficulties.
- 4.10 The Association will adopt a flexible and reasonable approach to ensure that arrears are minimised, and the outstanding debts are recovered, as set out in the Debt Recovery Procedure.
- 4.11 The Association will signpost an owner on request to the appropriate advice agencies for assistance with debts/budgeting etc.
- 4.12 Where owners fail to pay accounts the association may lodge a Notice of Potential Liability (NOPLC) in the property register. This warns any prospective purchaser that there is an outstanding liability for which they would become liable.
- 4.13 The Association may also seek to recover the outstanding monies owed through personal recovery by raising action through a Simple Procedure. However, before doing so the Association must have taken reasonable

steps to recover sums owed and must also give the owner notice of their intention to raise such an action. This would allow the Association to consider measures including but not limited to:

-  wages arrestment
-  inhibition on sale of property
-  bank account arrestment

This can run in conjunction with an NOPLC as outlined above.

- 4.14 Accounts that remain unpaid may be subject to an additional recovery fee plus any legal fees incurred in recovering the debt.
- 4.15 Where a homeowner is declared bankrupt the debt will be pursued in accordance with legal procedures. Accounts will be written off on receipt of legal confirmation of the bankruptcy if there are no free funds.
- 4.16 When undertaking any improvements and repairs to our properties, the Association may give owners the opportunity of participating in any works programme where this is deemed appropriate. Where the Association agrees to manage the works the following procedure will apply;
 - Funding - The cost of participating in any improvement and/or repairs programme shall be funded wholly at the owners' expense and shall not be subsidised by the Association.
 - Calculation of Costs -Where an owner indicates an interest in participating in the proposed works they shall be advised of the anticipated cost based on the accepted tender.
 - Where additional works are required as a result of participating in the improvement and/or repair programme these shall be funded by the owner, who shall be advised in writing of the required works and the estimated additional cost.
 - The actual cost to be charged to an owner shall be based on the final account, their proportion of consultant's fees, planning and building warrant charges where applicable and the standard administration to cover the Association's costs.
 - Recovery of owners' costs - Work to owners' properties shall not commence until the Association has received payment of the full amount as detailed below, together with a signed mandate authorising the Association to undertake the works.

- Prior to work commencing each owner shall pay to the Association the amount of the anticipated works cost, their proportion of consultants fees, planning and/or building warrant charges, where applicable, and the Association's administrative charge together with a contingency equal to 10% of the anticipated works cost.
 - Such amounts received by the Association shall be placed in a suspense account, which shall be drawn upon to meet interim and final certificates as they fall due. Once the account has been finally reconciled any overpayments will be refunded to the relevant Owners.
 - Accountability - The Association will liaise with the contractor on the works programme on behalf of the owner. The Association shall therefore remain accountable to the owner and shall maintain records for each owner detailing monies received against expenditure.
 - Details of owners' accounts shall be made available to them on request with a full statement of account being provided on agreement of the final account.
- 4.17 The Association will ensure that appropriate information on the factoring service is issued to Owners in a variety of ways, including letters.
- 4.18 The Association will consult and liaise with owners as required on repairs or maintenance work including estimated timescales where possible.
- 4.19 Where a repair is cancelled, the Association will advise of next steps and any financial arrangements applicable.
- 4.20 The Association will arrange meetings on factoring services with owners as required or in response to a request from owners.
- 4.21 Prior to purchase, potential owners will be given clear information about the responsibilities, including repair and maintenance obligations and indications of costs, where possible.
- 4.22 After missives have been concluded detailed information will be issued to the owner including:



Written Statement



Information on the Factoring Policy



Car Parking Agreement (where applicable)

- 4.23 The Association will comply with all reasonable requests for documentation from owners in accordance with the provisions of the Code of Conduct and the requirements of data protection legislation and access to information law in line with the Association's Response Procedures for Data Subject Requests and Access to Information Procedure, respectively.
- 4.24 The factoring agreement can be ended in line with the title deeds or relevant legislation.
- 4.25 The Association retains the right to transfer their rights and obligations under this factoring agreement to a third party to act as Factor, should the Association, in its sole discretion deem it appropriate.
- 4.26 Owners are expected to conduct themselves in a manner, which does not cause annoyance or nuisance to their neighbours and in accordance with statute, local byelaws and the deed of conditions.
- 4.27 Any breaches of statute or conditions laid down in the title deeds should be referred to Forth for advice or intervention as required. This will not, however, prejudice the right of any owner to take such legal action as they see fit.
- 4.28 It should be noted that whilst owners may contact the Association regarding disputes relating to neighbouring residents the Association does not provide owners with the full Housing Management service that is available to tenants i.e. Where the Association has no jurisdiction e.g. ASB complaints between owner-occupiers, the Association will signpost the owner to make a referral to Stirling Council's Safer Communities Team.

5.0 Monitoring of the Policy

- 5.1 This policy will be reviewed at least every 3 years by the Management Committee and staff are responsible for ensuring that it meets legal and good practice requirements. Satisfaction with the Factoring service will also be monitored annually which will be used for service improvement and development.

6.0 Complaints and Appeals

- 6.1 Forth Housing Association welcomes complaints and positive feedback, both of which provide information which helps us to improve our services. We use a complaints procedure developed by the Scottish Public Services Ombudsman (SPSO) and the Scottish Housing Regulator.

The complaints procedure allows for most complaints to be resolved by front line staff within a five day limit (first stage), or if the complaint is complex, a detailed investigation will be made by a manager within a 20 day limit (second stage). At the end of the second stage our response will be made by a director. If the customer remains dissatisfied, he/ she may then refer the matter to the First Tier Tribunal for Scotland (Housing and Property Chamber) at the following address:

Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT
Tel: 0141 302 5900
Website: www.housingandpropertychamber.scot

At each stage we will advise the customer how the complaint should be taken forward, and advise which agency would be most appropriate to consider the case.

7.0 Equalities

- 7.1 Equality and diversity underpin all our activities and services. When delivering our services, we never discriminate on the basis of sex or marital status, race, disability, age, gender reassignment, sexual orientation, language, social origin, or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions. Full details of our Equalities Policy can be found on our website www.forthha.org.uk or can be obtained from our office.

8.0 Data Protection - Privacy

- 8.1 We recognise the importance of data protection legislation, including the General Data Protection Regulation, in protecting the rights of individuals in relation to personal information that we may handle, use and disclose about them, whether on computer or in paper format. We will ensure that our practices in the handling, use and disclosure of personal information as part of the processes and procedures outlined in this policy comply fully with data protection legislation. More information is available from our Data Protection Officer

9.0 Availability

- 9.1 This policy is available on our website and can be made available in a number of other languages and other formats on request.

10.0 Review

- 10.1 This policy will be reviewed at least every 3 years by the Management Committee and staff are responsible for ensuring that it meets legal and good practice requirements.
- 10.2 If there are significant changes to legislation or regulation or there are found to be deficiencies or failures in this policy, because of complaints or findings from any independent organisations, the Interim Director will initiate an immediate review. Where appropriate, key stakeholders, customers and interested parties will be consulted as part of any review of this policy.

Appendix 1 Equality Impact Assessment Screening Questions

Forth Housing Association Ltd

Equality Impact Assessment Screening Questions

Factoring Policy

Will the implementation of this policy have an impact on any of the following protected characteristics?

- | | | |
|-----------------------------------|------------------------------|--|
| 1. Age | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Disability | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Gender reassignment | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Marriage and Civil Partnership | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 5. Pregnancy and Maternity | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 6. Race | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 7. Religion or belief | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 8. Sex | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 9. Sexual orientation | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

If you have answered 'Yes' to any of these points, please complete a full Equality Impact Assessment. If you have answered 'No', you need take no further action in completing an Equality Impact Assessment

Appendix 2 Equality Impact Assessment Screening Questions

Forth Housing Association - Privacy Impact Assessment

1. A substantial change to an existing policy, process or system that involves personal information Yes ☐ No ☒
2. A new collection of personal information Yes ☐ No ☒
- 3.. A new way of collecting personal information (for example collecting it online) Yes ☐ No ☒
4. A change in the way personal information is stored or secured Yes ☐ No ☒
5. A change to how sensitive information is managed Yes ☐ No ☒
6. Transferring personal information outside the EEA or using a third-party contractor Yes ☒ No ☐
7. A decision to keep personal information for longer than you have previously Yes ☐ No ☒
8. A new use or disclosure of personal information you already hold Yes ☐ No ☒
9. A change of policy that results in people having less access to information you hold about them Yes ☐ No ☒
10. Surveillance, tracking or monitoring of movements, behaviour or communications Yes ☐ No ☒
11. Changes to your premises involving private spaces where clients or customers may disclose their personal information (reception areas, for example) Yes ☐ No ☒

If you have answered 'Yes' to any of these points, please complete a full Privacy Impact Assessment. If you have answered 'No', you need take no further action in completing a Privacy Impact Assessment.