



## Factoring Policy

Approved by Property Services Sub-Committee: 15 February 2024  
Ratified by Management Committee: 14 March 2024  
Next Review Due: February 2027

## 1. Introduction

- 1.1 This policy details how Yorkhill Housing Association Limited (hereafter referred to as the Association) will provide factoring services to owners.
- 1.2 The Association will offer a factoring service to homeowners whose properties fall within its area of operation.
- 1.3 The Association is committed to providing an efficient and effective factoring service.
- 1.4 The factoring service is located within the Property Services Department and is managed by the Factoring Manager assisted by the Property Services Officer (Factoring) and the Factoring Assistant.
- 1.5 The purpose of the factoring service is to provide a safe, high quality living environment for all occupiers, ensuring that the fabric of the building and common areas is maintained to a high standard and ensuring adequate insurance cover for the properties we manage.
- 1.5 The Associations provision of a factoring service will be dependent on owners making payment when requested.
- 1.6 The factoring service covers the following activities:
  - Provision of advice, information and obligations
  - Provision of Written Statement of Service
  - Management of repairs and maintenance to common areas
  - Management of services
  - Provision of estate management services
  - Arranging / ensuring adequate buildings insurance cover (where applicable)
  - Managing communal and private insurance claims
  - Consultation with owners and arranging owners meetings
  - Accounts management and invoicing
  - Debt collection and arrears management
  - Managing commercial rents
- 1.7 Yorkhill Housing Association Ltd. is a registered Property Factor (PF000220) and aims to provide the highest possible standard of service to all Owners whose properties are managed by it. This will be achieved by:
  - Having open, fair and accountable charges for our service
  - Operating fair, effective arrears control procedures
  - Having well trained staff and clear written policies and procedures
  - Ensuring good internal communication systems

- Establishing good communication links with owners
- Monitoring contractors' performance for quality and value

## **2. Policy aims**

The following principals govern the effective operation of this Policy:

- 2.1 Services will comply with the Property Factors (Scotland) Act 2011, associated Code of Conduct (revised 16<sup>th</sup> August 2021) and all relevant legislation on consumer protection, financial services, consumer credit licences, title conditions, health and safety, data protection and equalities.
- 2.2 Services will be financially sustainable and affordable to homeowners, with no cross subsidy from the Associations rental income.
- 2.3 Services will achieve the Scottish Social Housing Charter outcomes for owners in relation to participation, communication, and continually improving value for money.
- 2.4 The Associations advice to owners will be impartial and factual in relation to both works required and actions necessary for compliance with Title Deeds / Deed of Conditions.
- 2.5 The Association will account clearly for monies held on behalf of owners. We shall require a float in respect of each property managed and will encourage owners to contribute to provisions or reserves for future repairs and maintenance.

## **3. Legislation and Compliance**

- 3.1 The policy is a reflection of the organisation's commitment to full compliance with all legal, regulatory and good practice requirements.
- 3.2 The Association will ensure that it conducts its business in a manner that complies with relevant legislation.
- 3.3 The Associations Factoring Service will be delivered in accordance with the following legislation:
  - Land Registration (Scotland) Act 1979
  - Abolition of Feudal Tenure etc (Scotland) Act 2000
  - Housing (Scotland) Acts 2001/2006/2014
  - Land Reform (Scotland) Act 2003
  - Title Conditions (Scotland) Act 2003

- Tenements (Scotland) Act 2004 (The Tenement Management Scheme)
- Property Factors (Scotland) Act 2011
- Property Factors Code of Conduct

3.4 The Scottish Social Housing Charter (the Charter) was approved by resolution of the Scottish Parliament on 14<sup>th</sup> March 2012 and came into 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 Associations staff will work to meet these outcomes and standards.

3.5 The specific Regulatory Standards relevant to this policy are:

Standard 1 The Governing body leads and directs the RSL to achieve good outcomes for tenants and other service users.

Standard 2 The RSL is open and accountable for what it does. It understands and takes account of the needs and priorities of tenants, service users and stakeholders. Its primary focus is the sustainable achievements of these priorities.

Standard 3 The RSL manages its resources to ensure its financial wellbeing and economic effectiveness.

Standard 4 The Governing Body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisation's purpose.

Standard 5 The RSL conducts its affairs with honesty and integrity.

Standard 6 The Governing body and senior officers have the skills, experience, knowledge and training to successfully lead and manage the organisation.

3.6 Regulatory Assurance associated with this Policy

- The Scottish Social Housing Charter
  - 1. Equalities – Customer / Landlord Relationship
  - 2. Communication
  - 3. Participation
  - 4. Repairs, Maintenance and Improvements
  - 5. Neighbourhood and Community
  - 13. Value for Money
  - 14. Service Charges
- The Property Factors Code of Conduct
- The SPSO Complaints Handling Process/First-tier Tribunal for Scotland

The Association will ensure compliance with these documents in relation to its factoring activities.

3.7 Other regulatory and legislative framework which is relevant to the provision of the factoring service includes:

- European Union Directives;
- The Construction, Design and Management Regulations 1994;
- Health and Safety at Work, etc. Act 1974;
- The Control of Asbestos at Work Regulations 2002;
- Legionella: The Approved Code of Practice;
- The Occupiers Liability (Scotland) Act 1960;
- Money Laundering and Terrorist Financing (Amendment) Regulations 2019;
- Equalities Act 2010;
- Data Protection Act 2018 (GDPR).

#### **4. Background**

4.1 The Property Factors (Scotland) Act 2011 was introduced by the Scottish Government and established the requirement for a Register of Property Factors and a Property Factors Code of Conduct. The Code of Conduct conveys the minimum standard of practice required when providing a factoring service.

A review of the Code of Conduct was carried out and a revised Code came into effect on 16th August 2021. The revised Code of Conduct now includes Overarching Standards of Practice.

The Association's operation of the factoring service 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 PF000272.

4.2 Section 2(1) of the Property Factors (Scotland) Act 2011 sets out the definition of a property factor.

Meaning of "property factor" -

(1) In this Act, "property factor" means:

(a) a person who, in the course of that person's business, manages the common parts of land owned by two or more other persons and used to any extent for residential purposes,

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

(i) by two or more other persons, or

(ii) by the local authority or housing association and one or more other person,

(c) a person who, in the course of that person's business, manages or maintains land which is available for use by the owners of any two or more adjoining or neighboring residential 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), and

(d) 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 neighboring 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.

4.3 Section 10(5) of the Property Factors (Scotland) Act 2011 sets out the definition of a homeowner.

“homeowner” means:

(a) an owner of land used to any extent for residential purposes the common parts of which are managed by a property factor, or

(b) an owner of residential property adjoining or neighbouring land which is—

(i) managed or maintained by a property factor, and

(ii) available for use by the owner.

## **5. Objectives**

The objectives of this policy are to ensure that the Association:

5.1 Maintains registration as a Property Factor;

5.2 Maintains an accurate and up to date portfolio list on the Property Factors Register;

5.3 Develop, implement and reviews a suite of procedures to ensure legal compliance;

5.4 Issues detailed information about charges and payment methods via itemised invoices.

- 5.5 Has a clear and transparent approach to setting and revising management fees which demonstrates that costs are accurately identified, apportioned and recovered. Annual reviews of operating costs will inform any management fee changes, which will be notified to owners in accordance with their Written Statement of Services;
- 5.6 Account clearly for monies held on behalf of owners including advance payments, floats and separate interest-bearing cyclical maintenance funds where applicable;
- 5.7 Takes appropriate action to recover all monies due and prevent the accumulation of high arrears: this will be carried out in accordance with the Factoring Debt Recovery Procedure;
- 5.8 Provides owners the opportunity to participate in the Associations decision making processes in relation to factoring, promote owners meetings and encourage owners to form owners associations;
- 5.9 Conducts regular customer satisfaction surveys and appropriate development specific consultations;
- 5.10 Devise and implements action plans in response to consultation findings;
- 5.11 Provides owners with relevant good quality information in accessible formats including Written Statements;
- 5.12 Informs owners about the impact of their feedback on service delivery improvements;
- 5.13 Implement, maintain and use efficient operating systems and digital communication;
- 5.14 To manage our services effectively and efficiently;
- 5.15 To maintain properties to the highest possible standards;
- 5.16 To ensure that the fabric of buildings and common areas are maintained to a high standard;
- 5.17 To ensure that service users receive a value for money service.
- 5.18 To be fully responsive to the needs and views of factored owners and other customers; and
- 5.19 To meet all of the Associations obligations as factor and to ensure that the rights which owners have under their common factoring agreement or title conditions are adhered to.

## **6. Implementation**

- 6.1 The Management Committee, in its formal approval of the policy, accepts full responsibility for the policy and ensuring its implementation.
- 6.2 Day-to-day responsibility for the operation and monitoring of this policy lies with the managers of the Association.
- 6.3 All relevant staff have a responsibility to ensure that the policy is applied as instructed.
- 6.4 The policy will be implemented through:
  - Ensuring appropriate procedures are in place for compliance with the policy
  - Regular review and improvement of procedures
  - Complying with the Code of Conduct and the terms of the Written Statement of Service in accordance with the Property Factors (Scotland) Act 2011
  - Setting targets for debt recovery and customer satisfaction and monitoring our performance against targets
  - Informing staff of policy and procedural requirements, amendments and changes and provide regular staff training on property factoring issues

## **7. Deeds of Conditions**

- 7.1 The Deed of Conditions is the foundation of the Factoring service as it is a legally enforceable set of rights and obligations. In the absence of a relevant statute or appropriate delegated legislation, the Association will always use the Deed of Condition to assess and determine specific methodologies for factoring activities.
- 7.2 When the Deeds of Condition are silent on a particular subject the Association will refer to the Tenement Management Scheme7.3 Copies of Deeds of Conditions for each property or group of properties will be held by the Association.
- 7.4 The Association will not provide copy deeds to individual owners, however, may allow owners to read the documents within office premises or at owners' meetings. Individual owners may obtain their own copies at their own expense.
- 7.5 From time to time the Association will provide general information on Deeds of Conditions to owners through Newsletters and Information sheets; specific issues relating to individual properties will be a matter for the relevant Deed.



- 7.6 The Association may may consider, introducing a Model Deed to reflect contemporary conditions in relation to property structures and financial apportionment methodologies, when requested to do so by owners. Relevant legal advice must be obtained in such circumstances, and individual owners will be advised to consult their own legal advisers.
- 7.7 Where a dispute can not be settled by reference to the Deed of Conditions, the Association will seek to investigate appropriate case law or refer the matter to an appropriate mediator.

## **8. Factoring Agreements**

- 8.1 Factoring Agreements are a legally binding agreement between Factor and the owner of a property. They can cover missing provisions or override provisions in the Deed of Conditions and help clear set rules in relation to the factoring service.

It should be noted that the factoring agreements are only binding on the owners who have signed the agreement and requires new owners to sign at the point of sale or all owners if changing terms.

Having a mix of owners in a block with signed and unsigned factoring agreements can lead to conflict when making decision regarding the property.

- 8.2 With the introduction of the Written Statement of Services most issues dealt with by the Factoring Agreements can be included within the Statement of Services.
- 8.3 Factoring Agreements are beneficial when a factor is operating under custom and practice as there is no legal basis for providing a factoring service under these circumstances.
- 8.4 Where the Association has been appointed factor via a minuted owners meeting held in line with the Deed of conditions, the Association will phase out Factoring Agreements for these blocks.
- 8.5 Where the Association is operating under custom and practice, we will seek to be formally appointed, before phasing out Factoring agreements. In the short term we will aim to have all Owners sign a Factoring Agreement.
- 8.6 The factoring Agreement / factoring appendices will describe the key contractual issues between the Factor and Owner, using clear, plain language.

These will be based on the property's Deed of Conditions and will include:

- Procedures for convening meetings of owners
- Quorum required
- Basis on which repairs may be instructed
- Insurance requirements
- Charging periods and terms
- Management fee details
- Basis of common share apportionment
- Summary of Annual charges

## **9. Monitoring and Responsibility**

- 9.1 The Association will comply with the Property Factors (Scotland) Act 2011 and Scottish Governments guidance on registration as a property factor, the annual maintenance of the properties and land portfolios and the Property Factors Code of Practice.
- 9.2 The Association will comply with the Scottish Housing Regulator (SHR) Regulatory Framework for social housing and guidance for monitoring the Associations performance in achieving the outcomes and standards in the Charter.
- 9.3 The following areas will be subjected to monitoring on a regular basis:
- Compliance with the policy, through regular review of relevant policies and procedures and strong cross department working relationships;
  - Ensuring staff are appropriately trained, are familiar with duties and requirements imposed by the Code of Conduct and have the knowledge required to provide a high quality factoring service;
  - The value of work invoiced in period; and
  - The adequacy of insurance cover and risk management, through regular tendering for insurance services and risk assessments carried out on a cyclical basis in accordance with the Risk Management and Tenders Policy
- 9.4 The senior management team will review factoring performance on a monthly basis. The Services Sub Committee will receive quarterly reports on the Factoring service including:
- Details of the Owner Occupied stock;
  - Changes in Ownership per quarter;
  - Outstanding debtors (both existing and former Owners) and action being taken or proposed;
  - Any legal costs related to the Factoring service, both recoverable and non-recoverable.
  - Owner's satisfaction levels
  - Estate Management Inspection Reports
  - Credits and Floats held on behalf of owners

- Any other applicable key performance indicators
- 9.5 Any matter which demonstrates a serious failure in internal controls will be reported immediately to the Chief Executive.
- 9.6 Periodic audits of policy compliance will also be conducted by the Internal Auditor, the outcome of which, will be reported to the Management Committee.

## **10. Relevant Policies**

- 10.1 In providing a quality service to owners, the Association will operate within the guidelines and spirit of the following separate policies:
- Selection and quality control of Contractors
  - Tendering procedures
  - Inspection procedures
  - Estate management Policy
  - Repairs and Maintenance Policy
  - Property Factors Code of Conduct
  - Customer Services Policy

## **11. Risk Management**

- 11.1 In all key areas of our business we need to consider any risks which may arise. To this end we have in place a robust Risk Management Policy and from this follows our Risk Register. We have identified our “Top” risks which are regularly monitored by our Management Team and Services Sub-Committee.
- 11.2 To ensure we continue to manage the associated risks we will periodically review this policy to ensure compliance with all legislative requirements and regulatory and best practice guidance.

## **12. Equality Screening**

- 12.1 The Association is committed to equality of opportunity and embracing diversity.
- 12.2 In accordance with the Associations Equality & Diversity Policy, this Policy has been consciously considered to judge whether there is any likelihood that its presentation or operation could in any way lead, no matter how inadvertently, to discrimination. The conclusion of this

exercise is that it is believed the Policy should operate in a non-discriminatory way.

- 12.3 This Policy can be made available free of charge in a variety of formats including Braille, large print, audio format or translated into a different language

### **13. Data Protection**

- 13.1 On the 25th May 2018 the legislation governing data protection changed with the introduction of the General Data Protection Regulation (GDPR).
- 13.2 We hold a variety of Personal Data relating to individuals including tenants, waiting list applicants, factored owners, other service users, employees and Committee Members. Our Privacy Policy sets out the basis on which we can process and share such data with third parties, it also sets out how we will securely store individuals' data, whether electronically or in paper format. It also provides information on individuals' rights under GDPR including: to view personal data held about them by us; to request a restriction of processing of their data; the right to be forgotten and a right to object to us processing their data. In terms of the rights to be forgotten and to restrict or object to processing of Personal Data, any such requests will require to be considered on their own merits and legal advice will need to be obtained in some circumstances. We have the responsibility for accepting or refusing such requests and will do so in writing.
- 13.3 Under GDPR we are required to provide all customers whose Personal Data we hold with a Fair Processing Notice (also known as a Privacy Notice). The Notice sets out the Personal Data we process and the basis for doing so.
- 13.4 We will only keep and process Personal Data for the original purpose we gathered it for and we will not keep it for any longer than necessary. Attached to our Privacy Policy is a table of Retention Periods for Personal Data held and processed by us. We recognise that not all Personal Data can be processed and kept for the same period of time, and this will vary depending on the individual circumstances of each person whose Personal Data we hold.
- 13.5 The Privacy Policy sets out what should happen in the event of a Data breach e.g. does the breach require reporting to the Information Commissioner's Office and whether the individual affected should be notified. Timescales are set out for dealing with data breaches.
- 13.6 Full copies of our Privacy Policy are available on request at our office.

### **14. Charges for Factoring Service**

- 14.1 The Association will annually assess the costs of the factoring service to ensure that the charges cover the Association's expenditure.
- 14.2 The main over-riding principle subscribed to is that the Association's Factoring service will not be subsidised by the Association's rental income.
- 14.3 The Association will charge the following:
- Management Fee
  - Insurance including 10% admin fee.
  - Recoverable legal costs from debtors (if applicable)
  - Replenishment of float (if applicable)
  - Services organised on the Owners behalf
  - Common reactive repairs
  - Cyclical Repairs
  - Major Repairs
  - Change of Ownership fee
  - Fee for copies of Building Warrants etc. if requested and held
  - Fee for photocopies as requested by owners
  - 10% Fee for administering Major Repairs work
- 14.4 The Association will pay repair and insurance works as required and re-charge owners.

The charging periods will normally be May and November. However, between these periods other works may be arranged or instructed and charged separately, for example close painting, gas servicing, major repairs.

- 14.5 The Association will normally expect prompt payment as per the payment details . However, in cases of genuine difficulty, Factoring Manager may authorise payment arrangements to suit individual circumstances. The Factoring Assistant has delegated authority to authorise payment arrangements for debts below £350 which can be cleared in full within a 3-month period.

## **15. Arrears Control and Recovery**

- 15.1 The Association will recover all debts due to them by owners and, if necessary, court action will be raised to recover debts with any costs incurred by the Association being added to the original sum if legally possible.
- 15.2 Owners will be considered as being in arrears if they do not pay their account in full within 14 days of the invoice being sent out, or do not pay any agreed monthly payment.
- 15.3 Recovery procedures will be agreed and monitored by the Services Sub Committee. The Factoring Manager will have delegated authority to

review procedures and to take action to Decree stage as deemed appropriate. The Factoring Assistant has delegated authority to proceed with arrears cases to Sheriff Officer stage as deemed appropriate and seek authorisation from the Factoring Manager for any actions from Sheriff Officer to Court Action.

15.4 Recovery methods will include letters, visits, phone calls, email messages, text messages, Sheriff Officer letters, recovery decrees, property inhibitions, arrestment of bank account, wages, or private landlords rents, sequestration and notice of potential liability.

15.5 Implementation of court decisions will always be a last resort

## **16. Factoring Floats**

16.1 A Factoring Float is a one-off deposit of an agreed sum to enable the Association to pay for bills between factoring invoices and payment, in order to ensure adequate cash flow to pay contractors for day-to-day repairs.

16.2 The owner pays the float to the Association at purchase of their property or at commencement of the factoring service, the float is refunded within three months of the sale date, less any outstanding costs.

16.3 Interest on funds held as a float is credited to the Association to cover their administration of the float and their lost interest on their funds when payment of bills outwith the amounts collected are required.

16.4 The amount of float will be determined either by the Deed of Conditions on the property, or by agreement between the Association and factored owners, and will be detailed in written statement of services.

16.5 Float levels will be reviewed by the Association on an annual basis for new owners and current owners may be requested to top up their float amounts to reflect inflation and increase in repair costs

16.6 Where an existing Deed of Conditions is in place, and does not allow for a Factoring Float, or the sum is not sufficient, the Association will seek consent from owners to implement a sufficient float amount.

16.7 Where the Factoring services are extended to properties where the Association have no housing stock, a float will be negotiated with the owners, with the Factoring Manager given delegated authority to negotiate a float up to £500.00, unless there is a suitable sum under the existing Deed, in which case this will be charged

## **17. Insurance**

- 17.1 The Association will comply with the property Deed of Conditions to ensure that the buildings they manage are adequately insured to allow at least the rebuilding of all common parts of the building in the event of fire, storm or other major disaster.
- 17.2 The Association will carry out periodic property re-valuations for insurance purposes.

## **18. Emergency Situations**

- 18.1 In the event of an emergency repair of a common nature being necessary outwith the Association's hours of opening, Owners are authorised to contact the Association's Emergency contractors to attend and effect repair, or take temporary measures to leave safe if the repair cannot be completed at the first visit. Details of Out of Hours Management will be regularly provided to owners through Newsletters, the Association's digital platforms and the Statement of Services Document.
- 18.2 If a contractor is called out by an owner, and the repair turns out to be an individual repair and not a common one, then the owner will be re-charged the cost of the repair.
- 18.3 In the event of a major emergency arising within office hours, the Association will visit the property to assess the situation and organise appropriate action.
- 18.4 Where the emergency requires access to an owner's individual property, the Association will try to contact the owner, failing which, if in the opinion of the Factoring Manager and/or Property Services Manager, access is needed immediately, the Association will force access with a Police Officer in attendance.  
  
This action would only be taken in exceptional circumstances were allowing the problem to continue would lead to extensive damage to the property, for example, if a bath had been left running and the water was cascading down into properties below.
- 18.5 The Association will seek to obtain emergency contact information from all owners to be used only in the event of the type of situation described.
- 18.6 In the event of an emergency which will require major works, the Association will order any temporary works necessary to make safe the problem, before organising tenders for contractors to complete the works.
- 18.7 The Association will advise owners of the action to take in the event of an emergency through their Statement of Services document.

## **19. Complaints**

- 19.1 The Association has a clear written procedure for dealing with complaints, which outlines the steps we will take when a customer is dissatisfied with our policies, the way these are implemented, or the level and quality of service provided.
- 19.2 The Association welcomes complaints and positive feedback, both of which provide information which helps us to improve our services. We use a Complaints Handling Procedure (CHP) developed by the Scottish Public Services Ombudsman (SPSO) and the Scottish Housing Regulator.
- 19.3 The CHP 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).
- 19.4 The Complaints Procedure will be provided to all customers at point of purchase or at commencement of the factoring service (and no longer than four weeks from such date) and will be included within the factoring owner's welcome pack. (A copy will also be available upon request and on ABC website.)
- 19.5 The Association will keep a record of all complaints received, including the outcome of the complaint, learning outcomes and any improvements to our services implemented as a result.
- 19.6 If owners are dissatisfied with the Association final response to their complaint, and they believe we have failed to carry out our factoring duties, comply with the Code of Conduct or unreasonably delayed attempting to resolve a complaint, they can seek a resolution via the Housing and Property Chamber First Tier Tribunal for Scotland.

Glasgow Tribunals Centre  
20 York Street  
Glasgow  
G2 8GT  
0141 302 5900  
HPCAdmin@scotcourtribunals.gov.uk

- 19.7 In certain circumstances title deeds may allow for formal arbitration about disputes in relation to the title deeds, and such matters may also be referred to the Lands Tribunal. The Association cannot offer legal advice to owners but can signpost them to relevant sources of advice and information including information about any applicable fees.



## **20. New Business Opportunities**

- 20.1 The Factoring Manager has delegated authority to investigate new business opportunities in line with the Association's strategic objectives. All opportunities will be investigated through the Factoring Manager with input from the Property Services Manager.
- 20.2 Where after investigation, the proposal is seen as a good business case and in the interests of the Association, a report will be presented by the Factoring Manager to the Services Sub Committee for discussion and approval.

## **21. Policy Availability**

- 21.1 Full copies of the Factoring Policy are available on request at our office or from our website [www.yorkhillha.org](http://www.yorkhillha.org)

## **22. Review of Policy**

- 22.1 The Association will review this policy every three years or more frequently if significant developments take place. Reviews will consider legislative, performance standard and good practice changes.
- 22.2 The Factoring Manager has delegated authority to review procedures when necessary. Any significant change to policy or procedure must be reported to Committee as soon as practically possible.