

Factoring Policy

1.0 INTRODUCTION

As landlord and factor, Argyll Community Housing Association Limited (“the Association”) accepts the responsibility for providing a range of services for all the properties under its control. The Association has developed a factoring service for owners of properties within its areas of operation. This may include home owners who have exercised their right to buy whether from the Association or from the Local Authority prior to stock transfer to Argyll Community Housing Association Limited, or by private agreement.

This policy has been produced in compliance with Communities Scotland guidance – Performance Standards B4.3 and B4.4 – and the SFHA’s “Raising Standards in Housing”.

2.0 LEGAL POSITION

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. Moreover, each owner is asked to sign a factoring agreement, which contains the standard conditions and services to be adhered to in the provision of the Association’s factoring service. The factoring agreement makes reference to the title deed or deed of conditions, but does not replace it. Whilst the title deed or deed of conditions for a property remains constant no matter who becomes the owner, a new factoring agreement must be signed by each new owner. 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.

A factoring agreement will require to be signed by each owner in order to receive the full benefit of the factoring service. On sale new owners need to sign a fresh factoring agreement, as the existing agreement is personal to the owners and not the property. The factoring agreement will set out the full terms of the factoring service.

Owners must be advised to seek independent legal advice before signing the factoring agreement.

3.0 RESPONSIBILITIES FOR SERVICE PROVISION

The Director of Finance has the primary responsibility for the factoring service within the Association. However, the day-to-day administering of the service is provided by the Association’s Factoring Officer.

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In exercising this responsibility, the Director of Finance will liaise closely with the Director of Housing and Neighbourhood Services, Director of Investment and Regeneration and Director of HR and Corporate Services.

The Director of Finance will submit regular reports on the provision of factoring services to the Board of Management.

4.0 THE FACTORING SERVICE

To enable the Association to provide a comprehensive and high quality factoring service, the following will be undertaken:

4.1 Maintenance Planning Property Inspections

Property owners will be able to purchase a property inspection from ACHA to determine the condition of property and create a proposed cyclical/planned maintenance programme to upgrade and maintain the property. The planned maintenance programme inspection will proceed at the request of the majority of owners.

With reactive repairs, pre-inspections are carried out as and when necessary in order to accurately determine the work necessary. Post inspections will be carried out from time to time to assess the standard of work.

4.2 Maintenance

The Association implements a maintenance policy, which complies with SFHA's guidelines.

The cyclical maintenance programme will be determined by the information gained from property inspections. All work will be carried out in accordance with the Association's maintenance, procurement and sustainability policies.

4.3 Contractors Selection

Contractors will be selected in accordance with the Association's procurement policy and procedures. Contractors' performance is regularly monitored by the Association's maintenance staff to ensure that service and quality of works are of a high standard and represent value for money. Appointments are reviewed annually by the Senior Management Team to ensure costs remain competitive but consistent with a high quality of service.

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4.4 Insurance

The Association, **where requested by owners**, will attempt to put owners in touch with suitable insurance companies for them to obtain cover.

In the event of the owners retaining their own buildings insurance then Association may request copies of the insurance cover to be produced to the Association and copies of the new policies after renewal and annually thereafter.

Household contents insurance is not covered by the Association and owners will need to make their own arrangements in this regard.

4.5 Costs

Accounts will be issued quarterly for the periods April – June; July – September; October – December and January to March and will comprise the following:-

- a) The Association's Management fee
- b) The Association's Administration fee
- c) Service Charges e.g. Lighting, Maintenance of common ground, maintenance and repair of common parking areas; maintenance and repair of common stairs and passages; maintenance and repair of external common parts of the building, private water supplies, private septic tanks etc
- d) Buildings insurance premiums (if available and due by owners)
- e) Actual cost of repairs and maintenance carried out.
- f) Cyclical maintenance.
- g) Any agreed outlays incurred by the Association on behalf of owners.

Accounts will contain information and details of the repairs and works carried out and being charged for.

Repair costs will be apportioned according to the share shown in the title deeds/Deed of Conditions or, where necessary, in terms of the Title Conditions (Scotland) Act 2004.

Accounts from private contractors will be available for inspection, if requested by owners, within a period of fourteen days following the issue of accounts.

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4.6 Payment of Accounts

Accounts will fall due for payment within fourteen days of issue. Statements of account will be issued quarterly or such other period as may be considered necessary.

4.7 Arrears

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

All payments are due within 14 days of the invoice being issued.

Two reminder letters will be sent to the owner and failure to pay invoices on time will be actively pursued and Court Action raised against owners for non-payment.

Failure to pay sums due within may result in payment being pursued through the Association's arrears recovery procedures which may include raising action through the small claims court, summary cause or normal court proceedings. Owners will be liable for all costs incurred in pursuing payment, fees and all other amounts incurred (including legal, court, Sheriff Officers and administration expenses) to cover the cost of recovering the debt. This may result in further expenses, as the owner will be liable for Court and additional expenses incurred by the Association in pursuing the debt.

Should a decree be awarded by the Court against the owner, this may result in the lodging of an arrestment of the owner's wages or bank account, or the attachment and auction of the owner's personal assets. In addition a Notice of Potential Liability may be registered against your property which may affect any future sale. On repayment of the debt in full (including any expenses incurred) the Notice of Potential Liability will be Discharged. All costs will be due by the Owner.

A decree recorded in the owner's name may also adversely affect their future credit rating.

5.0 REPAIRS

Individual repairs to the property (which do not form part of common property) will be the responsibility of each owner.

5.1 Common Repairs, Cyclical Maintenance and Planned Major Repairs

The Association's approved contractors will carry out repairs. Following the expiry of the defects liability period, common repairs should be reported to the Association

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as early as possible. A record will be kept of the date, the name of the person reporting the repair and the problem that has arisen. Repairs are carried out under three categories, which are detailed below, along with the timescale for the repairs to be completed.

Emergency Repair	Response within 2 hours and completed within 24 hours
Urgent Repair	Responded to and completed within 5 working days.
Routine Repair	Responded to and completed within 20 working days

Except in the case of an emergency:-

Owners will be notified of repairs likely to cost more than £100 per flat/unit.

Repairs costing less than £200 per flat/unit will be instructed without reference to the owners.

Repairs estimated to cost more than £200 per flat/unit will be intimated to owners in writing detailing the nature of the work, the total costs, and the share due by the owner. Owners will have fourteen days from the issue of notification to advise the Association in writing of any objections to the proposed major repairs works. In the absence of any written objections within the said fourteen day period the owners will be deemed to be in full agreement with the proposed major repairs proceeding.

ACHA will request three competitive quotations for works expected to exceed £5,000 per block and submit these to the owners for approval. The consent of the majority of owners is required.

The Association will invoice the owners quarterly for the factoring charge, administration charge, their share of repairs and to top up the float. All work instructed shall be detailed on the invoices.

5.2 Right of Access

The Association, its authorised representatives and contractors will have right of access to the whole property including individual houses where this is required for inspection; or to effect a repair to common parts or services; or to prevent damage to the property.

Except in emergencies, three days notice will normally be given.

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5.3 Emergencies

Emergencies shall be defined as circumstances or situations, which are considered dangerous or seriously detrimental to the safety of the property or persons.

In the case of an emergency, owners are required to permit immediate access to their property.

Such repairs will be instructed outwith normal procedures and without recourse to the owners. However, the Association will notify the owners within seven days of the repairs being carried out and the charges will be included in the quarterly invoices.

Emergency repairs should be reported immediately to the repairs hotline on 0800 028 2755 who will contact the appropriate contractor.

5.4 Cyclical Maintenance

Cyclical maintenance provides for the regular maintenance of the fabric of the building, e.g. painting of close doors, painting internal hallways, external faces of window frames, cleaning of guttering, etc.

Owners will be notified in writing of the proposals for cyclical maintenance, total costs, and the share of the costs due. Owners will have fourteen days from issue of notification to advise ACHA in writing of any objections to the proposed improvement works. In the absence of any written objections within the said fourteen days then owners will be deemed to be in full agreement with the proposed maintenance work proceeding.

Cyclical maintenance will be instructed on the agreement of the majority of owners.

5.5 Maintenance Planning Property Inspection

The owners may instruct the Association to carry out a property inspection to determine what repair works may be required now or in the future to the property. Once the inspection has been carried out the Association will make recommendations to owners and, if necessary, a planned maintenance programme can be agreed.

Should owners decide to instruct a maintenance planning property inspection this can be arranged on the instruction of the majority of owners. A property inspection report will be sent to owners with the findings of the inspection along with recommendations and proposals.

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5.6 Common Areas

Under the terms of the title deeds, Deed of Conditions or Tenements (Scotland) Act 2004 it is each owners responsibility to maintain the common areas, e.g. close, stairs, landing, back courts, gardens, grounds etc unless there is an agreement for these services to be provided on behalf of the owners by the Association.

In the absence of such an agreement, or if an owner fails to discharge their responsibility to maintain the common areas, the Association will be entitled to arrange for the necessary work to be carried out and levy a charge on the owners.

5.7 Services

Owners may request that the Association arranges to have services carried out. The Association will obtain competitive quotations for works expected to exceed £5,000 per block and submit these to the owners for approval.

The consent of the majority of owners is required before new services can be implemented.

The provision of statutory services outwith the control of the Association, e.g. stair lighting will not be subject to competitive quotations and these will therefore be charged at cost to owners.

6.0 NEW BUILD/REFURBISHED PROPERTIES

6.1 Defects Liability in relation to New or Refurbished Properties

Defects are usually the responsibility of the contractor.

Defects are not repairs that arise through accident, negligence, wilful damage or any other external factors, which could not reasonably be deemed to be the responsibility of the contractor.

Where defects arise, they should be reported immediately to the Association who will inform the contractor. The contractor will attend to defects at their own expense, where it is contractually their duty, and within the Association's maintenance response timescales as detailed below in section 5.1.

Immediately prior to the expiry of the defects liability period each property will be inspected by a representative of the Association, and, where appointed, the Property Services Officers and the Contract Architect to establish whether any other defects exist which require the contractors' attention.

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Owners will be notified in writing of this visit.

7. WORKS TO OWNERS PROPERTIES AND THE RECOVERY OF COSTS

It is the Association's policy in undertaking improvements and repairs to their properties to afford 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:-

7.1 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 with the exception of clause 7.0, section 7.2.

7.2 Calculation of Costs

Where an owner indicates an interest in participating in the proposed works the owner shall be advised of the anticipated cost based on the accepted tender.

Added to the amount of the anticipated cost shall be a proportion of consultants' fees, planning and building warrant charges, where applicable, and an allowance of 5% to cover the Association's administrative costs.

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.

7.3 Recovery of Owners' Costs

Major work to owners' properties shall not commence until the Association has received payment of the full amount as detailed below, together with a signed Factoring Agreement or 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.

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7.4 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.

8.0 CONSULTATION, LIAISON & INFORMATION

The Association will ensure that appropriate information on the factoring service is issued to owners in a variety of ways, including correspondence, press publicity and homeowners guides to the factoring service.

The Association will detail works done on the quarterly invoices and correspond with owners on any maintenance work which is likely to exceed £5,000 per block and arrange meetings to discuss such works.

The Association will arrange meetings on factoring services with owners as required or in response to a request from owners.

Prior to purchase, potential owners will be given clear information about the responsibilities of being an owner, including repair and maintenance obligations and indications of costs, where possible.

After missives have been concluded detailed information will be issued to the owner including;

Homeowners Guide
Factoring Agreement
Information on the Factoring Policy

This information will either be provided by the Association or the purchaser's legal adviser.

The home owner will notify the Association of change of ownership details including the new owners full names (and address if different from the property) and the date of change of ownership.

The Association will assist owners in identifying available grant funding.

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9.0 TERMINATING THE FACTORING AGREEMENT

The Factor shall be the Association so long as they are owners of at least one of the dwelling houses in the property. In the event of the Association no longer being owners of any dwelling house in the property then the Factoring Agreement may be terminated at the date of sale. The Association will advise the owners in writing of the termination of the agreement.

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.

The Association retains the right to continue factoring the block at the request of owners following on the sale of all property formerly belonging to the Association in the same block.

Owners retain the right to dismiss ACHA as Factors by simple majority as defined in terms of the Tenement (Scotland) Act 2004.

10.0 DISPUTES

10.1 Neighbour Disputes

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 laws and the title deeds.

Any breaches of statute or conditions laid down in the title deeds should be referred to Argyll Community Housing Association Limited 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.

10.2 Disputes with the Association

Complaints or disputes regarding repairs or maintenance works should be referred in the first instance to the relevant member of staff in accordance with the Association's complaints procedure (see owner's handbook).

If the dispute is not resolved, independent arbitration by the local Sheriff within the locality of the property, or the Housing Association Ombudsman or their successors may be sought by the owners. In this case, both the Association and the owners, will be bound by the findings of the arbiter.

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The Association reserved its right to pursue through the Courts any claim for unpaid factoring fees and charges.

11.0 MONITORING & REVIEW

The Director of Finance and IT will ensure, in liaison with management colleagues, that the provisions of this Policy and the supporting Procedures are implemented by all concerned.

This policy will be reviewed at least every three years.

Policy Consultation and Review Process

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