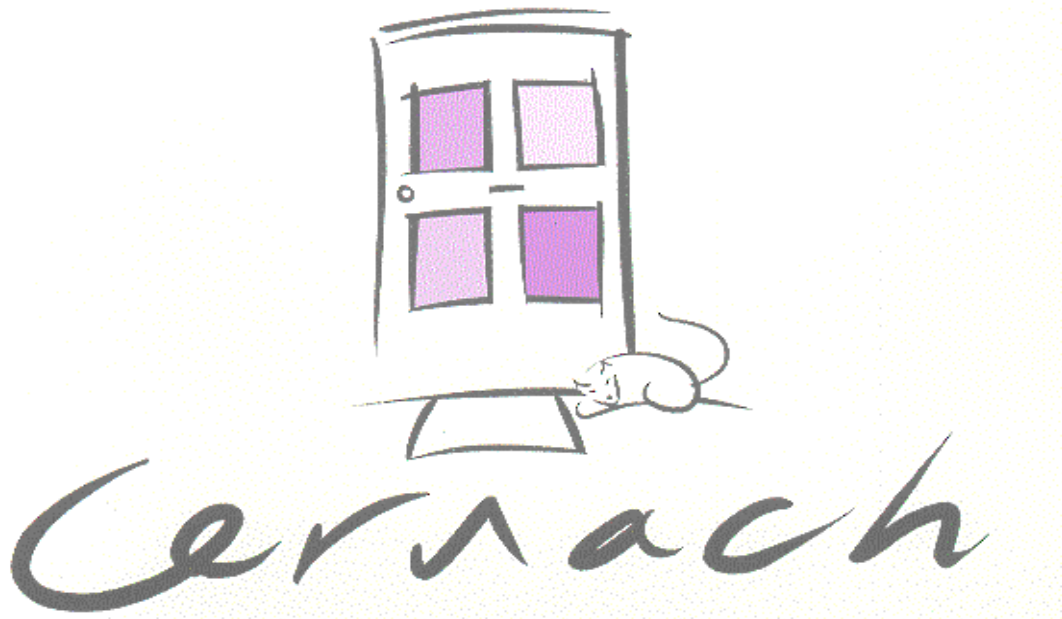


# CERNACH HOUSING ASSOCIATION

LIMITED



## FACTORING POLICY

**Date Approved by Management Committee:**

27 June 2019

**Date Issued to Staff**

18 July 2019

**Due for Review:**

June 2022

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## **1. Introduction**

Cernach Housing Association as a landlord and factor accepts the responsibility for providing a range of services for all of the properties under its control.

The cost of providing a management and maintenance service to the tenants of the properties we own is borne by the Association funded from the rental income derived from these properties.

The costs involved in providing a factoring service to residential owners however must not be subsidised from our rental income and must be paid for in its entirety by the owner-occupiers. These costs may be borne in the first instance by the Association and then recharged to those involved.

This policy document will describe the range of services we will provide as factor and the arrangements, which may be made for the recovery of amounts due from householders.

## **2. Context**

Cernach Housing Association created a mixed tenure estate through partnership working with a private house builder to provide housing for sale at Kingsmore Gardens. This was further supplemented by shared ownership provision in several of our new build developments where the sharing owners staircased subsequently to full ownership. All of the aforementioned housing stock is self contained main door houses and cottage flats which limited the factoring service required by these owners however the stock transfer on 29<sup>th</sup> March 2010 brought about significant changes to the nature of the factoring service to include owners in tenements living side by side with tenants.

When owners within these tenements bought their home they accepted responsibilities that are set out in a document called the 'Deed of Conditions'. This document specifies clearly the activities to be covered by a factoring service together with the rights and responsibilities of the owner and the factor. This document places a legal obligation on every owners within a block to contribute to the cost of maintaining common parts, footpaths and open areas linked to the property that are not maintained by the local authority.

## **3. Policy Aim**

Through the operation of this policy the Association aims to provide an efficient and responsive factoring service to owners whose properties we factor. Through effective management we aim to ensure that the asset value of both our properties and the properties we factor is maintained and that occupiers generally are not adversely affected by the action or inactions of other occupiers.

#### **4. Policy Objectives**

- a) To ensure the efficient and effective upkeep of all our properties and common elements and areas.
- b) To clearly define the respective duties and responsibilities of both private owners and the Association.
- c) To allow owners to participate in cyclical and major common work programmes.
- d) To take firm and prompt action when problems occur.
- e) To ensure that owners are consulted and informed on common issues, and respective responsibilities.
- f) To plan for, arrange and oversee a programme of cyclical planned maintenance of the common parts pertaining to the property.
- g) To instruct minor repairs up to the sum of £100.00 without reference to the owner occupiers.
- h) To notify owners in writing when a repair in excess of £100 has been instructed.
- i) To notify owners of cyclical and planned maintenance programmes at the start of the year to inform their budgetary process. The deeds however give the Association the power to instruct works under the tenement threshold of £2,000.00 plus VAT and recover the costs from owners without consultation.
- j) To liaise with other appropriate agencies in providing an effective factoring service (such as Environmental Health, cleansing, street lighting, insurance company etc.).
- k) To insure the property at full rebuilding value.
- l) To apportion costs for common repairs and render accounts on a quarterly basis.

#### **5. Service Provision**

The Association will offer factoring services where;

- the Association has developed a new build project which contains privately owned properties;
- the Association has developed a new build project containing shared ownership properties and the property is now fully owned;
- the property is located in a block previously owned by the Local Authority/Glasgow Housing Association and the owners voted for the Association to be factor;

#### **6. Risk Management**

This policy addresses the risks associated with:

- Failure to comply with the Code of Conduct imposed by the Property Factors (Scotland) Act 2011.
- Failing to keep the Association's properties and open spaces to a high

standard of repair and maintenance causing danger to residents and visitors to the area.

- Failing to recover owner charges due to the Association leading to cash flow problems, tenant's rent subsidising the owners and a shortage of money to carry out repairs.
- Complaints from owners through a lack of communication leading to referral to the First-tier Tribunal.

## **7. Legislative and Regulatory Framework**

Cernach HA is registered as a Factor with the Scottish Government under the Property Factors (Scotland) Act 2011. We have been registered from November 2012 and our Property Factor Registration No. is PF000149. This registration lasts for 3 years. The expiry date of our current application is March 2022.

Registered property factors are legally required to ensure compliance with the Act. There are 3 main elements to the Act.

1. A register of all property factors operating in Scotland.
2. A code of conduct.
3. A dispute resolution mechanism – known as the First-tier Tribunal for Scotland Housing Property Chamber (formerly the Homeowner Housing Panel)

We also operate this policy in line with The Scottish Social Housing Charter and specifically the following Outcomes:-

### **Outcome 13: Value for Money**

“Social landlords manage all aspects of their businesses so that tenants, owners and other customers receive services that provide continually improving value for money for the rent and other charges they pay”.

### **Outcome 2: Communications**

“Social landlords manage their business so tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides”.

### **Outcome 3: Participation**

“Social landlords manage their business so tenants and other customers find it easy to participate in and influence their landlord's decisions at a level they feel comfortable with”.

## **8. Building Insurance**

In mixed tenure blocks where we are acting as factor the owners are required to have their properties included in our block building insurance policy. Owners will be liable for any excess payable.

In developments where we are acting as factor the Association will allow owners the opportunity to participate in its 'block policy', should they choose. If specified in the Deed of Conditions that the Association as Factor is required to inspect Owners Building Insurance annually – procedures will be adopted to ensure that this is carried out.

## **9. The Factoring Service**

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

### **9.1 Inspections**

The common areas of the property will be regularly inspected in order to determine the condition in relation to the proposed cyclical/planned maintenance programme. The maintenance programme may be updated when inspection reveals a more rapid deterioration or may be deferred should the fabric/component be wearing better than expected.

### **9.2 Common Close Cleaning and Backcourt Maintenance**

The Association employs an independent contractor to carry out the close cleaning within our properties and a landscape contractor to maintain the common backcourt areas and open spaces. The costs of these service charges will be recharged to the owners.

### **9.3 Repairs – Responsibility**

The Association will only arrange and undertake common repairs as specified in the Deed of Conditions.

### **9.4 Types of Common Repairs**

From time to time some day-to-day repair work will be required to common parts of the buildings. The Association will carry out this work as and when required in accordance with the Deed of Conditions and our repair policy. The cost of these routine repairs will be recharged to owners when the invoices are next sent out.

### **9.5 Regular Cyclical Maintenance – Common Elements**

The Association has a system in place for the cyclical maintenance of our stock. This applies to slightly larger jobs, which will only occur every 2, 3 or 4 years and includes such items as common paintwork, e.g., boundary

railings/fencing.

The Association will aim to inform all owners at the beginning of each financial year of our cyclical maintenance programme for that year outlining how it will affect each individual in terms of the type of work to be carried out, when this will be done and the budgeted cost. It should be noted however that the timing and the costs of individual jobs might vary depending upon availability of contractors and tender returns. The actual costs of these cyclical works will be recharged to owners when the invoices are next issued after the work is complete.

#### **9.6 Occasional Major Repairs - (long-term/future common repairs) – Flatted Properties**

As properties became older certain items of major repair work are required to be carried out to prevent the houses deteriorating. Some of these items refer to the common parts of the building and as such all owners within the building will be responsible for paying a share of these costs. As the name implies this type of repair will be larger and more expensive than the routine repairs or cyclical repairs described at 2c & 2d. Examples of this work would include re-roofing, controlled entry renewal etc. All owners would be required to pay their full share of the cost of any major repairs.

#### **9.7 Information, Advice and Assistance**

The Association provides a Welfare Benefit Advice service one day per week which will be made available to owners at no extra charge.

The Association will 'signpost' owners to other sources of advice and assistance in resolving neighbour disputes. For example, Glasgow City Council Community Relations Unit or Glasgow City Council Mediation Service.

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

The Association will ensure that appropriate information on the factoring service is provided to owners in a variety of ways, including the Owners Handbook, and Cernach News.

### **10. Management Fee**

Apart from the actual costs of insurance, close cleaning, backcourt maintenance, repairs, etc., the Association incurs a cost in providing a factoring service. These costs would include: -

- Staff time in arranging insurances
- Organising repairs, routine & cyclical
- Printing, posting etc

- Dealing with general enquiries/complaints
- Apportioning costs when houses are sold
- Supervising Contracts
- Liaising with Solicitors

In order that the Association does not make a loss in its factoring activities, a charge in respect of a management fee will be levied. The Association, in accordance with our objectives, will try to keep this cost as low as possible but it must be set at such a level that we at least cover our costs.

Details of the management fee will be provided to owners each year and included within their invoices.

## **11. Deposit**

The Association will hold a float of £50.00 for each property.

## **12. Invoicing**

The Association will review the level of charges annually and give at least four weeks written notice of any changes in the charges to be levied.

Owners will be invoiced quarterly. Owners can pay in advance to their factoring account and can opt to pay monthly or quarterly.

## **13. Payment Methods**

- a) Allpay
- b) By Standing Order
- c) By Direct Debit
- d) By cheque at the Association's office or by post
- e) By phone using debit card or credit card
- f) Online at [www.cernachha.co.uk](http://www.cernachha.co.uk) using debit or credit card
- g) In cash at the Associations office

## **14. Arrears Control**

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

Early contact is essential if an owner's factoring accounts falls into arrears and we will make every attempt to establish personal contact by visit, letter, text or email.

When owners meetings in mixed tenure closes are called to discuss costs, owners will be advised during the meeting that payment arrangements can be made.

Owners will be given reasonable opportunities to clear any outstanding accounts on the basis that the total debt should be paid off before the next quarterly

invoice is issued.

The Association is always willing to discuss methods of payments and agreements to clear accounts over a longer period. Arrangements for payment instalments will be made when appropriate, and a proforma should be signed by the customer confirming the payment agreement. Customers who default on their arrangement and fail to contact to discuss, may be referred to a debt collection agency or passed to our solicitors to commence legal action.

In cases where the Association has not been contacted regarding the account, any accounts that remain unpaid may be subject to an additional recovery fee.

If the owner has still not been in contact, the Association may pass the debtor's details to a debt collection agency. This could lead to the owner's details being placed on a credit blacklist and result in them having difficulties obtaining credit facilities.

As a last resort, where such arrangements fail, we will consider taking legal action to recover the outstanding debt. The owner will be responsible for payment of any legal fees incurred in recovering the debt.

Raising court actions against debtors in these circumstances would almost certainly involve the small claims procedure, which is the court procedure that deals with debts of £3,000.00 or less. This procedure is designed to be used by parties themselves and would not be particularly cost effective if solicitors were involved.

There may be some cases where the Association will instruct their solicitor to lodge a Notice of Potential Liability (NOPL) against the property for owners. This may be used in instances where owners fail to engage, make payment or keep to a payment arrangement. The NOPL is lodged against the Title of the Property and means that the owner cannot sell the property without the Association being involved in the process. This should enable the Association to recover all monies outstanding. If the money is not recoverable from the selling owner, the new owner of the property becomes liable for the amount outstanding and will be pursued for the debt. The NOPL must be renewed every three years. The Corporate Service Officer in conjunction with the Finance Officer will look at each owner on an individual basis and make the decision as to whether this action is deemed necessary.

## **15. Record Keeping**

We will ensure that appropriate detailed records are maintained on all factored properties so that all works undertaken and services provided can be identified and correctly charged for, according to the responsibilities of individual owners.

## **16. Notification of Resale**

If an owner is proposing to sell his/her property the Association must be advised by their solicitors of the details of the sale, new owner's name, etc.



Any outstanding repairs will be apportioned between the new owners accordingly and invoices issued to the selling solicitor for payment.

The float of £50 will be deducted from the final bill or returned to the solicitor if the account is cleared.

## **17. Equality and Diversity**

The Association's Equality and Diversity policy, which was approved by the Committee in April 2015 following community consultation, outlines our commitment to promote a zero tolerance to unfair treatment or discrimination to any person or group of persons, particularly on the basis of any of the protected characteristics<sup>1</sup>. This includes ensuring that everyone has equal access to information and services and, to this end, the Association will make available a copy of this document in a range of alternative formats including large print, translated into another language or by data transferred to voice.

We are also aware of the potential for policies to inadvertently discriminate against an individual or group of individuals. To help tackle this and ensure that it does not occur, best practice suggests that organisations carry out Equality Impact Assessments to help identify any part of a policy that may be discriminatory so that this can be addressed (please see section 6 of the Equality and Diversity Policy for more information).

In line with section 6.2 of the Equality and Diversity Policy, the Association will apply a screening process based on that recommended by the Equality and Human Rights Commission to ascertain whether each policy requires an Impact Assessment to be carried out. The screening process was applied to this policy and it was decided that an impact assessment is not required.

## **18. Responsibility & Delegated Authority**

The Management Committee has delegated the Property & Development Sub-Committee authority to monitor the level of factoring arrears.

Implementation of this policy will be the responsibility of the Housing Services Manager. The Housing Services Manager will report to the Director and Property & Development Sub Committee on key performance indicators. The Senior Housing Officer has responsibility for the key aspects of the day to day service delivery, with delegation of specific tasks to appropriate staff. The Finance Officer has responsibility for issuing invoices and the Corporate Service Officer for factoring arrears recovery.

The Property & Development Sub-Committee will receive monthly reports on factoring arrears levels.

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<sup>1</sup> The Equality Act 2010 identifies the "protected characteristics" as age, disability, marriage and civil partnership, race, religion or belief, gender, gender reassignment and sexual orientation.

## **19. Role of Local Authority**

Under the provisions of the Tenement (Scotland) Act 2004 the local authority can become involved with issues common to a property, such as roof repairs, where there are two or more owners and the property is in decline due to the non-agreement of all interested parties to maintain the property. In addition under the provisions of the Housing (Scotland) Act 2006, the local authority may through its scheme of assistance be able to offer useful advice and information to owners whose properties are in a state of disrepair.

There are a number of properties where owners failed to participate in the improvement works. Whilst the properties concerned do not currently fail the Scottish Housing Quality Standards (SHQS) they will continue to deteriorate in the future. The Association in this instance will be required to submit an exemption to the Scottish Government from the SHQS for the failure of these properties on the basis of disproportionate costs.

## **20. Written Statement of Services**

Under the Code of Conduct, Cernach HA is required to provide each homeowner with a written statement setting out, in a simple and transparent way, the terms and service delivery standards of the arrangement in place between Cernach and the homeowner.

Cernach HA will provide the written statement:

- to any new homeowners within four weeks of agreeing to provide services to them;
- to any new homeowner within four weeks of Cernach HA being made aware of a change in ownership to a property Cernach HA already manages;
- To existing homeowners within one year of initial registration as a property factor – this has been completed within the timescale;
- To any homeowner at the earliest opportunity (not exceeding one year) if there are substantial changes to the terms of the written statement.

## **21. Customer Satisfaction**

The Association is committed to a high level of customer satisfaction, seeking continuous improvement. The Association will carry out an independent owner satisfaction survey every three years, which will include questions on owner issues and will disseminate the results to the owners.

## **22. Complaints Procedure**

The Association has a published complaints policy & procedure, which can be used where there is dissatisfaction with this policy or the operation of this policy. Any owner who feels aggrieved by their treatment under this policy can ask for a copy of the Association's complaints policy, which is available at the Association's office and on the website [www.cernachha.co.uk](http://www.cernachha.co.uk).

As with all our service policies, the complaints policy can be made available in large print, translated or put on tape. Owners also have the right to complain to the Housing and Property Chamber, First-tier Tribunal for Scotland, Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT.

## **23. Staff Training**

Cernach recognises that it is extremely important to factoring arrears prevention that the resourcing and training of staff is adequate to meet all the needs of its owners. The Association is committed to making training relating to effective prevention and factoring arrears control available to staff. Training should be updated as appropriate. Staff will be encouraged to network with other RSLs in order to share best practice in dealing with factoring arrears.

## **24. Policy Review and Owner Consultation**

The Association has developed this policy in consultation with owners, the resident participation group, the owners on the consultation register and account taken of representations made.

The Association will publish a summary of this policy in our newsletters and make it available on the Association website

The Property & Development Sub-Committee and the Management Committee will review the factoring policy every three years. This review will be brought forward if there is a need to respond to new legislation and/or policy guidance.