



**MOLENDINAR PARK HOUSING ASSOCIATION**

**FACTORING AND OWNER OCCUPIERS DEBT RECOVERY POLICY**

**Adopted: 7 May 2019**  
**Date of Next Review: May 2022**

Molendinar Park Housing Association  
3 Graham Square  
Glasgow G31 1AD

***Registered in Scotland 2400 R (S)***  
***Registered Scottish Charity SC043725***  
***Registered Property Factor PF 000125***

# POLICY

## 1. Introduction

- 1.1 This document sets out Molendinar Park Housing Association's policy in relation to the prevention, control and recovery of debt in respect of factoring charges. This Policy sits alongside our Factoring Policy.
- 1.2 The Association recognises the importance of keeping debts to a minimum – both for the Association and for individual owners – and will take all reasonable action to ensure that debts are prevented and efficiently and effectively recovered.
- 1.3 The Association also accepts that owners who owe factoring charges to the Association are likely to find this stressful, particularly if they have multiple debts and inadequate or irregular income. The Association will therefore take a sympathetic, yet firm, approach to owners in arrears. In doing this the Association recognises that debts arise for different reasons and therefore recovery procedures should be flexible and responsive to individual circumstances.

## 2. General Aims and Objectives

- 2.1 In relation to factoring debt the overall aim is to ensure that the provision of services to homeowners is maintained, whilst aiming to ensure factoring charges provide value for money. The objectives of the Association are to:
  - Minimise the loss of factoring income to the Association
  - Be both fair and consistent
  - Be prompt and effective in relation to debt recovery
  - Operate an effective debt management system
  - Emphasise prevention and effective communication
- 2.2 The Policy covers the following:
  - Prevention
  - Arrears recovery
  - Former owners' arrears
  - Information
  - Monitoring
  - Staff and Committee roles and responsibilities
  - Policy reviews

### **3. Equalities**

- 3.1 As part of our commitment to equal opportunities, this policy can be made available in large print or audio tape or translated into another language if required. We are also committed to meeting Outcome 1 of the Scottish Social Housing Charter which states that Social landlords perform all aspects of their housing services so that: - every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.

### **4. Legislation and Guidance**

- 4.1 This Policy complies with - the Property Factors (Scotland) Act 2011; Property Factors Code of Conduct (Scotland) Order 2012 and takes account of the Tenements (Scotland) Act 2004 and the Title Conditions (Scotland) Act 2003. This Policy also takes account of the findings of a Thematic Enquiry by the Scottish Housing Regulator into Factoring Services in Scotland 2016 and of Factoring Guidance issued by the SFHA in 2015.

### **5. Scottish Social Housing Charter 2017**

- 5.1 The following Charter outcomes are particularly relevant to this Policy;
- Communication – Social landlords manage their businesses so that – 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;
  - Participation – tenants and other customers find it easy to participate in and influence their landlord’s decisions at a level they feel comfortable with
  - 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 the rent and other charges they pay

### **6. Prevention**

- 6.1 The Association places considerable importance on the prevention of debt. A key aspect of this prevention is the setting of affordable factoring charges and continuing to monitor the services provided to ensure that they represent value for money.

6.2 The following measures will be adopted to prevent, as far as possible, the development and escalation of debt.

**Information:**

6.3 All prospective owners will be informed in writing of the likely charges they will incur as a result of owning their property.

6.4 New owners will be given a Written Statement of Services concerning the charges for their property at the date of sale/entry. This information will, as a minimum, detail the following:

- Services provided
- The cost of service charges
- Share of repairs
- Payment methods
- Information on our debt recovery Policy and procedures

6.5 Owners will be given the opportunity to pay using a variety of payment methods, e.g. Standing Order, Direct Debit or AllPay cards.

**Payments collection and accounting**

6.6 Debts may be reduced by effective payment collection and accounting systems – the easier it is for people to pay and the better the system for determining when people stop paying, the more likely it is that factoring income will be maximized.

The following points are made in relation to collection and accounting systems:

- An effective accounting system will be maintained to ensure that balances are accurate
- Accounts will be monitored on a regular basis to allow staff to detect as soon as a payment is missed
- Early action will be taken when an arrear is first noted

## **7. Arrears Recovery**

7.1 Complementary to this Policy are written procedures for all staff involved in factoring and debt management and recovery, which are intended to ensure that there is good practice and consistency of approach to the principles contained in this Policy.

7.2 Wherever possible, we will seek to recover sums owing with the voluntary co-operation of the owner concerned. We, will however, be prepared to take legal action to recover debt.

## **Arrangements**

- 7.3 The Association will seek to agree realistic repayment arrangements with individual owners.
- 7.4 The repayment arrangement will be confirmed in writing to the owner.
- 7.5 Staff will regularly monitor payments to ensure that the repayment arrangement is being adhered to. Where this is not the case, staff will take appropriate action.

## **Legal Action**

- 7.6 The Association is prepared to take legal action against owners who persistently fail to pay their factoring charges or who fail to adhere to agreed repayment arrangements.
- 7.7 The decision to instruct legal action will be made by the Director.
- 7.8 Legal action will commence if no payment has been made, no arrangement has been made to pay or any arrangement to pay has been broken three months after the invoice has been issued.

7.9 We will instruct a solicitor to write to the owner warning that court action may be taken. Where there is no positive response from the owner, we may pass the matter to a Debt Collecting company, with the costs associated with this being passed on to the owner. We may also instruct that a Notice for Potential Liability of Debt be taken forward. This notice is registered against the title for the property, lasts for 3 years and can be renewed after three years.

We may also take further action, the nature of which may vary depending on the level of the debt including but not limited to; Simple Procedure; earnings arrestment; bank arrestment; 3<sup>rd</sup> party attachment; exceptional attachment order and petitioning for sequestration, with the costs being recharged to the owner.

## **8. Former Owner Arrears**

- 8.1 The Association will aim to recover arrears from former owners using all efficient and economic means possible.
- 8.2 The Association will ensure that all former and current owner arrears are held in separate accounts. The Association will not hold an owner responsible for the arrears of a former owner.
- 8.3 Balances, which have received the authorisation of the Management Committee to be written-off, will remain on records, easily accessible to staff.

## **9. Confidentiality**

- 9.1 The Association operates policies and procedures, which seek to ensure that staff and Committee members respect confidentiality in relation to arrears work.
- 9.2 To ensure confidentiality the following steps will be taken.
- Only staff have access to records and files
  - Only staff, or those of a Debt Collection Agency authorized by us, will discuss arrears with owners
  - All reports to the Committee of Management will use codes to refer to the cases. Staff will take all reasonable steps to ensure that individual owners cannot be identified from these codes.

## **10. Monitoring**

- 10.1 We will report to the Committee of Management on factoring debts and their value and on recovery action and its outcome.

## **11. Roles and Responsibilities - Staff and Committee**

- 11.1 We will ensure that staff and Committee responsibilities in relation to owner's arrears are clearly defined.

### **Committee Responsibility**

- 11.2 The role of the Committee of Management is to oversee the implementation of this Policy and to approve the Annual Return on the Charter submission as it relates to owners and the factoring policy. The Committee has overall responsibility for the Association's factoring and debt recovery policies and for monitoring the management information provided on factoring debt and recovery.

### **Staff Responsibility**

- 11.3 All staff are required to have an awareness of this policy, with those staff in housing and property management and finance having a working knowledge of the policy and its procedures and ensuring their appropriate implementation, including ensuring the property register is accurately maintained.

A written report to the Committee of Management on a quarterly basis will include the following, as a minimum:

- Owner arrears
- Former owner arrears
- Action taken

### **Staff Training**

- 11.4 The Association will ensure that all relevant staff receive appropriate and regular training.

## **12. Complaints**

- 12.1 Complaints regarding the factoring service will be referred, in the first instance, to the Association's Director. If the matter is not resolved, owners will be advised to complain under the Association's complaints procedure details of which are on our website and available from our office.

If an owner remains dissatisfied and feels that we have not carried out our factoring duties nor adhered to the Property Owners' Code of Conduct, then redress may be sought from the:

**First Tier Tribunal Housing and Property Chamber**  
**First-tier Tribunal for Scotland**  
**Glasgow Tribunals Centre**  
**20 York Street**  
**Glasgow**  
**G2 8GT**

**Telephone: 0141 302 5900**  
**Fax: 0141 302 5901**

To take a complaint to the homeowner housing panel, homeowners must first notify their property factor in writing of the reasons why they consider that the factor has failed to carry out their duties or failed to comply with the Code. The property factor must also have refused to resolve the homeowner's concerns or have unreasonably delayed attempting to resolve them.

## **13. Policy Review**

- 13.1 This Policy will be reviewed and amended as necessary every three years or earlier in light of changes in legislation, guidance, good practice or our experience every five years. Targets relating to debt recovery will be reviewed and amended as appropriate annually as part of our budget preparations.

