WILLIAMSBURGH

HOUSING ASSOCIATION LTD

Factoring Debt Recovery Procedure

Reviewed August 2024

Williamsburgh Housing Association (WHA) seeks to ensure that all factoring activities are self-funding. This is achieved through the recovery of the cost of providing the factoring service, by setting the annual management fee at the appropriate level, please refer to our Written Statement of Service (WSS). It is also through the recovery of the costs of services and any common repairs from owners, based on the apportionments set out in the property Title Deeds.

This procedure details how owners will be notified of any amounts due as well as the steps that will be taken in the case of non-payment by factored owners.

As a responsible and supportive provider, WHA will seek to prevent arrears of factoring charges and will offer flexible payment terms where appropriate.

If an owner advises that they are having financial difficulties, we will offer to make a referral to our benefits advisor, who can offer free debt advice and assist with any benefits they may be entitled to or put them in contact with other free agencies who would be able to assist.

Legal action will be considered as a last resort.

INVOICING & CHARGING ARRANGEMENTS

Factoring invoices are issued every quarter and cover the periods noted below:

- 1st Quarter: 1st April to 30th June
- 2nd Quarter: 1st July to 30th September
- 3rd Quarter: 1st October to 31st December
- 4th Quarter: 1st January to 31st March

All invoices are payable within **14 days** of issue, unless there is a live direct debit or a payment arrangement in place. if payment is not received and there is no other arrangement in place the Association will follow the debt recovery procedure as detailed below.

Account statements will be provided on request. From 1st April 2025 copies of all invoices can be provided if requested within one year. However, copies requested older than one year will carry an administrative fee, equivalent to the time required for collating & redacting. The owner will be advised of the cost and payment will be required, prior to the information being provided.

When an arrear occurs, the letters listed below will be used to initiate contact in addition to phone calls, texts, emails and when appropriate in person visits. A record of each action will be noted on QL.

ARREARS ESCALATION ACTIONS

Please see below the escalation letters (there will be a minimum of 7 days between each letter):

1. ARR1
2. ARR2
3. ARR3
4. ARR4
5. ARR5

If the owner contacts the Association and a) clears the balance in full or b) enters into an acceptable repayment agreement, no further action will be taken.

When a repayment arrangement is agreed, this will be confirmed to the owner in writing and the arrangement monitored to ensure it is adhered to.

At all stages we will stress to owners the importance of working together to resolve any queries and encourage them to make contact if/ when they have difficulties paying their account or have charge queries. Discussions relating to finances can be emotive and conversations will be handled sympathetically, we will also remind the owner of the availability of our free benefits advice. As well as being open to making appropriate payment arrangements and emphasising that taking legal action is a last resort.

We aim to keep the number of cases referred for legal action to a minimum and will consider the cost implications in relation to the amount due.

RESTRICTIONS: DOOR ENTRY RELEASE & BUILDINGS INSURANCE

In addition, we will disconnect the close door entry function (This does not prevent access to the building but it prevents the release of the door from the flat handset inside the property.) If we take this course of action a letter will be sent requesting contact within a specified date, if no response, a card will be hand delivered to the property advising of when the disconnection will take place.

Should there be damage to the building resulting in a claim on the block building insurance policy, depending on the circumstances, the Association will allow the owner to pay the arrear so that they can make a claim. However, if the owners' balance remains outstanding the Association will seek to restrict the repairs to the common areas only. Owners' are advised of this in writing.

INFORMATION GATHERING

The Association will seek to gather additional information by doing the following:

- Check if the name or address has changed on the properties title deeds.
- If the property is owned by a company, we will check the companies house website.
- Check if the property is registered as a private let on the Landlord Register, if we believe it is privately let and not on the register we will notify Renfrewshire Council.
- If the letting agent is known, we will contact them to ask them to encourage the owner to get in touch.
- We will card and or visit the property (if appropriate), to encourage the owner/ private tenant to contact the Association.
- We may also use private investigator, if further information is required to initiate legal action.

LEGAL ACTION

Once all of the above steps have been carried out and there is still no payment received or direct contact from the owner. We will instruct our solicitor to issue a pre-sue action letter, advising that legal action will now be commenced.

If there is no response, we will instruct our solicitor to raise a simple procedure in court.

If court action is successful and decree is granted, we will send the letter to the owner advising of the outcome, they have 28 days to respond.

If there is no response, we will then instruct the Sheriff Officer to enforce the decree.

Options available, following decree being granted are:

- Earnings arrestment.
- Bank arrestment.
- Bankruptcy (depending upon the level of your arrears).
- Seek to dissolve limited companies.
- Inhibitions.

Prior to initiating any of the actions above, we will seek our solicitors' guidance, to ensure we are taking the most appropriate course of action, taking into consideration the likelihood of success versus the possible cost implications.

We will also lodge a Notice of Potential Liability (NOPL) against your property which will require the outstanding balance be paid before the property can be sold or as part of the sale agreement. A court order is not required for lodging a notice and the Association are not legally bound to advise the owner when we have taken this action. NOPLs expire after 3 years and can be renewed prior to the end date, so that there is no gap between notices.

Any costs incurred as a result of legal action including and not limited to; disconnection of door entry release function, pre-sue letter, seeking simple procedures including chargeable interest, Sheriff Officer & Private Investigator services, lodging Notices of Potential Liabilities, will be added to the owners factoring account.

The association may also consider collecting debts from other owners within the block where the title deeds state the owners of a block are responsible for any unpaid debt of another owner.

The association regularly reviews each account and will seek legal advice regarding possible options for recovery, to ensure actions are timeous and appropriate. We will consider the likelihood of a successful outcome versus the cost implications, if it is deemed that all options have been exhausted for recovery, a decision may be made to write off the debt.

MONITORING OF ARRANGEMENTS

All accounts will be monitored, and contact will be made with owners who have defaulted on their payment arrangement. If an alternative arrangement is not agreed, owners will re-enter the arrears process at the appropriate stage.

DISPUTED DEBTS

If owners are disputing any element of their charges, they may withhold payment of that element and pay the remaining balance due, until such time as the dispute has been resolved. The appropriate Team will correspond with owners in relation to their dispute and will advise the Factoring Assistant to hold any action on the account. The Factoring Assistant will be advised when the dispute has been resolved.

If there is no resolution to the dispute, owners may follow WHA's complaints procedure.

ARREARS AT POINT OF SALE

When we are approached by a solicitor for information to progress the sale of a property, we will advise of the sell fee amount which must be paid prior to any information being shared.

In exceptional circumstances, the Association may provide the information, if the solicitor provides written confirmation that the full amount owing will be paid from proceeds of sale, including the sell fee charge.

FORMER OWNERS

By following the debt recovery procedure detailed above the Association aims to keep former owner arrears to a minimum. The Association may in some cases pass details of outstanding arrears cases to an external debt recovery agent, if it is felt that they may be more successful in recovering the debt.