

# North Ayrshire Property Factoring Service Statement of Services

On 1 October 2012, the Property Factors (Scotland) Act 2011 (“the Act”) was brought into force by the Scottish Government. This new legislation is designed to regulate the property factoring industry and provide transparency to homeowners who share responsibility for communal repairs or services provided by a Property Factor. As North Ayrshire Council (“the Council”) retain responsibility for managing the communal parts of your property, we require to comply with the terms of the Act and with the Code of Conduct for Property Factors, developed by the Scottish Government. In terms of the Act, the Council is deemed to be the Property Factor for the development which your property forms part of.

The Council is registered as a Property Factor with the Scottish Government and adhere with the Code of Conduct referred to above. Our registration number is PF000263.

The following Statement of Services forms part of the Code of Conduct and sets out what the Council believes to be management activities in respect of the commonly owned parts within your property.

## Section 1: Authority to Act

The Council is authorised to act as a property factor to your block as: Your Title Deeds allow the Council to do so while it continues to own at least one flat or property within your block.

When you purchased your property, you would have received a legal document, which is referred to in this Statement as your Title Deeds. The Title Deeds give you legal ownership of the property and set out your rights and obligations as an owner. This section provides information on the legal right that the Council has to act as the Property Factor in respect of your property’s communal parts.

## Section 2: Property Factoring Services

This section provides information on the general common repair provisions contained within your Title Deeds and identifies the typical repairs and common services that the Council may have a responsibility for maintaining. Your Title Deeds set out what rights, obligations, and responsibilities you have as a property owner.

You might be fully familiar with the terms of your Title Deeds, however if you require advice or assistance, you can contact the Council’s Property Factoring Team (see Section 5) or review your Title Deeds independently. Alternatively, you may wish to seek independent clarification on the terms of your Title Deeds from a Solicitor in private practice.

Your Title Deeds will usually specify the share of the costs you are responsible for in respect of any common property you have an interest in. Within your Title Deeds the common parts may typically include roofs, external walls, paths, fences, closes and communal entrance doors (if applicable).

As a Property Factor, the Council will:

- Manage and deal with repair and maintenance issues relating to the common parts of your block;
- Where required, inspect the property to determine what repairs, if any, are necessary and carry them out within specified timescales;
- Manage and deal with any service charges involving the common parts of your block. For example, charges for close lighting, door entry systems or cleaning;
- Liaise as appropriate with tenants and private owners where repair works are deemed as necessary;
- Appoint contractors to carry out common repairs and maintenance works;
- Ensure that necessary works have been completed to an acceptable standard;
- Arrange payments to contractors on satisfactory completion of works;
- Ensure that the costs are divided appropriately between all properties;
- Issue owners with bills for their share of the costs;
- Engage with owners to obtain majority agreement where necessary improvement works to the block are identified; and
- Liaise with legal professionals as required.

The above list is not intended to be exhaustive but does provide a general overview of the common repair issues and services to be provided by the Council.

### **Section 3: Financial and charging arrangements**

This section provides information on how the Council intends instructing and charging for communal repairs and services.

As a homeowner within a factored property, you are responsible for paying a share of the costs of any common repairs, maintenance and services that are required or provided as part of the Council's factoring service.

It is generally the case that each property is responsible for an equal share of the costs. For example, if the roof is the common property of four flats in a block of four each owner will be liable for a one-quarter share of the cost of roof repairs.

Where the Title Deeds do not set out all or some of the above, they are regarded as silent on this matter and the requirements will be determined in accordance with the Tenement Management Scheme under

the Tenements (Scotland) Act 2004. In most cases, the Act specifies that each owner will be responsible for an equal share of the repair costs.

As a homeowner within a factored property, you are responsible for paying a share of the costs of any communal repairs and services.

## Threshold limit

Where a common repair is required at an estimated cost of £250 or less per owner, the Council will normally instruct these works without any consultation with you. This approach will ensure that the majority of common repairs are dealt with efficiently. Where each owner's share of the proposed work is estimated to be more than £250, we will write to each owner, providing details of the costs. In this circumstance and prior to instructing the work, the Council will endeavour to obtain consent from the owners concerned.

Where repairs are necessary for the immediate protection of any person or property, the Council may instruct works above this £250 limit without prior consultation with owners.

In circumstances where individual owners or the Council have differing opinions on repair issues, the Title Deeds will always take precedence.

## Charging arrangements

On completion of a common repair affecting your property, the Council will issue you with an invoice for your share of the costs incurred. This will provide you with details relating to the work carried out and the amount that is due to the Council. It will also set out the various methods of payment.

## Management and Administrative Fee

The Council will apply an administration fee to the cost of any works carried out as part of the property factoring service. The fee applied will depend on the value of works undertaken. If the cost of your repair is £500 or less, the administration fee will be 10% of the value of the repair (for example if the repair cost £60, the fee would be £6, giving a total bill of £66). If the repair costs over £500, the administration fee will be capped at £50.

**VAT:** The Council must pay VAT for some repair and maintenance costs. When this is the case, we will add VAT at the appropriate rate to your share of the costs. The invoice that we send you will fully detail any VAT payable. If the cost of your repair is £500 or less, the administration fee will be 10% of the value of the repair.

## Annual Maintenance Charge For homeowners within Saltcoats High Flats (Lambie and O'Connor Courts)

An annual account will be raised to cover the following costs:

- Lift Maintenance;
- Water Pump Maintenance;
- Heating and Lighting of communal areas; and
- Cleaning Costs for communal areas.

This account is in addition to any charges for work in relation to necessary repairs to the common parts of the building.

### Debt recovery procedure

Following receipt of any invoice for common repairs or maintenance related charges, you will be requested to make settlement of the costs within 21 days.

If you are unable to pay the balance in one instalment you should contact the Debt Recovery

Team to discuss a suitable payment arrangement. The contact details for the Debt Recovery Team will be displayed on any invoices issued by the Council.

If you do not pay your share of the repair cost within 21 days, the Council will take steps to recover these costs. A final reminder will be issued allowing a further 14 days for payment. If payment is still not made, this will be followed by a Legal Proceedings letter advising that the balance should be paid within 14 days, or the arrears will be referred for court action. Please note that if court action is required, the Council will ask the Court to require you to pay our legal costs in addition to the outstanding repair costs.

The full debt recovery procedure is available on request. This can also be accessed on the property factoring page of the North Ayrshire Council website.

If you are experiencing financial difficulties, you should contact us immediately, as we are here to help and assist wherever possible.

## Section 4: Reporting a repair

This section provides information on how to report a repair to the Council. It also sets out the Council's intended response.

### Repairs reporting

If your property is factored by North Ayrshire Council and you wish to report a repair involving the common parts, you can report the repair by calling our customer contact centre on 01294 310000.

Information relating to your property will be taken and passed onto our factoring service who will contact you.

## Emergency repairs

All emergency repairs should also be reported to 01294 310000.

## General enquiries

Should you have general enquiries relating to a factored property or have already reported a repair and require further information, you can contact the Property Factoring Team directly.

The Property Factoring Team's contact details can be found at the end of this document.

## Types of repairs

Repairs fall into three main categories:

- Emergency Repairs - Where there is danger to life or the safety of individuals, loss of wind or water tightness or security
- Non-Emergency Repairs - A necessary item which will cause considerable inconvenience or where there is a risk to health and safety, security of the property or there is the risk of damage to the property
- Planned Maintenance Planned maintenance will be programmed work, which include painter work, gutter cleaning, and roof inspection

## Timescales

All owners will be notified of the common repair and the costs associated with that repair.

The owner(s) have 30 working days to accept this offer, if this offer is not accepted the title deeds will take precedence and may be instructed. Should the owner wish to obtain their own estimates in respect of the common repair, the council would be willing to consider this, however some information will be required to be presented to the factor. Please note all owners will have to be in 100% agreement of this repair.

## Types of repairs

As a homeowner within a factored property, you have the right to obtain your own estimates from independent contractors regarding repair work, however you will require permission from the council before works progress.

When seeking permission to undertake works the Council requires a range of information to ensure that works comply with current specification and safety guidelines. Should you wish to submit this evidence please contact us on 01294 324966.

## Timescales for repairs

Emergency repairs – 4 Hours

Non-emergency repairs – 7 working days

Planned maintenance – 60 working days

Your Title Deeds allow the Council to instruct repairs relating to most types of common repairs and maintenance to the common parts of your property without the approval of all owners within the block. However, as explained previously in this document, owners will be contacted by the Factoring Officer prior to any planned maintenance repairs being carried out where your share of the estimated costs for the required works will be more than £250.

## Section 5: Communication Arrangements

This section provides general information on communication with the Council, what to do when you are selling your home or if you are not satisfied with the level of service you receive from the Council's Property Factoring Team.

The Council's Property Factoring Team is part of the Council's Place Service. For any Property Factoring enquiry, our team can be contacted at:

**Telephone: 01294 324966**

**E-mail: [Factoring@north-ayrshire.gov.uk](mailto:Factoring@north-ayrshire.gov.uk)**

**Address: Property Factoring Team, Cunninghame House Irvine, KA12 8EE**

Information on Property Factoring can also be found on the North Ayrshire Council website..

## Complaints procedure

If you are not satisfied with the Factoring Service provided by the Council, you can raise your concerns with the Property Factoring Team.

We will always try to resolve your complaint quickly, within five working days if we can. If you are dissatisfied with our response, you can ask us to consider your complaint again. Your second request will be acknowledged within three working days. A decision will be provided after no more than 20 working days unless there is a good reason for needing more time.

The Council's full complaints handling procedure is available on request and can also be accessed on our property factoring pages of the North Ayrshire Council website.

## Housing and Property Chambers First-tier Tribunal

If you consider the Council has failed to carry out its duties as property factor or has failed to comply with the Code of Conduct, you are entitled to make an application to the Housing and Property Chambers.

In order to do this the following circumstances must apply:

- You must have notified the Council in writing of the reasons why you consider that the Council has failed to carry out its property factoring duties or failed to comply with the Code of Conduct;
- The Council's complaints process has been exhausted and you believe that the Council has refused to resolve your complaint or has unreasonably delayed attempting to resolve your complaint.

The Housing and Property Chambers First-tier Tribunal contact details are:

**Telephone: 0141 3025 900**

**E-mail: [HPCadmin@scotcourtribunals.gov.uk](mailto:HPCadmin@scotcourtribunals.gov.uk)**

**Address: First-tier Tribunal for Scotland Housing and Property Chamber, 4th Floor, 1 Atlantic Quay, 45 Robertson Street, Glasgow, G2 8JB**

### Selling your home

If you sell your property, your solicitor should notify the Property Factoring Team of the change of ownership as soon as you know who the new owner will be. We will then calculate any outstanding charges and send you or your solicitor a final account.

## Service Section 6: Changing your Property Factor

This section provides information on how to change your Property Factor. In some circumstances, a majority of the owners in your block may terminate the Council's property factoring arrangement.

However, as your property is a former Council house, a change cannot generally be made within the period of 30 years from the sale of the first property in your block.

In certain circumstances it may also no longer be appropriate for the Council to act as Property Factor, for example if the Council no longer owns an individual property in a block of flats, they would no longer act as a Factor. Your Title Deeds may provide guidance on how to deal with these circumstances.

However, if they are silent, the Tenement Management Scheme under the Tenements (Scotland) Act 2004 may operate to allow a majority of owners in your block to dismiss or to appoint a new Property Factor.

## Section 7: Information for owners

This section provides useful information for homeowners relating to common repairs and Property Factoring.

## Property Factors (Scotland) Act 2011

Further information on the Property Factors (Scotland) Act 2011 is available from the [Scottish Government](#).

Any enquires relating to the registration of a Property Factor can be made by emailing the Property Factor Register directly [PropertyFactorRegister@scotland.gsi.gov.uk](mailto:PropertyFactorRegister@scotland.gsi.gov.uk).

## Data Protection

Please note that we are required by law to publish the address of all homes which receive a factoring service from the Council on the Property Factor Register.

## GDPR Legislation

North Ayrshire Council takes privacy and protection of customer, client, and staff data very seriously.

On 25 May 2018, new European Legislation came into effect: the General Data Protection Regulation (GDPR). The GDPR increases and strengthens the rights of individuals in relation to the information we hold about them. Being transparent and providing accessible information to customers about how we process their personal information is a key element of the new legislation.

The information you have previously provided to North Ayrshire Council is being used to facilitate repair and renewal contracts.

We will also use your information to verify your identity where required, contact you by post, email, or telephone and to maintain our records. The council need to use this information to perform a task carried out in the public interest. The information will be shared with Building Contractors to provide a repair/renewal contract and to protect public funds by preventing fraud.

## Home Insurance

If your home is not currently insured, it is strongly recommended that you insure its full value against damage by fire, flood, and other accidents.

Your policy should cover the full cost of rebuilding your home (this could amount to more than you paid for it) and you should advise your insurer that your property forms part of a common block.

**If you would like any part of this book translated or produced in a different format, please let us know.**

**Contact us:**

**Property Factoring Team Cunninghame House Irvine KA12 8EE**

[Factoring@north-ayrshire.gov.uk](mailto:Factoring@north-ayrshire.gov.uk)

Telephone: 01294 324 966