

East Ayrshire Council

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# Property Factors (Scotland) Act 2011

## STATEMENT OF SERVICES

Property Factors Registration Number PF000382



## 1. Background

The Property Factors (Scotland) Act 2011, which came into force on 1 October 2012, sets out minimum standards for property factors in a Code of Conduct, which requires that factors provide a Written Statement of Services to all owners.

East Ayrshire Council is authorised to act as factor for your block as:

- *your title deeds allow the Council to manage common repairs or act as factor while it continues to own at least one property within your block;*
- *the majority of the owners in your block have appointed the Council to act as factor; or*
- *the Council has acted as factor for your block by 'custom and practice'.*

As your factor, East Ayrshire Council aims to provide a high quality, cost effective and responsive service.

**Information on the Act can be found on the Scottish Government website at:**

<http://www.gov.scot/Topics/Built-Environment/Housing/privateowners/propertyfactors/2011Act>

**The Code of Conduct can be found at:**

<https://beta.gov.scot/publications/property-factors-scotland-act-2011-code-conduct-property-factors/>

The Property Factors (Scotland) Act 2011 places a duty on all factors to register the address of the properties which they factor on a public Register of Property Factors, which is maintained by the Scottish Government

**The Register of Property Factors can be accessed at:**

<http://sedsh119.sedsh.gov.uk/propertyfactorregister/>

## 2. Factoring services

The Council's main function as your factor is to manage the repair and maintenance of the parts of the block and services that are common to residents. Examples of common parts of a block are the external walls, the roof, the close or common entry and any common pathways, drying greens etc.

Your title deeds specify your responsibilities in respect of your own property and the common parts of your block.

Further details on common repairs can be found in the following publications:

**Checking your Building**

<https://www.east-ayrshire.gov.uk/Resources/PDF/S/SchemeOfAssistance-Checkingyourbuilding.pdf>

**Common Repair, Common Sense**

<http://www.irpm.org.uk/docs/public/Commonrepaircommonsense.pdf>

**Under One Roof - Impartial advice on repairs and maintenance for flat owners in Scotland**

<http://www.underoneroof.scot/>

As your Factor, in return for payment of a management fee, the Council will:

- *Manage any repair and maintenance issues involving the common parts of your block;*
- *Organise the provision of services to the common parts such as close/entry lighting and cleaning, maintenance of communal areas etc. (as applicable);*
- *Undertake and/or appoint contractors to undertake common repairs and maintenance works;*

- *Arrange payments to contractors following the satisfactory completion of common repairs and maintenance works;*
- *Allocate the cost of common repairs and service charges between the properties in a block as specified in the title deeds, and issue invoices to owners for their share of the cost of the common repairs and service charges;*
- *Undertake periodic inspections of any common areas;*
- *Arrange for any necessary improvement works to the block, subject to consultation with and the consent of all owners.*

Information on the factoring service provided by the Council can be accessed on the Council's website:

<https://www.east-ayrshire.gov.uk/Housing/Property-factoring/PropertyFactoring.aspx>

### **3. Charges**

#### **Factoring/service charges**

To cover the cost of providing the services detailed above, a management fee will be payable to the Council.

This fee will be reviewed annually and will reflect the cost of providing the service. This fee, together with the proportionate share of the costs of any grounds maintenance, common area lighting/cleaning and any other costs (if applicable) will be invoiced quarterly in arrears in January, March, July & October.

The Factoring Service will give prior notification as appropriate of any changes to the level of management fee.

#### **Common repair charges**

In addition to factoring and service charges, you will also be due to pay a share of the cost of any common repairs, maintenance or authorised improvements to the common parts of the block.

The title deeds for a property will usually specify the arrangements for the management and maintenance of common parts, the procedure for making decisions and how costs are to be apportioned between owners. Where the title deeds do not make provision on specific points, the Tenements (Scotland) Act 2004 and the associated Tenement Management Scheme will apply. Although it is not possible to generalise for all properties, owners will usually be responsible for an equal share of the cost of common repairs and maintenance of the common parts. For example, owners in a block of six flats will usually each be liable for a 1/6th share of the cost of common repairs or maintenance works.

#### **Charging arrangements**

If the Council organises a common repair at your block, the Factoring Service, in most cases, will write to you, providing a brief description of the work to be carried out and an estimate of your share of the cost. Invoices for common repair work will be issued following completion of the repair and/or included in the next quarterly factoring invoice. Invoices are payable upon receipt and payment options will be outlined on the invoice you receive.

If you wish to query a common repair invoice or any elements of your factoring invoice, the procedure will be outlined on the invoice.

## 4. Debt recovery process

If you have not paid your factoring charges or any common repair invoices issued within 14 days, you will receive a letter from the Council asking that the amount due is paid immediately.

If payment is not received, a final reminder will be issued. Should any sums due remain unpaid, the matter will be passed to the Council's Governance - Legal Section to initiate debt recovery, which may include court action. Accounts not settled on time will be subject to additional debt recovery charges, including court costs if applicable. Details of the Council's debt recovery procedure can be found at [www.east-ayrshire.gov.uk](http://www.east-ayrshire.gov.uk).

It is important to note that failure to pay your factoring charges or common repair invoices can affect your future credit rating if a court action is initiated and is successful.

Failure of owners to pay accounts on time may prevent the Council from delivering or instructing repairs or providing factoring services. The Code of Conduct assumes a mutual obligation from both Factor and owner and can only be delivered effectively where owners acknowledge their responsibility for their property.

## 5. Reporting common repairs

As factor, the Council will provide a response repairs service in respect of the common parts of a block.

Owners can telephone 01563 555555 to report common repairs during normal working hours (9am - 5pm Monday to Thursday and 9am - 4pm Fridays); alternatively they can be reported as follows:

- *In person at any local office*
- *Online through the Council's website at [www.east-ayrshire.gov.uk](http://www.east-ayrshire.gov.uk)*
- *By emailing [repairs@east-ayrshire.gov.uk](mailto:repairs@east-ayrshire.gov.uk)*
- *Emergency common repairs can be reported out with normal office hours by telephoning 0345 724 0000. \*Emergencies outwith working hours will incur a minimum £50.00 call out fee. (Apportioned between all property owners within the block)*
- *Repairs will be categorised by the Council and dealt with accordingly. The categories are as follows:*

### **Emergency - within 2 hours**

Emergency situations that need to be responded to quickly to make safe or carry out a temporary repair. Re-instatement work will follow-on and be undertaken within the appropriate priority for the work.

### **Urgent (priority) - within 24 hours**

Emergency repairs are where the welfare of the resident and/or the fabric of the property could be compromised if left unattended. These are normally completed by the end of the next working day.

### **Urgent (non-priority) - within 3 working days**

When failure to attend to the defect could result in a fairly rapid deterioration of the fabric of the building or where the convenience of the tenant is significantly compromised. These are normally completed within 24 hours or by the end of the 3rd working day depending on the nature of the repair.

### **Planned - within agreed timescale**

Repairs by appointment to address the more routine repair and maintenance work and carried out within one of two timescales depending on the nature of the work required.

- *25 working days*
- *50 working days*

## **6. Communication and consultation arrangements**

As detailed above, the Council generally retains the right to manage common repairs while it continues to own at least one property within a block. Most types of common repairs, maintenance or redecoration works to common parts do not require the approval of owners prior to being instructed or carried out. In most cases, the Council will provide you with advance notice of the common repairs or maintenance works to be instructed, together with an estimate of the cost. The only exception to this are essential 'wind and watertight' or emergency repairs, which any owner has the right to instruct in terms of the Tenements (Scotland) Act 2004 and the Tenement Management Scheme. In these cases, notification of the repair/cost will be issued at the earliest opportunity.

In certain areas the title deeds require that the factor consults with owners prior to the instruction of major common repair works, where the cost of such works is in excess of a specified amount. If the anticipated cost of any repair exceeds this sum, the Council will contact you in advance to obtain the consent of a majority of the owners.

Any improvement works to the block will be subject to prior consultation with, and consent of, all owners.

We will endeavour to respond to enquiries within 5 working days of receipt. If further time is required to respond to the enquiry, the owner will be notified in the preferred form of communication (letter; email, telephone) giving the reason for the additional time required.

## **7. Building insurance**

It is essential that all owners have buildings insurance to cover the reinstatement cost of their property in the event of damage or destruction. As a minimum, a buildings insurance policy should include cover for fire, flood, storm damage, vandalism and malicious damage.

In addition, the owners of common parts should ensure that insurance cover is in place to cover third party liability in respect of the common parts of a block.

The Council insures any properties which it owns and also maintains insurance cover in respect of its interest in the common parts of the block. Owners are responsible for ensuring their property is fully insured.

## **8. Changing factor**

As detailed above, your title deeds may allow the Council to act as factor or the Council may act as factor by 'custom and practice' due to managing common repairs within a block. Should this no longer be the case, your title deeds may contain provisions outlining the procedure for changing factor if a majority of owners are unhappy with the present arrangements.

If your title deeds do not make specific provision in this regard, the Tenements (Scotland) Act 2004 and the associated Tenement Management Scheme and the Title Conditions (Scotland) Act 2003 set out a procedure whereby a majority of owners can appoint/dismiss a factor etc.

The Council reserves the right to withdraw the Factoring Service and terminate its role as your factor. If we do this, we will provide you with advance notice in writing to allow you to make alternative arrangements.

## 9. Complaints resolution

We aim to provide owners with a reliable and efficient service at all times.

The Council takes complaints about its services seriously and deals with them in confidence. Information from customer complaints is used to improve services to prevent the same problems happening again.

If you do have cause to complain about the factoring service, you can do so:

- *Online*
- *In writing or by email*
- *In person at any local office*

The Council will respond to all complaints within the published timescales and these standards, together with details of the Council's Complaints Procedure, are available from your local office or at:

<https://www.east-ayrshire.gov.uk/CouncilAndGovernment/Contact-us/Commentsuggestionsandcomplaints.aspx>

### Stage 1:

If we cannot resolve your complaint straight away you can ask the appropriate manager to review your complaint. The manager will aim to provide a response within 5 working days.

*In exceptional circumstances, where there are clear and justifiable reasons for doing so, an extension of no more than five working days may be agreed with the customer.*

### Stage 2:

If you are not satisfied with the response you can ask for a further review of your complaint by senior management and we will aim to respond within 20 working days.

*If there are clear and justifiable reasons for extending the timescale, senior management will set time limits on any extended investigation, as long as the customer agrees.*

On conclusion of the Council's Complaints Procedure, if you remain dissatisfied with the Council's response, you may apply in writing to the First-tier Tribunal for Scotland (Housing and Property Chamber) for a determination as to whether the Council has failed to carry out its factoring duties or failed to comply with the Code of Conduct introduced by the Property Factors (Scotland) Act 2011.

An application form can be downloaded from their website:

<https://www.housingandpropertychamber.scot/home>

The First Tier Tribunal for Scotland (Housing and Property Chamber) can be contacted at:

**First-tier Tribunal for Scotland**

**Housing and Property Chamber,**

**4th Floor, 1 Atlantic Quay, 45 Robertson Street, Glasgow G2 8JB**

**Telephone: 0141 302 5900**

**Fax: 0141 302 5901**

**Website: <https://www.housingandpropertychamber.scot/home>**

To complain to the First-tier Tribunal for Scotland (Housing and Property Chamber) you must firstly notify the Council in writing of the reasons why you consider that the Council has failed to carry out its duties or failed to comply with the Code of Conduct and the Council has refused – or unreasonably delayed in attempting to resolve – the issue

## 10. Data protection

For the purposes of the Data Protection Act 1998, the Council is the Data Controller of your personal information and must tell you how it will use and share that information.

Your personal information, comprising of your name and address, will be used by the Council to operate its Factoring Service.

Accordingly:

- *The Council will use your personal information as a factoring customer, comprising of your name and address, to operate its Factoring Service.*
- *The Council will include your address (but no personal information) in the public Register of Property Factors, maintained by the Scottish Government.*
- *The Council will hold your personal information on a secure database and will not allow access to it by unauthorised users/personnel; your personal data will be removed from the database if you cease to be a factoring customer.*
- *If you need further information about how your personal information will be used, held and shared by the Council or used and held on the Register of Property Factors you should contact the Council's Property Factoring Service Team at: **Housing Asset Services Burnside Street KILMARNOCK KA1 4EX** Tel: 01563 555503 Email: [factoring@east-ayrshire.gov.uk](mailto:factoring@east-ayrshire.gov.uk)*

## 11. Declaration of interest

The Council retains ownership of properties which have not been subject to the Right to Buy.

## 12. Additional contact details

Additional contact details can be found on the Council's website:

<https://www.east-ayrshire.gov.uk>



**East Ayrshire Council**  
Comhairle Siorrachd Air an Ear

**Safer Communities**

Housing Asset Services, Burnside Street, Kilmarnock KA1 4EX

**Tel:** 01563 555503

**Email:** [factoring@east-ayrshire.gov.uk](mailto:factoring@east-ayrshire.gov.uk) [www.east-ayrshire.gov.uk](http://www.east-ayrshire.gov.uk)