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# FACTORING POLICY

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## **1. INTRODUCTION**

This policy sets out the principles upon which Milnbank Property Services (MPS) will operate its factoring service.

The purpose of this document is to detail the role of MPS as the factor on behalf of owner occupiers. MPS is a wholly owned subsidiary of MHA. Factoring services and responsibilities are to arrange and oversee the general upkeep of factored buildings, ensure that common parts are maintained to a high standard and that all necessary repairs are carried out.

## **2. LEGISLATIVE BACKGROUND**

Factoring services are governed by a wide range of legislation, the most recent being the Property Factors (Scotland) Act 2011, which incorporates the Code of Conduct for property factors. An updated version of the Code of Conduct for property factors took effect from 16 August 2021. All property factors must register with the Scottish Government and must provide a Written Statement of Service (WSS) incorporating the following: -

- Authority to act
- Services provided
- Financial and charging arrangements
- Communication arrangements
- Declaration of interests
- How to end the arrangement

## **3. POLICY OBJECTIVES**

MPS aims to provide an efficient factoring service and value for money for owners in factored properties by: -

- managing the factored properties effectively;
- ensuring that debts and operating costs are pursued fairly in accordance with agreements and the Factored Owners Debt Recovery Policy and;
- ensuring that an effective dialogue with owners is maintained.

## **4. FACTORING SERVICES**

MPS will provide each customer with a WSS which will detail the terms and service delivery standards of the arrangement in place between the homeowner and MPS.

MPS has the authority to act as property factor on behalf of the co-owners due to either:

- operating as factor by custom and practice with no formal appointment existing;

- appointed as factor by the developer of a property and;
- appointed as factor by a majority of owners.

MPS provides a comprehensive factoring service which includes the following services.

## **5. BUILDING INSURANCE**

MPS operates a common block building insurance policy which covers full re-instatement value. Owner occupiers must participate and will be supplied with details on commencement of factoring when purchasing their flat privately. Owners should note that cover does not include personal effects, floor coverings, furniture, etc, and it is their responsibility to ensure that they are adequately covered in this respect by household contents insurance. Owners can request a copy of the policy details or visit our website: [www.milnbankha.org](http://www.milnbankha.org). In the event owners' factoring accounts are not paid on time, building insurance will no longer be in place for their individual property. This point is confirmed within the WSS. This failure will not affect other owners in the block in terms of insurance.

## **6. REPAIRS**

MPS as the property factor aims to provide a prompt and efficient repairs service, including addressing and carrying out repairs promptly. This includes factored stock within mixed tenure blocks, as well as fully factored stock where MHA do not own any stock. Repairs of a significant nature, such as roof works or renewal, sandstone repairs etc will be addressed as one-off contracts, subject to close meetings, and "buy-in" from owners before any works can be instructed. MPS will liaise with Glasgow City Council regarding potential grant for owners regarding major works.

## **7. COMMON DAY TO DAY (REACTIVE) REPAIRS**

MPS shall carry out all common repairs in the same timescales operated by MHA for tenanted properties as follows:

- emergency repairs carried out within 4 hours from notification;
- urgent repairs carried out within 2 working days from notification;
- routine repairs carried out within 5 working days from notification and;

Where common repairs cost less than £150 per house, these will be instructed without notification to the owner occupiers.

Where common repairs cost more than £150 per house, MPS will notify the owner(s) in writing of:

- the nature of the work;
- the total cost and;
- their share of the cost

Following approval to proceed from the owners, the works will be instructed. The exception will be in the event of an emergency where there is a risk to persons or the property. These will be attended to within 4 hours.

Owners will be recharged for their share of each common job. All works instructed Will be recorded on HomeMaster, the Association's IT package to ensure that owners are recharged appropriately as part of their annual invoice.

The common parts of the property are outlined in the Deed of Conditions and include the roof, the close, the backcourt, common boundaries and the tenemental structure. Common repairs are items which will not cause any inconvenience and where there is no risk of damage to tenants/owners or members of the public.

## **8. REPORTING COMMON REPAIRS**

Common repairs should be reported to MPS' offices. The office has an answering machine operating outside office hours. Messages can be left on the answering machine, or the call out service number can be connected in the event of an emergency. A call out charge will be applied to the caller. The repairs will be carried out by MPS in-house tradesman or external contractors forming part of MHA's Framework Contractors.

## **9. EMERGENCY REPAIRS**

Emergency repairs are defined as repairs that require to be carried out where there is substantial danger to life, health, safety of individuals, security of the home and/or the loss of wind or water tightness of the home.

In the event of an emergency, MPS will instruct the necessary repairs without going through the above procedures.

Where an emergency arises outwith normal office hours, owner-occupiers should contact the Association's emergency call out service who will in turn arrange for necessary works to be carried out. The contractor carrying out this work, or a representative of MPS, will notify the owner as soon as possible that the work is in hand.

## **10. CYCLICAL AND PLANNED REPAIRS**

To maintain the fabric of properties, MPS will undertake cyclical maintenance to the common areas, all as outlined in the schedule attached to the WSS.

## **11. PRIVATE REPAIRS**

MPS in-house inspection and advisory services are available to owners free of charge. Any owner wishing a private repair to be carried out will be required to sign a mandate upfront and ahead of the repair being instructed.

MPS will not carry out private work for an owner who has an outstanding debt. Requests for improvement works will be carried out at MPS' discretion.

## **12. MAINTAINING COMMON AREAS**

All owners pay an estates service fee to cover the costs for MPS to maintain backcourt and garden maintenance services.

## **13. PROPERTY INSPECTIONS**

The MPS Asset Officer staff will inspect properties on a quarterly basis as part of their day-to-day activities. Owners will be encouraged to contact MPS if any repair issue is observed.

Taking account of the new Code of Conduct that came into force in August 2022, MPS will arrange for building inspections every 5 years by an Architect or Building Surveyor, subject to the owners agreeing to pay their share for such a service.

## **14. COMPLAINTS**

MPS has a comprehensive complaints resolution procedure. Copies are available on request. Where a complaint against MPS is not resolved to the satisfaction of the owner, the Property Factors (Scotland) Act 2011 makes provision for owners to refer their complaint and submit an application to the Home Owners Housing Panel (HOHP) who will determine whether MPS have failed to carry out their duty as a factor or failed to comply with the Code. The HOHP will not accept a complaint until MPS's complaints procedure has been exhausted.

**Contact details for the Home Owners Housing Panel is Europa Building, 450 Argyle Street, Glasgow, G2 8LH, telephone number 0141 242 0175, fax number 0141 242 0141, e-mail [hohpadmin@scotland.gsi.gov.uk](mailto:hohpadmin@scotland.gsi.gov.uk)**

Dispute resolution is highlighted within the WSS.

## **15. FACTORING SERVICE COSTS**

MPS provides a comprehensive property management service which includes the full maintenance and inspection service to the common areas. The costs associated with providing these services are reviewed annually as part of the budget setting process to ensure costs associated with the service are being recouped from the factored owners.

## **16. MANAGEMENT FEE**

The costs associated with providing these services will be reviewed annually as part of the budget setting process.

The Management Fee is the charge made by MPS to cover the costs of managing the property.

The services provided within the management fee covers:-

- all property management administration;
- all communication with owners including the issue of newsletters
- arranging and monitoring of cyclical contracts;
- open door policy for owners to report repairs or discuss factoring issues;
- administration of building insurance, premiums and claims
- copy invoices free of charge;
- property inspections and advisory service for owners;
- pre and post inspection service for specific repair and maintenance works;
- issuing factoring accounts;
- supplying information to solicitors e.g. house sales;
- debt recovery process;
- holding close meetings as required and;
- stair cleaning service

MPS will consider the level of resource required for overseeing major contracts on a contract-by-contract basis and determine if an additional charge applies, which would be outlined to owners upfront.

## **17. DEPOSIT**

A deposit of £50.00 is charged to all incoming owners. This sum is refundable when the owner sells their property, provided there are no outstanding arrears. In the case of an arrear, the deposit will be offset against it and any credit balances refunded to the owner.

When an owner sells the property, their solicitor shall notify MPS of the date of sale and identify the successor to the ownership. A flat fee of £50 + VAT will be charged to lending authorities requesting copies of key documents in relation to building contracts.

## **18. ARREARS/DEBT RECOVERY**

MPS will always pursue owners who fail to pay their accounts. A sequence of actions will be carried out when an account is outstanding. Any expenses incurred from legal actions will be levied to the owners account.

4 weeks	-	Reminder
6 weeks	-	Sherriff officers instructed to issue 7 day letter
7 weeks	-	Court action instructed

The above is highlighted within the WSS.

## Potential Legal Action

- **Payment Decree** -the Sheriff awarding a payment decree, stating a specific sum to be paid by the owner per week/month.
- **Wage Arrestment** - legal action will take the form of either the Sheriff awarding a wage arrestment in favour of MPS specifying a weekly sum.
- **Speculative Arrestment** –if MPS does not have employment details to carry out a straight wage arrestment, the Sheriff Officer will be instructed to implement a speculative arrestment to recover the outstanding balance from the owner's bank account.
- **Rent Arrestment** - legal action will take the form of the sheriff officer arresting the rent of the owner's sub-letting tenant.
- **Attachment** - if the owner fails to adhere to the payment decree, the board shall recommend that an attachment is carried out. Sherriff officers attend the premises of a debtor to value goods and subsequently, sell the goods to pay off the debt. The company shall instruct the sheriff officer to enforce the attachment decree and offset any monies received against the factoring arrears.
- **Instruct Notice of Potential Liability** - the notice is served on an owner either under the Tenements (Scotland) Act 2004 if the property is a flat or under the Title Conditions (Scotland) Act 2003 if the property is a house. The notice lasts for three years from the date of registration and can be renewed by being registered again before the expiry date.
- **Serve an Inhibition** -The company shall serve an inhibition order thus, preventing the owner from selling the property without settling the outstanding factoring debts. The order shall last the duration of 5 years.
- **Sequester** - when an owner has an outstanding debt of £3,000 or more, the company will initiate action to declare the owner bankrupt. The company has engaged a debt recovery agency to locate and, where appropriate, pursue recovery of all outstanding debts. The property services manager will determine which cases are pursued by the agency.

## **19. PAYMENT OF FACTORING ACCOUNT**

Factoring accounts are issued annually in April. Owners are expected to pay their accounts promptly. The date that MPS receives payment, or an instalment is the date listed on the MPS bank statement and not the date the owner makes the payment.

MPS will accept various payment methods as follows:

- Using an Allpay card. A minimum payment of £5 per transaction can be made.
- By direct debit. No fee will be charged for setting up the direct debit; however, a fee of £10 will be charged in the event of non-payment to cover MPS' administrative costs.
- A chip and pin facility to accept card payments via the office or over the telephone.



- Online payments using a debit card.
- Payments by cheque should be made payable to 'Milnbank Property Services Ltd'.
- Cash payments can be made at the office.

Payments via instalments are permitted provided that, this has been agreed in advance with the Factoring Manager and requests are deemed to be reasonable. The Factoring Manager will draw to the attention of the Head of Property, any unreasonable requests before entering into such agreements with owners. The Factoring Manager will provide the Board with monthly updates regarding the overall factoring arrears, via the portal. More detailed information will be provided by the Factoring Manager as part of the half yearly Board papers.

## **20. COMMUNICATION AND CONSULTATION**

MPS will consult with owners on all factoring issues and hold owners meetings to discuss issues relating to the property. A newsletter informing owners of MPS activities will be issued twice a year.

Owners can contact MPS by calling at the office, by telephone, in writing or by e-mail. The Association's website has a section dedicated to owners receiving services from MPS, which contains information on all relevant policies including the complaints handling procedure. Visit [www.milnbank.org.uk](http://www.milnbank.org.uk)

## **21. ALTERATIONS**

Owners proposing to carry out major alterations are required to notify MPS in advance of works (as a co-owner), affording MPS an opportunity to comment and offer advice where relevant, particularly in relation to proposed structural works which may require planning and/or a building warrant.

## **22. FACTORING AGREEMENT**

Each owner is encouraged to sign a factoring agreement. This allows for a single document which confirms the contractual agreements in a clear and concise way. At change of ownership, solicitors acting on behalf of the new owner will be sent a factoring agreement to be signed immediately to allow the records to be updated accurately.

## **23. DATA PROTECTION**

All information relating to homeowners will be handled in line with the General Data Protection Regulations 2018.

## **24. MONITORING**

The Factoring Manager, with input from the Head of Property will provide a report to the Board of Committee 6 monthly regarding the factoring service in November

and May of each year. All relevant updates will be provided and as a minimum will include the following:

- The number of accounts issued;
- The value of work invoiced in period;
- Income received in period;
- The value of outstanding accounts;
- Detail of legal action being pursued
- Update on service, including cyclical programme
- Any major contracts identified

## **25. REVIEW**

MPS Factoring Policy will be reviewed by the MPS Board every 2 years or sooner in the event relevant legislation is updated.