



# Cassiltoun

## Housing Association

### **POLICY & PROCEDURES FOR DEBT RECOVERY OF FACTORED PROPERTIES**

Date Approved	Proposed Review Date
January 2022	January 2025
<b>Chair Person/Office Bearers Signature:</b>	

**CASSILTOUN HOUSING ASSOCIATION LTD**

**Castlemilk Stables, 59 MACHRIE ROAD, GLASGOW G45 OAZ**

***Cassiltoun Housing Association is a recognized Scottish Charity SC035544  
Cassiltoun Housing Association is registered with the Scottish Government As a  
Property Factor PF000154***

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## **1. Introduction**

**1.1** Cassiltoun Housing Association Ltd is a Registered Social Landlord who provides a factoring service to owners of tenemental properties within the area, sold through the Right to Buy Legislation, as part of an improvement for sale program and to owners of former Glasgow City Council (GCC)/GHA properties that transferred to the Association in March 2009.

**1.2** The Association in line with the new Property Factor's Act (Scotland) Act 2011 has registered as a Property Factor effective from 19<sup>th</sup> December 2012 and our Property Factor Registration Number is PF000154.

**1.3** As Property Factor the Association is responsible for the general management and administration of the common property.

**1.4** This document takes into account statutory and regulatory requirements.

**1.5** Arrears result when individual owners do not, or believe that they are unable to, make payment for issued accounts.

**1.6** As Property Factor the Association invoices owners and collects payments. Where owners have refused or believed themselves unable to pay, the Association has to recover the outstanding debt by all legal means.

**1.7** To minimise this risk, the Association will engage in robust and timely recovery practices, to ensure that settlement of outstanding balances is achieved at the earliest possible opportunity.

**1.8** Owners will be provided with access to the Association's Money Advice Team.

## **2. Principles, aims and objectives**

### ***Principles***

**2.1** The Association aims to provide an efficient factoring service and value for money for owners in factored properties.

**2.2** The Association will make best use of the resources available to it, adopting a firm but suitably sensitive approach to arrears recovery. It is imperative that bad debt is minimised to ensure the maximum benefit to all.

### ***Aims of the Policy***

**2.3** The Aims of the Debt Recovery Policy are:

- Arrears Prevention – to promote earliest possible action to prevent arrears from occurring. This includes comprehensive information to new customers on their obligations which is contained with the Written Statement of Services. Regular and prompt billing to owners and ensuring that a range of flexible and accessible payment options are available.
- Arrears Management – to utilise the fully integrated IT account management system to assist operational staff to manage arrears.

- Arrears Recovery – to initiate prompt and consistent debt recovery activity through internal efforts and if necessary court action and subsequent enforcement.

### **Objectives of the Policy**

**2.4** The Objectives of the Debt Recovery Policy are to:

- Provide factored owners with clear and simple information on the courses of action they can take when faced with difficulty in settling accounts.
- Directly contact each owner as soon as arrears occur, inviting further contact to discuss the situation by telephone or in person.
- Take a staged approach in which action is targeted and recorded.
- Take account of vulnerable owners, providing them with welfare benefit and money advice and advising them of debt counseling services and other assistance that may be available to them.

### **3. Equal Opportunities Statement**

**3.1** This policy complies fully with Cassiltoun Housing Association's Equal Opportunities Policy. The Association recognizes its pro-active role in valuing and promoting diversity, fairness, social justice and equality of opportunity by adopting and promoting fair policies and procedures.

**3.2** We will check our Debt Recovery policy and associated procedures regularly for their equal opportunity implications, taking appropriate action to address inequalities likely to result or resulting from the implementation of the policy and procedures.

**3.3** The Association is committed to providing fair and equal treatment for all its stakeholders including factored owners and tenants and will not discriminate against any on the grounds of race, colour, ethnic or national origin, language, religion, belief, age, gender, sex, sexual orientation, marital status, family circumstances, employment status, physical ability and mental health. We will positively endeavor to achieve fair outcomes for all.

### **4. Sustainability**

**4.1** This Policy complies with Cassiltoun Housing Association Ltd's commitment to sustainability and takes account of wider economic and social impacts of the Policy in terms of individuals, households, local communities and the environment.

### **5. Legal and Regulatory Framework**

**5.1** In formulating and implementing this Policy, statutory and regulatory requirements have been incorporated where required. The main statutory requirements are contained within the Property Factors (Scotland) Act 2011: Code of Conduct for Property Factors.

- Section 1 Written Statement of Services – we have a written statement of our services which has been issued to all our factored owners, will be issued to all new factored owners and is available to download from our website.
- Section 3 Financial Obligations – we will ensure that homeowners know exactly what they are paying for and how the charges are calculated. Invoices will be issued quarterly in arrears for standard charges and on completion of major improvement works.

- Section 4 Debt Recovery – We have clear written policy and procedure for dealing with debt recovery.
- Section 7 Complaints Resolution – We have a written complaints policy and details of how to access the Home Owners Housing Panel should we fail to resolve your complaint.

## **6. Arrears Policy**

**6.1** The Association has a comprehensive arrears policy which seeks to prevent, reduce and minimise arrears of all common charges, common repairs charges and major repairs charges. There are four key points to this policy:-

- Arrears prevention
- Charge Setting and collection
- Arrears Management
- Arrears Recovery

### **6.2 Arrears Prevention**

The key factor in arrears prevention is the relationship between the Association and the customer. Communication at all stages is vital, as is early intervention.

All our customers will be issued with the Written Statement of Services and introduction letter which clearly states the services provided, the current charges, billing arrangements, methods of payment and customer contacts.

### **6.3 Charge Setting and Collection**

The Association will ensure that all charges have been set and apportioned in line with the Deed of Conditions and have been delivered to the required specifications/standard.

Charges will be reviewed annually to ensure that changes in service levels and costs are accounted for.

The Association will ensure that owners pay their full share of costs for common works and the services that they enjoy to prevent tenant's rents being used to subsidise owners.

The Association will issue quarterly invoices in arrears for Common Charge Accounts. However the Association will provide a variety of payment options to include weekly, 4 weekly or monthly payments in order to assist owners with budgeting payments for this regular account invoice.

The Association will issue accounts for Common Repairs on a monthly basis, ensuring that accounts are issued as soon after completion of the works as is practical.

The Association offers a variety of payment methods which include:

- Payment at the post office using the payment card issued.
- Payment by telephone to the Association's offices using chip and pin.
- Payment in person at the Association's Offices by cash, cheque or chip and pin.
- By bank standing order.
- On-line at [www.cassiltoun.org.uk](http://www.cassiltoun.org.uk)

### **6.4 Arrears Management**

- The Association's Technical Team will utilise the integrated housing management system to record owners' details, account charges, payments and to monitor accounts in arrears.
- All common repair account and major repair accounts will be added to the housing management system to allow payments to be monitored.
- Staff will manage the arrears by utilising arrears print outs from the integrated housing management system and will ensure that all steps in the arrears recovery procedure are followed.

## 6.5 Arrears Recovery

It is recognised that early intervention improves recovery prospects, therefore the Association will endeavor to tackle arrears recovery at the earliest opportunity.

All invoices are due to be paid by the 28<sup>th</sup> of the month in which they are issued. In order to prevent arrears escalating should payment not be received by the 28<sup>th</sup> of the month a first and then final reminder will be issued which will:-

- Advise of the outstanding balance and need for immediate payment.
- Advise of the potential consequence of non payment.
- Invite owner contact to establish reasons for non payment and to make a suitable repayment arrangement.

If an owner contacts the Association will:-

- Make a formal written arrangement with the debtor to pay the arrears at agreed level and intervals, which will be signed by the owner and the Association, with copies held by both parties.
- Confirm the monitoring arrangements that will be put in place for managing the arrangement and the consequences of breaching the arrangement in any way unless by prior written agreement by the Association.

If a payment arrangement is adhered to and all new invoices are paid on time, no further recovery activity will occur. On completion of the payment period the account will return to a routine status.

Continued non payment and/or failure to maintain arrangements will result in action being taken by the Association to prevent arrears from accumulating. This will include a Notice of Potential Liability which secures the outstanding and all future debt against the property. This requires to be renewed every 3 years.

The Deed of Conditions allows an annual 10% interest to be added to accounts for non payment. The Association currently do not impose this charge.

When the Association has exhausted all means at its disposal to recover the outstanding debt, those cases will then be referred to the Association's solicitor. There are two different options once the case has been referred with the first option being the preferred one.

- The use of the 'Simple Procedure' which is a court process designed to provide a speedy, inexpensive and informal way to resolve disputes where the monetary value does not exceed £5,000. A claim is made in the sheriff court by a claimant (The

Association's solicitor's does this on behalf of the Association). The party against whom the claim is made is known as a respondent. The final decision in a claim is made by a sheriff or a summary sheriff on whether Decree is granted.

- Alternatively, the solicitor will on request, seek an Open Decree, or less commonly an Installment Decree with the Sheriff Court.
- In both cases once recovery action commences, legal/court costs start to accumulate, and all such costs accrued will be added to the debt and recovered from the debtor. This can substantially add to the principal sum owed and debtors will be warned, before their details are passed to the solicitor, of the potential amount that could be involved in court action.

With either option once a decree is granted, if full payment (including court/legal costs) is not forthcoming, either in total or by means of an agreed Payment Plan, Sheriff Officers will be engaged to carry out debt enforcement action. This may include:-

- Freezing of bank account.
- Arrestment of wages.
- Inhibition on the property (debt secured on property, prevents raising of equity on property).
- Sequestration (bankruptcy) .
- Attachment Orders.
- Notification under Tenements Scotland Act.
- Any and all other legal means to ensure recovery.

These actions are clearly a last resort and will only be commenced where no arrangement to settle the debt within terms acceptable to the Association can be secured. A summary of the debt recovery procedures is noted below:

- *Welcome letter with additional information form – Include methods of payment*
- *Quarterly bill issued*
- *Check for contact details – contact solicitor responsible for sale*
- *Check landlord register online*
- *Pass to Kelly & Co to trace*
- *Complete arrangement form - ensure work and bank details are captured where possible*
- *Arrangement Letter – promote Direct Debit*
- *Reminder Letter – promote Direct Debit*
- *Fact Arr 1 – Request balance is cleared or contact is made within 7 days*
- *Fact Arr 2 – Offer appointment over the telephone or in office where essential (office appointment for high arrear cases only due to CVD19)*
- *Telephone call / email*
- *Refer to Money advice team*
- *House Visit - If owner lives within property or unable to trace*
- *House Visit outcome letter or no access letter*
- *Fact Arr 3 – Request contact is made within 7 days of letter being issued. Advise if no contact by (further 7 days from contact date) then CHA will refer to solicitor*
- *Fact Broken Arr 1 – Issued with balance due and date owner is required to pay (usually on date the next payment is due)*

- *Refer to Money Advice Team*
- *Fact Broken Arr 2 – Telephone appointment or office if high arrears case depending on CVD19 restrictions*
- *Managers Appointment – telephone or in office if high arrear case due to CVD19*
- *Seek approval for notice of Potential Liability (NOPL)*
- *Refer to solicitor*
- *NOPL requested letter to owner*
- *NOPL Live letter to owner*
- *Seek approval for simple procedure (Board)*
- *Simple procedure requested letter to owner*
- *Simple procedure live letter to owner*

## **6.6 Performance Monitoring**

In order to assess the success of this policy, we will put in place a system which monitors and measure performance.

This will involve regular reports being obtained from the integrated housing management system to ensure that the focus on recovery of debt is continuing to be successful and appropriately targeted. This information will be collated, analysed and reported to the Operations Sub Committee.

## **7.0 Training and Awareness**

The Association will ensure that all Operations staff and the Operations Sub Committee are aware of the Debt Recovery Policy and Procedures. All Operations Staff will receive appropriate training.

## **8.0 Policy Reviews/Consultation**

The Association will review this policy every three years. More regular reviews will be considered for example where there is a need due to legislative changes.

Where there are significant changes required to this policy information will be provided to owners via the Association's newsletter.

A copy of this policy will be published on the Association's website.

## **9.0 Customer Services**

### ***Confidentiality***

All information given by customers in relation to this policy will be treated as strictly confidential and will not be discussed with third parties without their permission. We will comply with the Data Protection Act 2018 and the General Data Protection Regulations 2018 in this regard.

### ***Customer Satisfaction***

The Association is committed to a high level of customer satisfaction in the delivery of this Policy, seeking continuous improvement. Satisfaction with the full range of services we provide will be measured regularly, including the effectiveness of this policy.



## ***Complaints***

It is the Association's aim to get it right first time, however we have a published complaints policy which is available to download from our website. This procedure can be used where there is dissatisfaction with this policy, its operation or our services.

### **10.0 Links with other Policies**

This policy links to the Association's:-

- Factoring Policy
- Written Statement of Services
- Complaints Policy
- Equality and Diversity