

A meeting of the Management Committee will take place on **Thursday 25 August 2022 at 7.00pm at ELHA Head Office, Haddington**

Please advise staff if you are unable to attend.

**External Auditors will be attending**

**Joyce Bolan**  
**Secretary**

## **B U S I N E S S**

### **1.0 GENERAL**

- 1.1 Apologies
- 1.2 Declaration of Interest by Management Committee Members
- 1.3 Minutes of 26 May 2022 – **for approval**
- 1.4 Action List – for information
- 1.5 Matters Arising

### **2.0 GOVERNANCE**

- 2.1 Secretary's Report – **for homologation**
- 2.2 Key Performance Indicators 2022/23 – for information
- 2.3 Annual General Meeting: Management Committee Membership – **for approval**

### **3.0 PRIORITY ITEMS**

#### **4.0 POLICIES**

- 4.1 Entitlements, Payments and Benefits Policy Review – **for approval**
- 4.2 Stress Policy Review – **for approval**
- 4.3 Property Maintenance (Legal Obligations) Policy Review – **for approval**
- 4.4 Treasury Management Policy Review – **for approval**
- 4.5 Authorisations and Standard Charges and Allowances Policy Update – **for approval**

### **5.0 BUSINESS MANAGEMENT**

### **6.0 ANY OTHER BUSINESS**

### **DATE OF NEXT MANAGEMENT COMMITTEE MEETING**

**AGM: Thursday 29 September 2022** at Maitlandfield House Hotel, Haddington, at 2.30pm

**Meeting: Thursday 29 September 2022** at Head Office, Haddington, at 3.30pm

## Action List

### Report by Martin Pollhammer, Chief Executive – for information

The table below sets out the required actions agreed at the last meeting of the Management Committee on 26 May 2022, and confirms the actions taken as a result.

Minute Ref	Action Required	Action By	Action Taken
1.3	Publish the papers and minutes from the March 2022 Management Committee meeting on elha.com	ES	Complete
3.1	Submit the Annual Return on the Charter to the Scottish Housing Regulator	KB	Complete
3.2	Confirm the new benchmarking requirements to Linda Ewart	MP	Complete
4.1	Amend Section 1.4.9 as agreed at the meeting	KB	The second bullet point of this Section now reads "Would like to move to East Lothian to be nearer a carer or to be closer to family and would ask for evidence to confirm this. Family is defined in the Housing (Scotland) 2001 Act as spouse, civil partner, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece, stepchild or a person who has been brought up by another person and treated as their child"
4.1	Update the Information and Advice Policy in the ELHA File Structure and publish on elha.com	ES	Complete

## Secretary's Report – for approval

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### 1.0 Membership

Application for Membership received Paul Hillard, [REDACTED]  
[REDACTED]

### 2.0 Use of Seal for Homologation

- Loan Agreement, Facilities of £7,000,000 for East Lothian Housing Association provided by Bank of Scotland
- Standard Security by East Lothian Housing Association in favour of Bank of Scotland plc. Properties: 42 residential units at Baxter's Gate, Tranent, EH33 2QW (Title number ELN 1591)
- Officers' Certificate – Loan Agreement between East Lothian Housing Association and Bank of Scotland in relation to a facility of up to £7,000,000

#### **Recommendation**

The Management Committee is asked to:

- (a) Approve the Membership application; and
- (b) Homologate the use of the Seal.

# Key Performance Indicators 2022/23

## Report by Martin Pollhammer, Chief Executive – for Information

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### 1.0 Introduction

The Association's Key Performance Indicators (KPI's) for the first quarter of 2022/23 are attached as **Appendix 1** to this report.

### 2.0 ELHA Performance

The Association has missed the following targets:

#### 2.1 Voids as a Percentage of Rental Income

At 0.80%, voids as a percentage of income are slightly higher than the target of 0.75%, the key reason for this is higher than expected void levels in the period. There were 31 voids for Quarter 1, which is very high, as the assumption for the full year was 82. There were only eight voids in the first month of Q2 and a low number of voids in August and September 2022 will help to balance matters.

#### 2.2 Unit Reactive Maintenance Costs

Unit reactive and void maintenance costs are £1,187 compared to the target of £733. Further investigation of these costs is being undertaken to check whether they include works which should have been allocated to cyclical and planned maintenance costs and the number and type of repairs which have been done and how this compares with previous years. The impact of the inclement weather on repair costs will also be assessed. The void costs include £48k of Chargeable Repairs, which if fully recovered, would reduce the unit cost by £141.

#### 2.3 Stock Condition Inspections Completed

As previously reported, the annual sample size of the Stock Condition Survey will be increased to 30% each year from the previous level of 20% until the programme is back on schedule. The first phase of this will be progressed by the Asset Manager in early Autumn 2022.

#### 2.4 Average time taken to complete non-emergency repairs.

The performance in this area in Quarter 1 is an improvement on the Actual performance in 2021/22, however, it remains marginally outwith target. It is anticipated that this target will be met in Quarter 2.

**2.5 Gold Key Tenants**

Gold Key Tenants have decreased by 1% during the quarter to 14.7% and remain significantly under the target of 25%. Whilst emphasis continues to be placed on contacting those tenants who do not have a My Home account and / or who are not paper-free, it is believed that tenants signing up to digital services are moving straight from Key Tenant or Bronze Key Tenant status to Platinum level, which may be reflected in the 1.7% increase in Platinum Key tenants. A strategy for increasing the uptake of Gold Key Tenant status is planned for later in the year.

**2.6 Percentage of Tenants using their My Home Account**

Numbers have increased by 1% on the previous quarter and fall short of the new target of 88% by only 2%. The increase is likely as a result of the face to face visits being carried out by Housing Staff through the Healthy Happy Home Checks and increasing numbers are expected to continue throughout the remainder of the year.

**2.7 Percentage of Tenants Paper Free**

Paper free tenants have also increased by 1% but remain 5% below the ambitious target of 88%.

Key Performance Indicators 2022/23

Performance Indicator	Quarterly Target	Q1	Q2	Q3	Q4	2022/23 Target	2021/22 Actual	Year to Date	Status
<b>Rental Income</b>									
Non-technical arrears as % of rental income	2.8%	2.53%				2.8%	2.45%	2.53%	😊
Bad debts written off as % rental income	1.50%	1.26%				1.50%	0.1%	1.3%	😊
Voids as % of rental income	0.75%	0.80%				0.75%	0.51%	0.80%	😞
<b>Finance/Treasury</b>									
Interest cover (loan covenants)	110%	235%				110%	286%	235%	😊
Gearing (loan covenants FRS102 definition)	<37%	23%				<37%	24%	23%	😊
Current assets as a % of current liabilities	100%	140.00%				100%	146.00%	140.00%	😊
Cash as a % of net rental and service charge income	>20%	30.00%				>20%	39.00%	30.00%	😊
Unit management costs	£1,962	£1,780				£1,962	£1,532	£1,780	😊
Unit reactive maintenance costs	£733	£1,187				£733	£745	£1,187	😞
<b>Asset Management</b>									
Stock condition inspections completed	cumulative	0.0%				30%	0.0%	0.0%	😞
Gas services completed within timescale	cumulative	100%				100%	99%	100%	😊
Planned maintenance contracts with >5% overspend	0	0				0	0	0	😊
Average length of time taken to complete emergency repairs	<2 hours	01:14:40				<2 hours	1.16	01:14:40	😊
Average length of time taken to complete non-emergency repairs	< 6 days	6.09				< 6 days	6.5	6.09	😞
Repairs completed right first time	85%	93.95%				85%	92.00%	93.95%	😊
Repair appointments kept	93%	97.00%				93%	98.00%	97.00%	😊
<b>Housing Management</b>									
Properties allocated after 3 or more refusals	0	0				0	0	1	😊
Number of evictions carried out	no target	0				no target	0	1	😊
Number of ASBO's in force against tenants	no target	0				no target	0	0	😊
Bronze Key Tenants	40%	44.2%				42%	44.2%	44.3%	😊
Gold Key Tenants	25%	14.7%				20%	14.7%	15.7%	😞
Platinum Key Tenants	23%	24.7%				20%	24.7%	23.0%	😊
<b>Corporate</b>									
Number of accidents reportable to HSE	0	0				0	0	0	😊
Network Availability	99%	99%				99%	N/A	99%	😊
% working days lost through long term sick leave	5%	3.0%				5%	3%	3.0%	😊
% working days lost through short term sick leave	2%	0.9%				2%	1%	0.9%	😊
Management Committee Attendance	75%	83%				75%	76%	83%	😊
Audit & Compliance Committee Attendance	75%	86%				75%	73%	86%	😊
% of Tenants using their My Home Account	88%	86%				80%	85%	86%	😞
% of Tenants Paper Free	88%	83%				70%	82%	83%	😞
% of complaints responded to within target	100%	100%				100%	97%	100%	😊

😊 Performance Excellent    😞 Performance Satisfactory    😞 Performance Poor

# Annual General Meeting: Management Committee Membership

## Report by Peter Ewart, Chairman – for approval

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### 1.0 Background

Under the Association's Rules, the Association must give notice to all Members of the intention to hold an Annual General Meeting (and include nomination papers for the Management Committee) at least 28 days before the date of the meeting. Regulatory Standards require the Association to identify any specific priorities for recruitment following the annual assessment of what skills the Management Committee needs to meet ELHA's Strategic Objectives.

### 2.0 Elections to the Management Committee for 2022/23

The Management Committee of East Lothian Housing Association may consist of up to fifteen members, however the Association's Standing Orders aim for between ten and twelve places to be filled at any one time. Following last year's Annual General Meeting, the Association had twelve elected members.

Under Rule 39.1 at least one third of the members of the Management Committee must retire (if no other members, or an insufficient number of members have indicated their intention to retire to fulfil this requirement, those with the longest period since their last election should retire). These are Joyce Bolan, James Curran, Shirley Evans and Eileen Shand.

Under Rule 37.6, the Management Committee must satisfy itself that any Management Committee member seeking re-election after a period of continuous service of nine or more years can demonstrate their continued effectiveness. Rule 37.6 applies to Joyce Bolan, James Curran and Shirley Evans.

### 3.0 Management Committee Succession Plan and the "Nine Year Rule"

The Management Committee is currently considering how to develop its Succession Plan to ensure the right balance of experience, renewal and refreshment of the Management Committee going forwards. This includes ensuring that the proportion of Management Committee members with nine or more years' service does not normally exceed 50%. Of the current Management Committee, by the date of the 2022 AGM, eight members will have served more than nine years, or 67%.

I am hoping to nominate one new member at the AGM, and they will be observing tonight's meeting. If they were to join the Management Committee and no other new members joined or existing members left, the percentage would drop to 61%.

In order to reduce to at or below 50% now, two members with nine or more years' service would need to retire straight away. I have discussed this situation with the Scottish Housing Regulator, and they have made it clear that this target should be achieved in the medium term, and then maintained, rather than acting immediately in order to hit a target. Over the coming Management Committee year, the Succession Plan will be developed to ensure a smooth transition to reduce this percentage to at or below 50%, and to maintain it at this level. This is likely to include further recruitment, along with agreement about which members might leave the Management Committee, and when, whilst ensuring the Management Committee retains the skills needed to continue to work effectively.

As noted in Section 2.0, ELHA's Standing Orders aim to see between ten and twelve places filled on the Management Committee, however they also note that the "spare" places may be used as part of Succession Planning, for example by appointing an additional member ahead of a planned departure of an existing member, or in this case, appointing an additional member while we transition to a point where we have fewer members with nine or more years' service. It is quite possible, in managing this transition, the remaining two places will be filled ahead of planned departures.

Joyce Bolan, James Curran, Eileen Shand, and Shirley Evans have all confirmed they wish to stand for election. In accordance with Rule 39.4, Eileen Shand may stand for re-election without being nominated. As Joyce Bolan, James Curran and Shirley Evans have served for more than nine years, under Rule 37.6, the Management Committee must satisfy itself that any Management Committee member seeking re-election after a period of continuous service of nine or more years can demonstrate their continued effectiveness, and in order to stand, their nominations require to be endorsed by the Management Committee.

Joyce Bolan has been the Secretary of East Lothian Housing Association for a number of years and lives locally, which not only allows her to be one of the Association's main signatories (Joyce is fully trained in all aspects of the Association's payment authorisation procedures and signing protocols), but also this means Joyce has significant knowledge about local community issues.

James Curran has made a very significant contribution to ELHA and its development. James continues to make a valuable and effective contribution and his knowledge of the organisation, its development, and the local area, combined with his wider social and professional knowledge, particularly in relation to social housing development, are assets to the Management Committee.

Shirley Evans brings comprehensive legal knowledge and experience from her work as a solicitor who advises and acts for RSLs, primarily in respect of tenancy and housing management matters, but also wider issues associated with regulation and compliance.

In my view, both Joyce, James and Shirley continue to make a valuable contribution to the Management Committee's discussions and activities and, having discussed this ongoing commitment to ELHA during my annual meetings with Management Committee members, I recommend that the Management Committee endorse the nominations of Joyce Bolan, James Curran and Shirley Evans for re-election at the forthcoming 2022 AGM.



Although not standing for re-election at this AGM, it should be noted that Alan Forsyth will reach nine years' service on 23 September 2022, and he has been included in the figures above in relation to existing members with nine or more years' service. No other members will reach this point until 2025. The revised Succession Plan will formalise a review of the contribution of all members with nine or more years' service on an annual basis (rather than just at the point of re-appointment), but I am content that Alan's experience and contribution to the Management Committee (including his roles as R3 Board Chair and Chair of the Remuneration Working Group) continue to be extremely valuable to the Association's overall governance.

#### **4.0 Nominations to the Management Committee**

At the time of writing this report, no Nominations have been received. However, as noted above, I hope to be in a position to make a nomination to the AGM following this meeting.

In our recent recruitment exercise, we considered what particular skills we are looking for in new members. In particular, we identified the following areas where we could strengthen the Management Committee's overall skillset:

- Digital and Information Systems
- Customer consultation, marketing and communications
- Provision of Housing and Support Services to Older People

The following skills would also be desirable for potential Committee Members:

- Social Housing and Development
- Finance

There are currently seven vacancies on the Management Committee; four members are eligible for nomination, and there are a further three vacancies for which nominations can be made.

If more nominations are received than there are places available on the Management Committee before Thursday 8 September 2022, a ballot at the AGM will be required, otherwise all nominees will be automatically appointed.

#### **Recommendations**

The Management Committee is asked to endorse the nominations for Joyce Bolan, James Curran and Shirley Evans for re-election to the Management Committee at the 2022 AGM, having been satisfied that their contribution continues to be effective and valuable.

## Entitlements, Payments and Benefits Policy Review

### Report by Martin Pollhammer, Chief Executive – for approval

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#### 1.0 Changes to the Model Policy

A number of changes to the Entitlements, Payments and Benefits Policy were discussed and agreed at the March 2022 JCC meeting, relating to changes required by the publication of the revised Model Policy by the Scottish Federation of Housing Associations (SFHA). These changes remain in the attached **Policy Document**.

The Policy was subsequently reviewed by the Association's solicitors, Anderson Strathern. This resulted in some further minor amendments, mainly to ensure the document consistently refers to Management Committee members rather than Governing Body members, and these changes were agreed at the June 2022 JCC meeting, and are also tracked in the attached **Policy Document**.

#### 1.1 Managing Conflicts of Interest at Management Committee Meetings

Anderson Strathern have clarified that in implementing the revised model approach, in any circumstances where a Conflict of Interest is noted and recorded in the minutes of a Management Committee meeting, that individual should leave the meeting until any discussion has taken place. Even if no discussion is required, this should be confirmed in the absence of the Management Committee member recording the Conflict of Interest.

#### 2.0 Section 4.0

ELHA does not follow the SFHA Model Policy at Section 4.0. This is because of the unique position with R3. Anderson Strathern have reviewed the Association's approach. In order to continue to meet the Governance Standards, some minor changes are required to the "Use of Association Contractors / Suppliers Declarations" Procedure.

The revised **Procedure Document**, with proposed changes tracked, is attached to this report. This includes the Appendices (the forms which must be completed to declare any use of the Association's contractors, including R3).

Further clarity is given about the difference between Small Jobs and Large Jobs when using R3 Direct, and the purpose of Profitability Checks where these are required.

The current list of suppliers that must be declared if used is attached as **Appendix 1** for information. It should be noted that all use of any of the Association's suppliers and contractors must be reported annually to the Management Committee.

The Management Committee is not normally asked to approve procedures, but given the unique circumstances, and the need to ensure full compliance with the Governance Standards, as with the original approval of this procedure, the Management Committee is asked to approve the revised approach.

**Recommendation**

The Management Committee is asked to:

- (a) Approve the revised Entitlements, Payments and Benefits Policy; and
- (b) Approve the revised Use of Association Contractors / Suppliers procedure.

ELHA POLICY

Date Issued	December 2015
Date Last Updated	August 2022
Department	Corporate
Title	Entitlements, Payments and Benefits Policy
Objective	To describe the entitlements, payments and benefits that our staff and Management Committee members can receive
Responsible	Management Committee
Next Review Date	August 2027

## 1.0 Introduction

This policy is based on the model document published by the Scottish Federation of Housing Associations in June 2015 ~~and revised in 2021 and the amendments published by the Glasgow and West of Scotland Housing Forum (GWSF) in September 2015.~~

### Who the Policy Affects

1.1 This policy is aimed at ~~people who are:~~

- ~~All m~~Members of our ~~Governing Body~~Management Committee and of the ~~governing body of any of our subsidiaries~~R3 Board
- Everyone who works ~~or volunteers~~ for us or ~~any of our subsidiaries~~R3

1.2 For the remainder of this policy the above will be referred to as “our people.”

### About This Policy

1.3 We are a Registered Social Landlord (RSL) and a Scottish Charity. We are part of a sector that has a strong reputation for integrity and accountability to the people we exist to help and to our Regulators, partners or funders. We must ensure that ~~the our~~ organisation upholds its reputation and that of the sector. Our people cannot benefit inappropriately from their connection ~~with the organisation to us.~~

- 1.4 This policy describes the entitlements, payments ~~or~~ and benefits that our people are able to receive. It also describes what is not permitted and the arrangements that we have in place to ensure that the requirements of this policy are observed.
- 1.5 Our Rules require that we have a policy dealing with payments and benefits. The Scottish Housing Regulator (SHR) requires us to have a policy that sets out what payments and benefits we permit and to ensure that these arrangements demonstrate transparency, honesty and propriety. We must ensure there is no justifiable public perception of impropriety. This Policy is based on the SFHA's Model Entitlements, Payments and Benefits Policy which the SHR have confirmed meets their regulatory requirements.
- 1.6 As we are a Scottish Charity, all of our ~~Governing Body~~ Management Committee Members must also ensure that they comply with the Office of the Scottish Charity Regulator (OSCR) guidance to Charity Trustees and charity legislation.
- 1.7 This Policy is intended to be a practical document that supports us in meeting all of the above requirements, ensuring that none of our people benefits (or is seen to benefit) improperly or inappropriately from their involvement with us, but also that they are not unfairly disadvantaged. We expect our people to act in good faith, and in applying the terms of the policy we will always take this into account.
- 1.8 As someone who is affected by this policy, you are personally responsible for ensuring that you are familiar with and comply with its terms.
- 1.9 At all times, we expect a common-sense approach to be applied to the interpretation and application of this policy. If you are unsure about anything relating to benefits, payments or entitlements you should consult with the Chair or Chief Executive (if you are a member of the ~~governing body~~ Management Committee) or with your line manager (if you are a member of staff).

### What this Policy Covers

- 1.10 This policy covers:
- Managing Your Interests
    - Registering and Declaring Interests
    - Entitlements, Payments & Benefits
  - People Connected To You

- Who Else You Should Consider When Declaring Interests
- What You Should Consider
  
- Use of Our Contractors / Suppliers By Our People

### Other Relevant Policies

- 1.11 The Code of Conduct is linked to this policy. Failure to comply with the terms of this policy ~~will~~may be regarded as a breach of the Code of Conduct.
- 1.12 You are also required to be familiar with and observe the terms of our Anti-Bribery and Fraud policy. We prohibit any attempt to induce the organisation or our people to offer preferential services or business terms and we will at all times comply with the Bribery Act 2010.
- 1.13 Our policies relating to the following are also relevant to this document and must be complied with at all times:
- Allocations
  - Repairs and Improvements
  - Adaptations
  - Procurement
  - Training
  - Expenses
  - Recruitment
  - Sale of our Property
  - Decoration Allowances / Prizes
  - Gifts and Hospitality

Please note that this list is not exhaustive and you are required to comply with all of our policies and procedures.

## 2.0 Managing Your Interests

### Registering and Declaring Interests

- 2.1 In order to protect our reputation and demonstrate that we conduct our affairs with openness, honesty and integrity, we maintain a Register of Interests. You must record in this register any interests that you or someone connected to you (see Section 3) has which are relevant to our business and/or our

activities. You will be required to maintain the accuracy of the interests you declare and to confirm annually that your entry is accurate and up to date.

- 2.2 Where you have an interest in any matter that is being discussed or considered, including at a meeting, you must declare your interest and play no part in the consideration, discussion and decision making; where appropriate, you must withdraw from any part of a meeting where the interest arises and play no part in the discussion. Our Rules require that any Management Committee Member who has an interest in a matter that is being considered withdraws from all discussions and plays no part in the decision making.
- 2.3 The Codes of Conduct which our Management Committee Members and staff are required to uphold ~~also contains requirements about a section on~~ Declaring Interests that you should comply with at all times.
- 2.4 An annual report will be made to our ~~Governing Body~~ Management Committee on the entitlements, payments, benefits that have been recorded in the Register (s) by our people.

2.5 The following are examples of the kind of interest that you must declare. Please note that this list is not exhaustive, and there may be other interests that you should declare.

- Tenancy of a property of which we are the landlord
- Occupancy or ownership of a property which is factored or receives property related services from us
- Receipt of care or support services from us
- Membership of a community or other voluntary organisation that is active in the areas we serve
- Voluntary work with another RSL or with another organisation that does, or is likely to do, business with us
- Membership of the governing body of another RSL
- Being an elected member of any local authority where we are active
- If you purchase goods or services from us

- If you purchase goods or services from one of our contractors or suppliers (see Section 4.0 and our “Use of Association Contractors / Suppliers Declarations” Procedure for more details)
- Significant shareholding in a company that we do business with (or are considering doing business with)
- Membership of any other body whose interests and/or activities may directly affect our work or activities
- Ownership of any land or property in our areas of operation (this excludes property for the purpose of your own residential use, i.e. there is no requirement for you to declare any house in which you currently live)
- Unresolved dispute relating to the provision of services in connection with a tenancy or occupancy agreement or a contractual dispute over the provision of goods or services with us

2.6 You should note that in some circumstances, declaration of an interest may not be sufficient, and it may be necessary for the organisation to take additional measures to deal satisfactorily with the situation so as to protect the probity and reputations of both yourself and the organisation.

### Entitlements, Payments and Benefits

- 2.75 Many of the interests you will be required to declare can be classed as entitlements, payments or benefits.
- 2.86 As one of our people, you potentially could be offered benefits over and above that to which you are contractually entitled (as a result of policy or contractual terms), such as gifts or hospitality from external parties. Such offers would be as a direct result of you being one of our people and cannot always be accepted. We require that any such offers are managed and recorded very carefully to ensure the highest levels of probity in our organisation. Our people should not benefit – or be seen to benefit – inappropriately from their involvement with us.
- 2.97 Apart from payments that our people are entitled to by contract, statute, policy or other agreement (e.g. salary, expenses), we will only make a payment to, or accept a payment from, someone affected by this policy in exceptional



circumstances. Appendix A explains the payments we can and cannot make in more detail.

2.108 As we contribute to the economy of the area we work in and we have commercial and business relationships with many different companies, contractors, suppliers and service providers, you must ensure that we are fully aware of any connection that you or someone you are close to (see section 3) has with any of these businesses or organisations.

2.119 Some entitlements, payments and benefits we can never permit, and others we have additional requirements or conditions that must be met before we can permit.

2.120 Appendix A lists the entitlements, payments and benefits that fall under this policy, and states:

- Which could be permitted by the organisation
- Which will never be permitted by the organisation
- Which you require to declare in the register of interests
- Any other further requirements the organisation has before permitting

### 3.0 People Connected To You

#### Who Else You Should Consider When Declaring Interests

3.1 Someone 'closely connected' to you includes members of your household, family members and other relatives and your friends

3.2 As well as considering your own actions, you must be aware of the potential risk created by the actions of people to whom you are closely connected associated. ~~There are three groups of people that you need to consider, outlined in Table A: Who you should consider, and our expectations of you to identify and declare such actions are outlined in Table A below. If you are in any doubt about whether or not a declaration is required, Management Committee Members should consult the Chair or Chief Executive, and staff should consult their line manager.~~

**Table A**

<b>Group 1</b> <del>Members of your household</del>	<b>Group 2</b> <del>People closely associated with you</del>	<b>Group 3</b> <del>Others you need to consider</del>
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<p><del>Anyone who normally lives as part of your household, whether they are related to you or not, including spouses / partners who work away from home and sons and daughters who are studying away from home</del></p>	<ul style="list-style-type: none"> <li><del>• Parents, parents-in-law and their partners</del></li> <li><del>• Sons and daughters; stepsons and step-daughters and their partners</del></li> <li><del>• Brothers and sisters and their partners</del></li> <li><del>• A partner's parent, child, brother or sister</del></li> <li><del>• Grandparents, grandchildren and their partners</del></li> <li><del>• Someone who is dependent on you or whom you are dependent on</del></li> <li>• Close friends</li> </ul>	<p><del>Other relatives (e.g. uncles, aunts, nieces, nephews &amp; their partners)</del></p> <p><del>Other friends (e.g. someone you are acquainted with socially, neighbours, business contacts/associates)</del></p>
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- ~~3.2 If you become aware of any action or involvement relating to anyone in the table then you should declare and manage this as soon as possible.~~
- ~~3.3 However, we recognise that you will not always be closely acquainted with or in regular contact with all of the people listed and we do not expect you to go to unreasonable lengths to identify actions or involvement that are covered by this policy.~~
- ~~3.4 Please note, we do expect you to be familiar with the actions of members of your household (Group 1) and of any other people listed in the table above with whom you are closely associated and/or in regular contact and you must take steps to identify, declare and manage these.~~
- ~~3.5 You are not expected to be aware of the actions of people in groups 2 and 3 that you do not have a close association and/or regular contact with. We do not expect you to research into the employment, business interests and other activities of all persons with whom you are closely connected.~~
- ~~3.6 In relation to 3.4-3.7 above, when considering actions you should do so from the point of view of a reasonable and objective observer and a common sense approach should be adopted at all times.~~

**TABLE A**

<b><u>Group</u></b>	<b><u>Required Response</u></b>
<p><b><u>1. Members of your household</u></b></p> <p><u>This includes:</u></p> <ul style="list-style-type: none"> <li><u>Anyone who normally lives as part of your household (whether related to you or otherwise)</u></li> <li><u>Those who are part of your household but work or study away from home</u></li> </ul>	<p><u>We expect you to be aware of and declare any relevant actions of all people in your household. You must take steps to identify, declare and manage these.</u></p>
<p><b><u>2. Partner, Relatives and friends</u></b></p> <p><u>This includes:</u></p> <ul style="list-style-type: none"> <li><u>Your partner (if not part of</u></li> </ul>	<p><u>Where you have a close connection and are in regular contact with anyone within this group, we expect you to be aware of and declare any relevant actions. Under</u></p>

<p><u>household)</u></p> <ul style="list-style-type: none"> <li>• <u>Your relatives and their partners</u></li> <li>• <u>Your partner's close relatives (i.e. parent, child, brother or sister)</u></li> <li>• <u>Your friends</u></li> <li>• <u>Anyone you are dependent upon or who is dependent upon you</u></li> </ul>	<p><u>these circumstances, you must take steps to identify, declare and manage these actions.</u></p> <p><u>Where you do not have a close connection and/or regular contact with someone in this group, we do not expect you to be aware of or to go to unreasonable lengths to identify any relevant actions. However, if you happen to become aware of relevant actions by such individuals, then these should be declared and managed as soon as possible.</u></p>
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### What You Need To Consider

3.37 The following are the actions and involvement by those to whom you are closely connected that you should consider, declare and manage as per our expectations outlined in Table A (please be aware that this list is not exhaustive or exclusive), should you become aware, we would expect you to notify us by making a declaration in the register: :

- A significant interest in a company or supplier that we do business with or which is on our approved list. A significant interest means ownership (whole or part) or a substantial shareholding in a business that distributes profits, but does not include where an individual has shares in large companies such as banks, utility companies or national corporations, i.e. where owning shares would not give the individual any significant influence over the activities of that organisation.
- Where the individual may benefit financially from a company we do business with or is on our approved list
- Involvement in the management of any company or supplier that we do business with or which is on our approved list
- Involvement in tendering for or the management of any contract for the provision of goods or services to us.
- Application for employment with us.
- Application to join our Board-Management Committee or any of its subsidiariesR3 Board
- Application to be a tenant or service user of the organisation

- ~~If they are an existing tenant or service user of the organisation~~

#### 4.0 Use of Our Contractors & Suppliers

4.1 In order to help us maintain our excellent reputation, it is important that staff and Management Committee members do not use their position to gain benefits which other members of the public cannot access.

4.2 At the same time we do not want to see staff and Management Committee members face unreasonable restrictions which put them at a disadvantage compared to other members of the public.

4.3 Where, in your personal / home life, you as a staff or Management Committee member need a service from a contractor, if it causes no disadvantage or inconvenience to you to avoid using one of the Association's contractors then we would ask that such use is indeed avoided. But the Association does not want to unreasonably restrict your choice of contractor.

4.4 However, it is extremely important that where you wish to use one of the Association's contractors you take some particular steps which will help protect both you and the Association.

4.5 A staff or ~~governing body~~Management Committee member should only utilise the services of one of the Association's contractors (as listed at Appendix B) for their own personal needs if:

- The normal commercial rates are paid for this service and no preferential treatment, financial or otherwise, is received
- You report your proposed course of action to your departmental director or the Chair (as appropriate) before committing to use the contractor in question and follow any advice offered. In emergency situations you should comply with this policy retrospectively as soon as is practicably possible
- You make a written declaration as set out in the Use of Association Contractors / Suppliers Declarations Procedure that you have not received any advantage or preferential treatment (financial or otherwise) from the contractor or supplier arising out of their connection to the Association: written quotes should be provided where these would normally be sought for the type of work in question, and in ALL cases receipts should be provided

- You record the transaction or agreement in the Register of Payments and Benefits and keep the entry up to date

4.6 Examples of situations that might arise in this context include use of R3 Direct services that are made available to the general public by our subsidiary company R3 Repairs Limited, or buying goods or services from a connected business such as an architect or building contractor.

For the avoidance of doubt, no other use of R3 services may be made by staff or Management Committee members – only R3 Direct services can be used. It should also be noted that prior approval is required before “Large Jobs” can be ordered through R3 Direct. More detail of the approval and declaration processes (including the forms to be used) for both the use of R3 Direct, and other contractors and suppliers, can be found in the “Use of Association Contractors / Suppliers Declarations” Procedure.

4.7 Appendix B lists the contractors to whom this policy applies. You will see that it does not include low value services such as sandwich shops, other high street stores and national chains, utility companies, banks and national telecoms providers etc.

4.8 In the event of becoming involved in a dispute with the Association arising out of such a transaction or agreement, you must immediately notify the Chair and/or Chief Executive and withdraw from any discussions relating to the service involved.

4.9 In the case of ~~governing body~~ Management Committee members, if the dispute cannot be resolved through the normal complaints procedure and you remain dissatisfied, you should resign from the ~~governing body~~ Management Committee in order to pursue the complaint independently.

**5.0 Review**

- 5.1 Our Rules require the Management Committee to set our policy on payments and benefits and keep it under review. This policy has been approved by our Management Committee and is based on the Model published by the SFHA. It is consistent with the requirements of our Codes of Conduct for Management Committee Members and for Staff. These Codes have been confirmed by the Scottish Housing Regulator as meeting their regulatory requirements. Legal advice was taken from our solicitors, Anderson Strathern, in preparing this Policy, to ensure we meet the required Regulatory Standards.
- 5.2 This policy was last reviewed by our ~~Governing Body on 24~~Management Committee in August ~~2017~~2022. It will be reviewed not later than August ~~2022~~2027.

**Appendix A – Entitlements, Payments and Benefits**

EXAMPLE	CAN THIS BE PERMITTED?	FURTHER ACTION NECESSARY BEFORE THIS WILL BE PERMITTED?
<b>HUMAN RESOURCES AND RECRUITMENT</b>		
<p>All entitlements arising from your contract of employment with us or <del>one of our subsidiaries</del><u>R3</u>, including (but not restricted to):</p> <ul style="list-style-type: none"> <li>• Payment of salary to staff</li> <li>• access to car or travel loans or salary advances where specified in the employment contract;</li> <li>• pension and/or private health care provided as part of the remuneration package;</li> <li>• performance related pay or bonus awarded in accordance with contractual terms;</li> <li>• books and equipment in connection with employment or training in accordance with agreed policies and/or contractual terms</li> <li>• Reimbursement of professional fees</li> </ul>	Yes	Any entitlement in the terms of your contract is always permitted without the need to record in the register of interests. There are Human Resource processes in place for this purpose.
Payment to a <u>Management Committee or R3 Board</u> member <del>of the governing body</del> for their role, <del>as a governing body member</del> , in accordance with the terms of their letter of appointment	No	These are not permitted, all roles are voluntary.
All payments made in accordance with the terms of our expenses policy including: <ul style="list-style-type: none"> <li>• payment of permitted out of pocket expenses</li> <li>• reimbursement of travel costs</li> </ul>	Yes	Entitlements in connection with your role as one of our people <del>are</del> set out in our expenses policy are always permitted and do not need to be declared provided claims are made in accordance with our procedures.
Provision of a loan by the organisation to one of our people	No	This is not permitted unless in connection with the contractual terms of employment. We cannot make any other loans to individuals.
Redundancy or Voluntary severance payment to an employee	Yes	We can make redundancy payments to an employee in line with terms their contract



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EXAMPLE	CAN THIS BE PERMITTED?	FURTHER ACTION NECESSARY BEFORE THIS WILL BE PERMITTED?
		<p>Or</p> <p>We can make a voluntary severance payment to an employee which is outside the terms of their contract of employment provided:</p> <ul style="list-style-type: none"> <li>• It arises directly from a decision to terminate the employee’s contract of employment</li> <li>• Payment is approved by the <del>Governing Body</del><u>Management Committee</u></li> <li>• That the total sum of the non-contractual payment and benefit does not exceed, in the opinion of our employment adviser, the total cost of a successful application by the employee to a Court or Tribunal (including the likely level of compensation that might be awarded by a court or tribunal and associated costs to the organisation to participate in the tribunal)</li> <li>• Payment does not exceed the equivalent of one year’s salary for the employee</li> <li>• That this payment is instead of (rather than additional to) any redundancy entitlement</li> </ul>
<p>An offer of employment (temporary or permanent) to someone who is closely connected to a member of staff</p>	<p>Yes</p>	<p>This is permitted as long as:</p> <ul style="list-style-type: none"> <li>• There has been an open recruitment exercise in accordance with our policy that you have not played any part in and</li> <li>• You have no direct or indirect line management or supervision responsibility for the post and</li> <li>• The offer of employment complies with our policy and is approved by the Management Committee and</li> <li>• You record your connection to the successful applicant in the register within five days of their acceptance of the offer.</li> </ul>

EXAMPLE	CAN THIS BE PERMITTED?	FURTHER ACTION NECESSARY BEFORE THIS WILL BE PERMITTED?
The offer of employment <u>or contract for the provision of services (e.g. specialist advice)</u> to someone who is, or has been in the last twelve months, a member of our <u>Governing Body/Management Committee</u> or to anyone who is related to a member of the <u>Governing Body/Management Committee</u>	No	This cannot be permitted.
Appointment of one of our staff members to the <u>Governing Body/Management Committee</u>	No	This cannot be permitted in accordance with the Rules of the organisation.
Nominations to join the <u>Governing Body/Management Committee</u> from people who are connected to a serving member.	No	This cannot be permitted in accordance with the Rules of the organisation.
<b>OUR PEOPLE AS TENANTS OR SERVICE USERS</b>		
The offer of a tenancy or lease in one of our or any of our subsidiaries' properties to one of our people or to someone closely connected to them.	Yes	This is permitted as long as <ul style="list-style-type: none"> <li>• it is in accordance with our published allocations policy <b>and</b></li> <li>• Neither the applicant or anyone connected to the applicant is involved in any way or in any part of the allocation process <b>and</b></li> <li>• The offer is approved by the Management Committee in advance <b>and</b></li> <li>• The tenancy is recorded as an interest in the appropriate register within five days of the tenancy commencing</li> </ul>
Where one of our people (or someone connected to one of our people) is a tenant and receives a repair, improvement or adaptation to their home	Yes	<p><b>Repairs</b> carried out in accordance with our policy do not need to be recorded.</p> <p><b>Adaptations</b> must comply with our policy and be approved by the Director of Housing. The adaptation should be recorded in the register of interests within five days of approval.</p> <p><b>Improvements</b> must be carried out as part of an approved programme and in accordance with our policy. The person affected should declare their interest if/when the programme is being discussed and the improvement recorded in the register of interests within five days of</p>

EXAMPLE	CAN THIS BE PERMITTED?	FURTHER ACTION NECESSARY BEFORE THIS WILL BE PERMITTED?
		completion.
Where one of our people (or someone connected to one of our people) is a tenant and receives payment of a decoration allowance, tenant reward/incentive as part of an agreed scheme or prize.	Yes	<p><b>Payment of decoration allowances or incentive/reward payments</b> must be made in accordance with our policies and procedures and recorded in the register within five days of receipt.</p> <p><b>Prizes or awards</b> in competitions open to all tenants in the same community (e.g. garden competitions) can only be given if the selection process for giving the award/prize has been carried out by someone who is independent. Receipt of the award and the circumstances surrounding it must be recorded in the register within five days of receipt.</p>
<b>TRAINING AND EVENTS</b>		
Attendance at training events or seminars (e.g. SFHA Conferences) or openings/similar events hosted by other RSLs	Yes	There is no requirement to declare and record in the register of interests.
The organisation paying for accommodation in connection with attendance at relevant conferences or events that you are attending on behalf of or in connection with your role with us or our subsidiaries	Yes	<p>Accommodation that is part of a conference or training package does not need to be recorded in the register, but attendance will be recorded on the relevant individual training plan.</p> <p>Residential conferences are important in ensuring that our people have the necessary skills, knowledge and experience to make an effective contribution to our activities.</p>
Attendance by you at events to mark awards, achievements or other significant milestones relevant to our business.	Yes (where <u>total cost does not exceed</u> £500)	<p>The <u>Governing Body Management Committee</u> must approve attendance <u>prior in advance</u>, and will only do so if:</p> <ul style="list-style-type: none"> <li>• The organisation or one of our people (because of their role with us) has been nominated for an award; or</li> <li>• attendance is in recognition of achievement of or in pursuit of</li> </ul>

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EXAMPLE	CAN THIS BE PERMITTED?	FURTHER ACTION NECESSARY BEFORE THIS WILL BE PERMITTED?
		<p>appropriate business development; or</p> <ul style="list-style-type: none"> <li>we can demonstrate that attendance or participation is directly related to furthering our aims and objectives.</li> </ul> <p>Where we ask you to represent us at such an event, this should be recorded in the register along with any associated costs (including travel, accommodation and the costs of attendance at the event) within five days of attendance.</p> <p><b>The total cost should not exceed £500 per person and we will make all arrangements in advance.</b></p> <p>Where costs would exceed £500, you will not be permitted to attend unless there is a clear, viable business case for attending. In such a case, specific approval of the Management Committee would be required.</p>
<b>GIFTS AND HOSPITALITY</b>		
<p>Gifts received from tenants and external sources</p>	<p>Yes (not exceeding a value of £25)</p>	<p>Small gifts (e.g. a box of chocolates, pens, folders, paperweights) can be accepted if:</p> <ul style="list-style-type: none"> <li><del>the value does not exceed £25</del><u>the cumulative value of gifts received from the same source in a 12 month period does not exceed £60</u></li> <li>you do not receive more than <del>one</del><u>two</u> such gift<u>s</u> from the same source in a 12 month period</li> <li>you record receipt of the gift<u>(s)</u> in the register</li> </ul> <p>You should not normally accept other gifts and should decline any gifts with a value of more than <del>£25</del><u>£60</u> unless to do so would cause offence or otherwise damage our reputation. In these cases you must:</p> <ul style="list-style-type: none"> <li>Advise the donor that the gift will be donated to charity or will form part of our annual charity fund raising activities</li> <li>Record the gift and the action taken in the register within five days</li> </ul>

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EXAMPLE	CAN THIS BE PERMITTED?	FURTHER ACTION NECESSARY BEFORE THIS WILL BE PERMITTED?
		<p>You should not regularly accept gifts from the same source and never more than <del>once</del>-twice from the same source within a 12 month period. <u>The total cumulative value of gifts received from the same source over the course of a year must never exceed £60.</u></p> <p>You should also record any offers that you decline and the reasons for this, in the register within five days.</p>
<p>Gifts given from us to one of our people or received by one of our people from external sources to mark special occasions.</p>	<p>Yes (not exceeding a value of <del>£25</del><u>£100</u>)</p>	<p>Gifts from the organisation to our people can be permitted in cases where it is to mark a special occasion or significant event including:</p> <ul style="list-style-type: none"> <li>• Family events (e.g. marriage, milestone birthday, birth of a child),</li> <li>• Retirement</li> <li>• Leaving the organisation</li> </ul> <p>These must be recorded in the relevant register and the value of such gifts will not normally exceed <del>£25</del><u>£100</u>.</p> <p>Please note, that this does not include collections by our people using their own personal funds to mark special occasions. These are always permitted with no requirement to declare. <u>For staff, contractual terms may be in place that dictate the value of any gift upon retirement / long service.</u></p>
<p>Hospitality associated with our business and that of its partners</p>	<p>Yes (when not exceeding a value of <del>£5</del><u>£60</u>)</p>	<p>Modest hospitality, such as a sandwich lunch or networking event, is permitted and does not need to be recorded</p> <p>All other hospitality up to a value of <del>£50</del>-<u>£60</u> is permitted but must be recorded in the register, along with an estimation of the value of hospitality received, within five days of attendance.</p> <p><b>You should not accept invitations with a value that is greater than <del>£50</del><u>£60</u>, unless you have prior approval from the Management Committee. The type of hospitality offered will also be taken into consideration, e.g. we will not normally accept invitations to sporting</b></p>

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EXAMPLE	CAN THIS BE PERMITTED?	FURTHER ACTION NECESSARY BEFORE THIS WILL BE PERMITTED?
		<p><b>events, concerts, golf tournaments etc.</b></p> <p>In this case, the reason for acceptance must also be included in the register and countersigned by the Chair.</p>
<p>Our people seeking donations from our contractors/suppliers when fundraising for charity</p>	<p>Yes</p>	<p>This is permitted provided:</p> <ul style="list-style-type: none"> <li>• Approval is gained from the Chief Executive prior to making any approach</li> <li>• Any donations received are recorded in the register</li> </ul> <p>We recognise our social responsibility and promote charity fundraising by the organisation and our people. We have a separate policy that sets out our approach to supporting other charities.</p>
<p><b>PROCURING GOODS/SERVICES</b></p>		
<p>Sale of a property under Right To Buy to someone affected by this policy</p>	<p>Yes</p>	<p>This is permitted with no requirement to declare in the register. The normal process for valuation and sale should be followed and our normal policy would be applied.</p>
<p>Sale of our interest (whole or part) in a property to someone affected by this policy via LIFT, HomeBuy; Help to Buy or other LCHO scheme</p>	<p>Yes</p>	<p>This is permitted, provided:</p> <ul style="list-style-type: none"> <li>• Our policy and procedures are followed</li> <li>• The prospective purchaser should play no part in the processing of the transaction by the organisation</li> <li>• It is declared and recorded in the register within five days of the missives being concluded confirming the process followed.</li> </ul>
<p>The organisation entering into a contract with an organisation where one of our people, or someone connected to them, has significant control.</p>	<p>No (in almost all cases)</p>	<p>This is not permitted in almost all circumstances. We could only consider this where:</p> <ul style="list-style-type: none"> <li>• The person affected by this policy is not involved in any part of the procurement process or decision</li> <li>• The appointment is approved by the Management Committee which is satisfied that the appointment is reasonable in the</li> </ul>

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EXAMPLE	CAN THIS BE PERMITTED?	FURTHER ACTION NECESSARY BEFORE THIS WILL BE PERMITTED?
		<p>circumstances</p> <ul style="list-style-type: none"> <li>• There is no reasonable alternative (e.g. because of geography or the specialist nature of the goods/services)</li> </ul> <p>In such rare circumstances, the appointment would be recorded in the register along with details of the process followed.</p>
<p>The purchase of land or other assets from anyone who is, or has been in the last twelve months, one of our people or who is connected to one of our people</p>	<p>No (in almost all cases)</p>	<p>This cannot be permitted in almost all cases.</p> <p>The only exception would be if you were referred to us under the Scottish Government’s Mortgage to Rent scheme, where this would be permitted provided:</p> <ul style="list-style-type: none"> <li>• Our policy and procedures are followed</li> <li>• The prospective seller plays no part in the decision to purchase the property or the processing of the transaction by the organisation</li> <li>• It is declared and recorded in the register within five days upon conclusion</li> </ul>
<p>The purchase of goods / services from our suppliers / contractors by one of our people</p>	<p>Yes</p>	<p>This should normally be avoided, and will only be potentially permitted if the procedure identified in Section 4 (and set out in more detail in our <b>“Use of Association Contractors / Suppliers Declarations” Procedure</b>) is followed</p>

Group Procedure

<b>Date Issued</b>	August 2017
<b>Last Reviewed</b>	August 2022
<b>Department</b>	Corporate
<b>Title</b>	<b>Use of Association Contractors / Suppliers</b>
<b>Objective</b>	To describe how to declare and register the use of the Group's contractors and suppliers (including R3 Direct) as per Appendix B of the Entitlements, Payment and Benefits Policy
<b>Responsible</b>	Chief Executive
<b>Next Review Date</b>	August 2027

## 1. Procedure

*This Procedure must be read in conjunction with the Entitlements, Payments and Benefits Policy.*

You or anyone who normally lives as part of your household, whether they are related to you or not, including spouses / partners who work away from home and sons and daughters who are studying away from home, can only utilise the services of one of the Association's contractors or suppliers (see Contractor List, Appendix B of the Entitlements, Payments and Benefits Policy) for your own personal needs if:

- The normal commercial rates are paid for this service and no preferential treatment, financial or otherwise, is received
- There is no inappropriate reference to the member of staff or ~~Management Committee governing body~~ member's role / position in the Association during any private negotiations with a contractor, and there is no response to any attempt by a contractor to engage inappropriately in the subject
- There is no approach to contractors through the Association, which includes the use of work email accounts
- There is no use, or attempt to take advantage, of any preferential rates agreed by the Association and there is no drawing on the Association's contracts or framework agreements



- In emergency situations you should comply with this policy retrospectively as soon as is practicable
- You make a written declaration that you have not received any advantage or preferential treatment (financial or otherwise) from the contractor or supplier arising out of their connection with the Association; written quotes should be provided where these would normally be sought for the type of work in question, and in ALL cases receipts should be provided
- You record the transaction or agreement in the Register of Interests and keep the entry up to date

## 2. Making a Declaration / Applying for Approval

Before using a contractor or supplier you should:

- 1) Check contractor / supplier list, Appendix B of the Entitlement, Payments and Benefits Policy
- 2) If the contractor / supplier is not on the list, you do not need to take any action.
- 3) If the contractor / supplier is on the list, you must contact your Director (or if absent another Director or the Chief Executive) or Chair (as appropriate) for advice and/or approval.

If the contractor is R3 Direct, no advice or approval is required for small jobs. However, for large jobs advice and approval is required.

- 4) If you are able to proceed, you must complete one of the following declaration forms:
  - If the contractor is R3 Direct and it relates to “Small Jobs”, you must complete “**Use of R3 Direct Declaration Form – Small Jobs**” (Appendix A)
  - If the contractor is R3 Direct and it relates to “Large Jobs”, you must complete “**Use of R3 Direct Approval Form – Large Jobs**” (Appendix B1). Once the Job is completed you must complete “**R3 Direct Declaration Form – Completed Large Jobs**” (Appendix B2)
  - If you use any other contractor / supplier on the list you must complete the form “**Use of Contractor / Supplier Declaration Form**” (Appendix C)
  - If you become aware of any Connected Persons in Group B or C (as defined in the Entitlements, Payments and Benefits Policy)

using any of the Association's Contractors or Suppliers (including R3), you should complete the form at **Appendix D**

- 5) You must complete all parts of the appropriate forms and include written quotes if applicable (e.g. for Large Jobsworks) and order confirmations if applicable (e.g. for sSmaller Jobsworks). For R3 Direct, a Large Job is defined as a job that R3 Direct provides a written quote for. A Small Job is one that can be booked online at R3direct.co.uk where a fixed price is quoted on the website as part of the booking process. Diagnose & Fix jobs are also considered to be Small Jobs since they also have a fixed online price.
- 6) You must supply copies of all invoices and receipts once works are completed or goods purchased
- 7) Once the appropriate form is fully completed it should be passed to the Executive Support Officer along with copies of quotes, invoices and receipts once they are available.
- 8) If a Profitability Check is required, Executive Support will ensure this is undertaken.

If your declaration is retrospective, you must follow steps 4 to 7. If the services provided were large jobs, you should also notify your Director or Chair.

## **2.1 Profitability Check**

A Profitability Check is undertaken where any member of staff or the Management Committee orders works with a value (excluding VAT) of £500 or more. Form B1 is used to identify any jobs where a Profitability Check is required. Orders placed by members of the Senior Management Team should have a Profitability Check undertaken regardless of the value of the works.

The purpose of the Profitability Check is primarily to ensure R3 has priced the job appropriately, but could help to uncover fraud if it has taken place. Not all jobs will make the expected level of profitability, failing to do so does not mean the staff member would be expected to pay more, the price of the job is agreed before the work starts and it is up to R3 to ensure appropriate profit levels are made. This is why the outcome of the check is not reported to the staff member ordering the works, but as a control, any valid reason for not reaching the expected level of profitability should be recorded. If any fraud is suspected following a Profitability Check, this will be investigated through the Association's disciplinary procedures.

When Form B2 is completed and returned to Executive Support, if a Profitability Check is required, Executive Support will contact the person who authorised the works in Form B1.

The Authoriser then contacts the officer in R3 that approved the invoice to confirm whether or not the expected level of profit has been made on the job. If it has, this should be recorded on Form B2, and no further action is required. If not, reasons for the poor level of profitability should be recorded and filed with

Form B2, along with any note of actions R3 is required to take to ensure expected profitability levels are made on any similar jobs in the future.

### **3. Registering a Declaration**

The Executive Support Officer will update the Entitlements, Payments and Benefits Register. -Any commercially sensitive information provided such as detailed price breakdown will be updated in a “closed” section of the register which will not available for public inspection.

The contents of the Entitlements, Payments and Benefits Register will be reported to the Management Committee on a yearly basis

### **4. Review**

This procedure will be updated in line with changes to the Entitlements, Payments and Benefits Policy.

**Purchase Ledger - Suppliers > £10,000 p/a at 28 February 2022**

**Supplier**

Alexander Sloan  
All Cleaned Up  
Anderson Strathern  
BDW Trading Ltd (Barratt Homes)  
CAS Contract Cleaning Ltd  
David Adamson  
Dunbar Removals  
Eden Services Scotland  
Frank McPartland  
Grange Energy Serv  
H B Rutherford & Co  
Housing Online  
Ideal Flooring Solutions Ltd  
Intimation Creative  
Level-Up Consult  
Lothian Gas  
Lynsay Bell Ltd  
Places for People Developments Ltd  
R3 Repairs Ltd  
SCS Cleaning  
SDM Housing Ltd  
SFHA  
TC Young Solicitor  
The Building Surveying Company  
Tunstall Telecom  
Waterstons Ltd  
Whiteadder Ltd

**Use of R3 Direct Declaration Form – Small Jobs**

Name.....

Position.....

Date.....

*I confirm that I require / or have already used\*, the services R3 Direct who have provided or will be providing me with the following work:*

Type of Work or Service	Date work to be/or has been carried out	Estimated value of work ( as on confirmation order)	Amount paid for work

Does Executive Support have a copy of the order confirmation: Yes/No \*  
(\*delete as appropriate)

Does Executive Support have a copy of the invoice: Yes/No \*

Does Executive Support have a copy of the receipt: Yes/No \*

If any of the above are not attached, please explain why?:

Is there any variation between the order confirmation and amount invoiced for works and if so why?:

**Declaration**

I confirm that I have not received any advantage or preferential treatment (financial or otherwise) from R3 Direct arising out of their connection to the Association

Signature.....

Date.....

---

**For Executive Support Officer’s use only**

Date added to Register of Payment and Benefits.....

**Use of R3 Direct Approval Form – Large Jobs**

Name.....

Position.....

Date.....

*I confirm that I wish to contract with R3 Direct for Services as described below:*

Type of Work or Service	Date work to be/or has been carried out	Value/ estimated Value

*Name of Director / Chair notified about the use of the contractor / supplier:*

.....

*Advice given by the Director/Chair .....*

*Will a Profitability Check be required on completion of the work? Yes / No*

*Signature of Director / Chair..... Date of Approval.....*

**Declaration**

I confirm that I have not received any advantage or preferential treatment (financial or otherwise) from R3 Direct arising out of their connection to the Association

**Signature**.....

**Date**.....

*To be passed to Executive Support Officer.*

---

**For Executive Support Officer's use only**

Date added to Register of Payment and Benefits.....

**Use of R3 Direct Large Job Completion Declaration Form**

Name.....

Position.....

Date.....

Description of the work approved:

Type of Work or Service	Date work to be/or has been carried out	Value/ estimated Value

Date that the work was approved by Director/Chair: .....

Does Executive Support have a copy of the quote: Yes/No \* (\*delete as appropriate)

Does Executive Support have a copy of the invoice: Yes/No \*

Does Executive Support have a copy of the receipt: Yes/No \*

If any of the above are not attached, please explain why?:

Is there any variation between the quote and amount invoiced for works and if so why?:

**Declaration**

I confirm that I have not received any advantage or preferential treatment (financial or otherwise) from R3 Direct arising out of their connection to the Association

Signature.....

Date.....

---

**For Executive Support Officer's use only**

Date added to Register of Payment and Benefits.....

Profitability Check (if required)

Was the required profitability level achieved? Yes / No

If No, please attach details.

**Use of a Non-R3 Contractor / Supplier Declaration Form**

Name.....

Position.....

Date.....

Name of Director / Chair notified about the use of the contractor / supplier:

.....

Advice given by the Director/Chair .....

I confirm that **I require/or have already used\***, the services of the following contractor who is on the Associations Contractor List:

Contractor Name	Address	Type of Work or Service	Date work to be/or has been carried out	Value/ estimated Value

Does Executive Support have a copy of the quote: Yes/No \* (\*delete as appropriate)

Does Executive Support have a copy of the invoice: Yes/No \*

Does Executive Support have a copy of the receipt: Yes/No \*

If any of the above are not attached, please explain why?:

Is there any variation between the quote and amount invoiced for works and if so why?:

**Declaration**

I confirm that I have not received any advantage or preferential treatment (financial or otherwise) from the contractor or supplier arising out of their connection to the Association

Signature.....

Date.....

---

**For Executive Support Officer's use only**

Date added to Register of Payment and Benefits.....



**Use of an ELHA Contractor / Supplier by a Connected Person Declaration Form**

Your Name.....

Your Position.....

Date.....

Name of the Connected Person .....

How they are Connected to You .....

Name of Director / Chair notified about the use of the contractor / supplier:

.....

Advice given by the Director/Chair .....

I confirm that the Connected Person above **requires/or has already used\***, the services of the following contractor who is on the Associations Contractor List:

Contractor Name	Address	Type of Work or Service	Date work to be/or has been carried out	Value/ estimated Value

Does Executive Support have a copy of the quote: Yes/No \* (\*delete as appropriate)

Does Executive Support have a copy of the invoice: Yes/No \*

Does Executive Support have a copy of the receipt: Yes/No \*

If any of the above are not attached, please explain why?:

Is there any variation between the quote and amount invoiced for works and if so why?:

**Declaration**

I confirm that neither I nor the Connected Person have not received any advantage or preferential treatment (financial or otherwise) from the contractor or supplier arising out of their connection to the Association

**Signature**.....

**Date**.....

---

**For Executive Support Officer's use only**

Date added to Register of Payment and Benefits.....

## Stress Policy

### Report by Martin Pollhammer, Chief Executive – for approval

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#### 1.0 Introduction

The Stress Policy is due for periodic review. The proposed changes have been discussed and agreed with JCC.

#### 2.0 Changes to the Model Policy

A number of changes have been made to the Model Stress Policy published by EVH. The Executive Support Officer (HR) has reviewed the revised Model, and updated the existing Policy, with all the proposed changes tracked.

Most changes are minor, but the following changes are worth noting:

- Wording changes at **1. Introduction** to highlight the fact stress itself is not an illness but can have a poor impact on people's health
- Additional section of **5. Legal Framework** to show the legislation that is relevant to stress
- Additional section of **6. Definitions** to show the definitions of key words used throughout the policy
- Additional wording at **7. Confidentiality** to highlight that personal data will be treated in line with GDPR regulations

#### 2.0 Appendix 1 – Individual Employee Stress Questionnaire

The Stress Questionnaire at Appendix 1 of the document would be given to the employee by the Manager if they have indicated that they are or have been feeling stressed. The purpose of this is to identify what the causes of their stress are, to highlight what they think could be done to alleviate their stress and discuss what support the Manager could provide to help with this.

The current Stress Questionnaire is based on an old model version from EVH, however, a new model version has been provided. When reviewing the current version, the Executive Support Officer (HR) noted that the current form is very bulky with a lot of very specific questions being asked, mainly focusing on work based stress factors. The long list of questions may be off putting for someone to work through and answer and may not be relevant to someone who is experiencing stress out with work.

The new model version is much less specific and allows employees to detail any stressors they have rather than just workplace stressors. It also appears less bulky and easier to complete.

It is therefore proposed that the existing Stress Questionnaire is replaced with the new model version from EVH. The new version is shown in the policy as a tracked change.

**Recommendation**

The Management Committee is asked to approve the revised Stress Policy and agree the replacement of the old Stress Questionnaire with the new suggested template.

<b>Date Issued</b>	April 2004
<b>Review Date</b>	<b>August 2022</b>
<b>Department</b>	Management (Staffing)
<b>Title</b>	<b>Stress Policy</b>
<b>Objective</b>	Through our policy we are committed to providing a supportive working environment that maintains and promotes the health and well-being of all our staff.
<b>Responsible</b>	Chief Executive
<b>Next Review Date</b>	<b>August 2027</b>

### 1. Introduction

~~We recognise that we have a duty under the Health and Safety at Work Act 1974 to ensure, so far as is reasonably practicable, that the working environment for all our staff is healthy and safe. This includes mental as well as physical health at work.~~

We are committed to reducing and where possible eliminating stress for our employees. Stress in itself is not an illness, however it can be a contributory factor to many conditions and can cause both physical and mental illnesses.

Stress can result in poor mental health of employees even if the effects are not severe enough to result in a medical diagnosis. We recognise the need to promote a culture of good mental and physical health in our duty of care under the requirements of the Health and Safety at Work Act 1974.

### 2. Policy Statement

We provide a supportive working environment that maintains and promotes the health and wellbeing for everyone in the organisation through effective and sensitive management.

### 3. Policy Aims

This policy aims to:

- Promote a culture of mental and physical wellbeing
- Increase awareness of stress
- Provide managers with a clear process to use should any member of staff report that they are suffering from stress

- Provide details of the proactive measures we will implement to help reduce and, where possible, eliminate stress and its causes

#### 4. Background

Stress in the workplace is not new. The Health and Safety Executive (HSE) introduced Stress Management Standards a number of years ago and implemented tools to accompany them which have developed over the years. The management standards cover six key areas :

- Demands
- Support
- Change
- Control
- Role
- Relationships

Full descriptions of the standards and typical behaviours which can be a sign of stress are available from the HSE website [www.hse.gov.uk](http://www.hse.gov.uk).

It is important to distinguish the difference between stress and pressure. In most work situations some pressure is healthy, but, stress is when a person experiences too much pressure and the effect of the pressure becomes negative.

#### 5. Legal Framework

Although there is no specific legislation on stress the following are relevant through case law.

- *Health & Safety at Work Act 1974*

Under section 2 (1), employers have a duty to 'ensure, so far as is reasonably practical, the health, safety and welfare at work of all employees'

- *Management of Health and Safety at Work Regulations 1999*

Requires that employers make a suitable and sufficient assessment of the risks to the H&S of its employees to which they are exposed whilst they are at work and this includes stress.

#### 6. Definitions

The following are definitions which will be applied in the context of this policy

- **Stress** - the adverse reaction people have to excessive pressure or other types of demand placed on them

- [Proactive measures](#) - aims to prevent the harm caused by stress by taking action before it occurs
- [Reactive measures](#) - actions which will respond to any stress related situation to minimise harm once it has occurred and assist in preventing it occurring again.

## 7. Confidentiality

We will ensure that staff who experience stress are dealt with in the strictest of confidence.

[We will treat your personal data in line with our obligations under the current data protection regulations and our own policy GDPR Policy. Information regarding how your data will be used and the basis for processing your data is provided in our Fair Processing Notice.](#)

## 8. Line Manager Responsibilities

Line managers play a key role in managing stress within the workplace. It is vital to the success of our stress policy that managers have a thorough understanding of what stress is, what the causes are and what to be aware of to help identify early signs.

Line manager's responsibilities include:

- Attending stress awareness training
- Being aware of the signs of stress and intervening where necessary
- Promoting the organisation's culture of a physically and mentally healthy organisation
- Managing staff effectively to minimise them experiencing stress
- Where issues of stress arise, intervene as early as possible
- Encouraging staff to complete the Individual Employee Stress Questionnaire (**Appendix 1**)
- Take steps to help staff maintain a state of good mental health e.g. encourage rest breaks, and holidays.

## 9. Employee Responsibilities

- To raise any concerns regarding stress at the earliest opportunity
- To participate in our measures to assist in reducing or eliminating stress
- To be aware of the HSE Risk Management standards and the signs of stress

- To raise any concerns they may have for their colleagues in regards to stress with a manager
- To complete the Individual Employee Stress Questionnaire (**Appendix 1**), when issued.

## 10. Managing Stress

### Proactive Measures

To support our commitment in reducing the risk of stress occurring, we will ensure that the following initiatives will be implemented and adopted:

#### *Managers training*

We will ensure that all line managers attend stress awareness training and subsequent refreshers at appropriate intervals.

#### *Employee Questionnaires [and Stress Risk Assessments](#)*

In addition to issuing the stress questionnaire at **Appendix 1** to individuals who have had concerns about their stress levels raised (either by themselves or another member of staff), we will commit to conducting a stress questionnaire among our employees on a periodic basis to help inform the team/department risk assessment. This will assist in identifying any 'at risk' areas within the organisation.

#### *Analysing Information*

Commitment will be given that we will review appropriate data e.g. absence, employee concerns, employee questionnaires to identify areas where stress is or could be a risk.

#### *Promoting the Wellbeing of Staff*

We are committed to facilitating a culture of promoting physical and mental health in the following ways:

- Provide Information to our staff on Stress Awareness (**Appendix 2**)
- Encourage staff take any allocated breaks.
- Encourage staff to manage their holiday entitlement in order that leave is taken throughout the year at reasonable intervals.
- Promote the benefits of physical activity for both physical and mental health through the Healthy Happy Staff Group
- Ensure that staff are not working excessive hours on a regular and prolonged basis.



11. Reactive Measures

Stress is a very individualised condition and, as a result, it is unfortunate that even with the above measures being put in place some employees may nonetheless find themselves experiencing a stressful period in their lives. This may be caused by work or personal circumstances, or a combination of both.

**Managing Individual Stress Concerns**

The following details the process that will be used by us should a member of staff raise concerns of stress or a Manager becomes otherwise aware that an employee is experiencing stress

- The line manager should arrange to meet with the member of staff within 3 days to discuss the issues.
- The line manager will give the member of staff an Individual Employee Stress Questionnaire to complete and agrees when the employee should return the questionnaire by. (Appendix 1).
- The member of staff will complete the questionnaire and return this to the line manager.
- The line manager will complete any appropriate sections.
- A second meeting is arranged to discuss the questionnaire, identify ways of managing the issues, and any support or interim arrangements that may assist the ~~member of staff's recovery.~~ the employee.
- If appropriate staff may be referred to an occupational health specialist, Employee Counselling Service or any other appropriate service.
- ~~At the conclusion of the~~ During this meeting an action plan will be ~~completed~~ developed to summarise discussions and what actions will be taken by the organisation, line manager and employee staff.
- If the member of staff is absent as a result of stress the absence will continue to be managed in line with our attendance and absence management procedure, as well as providing the employee with the stress questionnaire to complete.

NB: If the member of staff's line manager is felt by them to be a contributing factor to their stress, then they can approach another appropriate manager one level above (normally the Director). They will then conduct the meetings.

If it is identified that the stress is being caused by another staff member then appropriate investigations may be required in line with our Grievance Policy.

If through discussions with a member of staff a line manager becomes aware of a stress risk, they will raise this in the appropriate way to ensure it is addressed at an organisational level. This will be done while maintaining their confidentiality.

**12. Occupational Health**

If deemed appropriate staff may be referred to an occupational health specialist ~~to assist in the absence management and to~~ help identify any actions that could be taken to assist ~~the employee. in their recovery.~~

**13. Employee Counselling Service**

All staff have access to the Employee Counselling Service. The details are as follows:

Rowan Consultancy  
[www.rowan-consultancy.co.uk](http://www.rowan-consultancy.co.uk)  
01738 562005

**14. Additional Sources of Information**

<http://www.hse.gov.uk/stress/>

<https://www.mind.org.uk/information-support/tips-for-everyday-living/workplace-mental-health/work-and-stress/>

**15. Review**

The policy shall be reviewed by the Chief Executive at least every 5 years, and each review will be subject to consultation with staff.

**Supporting Policies and Procedures**

- Equality and Diversity
- Discipline and Grievance
- Health and Safety
- Attendance and Absence Management
- Dignity at Work

## Individual Employee Stress Questionnaire

You have been given this questionnaire to complete as it has been highlighted to your line manager that you are or may be feeling stressed. The purpose of this questionnaire is to identify what factors may be contributing to you feeling stressed and for you to think about and detail what you feel would help reduce or take away your stressors. Once you have completed the form, please return it to your line manager. Your line manager will complete their comments and return a copy of the document to you with details of a meeting to discuss your stressors and what support may be available.

Cause of Stress	Question	If yes, please provide details	What do you feel could help in changing the situation?	Managers comments	Details of Support discussed
Demands	Do different people at work demand that you complete tasks which are hard to combine?				
	Do you feel you have unachievable deadlines?				
	Do you feel you have to work very intensively the majority of the time?				
	Do you feel you have to neglect some tasks as you have too much to do?				
	Do you feel that you are unable to take breaks due to your workload?				
	Do you feel pressured to work long hours?				

	Do you feel that you have to work fast the majority of the time?				
	Do you feel you have unrealistic time pressures?				
Control	Do you feel you can decide when to take a break from your work?				
	Do you feel you have a say in the pace/speed that you work?				
	Do you feel you have any choice over how you do your work?				
	Do you feel you have any choice in what work you do on a day to day basis?				
	Do you feel you have any influence over the way you do your work?				
	Do you feel that your work time is flexible?				
	Support (Manager)	Do you feel your manager gives you enough feedback on the work you do?			
Do you feel you can rely on your manager to assist you with a work problem?					
Do you feel you can talk to your manager about something that may upset, annoy or distress you at work?					
Do you feel that your manager encourages you at work?					

Support (Peers)	Do you feel your colleagues would help you if your work became difficult?				
	Do you feel you get the help and support from your colleagues that you need?				
	Do you feel you are respected by your work colleagues?				
	Do you feel you're your colleagues give you the respect you deserve?				
	Do you feel that your colleagues will listen to any work related problems you may have?				
Relationships	Do you feel you have been personally harassed, in the form of unkind words or behaviour at work?				
	Do you feel that there is/or has been friction or anger between colleagues?				
	Do you feel you are or have been bullied at work?				
	Do you feel that relationships are strained at work?				
Role	Are you clear about what work is expected of you at work?				
	Do you know how to go about doing your job?				
	Are you clear about the goals and objectives for your team?				
	Do you understand how your work fits in to the overall aims of your organisation?				

Change	Do you feel you have enough opportunities to ask your manager questions about change?				
	Do you feel you are consulted about changes within your workplace?				
	When changes are made in work, do you feel that they are clearly explained as to how they would work in practice?				
Other issues	Do you feel that there are any other factors in work that may be contributing to the way you are feeling just now?				
	Do you feel that there is anything outside of work that maybe contributing to the way you are feeling just now?				

**Stressors**

Now that you have identified your stressors please rank them, detailing the examples you have provided above in the order of 1-10 with 10 having the biggest impact on you and 1 the least.

Example of Stressor \_\_\_\_\_ 1-10 \_\_\_\_\_ Example of Stressor \_\_\_\_\_ 1-10



**Factor outside of work**

This list of questions is mainly focused on factors at work. However, there may be factors outside work, e.g. family life, which may be affecting your ability to cope at work, and which in normal circumstances you would be able to deal with.

It may be benefit you to share these with your line manager (or another manager) as you can discuss with them if there are any short term support measures that could be put in place to assist you at this time.

In addition your manager may be able to direct you to any additional support services you may not have thought of before.

Action Plan

Detail below the action plan discussed with your line manager to support you in managing your stressors

Stressor/Area of Concern	Agreed Action	Review Date



**Individual Employee Stress Questionnaire**

You have been given this questionnaire to complete as it has been highlighted to your line manager that you are or may be feeling stressed. The purpose of this questionnaire is for you to identify what factors may be contributing to you feeling stressed, and for you to think about, and detail what you feel would help you manage your current situation. Once you have completed the form, please return it to your line manager who will then arrange a meeting with you to discuss your stressors and what support may be available. If, due to the circumstances it would be better to discuss your current situation with an alternative manager this can be arranged.

**Stressors**

Please list the factors that you feel are contributing to you feeling stressed, once you have done this, please rank them from 1-10 with 10 having the biggest impact on you and 1 the least. The factors detailed may be within or out with the workplace.

<b><u>Stressor</u></b>	<b><u>Stress Factor Rating (1-10)</u></b>
<b><u>Workplace factors – e.g. Workload/working relationships/work/life balance</u></b>	
<b><u>External factors – e.g. Home life/family/financial</u></b>	

**Moving Forward**

Taking each stressor in turn please complete the below section prior to the meeting. Section 3 & 4 will be completed at the meeting with your line manager.

**Stressor 1 – Outline the background**

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**How do you see the situation being resolved**

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**Stressor 2 – Outline the background**

--

How do you see the situation being resolved

Stressor 3 – Outline the background

How do you see the situation being resolved

*This section below will be completed with your line manager at the meeting*

**Section 3 - Agreed Actions**

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**Section 4 – Review Date**

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\_\_\_\_\_  
*Employee signature* *Date*

\_\_\_\_\_  
*Line managers signature* *Date*

## EMPLOYEE STRESS AWARENESS

### What is stress?

We all feel under pressure at times and the natural, physical response to pressure is not, in itself, harmful. In fact the release of adrenalin and cortisol can be beneficial under certain circumstances. The burst of energy and alertness they give can help when working to a deadline or taking an exam. This physical reaction is known as the “fight or flight” response and comes from our evolutionary need to respond to sudden dangers that threatened us when we were still hunter-gatherers.

When the pressure outstrips your resources to cope, however, it becomes stress and if it occurs too frequently or goes on for too long it can result in physical health problems or lead to a diagnosis of anxiety and/or depression.

### What affects your ability to cope?

Stress can be caused by long-term difficult circumstances such as poverty, caring for a disabled family member or an unhappy relationship as well as short-term events.

People’s tolerance of stress varies. A situation that is intolerable to one person may be stimulating to another such as giving a presentation or flying in an aeroplane. Situations perceived to be stressful are often associated with change and with a lack of control over what is happening. This is why happy events such as getting married and moving house can be as stressful as redundancy or difficult neighbours. It is important to realise that what you feel is determined, not just by events and changes in the outside world, but also by how you perceive, interpret and respond to them. You can, therefore, learn to recognise your own stress responses and develop skills to deal with them.

### What are the signs and Symptoms?

The sooner you can recognise your personal stress responses the quicker you can nip your stress in the bud. Some physical symptoms are:

- headaches,
- tiredness,
- restlessness,
- sleeping problems,
- nervous tics,
- high blood pressure,
- nausea and dizziness,
- constipation and/or diarrhoea,
- changes in appetite,
- lack of sex drive,
- chest pains
- grinding your teeth at night.

Some emotional symptoms are:

- irritability
- feelings of dread or failure,
- panic attacks,
- tearfulness,
- poor concentration,
- forgetfulness
- becoming withdrawn.

Some behavioural symptoms are:

- increased use of substances such as alcohol and drugs
- frequent crying,
- smoking and food,
- poor timekeeping
- spending more money,
- increased absences from work.

**What can you do?**

Any kind of exercise that you enjoy without it becoming competitive or obsessive helps to dissipate the adrenalin and cortisol of the “fight or flight” response. A relaxation CD or podcast can take you through some very calming breathing and/or progressive muscle relaxation exercises. Prioritise the tasks you have to do in a day and be realistic about what you can achieve in a day. Eat healthily, minimise caffeine and alcohol and make time to talk to supportive people.

# Property Maintenance (Legal Obligations) Policy Review

## Report by Duncan Mackay, Director of Asset Management – for approval

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### 1.0 Introduction

The Property Maintenance (Legal Obligations) Policy has now been reviewed as part of the regular policy review cycle.

### 2.0 Policy Review

The Policy has been reviewed by the Association's solicitors, Anderson Strathern, and been found to be fit for purpose with no material changes being required. Extensive changes have been made to the formatting of the document.

The revised **Policy Document** is attached to this report, with proposed changes have been tracked.

The policy is next scheduled for review in August 2027.

### Recommendation

The Board is asked to approve the reviewed Property Maintenance (Legal Obligations) Policy.

<b>Date Issued</b>	23 October 1997
<b>Last Review Date</b>	August 2022
<b>Department</b>	Asset Management
<b>Title</b>	<b>Property Maintenance – Legal Obligations</b>
<b>Objective</b>	To set out the Association's Legal (Statutory) Obligations with regard to the maintenance of its properties
<b>Responsible</b>	Director of Asset Management
<b>Next Review Date</b>	August 2027

## 1.0 INTRODUCTION

- 1.1 The Association will comply with all legal requirements regarding the maintenance and repair of rented properties as ~~defined set out in the all~~ relevant legislation, primarily the Housing (Scotland) Act 2001 (the “2001 Act”). We will ensure that our maintenance policies and procedures are kept up to date ~~aid this process~~ to ensure that the Association's ~~our~~ duty of care to our tenants is maintained.
- 1.2 ~~The Association~~ We will clearly detail the ~~our~~ rights and responsibilities of the ~~as~~ landlord and the ~~our~~ tenants in its ~~our~~ Tenancy or Occupancy Agreements, ~~and provide further information~~ reinforce them in the accompanying Tenant's Handbook.
- 1.3 In addition, ~~the Association~~ we will ensure that its ~~our~~ maintenance operations comply with the Building (Scotland) Regulations 2004 (as amended) (the “2004 Regulations”), associated Technical Handbooks s and any superseding regulations.
- 1.4 The ~~Building (Scotland) 2004~~ Regulations ~~2004 and- the associated~~ Technical Handbooks s will be kept in electronic form at the Association's ~~our~~ offices for reference purposes and will be updated from time to time as the 2004 Regulations and Technical Handbooks are amended and updated ~~as amendments become law~~

## 2.0 THE LAW

- 2.1 In Scotland the law imposes certain obligations on landlords in relation to Legal duties regarding the standard of repair of rented properties, ~~have been in existence for centuries. Originally common law duties required landlords to~~



~~provide houses which were “tenantable and habitable” The common law has largely been replaced by statutes. The 2001 Act sets out the obligations incumbent on the current law relating to the legal duties of landlords in the social rented sector. These obligations cannot be contracted out of, is contained in the Housing (Scotland) Act 2001. Relevant extracts from the 2001 Act are reproduced in Appendix 1.~~

### 3.0 THE LANDLORD’S OBLIGATIONS.

3.1 The ~~2001 Housing (Scotland) Act 2001~~ sets out the obligations of landlords ~~in relation to regarding~~ the standard of repair and maintenance of properties ~~in the social rented sector let as~~ under Scottish ~~Secure~~ ~~T~~enancies.

3.2 –The main ~~obligation incumbent on a landlord under the condition which is stated in the 2001 Act is to ensure that the property not that the property will be “tenantable and habitable” but that it is (1) “wind and watertight” and (2) “in all other respects reasonably fit for human habitation”.~~<sup>1</sup>

~~The requirement that the property be wind and watertight means that This requires the property should to be able to withstand what was called in a court case “the ordinary encroachment of the elements”.~~<sup>2</sup> (*Wolfson v Forrester* 1910 SC 675).

~~In determining whether a property is fit for human habitation, regard is to be had to the extent, if any, to which by reason of disrepair or sanitary defects the property falls short of the building regulations in force in the area.~~<sup>3</sup>

~~The Act further contains a requirement that the house is both at the commencement of the tenancy and during the tenancy kept by the landlord “in all respects reasonably fit for human habitation” This wording is identical to the wording of many previous Acts and the definition was considered in a House of Lords case in 1942 (*Summers v Salford Corporation*.) In that case the court held that if “by ordinary use damage would naturally occur to the occupier, then the house was not in all respects reasonably fit for human habitation”.~~

3.3 –The ~~2001~~ Act requires ~~a landlord to ensure that the property is wind and watertight and fit for human habitation both to be in this condition at the start of the tenancy and similarly maintained throughout during the tenancy.~~<sup>4</sup> Any ~~yard, garden, outhouses and pertinents belonging to the property or usually enjoyed with it (i.e. any common parts) are also subject to this standard.~~<sup>5</sup> The ~~standard is to be measured by looking at the extent to which any disrepair or~~

<sup>1</sup> [Housing \(Scotland\) Act 2001, Schedule 4, Paragraph 1](#)

<sup>2</sup> [Wolfson v Forrester 1910 SC 675](#)

<sup>3</sup> [Housing \(Scotland\) Act 2001, Schedule 4, Paragraph 5\(1\)](#)

<sup>4</sup> [Housing \(Scotland\) Act 2001, Schedule 4, Paragraph 1](#)

<sup>5</sup> [Housing \(Scotland\) Act 2001, Section 111](#)

~~sanitary defects at the house falls short of the building regulations in force in the area.~~

- 3.4 ~~The 2001 Act also requires a~~ Landlords also have a legal duty to inspect the property, including any common parts, prior to the commencement of ~~the~~ any tenancy.<sup>6</sup> The purpose of ~~the~~ is inspection is to ascertain whether any work is required to ensure that the property ~~house~~ is “wind and watertight” and “reasonably fit for human habitation”. ~~A~~ The landlord has a duty to notify ~~tell the~~ a prospective tenants of any works which need to be carried out at the property in order ~~are required~~ to bring ~~it~~ the property up to ~~that~~ required standard.<sup>7</sup> ~~A~~ Landlords also ~~has~~ ve a legal duty to take reasonable care towards any third party entering the let property or any common parts associated with the tenancy to see that they will not suffer injury or damage caused by the state of the let property or common parts.<sup>8</sup> ~~to inspect the common parts to ensure there is no foreseeable danger to the tenant or user of the common parts.~~
- 3.5 In order to ensure that the property is kept wind and watertight and fit for human habitation during the tenancy, The duty to maintain the property in a condition which is “reasonably fit” requires a landlord must carry out any works which are necessary. Such works s to respond to tenants’ request for repair. The on-going maintenance duty is activated when a landlord receives a report that a repair is required, however such information is obtained. Repairs must be carried out within a “reasonable time” of the tenant notifying the landlord, or the landlord otherwise becoming aware, that works are required.<sup>9</sup> ~~The 2001 Act does not define the phrase “reasonable time” and the Association’s That will require the exercise of judgement by the repairs team~~ our Asset Management staff will need to exercise their best judgement to determine what a reasonable timescale in the circumstances would be. This will depend on the nature of the works required.
- 3.6 ~~A~~ Landlords also ~~has~~ ve a legal duty to “make good any damage caused by the carrying out” of the work repair.<sup>10</sup> This means that ~~the a~~ landlord is ~~will be~~ legally obliged to compensate a tenant if the repair works cause damage to any property owned by the tenant, ~~(e.g. carpets and floor coverings) or if decoration is disturbed.~~ The requirement to make good any damage is subject to the general rule that a tenant is not entitled to “betterment” however.
- 3.7 In addition to the obligations which are incumbent on landlords in relation to the maintenance and repair of properties let in the social rented sector, There are a number of other diverse pieces of legislation which impose certain obligations on local authorities in relation to properties within their area, can have an impact on property maintenance.

<sup>6</sup> Housing (Scotland) Act 2001, Schedule 4, Paragraph 2(a)

<sup>7</sup> Housing (Scotland) Act 2001, Schedule 4, Paragraph 2(b)

<sup>8</sup> Occupiers’ Liability (Scotland) Act 1960, Section 3

<sup>9</sup> Housing (Scotland) Act 2001, Schedule 4, Paragraph 3(a)

<sup>10</sup> Housing (Scotland) Act 2001, Schedule 4, Paragraph 3(b)

3.8 The Environmental Protection Act 1990 (the “1990 Act”) ~~imposes~~places a duty on Local Authorities to investigate and take action to remove “statutory nuisances”.<sup>11</sup> The following matters constitute “statutory nuisances” for the purposes of the 1990 Act:

- a) Any premises in such a state as to be prejudicial to health or a nuisance;
- b) Smoke emitted from premises so as to be prejudicial to health or a nuisance;
- c) Fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;
- d) Any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;
- e) Any accumulation or deposit which is prejudicial to health or a nuisance;
- f) Any animal kept in such a place or manner as to be prejudicial to health or a nuisance;
- g) Noise emitted from premises so as to be prejudicial to health or a nuisance;
- h) Noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or a road; and
- a) Any other matter declared by any enactment to be a statutory nuisance.

~~isance can be defined as anything that is unsafe, or makes life uncomfortable for the public, or interferes substantially with the comfort of life. In particular, this may mean:————~~

- ~~———— 1. Cracked and broken glass in windows and doors/screens.~~
- ~~———— 2. Leaking or cracked toilets, baths, sinks.~~
- ~~———— 3. Broken steps and staircases.~~
- ~~———— 4. Split or broken floorboards.~~
- ~~———— 5. Defective plasterwork.~~
- ~~———— 6. Holes in rainwater pipes and waste pipes.~~
- ~~———— 7. Broken and unclean guttering.~~
- ~~———— 8. Leaking roofs, broken roof tiles and lack of guttering.~~
- ~~———— 9. Defective catches on windows above ground floor.~~
- ~~———— 10. Uncovered water tanks.~~
- ~~———— 11. Lack of painting on external walls.~~
- ~~———— 12. Uncovered electrical installations.~~

<sup>11</sup> Environmental Protection Act 1990, Section 79(1)

~~—13. Defective damp proof courses.~~

~~—14. Excessive transmission of noise between properties.~~

~~The above list is not exhaustive and from time to time new nuisances are included.~~

~~Where aThe Local aAuthority is satisfied that a statutory nuisance exists, or is likely to occur, it shall will proceed by firstly serving an abatement notice on the person responsible for the nuisance or, where the person responsible cannot be found, on the owner or occupier of the premises.<sup>12</sup> The notice will require the abatement of the nuisance or prohibit / restrict its occurrence.<sup>13</sup> The notice may require works to be carried out, or the taking of other steps, in order to end the statutory nuisance.<sup>14</sup> The notice shall specify the time or times within which the requirements of the notice are to be complied with.<sup>15</sup> Where an abatement notice has not been complied with, the local authority may abate the statutory nuisance and do whatever may be necessary in execution of the abatement notice<sup>16</sup> e.g. carrying out any works required. It is an offence not to comply with an abatement notice.<sup>17</sup> The local authority can also recover any expenses it has reasonably incurred in abating a statutory nuisance.<sup>18</sup>~~

~~In *Robb v Dundee City Council*,<sup>19</sup> a tenant raised a court action against her landlord under the provisions of the 1990 Act. The tenant's property suffered from condensation, dampness and mould. Although the court agreed with the tenant that the condition of the property constituted a statutory nuisance under the 1990 Act, it found that the landlord was not responsible for this. The problem was not that there was an inadequate heating system at the property, but rather the tenant was unable to pay for sufficient heating to prevent the dampness and mould complained of.~~

~~owners requiring the removal of the "nuisance" within a set time scale and, upon lapse, to carry out the works and charge the owners~~

~~It is not the lack of repair but the effects of the lack of repair that constitute the nuisance, such as dampness putting the tenant's health at risk.~~

3.9 The Prevention of Damage by Pests Act 1949 (the "1949 Act") may also imposes an obligation on Local aAuthorities to take such steps as may be necessary to secure so far as practicable that their area is kept free from rats and mice.<sup>20</sup> This can include serving a notice on the owner or occupier of land

<sup>12</sup> Environmental Protection Act 1990, Section 80(1)-(2)

<sup>13</sup> Environmental Protection Act 1990, Section 80(1)(a)

<sup>14</sup> Environmental Protection Act 1990, Section 80(1)(b)

<sup>15</sup> Environmental Protection Act 1990, Section 80(1)

<sup>16</sup> Environmental Protection Act 1990, Section 81(3)

<sup>17</sup> Environmental Protection Act 1990, Section 80(4)

<sup>18</sup> Environmental Protection Act 1990, Section 81(4)

<sup>19</sup> *Robb v Dundee City Council* 2002 SC 301

<sup>20</sup> Prevention of Damage by Pests Act 1949, Section 2

~~requiring them to take, within such reasonable period as may be specified, such reasonable steps for the purpose of keeping the area free from vermin.<sup>21</sup> In particular, the notice may require a form of treatment to be applied to the land or the carrying out of structural repairs or other works as so specified.<sup>22</sup> Where a person served with a notice fails to take the steps required by the notice, the Local Authority may take the necessary steps and recover from them any expenses reasonably incurred.<sup>23</sup> It is also an offence to not comply with a notice under the 1949 Act.<sup>24</sup> have a limited impact on property maintenance concentrating more especially on action to remedy defective drainage and making the house proof against vermin.~~

3.10 The Association must comply with any notice served on it by the local authority under the 1990 Act or the 1949 Act.

#### 4.0 IMPLICATIONS OF LANDLORD'S FAILURE TO COMPLY.

4.1 ~~If a landlord fails to comply with its legal obligations to repair and maintain a rented property, a tenant can go to court in order to take action against the landlord. The courts can order a landlord to undertake any works which are required at the property in order to ensure that it complies with the repairing standard i.e. it is wind and watertight and fit for human habitation. The courts can also order a landlord to pay a tenant compensation in respect of any damage to their personal property or to health which has been caused as a result of the landlord's failure to carry out works which are required. The traditional way for tenants to pursue non-compliance with the law has been through the courts, which are empowered to enforce compliance, instructing landlords to carry out works and to award compensation. Such actions may also lead to an award of legal expenses costs being made against the landlord.~~

4.2 ~~A tenant can also submit a. Additionally complaints may also be made to the Scottish Public Services Ombudsman (SPSO) about a housing association if they are unhappy about any aspect of their tenancy, including repairs. A tenant should exhaust the Association's own complaints procedure before submitting a complaint to the SPSO however, making the road to remedy and compensation for tenants much more accessible. Despite the introduction of the SPSO, the courts will continue to perform a role. The Association's Our Complaints procedure Policy can be found is available at: Comments and Complaints Policy Document(2).pdf (elha.com)https://www.elha.com/assets/elha/uploaded/files/SPSO-Complaints-Lft.pdf~~

~~4.2 The common theme which runs throughout legislation and which is drawn from the previous common law principles is the duty of reasonable care~~

<sup>21</sup> Prevention of Damage by Pests Act 1949, Section 4(1)

<sup>22</sup> Prevention of Damage by Pests Act 1949, Section 4(2)

<sup>23</sup> Prevention of Damage by Pests Act 1949, Section 5(1)

<sup>24</sup> Prevention of Damage by Pests Act 1949, Section 5(2)

~~which landlords owe to the people and property within and adjacent to the property owned by them.~~

~~This duty extends to~~

- ~~• minimising the risk of inevitable accident,~~
- ~~• inspecting at reasonable frequencies those elements not readily identifiable by tenants as being defective or a risk~~
- ~~• attending to reported repairs within a reasonable period of time.~~

~~The term “reasonable” is never defined in terms of timescales, with the courts arriving at decisions based on what they believe a “reasonable man” would consider being reasonable in all of the circumstances.~~

## 5.0 MAINTENANCE AND TENANCY AGREEMENT

5.1 ~~A~~The ~~T~~tenancy or O~~ccupancy~~ ~~A~~greement forms ~~the~~a contract between ~~the~~a landlord and ~~the~~a tenant ~~and, amongst other matters, it.~~The terms will set out their ~~parties'~~parties' respective rights and obligations in relation to maintenance, repair and alteration. ~~It can be used to modify and extend the statutory rights and obligations but it cannot reduce them.~~The Association's~~Our~~ ~~T~~tenancy and e~~Occupancy~~ ~~A~~greements ~~are supplemented by itsour~~say little more than that prescribed and implied in law and instead other maintenance policies. ~~are used to modify and extend these rights.~~The Association~~We~~ cannot contract out of ~~itsour~~our statutory obligations in relation to the repair and maintenance of ~~our~~our properties.

## 6.0 MAINTENANCE AND BUILDING REGULATIONS

6.1 The Building (Scotland) Regulations 2004 ~~(as amended)~~and the associated ~~Technical Handbook~~ set out ~~technical requirements and building standards applicable to building work.~~technical requirements and building standards applicable to building work. The 2004 Regulations apply to the construction, conversion and demolition of buildings and also to the provision of services, fittings and equipment in or in connection with buildings.<sup>25</sup> ~~The Regulations also make various provision for protective works for the safety of the public whilst work is being carried out on a building or building site.~~<sup>26</sup> ~~Supplementary matters regarding the clearing of footpaths and securing of unoccupied buildings are also covered.~~<sup>27</sup> ~~the relevant standards covering a wide range of aspects such as fitness of materials,~~

6.2 ~~Schedule 5 of the 2004 Regulations sets out the building standards applicable to design and construction. The standards cover a wide subject area and include, for example, heating, producing installations, electrical installations, ventilation, drainage, sanitary facilities and so on.~~Schedule 5 of the 2004 Regulations sets out the building standards applicable to design and construction. The standards cover a wide subject area and include, for example, heating, producing installations, electrical installations, ventilation, drainage, sanitary facilities and so on. ~~The associated~~Technical

<sup>25</sup> ~~The Building (Scotland) Regulations 2004, Regs 9 – 12~~

<sup>26</sup> ~~The Building (Scotland) Regulations 2004, Reg 13~~

<sup>27</sup> ~~The Building (Scotland) Regulations 2004, Regs 14 – 15~~



Handbooks provide guidance on achieving the standards set in the 2004 Regulations.

6.3 Their 2004 Regulation's principal application is in relation to major works which requiring a Building Warrant although the Building Standards still apply to other works where a building warrant is not required. such as new-build, rehabilitation, planned maintenance and major repairs. For major this type of works, the Association we will engage recruit the services of appropriate External consultants and thereby secure the requisite expertise in this complex field, if it is felt that the work cannot be carried out in-house. Work must be carried out in a "technically proper and workmanlike manner".<sup>28</sup>

6.4 For maintenance more generally, the most effective way to ensure compliance with that the 2004 Regulations are being observed is by the careful vetting and selection of contractors. In particular, by i.e. using electricians who are IEE-Select registered and gas technicians who are "Gas Safe" registered, the Association should be assured that the regulations pertaining to their trades are being met. Regular inspection of work should also be undertaken, not only on completion but also while the work is in progress. will be undertaken, more especially in relation to the Building (Scotland) Act 2003 which make provision for the safety of the public, including the erection of scaffolding, the disposal of materials from scaffold, the clearing of footpaths etc. The preparation and issuing of standard specifications for building materials should further safeguard against breaches of the 2004 Regulations. The materials being used must be durable and fit for their intended purpose.<sup>29</sup>

6.5 It should be noted that the 2004 Regulations apply to all buildings and works where an application for a warrant is made on or after 1 May 2005.<sup>30</sup> The 2004 Regulations do not apply retrospectively. Buildings and works related to warrant applications or exempt works commencing before 1 May 2005 are subject to previous building standards and procedures regulations. to existing buildings unless there are exceptional circumstances (including danger to the public) in which case part repairs/ replacements can be like for like.

## 7.0 IMPLICATIONS OF CONTRACTOR'S FAILURE TO COMPLY

7.1 Generally, an external the Contractor will be is-liable to the Association for any loss or injury which arising from a breach of his failure or the failure in exercising their duty of care or any breach of contract. However any tenant who suffers loss as a result of an external contractor's breach failures will may also have a claim remedy against the Association itself us too.

7.2 The Association and its officers We must exercise care not to instruct or insist that a contractor carries out a specific task in a particular way. WhereIn the

<sup>28</sup> The Building (Scotland) Regulations 2004, Reg 8(1)

<sup>29</sup> The Building (Scotland) Regulations 2004, Reg 8(1)

<sup>30</sup> The Building (Scotland) Regulations 2004, Reg 1

~~event of design the Association we and or its officers any of our staff if providing drawings or sketches should offer these as possible solutions for consideration, by the design team or contractor, with the final decision should being taken by the overall lead designer or contractor responsible for the project.~~

## 8.0 TENANTS RIGHT TO REPAIR

~~8.1 Since The Scottish Secure Tenants (Right to Repair) Scotland Regulations 2002 have been in force since 30th September 2002, Scottish secure tenants have had the right to have small urgent repairs – known as – In summary they provide that in certain circumstances where a “qualifying repairs” – carried out by their is reported by a tenant the landlord within a given timescale. This is called the Right to Repair Scheme (the “Scheme”). The Scheme is set out in The Scottish Secure Tenants (Right to Repair) Regulations 2002 (the “2002 Regulations”). has certain duties to carry these out.~~

~~8.2 The Scheme covers single qualifying repairs up to the value of £350.<sup>31</sup> The repairs covered by the Scheme are set out below at paragraph [8.12].~~

~~8.3 If a tenant reports a repair, their landlord must let them know if it is their responsibility and whether it is a qualifying repair under the Scheme. A landlord may need to inspect the tenant’s property in order to determine whether the repair is a qualifying repair or not.<sup>32</sup>~~

~~8.4 If the repair does qualify under the Scheme, the landlord needs to:<sup>33</sup>~~

- ~~• Tell the tenant the maximum time allowed to carry out the repair;~~
- ~~• Tell the tenant the last day of that period;~~
- ~~• Explain the tenant’s rights under the Right to Repair Scheme;~~
- ~~• Give the tenant the name, address and phone number of their usual contractor and at least one other contractor from a list; and~~
- ~~• Make arrangements with the tenant to take access into the property to carry out the repair.~~

~~8.5 Repair times depend on the type of repair. If a tenant’s toilet is not flushing, the landlord usually has one working day to come and repair it. A landlord has three working days to mend a loose bannister rail and seven working days to mend a broken extractor fan however. These timescales are set out in law.<sup>34</sup> See further below at paragraph [8.12].~~

~~8.6 If the landlord’s usual contractor does not start the qualifying repair within the time limit set, the tenant can instruct another contractor from the landlord’s list~~

<sup>31</sup> The Scottish Secure Tenants (Right to Repair) Regulations 2002, Reg 5

<sup>32</sup> The Scottish Secure Tenants (Right to Repair) Regulations 2002, Reg 8(a)

<sup>33</sup> The Scottish Secure Tenants (Right to Repair) Regulations 2002, Reg 8(b)

<sup>34</sup> The Scottish Secure Tenants (Right to Repair) Regulations 2002, Reg 10



to carry out the repair.<sup>35</sup> The tenant cannot use a contractor who is not on the landlord's list.

8.7 If the tenant has to instruct another contractor, that contractor will inform the landlord and it shall be entitled on request to obtain a copy of the works order from the landlord.<sup>36</sup> The landlord will also have to pay the tenant £15 in compensation for the inconvenience regardless of whether the landlord's main contractor had started work on the repair.<sup>37</sup>

8.8 It is important to note that the second contractor has the same length of time to carry out the repair as the landlord's main contractor.<sup>38</sup> If they do not carry out the repair within the time limit set, the tenant will be entitled to another £3 in compensation for each working day until the repair has been completed.<sup>39</sup> This amount can add up to a maximum compensation payment of £100 for any one repair under the Scheme.<sup>40</sup>

8.9 Sometimes there may be circumstances which the landlord or the contractor has no control over which make it impossible to do the repair within the maximum time allowed (for example, severe weather). In these circumstances the landlord needs to let the tenant know that a longer period of time will be required to complete the repair.<sup>41</sup>

8.10 The landlord is responsible for paying for repairs under the Scheme, not the tenant. The contractor who carries out the repair should send their bill direct to the landlord.

8.11 A landlord has an obligation to write to its tenants once a year to make them aware of the Scheme and the 2002 Regulations, and include a list of the contractors who are able to carry out qualifying repairs.<sup>42</sup>

8.12 The below table sets out the repairs which are qualifying repairs under the Scheme and the maximum length of time the landlord has to carry out the repairs. The 2002 Regulations are produced in full at Appendix 1.

~~The landlord is obliged to issue a works order to the usual contractor and tell the tenant that this has been done and the time limit within which the work will be completed. This must be within the time limit specified in the Regulations. If the repair is not carried out by the specified date the tenant has the right to instruct an alternative contractor to carry out the work and is also entitled to compensation.~~

~~These regulations are limited to repairs valued at up to £350 or less~~

<sup>35</sup> The Scottish Secure Tenants (Right to Repair) Regulations 2002, Reg 11(1)

<sup>36</sup> The Scottish Secure Tenants (Right to Repair) Regulations 2002, Reg 11(2)

<sup>37</sup> The Scottish Secure Tenants (Right to Repair) Regulations 2002, Reg 12

<sup>38</sup> The Scottish Secure Tenants (Right to Repair) Regulations 2002, Reg 11(3)

<sup>39</sup> The Scottish Secure Tenants (Right to Repair) Regulations 2002, Reg 12(2)(b)

<sup>40</sup> The Scottish Secure Tenants (Right to Repair) Regulations 2002, Reg 12(2)

<sup>41</sup> The Scottish Secure Tenants (Right to Repair) Regulations 2002, Reg 13

<sup>42</sup> The Scottish Secure Tenants (Right to Repair) Regulations 2002, Reg 14

~~The compensation payable to a tenant starts at £15 for the first day beyond the time limit, rising by £3 per day to a limit of £100.~~

~~The Regulations are printed in full at Appendix 1.~~

~~—A qualifying repair for these purposes of is repair of a defect specified in the Schedule below and is the responsibility of the landlord.~~

~~DEFECTS, REPAIRS OF WHICH ARE~~ QUALIFYING REPAIRS AND MAXIMUM TIME FOR COMPLETION

<del>Repair(Defect)</del>	<del>{Maximum period number of n working days to complete the repair from the date immediately following the date of notification of the qualifying repair or property inspection}</del>
Blocked flue to open fire or boiler	1
Blocked or leaking foul drains, soil stacks or toilet pans where there is no other toilet in the house	1
Blocked sink, bath or drain	1
Electric power -	
loss of electric power	1
<del>P</del> partial loss of electric power	3
Insecure external window, door or lock	1
Unsafe access path or step	1
Significant leaks or flooding from water or heating pipes, tanks, cisterns	1
Loss or partial loss of gas supply	1
Loss or partial loss of space or water heating where no alternative heating is available	1
Toilet not flushing where there is no other toilet in the house	1
Unsafe power or lighting socket,	1

or electrical fitting	
Water supply -	
loss of water supply	1
Partial loss of water supply	3
Loose or detached banister or hand rail	3
Unsafe timber flooring or stair treads	3
Mechanical extractor fan in internal kitchen or bathroom not working	7

## 9 ALTERATIONS AND IMPROVEMENTS BY ~~THE A~~ TENANTS

- 9.1 ~~Scottish Secure~~ Tenants are prohibited by the 2001 Act from carrying out any work to their property (with the exception of interior decoration) without ~~the our~~ written consent ~~of their landlord.~~<sup>43</sup> ~~Association. The A~~ ~~landlord~~ ~~We~~ ~~association~~ must not withhold consent unreasonably.
- 9.2 ~~On the termination of the tenancy, the landlord~~ ~~we~~ may make any payment to ~~the our~~ tenant which ~~it~~ ~~we~~ considers appropriate in respect of improvement work carried out by the tenant with ~~the landlord's our~~ consent.<sup>44</sup> ~~Where permission is given by a landlord to a tenant to carry our certain improvements, it~~ ~~It~~ may also be possible for ~~the a~~ tenant to subsequently obtain compensation for ~~certain "qualifying improvements" on the termination of their tenancy.~~<sup>45</sup> ~~such works when the tenancy comes to an end. The rules regarding compensation for qualifying improvements are set out in~~ ~~is payable in terms of t~~ ~~The Scottish Secure Tenants (Compensation for Improvements) Regulations 2002. The full text of these regulations is contained in Appendix 1~~
- 9.3 The qualifying improvements eligible for compensation are listed below. Each is given a "notional life". The amount of compensation which will be payable ~~will be~~ ~~is~~ ~~calculated using based on~~ a formula which ~~takes~~ ~~ing~~ into account the unexpired period of ~~the at~~ ~~item's~~ notional life when the tenancy is ended. The maximum compensation due for any one ~~qualifying~~ improvement is £4,000.<sup>46</sup> ~~Tenants A tenant~~ must ~~make submit~~ ~~their~~ claim for compensation no later than ~~3 weeks~~ ~~21 days~~ after the end of their tenancy ~~and their claim must contain sufficient information to enable the landlord to calculate the amount of compensation payable.~~<sup>47</sup> The ~~L~~ ~~landlord~~ must ~~reply~~ ~~respond to the claim~~ within

<sup>43</sup> Housing (Scotland) Act 2001, Section 28

<sup>44</sup> Housing (Scotland) Act 2001, Section 29

<sup>45</sup> Housing (Scotland) Act 2001, Section 30

<sup>46</sup> The Scottish Secure Tenants (Compensation for Improvements) Regulations 2002, Reg 5(4)

<sup>47</sup> The Scottish Secure Tenants (Compensation for Improvements) Regulations 2002, Reg 6(1)

28 days of it being made 4 weeks of the date of the claim.<sup>48</sup> The full text of the Regulations are contained in Appendix 1.

#### QUALIFYING IMPROVEMENT WORK AND NOTIONAL LIFE

<i>Column 1</i> <i>(Item)</i>	<i>Column 2</i> <i>(Notional life in years)</i>
1. Bath or shower	12
2. Cavity wall insulation	20
3. Sound insulation	20
4. Double glazing or other external window replacement or secondary glazing	20
5. Draught proofing of external doors or windows	8
6. Insulation of pipes, water tank or cylinder	10
7. Installation of mechanical ventilation in bathrooms and kitchens	7
8. Kitchen sink	10
9. Loft insulation	20
10. Rewiring and the provision of power and lighting or other electrical fixtures including smoke detectors	20
11. Security measures other than burglar alarm systems	15
12. Space or water heating	12
13. Storage cupboards in bathroom or kitchen	10

<sup>48</sup> The Scottish Secure Tenants (Compensation for Improvements) Regulations 2002, Reg 6(2)

Column 1 (Item)	Column 2 (Notional life in years)
14. Thermostatic radiator valves	7
15. Wash hand basin	12
16. Watercloset	12
17. Work surfaces for food preparation	10

## 10.0 OBLIGATIONS OF THE TENANT TO ALLOW ACCESS FOR REPAIR

~~10.1 The tenant is obliged to allow access to the landlord's authorised officers and workmen to perform the duties incumbent upon the landlord as described in the 2001 Act. Twenty four hours written notice must be given except in the event of an emergency.~~

10.12 The 2001 Act ~~provides indicates~~ that a landlord, or any person authorised by it, may at any reasonable time enter the let property for the purpose of (1) has a right of access to any property to viewing its state under condition or (2) to carrying out any works necessary to ensure that restore the property to the standard of being "is wind and watertight" and "reasonably fit for human habitation". 24 hours' written notice must be given to the tenant or the occupier before such access is taken unless it is an emergency.<sup>49</sup> A tenant / occupier is obliged to allow access. If access is refused, the landlord can seek an order from the court in order to take access to the property. These rights of access can be enforced either via the provisions of the tenancy agreement or by obtaining court orders.

## 11.0 THE TENANT'S RESPONSIBILITIES AND OBLIGATIONS:

11.1 The general responsibilities and obligations of the tenant to take reasonable care of the let property arise from the common law and should be set out in detail in the Tenancy Agreement. Tenants should ~~be required to~~ take reasonable care of the property and should. ~~They should have a duty to~~ act in a "tenant-like" manner.

<sup>49</sup> Housing (Scotland) Act 2001, Schedule 4, Paragraph 4

~~In the case of *Warren v Keen*,<sup>50</sup> the court said that: These responsibilities of tenants were set out in a very famous court case (*Warren v Keen*: [1953] 2 All ER 1118) in the following terms as follows:~~

*“The tenant must take proper care of the place. He must, if he is going away for winter, turn off the water and empty the boiler. He must clean the chimney when necessary and wash the windows. He must mend the electric light when it fuses. He must unstop the sink when it is blocked by his waste. In short he must do the little jobs about the place which a reasonable tenant would do.*

*In addition he must of course, not damage the house, wilfully or negligently; and he must see that his family and guests do not damage it, and if they do, he must repair it. But apart from these things, if the house falls into disrepair through fair wear and tear and lapse of time, or for any other reason not caused by him, then the tenant is not liable to repair it”.*

~~The tenant is required to heat and ventilate the property as far as possible but this must not involve excessive expenditure by the tenant.~~

~~Generally speaking, it is up to a tenant to keep the let property in good condition. This can include:~~

- ~~• Keeping the property reasonably clean;~~
- ~~• Keeping the furniture in good condition (allowing for normal wear and tear);~~
- ~~• Not causing any damage to the property;~~
- ~~• Carrying out minor maintenance (for example, checking smoke alarm batteries and changing light bulbs);~~
- ~~• Reporting any problems to the landlord for repair (for example, a blocked drain or chimney, or broken boiler); and~~
- ~~• Doing their bit to keep communal areas such as the stairwell or garden clean and tidy;~~

## **12.0 CONSEQUENCES/IMPLICATIONS OF A TENANT'S FAILURE TO COMPLY.**

- 12.1 Should ~~the a~~ tenant, ~~their~~his family, guests, etc. cause wilful damage ~~to the let~~our property through neglect, the ~~T~~tenant may be charged the amount of remedial works required. Serious damage may lead to eviction action being taken.

## **13.0 TENEMENTS ACT**

- 13.1 Relevant extracts from the Tenements (Scotland) Act 2004 (the “2004 Act”) are included in Appendix 1. These are included to provide guidance on

<sup>50</sup> [1953] 2 All ER 1118

occasions when ~~ELHA~~ ~~the Association~~ ~~we~~ may wish ~~to act~~ to undertake works in a ~~tenement building which is property~~ in multiple ownership or where other ~~owners in the building~~ wish to use the powers of the ~~2004~~ Act to have ~~the Association~~ ~~ELHA~~ participate in such works.

#### 14.0 CONCLUSION

14.1 ~~It is always important to remember that the courts judge every case on its own merits. The Association~~ ~~We~~ will seek ~~to~~ avoid court action by ensuring that ~~it~~ ~~has~~ ~~we~~ ~~have~~ policies, procedures and systems ~~are~~ in place ~~setting out so that the Association's~~ ~~our~~ ~~legal obligations in relation to the maintenance and repair of rented properties. maintenance services can respond to the full range of responsibilities which are covered by the relevant law and which will ensure the association acts in accordance with its "duty of care".~~

14.2 The Director of Asset Management will ensure that this policy is reviewed at least every 5 years by the ~~Housing and Property~~ ~~Management~~ ~~Sub-~~ Committee.

#### 15.0 APPENDICES

##### Appendix 1

This Appendix includes the relevant extracts from:

Housing (Scotland) Act 2001

~~The~~ Scottish Secure Tenants (Right to Repair) Scotland Regulations 2002

~~The~~ Scottish Secure Tenants (Compensation for Improvements) Regulations 2002.

Tenements (Scotland) Act 2004

## Appendix 1 Housing (Scotland) Act 2001

### 27 Repairs

(1) Schedule 4, which makes provision about the landlord's obligations to repair a house let under a Scottish secure tenancy, has effect.

(2) The Scottish Ministers may make regulations for entitling a tenant under a Scottish secure tenancy whose landlord is a landlord specified in the regulations to have qualifying repairs carried out to the house which is the subject of the tenancy.

(3) The regulations must specify, in particular –

- (a) the maximum amount payable in respect of any single qualifying repair,
- (b) the period within which a qualifying repair is to be completed, and
- (c) the repairs which are qualifying repairs for the purposes of this section.

### 28 Landlord's consent to work

(1) It is a term of every Scottish secure tenancy that the tenant is not to carry out work, other than interior decoration, in relation to the house without the consent in writing of the landlord, which must not be unreasonably withheld.

(2) In this section and Part 1 of schedule 5, "work" means –

- (a) alteration, improvement or enlargement of the house or of any fittings or fixtures,
- (b) addition of new fittings or fixtures,
- (c) erection of a garage, shed or other structure, but does not include repairs or maintenance of any of these.

(3) The provisions of Part 1 of schedule 5 have effect as terms of every Scottish secure tenancy.

(4) The Scottish Ministers may issue guidance to landlords as to the standards to which different descriptions of work should be carried out and as to the matters to which landlords should have regard in considering imposing conditions under paragraph 2(b) of schedule 5 as to the standard



of work.

### **29 Reimbursement of cost of work**

(1) On the termination of a Scottish secure tenancy, the landlord may (without prejudice to any other power to that effect) make any payment to the tenant which it considers appropriate in respect of improvement work carried out by the tenant (or by any predecessor of the tenant under the same tenancy) with the landlord's consent under section 28.

(2) The amount of any payment under subsection (1) must not exceed the cost of the work in respect of which it is made, after deduction of the amount of any grant paid or payable under Part XIII (grants for improvement, repairs etc.) of the 1987 Act.

(3) Where a Scottish secure tenancy is terminated (under section 22(3) or (4)) by the death of the tenant, a payment under subsection (1) may be made to the tenant's personal representatives.

### **30 Right to compensation for improvements**

(1) For the purposes of this section –

"qualifying improvement work" is improvement work which is prescribed as such and which is begun not earlier than the commencement of this section,

"qualifying person" is a person who is, immediately before the tenancy is terminated, a tenant under a Scottish secure tenancy, and -

(a) is the tenant who carried out the qualifying improvement work,

(b) is a tenant of a joint tenancy which existed at the time the work was carried out, or

(c) succeeded to the tenancy under section 22 on the death of the tenant who carried out the work and the tenancy did not cease to be a Scottish secure tenancy on the succession.

(2) For the purposes of this section, a tenancy is terminated when -

(a) any of the circumstances of subsection (1) of section 12 apply and, in a case where the termination is under paragraph (d), (e) or (f) of that subsection, the house is vacated,

(b) there is a change of landlord, or

(c) it is assigned to a new tenant.

(3) Where the tenant under a Scottish secure tenancy has carried out qualifying improvement work with the consent of the landlord under section 28, a qualifying person is on the termination of the tenancy entitled to be paid compensation by the landlord in respect of the work.

(4) Compensation is not payable if –

- (a) the tenancy comes to an end in prescribed circumstances,
- (b) compensation has been paid under section 29 in respect of the improvement, or
- (c) the amount of any compensation which would otherwise be payable is less than such amount as may be prescribed.

(5) Regulations under this section may provide that –

- (a) any compensation payable is to be-
  - (i) determined by the landlord in such manner and taking into account such matters as may be prescribed, or
  - (ii) calculated in such manner and taking into account such matters as may be prescribed, and is not to exceed such amount, if any, as may be prescribed,
- (b) the landlord may set off against any compensation payable under this section any sums owed to it by any qualifying person.

(6) Where, in the case of two or more qualifying persons, one of them ("the missing person") cannot be found –

- (a) a claim for compensation under this section may be made by, and compensation may be paid to, the other qualifying person or persons, but
- (b) the missing person is entitled to recover the missing person's share of any compensation so paid from the other qualifying person or persons.

(7) Regulations under this section may –

- (a) provide for the manner in which and the period within which claims for compensation under this section are to be made, and for the procedure to be followed in determining such claims,
- (b) prescribe the form of any document required to be used for the

purposes of or in connection with such claims, and

(c) provide for the determination of questions arising under the regulations.

(8) In this section, "prescribed" means prescribed by regulations made by the Scottish Ministers.

### **31 Effect of work on rent**

In assessing the rent to be payable under a Scottish secure tenancy by-

(a) a tenant who has carried out work on the house,

(b) a person who has succeeded that tenant in the tenancy, or

(c) the spouse of a person mentioned in paragraph (b) or a person living with that person as husband and wife or in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex, no account is to be taken at any time of any improvement in the value or amenities of the house resulting from the work.

**SCHEDULE**

**4**

**SCOTTISH SECURE TENANCY: LANDLORD'S REPAIRING OBLIGATIONS**

- 1 The landlord in a Scottish secure tenancy must –
  - (a) ensure that the house is, at the commencement of the tenancy, wind and watertight and in all other respects reasonably fit for human habitation, and
  - (b) keep the house in such condition throughout the tenancy.
  
- 2 The landlord must, before the commencement of the tenancy –
  - (a) inspect the house and identify any work necessary to comply with the duty in paragraph 1(a), and
  - (b) notify the tenant of any such work.
  
- 3 The landlord must –
  - (a) ensure that any work necessary to comply with the duty in paragraph 1(b) is carried out within a reasonable time of the tenant notifying the landlord, or the landlord otherwise becoming aware, that it is required, and
  - (b) make good any damage caused by the carrying out of the work.
  
- 4 The landlord, or any person authorised by it in writing, may at any reasonable time, on giving 24 hours' notice in writing to the tenant or occupier, enter the house for the purpose of –
  - (a) viewing its state and condition,
  - (b) carrying out any work necessary to comply with the duty in paragraph 1(b) or 3.
  
- 5 (1) In determining for the purposes of paragraph 1 whether a house is fit for human habitation, regard is to be had to the extent, if any, to which by reason of disrepair or sanitary defects the house falls short of the provisions of any building regulations in force in the area.  
  
(2) For the purposes of sub-paragraph (1), "building regulations" has the same meaning as in section 338(1) of the 1987 Act.

**The Scottish Secure Tenants (Right to Repair) Regulations 2002**

*Made*

*26th June 2002*

*Laid before the Scottish Parliament*

*27th June 2002*

*Coming into force*

*30th September 2002*

The Scottish Ministers, in exercise of the powers conferred by sections 27 and 109(2) of the Housing (Scotland) Act 2001(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Scottish Secure Tenants (Right to Repair) Regulations 2002 and shall come into force on 30th September 2002.

**Interpretation**

2. In these Regulations –

“the Act” means the Housing (Scotland) Act 2001;

“landlord” means a landlord specified in regulation 4;

“maximum period” means the period specified in regulation 10 and the Schedule;

“primary contractor” means the contractor most frequently employed by a landlord to carry out qualifying repairs.

“qualifying repair” means a repair specified as such in regulation 6 and the Schedule;

“working day” means a day which is not a Saturday or a Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning or any day on which the office of the landlord is closed by virtue of a local holiday.

**Entitlement**

3. A tenant of a landlord shall be entitled to have a qualifying repair carried out to that tenant’s house, subject to and in accordance with these Regulations.

**Specified Landlord**

4. A specified landlord for the purposes of section 27(2) of the Act is –

(a) a local authority landlord;

(b) a registered social landlord; or

(c) Scottish Water.

**Maximum amount payable**

5. In respect of any single qualifying repair, a landlord shall pay for the work as carried out up to a maximum of £350.

### **Qualifying repair**

6. A qualifying repair for the purposes of section 27 of the Act is a repair of a house subject to a Scottish secure tenancy or a short Scottish secure tenancy which is a repair of a defect specified in column 1 of the Schedule and is the responsibility of the landlord.

### **List of contractors**

7. A landlord shall maintain a list of contractors prepared to carry out qualifying repairs which list shall include the primary contractor.

### **Procedure for notification of and carrying out qualifying repairs**

8. Where a tenant applies to a landlord for a qualifying repair to be carried out –

(a) if the landlord considers it necessary to inspect the house to ascertain whether the repair is a qualifying repair, the landlord shall inspect the house;

(b) in any case, the landlord shall let the tenant know whether the subject of the tenant's application is a qualifying repair and where it is, make arrangements for access with the tenant and provide details of –

(i) the maximum period within which the qualifying repair is to be completed;

(ii) the last day of that period;

(iii) the effect of these Regulations; and

(iv) the name, address and telephone number of the primary contractor and at least one other listed contractor from the list of contractors maintained by the landlord; and

(c) if the subject of the tenant's application is a qualifying repair, the landlord shall issue a works order to the primary contractor and provide details of–

(i) the qualifying repair;

(ii) the period within which the qualifying repair is to be completed;

(iii) the last day of the maximum period; and

(iv) the arrangements made for access.

### **Failure to provide access**

9. Where a tenant fails to provide access to a house for the purpose of enabling the qualifying repair to be inspected or carried out, although that tenant has been given a reasonable opportunity to do so, the procedure under regulation 8 shall be cancelled and the provisions of regulations 10 to 13 shall cease to apply.

### **Maximum period**

10.—(1) The maximum period within which a qualifying repair is to be completed is the number of working days specified in column 2 of the Schedule opposite the defect specified in column 1 of the Schedule.

(2) The maximum period shall start on the first working day after—

- (a) the date of receipt of notification of the qualifying repair by the landlord; or
- (b) where the landlord inspects the house under regulation 8(a), the date of inspection.

### **Instructing another listed contractor**

11.—(1) Subject to paragraph (4) where the primary contractor notified under regulation 8(c) has not started the qualifying repair by the last day of the maximum period, the tenant may instruct another listed contractor to carry out the qualifying repair.

(2) As soon as the other listed contractor receives the instruction from the tenant, that contractor shall inform the landlord that it has been so instructed and shall be entitled on request to obtain a copy of the works order from the landlord.

(3) The landlord on being informed under paragraph (2) shall let the contractor know the number of working days in the maximum period.

(4) Paragraph (1) does not apply if compliance with that paragraph would infringe the term of a guarantee for work done or materials supplied of which the landlord has the benefit.

### **Compensation**

12.—

(1) Where the primary contractor has failed to carry out the qualifying repair by the last day of the maximum period the landlord shall pay to the tenant a sum of compensation calculated in accordance with paragraph (2).

(2) The amount of compensation referred to in paragraph (1) shall be the sum of —

(a) £15; and

(b) £3 for every working day, if any, in the period —

(i) commencing on the day after the last day of what would have been the maximum period if the maximum period had applied to the other listed contractor and had started on the day after the day of receipt of instruction; and

(ii) ending with the day on which the qualifying repair is completed, subject to a maximum amount of compensation of £100.

### **Suspension of maximum period**

13.—(1) The running of the maximum period shall be suspended for so long as there are circumstances of an exceptional nature, beyond the control of the landlord or the

contractor who is to carry out the qualifying repair, which prevent the repair being carried out.

(2) The landlord shall let the tenant know of the suspension of the running of the maximum period.

**Providing information about these Regulations**

14. A landlord shall let its tenants know in writing once every year of the provisions of these Regulations including the list of contractors prepared to carry out qualifying repairs.

Regulations 6 and 10

**SCHEDULE**

<i>(Defect)</i>	<i>(Maximum period in working days from date immediately following the date of notification of qualifying repair or inspection)</i>
Blocked flue to open fire or boiler.	1
Blocked or leaking foul drains, soil stacks or toilet pans where there is no other toilet in the house.	1
Blocked sink, bath or drain.	1
Electric power-	
loss of electric power;	1
Partial loss of electric power.	3
Insecure external window, door or lock.	1
Unsafe access path or step.	1
Significant leaks or flooding from water or heating pipes, tanks, cisterns.	1
Loss or partial loss of gas supply.	1
Loss or partial loss of space or water heating where no alternative heating is available.	1
Toilet not flushing where there is no other toilet in the house.	1
Unsafe power or lighting socket, or electrical fitting.	1



Water supply-	
loss of water supply;	1
Partial loss of water supply.	3
Loose or detached banister or hand rail.	3
Unsafe timber flooring or stair treads.	3
Mechanical extractor fan in internal kitchen or bathroom not working.	7

**The Scottish Secure Tenants (Compensation for Improvements) Regulations 2002**

<i>Made</i>	<i>26th June 2002</i>
<i>Laid before the Scottish Parliament</i>	<i>27th June 2002</i>
<i>Coming into force</i>	<i>30th September 2002</i>

The Scottish Ministers, in exercise of the powers conferred by sections 30 and 109(2) of the Housing (Scotland) Act 2001(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Scottish Secure Tenants (Compensation for Improvements) Regulations 2002 and shall come into force on 30th September 2002.

**Interpretation**

2. In these Regulations—

“the Act” means the Housing (Scotland) Act 2001;

“notional life” in relation to qualifying improvement work effected by the installation or replacement of an item specified in column 1 of the Schedule is the period of years specified opposite that item in column 2 of the Schedule;

“the 1987 Act” means the Housing (Scotland) Act 1987(2);

“qualifying person” means a person who is a qualifying person in terms of section 30 of the Act who makes a claim in respect of qualifying improvement work; and

“landlord” means the landlord of a house subject to a Scottish secure tenancy who receives a claim for compensation for qualifying improvement work.

**Qualifying improvement work**

3. Improvement work is prescribed qualifying improvement work for the purposes of section 30(1) of the Act if it consists of the installation or replacement of an item specified in column 1 of the Schedule.

**Circumstances where compensation is not payable in respect of qualifying improvement work**

4. Compensation shall not be payable—

(a) where the compensation which would otherwise be payable is less than £100 being the prescribed amount for the purposes of section 30(4)(c) of the Act; or

(b) where the tenancy ends in one or more of the following prescribed circumstances for the purposes of section 30(4)(a) of the Act:—

(i) an order for recovery of possession was made on any of the grounds specified in Part I of Schedule 2 to the Act;

(ii) the house was disposed of under section 14 of the 1987 Act;

(iii) the house was disposed of under section 65 of the 2001 Act;

(iv) the right to buy under Part II of the 1987 Act has been exercised; or

(v) the qualifying person has been granted a new tenancy, whether alone or jointly, of the same, or substantially the same, house by the same landlord.

### Amount of compensation

5.—(1) Subject to paragraphs (2) to (4), the amount of compensation payable for qualifying improvement work shall be calculated in accordance with the formula—

$$C \times \left(1 - \frac{Y}{N}\right)$$

which is the prescribed method of calculation for the purpose of section 30(5)(a)(ii) of the Act where—

- C = the cost of the improvement work from which shall be deducted the amount of any grant made—

(i)

under Part XIII of the 1987 Act; and

(ii)

under the Home Energy Efficiency Scheme Regulations 1997<sup>(3)</sup>;

- N = the notional life of the improvement effected by the work; and
- Y = the number of years starting on the date on which the improvement was completed and ending on the date on which the tenancy ends and for the purposes of this paragraph part of a year shall be counted as a year.

(2) Where—

(a) the cost of the improvement work was excessive;

(b) the improvement effected by the work has deteriorated at a rate greater than that provided for in the notional life for that improvement; or

(c) the improvement effected by the work is of a higher quality than it would have been had the landlord effected it,

the landlord may deduct from the amount of compensation calculated in accordance with paragraph (1) such sum as is reasonable in order to take into account that sub-paragraph (a), (b) or (c) applies.

(3) Where the improvement effected by the work has deteriorated at a rate lower than that provided for in the notional life for that improvement the landlord may add to the amount of compensation calculated in accordance with paragraph (1) such sum as is reasonable in order to take into account that the improvement has so deteriorated notwithstanding that otherwise the amount of compensation calculated in accordance with paragraph (1) would be nil.

(4) Compensation shall not be payable to the extent that the amount of compensation would exceed £4,000 per improvement.

### **Claims for compensation**

**6.—**(1) Claims for compensation shall contain sufficient information to enable the landlord to calculate the amount of compensation payable and shall be made in writing within the period starting 28 days before and ending 21 days after, the tenancy comes to an end.

(2) The landlord shall respond to the claim within 28 days of the date of the claim.

### **Set off**

7. The landlord may set off against any compensation payable under these Regulations any sum owed to it by the qualifying person.

### **Disputes**

**8.—**(1) Where a qualifying person is aggrieved by any decision of a landlord concerning any question arising under these Regulations that person may within 28 days of receiving notification of that decision require it to be reviewed or reconsidered as the case may be.

(2) Where a review or reconsideration is required under paragraph (1) the decision—

(a) shall be reviewed by a valuer or surveyor, who took no part in making the decision, appointed for the purpose by the landlord;

(b) shall be reviewed by any of the landlord's members, committee members or board members as the case may be who took no part in making the decision; or

(c) shall be reconsidered by all the landlord's members, committee members or board members,

and the qualifying person may make written representations to and, accompanied by any representative of that person's choice, oral representations before, the person or persons undertaking the review or reconsideration.

(3) The qualifying person or the landlord may appeal to the sheriff against any decision taken on a review or reconsideration.

**SCHEDULE OF QUALIFYING IMPROVEMENT WORK AND NOTIONAL LIFE**

<i>Column 1</i>	<i>Column 2</i>
<i>(Item)</i>	<i>(Notional life in years)</i>
1. Bath or shower	12
2. Cavity wall insulation	20
3. Sound insulation	20
4. Double glazing or other external window replacement or secondary glazing	20
5. Draught proofing of external doors or windows	8
6. Insulation of pipes, water tank or cylinder	10
7. Installation of mechanical ventilation in bathrooms and kitchens	7
8. Kitchen sink	10
9. Loft insulation	20
10. Rewiring and the provision of power and lighting or other electrical fixtures including smoke detectors	20
11. Security measures other than burglar alarm systems	15
12. Space or water heating	12

*Column 1*

*Column 2*

*(Item)*

*(Notional life in  
years)*

13. Storage cupboards in bathroom or kitchen	10
14. Thermostatic radiator valves	7
15. Wash hand basin	12
16. Watercloset	12
17. Work surfaces for food preparation	10

**8 Duty to maintain so as to provide support and shelter etc.**

(1) Subject to subsection (2) below, the owner of any part of a tenement building, being a part that provides, or is intended to provide, support or shelter to any other part, shall maintain the supporting or sheltering part so as to ensure that it provides support or shelter.

(2) An owner shall not by virtue of subsection (1) above be obliged to maintain any part of a tenement building if it would not be reasonable to do so, having regard to all the circumstances (and including, in particular, the age of the tenement building, its condition and the likely cost of any maintenance).

(3) The duty imposed by subsection (1) above on an owner of a part of a tenement building may be enforced by any other such owner who is, or would be, directly affected by any breach of the duty.

(4) Where two or more persons own any such part of a tenement building as is referred to in subsection (1) above in common, any of them may, without the need for the agreement of the others, do anything that is necessary for the purpose of complying with the duty imposed by that subsection

**10 Recovery of costs incurred by virtue of section 8**

Where —

(a) by virtue of section 8 of this Act an owner carries out maintenance to any part of a tenement; and

(b) the management scheme which applies as respects the tenement provides for the maintenance of that part,

the owner shall be entitled to recover from any other owner any share of the cost of the maintenance for which that other owner would have been liable had the maintenance been carried out by virtue of the management scheme in question

**18 Obligation of owner to insure**

(1) It shall be the duty of each owner to effect and keep in force a contract of insurance against the prescribed risks for the reinstatement value of that owner's flat and any part of the tenement building attaching to that flat as a pertinent.

(2) The duty imposed by subsection (1) above may be satisfied, in whole or in part, by way of a common policy of insurance arranged for the entire tenement building.

(3) The Scottish Ministers may by order prescribe risks against which an owner shall require to insure (in this section referred to as the "prescribed risks").

(4) Where, whether because of the location of the tenement or otherwise, an owner—

(a) having made reasonable efforts to do so, is unable to obtain insurance against a particular prescribed risk; or

(b) would be able to obtain such insurance but only at a cost which is unreasonably high,

the duty imposed by subsection (1) above shall not require an owner to insure against that particular risk.

(5) Any owner may by notice in writing request the owner of any other flat in the tenement to produce evidence of—

(a) the policy in respect of any contract of insurance which the owner of that other flat is required to have or to effect; and

(b) payment of the premium for any such policy,

and not later than 14 days after that notice is given the recipient shall produce to the owner giving the notice the evidence requested.

(6) The duty imposed by subsection (1) above on an owner may be enforced by any other owner.

### **19 Installation of service pipes etc.**

(1) Subject to subsections (2) and (3) below and to section 17 of this Act, an owner shall be entitled—

(a) to lead through any part of the tenement such pipe, cable or other equipment; and

(b) to fix to any part of the tenement, and keep there, such equipment,

as is necessary for the provision to that owner's flat of such service or services as the Scottish Ministers may by regulations prescribe.

(2) The right conferred by subsection (1) above is exercisable only in accordance with such procedure as the Scottish Ministers may by regulations prescribe; and different procedures may be so prescribed in relation to different services.

(3) An owner is not entitled by virtue of subsection (1) above to lead anything through or fix anything to any part which is wholly within another owner's flat.

(4) This section is without prejudice to any obligation imposed by virtue of any enactment relating to—

(a) planning;

(b) building; or

(c) any service prescribed under subsection (1) above.



## **SCHEDULE 1 Tenement Management Scheme**

*(introduced by section 4)*

### **RULE 1 – SCOPE AND INTERPRETATION**

Scope of scheme

1.1 This scheme provides for the management and maintenance of the scheme property of a tenement.

#### **Meaning of “scheme property”**

1.2 For the purposes of this scheme, “scheme property” means, in relation to a tenement, all or any of the following—

(a) any part of the tenement that is the common property of two or more of the owners,

(b) any part of the tenement (not being common property of the type mentioned in paragraph (a) above) the maintenance of which, or the cost of maintaining which, is, by virtue of a tenement burden, the responsibility of two or more of the owners,

(c) with the exceptions mentioned in rule 1.3, the following parts of the tenement building (so far as not scheme property by virtue of paragraph (a) or (b) above)—

(i) the ground on which it is built,

(ii) its foundations,

(iii) its external walls,

(iv) its roof (including any rafter or other structure supporting the roof),

(v) if it is separated from another building by a gable wall, the part of the gable wall that is part of the tenement building, and

(vi) any wall (not being one falling within the preceding sub-paragraphs), beam or column that is load bearing.

#### **Parts not included in rule 1.2(c)**

1.3 The following parts of a tenement building are the exceptions referred to in rule 1.2(c)—

(a) any extension which forms part of only one flat,

(b) any—

(i) door,

(ii) window,

(iii) skylight,

(iv) vent, or

(v) other opening,

which serves only one flat,

(c) any chimney stack or chimney flue.

### **Meaning of “scheme decision”**

1.4 A decision is a “scheme decision” for the purposes of this scheme if it is made in accordance with—

(a) rule 2, or

(b) where that rule does not apply, the tenement burden or burdens providing the procedure for the making of decisions by the owners.

### **Other definitions**

1.5 In this scheme—

- “maintenance” includes repairs and replacement, cleaning, painting and other routine works, gardening, the day to day running of a tenement and the reinstatement of a part (but not most) of the tenement building, but does not include demolition, alteration or improvement unless reasonably incidental to the maintenance,
- “manager” means, in relation to a tenement, a person appointed (whether or not by virtue of rule 3.1(c)(i)) to manage the tenement, and
- “scheme costs” has the meaning given by rule 4.1.

### **Rights of co-owners**

1.6 If a flat is owned by two or more persons, then one of them may do anything that the owner is by virtue of this scheme entitled to do.

## **RULE 2 – PROCEDURE FOR MAKING SCHEME DECISIONS**

### **Making scheme decisions**

2.1 Any decision to be made by the owners shall be made in accordance with the following provisions of this rule.

**Allocation and exercise of votes**

2.2 Except as mentioned in rule 2.3, for the purpose of voting on any proposed scheme decision one vote is allocated as respects each flat, and any right to vote is exercisable by the owner of that flat or by someone nominated by the owner to vote as respects the flat.

**Qualification on allocation of votes**

2.3 No vote is allocated as respects a flat if—

- (a) the scheme decision relates to the maintenance of scheme property, and
- (b) the owner of that flat is not liable for maintenance of, or the cost of maintaining, the property concerned.

**Exercise of vote where two or more persons own flat**

2.4 If a flat is owned by two or more persons the vote allocated as respects that flat may be exercised in relation to any proposal by either (or any) of them, but if those persons disagree as to how the vote should be cast then the vote is not to be counted unless—

- (a) where one of those persons owns more than a half share of the flat, the vote is exercised by that person, or
- (b) in any other case, the vote is the agreed vote of those who together own more than a half share of the flat.

**Decision by majority**

2.5 A scheme decision is made by majority vote of all the votes allocated.

**Notice of meeting**

2.6 If any owner wishes to call a meeting of the owners with a view to making a scheme decision at that meeting that owner must give the other owners at least 48 hours' notice of the date and time of the meeting, its purpose and the place where it is to be held.

**Consultation of owners if scheme decision not made at meeting**

2.7 If an owner wishes to propose that a scheme decision be made but does not wish to call a meeting for the purpose that owner must instead—

- (a) unless it is impracticable to do so (whether because of absence of any owner or for other good reason) consult on the proposal each of the other owners of flats as respects which votes are allocated, and

(b) count the votes cast by them.

**Consultation where two or more persons own flat**

2.8 For the purposes of rule 2.7, the requirement to consult each owner is satisfied as respects any flat which is owned by more than one person if one of those persons is consulted.

**Notification of scheme decisions**

2.9 A scheme decision must, as soon as practicable, be notified—

(a) if it was made at a meeting, to all the owners who were not present when the decision was made, by such person as may be nominated for the purpose by the persons who made the decision, or

(b) in any other case, to each of the other owners, by the owner who proposed that the decision be made.

**Case where decision maybe annulled by notice**

2.10 Any owner (or owners) who did not vote in favour of a scheme decision to carry out, or authorise, maintenance to scheme property and who would be liable for not less than 75 per cent. of the scheme costs arising from that decision may, within the time mentioned in rule 2.11, annul that decision by giving notice that the decision is annulled to each of the other owners.

**Time limits for rule 2.10**

2.11 The time within which a notice under rule 2.10 must be given is—

(a) if the scheme decision was made at a meeting attended by the owner (or any of the owners), not later than 21 days after the date of that meeting, or

(b) in any other case, not later than 21 days after the date on which notification of the making of the decision was given to the owner or owners (that date being, where notification was given to owners on different dates, the date on which it was given to the last of them).

**RULE 3 – MATTERS ON WHICH SCHEME DECISIONS MAY BE MADE**

**Basic scheme decisions**

3.1 The owners may make a scheme decision on any of the following matters—

(a) to carry out maintenance to scheme property,

(b) to arrange for an inspection of scheme property to determine whether or to what extent it is necessary to carry out maintenance to the property,

(c) except where a power conferred by a manager burden (within the meaning of the Title Conditions (Scotland) Act 2003 (asp 9)) is exercisable in relation to the tenement—

(i) to appoint on such terms as they may determine a person (who may be an owner or a firm) to manage the tenement,

(ii) to dismiss any manager,

(d) to delegate to a manager power to exercise such of their powers as they may specify, including, without prejudice to that generality, any power to decide to carry out maintenance and to instruct it,

(e) to arrange for the tenement a common policy of insurance complying with section 18 of this Act and against such other risks (if any) as the owners may determine and to determine on an equitable basis the liability of each owner to contribute to the premium,

(f) to install a system enabling entry to the tenement to be controlled from each flat,

(g) to determine that an owner is not required to pay a share (or some part of a share) of such scheme costs as may be specified by them,

(h) to authorise any maintenance of scheme property already carried out,

(i) to modify or revoke any scheme decision.

### **Scheme decisions relating to maintenance**

3.2 If the owners make a scheme decision to carry out maintenance to scheme property or if a manager decides, by virtue of a scheme decision, that maintenance needs to be carried out to scheme property, the owners may make a scheme decision on any of the following matters—

(a) to appoint on such terms as they may determine a person (who may be an owner or a firm) to manage the carrying out of the maintenance,

(b) to instruct or arrange for the carrying out of the maintenance,

(c) subject to rule 3.3, to require each owner to deposit—

(i) by such date as they may decide (being a date not less than 28 days after the requirement is made of that owner), and

(ii) with such person as they may nominate for the purpose,

a sum of money (being a sum not exceeding that owner's apportioned share of a reasonable estimate of the cost of the maintenance),

(d) to take such other steps as are necessary to ensure that the maintenance is carried out to a satisfactory standard and completed in good time.

**Scheme decisions under rule 3.2(c) requiring deposits exceeding certain amounts**

3.3 A requirement, in pursuance of a scheme decision under rule 3.2(c), that each owner deposit a sum of money—

(a) exceeding £100, or

(b) of £100 or less where the aggregate of that sum taken together with any other sum or sums required (otherwise than by a previous notice under this rule) in the preceding 12 months to be deposited by each owner by virtue any scheme decision under rule 3.2(c) exceeds £200,

shall be made by written notice to each owner and shall require the sum to be deposited into such account (the “maintenance account”) as the owners may nominate for the purpose.

**Provision supplementary to rule 3.3**

3.4 Where a requirement is, or is to be, made in accordance with rule 3.3—

(a) the owners may make a scheme decision authorising a manager or at least two other persons (whether or not owners) to operate the maintenance account on behalf of the owners,

(b) there must be contained in or attached to the notice to be given under rule 3.3 a note comprising a summary of the nature and extent of the maintenance to be carried out together with the following information—

(i) the estimated cost of carrying out that maintenance,

(ii) why the estimate is considered a reasonable estimate,

(iii) how the sum required from the owner in question and the apportionment among the owners have been arrived at,

(iv) what the apportioned shares of the other owners are,

(v) the date on which the decision to carry out the maintenance was made and the names of those by whom it was made,

(vi) a timetable for the carrying out of the maintenance, including the dates by which it is proposed the maintenance will be commenced and completed,

(vii) the location and number of the maintenance account, and

(viii) the names and addresses of the persons who will be authorised to operate that account on behalf of the owners,

(c) the maintenance account to be nominated under rule 3.3 must be a bank or building society account which is interest bearing, and the authority of at least two persons or of a manager on whom has been conferred the right to give authority, must be required for any payment from it,

(d) if a modification or revocation under rule 3.1(i) affects the information contained in the notice or the note referred to in paragraph (b) above, the information must be sent again, modified accordingly, to the owners,

(e) an owner is entitled to inspect, at any reasonable time, any tender received in connection with the maintenance to be carried out,

(f) the notice to be given under rule 3.3 may specify a date as a refund date for the purposes of paragraph (g)(i) below,

(g) if—

(i) the maintenance is not commenced by—

((A)) where the notice under rule 3.3 specifies a refund date, that date, or

((B)) where that notice does not specify such a date, the twenty-eighth day after the proposed date for its commencement as specified in the notice by virtue of paragraph (b)(vi) above, and

(ii) a depositor demands, by written notice, from the persons authorised under paragraph (a) above repayment (with accrued interest) of such sum as has been deposited by that person in compliance with the scheme decision under rule 3.2(c),

the depositor is entitled to be repaid accordingly, except that no requirement to make repayment in compliance with a notice under sub-paragraph (ii) arises if the persons so authorised do not receive that notice before the maintenance is commenced,

(h) such sums as are held in the maintenance account by virtue of rule 3.3 are held in trust for all the depositors, for the purpose of being used by the persons authorised to make payments from the account as payment for the maintenance,

(i) any sums held in the maintenance account after all sums payable in respect of the maintenance carried out have been paid shall be shared among the depositors—

(i) by repaying each depositor, with any accrued interest and after deduction of that person's apportioned share of the actual cost of the maintenance, the sum which the person deposited, or

(ii) in such other way as the depositors agree in writing.

**Scheme decisions under rule 3.1(g): votes of persons standing to benefit not to be counted**

3.5 A vote in favour of a scheme decision under rule 3.1(g) is not to be counted if—

- (a) the owner exercising the vote, or
- (b) where the vote is exercised by a person nominated by an owner—
  - (i) that person, or
  - (ii) the owner who nominated that person,

is the owner or an owner who, by virtue of the decision, would not be required to pay as mentioned in that rule.

**RULE 4 – SCHEME COSTS: LIABILITY AND APPORTIONMENT**

**Meaning of “scheme costs”**

4.1 Except in so far as rule 5 applies, this rule provides for the apportionment of liability among the owners for any of the following costs—

- (a) any costs arising from any maintenance or inspection of scheme property where the maintenance or inspection is in pursuance of, or authorised by, a scheme decision,
- (b) any remuneration payable to a person appointed to manage the carrying out of such maintenance as is mentioned in paragraph (a),
- (c) running costs relating to any scheme property (other than costs incurred solely for the benefit of one flat),
- (d) any costs recoverable by a local authority in respect of work relating to any scheme property carried out by them by virtue of any enactment,
- (e) any remuneration payable to any manager,
- (f) the cost of any common insurance to cover the tenement,
- (g) the cost of installing a system enabling entry to the tenement to be controlled from each flat,
- (h) any costs relating to the calculation of the floor area of any flat, where such calculation is necessary for the purpose of determining the share of any other costs for which each owner is liable,
- (i) any other costs relating to the management of scheme property,



and a reference in this scheme to “scheme costs” is a reference to any of the costs mentioned in paragraphs (a) to (i).

### **Maintenance and running costs**

4.2 Except as provided in rule 4.3, if any scheme costs mentioned in rule 4.1(a) to (d) relate to—

(a) the scheme property mentioned in rule 1.2(a), then those costs are shared among the owners in the proportions in which the owners share ownership of that property,

(b) the scheme property mentioned in rule 1.2(b) or (c), then—

(i) in any case where the floor area of the largest (or larger) flat is more than one and a half times that of the smallest (or smaller) flat, each owner is liable to contribute towards those costs in the proportion which the floor area of that owner’s flat bears to the total floor area of all (or both) the flats,

(ii) in any other case, those costs are shared equally among the flats,

and each owner is liable accordingly.

### **Scheme costs relating to roof over the close**

4.3 Where—

(a) any scheme costs mentioned in rule 4.1(a) to (d) relate to the roof over the close, and

(b) that roof is common property by virtue of section 3(1)(a) of this Act,

then, despite the fact that the roof is scheme property mentioned in rule 1.2(a), paragraph (b) of rule 4.2 shall apply for the purpose of apportioning liability for those costs.

### **Insurance premium**

4.4 Any scheme costs mentioned in rule 4.1(f) are shared among the flats—

(a) where the costs relate to common insurance arranged by virtue of rule 3.1(e), in such proportions as may be determined by the owners by virtue of that rule, or

(b) where the costs relate to common insurance arranged by virtue of a tenement burden, equally,

and each owner is liable accordingly.

### **Other scheme costs**

4.5 Any scheme costs mentioned in rule 4.1(e), (g), (h) or (i) are shared equally among the flats, and each owner is liable accordingly.

#### **RULE 5 – REDISTRIBUTION OF SHARE OF COSTS**

Where an owner is liable for a share of any scheme costs but—

(a) a scheme decision has been made determining that the share (or a portion of it) should not be paid by that owner, or

(b) the share cannot be recovered for some other reason such as that—

(i) the estate of that owner has been sequestered, or

(ii) that owner cannot, by reasonable inquiry, be identified or found,

then that share must be paid by the other owners who are liable for a share of the same costs (the share being divided equally among the flats of those other owners), but where paragraph (b) applies that owner is liable to each of those other owners for the amount paid by each of them.

#### **RULE 6 – PROCEDURAL IRREGULARITIES**

##### **Validity of scheme decisions**

6.1 Any procedural irregularity in the making of a scheme decision does not affect the validity of the decision.

##### **Liability for scheme costs where procedural irregularity**

6.2 If any owner is directly affected by a procedural irregularity in the making of a scheme decision and that owner—

(a) was not aware that any scheme costs relating to that decision were being incurred, or

(b) on becoming aware as mentioned in paragraph (a), immediately objected to the incurring of those costs,

that owner is not liable for any such costs (whether incurred before or after the date of objection), and, for the purposes of determining the share of those scheme costs due by each of the other owners, that owner is left out of account.

#### **RULE 7 – EMERGENCY WORK**

##### **Power to instruct or carry out**

7.1 Any owner may instruct or carry out emergency work.

##### **Liability for cost**

7.2 The owners are liable for the cost of any emergency work instructed or carried out as if the cost of that work were scheme costs mentioned in rule 4.1(a).

**Meaning of “emergency work”**

7.3 For the purposes of this rule, “emergency work” means work which, before a scheme decision can be obtained, requires to be carried out to scheme property—

- (a) to prevent damage to any part of the tenement, or
- (b) in the interests of health or safety.

**RULE 8 – ENFORCEMENT**

**Scheme binding on owners**

8.1 This scheme binds the owners.

**Scheme decision to be binding**

8.2 A scheme decision is binding on the owners and their successors as owners.

**Enforceability of scheme decisions**

8.3 Any obligation imposed by this scheme or arising from a scheme decision may be enforced by any owner.

**Enforcement by third party**

8.4 Any person authorised in writing for the purpose by the owner or owners concerned may—

- (a) enforce an obligation such as is mentioned in rule 8.3 on behalf of one or more owners, and
- (b) in doing so, may bring any claim or action in that person’s own name.

**RULE 9 – GIVING OF NOTICE**

**Giving of notice**

9.1 Any notice which requires to be given to an owner under or in connection with this scheme may be given in writing by sending the notice to—

- (a) the owner, or
- (b) the owner’s agent.

**Methods of “sending” for the purposes of rule 9.1**

9.2 The reference in rule 9.1 to sending a notice is to its being—

- (a) posted,
- (b) delivered, or
- (c) transmitted by electronic means.

**Giving of notice to owner where owner's name is not known**

9.3 Where an owner cannot by reasonable inquiry be identified or found, a notice shall be taken for the purposes of rule 9.1(a) to be sent to the owner if it is posted or delivered to the owner's flat addressed to "The Owner" or using some other similar expression such as "The Proprietor".

**Day on which notice is to be taken to be given**

9.4 For the purposes of this scheme—

- (a) a notice posted shall be taken to be given on the day of posting, and
- (b) a notice transmitted by electronic means shall be taken to be given on the day of transmission.

## APPENDIX 2

### Construction Design and Management (CDM) Regulations 2015

#### Clients

The CDM Regulations came into force on 6 April 2015 and apply to nearly every construction project including small and domestic projects. The CDM Regulations 2015 now places much more Health and Safety responsibility on “the Client”.

The CDM Regulations apply to construction works, which was given a very broad definition. In addition to the expected types of heavy building work, the term includes the *“repair, upkeep, decoration and other maintenance ... of a structure”*. The concern here was that this would apply to all maintenance job, no matter how minor.

However, this definition has since been clarified to an extent by the Health and Safety Executive. If maintenance activity involves construction processes, requires construction skills and uses construction materials, it is most likely to fall within the term construction work. General maintenance of fixed plant which mainly involves mechanical adjustments, replacing parts or lubrication is unlikely to be construction work.

The Association will be expected to comply for any projects that are considered “construction works”.

A client is an organisation or individual for whom a construction project is carried out.

Clients only have duties when the project is associated with a business or other undertaking (whether for profit or not).

**The definitions confirm that the Association would be identified as a commercial client. In terms of the CDM Regulations 2015 the HSE has issued the following guidance.**

*“Local authorities, housing associations, charities, landlords and other businesses may own domestic properties, but they are not a domestic client for the purposes of CDM 2015. “*

#### Client Influence

The client has a high degree of influence over the way a project is run. Their contractual control, decisions and approach determine:

1. the time, money and other resources available for projects;
2. who makes up the project team, their competence, when they are appointed and who dose what;
3. whether the project team is encouraged to work effectively together;
4. if the team has the information required about the site and any existing structures;

5. The arrangements for managing and co-ordinating the work of the team.

Because of this, they are made accountable for the impact their approach has on the health and safety of those working on the project.

### **Client Duties**

The HSE has produced guidance for Client's who are having work carried out to properties they are responsible for. The duties under the CDM Regulations 2015 include the following:

#### ***1 Appoint the right people at the right time***

If more than one contractor will be involved, you will need to appoint (in writing) a principal designer and a principal contractor.

A principal designer is required to plan, manage and coordinate the planning and design work. Appoint them as early as possible so they can help you gather information about the project and ensure that the designers have done all they can to check that it can be built safely. A principal contractor is required to plan, manage and coordinate the construction work. Appoint them as early as possible so they are involved in discussions with the principal designer about the work.

Getting the right people for the right job means your designers and your contractors need to have the skills, knowledge and experience to identify, reduce and manage health and safety risks. This is also the case if they are a company (known as having 'organisational capability' for the job). The designers and the contractors should be able to give references from previous clients for similar work and explain to you how they will achieve this.

Professional bodies can help you choose your architect and other designers. The Safety Schemes in Procurement (SSIP) website has lists of businesses which have been assessed on their health and safety management. A contractor may be a member of a trade association.

#### ***2 Ensure there are arrangements in place for managing and organising the project***

The work is more likely to be done without harming anyone and on time if it is properly planned and managed. Sometimes the work is complex and uses many different trades. Often it involves high-risk work such as the work listed in the bulleted list below. The principal designer should understand these types of risks and try to avoid them when designing your project. The principal contractor or builder should manage the risks on site.

These are the biggest causes of accidents and ill health in construction work, and your designer and contractor can manage the risks by doing the following.

Falls from height:

- Make sure ladders are in good condition, at a 1 :4 angle and tied or footed. - Prevent people and materials falling from roofs, gable ends, working platforms and open edges using guardrails, midrails and toeboards. - Make sure fragile roof surfaces are covered, or secure working platforms with guard rails are used on or below the roof. | Collapse of excavations: - Shore excavations; cover or barrier excavations to prevent people or vehicles from falling in. | Collapse of structures: - Support structures (such as walls, beams, chimney breasts and roofs) with props; ensure props are installed by a competent person. | Exposure to building dusts: - Prevent dust by using wet cutting and vacuum extraction on tools; use a vacuum cleaner rather than sweeping; use a suitable, well-fitting mask. | Exposure to asbestos: - Do not start work if it is suspected that asbestos may be present until a demolition/refurbishment survey has been carried out. | Electricity: - Turn the electricity supply and other services off before drilling into walls. - Do not use excavators or power tools near suspected buried services. | Protect members of the public, the client, and others: - Secure the site; net scaffolds and use rubbish chutes.

Discuss with your designer and builder before work starts and throughout the build how these risks are being managed.

### ***3 Allow adequate time***

Work that is rushed is likely to be unsafe and of poor quality. Allow enough time for the design, planning and construction work to be undertaken properly.

### ***4 Provide information to your designer and contractor***

Your designer and builder will need information about what you want built, the site and existing structures or hazards that may be present such as asbestos, overhead cables, and buried services. Providing this information at an early stage will help them to plan, budget and work around problems. Your principal designer can help you gather this information.

Putting together a 'client brief' at the earliest stages which includes as much information as you have about the project, along with the timescales and budget for the build and how you expect the project to be managed can help you to set the standards for managing health and safety.

### ***5 Communicate with your designer and building contractor***

Your project will only run efficiently if everyone involved in the work communicates, cooperates and coordinates with each other.

During the design and planning stage, you, your designer and contractor need to discuss issues affecting what will be built, how it will be built, how it will be used and how it will be maintained when finished. This will avoid people being harmed or

having unexpected costs because issues were not considered when design changes could still easily be made.

Meeting with your designer and contractor as the work progresses gives an opportunity to deal with problems that may arise and discuss health and safety. This will help to ensure that the work progresses as planned.

### **6 Ensure adequate welfare facilities on site**

Make sure that your contractor has made arrangements for adequate welfare facilities for their workers before the work starts. See the HSE publication *Provision of welfare facilities during construction work* (see 'Further reading').

### **7 Ensure a construction phase plan is in place**

The principal contractor (or contractor if there is only one contractor) has to draw up a plan explaining how health and safety risks will be managed. This should be proportionate to the scale of the work and associated risks and you should not allow work to start on site until there is a plan.

### **8 Keep the health and safety file**

At the end of the build the principal designer should give you a health and safety file. If the principal designer leaves before the end of the project, the principal contractor (or contractor if there is only one contractor) should do this. It is a record of useful information which will help you manage health and safety risks during any future maintenance, repair, construction work or demolition. You should keep the file, make it available to anyone who needs to alter or maintain the building, and update it if circumstances change.

### **8 Protecting members of the public, including your employees**

If you are an employer, or you have members of the public visiting your premises, you need to be sure that they are protected from the risks of construction work.

Discuss with your designer and contractor how the construction work may affect how you run your business, e.g. you may have to re-route pedestrian access; make sure signs to your entrance are clear; or change the way your deliveries operate.

### **9 Ensure workplaces are designed correctly**

If your project is for a new workplace or alterations to an existing workplace (e.g. a factory or office), it must meet the standards set out in the Workplace (Health, Safety and Welfare) Regulations 1992 (see 'Further reading').

## **Notifying construction projects**



For some construction work (work lasting longer than 30 days with more than 20 workers working at the same time, or involving 500 person days of work), you need to notify HSE of the project as soon as possible before construction work starts. In practice, you may request someone else to do this on your behalf.

For notifiable projects (where planned construction work will last longer than 30 working days and involves more than 20 workers at any one time; or where the work exceeds 500 individual worker days), commercial clients must:

1. Notify HSE in writing with details of the project
2. Ensure a copy of the notification is displayed in the construction site office

### **Managing the Client's risk**

The risk to the Client in any construction project cannot be fully eliminated. The key to managing risk is to delegate as much as possible to the Principal Designer. This delegation should be made clear in the contract between the Client and Principal Designer.

## **APPENDIX 3**

### **Disability Discrimination**

The Equality Act 2010 is now the source of the relevant laws on disability discrimination. These laws were previously contained in the Disability Discrimination Acts.

The Equality and Human Rights Commission (EHRC) have been given a statutory remit to promote and monitor human rights and to protect, enforce and promote equality across all the protected grounds in terms of the Equality Act which include disability. The EHRC have superseded all the previous independent commissions including the Disability rights Commission. The EHRC have issued various codes of practice in respect of various equality issues. However they have not issued any code replacing the previous code issued by the Disability Rights Commission relating to the duties imposed upon landlords in respect of the duty to make adjustments to premises.

### **Work to rented premises**

A disabled person may require work to be carried out to enable them to remain comfortable in their home. There is no obligation in the Equality Act which requires a landlord to make any alterations to physical features of rented houses. However there are provisions in the Equality Act under Section 6, Section 20-22 and in Schedule 4 that will require a landlord to make reasonable adjustments to rented premises. These requirements to carry out reasonable adjustments do not impact on the general ability of a disabled person as a tenant to seek permission from a landlord to carry out any other alterations or improvements to a property in terms of the Housing (Scotland) Act 2001.

A tenant in the social rented sector who wishes to carry out their own alterations and improvements must apply to the landlord for consent to the work. Landlords must not withhold reasonable consent to that work. These rights are contained in the Housing (Scotland) Act 2001.

### **Improvements by the tenant.**

The relevant rules are contained in Schedule 5 to the Housing (Scotland) Act 2001 and consist of the following provisions:-

1.1 When making an application, the tenant must specify exactly what work is intended. The landlord can then consent to the work, consent subject to the imposition of reasonable conditions, or refuse consent so long as the refusal is not unreasonable. The landlord must reply to the tenant with his decision within one month of the application being made. Both the application and the reply should be in writing.

1.2 'Work' is defined as including:

- alterations, improvements or enlargements of the house or of any fittings or fixtures
- addition of new fixtures and fittings
- erection of a garage, shed or other structure.

1.3 The 2001 Act does not directly address the issue of work required to accommodate disabled occupants. However, the requirement for the court, and therefore for landlords, to take account of this Code means that landlords and courts must, when considering whether a landlord's decision is reasonable, take account of:

- the nature of an individual's disability
- the effect upon him of that disability
- the relationship between the work which the tenant has applied to carry out and the disability
- the disabled occupant's needs; and
- the effect upon the wellbeing of the disabled person of carrying out or not carrying out the work.

1.4 The 2001 Act explicitly provides that a landlord may attach conditions to his consent to any work. Any condition should be reasonable. For example, it is likely to be reasonable to attach a condition of reinstatement where the improvement proposed would substantially reduce the value of the dwelling house. It is not likely to be reasonable to attach such a condition where the improvement would increase the value of the dwelling house or be cost-neutral.

1.5 The issues to be considered when deciding whether to attach conditions, or which conditions are reasonable, are the same as those for deciding whether to grant consent. These are:

- the safety of the occupiers of the house or of any other premises
- any expenditure which the landlord is likely to incur as a result of the work
- whether the work is likely to reduce the value of the house or of any premises it forms part of, or will make the house or premises less suitable for selling or letting
- any effect the work is likely to have on the size of the accommodation provided by the house
- the terms of this Code of Practice.

1.6 The 2001 Act also states that a condition may be imposed specifying the standard to which any work must be carried out. When considering whether to attach such a condition, the landlord must have regard to the age and condition of the house and the likely cost of complying with the condition. Any such condition must also be reasonable.

1.7 Other conditions which are likely to be reasonable to attach include requirements that the tenant:

- obtains any necessary planning permission and other statutory consents
- carries out the work in accordance with the plans and specifications approved by the landlord
- allows the landlord a reasonable opportunity to inspect the work; or
- is responsible for paying for and arranging ongoing maintenance.

1.8 The 2001 Act does not explicitly deal with this matter. However, it would be reasonable for a landlord to apply for any third-party consents where such application is required to be made by the landlord. If the third-party consent has been refused, it is likely to be reasonable for the landlord to refuse consent for the tenant to carry out the work.

1.9 It is only the tenant of the house who has the right to apply to carry out work and not to have consent for such an application unreasonably withheld, and who will then have the right to carry out the work. However, the disabled person needing the work may be a disabled tenant or a disabled person who is lawfully occupying (or going to occupy) the house, for example a member of the tenant's family.

1.10 The tenant must apply for consent to carry out work on his home. His application must detail the work to be carried out. The landlord must reply to that application within one month. If the landlord fails to reply to the tenant's request within one month or fails to set out reasons for refusing consent, he will be taken to have consented to the work. The tenant may therefore carry out the work.

1.11 The 2001 Act states that if a tenant is aggrieved by the landlord's decision to refuse consent, or by any conditions attached to the granting of consent, he can raise a summary application in the Sheriff Court. If the court believes the refusal of consent, or the condition attached, to be unreasonable it must order the landlord to consent or to withdraw the condition. The time limit for raising such an action is 21 days from the landlord's decision.

1.12 When a tenancy comes to an end, the landlord can make a payment to the tenant in relation to any improvement work he carried out, which the landlord had consented to. Not all work may be improvement work. The amount of such a payment is a matter for the landlord but cannot be more than the actual cost of the work less any grant the tenant received.

1.13 The 2001 Act also makes provision for a right to compensation for improvements. The details of the compensation scheme are contained in The Scottish Secure Tenants (Compensation for Improvements) Regulations 2002. These Regulations specify work, known as 'qualifying improvement work', which attracts a right to compensation. Again, this right does not relate specifically to work carried out to accommodate disability, but included in the list of qualifying work is the installation or replacement of a bath or shower, heating, a wash hand basin or toilet

and kitchen work surfaces, amongst others. Where such work has been carried out a formula is given for calculating compensation, payable at the end of the tenancy period. No payment will be less than £100 or more than £4,000. There are a number of qualifications to this right and detailed advice should be taken on its application.

1.14 The 2001 Act states that no account can be taken of any improvement in the value of the house, or improvement in the amenities in the house, resulting from the work carried out by the tenant when setting that tenant's rent.

### **Duty to make reasonable adjustments**

The provisions of the Equality Act place upon landlords a duty to make reasonable adjustments in relation to let premises.

This duty falls into three possible areas. (a) the provision of auxiliary aids and services; (b) changing of practice in policies and procedures; and (c) changes in terms of the let.

The duties imposed on landlords in terms of the Equality Act do not require them to take any steps which would consist of or include the removal or the alteration of any physical feature of a building. The matters which are defined as being physical features are set out in Section 20 of the Equality Act. They are:-

- any feature arising from the design or construction of the premises
- any feature of any approach to, exit from or access to the premises
- any fixtures in or on the premises
- any other physical element or quality of any land comprised in the premises.

Section 22 of the Equality Act 2010 also indicates that regulations may be made which will make provision for things which are not to be treated as physical features or not to be treated as auxiliary aids. No such regulations have yet been made. There are previous regulations made under the Disability Discrimination Act which indicate that the following matters were not to be treated as alterations of a physical feature. They are:-

- the replacement or provision of any signs or notices
- the replacement of any taps or door handles
- the replacement provision or adaptation of any doorbell or door entry system; and
- changes to the colour of any surface (such as a wall or door for example).

Where certain conditions are met a landlord must take reasonable steps to change a term of the letting. Terms of tenancies will also be subject to the provisions of the Unfair Terms in Consumer Contracts Regulations 1999 (SI 1999 No 2083) and some of the examples used here may in any event be contrary to these Regulations (such

as that relating to permitting an assistance dog to be on the premises). They are used here solely to illustrate the provisions of the Equality Act

The duty to change terms arises where, in addition to a request having been made, the following conditions are met:

- a term of the letting makes it impossible or unreasonably difficult for a disabled person to enjoy the premises, or to make use of any benefit or facility which he is entitled to use; and
- the term would not have that effect if the disabled person did not have a disability.
- a landlord is subject to a duty to change a term of the letting of a dwelling house
- the duty has arisen because a term of the letting prohibits the person to whom the premises are let (the tenant) from making alterations or improvements to the premises
- the terms of the letting contain no exception to that prohibition for alterations or improvements to be made with the consent of the controller
- the tenant has requested permission to make an improvement to the premises
- the term prohibiting the improvement would no longer have the effect of making it impossible or unreasonably difficult for the disabled person to enjoy the premises or make use of any benefit or facility if the particular improvement were excluded from the prohibition; and
- it would be reasonable in all the circumstances for the tenant to make the improvement it is reasonable for the landlord to have to take steps to change the term, so far as it relates to the improvement in question, so that it becomes a term which permits the making of that improvement, subject to the imposition of reasonable conditions by the controller.

A landlord may be required to obtain the consent of another person to change a term of a letting. If the change would otherwise be a reasonable one for the landlord to have to make under the reasonable adjustment duty, it is reasonable for the landlord to have to request that consent but it is not reasonable for him to have to change the term of the letting before that consent is obtained. Thus, if the landlord does not obtain the consent, he will not be in breach of the Act if he does not make a change

The duty to make adjustments arises where a practice, policy or procedure, or a term of the letting, or the absence of an auxiliary aid or service, makes it impossible or unreasonably difficult for a disabled person to enjoy premises which are let or make use of associated facilities and benefits. In the case of premises to let, the duty arises where a practice, policy or procedure or the absence of an auxiliary aid or service makes it impossible or unreasonably difficult for a disabled person to take a letting of the premises

### **Decoration Allowances**

The Association, in qualifying circumstances may offer a tenant a decoration allowance following works within a property to assist with the cost of making good the internal decorative finishes if damaged. In the case of a tenant who is known to

meet the definition of being disabled the individual circumstance should be given consideration in respect of:

- is it reasonable for the individual to undertake the decoration themselves;
- is there another person within the household who could carry out the redecoration;
- would the individual wish to engage their own contractor meeting any additional costs involved;

# Treasury Management Policy Review

## Report by Paula Oliver, Director of Finance – for Approval

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### 1.0 Introduction

The Treasury Management Policy has a five-year review period and an annual review undertaken by the Director of Finance. The annual review is normally undertaken in February / March when the Annual Treasury Management Strategy is approved, but was delayed this year to enable new guidance introduced by the SFHA in early 2022 and revisions by CIPFA to its Code of Practice in 2021, to be considered.

A number of amendments are proposed to the Management Committee for approval.

The Group's Treasury Management advisors (ATFS) have assisted with this review.

### 2.0 Amendments

At 2.5, "borrowings" has been added to the definition, the previous omission of this was an error.

The liquidity risk management section, 3.2, has been expanded to provide more clarity on the levels of cash resources to be kept.

It is proposed to reinstate the minimum balance held in accounts with the Royal Bank to £500,000 as £250,000 is now considered too low for the Group as a whole.

Reference to inflation has been removed from section 3.3 and a new section on inflation risk management added at 3.6.

At 3.5.3, the notes on Triodos and CAF banks have been updated.

The heading at section 3.8 has been revised and 3.8.1 reworded to reflect this, covering overall operational risks including fraud, error etc.

Section 4 – TMP2 Performance Management has been reworded.

There is an important addition at 10.2 clarifying the purpose of cash flow projections.

Finally, there is an addition at 12.4 which emphasises recognition by governing body members of their responsibilities.

### **Recommendation**

The Management Committee is asked to approve the revised Treasury Management Policy.



**ELHA GROUP POLICY**

<b>Date Issued</b>	21 September 1995
<b>Date Reviewed</b>	August 2022
<b>Department</b>	Finance
<b>Title</b>	<b>Treasury Management Policy</b>
<b>Objective</b>	To ensure the effective management of the Group's cash and funding resources and the control of the associated risks.
<b>Responsible</b>	Director of Finance
<b>Next Review Date</b>	February 2023 (DoF) August 2027 (Management Committee)

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This document details the Group's Treasury Management Policy statement, practices and procedures.

**Review**

The Group's internal and external auditors will review Treasury Management activities as part of the internal audit programme and the annual audit of the Group's accounts.

The Director of Finance will review the Treasury Policy Statement annually and recommend proposed amendments to the Management Committee.

The Director of Finance will arrange for this policy to be reviewed by the Management Committee at least every five years.

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**1.0 Introduction**

- 1.1 This document sets out the Treasury Management Policy Statement of East Lothian Housing Association and its Subsidiaries (the “Group”), together with the Treasury Management Practices and Procedures that it adopts and operates.
- 1.2 The Group recognises that the organisation is exposed to risk from a wide range of factors, and that these risks can impact on the achievement of the organisation’s business objectives. The Group undertakes risk mapping to identify and quantify these risks, and has established and maintains systems and procedures to manage, monitor and limit the impact of all such risks.
- 1.3 Also, the Group recognises that treasury management activities themselves, including cash flow management, borrowing, investing and hedging can potentially expose the organisation to specific risks that require close attention and careful management.
- 1.4 To this end, the Group has established, and will maintain, specific treasury policies and practices, which are set out in the following Treasury Management Policy and Practices document.
- 1.5 The policies referred to within this document are derived from the latest CIPFA Treasury Management in the Public Services Code of Practice and Cross-Sectoral Guidance Notes (revised December 2021).
- 1.6 The Group also recognises that the Scottish Housing Regulator expects RSLs to comply with the CIPFA Treasury Management Code as contained in the Recommended Practice publication dated August 2015.
- 1.7 The Group acknowledges the three Key Principles as set out in section 4 of the Code, specifically:

**Key Principle 1**

Public Service organisations should put in place formal and comprehensive objectives, policies and practices, strategies and reporting arrangements for the effective management and control of their treasury management activities.

**Key Principle 2**

Their policies and practices should make clear that the effective management and control of risk are prime objectives of their treasury management activities and that responsibility for these lies clearly within their organisations. Their appetite for risk should form part of their annual strategy, including any use of financial instruments for the prudent management of those risks, and should ensure that priority is given to security and portfolio liquidity when investing treasury management funds.

**Key Principle 3**

They should acknowledge that the pursuit of value for money in treasury management, and the use of suitable performance measures, are valid and important tools for responsible organisations to employ in support of their business and service objectives; and that within the context of effective risk management, their treasury management policies and practices should reflect this.

**2.0 Treasury management policy statement**

2.1 CIPFA recommends that all public service organisations (including Registered Social Landlords) adopt, as part of their standing orders, financial regulations, or other formal policy documents appropriate to their circumstances, the following core statements relating to treasury management:

2.2 The organisation will create and maintain as the cornerstones for effective treasury management:

- a treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities; and
- suitable Treasury Management Practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

2.3 The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the – Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes 2017 (the “Code”), subject only to amendment where necessary to reflect the particular circumstances of the organisation. Such amendments will not result in the organisation materially deviating from the Code’s key principles which are as follows:

- The organisation’s Management Committee will receive reports on its treasury management policies, practices and activities including, as a minimum, an annual strategy, quarterly updates to the Audit and Assurance Committee and an annual report after its close, in the form prescribed in its TMPs.
- The organisation’s Management Committee has overall responsibility for treasury management. In accordance with the organisation’s underlying terms of reference the Management Committee delegates responsibilities to the Director of Finance. Specific responsibilities are contained within TMP 5. The organisation’s Management Committee is responsible for ensuring effective scrutiny of the treasury management strategy and policies and nominates the regular monitoring of these to the Audit and Assurance Committee.

- 2.4 This document sets out the TMPs of the Group, which has adopted the key recommendations of the Code as described in Section 4 of that Code.
- 2.5 The Group defines its treasury management activities as **“The management of the organisation’s borrowings, investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”**
- 2.6 The Group regards the successful identification, monitoring, and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the organisation.
- 2.7 The Group acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving best value in treasury management, and to employing suitable performance measurement techniques, within the context of effective risk management.

### 3.0 TMP 1 – Risk management

#### 3.1 General Statement

- 3.1.1 The Director of Finance will design, implement and monitor all arrangements for the identification, management and control of treasury management risk, will report at least quarterly on the adequacy and suitability thereof and will report as a matter of urgency, the circumstances of any actual or likely difficulty in achieving the organisation’s objectives in this respect, all in accordance with the procedures set out in TMP6 “Reporting requirements and management information requirements”.

#### 3.2 Liquidity risk management

3.2.1 This organisation will ensure it has adequate though not excessive cash resources, borrowing arrangements and overdraft or standby facilities to enable it at all times to have the level of funds available to it that are necessary for the achievement of its business/service objectives. This organisation will not borrow earlier than required to meet cash flow needs unless there is a clear business case for doing so and will only do so for the current capital programme, to fund future debt maturities, or to ensure an adequate level of short-term investments to provide liquidity for the organisation.

~~3.2.1 The Group will ensure that its liabilities will always be met when due and will ensure adequate liquidity is at all times available to meet unexpected expenditure requirements that may arise from time to time.~~

- 3.2.2 The Annual Treasury Strategy (see TMP6 “Reporting Requirements”) will contain a proposed liquidity maintenance requirement for the following

financial year, subject to the overriding requirement that the Group's available liquidity should not, at any time, fall below the levels specified below.

**Liquid Funds** - a minimum balance of £~~250~~500,000. Liquid funds are defined as the aggregate of:

- Cash held in its current bank accounts or on instant access deposit with its principal bankers;
- Undrawn available overdraft facilities.

**Near Liquid funds** – a minimum of the forecast rental income for the next month plus the cash outflow for the next calendar month.

- Cash held as liquid funds
- Cash on instant access deposit with institutions other than its principal bankers; and
- Undrawn committed borrowing facilities where security has been put in place to the lender's satisfaction and which are available to be drawn within a maximum of seven days.
- Undrawn committed borrowing facilities where security is available and not otherwise committed and can be charged to the satisfaction of the funder within one month.

**Short Term Funds** the forecast cash balances less liquid/near liquid funds available for one to twelve month deposit. **Short Term Funds** are defined as the aggregate of:

- Cash on deposit for periods of one month to twelve months; and
- Undrawn committed borrowing facilities where security has been nominated and can be charged to the lender's satisfaction so that the facility may be drawn within a maximum of one month.

3.2.3 Appropriate overdraft facilities from the organisation's clearing bankers will be maintained as required by operational requirements.

3.2.4 The Group will maintain availability of adequate overdraft facilities from its clearing bankers, as deemed appropriate.

3.3 Interest rate & inflation risk management

3.3.1 The Director of Finance is responsible for monitoring the organisation's interest rate risk exposures and for determining an appropriate strategy for the management thereof within the guidelines and policies established in

this Treasury Management Policy and the Annual Treasury Strategy (see TMP6 “Reporting Requirements”).

3.3.2 In managing the organisation’s interest rate ~~and inflation~~ risk the Director of Finance will pay due regard to:

- current levels of interest rates ~~and inflation~~ compared with historic trends;
- anticipated future trend movements;
- the impact on revenue of estimated movements in interest rate ~~and inflation~~ trends;
- sensitivity of the revenue account to movement in interest rates ~~and inflation~~; and
- policy and/or budgetary implications.

3.3.3 The organisation may enter into loan arrangements that incorporate interest rate swaps, caps, collars and/or other hedging arrangements that allow interest rate risk to be managed without the need for any separate hedging instrument to be transacted (so called “embedded” arrangements). The organisation has the necessary constitutional power to use derivative instruments and has a cancellable swap in place with RBS, no further derivatives will be used without the approval of the Management Committee.

3.3.4 The organisation is risk averse and will endeavour to ensure that its borrowings contain a mix of hedged and variable interest rates. The optimum mix will be determined in the Annual Treasury Strategy according to operating circumstances and through sensitivity analysis of anticipated cash flows, but within the following general guidelines:

The following interest rate exposure policy shall be applied until further notice in respect of total debt outstanding:

<b><i>Proportion of total debt to be Hedged</i></b>	<b><i>Minimum</i></b>	<b><i>Maximum</i></b>
<i>Interest rates Hedged</i>	50%	100%
<i>Unhedged proportion (including callable fixed rates where the next option to terminate falls within 12 months and hedged)</i>	0%	50%

3.3.5 Unhedged debt includes borrowing linked to SONIA, Bank Base Rate, Building Societies’ Base Rate or any other variable interest rate, and borrowings linked to any index (e.g. the Retail Price Index). Hedged Debt includes borrowing in relation to which the interest rate has been fixed in excess of 12 months (note that when a fixed rate loan has 6 months or less to its maturity or cancellation option exercise date it will be treated as variable).

- 3.3.6 The aggregate maximum amount of drawn debt which may be hedged with structures where a counterparty has the option to cancel a fixed rate may not exceed 20% of total drawn debt outstanding at any time.
- 3.3.7 Hedged Debt subject to cancellable structures where the initial cancellation option may be exercised by a counterparty on a date in over 12 months will be regarded as Hedged Debt until the first date on which any such call/cancellation option may be exercised (subject to paragraph 3.3.5).
- 3.3.8 Where an option is not exercised, and further options may be exercised on subsequent dates, such structures will be regarded as Hedged Debt from the date of each expired option until the next exercise date, subject to paragraph 3.3.5.
- 3.3.9 Debt subject to fixed interest rates where the option to cancel such fixed rates may be exercised by a counterparty at rolling intervals of 12 months or less will be regarded as Un-Hedged Debt for the purposes of compliance with the portfolio balance guidelines set out in paragraph 3.3.4. Such structures will be monitored by the Director of Finance and reported to the Audit and Assurance Committee as appropriate.
- 3.3.10 For the purposes of monitoring compliance with hedged/unhedged policy requirements (paragraph 3.3.4), forward starting hedges will be included in the hedging portfolio from the date on which they take effect. Care must be taken when formulating the Annual Treasury Strategy and executing hedging transactions to ensure that the impact of forward starting arrangements will not cause hedging limits to be breached when they take effect.
- 3.3.11 The organisation recognises the risk arising from maturing fixed interest rates and the resulting potential exposure to volatility in the interest rate market (“re-set risk”). Accordingly, the organisation will seek to manage interest rate re-set risk management strategy within the following general parameters, subject to operational requirements:

**Hedged debt re-set risk parameters**

Max % of total hedged debt due for re-set in any one year 20%

Max % variable rate debt maturing (rollover) on any date 25%

- 3.3.12 The principal factor governing the Group’s management of interest rate ~~and inflation~~ risk on surplus funds will be liquidity requirements. Surplus funds needed to meet cash flow requirements will necessarily be placed on short term deposit.
- 3.3.13 Subject to maintaining liquidity, either in the form of cash or undrawn committed and available borrowing facilities, where possible and subject to specific operating requirements the Group will seek to minimise borrowing rather than invest surplus funds when the net cost of borrowing exceeds the return achievable by investing surplus funds.
- 3.4 Exchange rate risk management



- 3.4.1 The Group will not expose its cash flows to exchange rate risk and consequently will not borrow using structures which require the payment of principal or interest in currencies other than sterling. Neither will it invest in instruments which pay interest or return capital in currencies other than sterling.
- 3.5 Credit and counterparty risk management
  - 3.5.1 The Group may only invest with/lend to institutions regulated by the Prudential Regulation Authority (or the appropriate supervisory body in the European Economic Area in which they are incorporated or formed). It is permitted to invest with/lend to subsidiaries of rated institutions provided the subsidiary itself has an acceptable credit rating or where the organisation can be satisfied that the parent institution (which has an acceptable credit rating) is unconditionally obliged to stand behind the obligations of its subsidiary.
  - 3.5.2 The Group will use Short-Term credit ratings issued by Fitch Ratings Ltd (“FRL”), Moody’s Investor’s Service (“Moody’s”) and Standard & Poor’s (“S&P”) to monitor the creditworthiness of the Banks and Building Societies with which it invests or with which it proposes to invest. For the purposes of this policy, the Group may invest with Banks and Building Societies which have an average Short-Term credit rating across the three rating agencies of at least “F2” as issued by FRL. The equivalent Short-Term credit ratings issued by Moody’s and S&P are “P-2” and “A-2” respectively.
  - 3.5.3 Short-Term ratings have a time horizon of less than 13 months for most obligations and thus place greater emphasis on the liquidity necessary to meet financial commitments in a timely manner.

The following table provides an example of the short-term credit ratings used by Fitch Ratings:

<p><b>F1</b> Highest credit quality. Indicates the strongest capacity for timely payment of financial commitments; may have an added "+" to denote any exceptionally strong credit feature.</p>	<p><b>F2</b> Good credit quality. A satisfactory capacity for timely payment of financial commitments, but the margin of safety is not as great as in the case of the higher ratings.</p>
<p><b>F3</b> Fair credit quality. The capacity for timely payment of financial commitments is adequate; however, near term adverse changes could result in a reduction to non- investment grade.</p>	<p><b>B</b> Speculative. Minimal capacity for timely payment of financial commitments, plus vulnerability to near term adverse changes in financial and economic conditions.</p>
<p><b>C</b> High default risk. Default is a real possibility. Capacity for meeting financial commitments is solely</p>	<p><b>D</b> Indicates an entity or sovereign that has defaulted on all of its financial obligations.</p>

reliant upon a sustained, favourable business and economic environment.	
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## Note:

Fitch assigned Triodos Bank a Long Term issuer default rating of 'BBB' with a stable outlook and a viability rating at 'bbb' (Feb'21). Triodos Bank has £24.166bn of assets under management (Dec 2021). In addition, Triodos Bank UK Limited operates as a subsidiary company in the UK, post Brexit.  
~~Triodos Bank does not have a credit rating, but it had circa 24.1bn Euros of assets under management (December 2021) and is a recognised lender within the RSL sector in Scotland.~~

CAF Bank does not have a credit rating, but it had circa £1.4bn of assets under management (April 2021), all A rated or above, and 89% of which were AAA rated / UK Government  
~~CAF Bank does not have a credit rating, but it had circa £1bn of assets under management (April 2019), all BBB rated or above and 75% of which were AAA rated/UK Government and a committed loan portfolio of £30m to RSLs.~~

Investments may also be made to non-credit rated institutions via the Flagstone investment platform providing that the maximum invested with any single such institution is limited to the current government protected amount (under the Financial Services Compensation Scheme) and the Flagstone rating is greater than 50.

- 3.5.4 The modifiers "+" or "-" may be appended to a rating to denote relative status within major rating categories.
- 3.5.5 The Group may invest in or borrow from any building society complying with the credit rating criteria or with net assets in excess of £1bn, or where specific prior approval has been obtained from the Management Committee.
- 3.5.6 It is permitted to invest with/lend to subsidiaries of rated institutions provided the subsidiary itself has an acceptable credit rating or where the organisation can be satisfied that the parent institution (which has an acceptable credit rating) is unconditionally obliged to stand behind the obligations of its subsidiary.
- 3.5.7 As a general rule, the organisation will only invest surplus funds with UK domiciled institutions and preference will be given to institutions which lend to the organisation in order to be able to take advantage of the right of set-off.
- 3.5.8 The Director of Finance is responsible for monitoring the credit standing of all approved investment institutions and for identifying and using appropriate external information services. In the event of an approved investment institution being downgraded below the organisation's minimum credit criteria, invested funds will be removed upon maturity. Funds invested will also be subject to the following sector limits:

Sector	Max % of surplus funds
UK Banks and / or subsidiaries	100
UK Building societies	100
UK Government	100
Local Authorities	50
Money Market Funds	50

**Note:** - Exposure to banking groups will be aggregated for the purposes of calculating compliance with sector limits

- 3.5.9 Where surplus funds are required to meet possible cash outflows in the near future, they must be deposited for periods that will ensure funds are available when required. Where funds are to be used to repay borrowings on maturity, deposit maturities should match the maturity of those borrowings as closely as possible.
- 3.5.10 The maximum amount invested at any time with an approved investment institution may not exceed £3.0m. The only exceptions to these limits will be the organisation's clearing bankers with whom deposits in excess of this amount may be made for up to 14 days from the date of unexpected funds and for sinking funds or funds held in escrow by direction of a lender pending completion of security arrangements. Whilst special Management Committee approval can be sought for a longer investment period such approval will only be given once independent professional advice has been received. Any exceptions to this policy must be reported to the Chair immediately and to the next Audit and Assurance Committee meeting, except where such an exception is due to accrued interest.
- 3.5.11 Investment may be made directly with an approved investment institution or via any regulated money broker. The Director of Finance shall be responsible for ensuring that any brokers used are made and kept fully aware of the organisation's minimum counterparty criteria and limits.
- 3.5.12 Where funds are held on behalf of the organisation by third parties (such as sinking fund trustees) The Director of Finance shall be responsible for ensuring that such third parties are made and kept fully aware of the organisation's minimum counterparty criteria and that any departure therefrom shall be subject to specific Management Committee approval.
- 3.5.13 Where cash has been raised from the proceeds of a capital markets issue or similar funding mechanism and is required to be placed on deposit with trustees as cash collateral pending completion of security charging, the organisation's minimum credit rating criteria for investment counterparties will continue to apply and must be advised in writing to the relevant trustee. However, the individual institution investment limit specified in paragraph 3.5.10 may be varied by the Management Committee as a temporary measure to accommodate such cash collateral arrangements in addition to day to day investment activities subject to quarterly reporting and re-authorisation.

- 3.5.14 Where cash has been raised from the proceeds of a capital markets issue or similar funding mechanism and cannot be utilised immediately a specific investment strategy for such funds must be approved by the Management Committee. The approval must set out variations to individual counterparty limits, minimum credit rating criteria and any other elements of this treasury management policy and will be subject to quarterly reporting and re-authorization.
- 3.5.15 The organisation is permitted to invest in Sterling money market funds to provide investment diversification for short-term funds. Investment is only permitted in money market funds that have a rating of 'AAA', and that have a minimum investment rating criteria of A-1. It is recognised that there is a risk of falling capital values with this type of investment and therefore the maximum aggregate invested at any time in money market funds may not exceed £2 million. Any such investment requires specific authorisation by the Management Committee and will be subject to quarterly performance reporting to the Management Committee detailing, inter-alia, capital value. Investment in any such funds will only be approved following appropriate professional advice.
- 3.5.16 It is the organisation's policy to borrow from as wide a range of sources as possible and as may be appropriate. In general terms, the organisation will seek at all times to have committed available facilities in place sufficient to meet its contractually committed capital programme and to ensure that the Group has funds in place when entering into a contract which is a requirement of HAG funding. Where borrowings are to be included in the calculations of liquidity (as set out in section 3.2 "Liquidity Risk Management") the lender must have a minimum credit rating equivalent to those set out 3.5.3 or be subject to specific approval by the Management Committee. The organisation will also consider borrowing from the capital markets either directly, via issuing vehicles or via intermediaries such as The Housing Finance Corporation or GB Social Housing.

### 3.6 Inflation risk management

3.6.1 The organisation will keep under review the sensitivity of its treasury assets and liabilities to inflation and will seek to manage the risk accordingly in the context of the whole organisation's inflation exposures.

### 3.6.3.7 Legal & regulatory risk management

3.6.13.7.1 The Group will ensure that all of its treasury management activities comply with its statutory powers and regulatory requirements. It will demonstrate such compliance, if required to do so, to all parties with whom it deals in such activities.

3.6.23.7.2 The Group recognises that future legislative or regulatory changes may impact on its treasury management activities and, so far as it is reasonably able to do so, will seek to minimise the risk of these impacting adversely on the organisation.

### 3.7.3.8 ~~Operational risk, including~~ Fraud, error and corruption, ~~and contingency management~~

3.7.43.8.1 The Group will ensure that it has identified the circumstances that may expose it to the risk of loss through inadequate or failed internal processes, people and systems or from external events. ~~fraud, error, corruption or other eventualities in its treasury management dealings~~. Accordingly, it will employ suitable systems and procedures, and will maintain effective contingency management arrangements, to these ends.

### 3.8.3.9 Price risk management

3.8.43.9.1 The Group will seek to ensure that its stated treasury management policies and objectives will not be compromised by adverse market fluctuations in the value of the principal sums it invests and will accordingly seek to protect it from the effects of such fluctuations.

### 3.9.3.10 Refinancing risk management

3.9.43.10.1 This organisation will ensure that its borrowing, private financing and partnership arrangements are negotiated, structured and documented, and the maturity profile of the monies so raised is managed, with a view to obtaining offer terms for renewal or refinancing, if required, which are competitive and as favourable to the organisation as can reasonably be achieved in the light of market conditions prevailing at the time.

3.9.23.10.2 It will actively manage its relationships with its counterparties in these transactions in such a manner as to secure this objective and will avoid overreliance on any one source of funding if this might jeopardise achievement of the above.

### 3.10.3.11 Non-treasury investment risk

3.10.43.11.1 The Group recognises that investment in other financial assets and property primarily for financial return, taken for non-treasury management purposes, requires careful investment management. Such activity includes loans supporting service outcomes, investments in subsidiaries, and investment property portfolios.

3.10.23.11.2 The Group will ensure that all the organisation's investments are covered in the Annual Treasury Strategy or equivalent, and will set out, where relevant, the organisation's risk appetite and specific policies and arrangements for non-treasury investments. It will be recognised that the risk appetite for these activities may differ from that for treasury management.

3.10.33.11.3 The Group will maintain a schedule setting out a summary of existing material investments, subsidiaries, joint ventures and liabilities including financial guarantees and the Group's risk exposure.

## 4.0 TMP 2 – ~~Best value & P~~performance management

4.1 The Group is committed to the pursuit of best value in its treasury management activities, and to the use of performance methodology in support of that aim and within the framework set out in its treasury management policy statement.

~~4.2~~ Accordingly, the treasury management function will be the subject of ongoing analysis of the value it adds in support of the organisation's stated business or service objectives. It will be the subject of regular examination of alternative methods of service delivery, and of the scope for other potential improvements.

## **5.0 TMP 3 – Decision making & analysis**

### **5.1 Record keeping**

5.1.1 The Group will maintain full records of its treasury management decisions, and of the processes and procedures applied in reaching those decisions, both for the purposes of learning from the past, and for demonstrating that reasonable steps were taken to ensure that all issues relevant to those decisions were considered at the time.

5.1.2 The scheme of delegated authority is set out in TMP 5.

### **5.2 Borrowing where a loan has already been approved by the Management Committee**

5.2.1 Delegated authority to borrow funds is placed with the Director of Finance. The amount of borrowings required will be dictated by business cash flow requirements and proposed development expenditure (if any). The exact amount of borrowings required will vary from time to time but will be at least sufficient to meet all liquidity requirements as outlined in this Policy.

5.2.2 The procedure to follow when drawing down loans is set out in the Group's treasury procedures documents.

### **5.3 Investing**

5.3.1 Responsibility for controlling investments rests with the Director of Finance. The value of investments will be dictated by business cash flow requirements and proposed development expenditure. The exact amount of investments will vary from time to time and will be kept available to meet all liquidity requirements as outlined in this Policy.

5.3.2 When significant funds (typically in excess of £2m) are available to invest the Director of Finance will approach at least 2 preferred institutions to establish the best possible terms available. The funds will then be invested in accordance with the terms of this Policy and the Group's standing orders/treasury procedures at the best rates available.

- 5.3.3 All investment transactions must be documented, and the following information recorded:
- Amount
  - Investment period
  - Counterparty
  - Interest rate
  - Price/yield/coupon & issue details as appropriate
  - Dealing date
  - Payment date
  - Maturity date
  - Transmission arrangements
  - Justification of the deal
  - A unique deal number
  - Broker's name (if applicable)
  - Transaction type
  - Name and signature of person executing the deal
- 5.3.4 Deal tickets should be evidenced as being authorised and must always be accompanied by confirmation letters/emails exchanged by the Group, counterparties and brokers.
- 5.3.5 Where possible, all investments will be transferred via CHAPS arrangements and be made in accordance with standing rules for operation of this service.



**6.0 TMP 4 - Approved methods, instruments & techniques**

6.1 The organisation will undertake its treasury management activities by employing only those instruments, methods, and techniques detailed in this TMP.

6.2 Capital finance (new borrowing)

6.2.1 The Director of Finance in conjunction with the Chief Executive is responsible for and undertakes all borrowing activities on behalf of the organisation. No new commitment to borrow funds may be entered into without the specific approval of the Management Committee.

6.2.2 In the case of all proposed new borrowing, the Director of Finance will prepare a report to the Management Committee containing the following minimum information:

- the name(s) of the proposed lender(s) with a brief description of their experience, understanding of the social housing market and perceived market standing;
- where applicable, the proposed lender(s) credit ratings;
- details of the interest bases permitted under the proposed facility;
- the basis and level of the lender's interest rate margin;
- details of arrangement and other fees, legal costs, valuation fees etc.;
- details of financial covenant requirements and any other restrictive undertakings required together with an assessment the organisation's ability to comply therewith;
- details of security arrangements;
- comparison with other offers and a cost benefit analysis;
- compliance with the organisation's borrowing strategy and policy;
- arrangements for drawings funds;
- details of any independent financial, legal or other advice received; and
- any other matters that will assist the Management Committee in arriving at its decision, with particular attention to highlighting the relevant risks.



**6.3 Terms & conditions of capital finance**

6.3.1 It is the responsibility of the Director of Finance to ensure that all new borrowing is effected on the most competitive terms possible and available in the markets. The organisation will endeavour to ensure that any financial covenants entered into with any lender are consistent with those for existing borrowing arrangements where they remain in place and are in line with the market at the time of arranging.

6.3.2 The organisation will seek to maintain minimum levels of covenant compliance in excess of the levels imposed by loan agreements at all times. Anticipated levels of compliance and internally set compliance targets will form an integral element of the Annual Treasury Strategy.

**6.4 Collateral (security)**

6.4.1 It is the organisation's general policy to maintain the minimum level of asset cover required by lenders. At the same time, the organisation will endeavour to ensure that borrowing arrangements permit maximum flexibility to release and substitute collateral assets and to grant floating charges only as a short-term measure pending the completion of fixed charge security.

**6.5 Investment**

6.5.1 Subject to the limits and credit criteria specified in the standing orders, the organisation may invest surplus funds in the following approved instruments:

- Short/fixed term money market deposits;
- Certificates of deposit issued by authorised institutions;
- Treasury Bills;
- Government Gilts;
- Securities listed on the Stock Exchange whose interest and principal is unconditionally guaranteed by H.M. Government;
- Advances to, or loan instruments issued by, public sector or quasi-public sector bodies including Registered Providers of social housing; and
- AAA rated money market funds

6.5.2 Funds may not be invested in any medium where capital value may be subject to loss.

6.6 Derivative instruments

6.6.1 Where this organisation intends to use derivative instruments for the management of risks, these will be limited to those set out in its Annual Treasury Strategy. The organisation will seek proper advice and will consider that advice when entering into arrangements to use such products to ensure that it fully understands those products.

6.7 MIFID II

6.7.1 This organisation will review its classification with financial institutions under MIFID II and will set out in the schedule to this document those organisations with which it is registered as a professional client and those with which it has an application outstanding to register as a professional client.

**7.0 TMP 5 - Organisation, clarity and segregation of responsibilities, and dealing arrangements**

7.1 The Group considers the effective control and monitoring of its treasury management activities essential, for the reduction of the risk of fraud or error, and for the pursuit of optimum performance, that these activities are structured and managed in a fully integrated manner, and that there is at all times clarity of treasury management responsibilities.

7.2 The principle on which this will be based is a clear distinction between those charged with setting treasury management policies and those charged with implementing and controlling these policies, particularly with regard to the execution and transmission of funds, the recording, and administering of treasury management decisions and the audit and review of the treasury management function.

7.3 If and when the Group intends, as a result of lack of resources or other circumstances, to depart from these principles, the Director of Finance will ensure that the reasons are properly reported in accordance with TMP6 - "Reporting", and the implications properly considered and evaluated.

7.4 The Director of Finance will ensure that there are clear written statements of the responsibilities for each post engaged in treasury management, and arrangements for absence cover.

7.5 The Group's scheme of delegated authority relating to treasury management is as follows:

**Authority retained by the Management Committee:**

- Approval of key policies, procedures and delegation of authority
- Approval of the Business Plan

- Approval of the Annual Treasury Strategy as recommended by the Director of Finance.
- Approval of short term overdraft facilities
- Approval of bank and dealing mandates
- Review of the Annual Treasury Outturn Report the contents of which are described in TMP6.

**Authority delegated to the Director of Finance**

- Implementation of the Annual Treasury Strategy (including proposals for controlling interest rate risk).
- Delivery of the Annual Treasury Outturn Report to the Management Committee.
- Supervision of the treasury function.
- Authorisation of investments entered into pursuant to TMP1.

The Director of Finance is also responsible for the provision of adequate internal controls, including:

- Up-to-date signatory mandates authorising bank transfers
- Procedures for deal authorisation
- Regulation of access cards and similar devices for electronic transmission
- Ensuring that segregation of duties is maintained such that separate staff are involved in dealing and deal-checking activities
- Ensuring that telephone instructions are confirmed in writing.

**8.0 TMP 6 – Reporting requirements and management information requirements**

8.1 Annual Treasury Strategy

8.2 The Director of Finance will prepare for the Management Committee meeting preceding or the first Management Committee meeting following the year end, an Annual Treasury Strategy for approval.

8.3 The Annual Treasury Strategy sets out the Treasury aims and objectives for the coming financial year. In preparing the Annual Treasury Strategy, the Management Committee will have regard to the maintenance of a stable financial position for ELHA. The following matters shall be included in the Annual Treasury Strategy as a minimum:

- Detailed forecast cash flows for the following financial year and a summary position for a further 3 years, linked to ELHA's current Business;
- Analysis of current prevailing short and long-term interest rates, comparison with historical trends and estimated trend movement over the next financial year (this data will be supported with externally gathered expert opinion);
- The Annual Treasury Outturn Report for the preceding financial year;
- Details of current borrowings;
- A statement of borrowing requirements for at least the next financial year together with a strategy for funding this requirement, ensuring that ELHA has sufficient and appropriate facilities to meet both its short-term and long-term borrowing requirements;
- Borrowing requirements beyond three years where ELHA has made a commitment that will require funding;
- A statement of anticipated cash surpluses and the strategy to be adopted for investment thereof during the next financial year;
- A recommendation as to the mix of hedged and unhedged debt to apply across ELHA's debt portfolio during the next financial year;
- Any proposals for amendments to this Treasury Policy Statement.

In preparing the Annual Treasury Strategy, the Director of Finance will pay regard to the following:

- Maintenance of a stable financial condition;

- Ensuring that ELHA has sufficient and appropriate facilities to meet both its short-term and long-term borrowing requirements; and
- Ensuring that ELHA has sufficient cash resources available at all times to meet funding needs arising from uncertainties in the business planning process, the timing and amount of cash flow.

The Annual Treasury Strategy will also detail ELHA's strategy for refinancing maturing borrowing (if any), changing the mix of hedged and unhedged interest rates and new borrowing requirements over the next three years. The Annual Treasury Strategy must include:

- Proposed sources of finance;
- Proposed maturities and maturity structure;
- Mechanisms available for controlling and managing interest rate risk exposure;
- Anticipated interest rate levels;
- A statement of unencumbered assets available to support borrowing and a statement of the effect of any proposed new borrowing; and
- A forecast of the impact of the proposed strategy on financial covenants.

The Annual Treasury Strategy will detail ELHA's strategy for investing surplus funds and include on an aggregated basis:

- A forecast of funds required to repay maturing debt or for other cash flow requirements;
- A forecast of surplus funds available to meet contingencies;
- An investment strategy, including proposed instruments and maturities, designed to maximise returns and also ensure sufficient liquidity to meet forecast requirements; and
- A forecast of the impact of the proposed strategy on financial covenants.

**8.4 Annual Treasury Outturn Report**

The Annual Treasury Outturn Report (to be submitted with the Annual Treasury Strategy) will cover the whole of the previous financial year's activities of the treasury operation and include final annual measures of performance. The overriding objective of the Annual Treasury Outturn Report is to provide a standalone document that gives a full picture of treasury activities, plans, policies and results, independent of other reporting during the year. The Annual Treasury Outturn Report will incorporate the following specific information:

- A statement of the proportion of the debt that is hedging including a maturity ladder detailing all hedged borrowing and interest periods within unhedged borrowing;
- An overall summary of treasury operations for the year;
- An analysis of actual cash flow compared with budgeted levels and commentary on variations (both positive and negative);
- A report analysing compliance with permitted borrowings and prevailing regulations, including:
  - Total debt outstanding;
  - Total short term borrowings;
  - Financial covenant compliance;
  - Confirmation that total permitted borrowing has not been exceeded; and
  - Matters where TMPs have not been complied with (if any).
- As part of the annual review of treasury the Director of Finance will also review this Treasury Policy to ensure it is fit for purpose and advise of any required amendments.

**8.5 Quarterly Treasury Management Reports**

The Director of Finance will deliver quarterly reports to the Audit and Assurance Committee detailing the following minimum information where relevant:

- An analysis of financial covenant compliance (included in the quarters "Performance Indicator" report);
- Cash flow compared to budget and an explanation of variations (both positive and negative) (included in the quarterly management accounts report);

- A commentary on the applicability of the current Annual Treasury Strategy and any recommended adjustments thereto;
- Any matters where the TMPS or Annual Treasury Strategy have not been complied with;
- Exception reports;
- A recommendation as to any additional hedging to be adopted.
- A report on any changes to the relationship with lenders and any issues that may have an impact on ELHA;
- A progress update on borrowing requirements for the remainder of the year
- Any changes to the strategy adopted for investment of cash surpluses during the remainder of the year;
- Any proposals for amendments to this Treasury Policy Statement (if applicable); and;
- Revisions to the current 12-month cash flow forecast, estimates of interest rate trends and the impact on the current Annual Treasury Strategy and recommended adjustments to the current interest rate risk management policy contained in the Annual Treasury Strategy and any revenue effect.

## **9.0 TMP 7 – Budgeting, accounting & audit arrangements**

- 9.1 The Group will account for its treasury management activities, for decisions made and transactions executed, in accordance with appropriate accounting practices and standards and with statutory and regulatory requirements in force for the time being.
- 9.2 The Group will ensure that its auditors and those charged with regulatory reviews, have access to all information and papers supporting the activities of the treasury management function, as are necessary for the proper fulfilment of their roles and that such information and papers demonstrate compliance with external and internal policies and approved [practices](#).

## **10.0 TMP 8 – Cash & cash flow management**

- 10.1 Unless statutory or regulatory requirements demand otherwise, all monies in the hands of the Group will be under the control of the Director of Finance and will be segregated for cash flow and investment management purposes.

10.2 Cash flow projections will be prepared on a regular and timely basis and the Director of Finance will ensure that these are adequate for the purposes of monitoring compliance with TMP1 “Risk Management” and for the purpose of identifying future borrowing needs.

**11.0 TMP 9 - Money laundering**

11.1 The Group is alert to the possibility that it may become the subject of an attempt to involve it in a transaction involving the laundering of money. However, it is unlikely that cash received from individuals will ever exceed the minimum (10,000 euros) over which procedures are required per Regulation. Cash receipts will therefore be monitored to determine whether requirement for a procedure is required in the future. Such a procedure would cover verifying and recording the identity of counterparties and reporting suspicions and would ensure that staff involved in this, were properly trained.

**12.0 TMP 10 - ~~Staff~~ Training & qualifications**

12.1 The Group recognises the importance of ensuring that all staff involved in the treasury management function have the skills required to undertake the duties and responsibilities allocated to them. It will therefore seek to appoint individuals who are both capable and experienced and will provide training for staff to enable them to acquire and maintain an appropriate level of expertise, knowledge and skills.

12.2 Officers involved in treasury operations will receive adequate training to provide them with the necessary skills and knowledge to keep them up to date with treasury management best practice. Training may include studying for recognised qualifications, external courses and conferences and internal courses and seminars. Each year the Director of Finance, will assess training needs and make appropriate provision for costs.

12.3 The Management Committee will also receive regular training and development sessions to ensure that they have the necessary skills to understand and approve treasury reports. This will be by means of in house training sessions undertaken by both employees and external specialists. Where considered appropriate Management Committee members may also attend external training courses.

12.4 Those charged with governance recognise their individual responsibility to ensure that they have the necessary skills to complete their role effectively.

**13.0 TMP 11 – Use of external service providers**

13.1 The Group recognises the potential value of employing external providers of treasury management services, in order to acquire access to specialist skills and resources. When it employs such service providers, it will ensure it does so for reasons which will have been submitted to a full evaluation of



the costs and benefits. It will also ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented and subjected to regular review.

13.2 In accordance with the organisation's Standing Orders the use of external advisers will be considered in the following circumstances:

- Ongoing treasury support with strategy and policy;
- Provision of regular market information;
- The raising of additional finance;
- Negotiation and re-negotiation of loan covenants and margins; and
- Recruitment of new team members.

13.3 Before external consultants are engaged, Management Committee approval will be sought with clear terms of reference established.

13.4 Once the use of external advisers has been agreed all Management Committee reports submitted where the external advisers have had an involvement will need to be reviewed by an officer of the organisation and where deemed appropriate presented by the external adviser.

#### **14.0 TMP 12 – Corporate governance**

14.1 The Group is committed to the pursuit of proper corporate governance throughout its business and services and to establishing the principles and procedures by which this can be achieved. Accordingly, the treasury management function and its activities will be undertaken with openness and transparency, honesty, integrity and accountability.

14.2 The Group has adopted and has implemented the key recommendations of the Code. This, together with other arrangements detailed in the Group's treasury procedures are considered vital to the achievement of proper corporate governance in treasury management. The Director of Finance will monitor and, if and when necessary, report upon the effectiveness of these arrangements.

# Authorisations and Standard Charges and Allowances Update

## Report by Paula Oliver, Director of Finance – for Approval

### 1.0 Introduction

The Authorisations and Standard Charges and Allowances Policy is reviewed annually by the Management Committee and the last review held in March 2022. Since then, a change to the list of R3 staff with access to an electronic credit card has been requested.

To facilitate the ordering of goods and services from the planning office, it would be beneficial to add the R3 Team Leader to the list of staff authorised for an electronic credit card. It is proposed that the transaction and monthly limits are the same as those agreed for the Contracts Managers. The Service and Technical Managers and the Director of Asset Management are responsible for monitoring expenditure on these cards.

### R3 Electronic Credit Card Limits

Card Holder	Transaction Limit	Monthly Limit
Assistant Materials Co-ordinator	£500	£2,000
Materials Co-ordinator	£2,000	£10,000
<b>Team Leader</b>	<b>£3,000</b>	<b>£6,000</b>
Contracts Managers	£3,000	£6,000
Business Development Manager	£3,000	£6,000
Service Manager	£10,000	£10,000
Technical Manager	£10,000	£10,000
Director of Asset Management	£10,000	£10,000

### Recommendation

The Management Committee is asked to approve the addition of the Team Leader to the list of R3 staff authorised to be issued with an electronic credit card.