

Debt Recovery Procedure

Newton Property Management Ltd (NPM) operate the following Debt Recovery Procedure in keeping with the requirements of Section 4 of the Property Factors Code of Conduct, as laid down in the Property Factors (Scotland) Act 2011.



Quarterly invoice raised
Feb, May, Aug, Nov

01

NPM will invoice one common charge account quarterly detailing all expenditures incurred in the management of the benefited development. We send an SMS notification at time of invoice, and at first (red), and final (pink) reminder.



Five weeks after original invoice sent, third party instructed to recover debt

04

Late payment management fee applied & third party costs billed to debtor

If payment of account is not forthcoming within **five weeks** of initial invoice, third parties will be instructed for **recovery of sums due and Late Payment**

Management Fees will be levied against the debtors common charge account, together with any administrative costs from third parties e.g. Sheriff Officers who may charge for associated services for recovery such as letter writing, telephone calls, text messaging and e-mails.



Two weeks after original invoice sent, reminder is issued

02

No additional costs to debtor at this point

In the event of non-payment, NPM will issue a **first reminder two weeks after** production of the initial invoice.



Four weeks after original invoice sent, second reminder is issued

03

No additional costs to debtor at this point

Four weeks after the production of the initial invoice, a **second reminder** will be issued.



Determine whether court action has to be raised

06

Administration fees charged to debtor

A Notice of Potential Liability (NOPL) in terms of Section 10 of the Title Conditions (Scotland) Act 2003, or Section 12 of the Tenements (Scotland) Act 2004, will be applied for and attached to the property title to secure any arrears.

The administrative cost of £180 (inclusive of £30 VAT) will be charged to the default owners account.

In the event of continued non-payment or a significant debtor balance, NPM reserve the right to raise **legal proceedings** via the appropriate Court.

All expenses pertaining to legal fees in relation to any such action will be added to the debtor's common charge account in the first instance.



Obtain payment decree, and proceed to enforcement

07

All legal expenses charged to debtor

In the event of successful court action, action to enforce the decree will follow which may include such measures as **arrestment of income, property or goods**.



Other owners within development advised in writing that debt may be re-apportioned amongst them. If debt distributed, other owners may pursue debtor directly

08

Any ongoing failure to pay any such debt and associated expenses as awarded by the court (via decree or otherwise), or, failure to adhere to any instalment decree for payment, may result in the amount of such share and **expenses being apportioned among the remaining homeowners** jointly in proportion to their appropriate share of the original costs. It shall remain an option for the remaining homeowners to recover such amount from the defaulting homeowner directly.

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- 01**
 - i) NPM will invoice one common charge account quarterly detailing all expenditures incurred in the management of the benefited development.
 - ii) Each of the homeowners will pay to NPM timeously on receipt, their appropriate share of common costs, determined in accordance with the provision of the relevant Deed of Conditions or other relevant apportionment mechanism.
 - iii) Management fees, communal repairs/maintenance, insurance premiums, common/other charges and any other relevant fees are chargeable.
- 02**
 - iv) In the event of non-payment, NPM will issue a first reminder two weeks after production of the initial invoice.
- 03**
 - v) Four weeks after the production of the initial invoice, a second reminder will be issued.
- 04**
 - vi) If payment of account is not forthcoming within five weeks of initial invoice, third parties will be instructed for recovery of sums due and Late Payment Management Fees will be levied against the debtors common charge account, together with any administrative costs from third parties e.g. Sheriff Officers who may charge for associated services for recovery such as letter writing, telephone calls, text messaging and e-mails.
 - vii) If sums remain outstanding (which are not subject to dispute); NPM will issue a legal reminder letter.
 - viii) In the event that the sums outstanding (all or in part) form the basis of a formal complaint, collection of the sums applicable to the complaint will be suspended until completion of the complaints process.
- 05**
 - ix) A Notice of Potential Liability (NOPL) in terms of Section 10 of the Title Conditions (Scotland) Act 2003, or Section 12 of the Tenements (Scotland) Act 2004, will be applied for and attached to the property title to secure any arrears. The administrative costs/fees in doing so will be charged on to the defaulting owners account.
- 06**
 - x) In the event of continued non-payment or a significant debtor balance, NPM reserve the right to raise legal proceedings via the appropriate Court. All expenses pertaining to legal fees in relation to any such action will be added to the debtor's common charge account in the first instance.
- 07**
 - xi) Any ongoing failure to pay any such debt and associated expenses as awarded by the Court (via decree or otherwise), or, failure to adhere to any instalment decree for payment, may result in the amount of such share and expenses being apportioned among the remaining homeowners jointly in proportion to their appropriate share of the original costs. It shall remain an option for the remaining homeowners to recover such amount from the defaulting homeowner directly. Should NPM require to invoice the remaining homeowners for an unrecovered share, all remaining owners will be advised in writing in advance of the charge. NPM will, upon request, provide information relative to the unrecovered share (subject to data protection).
Eventual recovery of re-apportioned debt results in other owner's accounts being credited for their share of the recovered sum.

If you're struggling with debt in Scotland, charities like **StepChange Debt Charity** (0800 138 1111), **National Debtline** (0808 808 4000), and **Citizens Advice Scotland** offer free, independent, and confidential advice.

Supplementary issues arising from debt recovery procedure:

NPM reserve the right to charge interest on outstanding debts, in-keeping with any such penalty stipulated within the Deed of Conditions for the development.

Habitual non-payment will incur a discretionary increase of the standard management fee to meet any additional duties or underwriting of charges. Discretionary increases in management fees will be notified in advance to the debtor(s).

Summary of additional charges:

Late Payment Management Fees	Minimum of £41.67 + VAT (not to exceed £60 + VAT in any one quarter)
Notice of Potential Liability (NOPL)	£150 + VAT = £180

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