

KNOWES HOUSING ASSOCIATION LTD	
Policy Name	Use of the Seal
Policy Category	Finance
Policy Number	FP10
Date to Finance Sub committee	March 2023 (signed)
Previous Review	April 2020
Next Review Date	March 2026
Links to other Policies	FP01 Finance Policy, FP02 Schedule of internal controls, para 63 of the Association's revised model rules on the Seal, G13 – Membership Policy
Consultation	Management team and finance sub committee

1. INTRODUCTION

The purpose of the policy is to establish the Association's position in relation to the Requirements of Writing (Scotland) Act 1995 and specifically the Association's policy in relation to the authorisation of important documents.

The policy is intended to ensure that entering into legal commitments is properly controlled and safeguarded. However Committee is aware that a breach of the policy will not prevent a document being legally binding on the Association, provided a Committee Member or the Secretary or an appropriately authorised person signs it and the signature is witnessed.

2. RISK MANGEMENT

The policy addresses the following risks:-

- ✓ The Association fails to take into account the legal requirements regarding the proper authorisation of documents
- ✓ The Association fails to keep the seal in a safe place and it is used without proper authorisation
- ✓ The Association fails to record the signing of documents and use of the seal and therefore there is no record of the contracts held by the Association.

3. LEGAL BACKGROUND

The Association acknowledges that Section 36 of the Industrial and Provident Societies Act 1965 presumed that any deed by the Association would be duly executed if it carried the common Seal of the Association together with the signatures of two Committee Members and the Secretary of the Association. The Association is also mindful of the Association's Rule 63 which states that:-

“The Association shall execute deeds and documents in accordance with the provisions of the Requirements of Writing (Scotland) Act 1995 and record the execution in the Register. The use of a common seal is not required. The Association may have a seal which the Secretary must keep in a secure place unless the Committee decides that someone else should look after it. The Seal must only be used if the Committee decides this. When the seal is used the deed or document must be signed by the Secretary or another person duly authorised to subscribe the deed or document on the Association's behalf and recorded in the register”.

4. THE REQUIREMENTS OF WRITING (SCOTLAND) ACT 1995

This Act made new provisions for the formal execution of deeds in Scotland. The 1995 Act repealed Section 35 of the 1965 Act. It did not however alter the contents of the Rules concerning custody and use of the Seal. The Requirements of Writing (Scotland) Act 1995 now allows for all Deeds and documents of whatever kind, being legally binding on the Association if it is signed in the following way:

- By one Member of Committee or
- By the Secretary or
- An authorised person

The signature must be witnessed

5. REGULATORY STANDARDS AND RESPONSIBILITIES OF COMMITTEE MEMBERS AND SENIOR OFFICERS

The Association's Management Committee is aware that Regulatory Standards require Management Committees to control and be responsible for the conduct for all the business of the Association. The Management Committee therefore has decided that it is unacceptable for a single Committee Member or the Secretary or one senior officer of the Association alone to legally bind the Association to a contract without the prior approval of the Committee as per the Schedule of Internal Controls.

6. RESOLUTION

The Management Committee resolves that:-

The normal manner in which formal or important Deeds or documents are executed on behalf of the Association will be to have the Deed or document impressed with the Association's Seal and signed by the Secretary and two other Committee Members, the Management Committee recognise however that it may specifically authorise certain documents, or types of document, to be executed in other ways, from time to time, by passing an appropriate resolution. Seal will be used on:-

Share Certificates – *Where the Committee has approved a Membership Application.*

Any other occasion where the committee has resolved the seal must be used.

For any other uses however express Committee approval will be required before using the Seal.

7. USE OF THE SEAL

The Seal can only be used when the Secretary of the Association is present however it is not obligatory for the other two Member signatories to be present at the time of Sealing.

8. THE REGISTER (to be used for both recording of contracts and use of seal)

The use of the Seal will be recorded in a Register kept for that purpose. Specifically the Register will record:

- The date of the Committee resolution authorising the use of the Seal
- The name of the first and second authorising Committee Member
- The name of the Secretary

The Executions of Documents not requiring the Seal will be kept in the Register above and should give details of the type of contract, the supplier/contractor and the names of the two officers/committee members signing the contract.

9. CUSTODY OF THE SEAL

The Association's Director will keep the Seal in a secure place – normally in the Association's safe

10. REPORTING TO COMMITTEE

The use of the Seal and the Register will be reported to the Management Committee on a monthly basis.

11. CONCLUSION

The Association expects that the arrangements for the custody of the Seal and the keeping of the Contracts and Seal Register provide the necessary safeguards against the improper granting or renouncing of rights and obligations and against improper handling of property and assets of the Association.