

Date Issued	18 December 1997
Last Revision	May 2020
Department	Corporate
Title	Requirements of Writing
Objective	To describe our arrangements for the signing and witnessing of legal documents
Responsible	Chief Executive
Next Review Date	May 2025

1.0 Introduction

- 1.1 The Requirements of Writing (Scotland) Act 1995 introduced new provisions for the formal execution of Deeds in Scotland.
- 1.2 Broadly, the formal execution of a Deed should mean that the Deed proves itself and its contents in legal proceedings without the need for further evidence, i.e. the formal execution should mean that the party/parties signing it are in full agreement with the terms of the document.
- 1.3 Any Deed or document relating to a long term contract and/or involving a significant amount of money should be formally executed, and Deeds relating to land or building require to be formally executed and recorded in the Land Register or Register of Sasines.
- 1.4 Under the 1995 Act, all Deeds and documents of whatever kind will be presumed to have been subscribed by us if they have been subscribed by:
 - A Management Committee Member, or
 - Our Secretary, or
 - A person authorised to sign such Deeds, documents on our behalfand either:
 - Signed by a witness, providing their name and address, or
 - Where the Deed or document is not signed by a witness, it is sealed with the Seal of the Association

- 1.5 In law, we no longer require to use our Seal to execute Deeds and documents in order for them to be properly executed. However, should we use our Seal for this purpose, it must be done in accordance with our Rules, i.e. where the seal is used on a document the Deed or document, it will also be signed by the Secretary or a member of the Management Committee and recorded in the Register.

2.0 Procedures

Use of the Seal

- 2.1 Pursuant to paragraph 1.4, the Seal may be used in respect of the following:
- (i) All Deeds relating to land or buildings, e.g. site acquisitions, shared ownership agreements
 - (ii) All long term contracts, e.g. leases, management agreements
 - (iii) All arrangements involving a significant amount of money
 - (iv) Share membership of ELHA
 - (v) Building contracts
- 2.2 The Seal will be kept in our safe.
- 2.3 A Register will be kept recording the use of the Seal, including the following information:
- (i) The nature of the document signed
 - (ii) The name of the authorised signatory, i.e. the Secretary or Management Committee Member
- 2.4 All documents to be signed using the Seal will be received by the Corporate Services Manager, who will make the necessary arrangements for signing with the Secretary or Management Committee Member as detailed in our procedures for the signing of legal documents. The nature of the documentation will be made clear to the signatory before they sign, and any supporting information required will be provided.
- 2.5 The use of the Seal will be reported to the next meeting of the Management Committee under the agenda item: Secretary's Report: Use of the Seal.

Authorised Signatories

- 2.6 The Authorised Signatories and the levels of their authorisation are set out in our Authorisations Policy.
- 2.7 The Authorised Signatories will have delegated powers to authorise our Deeds and documents in accordance with this policy.

Management Committee responsibilities

- 2.8 Our Code of Conduct for Governing Body Members outlines Management Committee Members' responsibilities in respect of the proper control and conduct of our business activities.

Management Committee Members will be reminded annually that they are bound by the Code of Conduct for Governing Body Members.

- 2.9 It will be the responsibility of each Management Committee Member who is asked to sign or witness a Deed or document to ensure that they fully understand the nature of the document and the level of commitment being entered into by or on our behalf.

3.0 Policy Review

- 3.1 The Chief Executive will ensure that this policy is reviewed by the Management Committee at least every five years.