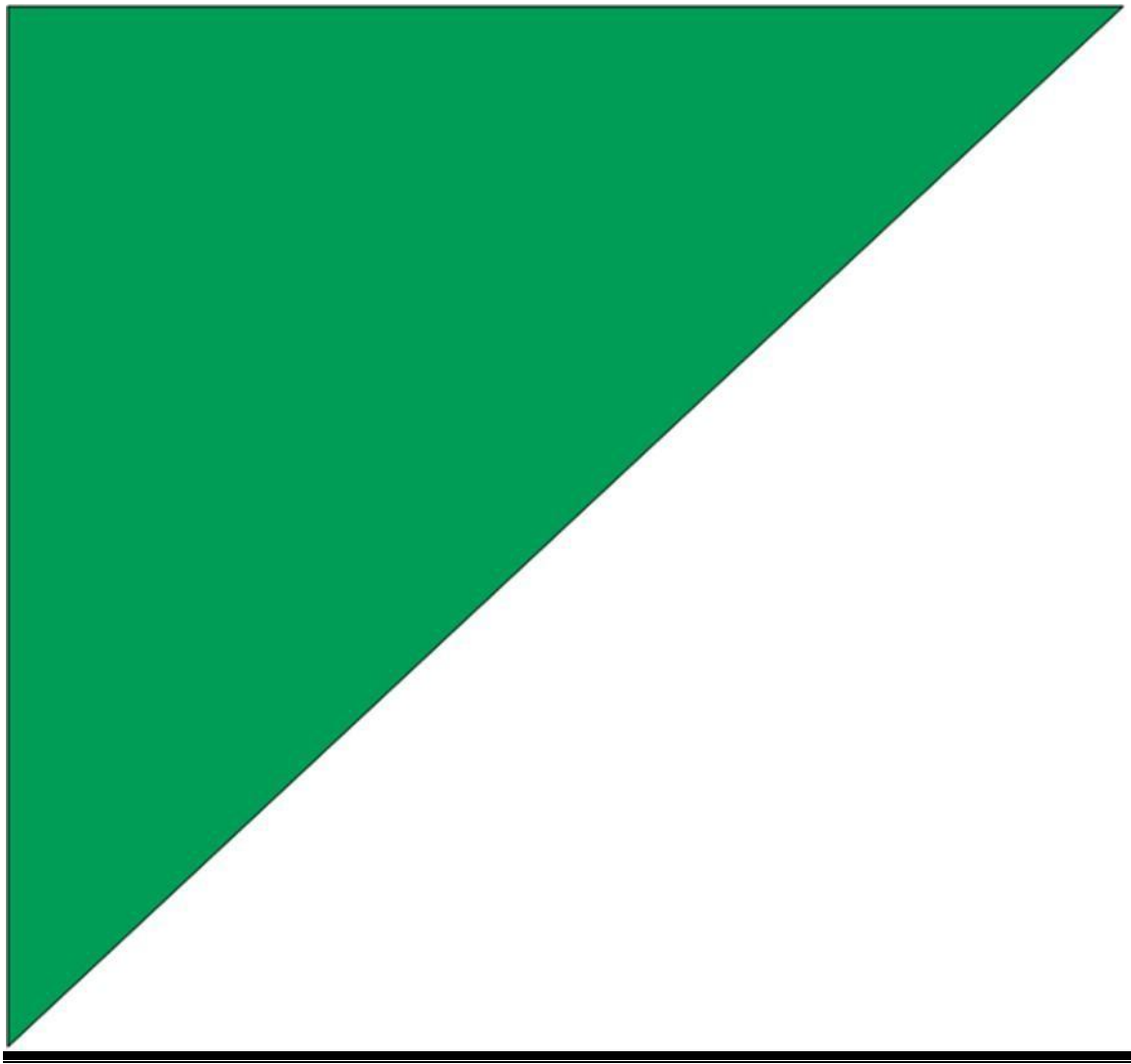

HOUSING NO ACCESS POLICY

June 2025

Purpose of this Policy

This policy details Tendring District Council's (the Council) approach to obtaining access to residents (e.g. tenants and leaseholders) homes including gardens and exterior areas to fulfil its statutory and regulatory duties as a responsible social housing landlord.

Policy aims

The policy aims to highlight the key principles in the way that the Council handles gaining access to homes by:

- Defining when the Council needs to access residents' homes,
- Making clear resident responsibilities,
- Taking appropriate and proportionate action if a resident does not allow access,
- Demonstrating how a 'reasonable approach' is adopted in non-emergency situations, to gain access to properties,
- Ensuring a robust escalation process is in place to provide residents with the opportunity to provide access at a mutually convenient time, whilst also advising that it may lead to forced entry where no access is provided,
- Ensuring that residents are kept informed about action being taken to carry out essential duties such as undertaking repairs, safety checks, welfare checks and inspections,
- Setting out the Council's preparedness in partnership working with external support and advocacy agencies where a resident is known to be vulnerable or where there are barriers to communication.

Scope of Policy

The policy applies to the Council's tenants, prospective tenants and leaseholders, and applies to all properties owned by or managed on behalf of the Council. This policy does not relate to

obtaining access to a property as a part of the repossession process. The policy also highlights some actions which may be taken by the Council where access is sought to enable it to undertake its statutory and regulatory duty but access is denied.

Situations where the Council require access

The Council may need to access homes for many reasons including (but not limited to):

- To carry out servicing or a repair,
- If there is an emergency (property or person related),
- To enable any annual capital works programme to be completed,
- Gas safety checks,
- Fire safety surveys and works,
- Electrical testing and works,
- Asbestos surveys and works,
- Damp/ mould/ condensation (DMC) inspections and works,
- Surveys or works to control the risk of legionella,
- HHSRS (Housing Health & Safety Rating System) inspections,
- Servicing and maintenance of personal lifts, including stair-lifts and telecare equipment,
- Repairs to, or refurbishment especially where failure to carry out repair or refurbishment would place residents at risk and/or cause damage to Council property,
- Any surveys required to identify the condition of the property,
- Tenancy audit, tenancy checks and to investigate a possible breach of tenancy,
- To ensure compliance with legal, health and safety regulations and compliance with tenancy agreements.

Potential risks resulting from refusal for access include the following:

- Ineffective delivery of the capital works programme,
- Lack of value for money – one-off replacements usually cost more and may have a longer lead in time compared to a planned approach,
- Risk to health and safety – some works are required for health and safety reasons,
- Impact on overall strategy – e.g. with regards to low carbon heating, Failure to meet our social landlord legal obligations.

If the Council needs to access a home

If the Council needs access to a home, it will work with the residents to arrange a mutually convenient time and date to visit. Once a visit is agreed the Council requires a responsible adult being someone over the age of 18 to be present at the premises to grant access. If no

adult is present, it will be recorded as no access given. Unless the visit is an emergency, the Council will always try to pre-arrange an appointment. The Council will make all reasonable attempts to contact the resident by:

- Writing in advance outlining why access is required and providing a proposed date (including details of how to contact the Council to make an alternative appointment if this is not convenient),
- Contact by telephone or email to secure an appointment date, Home visit to book an appointment date.

The Council may repeat the above attempts to maximise the opportunities to secure appointments by arrangement. Where residents fail to respond the Council may also, depending on individual circumstances, and the urgency of the access required, deploy the following measures to secure access:

- Contact next of kin or those listed as having caring responsibilities,
- Contact neighbours,
- Contact known external support and advocacy groups and internal teams who are already working with the resident,
- In all attempts to gain access the Council will endeavour to use preferred communication methods where these are known e.g. where English is not spoken as a first language.

The Council will also cooperate with other key agencies and partners where access to a property is required, including where there is risk to life, and safeguarding issues. Examples of such partnerships would include:

- Police, fire and other emergency services,
- NHS and Social Care,
- Health and Safety Executive,
- Building Control,
- Environmental Services.

Resident responsibilities

Individual tenancy and lease agreements detail rights and responsibilities. These agreements include reasonable access provisions and failure to meet such obligations may constitute a breach of contract and, therefore, may result in legal action:

- Tenants: Please refer to your tenancy agreement,
- Licence-holders: Please refer to your licence,

- Leaseholders, Shared equity and DIYSO properties: Please refer to your individual lease agreements.

It is important that residents:

- Inform the Council if their contact details change (e.g. telephone numbers, e-mail addresses or any changes relating to their next of kin),
- Inform the Council if they require additional support needs,
- Provide the details of someone who can allow access, if the resident is not able to.
- Inform the Council in advance if they need to rearrange an appointment. The Council may pursue all associated costs that are incurred and recharge the resident accordingly, if the Council has not been so informed.

A responsible adult (i.e. legally over the age of 18) must be present to allow access to the home. The Council will record the visit as 'no access given' where this is not the case.

What the Council will do if access is not provided, or refused

Where reasonable access has been denied, the Council will, as a last resort, pursue legal measures:

Gas – Legal option: Warrant or injunction.

The Council is legally required to ensure that any gas appliances, fittings and flues provided for tenants are safe and, the Council must carry out a gas safety check annually. If a resident fails to provide access to enable the necessary checks to be carried out, a warrant may be applied for at the Magistrates' Court to authorise forced entry to carry out the safety check. Alternatively, the Council may also apply for access via an injunction at the County Court. Any application to the Courts must be proportionate and evidenced to prove the attempts made to gain access. If the required annual gas safety check is overdue, and access to the home is unavailable despite the Council's best efforts, the gas supply to the home may be limited or capped. Where possible, the resident will be notified of any decision to cap the gas supply prior to this being actioned. The Council will make every effort to work with the resident, where the gas has remained capped for more than three days to ensure that the resident is accessing support as required and the supply is restored. The Council will undertake a risk assessment on a caseby-case basis.

Electrical Inspections – Legal option: Injunction or warrant.

Electrical safety inspections should be carried out at least every 5 years. Where a tenant fails to allow access to carry out a safety inspection, the Council can apply to the County Court for an injunction to gain access on the basis that the residents are in breach of their tenancy agreement by not allowing access. The injunction is likely to contain a provision to allow

access to the Council via a lock change if access is not granted. Injunctions are discretionary remedies and if the resident opposes, the Court will need to consider the objection. The Council could also apply for a warrant in line with the gas legal option outlined above.

Other access requirements – Legal option: Injunction or warrant.

These instances would follow the same route as outlined for gas and electrical inspections. Where the Council has incurred cost in making court applications as a result of refusal to grant access, the Council reserves its right to make cost applications and for them to be made payable by the tenant.

Possession proceedings

If a Council housing tenant denies reasonable access the Council may serve a Notice of Seeking Possession or Notice to Quit informing the tenant of the intention to seek repossession of the home. After the expiry of the notice the Council can apply to the Court to bring the tenancy to an end. This action may be taken if the tenant:

- Has not responded to repeat requests for access to be granted to the Council or Council contractors and / or,
- Has denied access following the issue of a Court order and / or, Routinely fails to allow access.

Emergency access

There may be an emergency in which the Council believe that the safety of the resident and/or other residents, or if the integrity of the property and/or adjoining properties is put at risk and in these situations the Council will, as a last resort, enter a property without prior consent. Nonexhaustive examples include where there is a flood, gas escape or suspected medical emergency. Where the Council are required to gain access in this way it will:

- Ensure follow up attempts are made to trace the residents to inform them of the action, if they are not present at the time access is gained.
- Ensure the property is left safe and secure (this may on occasions involve carrying out a lock change. Where this is required, the Council will endeavour to notify the resident of how they can obtain the replacement keys),
- Take photographic evidence of the property by means of an inventory as evidence for any legal action that we may take.

If the Council are required to gain access in an emergency situation to remedy a fault that is found to be of the occupants making, the Council reserve the right to recharge the resident for all works undertaken, e.g. where taps have been left running causing flood damage in line

with the Councils Rechargeable Works Policy. RECHARGEABLE WORKS POLICY FOR COUNCIL TENANTS
AND LEASEHOLDERS Reviewed Jan 2025.pdf

Exceptional Circumstances

The Council may only accept refusals, by tenants or leaseholders, for work to be undertaken in exceptional circumstances. Officers will help and support all residents throughout any works undertaken and aim to minimise the inconvenience as far as possible. Examples include (but are not limited to):

- Being medically unfit or going through a prolonged illness,
- Having ongoing and / or significant medical treatment,
- Having a disability and have no-one to assist them to prepare for the works,
- Caring for someone who is terminally ill in the house,
- Having recently been discharged from hospital and still recuperating, Recently having been bereaved.

The list above is not exhaustive and there may be other exceptional circumstances that arise. The Council will always take these into account and use discretion as to whether works should commence and will work with and support as necessary. The Council will not consider the above circumstances to be exceptional where there is a threat to life, health or property.

Complaints Procedure

The Council's Housing Complaints Policy is available to any tenant or prospective tenant who is dissatisfied with any aspect of the housing services we provide. Further information can be obtained from the Council's Housing Complaints Policy Making a complaint.

General Data Protection Regulations

All access requirements that include identifiable personal information will be processed in accordance with the requirements of the Data Protection Act 2018 and the UK General Data Protection Regulations. The Council will only disclose or share personal information where required to do so by law or where a lawful exemption applies; for example, for the purposes of a prosecution, a safeguarding concern, where it is in the public interest or with the person's consent. Personal information is processed by Tendring District Council for a number of purposes. These can be found in the Privacy Notices which are available on the Council's website at www.tendringdc.gov.uk/privacy or on request at our public reception areas.

Safeguarding

Concerns for children, young people and vulnerable adults will be handled in line with Tendring District Councils Safeguarding Policy which sets out how the officers should respond to a report of abuse or neglect to a child, young person, or adult with unmet care and support needs. It is not uncommon for safeguarding concerns to arise when accessing homes. The requirements of the Safeguarding Policy take primacy over this policy.

Equalities Statement

The Council is committed to treating all customers fairly and with respect and professionalism. To this end the Council will ensure that no individual is discriminated against on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief (including political opinions), sex or sexual orientation and that, in the application of this policy, the Council will comply with their duties under the Equality Act 2010 and specifically its Public Sector Equality Duty (Section 149) under which a public authority must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by this Act and, in summary, to advance equality of opportunity and foster good relations between people with differing characteristics. To enable customers to have clear information and equal access to this policy, information will be made available in a range of appropriate languages and formats, when requested.

Legal and regulatory context

This policy is set within the legislative framework:

- Regulator of the Social Housing Consumer Standards
- Gas Safety (Installation and Use) Regulations 1998 and amendments 2018.
- Gas Safety (Management & Right of Entry) Regulations 1996
- Fire Safety Act 2021
- Localism Act 2011
- The Housing Act 1988 and 2004
- The Building Regulations 2019 for fire safety incorporating 2020 & 2022 amendments
- The Control of Asbestos Regulations 2012 (CAR 2012)
- Homes (Fitness for Human Habitation) Act 2018
- Landlord and Tenant Act 1985
- Defective Premises Act 1972
- The Management of Health and Safety at Work Regulations 1999
- Electricity at work regulations (1989)
- Electrical Equipment (Safety) Regulations 1994 and the Plugs and Sockets etc. (Safety) Regulations 1994
- Prevention Social Housing Fraud Act 2013

- Equality Act 2010
- Environmental Protection Act 1990
- Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022
- Antisocial Behaviour Crime and Policing Act 2014
- Local Government (Miscellaneous Provisions) Act 1982

Related Documents

Tendring District Council Non-Secure, Introductory and Secure Tenancy Agreements

Tendring District Council Electrical Safety Policy

Tendring District Council Gas Safety Policy

Review of policy

This policy will be reviewed every two years in consultation with tenant representatives, staff, the Portfolio Holder responsible for Housing and other stakeholders unless there are any reasons, such as legislative or regulatory changes, requiring that it be reviewed earlier.