

# Portfolio Holder for Housing

Item

February 2024

Report of	Strategic Client for Asset Management	Author	MartinNorgett ☎ 07816 204488
Title	Approval of Access Policy for Colchester City Council Tenants and Leaseholders		
Wards affected	All Wards		

## 1. Executive Summary

- 1.1 As part of our continued drive to maintain safety and standards within our homes, a policy was required to enable access where it is not forthcoming. The policy has been developed to set out Colchester City Council's approach to accessing tenants homes for legal, regulatory and contractual duties.
- 1.2 Officers from Colchester City Council (CCC) and Colchester Borough Homes (CBH) have worked together to create this new policy.
- 1.3 Residents were consulted on the Access Policy and where possible have incorporated ideas and suggestions raised, where this has not been possible, we have provided feedback to residents.

## 2. Recommended Decision

- 2.1 To approve the Access Policy to enable CCC/CBH to maintain safety and standards within our homes.
- 2.2 Access Policy attached as Appendix 1.

## 3. Reason for Recommended Decision

- 3.1 To ensure that CCC/CBH are able to gain access to homes to carry out its legal, regulatory and contractual duties.
- 3.2 A clear and consistent approach set out in the policy will guide Officers and Members dealing with access issues and set out in a clear way to Tenants and Leaseholders the reasons for accessing their home.

## 4. Alternative Options

- 4.1 To not have an access policy, however this may result in legal, regulatory or contractual risks.
- 4.2 Not being able to gain access may impact on the ability to gain 100% compliance with all regulatory and statutory obligations.



## **5. Background Information**

- 5.1 The Access Policy sets out how and why the Council/Colchester Borough Homes will need to access Tenants and Leaseholders homes.
- 5.2 The policy is clear that where there is a need to comply with legal, regulatory and legal duties, we will access the homes having given appropriate notice.

## **6. Equality, Diversity and Human Rights implications**

- 6.1 The Council completes Equality Impact Assessments for policies, procedures and practices that have an impact on customers and employees. A copy of the Equality Impact Assessments on the Access Policy can be found here.

## **7. Strategic Plan References**

- 7.1 The services and projects delivered by the Council and CBH contribute directly to the following Strategic Plan 2023-2026 priority areas:
  - **Respond to the climate emergency**
    - Reduce our carbon footprint.
    - Ensure Council homes benefit from increased energy efficiency
  - **Deliver Modern Services for a Modern City**
    - The Colchester Council family of organisations work together to a shared and ambitious vision for the future of our city.
    - Continue to invest in our homes to deliver quality social homes and services for tenants and leaseholders.
    - Put communities and their needs at the heart of our vision and support local areas as they help shape and deliver services which are most important to them.
    - Work closely with partners, charities and organisations to add value.
  - **Improve health, well-being, and happiness**
    - Tackle the causes of inequality and support our most vulnerable people.
    - Work with residents and partners to address quality of life and issues of happiness.
  - **Deliver homes for those most in need**
    - Increase the number and quality and types of affordable homes.
    - Meet our duty to prevent or assist those facing homelessness.

## **8. Consultation**

- 8.1 Both Colchester City Council and Colchester Borough Homes recognise that residents play a central role in developing policies. Tenants and Leaseholders of the Residents Voice group were asked to consider the Access Policy and were supportive of its need. Some points of clarity were raised and some good suggestions around applying the policy were taken on board.

## **9. Publicity Considerations**

- 9.1 Good communication with tenants is vital and the Council, working closely with Colchester Borough Homes, will issue information to its tenants and leaseholders to advise them of the new policy and how it will affect them. This will include articles in newsletters, Colchester City Council's and Colchester Borough Home's websites and social media.

9.2 The policies will be widely communicated to staff of Colchester City Council and Colchester Borough Homes, and any additional training will be provided.

9.3 All of the policies will be available on the Colchester City Council website at <https://www.colchester.gov.uk/info/category/?id=policies>

## **10. Financial implications**

10.1 The policy will be delivered using existing resources and therefore there are no financial implications.

## **11. Health and Safety Implications**

11.1 Through the role in managing the Colchester City Council homes, Colchester Borough Homes are responsible for ensuring Health and Safety requirements are fully complied with, this policy will assist them in maintaining high levels of health and safety.

## **12. Risk Management Implications**

12.1 Adoption of this policy allows the mitigation of legal, regulatory and contractual risks. Compliance with the policy will ensure access can be obtained for the council / CBH to discharge its duties efficiently.

## **13. Environmental and Sustainability Implications**

13.1 The Council and Colchester Borough Homes are committed to achieving net zero carbon emissions by 2030. We aim to minimise the environmental impact from activities and services provided to our tenants and leaseholders through joint working with the Council's Client Team, Climate and Sustainability Team and Colchester Borough Homes by investment, policy changes and through contract awards.

## **Appendices**

Appendix 1. Access Policy for CCC Tenants and Leaseholders

# **Access Policy for CCC Tenants and Leaseholders**

Title	Access Policy
Users of Policy	Colchester City Council, Colchester Borough Homes, tenants, Leaseholders and staff.
Date Adopted	1 <sup>st</sup> March 2024
Date last Reviewed	N/A
Review Frequency	3 years
Best Before Date	March 2027
<b>Scheme of Delegation</b>	
Formation of Policy	Portfolio Holder with delegated responsibility for Housing
Amendments	Portfolio Holder with delegated responsibility for Housing
Monitoring	Strategic Client for Asset Management
Implementation	Strategic Client for Asset Management

## 1. Aims of Policy

1. The aim of the Access policy is to set out Colchester City Council's approach to accessing tenant's homes for legal, regulatory and contractual duties.
2. To support our aim to achieve and maintain 100% compliance with all regulatory and statutory obligations.

## 2 Scope of the Policy

1. This policy applies to all tenancies and residential leases within the Housing Revenue Account (HRA) or which are managed as part of the HRA.

## 3 Related policy and Guidance

1. Asset Management Strategy
2. CBH Building Safety Policies

## 4 Legal Provisions, Regulations and Standards

1. The primary housing legislation and regulations governing the rights of a landlord in relation to property condition and repairs, including access to carry out necessary repairs, is contained within the following:
  - The Housing Act 1988
  - The Landlord and Tenant Act 1985
  - Homes (Fitness for Human Habitation) Act 2018
  - The Regulator of Social Housing's Consumer Standards
2. Section 54 of the Housing Act 1985 allows CCC/CBH to bring a prosecution in the right circumstances for the tenant obstructing entry.
3. The tenancy agreement sets out other conditions that should be adhered to or allow Colchester City Council or Colchester Borough Homes CCC/CBH access rights including but not limited to:
  - If we need to come into a home to do inspections or repairs (either to the property itself or to council property next to it), we will give reasonable notice whenever we can.
  - In an emergency we may have to come in straight away and without giving notice; however reasonable efforts will be made to contact the tenant/leaseholder to gain consent before entering their home.
  - The tenant/leaseholder must allow CCC/CBH employees or contractors to come into their home to inspect or do work on the home or property next to their home. They will

normally give notice but the tenant/leaseholder must let them in straight away in an emergency. All personnel will identify themselves and show identification.

- If the tenant/leaseholder does not do the things they have agreed in the Conditions of Tenancy, CCC/CBH may tell them in writing that they must put things right within a certain time. We will usually give at least seven days. But, if the tenant/leaseholder have caused a danger, we may tell them to make it safe straight away. In an emergency we may do the work straight away without giving the tenant/leaseholder notice.
- In an emergency we may have to gain access immediately, we will make every effort to gain the tenant/leaseholder's consent before entering your home.

4. Other legislation to consider includes but is not limited to:

- The Gas Safety (Installation and Use) Regulations 1998 as amended by the Gas Safety (installation and Use) (Amendment) Regulations 2018. These are supported by the Health and Safety Executive's (HSE's) Approved Code of Practice (ACOP).
- Fire Safety (England) Regulations 2022
- The Regulatory Reform (Fire Safety) Order 2005
- The Control of Asbestos Regulations 2012
- The Health and Safety at Work Act 1974
- The Control of Substances Hazardous to Health Regulation 1994
- General Data Protection Regulations (GDPR) and the Data Protection Act 2018 - The Council will ensure that any information obtained will be processed and used accordingly.
- Equality Act 2010
- Human Rights Act 1998 – right to property (article 1 of protocol 1) and right to privacy (article 8) apply however the safety of tenant's would provide an objective justification with these rights due to it being a proportionate means to a legitimate aim.
- The Protection from Eviction Act 1977

## 5 Policy Statement

1. This policy sets out the framework used by Colchester City Council and Colchester Borough Homes to ensure access to all its Housing Revenue Account stock when required.
2. For this Policy, reference to "the Council" relates to Colchester City Council and its Arm's Length Management Organisation (ALMO), Colchester Borough Homes.
3. The Council is committed to providing safe and good quality homes. The safety of our tenants is our priority.
4. The Council has many legal, regulatory, and contractual duties as a social landlord. These include ensuring that our tenants are kept safe in their homes and ensuring our social housing meets national legal standards in terms of tenancy conditions. To enable the Council to meet these duties, it is vital that there are no barriers to accessing any of its tenant's houses when necessary. Where barriers do exist the Council and ALMO will work with the tenant to ensure the access is mutually agreeable, providing support to the tenant where required.

## 6 Objectives and Principles

1. The overall aim of Colchester City Council's Access Policy is to ensure that its social housing stock is safe and meets all minimum required standards as set out in legislation, regulation and any contractual obligations.
2. The specific objectives of the Policy are:

- to ensure a robust escalation process is in place to provide the tenant with the opportunity to give access at a mutually convenient time while advising that it may lead to forced entry where no access is provided.
- to allow the Council to exercise its legal right as a landlord to enter the property, having given the tenant the legally required notice of 24 hours to inspect the property's condition or carry out works required to meet any legal, regulatory and/or contractual obligations.
- to provide a fair and transparent process to gain access to the property where the tenant has either:
  - not agreed to give access; or
  - ignores any contact requesting access; or
  - is away from the property for an extended period e.g. hospital or prison.
- to ensure that any emergency access is carried out with minimum disruption, complying with relevant legislation and good practice.
- to ensure that any tenant(s) who do not allow access to a Council property are re-charged for any associated costs the Council incurs by having to gain entry.

3. The principles underpinning the Policy are:

- the Council has supporting procedures to ensure compliance. These will incorporate agreed good practice to ensure consistency.
- staff training will be provided to ensure that staff are equipped to carry out the roles expected of them.
- communication with tenants and service users will be in 'plain language'; and
- performance will be monitored to ensure the policy is being adhered to.

## 7 Reasons for access

1. The main reasons the Council would require access are listed as follows:

- **Compliance Checks / Servicing:** Any legally required safety checks or services to all heating system types, gas appliances, flues, chimneys, electrical systems, communal water systems, smoke alarms, carbon monoxide alarms, fire alarms, fire equipment, lifts or any other landlord duty covered by legislation. This would include any tenant installed systems the Council has taken over responsibility for.
- **Health and Safety:** Any work required to mitigate health and safety issues identified as category 1 or category 2 under the Housing Health and Safety Rating System (HHSRS), including damp and mould issues, or where there is an immediate risk to the tenant/property, neighbouring tenant/property, or the public.
- **Improvement Work:** Any improvement work or upgrade needed to meet safety or energy efficiency legislation, regulations or standards. The Council must fulfil its duties as a landlord in terms of safety of tenants, neighbours and communities. This may include electrical re-wiring, upgrades to smoke alarms and carbon monoxide alarms, energy efficiency measures such as insulation, heating system upgrades, carrying out asbestos surveys etc.
- **New Build Council Housing:** Each new Council house has a one-year defects period to identify and/or address any issues with the property. The terms of construction contracts require each contractor to fulfil their obligations in terms of addressing any defects within a set timescale. These include value for money and a set specification for standards.
- **Property Inspections & Surveys:** The Council has the right to access any of its properties to view the condition of the property, including to assess health and safety issues so long as they have given the tenant 24 hours' notice in writing.



2. This list is not exhaustive and will apply to any situation where the Council needs access to a property to inspect or carry out work required to meet any legal and regulatory standard or contractual obligation.
3. Each scenario will be assessed in accordance with the relevant legislation in relation to it at the time.

## **8 Notice**

1. The Council will always attempt to contact the tenant(s) to give prior warning of any work/inspection required, giving as much notice as possible to arrange a mutually convenient time for the work/inspection to be carried out.
2. Contact will be made using the resident's preferred method where this information is available.
3. Contact will be made through an advocate or carer where this information and consent has been provided.
4. Following any initial, unsuccessful attempts to make contact, the Council will send an appointment letter to the tenant. If the tenant does not provide access to the property, the Council will leave a No Access Letter explaining the need for access and giving the tenant 5 working days to respond to make an alternative appointment.
5. Where the tenant does not respond to the No Access Letter a second appointment letter will be sent out. If the tenant does not provide access for a second time, the Council will leave a No Access Letter 2, again explaining the need for access and giving the tenant five working days to respond to make a suitable appointment.
6. Where the tenant does not respond to any contact or fails to give access to the property, a third warning letter will be hand delivered to the tenant giving a final opportunity to make contact and arrange an appointment that suits them and we will reiterate the support that can be offered, or the Council will follow legal proceeding or where Section 9 applies, force entry to their home to carry out the necessary work/inspection.

## **9 Emergency Access**

1. In extreme conditions, the Council may require access without giving notice to the tenant, this will only apply where it is deemed there is a risk to life or severe damage to the property, such as:
  - A fire in the property
  - A strong smell of gas or other concerning smell
  - Structural damage that requires urgent attention
  - Water flowing from the building.
  - Any issue identified that could cause significant harm.
  - Concerns for the wellbeing of the tenant or other occupant
  - Concerns for damage affecting another property.
2. For clarity, where the property is part of a sheltered scheme, the Older Persons Service team will gain access with the master key.

## **10 Special Circumstances**

1. The Council will always take into account any known special circumstances that tenants may have which may affect access to carry out any work. Where it is identified that the tenant has any physical or mental impairment, medical issues, disabilities and/or vulnerabilities that will prevent the work or inspection from going ahead, the Council will work with the tenant and/or any support networks to try and find a mutually convenient solution to allow the work to be carried out with minimal disruption or where possible delay the work to a more convenient time.

2. The Council will provide assistance to the tenant where required and possible. The level of assistance provided will depend on whether the tenant has household and/or family members who could be reasonably expected to support and assist them. The Council will use its discretion to establish the level of assistance that will need to be provided in line with the circumstances of each case.

## **11 Escalation & Forced Entry**

1. Where the tenant has failed to engage or give access, the Council or ALMO will follow their access procedures. Each case will be individually assessed with a final outcome being enforcement action, legal proceedings including serving a notice seeking possession or forced entry where the issue falls under Section 9 of this policy. Forced entry will be authorised by a Head of Service or Director of the ALMO or a Client representative of the Council.
2. Where forced entry is deemed necessary, a Notice of Intention to enter the property will be hand delivered to the property giving a minimum of 24 hours' notice from the date and time of the appointment specified in the notice. Support will also be offered.
3. As a minimum, the instructing Manager and any relevant tradesperson will be present at each forced entry. Other relevant staff or representatives from relevant partner organisations, such as the Police may also be in attendance.
4. The Council will ensure the property is secure following a forced entry and will change locks where necessary. The Council will leave information on the front door of the property advising the tenant where they can collect new keys and information of the recharges they will incur for not allowing access to the property will be left inside. The Council will request the tenant shows suitable identification before allowing the new keys to be collected.

## **12 Re-chargeable Costs**

1. The Council will re-charge the tenant(s) for any costs associated with the enforcement of forced entry with the exception of emergency situations. The re-charges will be based on the Schedule of Rates held by the council for the relevant financial year. This will include the costs of the tradesman's time and any materials required to repair the damage caused by forcing entry such as locks.
2. In cases where the tenant initially agrees to give access for the work but then refuses at a later stage, the Council will also seek to recover any abortive costs that have been incurred at the date of the subsequent refusal. This may include design costs, materials, etc.
3. Where re-charges cause financial pressure, affordable repayment agreements will be offered to the tenant. Any re-charges not paid will be escalated to the Council's debt recovery process which can lead to any future offers of housing being suspended.

## **13 Resident Responsibilities**

1. Residents should provide contact details and keep these up to date.
2. Residents should provide emergency contact details and keep these up to date.
3. Residents should provide information of any special needs or disability to allow us to adapt the service as required.
4. Residents should maintain their home to a safe standard and not compromise any utilities or services to the dwelling.
5. Residents must adhere to the terms and conditions of the Tenancy Agreement
6. Leaseholders must adhere to the terms and conditions of their lease.

## **14 Monitoring and Review**

1. We will monitor that the Service Standards set out in this Policy are met.

2. The policy will be reviewed every 3 years to make sure the policy continues to be efficient and effective, whilst ensuring it still meets current legislation and the Council's Constitution.

## **15 Communicating the Policy to Staff**

1. Managers and staff involved in the implementation of the Policy will receive a copy of the policy including:  
Housing Management, Asset Management, Building Safety Team, Adaptations, Customers Services, Members.
2. Colchester Borough Homes will provide sufficient training to enable staff to understand and comply with the Policy.
3. A copy of the Policy will be accessible from the Council's document management system and websites of Colchester City Council and Colchester Borough Homes.
4. Any amendments to the Policy will be communicated, in a timely manner, to managers and staff involved in implementing the policy.

## **16 Communicating the policy to customers**

1. The policy will be communicated to customers using the following methods:
  - Articles regularly in Housing News and Views
  - Sheltered Scheme newsletters.
  - Colchester City Council and Colchester Borough Homes websites
  - Social Media
  - Inclusion in the welcome pack