

Appendix 1

South Kesteven District Council “No Access” Procedure

1. PURPOSE

The purpose of this document is to provide guidance for Contractors and SKDC Housing employees to follow in relation to the **NO ACCESS** procedure when attempting to access a tenanted property to carry out work required as part of our asset management or for health & safety purposes. It is intended to clearly show the key stages within the procedure showing time scales and activities that must be completed.

2. SCOPE

This procedure is to be adopted by all SKDC Housing employees involved in the process of arranging works and managing tenancies. In particular, access to ensure works and services for the following areas of work which cover planned and compliance activity:

- Gas and Solid Fuel Servicing and safety checks
- Electrical Installation Condition Reports
- Water Hygiene safety checks
- Fire safety checks
- Radon gas safety checks and monitoring
- Surveys to carry out property condition reports
- Planned maintenance and upgrades

3. RESPONSIBILITIES

It shall be the responsibility of the Contract Manager to ensure that Contractors who are engaged on work where access is critical, are aware of the procedure and maintain the standards contained in it. Any variations to the procedures must be documented and signed off by one of the following:

- Health & Safety and Compliance Manager
- Head of Housing Technical Services

It is the responsibility of the Contractor to ensure that all subcontractors and employees are aware of the procedures.

4. GUIDANCE

The Council needs to show that actions and methods used to gain access are “Reasonable” .

The majority of the access appointments that we need to undertake our landlord obligations are not supported by statute. At this time only the requirements of the 1998 Gas Safety (Installation & use) Regulations place an absolute duty on Landlords to service and inspect gas installations on an annual basis. They allow for an “MOT” style service where the service can be completed up to two months before the due date. The certificate will still retain the original due date.

How far do I need to go if the Tenant prevents access for a gas safety check?

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A landlord has to show that they took all reasonable steps to comply with the law. The HSE recommends the following best practice in these circumstances and strongly advises that a record be kept of all correspondence with the Tenants:

- *leave the Tenant a notice stating that an attempt was made to complete the gas safety check and provide your contact details;*
- *write to the Tenant explaining that a safety check is a legal requirement and that it is for the Tenants own safety. Give the Tenant the opportunity to arrange their own appointment;*

*HSE inspectors will look for at least three attempts to complete the gas safety check, including the above suggestions; however the approach will need to be appropriate to each circumstance. **It would ultimately be for a court to decide if the action taken was reasonable depending upon the individual circumstances.** It is also considered a good idea to include arrangements for access in the tenancy agreement.* (Extract from HSE Website)

The Council will adopt the process as defined by the HSE as part of a three stage process attached as Appendix 1.

The access process and procedure has been designed around the provision of access for gas and will be applied to all aspects of access for other compliance and property related works.

The rationale for this approach is to ensue consistency with tenants and enable a robust approach to accessing property to carry out other compliance or essential surveys and works.

Procedure

The flow chart attached at appendix 1, details the process for access and the actions which can be taken at each stage and the responsibilities of each party in the process.

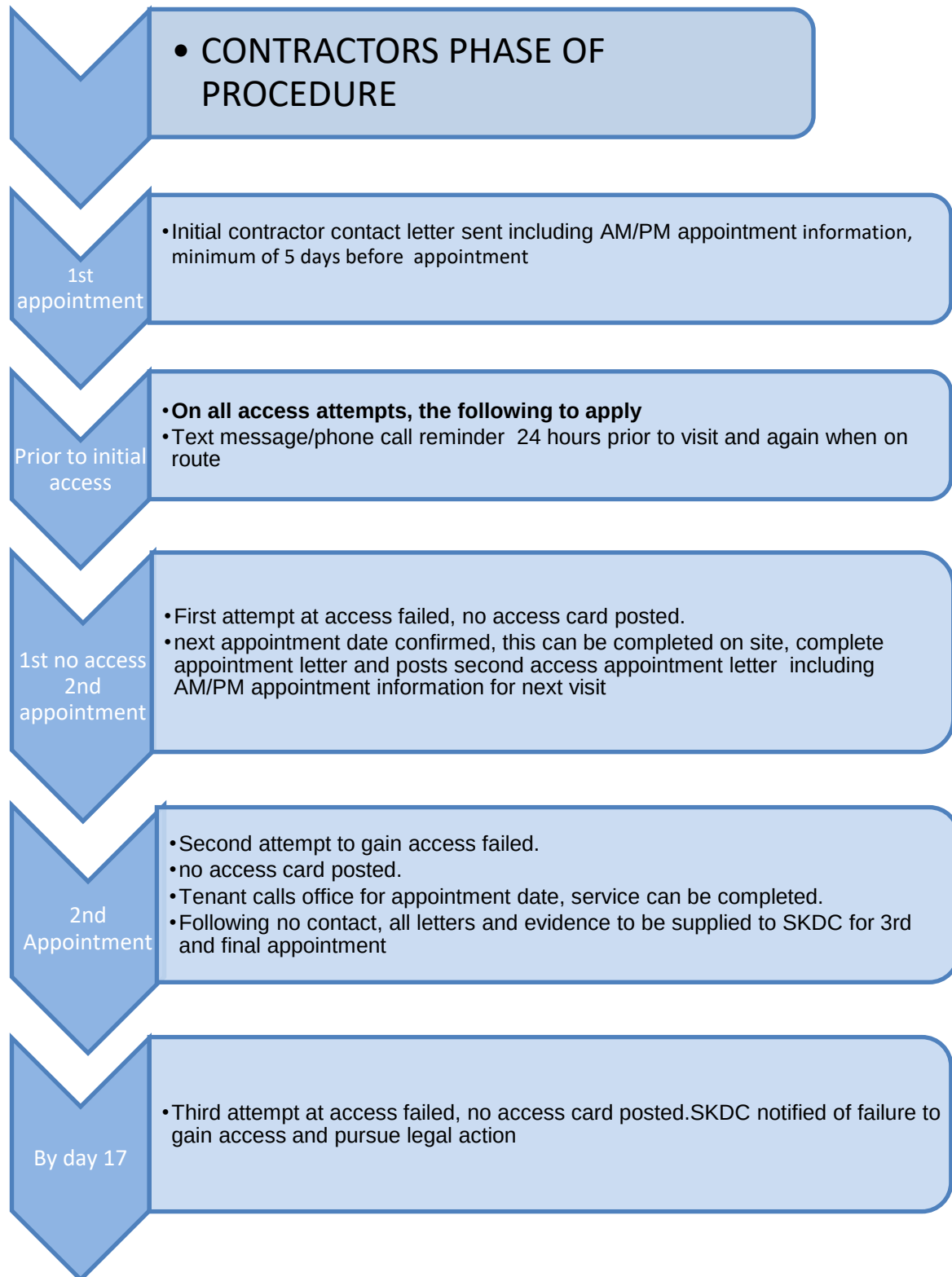
Dates of all failed access attempts and contact, will be recorded and documented and SKDC will pursue retrieval of costs for missed appointments and associated legal action.

During the process outlined below, should the Tenant contact and make an appointment with the contractor and subsequently keep that appointment, the process will stop at the point certification or confirmation is received from the Contractor.

Tenants are encouraged to rearrange appointments, rather than miss the appointment altogether and this presents a risk to the process that 1st access can move significantly further into the process and if sustained no access, or repeated rearranging of appointments occurs there is insufficient attempts and paperwork for court action. In these cases, staff and contractors need to ensure that unless there is a valid reason, e.g., holiday / contagious illness etc, that the rearranged appointment is within the 14-day appointment window for that stage. Where this is exceeded, a missed appointment may be recorded, and the property needs to be flagged and case managed.

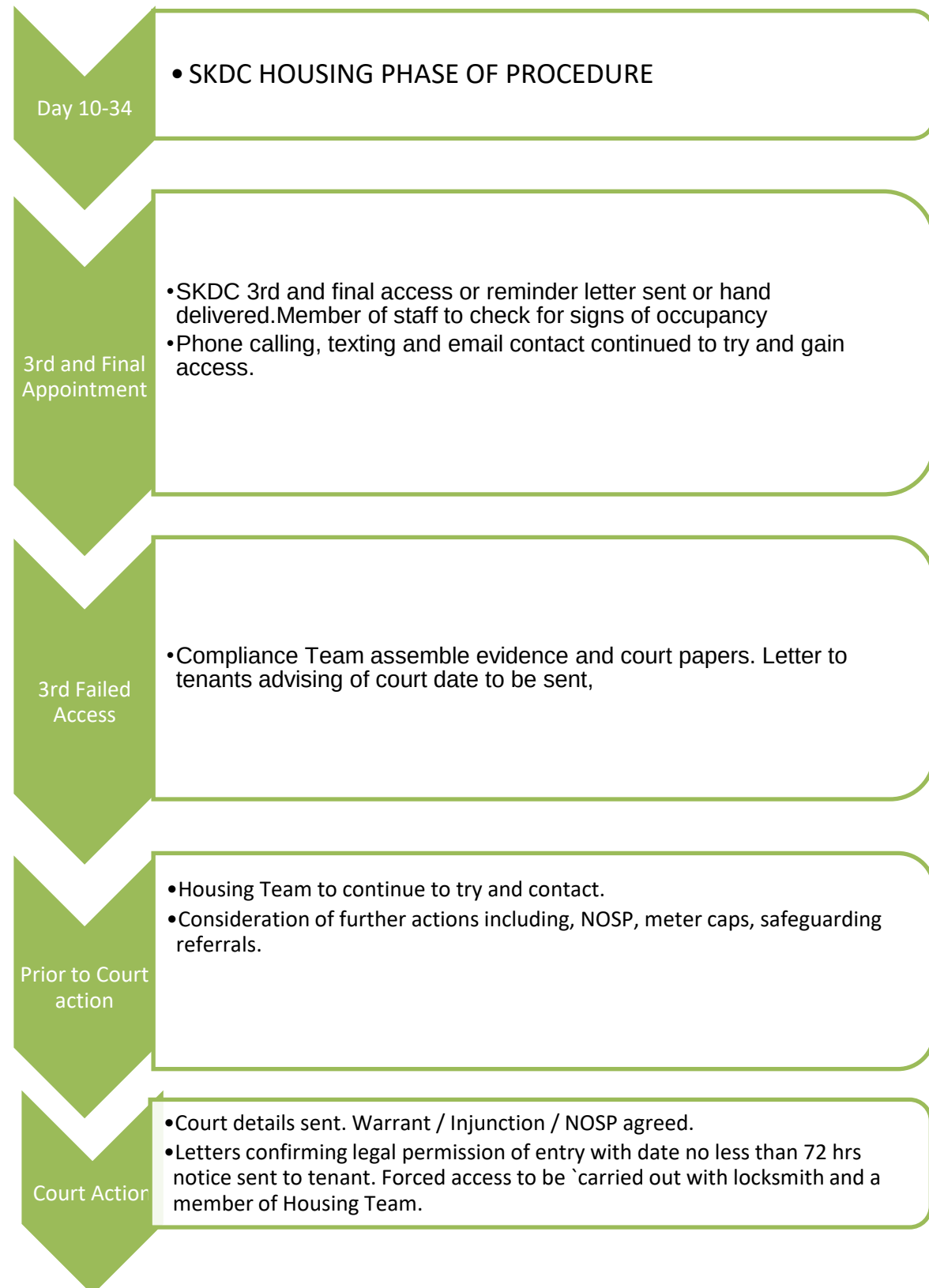
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Guidance for complex cases

Financial Hardship

Tenants need to be in credit on their gas and electric meters during compliance visits. The gas servicing and electrical test regimes can identify tenants in financial hardship.

Visits should be made by Tenancy Services to ensure that they are signposted to the correct services.

Meters are often capped at the request of tenants who are in hardship and capped meters will be checked annually to ensure that the caps remain in place.

SKDC will retain a register of capped meters and Tenancy Services will make contact with tenants to check that the tenant is not at risk and undertake a risk assessment where appropriate.

Hoarding

It is recognised that tenants who hoard are reluctant to allow access.

Tenancy Services will engage with the tenant to agree actions to allow clear access to areas of the property required. Safeguarding referrals will be made along with signposting to support services.

Illegal Activity

The compliance testing schedules, and property surveys can often identify illegal activity, cannabis grows, meter bypass etc. Once identified Tenancy Services will engage with partners to establish what action is required.

The contractor will notify the Statutory authority of any damage or illegal activity to gas or electric meters.

Vulnerability

Previous cases of no access have identified vulnerable tenants who have been hospitalised, or who feel unable allow access due to their health.

Where a property can be capped at the meter to safeguard the property during periods that the tenant may not be home, this should be recorded and explained to the tenant or their advocate.

Where a tenant is not allowing access due to their health, this needs to be case managed, with tenants signposted for support. Tenancy Services will lead this process, with close liaison with the Compliance Team to ensure that the property remains safe and compliant. All steps to engage the tenant need to be documented and recorded as they may form part of a legal process to gain access.

Where a tenant will not engage with us, we will need to refer this through for legal action.

Guidance for Meter Capping

Where the meter is accessible, capping can be considered in the following circumstances:

- Where the gas or electric meter is in debt.
- Where repeated access has not been provided and will proceed for legal action. A risk assessment will need to be completed for this action to be approved by the Tenancy Services Manager and Health & Safety and Compliance Manager.

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- Where an abandonment notice has been served or where a property is believed to have been abandoned. This is as a safety precaution in the event of theft of equipment, e.g., copper pipe, boiler, wiring.

Risk Assessment

Where it becomes necessary to undertake a risk assessment, this must consider the following impacts:

- Time of year and weather conditions
- Number and vulnerability of occupants
- Any known medical conditions

The risk assessment needs to be recorded and filed.

Where meters are capped, a card should be posted to advise the tenant that the meter has been capped, with contact details to arrange for the meter to be uncapped and any works carried out.

Legal Process

The Council is not allowed to access a property without permission from the Tenant. For legal and audit purposes this will need to be made in writing if a tenant is not present and even then this presents a risk to the Authority.

Any attempt to access a property by force or without the necessary permissions or legal authorisations is illegal and exposes the Council to legal challenge, financial penalty and reputational damage.

Once all attempt at contact and case management have failed, legal access will need to be pursued to gain access in accordance with the tenancy agreement.

There are a number of options for legal action:

Legal Process	Actions Required	Team Responsible
Notice Seeking Possession Served on the basis of breach of tenancy.	Tenancy Services to collate all documentation and issue.	Tenancy Services to submit applications to Court and manage Court attendance
Warrant of Entry Can only be used for specific purpose under the Environmental Protection Act 1990. Urgent access under Regulation 36(3)(a) of the Gas Safety (Installation and Use) Regulations 1998	Individual Warrant applications need to be filed with corroborating evidence	Compliance Team prepare and submit warrants. Court attendance to managed by Tenancy Services

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Abandonment Notice Where a property does not appear to be lived	Refer to the Abandonment Process	To be managed by Tenancy Services
Injunction Injunction request made to Court on the basis of no access for safety inspections	Compliance to collate all evidence for non access to include events of gas, electric, repairs and any other no access event. This should include historic information. Tenancy Services to prepare legal injunction paperwork.	Tenancy Services to manage Court process