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Fencing Policy

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| Owner: | Assistant Director Housing Management |
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# Approvals

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# Policy Principles

* 1. To set out clearly the obligations of both Melton Borough Council and its tenants and leaseholders in respect of fencing and boundaries at tenanted properties and communal areas.
	2. To provide a framework by which a consistent application of the council’s position on boundary responsibilities can be practiced by staff.
	3. To provide a means by which disputes can be resolved through the application of this policy.

# Summary

* 1. This policy applies to Melton Borough Council customers in rented stock. However, there may be occasions when the terms of a lease affect the policy in leasehold properties. This policy sets out our approach to customers who are both tenants and leaseholders.
	2. This policy also applies to staff involved in the management and maintenance of our homes. In particular, the Housing Services Team and Asset Management Team.

## Policy Details

**3.1 Definitions**

Throughout this document the term “boundary structure” is used to describe manmade and living structures that separate one property from another, including walls, timber fences, and hedges.

**3.2 Boundary responsibilities**

Generally, where the council determines it is responsible for demarking a boundary a 0.9m high chain-link fence with concrete posts will be installed. Where this is not appropriate, due to statutory reasons such as being adjacent to a highway, in a conservation area, an occupational therapist referral or as a result of a planning application decision, then an alternative type of fence that is suitable to the context will be installed. The council management team retains the exclusive right to determine the type of fence or nature of boundary structure installed.

Responsibility for maintaining and repairing boundary structures is defined in the tenancy agreement.

The installation and maintenance responsibilities of the council and its tenants are set out in the below table:

|  |  |  |
| --- | --- | --- |
| **Boundary location** | **Scenario** | **Ownership / maintenance liability** |
| Garden between two tenanted properties | No boundary structure present (at void or tenanted) | The council will mark the boundary using 0.9m high chain-link fencing with concrete posts. Thereafter the repair and maintenance will fall jointly to the tenants either side of the two properties’ dividing fence. |
|  | Original MBC provided fence (including post and wire/chain- link) /hedge/wall etc. and its maintenance. | The repair and maintenance will fall jointly to the tenants either side of the two properties’ dividing fence. |
|  | Tenant-erected boundary structure. | Repair and maintenance will fall to the tenant who has erected the boundary structure until there is a change in tenancy.At change in tenancy the Council will review the condition of the fence. If it is in good condition it will be left in place. Thereafter the maintenance will fall jointly to the tenants either side of the two properties’ dividing fence.If it is in poor condition the council will remove the boundary structure and replace with 0.9m high chain-link fencing with concrete posts. Thereafter the repair and maintenance will fall jointly to the tenants either side of the two properties’ dividing fence |
| Between tenant property and public highway / footpath / garage site / public land | No boundary structure present (at void or tenanted) | The council will mark the boundary using 0.9m high (1.0m when adjacent a highway) chain-link fencing with concrete posts (unless restrictions apply)The Council will continue to maintain this fence, repair and replacement will be on a like for like basis. |
|  | Original MBC provided fence (including post and wire/chain- link) /hedge/wall etc. and its maintenance. | The Council will continue to maintain this fence, repair. If the fence requires replacing, this will be 0.9m high (1.0m when adjacent a highway) chain-link fencing with concrete posts. |
|  | Tenant erected boundary structure | Repair and maintenance will fall to the tenant who has erected the boundary structure until there is a change in tenancy.At change in tenancy the Council will review the condition of the fence. If it is in good condition it will be left in place. Thereafter the repair and maintenance will fall to the CouncilIf it is in poor condition the Council will remove the boundary structure and replace with 0.9m high (1.0m when adjacent a highway) chain-link fencing with concrete posts (unless restrictions apply). The Council will continue to maintain this fence. |
| Between tenanted property and a privately owned property – deeds indicate MBC has boundary ownership and maintenance responsibilities  | No boundary structure present at void | The Council will liaise with the private owner to notify them of the intention to install a fence.The Council will mark the boundary using 0.9m high chain-link fencing with concrete postsRepair and maintenance will fall to the Tenant as defined in the tenancy agreement. |
|  | Original MBC provided fence (including post and wire/chain- link) /hedge/wall etc. and its maintenance. | The repair and maintenance will fall to the tenant |
|  | Tenant erected boundary structure | Maintenance will fall to the tenant who has erected the boundary structure until there is a change in tenancy.At change in tenancy the Council will review the condition of the fence. If it is in good condition it will be left in place. Thereafter the repair and maintenance will fall to the tenantIf it is in poor condition the Council will remove the boundary structure and replace with 0.9m high chain-link fencing with concrete posts (unless restrictions apply). The tenant will then be responsible for the repair and maintenance of this fence. |
| Between tenanted property and a privately owned property – deeds indicate boundary liability is private owner |  | In all circumstances, responsibility for fencing will be with the private owner. |
| Between tenanted property and a privately owned property – deeds unclear on boundary liability |  | In all circumstances, negotiation will take place between the tenant and the private owner with the aim of them jointly funding repair and replacement.  |
| Communal areas |  | The Council will maintain all fences in communal areas unless the neighbouring property is a tenanted property, in which case the scenarios above will apply.An assessment of the type of fencing when replacement is required will be made by the Council. |
| Gates |  | The Council will provide and maintain gates between the public highway and the property if a fence exists.Hand gates will be 0.9m high timber palisade gates. Driveway gates will be 0.9m high timber palisade gates on timber posts.  |

The following considerations will be taken into account in the context of the table above:

* The council will consider each case involving a boundary on its merits
* There may be instances where the council will consider installing a fence / gate outside the parameters set out in the above table, including where:
* a recommendation has been received from an occupational therapist;
* recommended by the council’s anti-social behaviour team to improve security where there is a risk of serious anti-social behaviour or harm (such as domestic abuse);
* it is contractually bound to do so.
* Tenants are responsible for the safe enclosure of any pets to prevent escape onto neighbouring properties.
* Tenants are responsible for Complying with all requirements under the Tenancy Agreement which extends to the behaviour of visitors, pets and children.
* Where fencing works on communal areas will cost more than £250 per leasehold flat, MBC will consult leaseholders in line with its with its statutory obligations under section 20 of the Landlord and Tenant Act 1985 (as amended by the Commonhold and Leasehold Reform Act 2002).
* In respect of boundary structure alterations:
* The Tenant must write to the Council to ask permission before making any alterations to the boundary structure. This includes the taking down, alteration of, and installation of fences, hedges, and walls, etc. The Council will provide a response to any request for permission to alter a boundary structure in writing.
* It is the tenant’s responsibility to ensure all other necessary approvals, for example, planning permission and/or Building Regulations are in place. The specification and standard for the works must be agreed with MBC prior to the work starting.
* The council reserves the right to remove any boundary structure and recharge works to the tenant where the fencing or boundary is not deemed acceptable or is unsafe or where deliberate damage of the structure has taken place.
* Any new boundary structure to be erected must give due consideration to the setting, appearance and style of the surrounding environment. If any boundary or fencing that does not fit its surrounding MBC reserves the right to remove it and recharge the tenant for the costs of this work.
* Boundary structures installed by the tenant will be maintained by the tenant with no obligation to the council to maintain, repair or replace.
* At the end of a tenancy:
* The council will be obliged to remove any boundary structure that is found to be in a damaged, unsatisfactory, or unsafe condition. These works will be recharged to the former tenant(s) in line with MBC’s recharge policy. A member of the repairs & maintenance team will discuss this with the tenant during the pre-void inspection visit.

- Any natural boundary hedging exceeding 1.0m at the front of the property and/or 2m at the rear of the property and /or dividing boundaries at the end of a tenancy will be cut by MBC and the cost of this work will be recharged to outgoing tenant(s). A member of the repairs & maintenance team will inform the tenant(s) of the recharge at the pre-void inspection visit. This applies to a tenanted property and not a void property.

**3.7 Responsibility and Decision Making**

The table below illustrates the structure for responsibility and decision making in relation to this policy

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| --- | --- |
| **Person Responsible** | **Scope** |
| Assistant Director of Housing  | * Overall responsibility for ensuring that all activities are undertaken, and all performance measurements are met
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| Tenancy Services Manager / Senior Housing Officer / Housing Officer | * Responsible for ensuring that tenant improvements are carried out in accordance with this policy
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| Housing Asset Manager / Repairs Team / Planned Maintenance Team | * Responsible for ensuring that all repairs and replacement of fencing is carried out in accordance with this policy
* Responsible for administering the tenant improvement scheme and ensuring that tenants are aware of the requirements of this policy.
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## Associated Legislation, National Standards and Regulation

* 1. Town and Country Planning Act 1990
	2. Planning (Listed Building and Conservation Areas) Act 1990

## Monitoring, Evaluation and Review

* 1. The Assistant Director of Housing Management is responsible for monitoring the implementation of this policy.
	2. This policy will be reviewed every three years. In addition, it will be reviewed:
* Following information/ suggestions that the policy is not effective.
* To reflect any service enhancements; and/ or,
* Following the introduction of any relevant new legislation, regulations or guidelines.