

Comhairle Chontae na hIarmhí ***Westmeath County Council***



Anti-Social Behaviour Strategy ***Pursuant to Section 35 of the Housing (Miscellaneous Provisions) Act 2009.***

DRAFT Agreed by SPC 13/3/2017

Introduction

Westmeath County Council recognises that anti-social behaviour can have an adverse effect on the quality of life of our tenants and can threaten the sustainability of communities which can often lead to further disadvantages for vulnerable households. In addition anti-social behaviour can generate significant costs for the Local Authority as a result of vandalism to property and create difficulties in letting accommodation.

The vast majority of tenants are law-abiding, and it is only a small number of tenants who are involved in this type of behaviour. A multi-agency approach is required in order to deal effectively and efficiently with anti-social behaviour.

It is the policy of Westmeath County Council that anti-social behaviour will be tackled and not tolerated, and the Housing Section undertakes to pursue proactive measures to prevent such behaviour. Westmeath County Council will investigate and endeavour to resolve all complaints of anti-social behaviour made, using all means within its powers in an effective and expeditious manner and to keep the complainant informed at all stages of the investigation.

This strategy will apply in the Councils administrative area where the Authority has:

- Dwellings let under the Housing Acts 1966 to 2014.
- Dwellings that are subject to Chapter 4¹ tenancy agreements.
- Dwellings in which relevant purchasers live², and
- Sites for travellers (site in this context is defined in the Housing (Miscellaneous Provisions) Act 1997, as amended).

¹ Chapter 4 Tenancies (Chapter 4 of the Housing (Misc Prov) Act 2009) relate to dwellings made available to the Council under a Rent Availability Agreement -Rental Accommodation Scheme (RAS) and Leasing Scheme.

² A relevant purchaser is defined in the 1997 Act (as amended) as a person to whom a Housing Authority has sold a house under the Housing Acts 1966 to 2014 and/or his successor in title, whether by sale or other means.

1.0 Anti Social Behaviour (ASB).

1.1 Legislative Framework – National Context

Section 35 of the Housing (Miscellaneous Provisions) Act 2009 provides the legislative framework and guidelines for all Housing authorities to adopt a strategy for the prevention and reduction of anti-social behaviour involving its tenants.

The legislative framework for the operation of this anti-social behaviour strategy is:

- The Housing Act 1966 to 2014 and The Housing Miscellaneous Provisions Act 2014.

1.2 Definition

Anti social behaviour includes but is not exclusive to the following:

- Involvement in the manufacture, production, preparation, importation, exportation, sale, supply, possession for the purposes of sale or supply, or distribution of a controlled drug substance (within the meaning of the Misuse of Drugs Act 1977 and 1984)
- Any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, alarm, loss or fear to any person living, working or otherwise lawfully in or in the vicinity of a house provided by the Housing Authority under the Housing Acts 1966 to 2014 or Part V of the Planning and Development Act 2000, or in a housing estate in which a house is situate, or on a site, and without prejudice to the foregoing, includes:
 - Violence, threat, intimidation, coercion, harassment, or serious obstruction of any person.
 - Behaviour which causes any significant or persistent impairment of any person's use or enjoyment of a person's use or enjoyment of his or her home.
 - Damage to or defacement by writing or other marks on any property, including a person's home.

1.3 Multi Agency Approach

Perception of anti-social behaviour can vary as normal standards for one household or individual may be unacceptable to another. Furthermore anti-social behaviour is often symptomatic of social problems such as drug or alcohol abuse or family breakdown, which a Local Authority cannot address on its own. In this regard successful resolution of anti-social behaviour can only be achieved based on a multi-agency partnership approach.

Anti social behaviour must, for the purposes of the Act, involve significant or persistent danger, injury or damage to persons, property etc. The definition does not include noise and nuisance or other activities, which would not normally be associated with the serious problems towards which the Act is targeted.

Westmeath County Council will continue to work closely with An Garda Síochána and other agencies and to share information to deal with anti-social behaviour.

The Local Authority has extensive expertise in relation to all areas of housing provision and management. Multi- agency panels have been created linking the Council with both statutory and non-statutory organisations. For the purpose of the anti-social behaviour strategy, the main statutory agencies are:

- An Garda Síochána;
- Health Service Executive;
- Probation Services;
- Department of Education and Skills;
- Department of Social Protection;
- TUSLA; and,
- Approved Housing Bodies.

The effect of this close co-operation will ensure a co-ordinated approach between the agencies in particular cases and, will continue to contribute to the successful resolution of anti-social problems in areas that have experienced relatively high levels of such behaviour.

2.0 Objectives of strategy.

The primary objectives of the strategy are:

- To prevent and reduce anti-social behaviour on an annual basis;
- To investigate all complaints of anti-social behaviour fairly, objectively and impartially;
- To pursue legal remedies, where necessary;
- To adopt a multi-agency approach in dealing with anti-social behaviour;
- To work with voluntary and community groups to prevent and reduce anti-social behaviour;
- To co-ordinate services within the Council in dealing with anti-social behaviour;
- To promote the principles of good estate management on our estates and within the communities in which they are located;
- To establish Management Information Systems which will assist in identifying trends in anti-social behaviour by carrying out regular analysis of reported incidents;
- Reduce the number of vacant Local Authority houses; and,
- To work closely with the Joint Policing Committee.

2.1 Achieving these objectives

These objectives will be achieved by a multi pronged solution involving:

- Good design of social housing;
- Allocation of tenancies;
- Pre tenancy training;
- Staff training;
- Good estate management;
- Establishing Resident Associations; and,
- Proper maintenance of properties.

2.1.1 Design of Housing Schemes

The Local Authority will continue to ensure that the planning for, and the design of all new council housing estates maximises the potential for passive surveillance and minimises the opportunity for anti-social behaviour. The same principles will also apply when designing remedial works and/or regeneration works on older schemes.

2.1.2 Allocation of tenancies

Section 15 of the Housing (Miscellaneous Provisions) Act 1997 allows Local Authorities to obtain information from other agencies regarding applicants who may have a history of anti-social behaviour. Westmeath County Council will use this legislation to carry out checks on all social housing applicants and will continue to develop strict protocols to protect the information. These checks will be carried out in advance of any allocation of a tenancy.

2.1.3 Pre-tenancy training

Westmeath County Council will organise pre-tenancy training for all prospective tenants and it is obligatory for all potential tenants to attend these courses. The courses will explain the services the Council provides to its tenants, the tenancy agreement and the consequences of breaching the terms of the agreement.

2.1.4 Staff Training

The Housing Authority will provide appropriate training for relevant staff. This training will include all aspects of the Council's strategy on preventing and combating anti-social behaviour and customer care.

2.1.5 Promotion of good estate management

Westmeath County Council recognises the valuable input of local communities and the importance of empowering them to play a positive and proactive role in their area. The Housing Liaison Officer of Westmeath County Council will work with resident associations and communities to develop a sense of ownership within their estates.

The Housing Section will work closely with the Municipal Districts to ensure all local authority housing estates are maintained to a high standard.

2.1.6 Establishment of Residents Associations

Westmeath County Council actively encourages the establishment of Residents Associations in all new housing estates. It will assist residents in existing estates to form Residents Associations where they do not exist, and will further support such associations as appropriate. Westmeath County Council will endeavour to attend meetings where operationally possible. The Council will provide financial support to residents associations through the annual Cathaoirleach awards.

2.1.7 Upkeep of property

The responsibility of the tenant and the Council in relation to the upkeep of the tenant's home and the estate are clearly set out in the Tenant Handbook and the Tenancy Agreement. If breaches of the tenancy agreement in relation to non-upkeep of property come to the attention of the Council, formal 'breach of tenancy' letters may be issued, in the first instance. This has a positive effect on the community and encourages Council tenants to maintain their home to an acceptable standard. If there is no action by the tenant, then legal action may ensue.

In turn the Housing Authority will develop a planned maintenance programme for all local authority homes to ensure all items which are its responsibility are maintained to a high standard and in a timely fashion.

3.0 Threats/Intimidation of Council Employees

Westmeath County Council will not tolerate any assaults, threats, intimidation, obstruction, harassment or interference with its employees who are involved in the implementation of this strategy in accordance with the provisions of the Housing Acts 1966 to 2014, and may issue legal proceedings against any person engaged in such activity.

All incidents will be reported to the Gardai as per the Council's policy on mandatory reporting of such incidents.

4.0 Complaints.

All valid complaints will be investigated in a constructive, fair and impartial manner and in accordance with the Council's Customer Service Action Plan.

The person making the complaint will be known as the Complainant

The person being complained about will be known as the Respondent.

Westmeath County Council has a process to deal with complaints involving anti-social behaviour as defined by the Housing (Miscellaneous Provisions) Acts 1997-2014. The Housing Liaison Officer deals with such complaints where it involves tenants of Westmeath County Council.

Complaints that do not fall within the definition of the Housing Acts 1966 to 2014, as amended, may constitute breaches of the Tenancy Agreement and may be dealt with as such.

4.1 Making a Complaint

Any person who is a victim of ASB arising from or involving the actions of a Tenant of Westmeath County Council should contact the Housing Section.

- Phone calls, emails and letters will be accepted. Persons reporting ASB will be requested to complete and sign a complaint form.
- Persons making a complaint will be interviewed by the Council's Housing Liaison Officer (HLO) either by phone or by arranged interview, in their home or in the Council offices.
- All complaints received are recorded electronically and assigned an unique reference number.

- All complaints will be held confidentially and will not be divulged to any other person, unless by order of a court or other legal entity.
- If the complaint itself could identify the Complainant, the Complainant is notified of this risk and asked if they want an investigation to proceed.
- Anonymous complaints are treated with caution and generally do not warrant investigation. However, the Council reserves the right to investigate any such complaint or series of complaints if it is reasonable to assume there is substance to the nature of the issue being reported.
- Complaints may not be accepted from third parties, but they will be advised to ask the alleged victim to make direct contact.
- Procedures are in place to identify and deal appropriately with malicious complaints should they occur.

4.2 Investigating the Complaint

Westmeath County Council will carry out such inquiries as it deems necessary to establish whether there is reasonable basis for believing that the Respondent is engaged in ASB.

The HLO may contact the Gardaí, HSE, Dept. of Social Protection, TUSLA, Approved Housing Bodies, other local authorities, witnesses, local resident's groups/tenants and residents groups to seek information. The HLO may invite the Respondent to attend an interview to discuss the alleged offence.

If the Respondent fails to attend an appointment with the HLO a second appointment letter will issue. This letter will outline the consequences for non-attendance at this second appointment or failure to contact the HLO. The Council shall deem the Respondent to be unco-operative and the Council can draw such an inference. Any person who refuses to attend for interview or fails to respond to an investigation may have a complaint upheld against them.

Complaints will be categorised and prioritised in terms of their seriousness. The Council will seek to prioritise allegations involving serious ASB activity and threats/violence. Any allegation involving drug related activity will also be afforded the highest priority by the Council and referred directly to the Gardai.

Tenants will also be advised to make a complaint to the Gardai.

4.2.1 Categories of complaint

All complaints received will be categorised in terms of their seriousness and their potential impact on other citizens:

- **Category A: Serious Incidents** - These include:
 - The manufacture, production, preparation, importation, exportation, sale, supply, possession for the purpose of sale or supply, or distribution of a controlled drug within the meaning of the Misuse of Drugs Acts, 1977-2007).
 - Any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, loss or fear to any person living, working or otherwise lawfully in or in the vicinity of a house provided by a housing authority under the Housing Acts 1966-2014, or a housing estate in which the house is situate and without prejudice to the foregoing includes violence, threats, intimidation, coercion, harassment or serious obstruction of any person. For example: Non drug related criminal activity, violence/harassment / intimidation / racism / vandalism / public order offences / squatters / illegal occupiers.
- **Category B: Specific Incidents** – these include:
 - Activities prohibited under the Tenants Handbook and/ or the Tenancy Agreement that do not fall within Category “A” above. Examples may include noise / disturbance, pet / animal nuisance, physical condition of property, littering or dumping and graffiti,
 - Some complaints in Category B may not in fact constitute “anti-social behaviour” under the definition but the behaviour complained of may nonetheless constitute a breach of the tenancy agreement by the respondent and in those cases the Council may take action against the respondent.
 - Complaints regarding littering and illegal dumping of waste will be jointly investigated by the Environment and Housing Sections of the Council.

4.2.2 Referral to other Agencies.

Some cases may involve families with complex welfare needs, mental health issues, addiction problems or domestic violence, with clear need for support and assistance. These cases may be referred to other state agencies such as HSE/TUSLA for appropriate help and advice.

Some complaints are so serious the complainant is immediately referred to An Garda Síochána and the HSE/ TUSLA. This usually involves complaints involving child protection issues. Westmeath County Council will implement its child protection policy when child welfare/protection issues come to the attention of its staff.

4.2.3 Noise (other than animals)

Where a complainant believes that there is unreasonable noise coming from a dwelling and if a resolution cannot be agreed between the parties involved then a Complainant can make an application to the District Court for a Noise Abatement Order in accordance with Section 108 of the Environment Protection Act 1992. If the noise is significant and persistent and affects more than one neighbour, it will be viewed as a breach of the tenancy agreement and the Housing Liaison Officer will investigate the matter.

4.2.4 Noise and Control of Dogs & other Pets

Excessive noise, such as dog barking, that causes a nuisance is an offence by the owner of the pet. When a dog owner has not made adequate attempts to control the dog the Complainant may make a complaint to the District Court under Section 25 of the Control of Dogs Act 1986. Before the complaint is made he shall serve notice in the prescribed form on the owner of the dog. The complainant should also contact the Housing Liaison Officer who may be able to deal with the issue as a breach of the tenancy agreement.

4.2.5 Trivial complaints

- **No Further Action**

If the HLO has reasonable grounds for believing that the complaint is unfounded or malicious then no further action will be taken against the respondent. The HLO may forward information to An Gardaí in the case of unfounded or malicious complaints.

- **Advice to both parties**

Usually given where both parties are in the wrong and the complaint is of a trivial nature. Also used if complaints involve very young children under the age of criminal responsibility and it is more appropriate to offer advice and referral to other appropriate agencies.

4.2.6 Mediation

The HLO may use the facilities of professional mediation services when appropriate.

5.0 Tenancy Warning Letter

The Tenancy Warning Letter is part of the process set out in the Housing (Misc. Provisions) Act 2104 for responding to and dealing with Anti - Social Behaviour.

The Tenants Warning Letter shall:

- Set out the issue or behaviour of concern
- Inform the Respondent/tenant what improvements are necessary
- Set out the timeframe required
- Inform the Respondent/tenant that a failure to comply with the Warning Letter will lead to legal proceedings for possession of the house.
- Also advise the Respondent/tenant that they may appeal the Tenants Warning letter.

6.0 Legal Proceedings

If the Council consider that the unacceptable behaviour continues, the Council **WILL** proceed to make a determination if legal proceeding are necessary. These include:

- An application to the District Court in accordance with the Housing (Misc. Provisions) Act 2014 for possession of the house.
- An application to the District Court under Housing (Miscellaneous Provisions) 1997 for an excluding order against one or more members of the respondents/tenants household.

7.0 Other actions

The Council may also determine to take the following actions if it believes a person is / was involved in ASB:

- Refuse to sell a Council house to a tenant under a Tenant Purchase or Incremental Purchase Scheme.
- Refuse or defer an application for a transfer on the grounds of good estate management.
- Apply to the District Court for an Excluding Order against any member of a household who is engaging in anti-social behaviour. The order may exclude that person from a specific house or from an entire estate and it may forbid intimidation or other interference with a tenant or anyone else.
- Request that The Department of Social Protection refuse or withdraw Rent supplement for a private rented dwelling where the person in question was evicted, excluded or removed from local authority housing on the grounds of anti-social behaviour.

8.0 Conclusion

Dealing with anti-social behaviour is complex and can be difficult. It requires the combined efforts of Westmeath County Council, the Gardaí, Health Service Executive, other state agencies and residents in Local Authority Estates.

The strategy together with the legislation provides the Council with the authority to enable it to deal effectively with anti-social behaviour in its estates and dwellings.

In order that the strategy is successful it needs the co-operation of all stakeholders.

Westmeath County Councils aim is to prevent anti-social behaviour happening and when it does occur, to take appropriate action it deems necessary to prevent it re-occurring.

