



KILDARE COUNTY COUNCIL
Comhairle Chondae Chill Dara

ANTI SOCIAL BEHAVIOUR STRATEGY

**Anti Social Behaviour Strategy as provided in Section 35
of the Housing (Miscellaneous Provisions) Act 2009**

**Adopted by Kildare County Council on
27 February 2017**

TABLE OF CONTENTS

• Introduction	3
• Mission Statement	3
• New Legislation	3
• Anti-Social Behaviour	4
• Domestic Violence	4
• Estate Management	5
• Legislative Framework	5
• Excluding Order	6
• Policy in Implementing the Legislation/Prevention and Reduction ..	7
• Allocation Management	8
• Action on Incidents of Anti-Social Behaviour	9
• Policy of sharing information with outside agencies.....	9
• Complaints Procedures	10
• Procedure for Termination of Tenancies.....	12
• Procedure Relating to Eviction.....	13
• Transfer on Grounds of Good Estate Management.....	13
• Confidentiality	13
• Research, Publicity and Consultation	14
• Effects of Anti-Social Behaviour	14
• Consultation	14
• Conclusion	14
• Appendix 1	15
• Appendix 2	17

Introduction

Kildare County Council recognises that managing Local Authority housing stock has become more challenging over recent years from a range of perspectives, in particular problems arising from anti-social behaviour.

The Housing (Miscellaneous Provisions) Act 1997 includes a number of provisions relating to anti-social behaviour in local authority rented dwellings and estates and the Housing (Traveller Accommodation) Act 1998 applies these provisions to halting sites provided by local authorities. This is further expanded by Section 35 (Miscellaneous Provisions) Act 2009 as set out below.

Kildare County Council will, where possible, prevent the occurrence of anti-social behaviour by encouraging tenant participation in our estates and fostering the development of balanced communities.

Mission Statement

To provide a strategy that is dedicated to eliminating anti-social behaviour and adopts a proactive approach in the development of our communities.

The Strategy will apply to the following category of houses in accordance with Section 35 (Miscellaneous Provisions Act 2009):

- (a) Dwellings let by the Local Authority to Tenants under the Housing Acts 1966 – 2014.
- (b) Dwellings which are the subject of Chapter 4 Tenancy Agreements (Rental Accommodation Scheme).
- (c) Sites provided for traveller accommodation.
- (d) Dwellings in which relevant purchasers reside within the meaning of Section 1 of the Housing (Miscellaneous Provisions) Act 1997 as amended by Housing (Miscellaneous Provisions) Act 2014.

New Legislation

The Local Authority undertakes to adopt and implement any new legislation or initiatives which may be introduced by the State on combating anti-social behaviour and undertakes to review its policy and procedures as required.

* The adoption of, and amendment of an anti-social behaviour strategy shall not confer any right in law, which a person would not otherwise have, to require a housing authority to exercise any power under the 1997 Act, the 2009 Act or the 2014 Act or to seek damages for a housing authority's failure to exercise any such power.

Anti Social Behaviour

Anti Social Behaviour is considered to be present when a person's or a family's behaviour adversely affects the quality of life of those living in the locality of the disturbances up to and including the quality of life of the overall neighbourhood.

Anti Social Behaviour is defined in the Housing (Miscellaneous Provisions) Act 2009 as amended by section 19 of the Housing (Miscellaneous Provisions) Act 2014:

- a) "The manufacture, production, preparation, importation, exportation, sale, supply, possession for the purposes of sale or supply, or distribution of a controlled drug (within the meaning of the Misuse of Drugs Acts, 1977 to 2007).
- b) 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 a housing authority under the Housing Acts 1966 to 2014 or Part V of the Planning and Development Act 2000, or a housing estate in which the house is situate and, without prejudice to the fore going includes:
 - (i) violence, threats, intimidation, coercion, harassment or serious obstruction of any person,
 - (ii) behaviour which causes any significant or persistent impairment of a person's use or enjoyment of his or her home, or
 - (iii) damage to or defacement by writing or other marks of any property, including a person's home".

Possession of illegal drugs solely for personal use does not come within this definition, nor does vandalism or damage to property unless the damage is serious or used to intimidate or threaten. 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. However these lesser activities could represent breaches of the Tenancy Agreement and tenants are warned in accordance with this strategy.

Domestic violence

Cases of domestic violence do not come within the scope of this Act. The Domestic Violence Act 2001 is the appropriate legislation for such cases.

Estate Management

Estate Management is defined in Section 1 of the 1997 Housing (Miscellaneous Provisions) Act and includes:

- (a) "The securing or promotion of the interests of any tenants, lessees, owners or occupiers, whether individually or generally, in the enjoyment of any house, building, or land provided by a housing authority under the Housing Acts 1966 to 2002 or Part V of the Planning and Development Act 2000.
- (b) The avoidance, prevention or abatement of anti social behaviour in any housing estate in which is situate a house provided by a housing authority under the Housing Acts 1966 to 2002 or Part V of the Planning and Development Act 2000".

Legislative Framework

Legislation relevant to the operation of the anti-social behaviour strategy:

- Housing Act 1966.
- Housing (Miscellaneous Provision) Act 1997, (as amended by Section 197 of the Residential Tenancies Act 2004) and Housing (Miscellaneous Provisions) Act 2014.
- Freedom of Information Act 2014.
- Housing (Traveller Accommodation) Act 1998.
- Anti-Social Behaviour Provisions of Housing (Miscellaneous Provisions) Act 2009.
- Data Protection Act (Amendment) Act 2003
- Housing (Miscellaneous Provisions) Act 2014.

Freedom of Information Act 2014

These acts enable members of the public to obtain access, to the greatest extent possible consistent with the public interest and the right to privacy, to information in the possession of public bodies and to enable persons to have personal information relating to them in the possession of such bodies corrected and to provide for related matters. However, the Acts also provide for necessary exceptions to that right, in cases where the disclosure of information would put a complainant at risk, or where information was given in confidence.

Where in the opinion of the Local Authority, the disclosure of information under Freedom of Information would lead to a complainant being put at risk; every attempt will be made to refuse disclosure or to protect the identity of the complainant.

Housing (Traveller Accommodation) Act 1998

This Act amended and extended the Housing Acts 1966 to 1997, the Local Government (Planning and Development) Acts 1963 to 1998, the Local Government Act 1991, to make provision for the accommodation needs of travellers, to provide for the appointment of a national traveller accommodation consultative committee and local traveller accommodation consultative committees.

Anti-Social Behaviour Provisions of Housing (Miscellaneous Provisions) Act 2009

This act provides for the further provision of the functions of housing authorities, which includes the making of an anti-social behaviour strategy. This act also amends and extends Housing Acts 1966 to 2004, amends the Housing Finance Agency Act 1981, the Planning and Development Act 2000, the Civil Registration Act 2004, the Residential Tenancies Act 2004 and the Social Welfare Consolidation Act 2005.

Housing (Miscellaneous Provisions) Act 2014

This act introduces a statutory requirement to issue warnings under section 7, 8 and 9 for anti-social behavior, rent arrears and other breaches respectively and outline that the tenant remedies the breach within time limits. A new item which is included is the detrimental effect on neighbours and the community of anti-social behavior and this will be significant evidence for all possession applications. The act introduces new procedures for the possession of local authority dwellings.

Data Protection (Amendment) Act 2003

This Act gives effect to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data, and on the free movement of such data, for that purpose to amend the Data Protection Act 1988 and to provide for related matters.

Excluding Order

This has the meaning assigned by Section 3 of the Housing (Miscellaneous Provisions) Act 1997 and amended by the Housing (Miscellaneous Provisions) Act 2014, which states:

“A housing authority may in respect of a house provided by the Authority under the Housing Acts 1966-1997 apply to the District Court for an excluding order against a respondent whom the authority believe to be engaging in anti-social behaviour...”.

This approach is more targeted in dealing with anti-social behaviour, whereby the specific offenders are dealt with, thus avoiding the eviction of the entire household.

The Local Authority will consider making an application for an Excluding Order where it becomes aware that a tenant or a member of the household is involved in anti-social behaviour or convicted of drug dealing. If the tenant liaison officer recommends that an Excluding Order should be sought, the tenant/relevant purchaser will be advised to apply to the District Court for such an order. If the tenant/relevant purchaser, through violence, threat or fear will not apply for an Excluding Order, the Housing Authority may apply for such an order on behalf of the Local Authority.

If granted, an Excluding Order can prohibit the respondent from entering a specific dwelling or an entire estate for a period of up to 3 years. The Order can also prohibit a respondent from causing or attempting to cause any intimidation, coercion, harassment or obstruction of, threat to, or interference with the tenant or other occupant of the dwelling concerned.

This Local Authority will not seek an Excluding Order against a child of less than twelve years of age. An Excluding Order may be sought against a child who is under eighteen, not to prohibit the respondent from the house he or she resides in, but to specify other houses/areas/estates. Where an Excluding Order has been obtained, Kildare County Council will report any breaches of excluding orders to An Garda Síochána to enforce and will advise neighbours / residents to report same. All applications for Excluding Orders will be for three years with exceptions based on circumstances in individual cases

Policy in Implementing the Legislation / Prevention and Reduction of Anti-Social Behaviour

Proposals to achieve this objective:

The most efficient method of combating anti-social behaviour is to prevent it from occurring in the first place. Kildare County Council will proactively prevent anti-social behaviour in the following ways:

- Kildare County Council employs Tenant Liaison Officers and these officers are based in the Housing Department. They are responsible for dealing with all interaction with tenants. They investigate complaints or reports of anti-social behaviour/nuisance, breach of tenancy and are involved in pre-tenancy training and are in some cases consulted by the Allocations Team on issues concerning prospective tenants.
- New dwellings, regeneration or remedial works schemes, estates and halting sites will be designed in a manner that does not facilitate anti-social behaviour, crime or disorder.

- Pre-tenancy training may be offered to all new tenants. The pre-tenancy course may place particular emphasis on tenants' obligations to their houses and to their community, the need to respect their neighbours and their property and on tenant's responsibility for the behaviour of their children and visitors. The training encourages tenants to act in a positive manner in the community and emphasises the need to prevent anti-social behaviour.
- Kildare County Council will encourage tenant participation in our estates through the medium of Community Development Workers. Tenants will be encouraged to set up or join existing Residents Associations and to take part in community development programmes with particular emphasis on education.
- The Tenant Liaison Officers and the Housing Department will maintain an open and co-operative relationship with agencies such as the Health Service Executive, An Garda Síochána, MABS, Joint Policing Committees and other agencies involved in community development.
- Kildare County Council will seek to ensure a strategic balance and mix of tenants in so far as is practical to encourage social integration and minimise the potential for anti-social behaviour.
- Kildare County Council will ensure that all reports/complaints are addressed as soon as practicable and in strict confidence. This authority will ensure that all complaints are treated in a fair, impartial and objective manner pursuant to the relevant legislation.
- All housing applicants, prior to allocation, are subject to Garda certification of any criminal convictions. Certain criminal convictions may not be relevant in determining "suitability" to a housing allocation.

Allocation Management

- Kildare County Council will not consider an application for housing where an applicant refuses to supply necessary information on past addresses or previous convictions.
- In the interest of good estate management Kildare County Council may refuse or defer the letting of a dwelling to a housing applicant who this housing authority feels is, or has been, engaged in anti-social behaviour (Section 14 of the 1997 Housing Act). The refusal or deferral is not indefinite and each case is dealt with individually. Circular SHIP 2010/15 states: "Generally speaking, the longer the period that has elapsed since a relevant conviction without any recurrence of anti-social behaviour, the less relevant the fact of that conviction is to a decision on whether the authority should exercise its section 14 power of refusal".

- Kildare County Council will refuse to sell a dwelling to a tenant it considers is or has been involved in anti-social behaviour. This decision may be re-considered if the Council is satisfied that the tenant has desisted from such behaviour. Circular SHIP 2010/15 as set out above will also be applied.
- This Council will refuse to consent to the sale/purchase of a property if it considers, or becomes aware, that the intended purchaser is or has been engaged in anti-social behaviour. This decision may be re-considered if the Council is satisfied that the intended purchaser has desisted from this behaviour. Circular SHIP 2010/15 also applied in this case.

Action on Incidents of Anti-Social Behaviour

Kildare County Council is committed to enforce the appropriate legislation in the case of serious incidents of anti-social behaviour as outlined in definition of anti-social behaviour.

In the case of complaints of a less serious nature the Tenant Liaison Officer will pursue the course of action that he/she considers appropriate to the individual circumstances. The Council will maintain a close working relationship with An Garda Siochana to ensure that anti-social behaviour is reported and appropriate follow up action taken.

Policy of sharing information with outside agencies

Kildare County Council acknowledges the importance of sharing information with agencies such as An Garda Siochana, Health Service Executive, other Local Authorities and Department of Education and Skills.

It is also important to share information within this organisation and the Tenant Liaison Officers regularly liaise with officers within the Local Authority who have a remit in this area, e.g. Community Workers, Social Workers, Homeless Outreach Workers, Revenue Collectors, Clerk of Works etc.

A procedure has been introduced whereby elected members making submissions regarding anti-social behaviour may do so through the Administrative Officer with responsibility for this area via the Customer Relationship Management [CRM] system.

Complaints Procedures

Collecting/Recording of Complaints

Kildare County Council is committed to investigating every complaint in a fair, impartial and objective manner. This may involve enquiries with other statutory agencies in accordance with Section 15 of the Housing (Miscellaneous Provisions) Act 1997.

Communicating a complaint of anti-social behaviour may be done by:-

- Phone
- Letter to the office
- Personal visit to the office
- Representations from public representatives via the CRM system
- Revenue Collectors may make the Tenant Liaison Officers aware of problems
- An Garda Siochana, HSE, Social Workers may make the office or the Tenant Liaison Officers aware of problems

Anonymous complaints will not be dealt with.

Recording and Investigation

Each complaint will be logged in the Housing Department and passed onto the Tenant Liaison Officers [TLO] who then investigate by:-

- Talking to the complainant (the TLO may issue an official complaint form to the complainant for completion in order to accurately record the complaint on a case-by case basis), Gardai, Social Workers, other officers with remit in this area, and any other relevant agencies as necessary.
- Where the complaint is in relation to a criminal matter it will also be formally referred to An Garda Siochana.
- If deemed appropriate, the TLO may visit the tenant in their home and put to them the complaint made against them and await their response, or if the matter is deemed serious enough for further action the tenant may be summoned to the relevant office where he/she is interviewed by the TLO and in some cases Senior Staff in Housing.
- Following their response, and if necessary further investigation, the TLO will consult with the Senior Executive Officer and Administrative Officer as to whether further action is deemed necessary.

Actions Taken Once Complaint is Investigated

- **No Further Action**

If the Housing Investigation Officer has reasonable grounds for believing that the complaint is unfounded or malicious, vexatious or trivial then no further action will be taken against the respondent.

- **Advice Given**

In some cases, the officer may advise both parties to resolve the issue and no further action will be taken, especially when the complaint is of a trivial nature. Children's conduct will be referred to parent or guardians.

- **Referral to other Agencies such as An Garda Siochana / Health Service Executive (HSE) / Tusla**

Some complaints are so serious the complainant is immediately referred to An Garda Siochana, HSE or Tusla. Complaints regarding drug dealing are always referred to An Garda Siochana for investigation. Kildare County Council's policy on child protection issues is also available for staff members who become aware of such incidents.

- **Mediation**

Kildare County Council may offer, where possible, mediation services in cases where it feels that the anti-social complaint is in the nuisance category.

- **Verbal Warning**

Usually reserved for instances of first offences of a trivial nature.

- **First Breach of Tenancy Letter**

The breach of tenancy is detailed in the letter, the tenants(s) are asked to cease the breach and made aware of the consequences should the breach continue.

- **Second Breach Of Tenancy Letter**

If the behaviour persists a second breach letter is issued outlining all of the above.

- **Statutory Warning Letter****

In accordance with Section 7 and/or Section 9 of the Housing (Miscellaneous) Provisions Act 2014 statutory warnings relating to anti-social behaviour and other breaches of tenancy will be issued if prior written warnings are ignored and ineffective. It will set out the specified term(s) that has or have, in the housing authority's opinion, been breached. It will set out the nature of that breach, including

the name of the household member (if that name is readily available to the housing authority) who caused that breach, the occasion of the breach and, where relevant, the significant or persistent detrimental effect of the breach on the quality of life of those in the locality of the dwelling to which the tenancy agreement relates. It will require the tenant to ensure that the household member who caused that breach ceases or does not repeat specified actions or undertakes specified actions.

The letter will indicate that if the breach continues during, or is repeated within 12 months of the tenancy warning coming into effect, then the authority may either (a) apply under Section 12 to recover possession of the dwelling or (b) where appropriate, apply to the District Court (under section 3 of the Act of 1997) for an excluding order against the household member who caused that breach. A statutory warning may be reviewed within 10 working days. For 3 years following a tenancy warning a local authority can refuse a transfer, refuse to sell a house to a tenant and refuse an allocation to household members engaged in anti-social behavior.

****NOTE: In some cases the local authority may proceed to legal action for recovery of the dwelling without first issuing a statutory warning. This would be relevant in cases of extreme urgency where a Statutory Warning might be of little or no effect.**

- **Legal Action**

An application for possession may be sought in the District Court in accordance with Section 12 of the Housing (Miscellaneous Provisions) Act 2014.

Procedure for Termination of Tenancies

The decision to terminate the tenancy (and carry out subsequent eviction) will be taken in the interest of good estate management and for serious and/or persistent breaches of tenancy. The legal procedure for terminating tenancy in Section 62 of Housing Act 1966 has been repealed and replaced by procedures in Part 1 Housing (Miscellaneous Provisions) Act 2014 commenced in 2015. A housing authority makes a possession application to the District Court and the tenant will be notified 10 working days in advance of the hearing in person, by registered post and delivery to the house. In all cases tenants would be advised at investigation stage that their tenancy is at risk and warnings issued. Evidence of the anti-social behaviour may be provided by statements from complainants/victims in person or writing. Council Officials and members of An Garda Síochána may also give the evidence in accordance with Section 21 of the Housing (Miscellaneous Provisions) Act 1997. The tenant(s) will be given an opportunity to make submissions and to appeal the decision being considered.

Procedure Relating to Eviction.

The HSE, Tusla (where appropriate) and An Garda Síochána will be advised. The Housing Investigation Officer/Authorised Person liaise with the Sheriff and An Garda Síochána to arrange a date and time for the eviction and the tenant will be notified. Once the eviction is carried out the dwelling will be boarded up immediately. Please note a housing authority cannot provide social housing support where a tenant or household member breached the terms of the tenancy agreement and as a consequence the housing authority terminated the tenancy agreement (Social Housing Assessment Regulations 2011). Homeless services cannot be provided because the person(s) had accommodation to occupy and could have reasonably remained in occupation.

Transfer on Grounds of Good Estate Management

Under housing regulations, transfer applications will be refused if the applicant has a history of anti-social behaviour.

Confidentiality

Protecting the confidentiality of all information relating to anti-social behaviour.

The complaints system is confidential and every effort is made to protect the identity of the complainants. Kildare County Council assumes that a complainant requires the complaint to be dealt with in a confidential manner unless notified otherwise by the complainant. Access to complaints records is restricted and written records are locked and secure at all times when they are not actually in use.

If the nature of the complaint is likely to compromise the identity of the complainant, an investigation will not proceed unless the complainant gives written authorisation to do so. The Council will fully comply with the provisions of the Freedom of Information Act 2014.

However, information given to the Council regarding anti-social behaviour is protected by Section 32(2) and Section 35 of the Freedom of Information Act 2014.

Research, Publicity and Consultation

- The Housing Authority will publish this Strategy and promote it among all tenants and seek to educate all in relation to this matter.
- The local authority will publicise where legal action has been taken in relation to anti-social behaviour.
- Research into the occurrence of anti-social behaviour will be encouraged in the Housing Authority area where resources allow.
- The Housing Authority will have regard for the layout of any housing development in its allocation of tenancies, whether through direct build, leasing, Part V acquisitions or RAS.

Effects of Anti-Social Behaviour

Anti-social behaviour only occurs among a small minority of local authority tenants. However, where it does occur it has an adverse effect on the quality of life of other tenants and on occasion can destabilise a whole community. It is the policy of Kildare County Council that anti-social behaviour is considered unacceptable and will not be tolerated. In this regard, this Council will adopt a proactive and preventative approach to anti-social behaviour.

It is also important to acknowledge the value of community development and tenant participation in our estates.

Consultation

Consultation on this strategy has taken place with the Joint Policing Committee, established under Section 35 of the Garda Síochána Act 2005, in respect of the administrative area of Kildare County Council, An Garda Síochána and the Health Service Executive. The following recommendations are incorporated as a result of this consultation:

- This Strategy forms part of pre-tenancy training and a copy is made available to prospective tenants
- A copy of the Strategy is provided to all existing tenants
- The bi-lateral sharing of information between Kildare County Council and An Garda Síochána in accordance with Section 15 of the Housing (Miscellaneous Provisions) Act 1997 is continued under this Strategy.

Conclusion

Kildare County Council, through its allocations policy, will endeavour to prevent anti-social behaviour by adopting an inter agency approach to sharing relevant information with regard to prospective tenants.

Sample Official Complaint Form

KILDARE COUNTY COUNCIL HOUSING SECTION
 RECORD OF COMPLAINT:
 (TO BE COMPLETED BY THE PERSON MAKING A COMPLAINT ABOUT
 ANTI-SOCIAL BEHAVIOUR/BREACH OF TENANCY)

IF YOU WISH TO HAVE YOUR NAME AS THE COMPLAINANT WITHHELD
 PLEASE INDICATE BY TICKING THIS BOX:

Kildare County Council treat all complaints in the strictest of confidence if requested to do so

DATE: ___/___/_____

SECTION (A). WHO ARE YOU COMPLAINING ABOUT?

THEIR NAMES AND ADDRESSES:

SECTION (B). DETAILS OF COMPLAINT:

TIME & DATE OF INCIDENT(S):	LOCATION(S):

SECTION (C). WERE THERE ANY WITNESSES? ARE THEY WILLING TO SIGN STATEMENTS OF EVIDENCE TO
 SUPPORT YOUR COMPLAINT? IF SO, PLEASE NAME THEM AND SUPPLY THEIR CONTACT NUMBERS HERE:

NAME:	ADDRESS:
TELEPHONE NUMBER:	

SECTION (D). WHAT HAPPENED? WHAT DO YOU SAY IS THE BREACH OF TENANCY?
PLEASE COMPLETE THE DETAILS OF YOUR COMPLAINT USING THE SPACE BELOW:

--

SECTION (E). WAS THIS MATTER REPORTED TO AN GARDA SIOCHANA?
IF SO, PLEASE SUPPLY THOSE DETAILS BELOW:

WHO MADE THE REPORT AND ON WHAT DATE?
WHICH GARDA STATION?
NAME OF GARDA WHO TOOK REPORT?
REFERENCE NUMBER/PULSE NUMBER OF REPORT IF KNOWN:
DID THE GARDAI CALL TO INVESTIGATE THE INCIDENT?

SECTION (F). WHAT IMPACT HAS THIS HAD ON YOU OR MEMBERS OF YOUR FAMILY?
PLEASE GIVE DETAILS BELOW (Continue on a separate sheet if necessary):

--

PLEASE COMPLETE YOUR OWN DETAILS BELOW:

NAME:

ADDRESS:

ALL INFORMATION GIVEN BY ME IS TRUE TO THE BEST OF MY KNOWLEDGE

SIGNATURE: _____

DATE: ____/____/____

PLEASE COMPLETE AND RETURN TO TENANT LIAISON OFFICER, HOUSING SECTION,
KILDARE COUNTY COUNCIL, ÁRAS CHILL DARA, DEVOY PARK, NAAS, COUNTY KILDARE.

CONSENT TO INVESTIGATE A COMPLAINT

I/We, as complainants, understand that during the investigation of my/our complaints, and notwithstanding the efforts of Kildare County Council to withhold my identify/our identities as complainant(s), the nature of the complaint is likely to disclose my identity/our identities to the person(s) I/We are complaining about. I/We fully understand the risks associated with this and I/We am/are prepared to allow Kildare County Council to proceed with the investigation of my/our complaints knowing this fact.

DECLARATION

I have read and understand the above statement and consent to Kildare County Council proceeding with my complaint reference number: XXX/TLO/XXX

PLEASE PRINT AND SIGNS NAMES:

Name(s): _____

Address: _____

Date: ____/____/____

Witnessed by: _____