



# DUBLIN CITY COUNCIL ANTI-SOCIAL BEHAVIOUR STRATEGY

2010 – 2015



Dublin City  
Baile Átha Cliath

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## MISSION STATEMENT

Dublin City Council will not tolerate Anti-Social Behaviour and is committed to the peaceful occupation of dwellings within its area of responsibility.

Dublin City Council will investigate all complaints of Anti-Social Behaviour in an efficient, fair, and impartial manner.

Dublin City Council will take all appropriate steps, in accordance with best practice as set out in this Strategy, to help prevent and reduce such behaviour in, and in the vicinity of, dwellings under the control of Dublin City Council.

## 2.0 INTRODUCTION

Dublin City Council has a duty to manage and control dwellings let under the Housing Acts, with a view to securing and protecting the interests of tenants and their families in the peaceful occupation of their homes. To this end, Dublin City Council launched its first Policy & Procedure manual in 2004.

Under section 35 of the Housing (Miscellaneous Provisions) Act 2009, all housing authorities must adopt an Anti-Social Behaviour Strategy by 30th November 2010. This is a reserved function of the City Council.

The Strategy will apply to those parts of the city where the Council has Tenancy Dwellings; Chapter 4 Tenancy Dwellings (currently the Rental Accommodation Scheme); Relevant Purchaser Dwellings; and Traveller Sites.

Dublin City Council has in excess of 25,000 tenancy dwellings. The vast majority of these properties are occupied by law abiding tenants and their families, and it is accepted that only small numbers of persons are involved in Anti-Social Behaviour.

While the City Council has the ultimate sanction of evicting a tenant or excluding a household member, it will only do so as a last resort.

The Department of Environment, Heritage and Local Government has advised that housing authorities, when drawing up their Strategy, should have regard to good practice guidelines produced by the Housing Unit in 2003 in relation to preventing and combating Anti-Social Behaviour. Accordingly, this Strategy has been drawn up taking the above guidelines into account.

This Strategy has been developed through consultation with An Garda Síochána, the Health Service Executive (HSE) and the Joint Policing Committee and will be implemented by attaining the Principal Objectives and by applying the policies and procedures contained in the Strategy.

This Strategy was formally adopted by the elected members of Dublin City Council on 1st November 2010.

### 3.0 ANTI-SOCIAL BEHAVIOUR DEFINITION

There is a substantial amount of legislation that underpins this Strategy, and it is detailed in Section 12.

Set out below is the definition of both Anti-Social Behaviour and Estate Management as outlined in housing legislation.

#### ANTI-SOCIAL BEHAVIOUR

- 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 and 1984)
- 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 2002 or Part V of the Planning and Development Act 2000, or a housing estate in which the house is situate or a site and, without prejudice to the foregoing, 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 persons home.

#### ESTATE MANAGEMENT

- 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 the local authority under the Housing Acts 1966 to 2002, or a site, and Part V of the Planning and Development Act 2000.

of effort between Dublin City Council and the other person / body in performing their functions (to adopt a multi-agency approach)

- 4. To promote good Estate Management (as defined by section 1 of the 1997 Act)

Section 35 of the Housing (Miscellaneous Provisions) Act 2009 stipulates that every Anti-Social Behaviour Strategy must contain the principal objectives set out above.

The following sections set out the policies, procedures, initiatives and other actions the City Council is taking to achieve the principal objectives.

### 4.0 PRINCIPAL OBJECTIVES

The principal objectives of this Strategy are as follows –

- 1. To prevent and reduce Anti-Social Behaviour
- 2. To coordinate services within the Council that are directed at dealing with, preventing or reducing Anti-Social Behaviour
- 3. To promote cooperation with other persons / bodies, including An Garda Síochána, in the performance of their respective functions in relation to preventing / reducing Anti-Social Behaviour, in order to avoid duplication

### 5.0 PRINCIPAL OBJECTIVE – 1 – PREVENTING AND REDUCING ANTI-SOCIAL BEHAVIOUR

In accordance with section 35(3) of the 2009 Act Dublin City Council is required to detail in its Strategy the way in which its principal objectives are to be attained, including procedures for making an Anti-Social Behaviour complaint to a housing authority.

Measures to prevent, reduce and combat Anti-Social Behaviour are contained within the following policies and procedures. The implementation of these policies and procedures are the primary means by which Dublin City Council intends achieving the first of its four principal objectives – 'To Prevent and Reduce Anti-Social Behaviour'.

However, aside from the above, all positive actions taken by Dublin City Council in relation to Anti-Social Behaviour, regardless of what they are or the areas to which they are applied, will help to prevent and reduce such behaviour. Phase one in the Procedures, which immediately follows the Policies, deals specifically with procedures for making a complaint.

#### 5.1 POLICIES

Dublin City Council's policies in relation to addressing issues of Anti-Social Behaviour are detailed as follows:

##### 5.1.1 Complaints

It is the policy of Dublin City Council to investigate all complaints of Anti-Social Behaviour, and an investigation will be initiated within fourteen days of its receipt.

##### 5.1.2 Exchange of Information

Dublin City Council will exchange / request information in writing from An Garda Síochána, and other bodies as necessary, in accordance with section 15 of the 1997 Act as amended, when carrying out investigations into Anti-Social Behaviour. When a written request for information in respect of Anti-Social Behaviour is made to An Garda Síochána a standard form with specific questions directly relating to the respondent / address concerned is used.

##### 5.1.3 Challenging the Perpetrators

It is the policy of Dublin City Council to interview / challenge / caution the alleged perpetrators of Anti-Social Behaviour.

##### 5.1.4 Legal Remedies

Dublin City Council will pursue legal remedies, including court orders for eviction and exclusion, where necessary. Dublin City Council is aware that enforcement in serious cases can lead to the future prevention and / or reduction of Anti-Social Behaviour in its estates and complexes.

##### 5.1.5 Dwellings Used for Drug Dealing

Dublin City Council will consider the termination of the tenancy of any dwelling let by Dublin City Council where the dwelling itself has been used for the manufacture, production, preparation, importation, exportation, sale, supply, possession for the purpose of sale or supply, or distribution of a controlled drug, including Chapter 4 tenancies – and will consider the termination of the licence in the case of Traveller sites. In certain circumstances it will be deemed more appropriate to consider an excluding order, see 5.1.6 below.

##### 5.1.6 Excluding Orders

Dublin City Council will consider the provisions of section 3 of the 1997 Act as amended where a member of a tenant's, relevant purchaser's, Chapter 4 tenant's or licensee's household is or has been engaged in Anti-Social Behaviour, particularly drug dealing.

##### 5.1.7 Excluding Orders and Minors

Dublin City Council will not make an application for an excluding order against a person who is a minor (under 18 years), nor will parents be requested to apply for an excluding order against their child who is a minor.

##### 5.1.8 Refuse / Defer a Letting

Dublin City Council will consider the refusal / deferral of the making of a letting of a dwelling to an applicant, including a Chapter 4 applicant (RAS), where it considers that the applicant is or has engaged in Anti-Social Behaviour. The applicant will not be considered for housing until the Council is satisfied that they are willing and capable of living in the community without engaging in such behaviour. The Council will also consider a refusal / deferral where the

applicant has failed to provide information requested which the Council considers necessary, including information relating to persons residing with or proposing to reside with the applicant, or if it is not in the interests of good estate management.

**5.1.9 Refuse to Sell a Dwelling**

Dublin City Council will consider refusing to sell a dwelling to an applicant, including under the Incremental Purchase Scheme (part 3), the Tenant Purchase of Apartments (part 4), the Affordable Dwelling Purchase Arrangements (part 5), and the Tenant Purchase of Houses where it considers the applicant is or has engaged in Anti-Social Behaviour, or if it is not in the interests of good estate management.

**5.1.10 Housing Welfare Service**

Dublin City Council will consider referring Anti-Social Behaviour cases to our Housing Welfare Service where appropriate, particularly where households include vulnerable members, and will advise the Housing Welfare Service in all cases where a notice to quit is to be served.

**5.1.11 Vetting**

All applicants for housing by Dublin City Council will be subject to vetting in relation to Anti-Social Behaviour before a final decision is made. As part of its vetting procedure the Council will request information under section 15 of the 1997 Act as amended from An Garda Síochána, and other agencies if necessary.

The application form will make this clear to the applicant.

The application form also makes it clear that failure to provide information requested by the Council in connection with the application could hinder the application.

All information relating to Anti-Social Behaviour in respect of applicants for housing and prospective occupants, including information received from recognised local community groups, will be considered and may lead to refusal / deferral as outlined above.

**5.1.12 Rehousing Following Eviction / Exclusion**

Any persons who are the subject of an excluding order, or eviction on grounds of Anti-Social Behaviour will not be considered for rehousing

for a period of two years and / or until such time as Dublin City Council is satisfied that he / she is capable of living, and agreeable to living in the community without engaging in such behaviour.

It is the policy of Dublin City Council to liaise with the HSE to advocate that persons evicted / excluded because of Anti-Social Behaviour should only receive rent allowance for a property outside the vicinity of the property from which they have been evicted / excluded. It is accepted that the decision to grant or withhold rent allowance is solely a matter for the HSE. Control of this service may revert to the Dept. of Social & Family Affairs in time.

**5.1.13 Illegal Occupiers (Squatters)**

Where a person squats in a Dublin City Council dwelling and is or has engaged in Anti-Social Behaviour and refuses to leave when requested to do so, it is the policy of the Council to formally request An Garda Síochána to instruct that person to leave the dwelling. Where the person fails to comply with the instruction of the Gardaí then that person can be arrested by the Gardaí without warrant. This is in accordance with section 20 of the 1997 Act as amended. This provision does not apply to a tenant or person who has failed to vacate the dwelling following the service of a notice to quit.

**5.1.14 Alternative Methods of Recovery**

Dublin City Council will consider alternative methods of recovering possession of dwellings in accordance with appropriate legislation as and when necessary.

**5.1.15 Legislation not yet Enacted**

Dublin City Council will implement at the appropriate time relevant parts of legislation which are due to be enacted but which to date are not yet in force.

**5.1.16 Estate Based Focus**

Dublin City Council will utilise local Area Housing Offices to provide a first port of call for complainants, where dedicated staff are there to receive and investigate complaints of Anti-Social Behaviour in that particular area.

**5.1.17 Use of Transfers**

Dublin City Council will consider with care the use of transfers to resolve issues of Anti-Social Behaviour, because transferring

perpetrators to what might be considered better accommodation could be seen as rewarding them for their behaviour, while transferring a victim could give the impression that they are being punished.

**5.1.18 Evidence in Excluding Orders**

Dublin City Council will give evidence of Anti-Social Behaviour in the District Court when making application for excluding orders, in accordance with section 21 of the 1997 Act, as amended.

**5.1.19 Evidence in section 62 Applications for Possession**

Dublin City Council will not give detailed evidence of Anti-Social Behaviour in the district court when applying for a warrant for possession under section 62 of the Housing Act 1966. However, the Council reserves the right to amend this policy without notice according as it deems appropriate.

**5.1.20 Challenge of Appeals**

Dublin City Council will consider challenging and resisting all appeals / applications made by the respondent to the Circuit Court / High Court / Supreme Court, using such legal advice as the Law Agent may give.

**5.1.21 Statistics**

It is the policy of Dublin City Council to compile and collate, on a monthly and yearly basis, statistics for each of the twelve housing areas under the control of Dublin City Council. The statistics will show the number of:

- Anti-Social complaints per 1997 Act – drug related
- Anti-Social complaints per 1997 Act – not drug related
- Other complaints
- Anti-Social interviews – per 1997 Act
- Other interviews
- Requests for mediation
- Complaints referred to Central Unit for action

- Live case files at end of year
- Case files closed throughout the year
- Section 20 evictions
- Excluding orders – applied for by tenant, applied for by Council, granted / refused / failed
- Tenancies surrendered due to Anti-Social Behaviour
- Notices to Quit served
- Court Orders (warrants for possession) granted
- Appeals – Circuit / High / Supreme Courts
- Warrants executed (evictions)

These figures will help to show seasonal and geographical trends, they will show if complaints are increasing or decreasing and the areas in which this is occurring.

They will assist in deciding where dedicated staff should be deployed, and they will indicate performance, and the success or otherwise of the Anti-Social Behaviour service.

**5.1.22 ‘Pathway to Home’ – Homeless Persons With a History of Anti-Social Behaviour**

‘Pathway to Home’ is a new model of homeless housing and support provision that has been developed by the Homeless Agency Partnership to ensure a more effective way of delivering homeless services in Dublin with better access to long term housing with supports.

Appendix D of this policy sets out the process for dealing with homeless persons who have a history of Anti-Social Behaviour.

This process forms part of the Council’s policies in dealing with Anti-Social Behaviour.

**5.2 PROCEDURES**

Dublin City Council’s procedures in addressing issues of Anti-Social Behaviour, from the making of the complaint to the final resolution of the case, are detailed as follows:

**PHASE ONE – MAKING THE COMPLAINT****5.2.1 The Complaint**

Dublin City Council will accept and deal with complaints of Anti-Social Behaviour against tenants, relevant purchasers, Chapter 4 tenants (RAS) and licencees within its areas of responsibility.

**5.2.2 The Complainant**

The person making the complaint will be known as the complainant.

**5.2.3 The Respondent**

The person against whom the complaint is made will be known as the respondent.

**5.2.4 Where to Make the Complaint**

If a person is a victim of Anti-Social Behaviour they should make contact with their local Area Housing Office to make a complaint. The addresses and telephone numbers of these offices can be found in the Tenants' Handbook, the Anti-Social Behaviour leaflet, Dublin City Council website, etc.

In the case of Traveller specific accommodation a person also has the option of making the complaint to the Traveller Accommodation Unit, Block 1, Floor 2, Civic Offices, Fishamble Street, Dublin 8.

For Chapter 4 tenancies (RAS) a person also has the option of making the complaint to the Rental Accommodation Scheme Section, Block 2, Floor 2, Civic Offices, Fishamble Street, Dublin 8.

Most complaints are made by telephone or by personal caller to the local Area Housing Office, however, Dublin City Council will also accept complaints via post, fax or email at central as well as local offices. Complainants will be advised to refer complaints relating to crime and criminal behaviour to an Garda Síochána for investigation.

**5.2.5 Complainant's Interview**

A person who makes contact for the purpose of making a complaint of Anti-Social Behaviour is requested to attend an office of Dublin City Council, usually their local Area Housing Office, so they can be interviewed, and where a record (minute) is made of the complaint. In certain circumstances a house call may be made to the

complainant. Complainants are invited to sign a record of their complaint at the end of their interview to demonstrate their sincerity and their willingness to stand over their complaint, but may decline to do so if in fear of reprisal.

**5.2.6 Written Record / Computerised System**

A written record is made of all complaints. Standardised forms are used for this purpose. A recently installed Estate Management Programme on Dublin City Council's computer system has the facility for recording, monitoring and processing complaints and investigations relating to Anti-Social Behaviour. This new computerised system will now be utilised across all housing areas following appropriate training.

**5.2.7 Confidentiality**

The names and addresses of complainants who fear reprisal are kept confidential and are not divulged to the respondent or to any person acting on his / her behalf.

If information given by a complainant who fears reprisal would likely disclose his / her identity, that information will be kept confidential and will not be divulged to the respondent. However, if it is essential for the respondent to know the true nature and extent of the complaint, the complainant is advised that the information would need to be furnished to the respondent in the interest of fairness, and in these circumstances the complainant will be asked if they wish an investigation to proceed on foot of the complaint.

If the complaint itself would tend to identify the complainant, then he / she is made aware of this and asked if they wish an investigation to proceed on foot of the complaint. If it emerges that the behaviour complained of is regular or ongoing the complainant may be advised to keep a log of incidents indicating for example the date, time, location, identity of perpetrator and description of behaviour which can be submitted to Dublin City Council to assist in the investigation.

**5.2.8 Anonymous Complaints**

Anonymous complaints are treated with caution and generally do not warrant further investigation other than consideration of the complaint at the initial stage, and noting of same. However, if a series of separate anonymous complaints are received against

one person / household then it is reasonable to assume that there may be substance to the complaints and an investigation may be initiated on that basis. The Council may consult with the local tenant / resident associations before making any decision to act.

**PHASE TWO – INVESTIGATING THE COMPLAINT****5.2.9 Vexatious Complaints**

In deciding whether or not to investigate complaints, preliminary inquiries may be made to ensure that complaints are not vexatious or without substance and to establish, where possible, the reliability and credibility of complainants. The Council may consult with the local tenant / resident associations and local Gardaí before deciding on such complaints.

**5.2.10 Categorising the Complaint**

Before an investigation commences the complaint itself is categorised as either:

- Anti-Social Behaviour (drug related)
- Anti-Social Behaviour (not drug related) or
- Other

Complaints of activities that do not fall within the definition of Anti-Social Behaviour, but that do constitute breach of the letting agreement, will be investigated and treated as breach of tenancy.

**5.2.11 Inquiries**

Dublin City Council will carry out such investigations and inquiries as it considers necessary to establish whether there is a reasonable basis for believing that the respondent is or has engaged in Anti-Social Behaviour. In this regard the investigating officers may contact and request information from An Garda Síochána, the HSE, other local authorities, approved bodies, other sections within Dublin City Council (Rents, Allocations, Loans & Grants, Welfare Service, etc.), witnesses, local residents / tenants, and residents groups.

**5.2.12 First Letter to Respondent**

The respondent is written to and requested to attend for interview within seven days. This can

be done early in the investigation particularly if there is no reason to doubt the reliability and credibility of the complainant.

However, in the case of serious Anti-Social Behaviour, such as drugs, violence, threats, etc., information will have been requested in writing from An Garda Síochána prior to interview. Details of information provided by the Gardaí and other relevant agencies will be kept on record.

The letter will describe the nature of the complaint in general terms, the name of the staff member to contact, and that the interview will give them an opportunity of presenting their point of view. In certain cases a house call can be made.

In the case of Chapter 4 tenancies (RAS) the landlord is notified of the investigation and the reasons for it. In Chapter 4 tenancies (RAS) the landlord will also be asked to contact the tenant directly and inform the tenant of the process under the Private Residential Tenancies Board. The tenant should be warned by the landlord and Dublin City Council that should they engage in Anti-Social Behaviour they risk losing all social housing support in the event that a Termination Notice is served and upheld by the Private Residential Tenancies Board.

**5.2.13 Second Letter to Respondent**

If there is no response within seven days a second letter is sent indicating that failure to present for interview could result in termination of tenancy and / or legal proceedings, should investigation substantiate the complaint.

**5.2.14 Final Letter to Respondent**

If there is no response within seven days of the second letter, a final written request to attend for interview within seven days of the date of the letter is sent by registered post. This letter will give, in general terms, the nature of the complaint and will again warn that failure to make contact to arrange for interview could result in termination of tenancy and / or legal proceedings, should investigation substantiate the complaint. Copies of all written correspondence with alleged perpetrators are kept on record. If it is deemed appropriate a house call will be made.



**5.2.15 Respondent's Interview**

The respondent is interviewed and informed that the interview is exploratory and part of a process of investigation. The definition of Anti-Social Behaviour is explained to them as is the nature of the complaint. The relevant clause in the tenancy agreement (if appropriate) is also explained. They are given an opportunity to respond to the complaint. They may also submit any rebutting material or information, and for this purpose a second interview can be arranged. They are informed of the possible consequences should Dublin City Council form the belief that there is substance to the complaints of Anti-Social Behaviour, including termination of tenancy in the case of tenancy dwellings and Chapter 4 tenancy dwellings (RAS), termination of licence in the case of Traveller sites and excluding order (not RAS) in the case of the aforementioned dwellings and in the case of relevant purchasers. The respondent may be accompanied at any interview by an assistant or adviser or family member. In the event of disability or language difficulty appropriate facilities will be provided. Third parties and representatives may make submissions and representations in writing in relation to any respondent.

**5.2.16 Minutes of Interviews**

A written record (minute) of the respondents' interviews are made and kept on the case files. Minutes of interviews are signed by the investigating officers conducting the interviews.

**5.2.17 Rebutting Evidence / Further Inquiries**

If, at the second interview, the respondent submits rebutting material then further inquiries will be carried out if warranted. They are again informed of the possible consequences should Dublin City Council form the belief that there is substance to the complaints of Anti-Social Behaviour. A written record (minute) is made of this interview and kept on the case file. Case files are treated as confidential and are stored in secure filing cabinets with restricted access.

**5.2.18 Additional Complaints**

Any additional complaints received after the initial interview but before the termination of the tenancy (in the case of a tenant) will be subject to the same inquiries.

**PHASE THREE – DECIDING ON APPROPRIATE ACTION****5.2.19 Representations / Submissions**

In deciding the appropriate course of action Dublin City Council will consider any representations, submissions, documentation and observations made to it by or on behalf of the respondent, and any other relevant matters.

**5.2.20 Options**

Having fully considered all relevant information relating to the investigation, and having consulted with their Area Housing Manager / Supervisor and other relevant staff, the investigating officers may conclude any one of the following to be the most appropriate course of action:

- No action warranted
- Refer to Housing Welfare Service for report
- Mediation
- Tenant Training
- Warning
- Final Warning
- Excluding Order
- Termination of tenancy.

**5.2.21 Considerations**

In deciding the appropriate course of action to take the following will be considered:

- The seriousness of the complaint
- The reliability of the information grounding the complaint
- The response of the respondent to the complaint
- The history of past behaviour (if any)
- The adequacy of alternative measures
- The interest of good estate management
- All information / submissions / representations received.

**5.2.22 Informing all Tenants**

In cases where Anti-Social Behaviour is widespread and / or the perpetrators cannot be identified, it can be useful to send a letter to all tenants in the complex reminding them of their obligations under their tenancy agreements. This letter will inform them that it is the City Council's policy not to tolerate Anti-Social Behaviour, and that engaging in this behaviour could result in exclusion of the offenders from the dwelling or eviction of the entire household. The Council may consult with local tenants / residents association prior to the issue of such a letter. While Dublin City Council will not solicit complaints against individuals, it may invite persons affected by Anti-Social Behaviour to lodge complaints and may put in place procedures to facilitate persons to do so.

**5.2.23 Written Agreements**

The respondent may be requested to attend for further interview in order to confirm the decision of Dublin City Council, particularly in the case where a written agreement is being entered into regarding future behaviour. The consequences of breaking the terms of the written agreement can be explained at this interview.

**5.2.24 Respondent Informed of Decision**

The respondent will be informed in writing of the decision of Dublin City Council.

**5.2.25 Housing Welfare Service**

If the decision is to refer the case to the Housing Welfare Service for report, then the case will be reconsidered in light of the assessment and recommendations made in that report, if any.

In many cases the root causes of Anti-Social Behaviour can be found in personal problems such as drug or alcohol abuse, or family breakdown. It is possible for the Housing Welfare Service to liaise with vulnerable people in these situations with the purpose of referring them to appropriate agencies, often under the auspices of the HSE, where they can receive the support necessary to help address the root causes of their behaviour.

**5.2.26 Mediation**

If it is decided that mediation is the appropriate course of action in a particular case, then the relevant request is made to the Chief Welfare Officer. Mediation is not deemed suitable in

cases of serious Anti-Social Behaviour, as prescribed by the Neighbour Mediation Service Guidelines, however it can be a useful form of conflict resolution in neighbour disputes.

**5.2.27 Warning / Final Warning**

If the decision is to issue a warning or final warning then the respondent is informed of the consequences if further substantiated complaints of Anti-Social Behaviour are made. In Chapter 4 tenancies (RAS) this should be issued by the landlord.

**5.2.28 Excluding Order**

If it is decided that an excluding order is the appropriate course of action the respondent is interviewed and informed that they should make application to the District Court for an excluding order against the person engaging in Anti-Social Behaviour. This is usually a member of the respondent's household, but can also be a joint tenant, or a person directly related to the dwelling.

The procedure for the application to the District Court is fully explained to them. They will be asked to provide proof of the application within a reasonable period of time and to furnish Dublin City Council with a copy of the order if / when granted.

If the application is refused then the case will be reconsidered as to the appropriate course of action to be taken.

If they choose not to apply for the excluding order through violence, threat or fear, or for any other reason, it is explained to them that Dublin City Council has the authority to, and will apply for, the excluding order. In practice, it is Dublin City Council who makes application for the excluding order in the vast majority of cases. An excluding order may relate to a specified dwelling, area or estate.

The respondent and the Health Service Executive will be consulted prior to an application by the Council in accordance with section 3 of the 1997 Act, as amended.

The excluding order provisions apply to standard tenancy dwellings; relevant purchaser dwellings (including house tenant purchase, apartment tenant purchase and incremental purchase); Chapter 4 tenancy dwellings (not current RAS) and Traveller sites.

Excluding orders relating to Traveller sites may require the respondent to remove any caravan they own or occupy from that site in accordance with the 1998 Act.

#### 5.2.29 Termination of Tenancy

If termination of the tenancy is deemed the appropriate course of action, the respondent is notified in writing. The respondent is informed that they can request a review of their case by submitting to the Council, in writing, any additional evidence, material, observations, etc. within ten days.

A review will be undertaken by officers not involved in the initial decision making process. If, following the review, the decision to recommend the termination of the tenancy is upheld, then the respondent is notified in writing. If, following the review, the decision to terminate the tenancy is not upheld, the matter may be referred back to determine if another option as set out at paragraph 5.2.20 is appropriate and in this regard the reviewing officer may recommend an alternative option but such recommendation will not be binding.

In the case of Chapter 4 tenancies (RAS) the Council will notify the landlord to initiate eviction proceedings on grounds of Anti-Social Behaviour.

Before serving a notice to quit terminating a tenancy an excluding order will first have been considered and deemed inappropriate in that particular case.

If another notice to quit is outstanding, for example for rent arrears, then this is waived by sending a letter to the respondent rescinding all previous notices to quit.

A written notice to quit containing a demand for possession is served, in accordance with a directive by way of Managers Order, giving a minimum statutory 28 days notice within which the dwelling should be surrendered.

The notice contains a statement that if the dwelling is not surrendered by the expiry date then an application will be made to the District Court for a warrant for possession.

A covering letter accompanies the notice to quit and demand for possession giving the name and contact details of a Housing Officer who

will answer any queries the tenant may have regarding the reasons for the serving of the notice.

#### 5.2.30 Housing Welfare Service & HSE Notified

In all cases where a notice to quit is served in the interests of good estate management, the Housing Welfare Service will be notified. The HSE may also be notified at this stage but in any event they will be formally notified after the successful outcome of the legal proceedings but prior to eviction.

#### 5.2.31 Case Conference

In all cases, Dublin City Council will convene a case conference involving An Garda Síochána and the HSE, prior to the seeking of a warrant for possession, or at an earlier stage if deemed appropriate.

#### 5.2.32 Complainant Kept Up To Date

The investigating team keep the complainant generally up to date with progress but without disclosing confidential information gathered during the investigation and subject to the requirements of the Data Protection Acts.

### PHASE FOUR – LEGAL PROCEEDINGS TO RECOVER DWELLING

#### 5.2.33 Dwelling not Surrendered

If, after the expiry of the notice to quit, a dwelling has not been surrendered, Dublin City Council can seek a warrant for possession in the district court under section 62 of the Housing Act 1966, as amended.

#### 5.2.34 Summons

A summons is served on the respondent (former tenant of the dwelling) notifying them of the date for hearing in the District Court for repossession of the dwelling.

#### 5.2.35 District Court Hearing / Warrant for Possession

On the hearing of the application in the District Court a warrant for possession will issue, in accordance with the 1966 Act, once Dublin City Council satisfies the court on the sworn evidence of the relevant officer that the tenancy in the dwelling was properly determined and the technical requirements of the legislation have

been met subject to any evidence offered by the respondent.

#### 5.2.36 Appeals

When a warrant for possession is granted in the District Court the respondent has a statutory right to appeal the decision to the Circuit Court within 14 days.

#### 5.2.37 High Court Challenge

The decision by Dublin City Council to initiate legal proceedings for eviction or exclusion may be challenged in the High Court by way of judicial review or under plenary proceedings.

#### 5.2.38 Resisting High Court Challenge

Dublin City Council will endeavour to resist any such proceedings as advised by the Law Agent.

### PHASE FIVE – CLOSING THE CASE

#### 5.2.39 Lodging the Warrant

The Council lodges the warrant in the District Court office for signing by the judge.

#### 5.2.40 Refer to City Sheriff

When the warrant is signed and taken up from the court the Council lodges it with the City Sheriff who provides a date for eviction. The eviction must take place within 28 days of the signing of the warrant.

#### 5.2.41 Eviction Date

The Council informs the respondent in writing of the date of the pending eviction and will answer any queries they may have.

#### 5.2.42 HSE Notified

The Council formally notifies the HSE of the pending eviction.

#### 5.2.43 Opportunity to Surrender

The respondent is given the opportunity of surrendering the dwelling prior to the eviction date if they so wish.

#### 5.2.44 Eviction

The eviction is carried out (warrant is executed) by the office of the City Sheriff with Council staff in attendance.

### PHASE SIX – LEGAL PROCEEDINGS FOR EXCLUDING ORDERS

#### 5.2.45 Managers Order

Following consultation with the respondent (head of household) and the HSE a Managers Order is drafted directing that the Law Agent, on behalf of Dublin City Council, apply for an excluding order against the named individual in accordance with section 3 of the 1997 Act, as amended.

#### 5.2.46 Map of Exclusion Area

A map is drawn up indicating the location of the dwelling and the area from which the named individual is to be excluded.

#### 5.2.47 Evidence Prepared

Information resulting from Dublin City Council's inquiries which led to the belief that the named individual was engaging in Anti-Social Behaviour, particularly written information from An Garda Síochána, is collated and prepared for court. This information will be given as a statement of evidence in the District Court by an officer of Dublin City Council in accordance with section 21 of the 1997 Act, as amended.

#### 5.2.48 Summons

A summons is served on the named individual giving the date, time and place for the hearing in the District Court of the application by Dublin City Council for the excluding order.

#### 5.2.49 District Court Hearing / Excluding Order Granted

At the hearing, which can be heard in private in accordance with section 11 of the 1997 Act, as amended, the officer of Dublin City Council gives a statement of evidence outlining the reasons for his / her belief that the respondent to the order engaged in Anti-Social Behaviour. If the court is satisfied that there are reasonable grounds for such belief and that another person would be deterred or prevented by violence, threat or fear from providing evidence in that regard, then the statement by the Council Official and / or the member of an Garda Síochána, shall be evidence of such Anti-Social Behaviour.

Occasionally a member of An Garda Síochána may give supporting evidence, if required. Evidence can also be heard from the HSE. The named individual (respondent to the

order), or his / her legal representative, is given an opportunity to address the court, cross examine witnesses, give evidence and make submissions. The grant of the excluding order is a matter for the judge of the District Court whose decision may be appealed.

**5.2.50 Respondent Receives the Order**

The respondent is given a copy of the excluding order with a map attached of the area from which he / she is excluded. A copy is also sent to the local Garda Station, the HSE, and to Dublin City Council. An excluding order is granted usually for the maximum period of three years but it can be varied at the discretion of the court.

**5.2.51 Breach of Excluding Order**

Under section 5 of the 1997 Act, any person who breaches an interim excluding order, or an excluding order, commits an offence. The

penalty, on conviction of such offences, is a fine not exceeding €1,905 or, at the discretion of the court, imprisonment for a term not exceeding 12 months, or both. An Garda Síochána has the powers of arrest and search in the event of breach of an excluding order. Protocols will be jointly agreed with An Garda Síochána in relation to breaches, particularly at local level.

**5.2.52 Appeals**

The respondent to the order has the right to appeal the decision of the District Court to the Circuit Court or challenge the proceedings in the High Court. Dublin City Council will consider resisting all such cases. In the case of High Court appeals please refer to 5.2.37.

**6.0 PRINCIPAL OBJECTIVE – 2 – COORDINATION OF SERVICES WITHIN DUBLIN CITY COUNCIL**

The main services within Dublin City Council that have a role in dealing with issues of Anti-Social Behaviour are as follows:

**6.1 CENTRAL ANTI-SOCIAL BEHAVIOUR UNIT**

The staff who primarily work in the area of combating Anti-Social Behaviour are based in the Housing and Residential Services Department and are divided between the Central Unit and the local Area Housing Offices. The responsibilities of the Central Unit are:

- to interview respondents in serious cases when requested to do so by the local Area Housing Office, particularly when a notice to quit or excluding order is being considered
- to terminate tenancies by serving notices to quit and demands for possession
- to process notice to quit cases, from the serving of the notice to the close of the case

- to give evidence in court in regard to terminated tenancies
- to process excluding order cases, from the consultation with the respondent to the close of the case
- to give evidence in court regarding excluding order cases
- to collate and manage statistics
- to liaise with the Law Dept.
- to liaise closely with the local Area Housing Offices where most complaints are made, and from where investigations are initiated
- to liaise with all other relevant sections
- to meet with outside agencies, such as the HSE, An Garda Síochána, Tenancy Sustainment Agency, housing agencies, and other local authorities as and when required
- to assist in training courses and to provide ongoing training to staff involved in Anti-Social Behaviour issues
- to monitor changes in legislation and to keep policies and procedures up to date
- to oversee the carrying out of evictions.

**6.2 AREA HOUSING OFFICES**

There are twelve local Area Housing Offices situated strategically across the administrative area of Dublin City Council. It is here that most complaints of Anti-Social Behaviour are made, and it is also from these local offices that investigations are carried out by dedicated and trained staff under the supervision of the relevant Area Housing Manager. Dedicated staff who are trained in dealing with issues of Anti-Social Behaviour are assigned to all of the Area Housing Offices.

**6.3 LAW DEPARTMENT**

The Law Agent arranges legal proceedings, provides solicitor and counsel representation in court, deals with appeal cases / High Court applications, assists in the negotiation of costs, and generally provides important technical and legal advice and support in the area of combating Anti-Social Behaviour, particularly to the Central Unit.

**6.4 HOUSING WELFARE / SOCIAL WORK SERVICE**

The Housing Welfare / Social Work Section is the social work agency of Dublin City Council Local Authority. The Chief Welfare Officer / Head Social Worker and the professional staff of the Housing Welfare / Social Work Section ensure the delivery of an efficient, competent, professional social work service to tenants and prospective tenants, tenant purchasers, elderly families, individuals, members of the Traveller community, and other ethnic minorities.

The Housing Welfare Officers / Social Workers service delivery covers a variety of areas. Apart from clinics in the Area Offices, duty service in the Civic Offices, case work with clients, their involvement extends into Housing Estate Management, Anti-Social Behaviour, the elderly, community, individual mental health issues, homeless persons, policy making on the housing issue of sex offenders, diversity – refugees and migrants, domestic violence.

The Housing Welfare Officers / Social Workers provide a social assessment service where appropriate to the Anti-Social Unit.

Dublin City Council Housing Welfare Section / Social Work Section offers a neighbour

mediation service where appropriate to Dublin City Council tenants, tenant purchasers and non tenants residing in Dublin City Council estates, group housing schemes and halting sites. This is a confidential service, carried out by trained mediators (members of the social work staff in the section). Referrals must be made to the service through the Dublin City Council local Area Housing Managers.

Equality and Diversity Training – these programmes are delivered to frontline staff in Dublin City Council and to other local authorities on request by trained members of the Social Work / Housing Welfare Section.

**6.5 ALLOCATIONS SECTION**

The Allocations Section deals with the allocation of dwellings to prospective tenants under the Scheme of Letting Priorities.

Section 14 of the 1997 Act, as amended, provides for the refusal or deferral of a letting to an applicant on grounds of Anti-Social Behaviour or if it is not in the interests of good estate management. This provision is extremely effective in preventing anti-social elements from populating estates and complexes under the control of Dublin City Council.

**6.6 LOANS, SALES AND GRANTS**

This section deals with the sale of dwellings to prospective purchasers, such as tenant purchasers. The provisions of section 14 of the 1997 Act, as amended, apply here and allow for the refusal of a sale of a dwelling on grounds of Anti-Social Behaviour or if it is not in the interests of good estate management.

**6.7 TRAINING UNIT**

This unit is part of the Council's Human Resources Department. It organises and arranges appropriate training for staff involved in preventing and reducing Anti-Social Behaviour.

**6.8 TRAVELLER ACCOMMODATION UNIT**

This unit is involved in the provision of suitable accommodation for Travellers within the administrative area of Dublin City Council.

**6.9 CHAPTER 4 TENANCIES SECTION (RAS)**

This section deals with the Allocation of all Chapter 4 tenancies (RAS).

As part of their duties, this section collects, records and investigates all complaints in relation to Anti-Social Behaviour in these dwellings. Contracts entered into with landlords obliges he / she to serve a Termination Notice on the tenant when requested by this section after investigation.

This section liaises closely with both our Allocations Section and Area Offices when considering clients for housing who previously have been Council tenants. This is to ensure that any previous record of Anti-Social Behaviour is taken into account when deciding on further Housing.

This section also liaises with Area Offices and Housing Development Section when procuring units in order to have regard to the concentration of other social housing in a particular development or area and ensures that

any leasing of property is consistent with our Sustainable Communities objective.

The primary means by which these services are coordinated is through the Area Housing Managers meetings which are held once every month in the Civic Offices.

These meetings are chaired by the Executive Manager, Housing and Residential Services Department and are attended by all Area Housing Managers. The Area Housing Managers are decision makers with regard to appropriate action in Anti-Social Behaviour cases within their respective areas, including legal action.

Also represented is the Central Unit, the Allocations Section, and any or all of the other services, depending on the makeup of the agenda for each particular meeting.

Updates on progress with all serious cases, including excluding order and eviction, are submitted as well as relevant statistics. Discussion on all aspects of Anti-Social Behaviour is facilitated at these meetings where proposals and agreed actions are recorded and minuted.

**7.0 PRINCIPAL OBJECTIVE – 3 – PROMOTING CO-OPERATION WITH OTHER PERSONS / BODIES**

Dublin City Council is committed to adopting and promoting a multi-agency approach when taking steps to prevent, reduce and combat Anti-Social Behaviour within its areas of responsibility.

Under section 15 of the 1997 Act, as amended, the Council has the statutory right to request / exchange information with certain relevant bodies for the purpose of any of their functions under the Housing Acts 1966 to 2009, and these include:

- An Garda Síochána
- Criminal Assets Bureau
- Dept. of Social and Family Affairs

- HSE
- Other Housing Authorities
- Approved Bodies

This provision is widely utilised by the Council in seeking to combat Anti-Social Behaviour in its estates and complexes.

For the purposes of exchanging information and promoting co-operation with outside agencies Dublin City Council regularly arrange meetings with these bodies, particularly An Garda Síochána.

There are regular meetings held with An Garda Síochána throughout the five electoral areas. These meetings may be formal, such as the crime task force meetings, community policing forum and residents meetings, or informal through interaction and exchange of information with Council investigating officers and community Gardaí on the ground.

A very good relationship currently exists between the Council and An Garda Síochána, and this will continue to be fostered and worked upon. To further enhance this good relationship Dublin City Council and an Garda Síochána will jointly agree protocols governing the liaison process, particularly at local level.

There is also regular contact with the HSE. The HSE are consulted in all cases before Dublin City Council applies to the courts for an excluding order, and in all cases prior to a warrant for possession being executed.

In addition, meetings take place on an ongoing basis with the HSE (usually social workers) and staff at the local Area Housing Offices, the Central Unit, and the Housing Welfare Service, with the purpose of pooling information in order to achieve the best outcome in Anti-Social Behaviour cases.

Dublin City Council has a good relationship with other local authorities and often engages

with them regarding shared responsibilities in the area of combating Anti-Social Behaviour. Information is also exchanged in relation to housing applicants moving from one authority's jurisdiction to another.

Close links are maintained with other housing agencies with a view to sourcing appropriate accommodation for clients, and to exchange information regarding anti-social elements.

The Council also enjoys a close working relationship with the Department of Social and Family Affairs, who are always helpful with inquiries in relation to Council investigations.

Dublin City Council will continue to work hard at promoting and fostering co-operation with these and any other relevant agency, particularly An Garda Síochána, in the carrying out of their functions in relation to preventing and abating Anti-Social Behaviour, in order to help avoid duplication of effort in the performance of these functions.

**8.0 PRINCIPAL OBJECTIVE – 4 – PROMOTION OF GOOD ESTATE MANAGEMENT**

Section 1 of the 1997 Act, as amended, defines Estate Management as follows:

- 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 the local authority under the Housing Acts 1966 to 2002, or a site, and Part V of the Planning and Development Act 2000.

Part (b) of the above definition has already been addressed in this Strategy under Principal Objective One. However, further initiatives for preventing and reducing Anti-Social Behaviour,

as well as ways in which it is hoped to promote the interests of tenants, lessees, owners or occupiers in the reasonable enjoyment of any dwelling provided by Dublin City Council are detailed below.

**8.1 COMMUNICATING TO TENANTS / RESIDENTS**

Dublin City Council will make a summary of the contents of this Strategy available to all its tenants / residents in a number of ways.

These ways can include explanatory leaflets, notice boards in Council offices, residents meetings, public meetings, tenants handbook, tenant training, Council website, etc.

As part of this campaign, Dublin City Council needs to make it clear that it will not tolerate Anti-Social Behaviour in its areas.

**8.2 TENANT TRAINING**

Dublin City Council will organise pre-tenancy training courses for all new tenants. Attendance at these courses is compulsory for all new tenants.

The functions of the Council and the services provided are explained at these courses. The obligations of tenants are outlined, including Anti-Social Behaviour, rent, maintenance, sub-letting, banned dogs, etc. The tenancy agreement is fully explained with particular emphasis on Anti-Social Behaviour.

They are made aware of the strong position Dublin City Council has adopted in relation to such behaviour. Leaflets about Anti-Social Behaviour are available with local Area Housing Office addresses and telephone numbers listed on the back.

The leaflet makes it clear that the dwelling they are being allocated is ‘your home, your community, your place, and with your help’ the Council can tackle Anti-Social Behaviour and by so doing help to provide an environment in which tenants / residents can better enjoy their area and their home.

### 8.3 EDUCATION AND RESEARCH

Dublin City Council consider education and research into preventing and reducing Anti-Social Behaviour to be of high importance.

Education will be provided to dedicated staff involved in dealing with issues of Anti-Social Behaviour by various means including training courses run in-house and training seminars / conferences run by appropriate outside agencies.

In addition, comprehensive training manuals incorporating policies and procedures to further enhance their development in this specialised area will be provided. Dublin City Council’s Performance Management Development System (PMDS) monitors the personal development and training needs of staff.

Dublin City Council will engage with appropriate bodies, such as the Institute of Public Administration, the Centre for Housing Research, and other housing authorities in relation to research into preventing and abating Anti-Social Behaviour, with a view to keeping its overall Strategy, including policies and procedures, up to date and effective.

Queries from schools and college students who require information or statistics on Anti-Social Behaviour in relation to their studies, or perhaps a thesis they may be undertaking, will be welcomed, and will receive a positive

response from Dublin City Council. This should serve to create an awareness of Anti-Social Behaviour issues among our younger citizens. Presentations will be made to appropriate bodies on request.

### 8.4 ENGAGING WITH COMMUNITIES

The Council’s Community Development Section will assist in the setting up of tenant / resident committees for local areas and help with the establishment of community / resource centres and youth clubs.

They will engage with communities on a regular basis to promote tenant / resident participation in various activities such as tree and shrub planting, area cleanups, local festivals, etc., in order to foster a community spirit in the area in which they live, with a particular emphasis on involving young people.

Tenants associations are encouraged to report anti-social incidents to both Dublin City Council and the Gardaí.

The Sports Development Section will promote the involvement of young people in the community in sports and games and will help to set up sports clubs and organise and manage games and activities. They will also visit local schools and engage with students in relation to sports in their areas. In doing this, particular emphasis will be considered in areas of high anti-social incidents and the availability of youth services.

### 8.5 REGENERATION PROJECTS

Dublin City Council is involved in several regeneration projects and precinct improvement programmes throughout its area of administration.

The purpose of these projects is to substantially upgrade and enhance the living conditions of tenants / residents residing in these areas.

In the context of Anti-Social Behaviour, these developments will attempt ‘to design out’ infrastructural problems that could lead to such behaviour, for example large unused open spaces, laneways, poor lighting, etc. They can include such improvements as parking spaces, playgrounds, community centres, secure front gardens, boundary walls, security gates, intercom systems, etc.

All of these improvements will help to prevent and reduce Anti-Social Behaviour and will assist in promoting a feeling of security and enjoyment in tenants / residents in relation to their homes

and their areas. The need to prevent and abate Anti-Social Behaviour is a key consideration in relation to decisions in respect of funding for the above projects.

## 9.0 TENANCY AGREEMENTS

### 9.1 STANDARD TENANCY (LETTING) AGREEMENT

In all cases where a tenancy dwelling is allocated by Dublin City Council the tenant signs a tenancy agreement. Clause 13 of the current tenancy agreement, which deals with unacceptable behaviour, reads as follows:

- a. Neither the tenant nor any member of his household or any household or any sub-tenant or visitor shall cause any nuisance, annoyance, or disturbance to any neighbours, their children or visitors or Council staff.
- b. The term “neighbours” in this Agreement means persons living or working in the vicinity of the tenant’s dwelling.
- c. For the purpose of this Agreement the phrase “nuisance, annoyance or disturbance” includes inter alia the following:
  - i. harassment;
  - ii. violence or threats of violence against the person or property;
  - iii. threats, abuse or harassment of any kind or any act or omission causing disturbance, discomfort or inconvenience;
  - iv. obstructions of any of the common areas, doorways and other exits and entrances in the block and in the estate;
  - v. making an unreasonably loud noise by shouting, screaming, playing any musical instrument or sound reproduction equipment (including television, radio and hi-fi) or using machinery;

- vi. any act or omission which creates a danger to the well-being of any neighbour or to his / her belongings;
- vii. the tenant must not, at any time, invite or allow to remain on any part of the dwelling or garden, any persons in respect of whom the Council has notified the tenant that they should not enter or remain on the property.

A tenant evicted for a breach of this condition or part of it will be deemed for the purpose of rehousing to have deliberately rendered himself homeless within the meaning of Section 11 (2) (b) of the Housing Act, 1988 and may not be provided with another home by the Council until such time as the Council is satisfied that the evicted tenant and his family are capable of living and are agreeable to live in the community without causing a further breach of this condition.

Section 29 of the 2009 Act stipulates that tenancy agreements must include:

- a. terms and conditions relating to Anti-Social Behaviour carried out by tenant / household member
- b. provisions and consequences in regard to allowing persons against whom there is an excluding order in force in relation to a dwelling, to enter that dwelling.

Our current tenancy agreement will therefore be revised and amended to include the above.

### 9.2 CHAPTER 4 TENANCY AGREEMENT (RAS)

The Residential Tenancies Act 2004 will apply to all Chapter 4 tenancies. In setting out the obligation of a tenant, Section 16(h) of this Act states that the tenant will:

not behave within the dwelling, or in the vicinity of it, in a way that is anti-social or allow other occupiers of, or visitors to, the dwelling to behave within it, or in the vicinity of it, in such a way.

Section 17 defines ‘behave in a way that is anti-social’ as follows:

‘engage in behaviour that constitutes the commission of an offence, being an offence the commission of which is reasonably likely to affect directly the well-being or welfare of others’;

‘engage in behaviour that causes or could cause fear, danger, injury, damage or loss to any person living, working or otherwise lawfully in the dwelling concerned or its vicinity and, without prejudice to the generality of the foregoing, includes violence, intimidation, coercion, harassment or obstruction of, or threats to, any such person, or engage, persistently, in behaviour that prevents or interferes with the peaceful occupation

- i. by any other person residing in the dwelling concerned, of that dwelling,
- ii. by any person residing in any other dwelling contained in the property

containing the dwelling concerned, of that other dwelling, or

- iii. by any person residing in a dwelling (“neighbourhood dwelling”) in the vicinity of the dwelling or the property containing the dwelling concerned, of that neighbourhood dwelling

In all cases the tenant signs a tenancy agreement / lease stating that any act or omission by the tenant shall be deemed to include a reference to act or omission by any person who at the time of the doing of the act or omission is in the dwelling concerned with the consent of the tenant. This therefore satisfies the new requirement under section 29 of the Housing Act 2009.

The tenancy agreement / lease will however be amended to reflect the new provision under the Housing Act 2009 relating to excluding orders.

### 9.3 TRAVELLER SPECIFIC TENANCY AGREEMENT (TRAVELLER SITE)

The Standard Tenancy (Letting) Agreement described above at 9.1 is the same agreement that is used for Traveller accommodation.

Investigating Officers are attending and their expected time of return. Staff mobile phones are utilised on a regular basis.

- Investigating Officers are encouraged to discuss with their Area Housing Manager the possibility of assistance from An Garda Síochána with potentially violent respondents.
- Particular cases that the local Investigating Officers are not comfortable in dealing with can be referred, in conjunction with the relevant Area Housing Manager, to the Central Unit for action.
- Neither local staff of Dublin City Council nor members of the local community will be asked to give evidence of Anti-Social Behaviour in the District Court regarding section 62 applications for warrants for possession, or applications for excluding orders, in recognition of the possibility of intimidation or reprisal.
- Dublin City Council will consider legal proceedings against any person who causes or attempts to cause any threat, intimidation, harassment or coerces, obstructs, impedes or interferes with a member of staff involved

in the implementation of this Strategy. Assaults against members of staff will be reported to An Garda Síochána.

- Dublin City Council’s Performance Management Development System monitors the personal development and training needs of staff.
- Detailed Training Manuals incorporating policy, procedure, customer care, etc., are available for staff involved in investigating complaints of Anti-Social Behaviour.
- Training Courses have been run ‘in house’, and ongoing training is available, for staff involved in the investigation of complaints of Anti-Social Behaviour. In addition, training seminars run by appropriate outside agencies are regularly made available to relevant staff.
- Counselling is available to staff if required.
- Staff of all grades involved in the investigation of complaints of Anti-Social Behaviour are encouraged to contribute their views, and if in doubt regarding any aspect of dealing with issues of Anti-Social Behaviour, to consult their Supervisor.

## 10.0 HEALTH AND SAFETY

Staff dealing with complaints of Anti-Social Behaviour are made aware of health and safety issues from the outset. The policy and guidance contained in the booklet ‘Personal Safety at Work Programme’ applies to all staff when interviewing complainants or respondents, or otherwise carrying out inquiries.

This is a comprehensive and informative booklet that is available to all members of staff, including managers and supervisors, and contains procedures that can be applied in a practical fashion to the day to day operational activities of staff involved in the investigation of complaints of Anti-Social Behaviour.

The following general points apply in conjunction with the ‘Personal Safety at Work Programme’ in respect of investigating complaints of Anti-Social Behaviour.

- Interviews with either complainants or respondents should be conducted by at least two staff, and never by a lone staff member.
- House calls should be made by at least two staff, and never by a lone staff member.
- Whenever possible, interviews will be conducted at Council Offices.
- When a house call is being made a senior staff member in the relevant office is informed of the location of where the

## 11.0 CUSTOMER CARE

In line with its customer care policy (Customer Charter 2002), Dublin City Council is committed to providing a quality service, in relation to addressing problems of Anti-Social Behaviour, to its tenants and residents within its areas of responsibility.

Residents have the right to complain about such activities to any Dublin City Council office, and to have their complaint dealt with in a prompt,

fair and professional manner, in accordance with the policies and procedures outlined in this Strategy.

If a resident is not happy with the way in which his / her grievance was handled, or the subsequent outcome, he / she can make a complaint to the Executive Manager, Housing & Residential Services, Block 1, Floor 2, Civic Offices, Fishamble Street, Dublin 8, or to the Customer Services Centre, Block B, Blackhall Walk, Queen Street, Dublin 7.

## 12.0 LEGISLATION UNDERPINNING THE STRATEGY

The measures adopted by Dublin City Council to tackle Anti-Social Behaviour can vary according to the circumstances of each case. The legal powers and remedies available to Dublin City Council in the Housing Acts 1966 – 2009 are outlined briefly as follows:

### 12.1 DEFINITION OF ANTI-SOCIAL BEHAVIOUR

The definition of Anti-Social Behaviour is found in section 1 of the Housing (Miscellaneous Provisions) Act 1997. However this definition has been amended and expanded through various Acts including the 1998 Act, the 2004 Act and the 2009 Act. Following is the current amended definition:

- 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 and 1984)
- 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 2002 or Part V of the Planning and Development Act 2000, or a housing estate in which the house is situate or a site and, without prejudice to the foregoing, 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 persons home.

It is the above legal definition only that Dublin City Council looks to when deciding on whether or not behaviour complained of is Anti-Social Behaviour. The exception to this is where a private landlord is initiating eviction proceedings

in a Chapter 4 tenancy (RAS), in which case the definition contained in the Residential Tenancies Act 2004 is used. See section 9.2.

Possession of illegal drugs solely for personal use does not come within this definition of Anti-Social Behaviour. Activities that do not fall within the definition can represent breaches of the Tenancy Agreement. If this is the case, and if legal action is deemed appropriate, then proceedings may be initiated for breach of Tenancy Agreement under the same section that is used to initiate proceedings for Anti-Social Behaviour, namely section 62 of the Housing Act 1966, as detailed below at 12.3.

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

### 12.2 DEFINITION OF ESTATE MANAGEMENT

Section 1 of the 1997 Act as amended defines Estate Management as follows:

- 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 estate in which is situate a house provided by the local authority under the Housing Acts 1966 to 2002, or a site, and Part V of the Planning and Development Act 2000.

### 12.3 SECTION 62 OF THE HOUSING ACT 1966

Under section 62 of the Housing Act 1966, as amended, Dublin City Council can apply to the District Court for a warrant for possession of a dwelling let under the Housing Acts, where there is no longer a tenancy in the dwelling. The tenancy is determined at the expiry of the Notice to Quit & Demand for Possession which would be served at least 4 weeks prior to the expiry date. An application for a warrant for possession is made by the issue and service of a summons following the expiry of a Notice to Quit & Demand for Possession where the tenant

has failed or refused to comply with the demand. If the tenancy has been properly determined and the court is satisfied on the application, the Court shall grant a warrant for possession. The warrant for possession is then conveyed to the City Sheriff for execution (eviction).

This legislation enables Dublin City Council to repossess a Council rented dwelling. The Council is not required under this legislation to provide evidence of the behaviour that has led to the decision of the Council to determine the tenancy. The Council only has to provide proof that it has followed the statutory procedure in seeking the warrant.

However, under section 21 of the Housing (Miscellaneous Provisions) Act 1997, as amended, evidence of Anti-Social Behaviour can be accepted by the District Court from the Council, the Gardaí and the Health Service Executive. Such evidence would be given where other possible witnesses are not in a position to give evidence due to violence, threat or fear. This can also apply to proceedings under the Housing Act 1966. In general, Dublin City Council does not present evidence of Anti-Social Behaviour when applying for a warrant for possession in the District Court under section 62.

### 12.4 HOUSING (MISCELLANEOUS PROVISIONS) ACT 1997 AS AMENDED

The Housing (Miscellaneous Provisions) Act 1997, as amended, affords housing authorities further legal remedies to deal with the problem of Anti-Social Behaviour, as detailed in the following subsections, and where eviction is considered to be too harsh in all the circumstances of the case. For example, where only one member of a household is engaging in Anti-Social Behaviour, that one member can be targeted and excluded, rather than evicting the whole family and repossessing the dwelling. The 1997 Act has been variously amended by the 1998 Act, the 2004 Act, and the 2009 Act and these relevant amendments can be found in the sections following this under their own headings. However, for the sake of clarity, the excluding order provision described below at 12.4.1 is the current amended version.

#### 12.4.1 Excluding Order Explained

Under Section 3 of the 1997 Act as amended, a tenant, a relevant purchaser, an authorised

person and a Chapter 4 tenant can apply to the District Court for an order, known as an 'excluding order', against the person (including a joint tenant) whom he or she believes to be engaging in Anti-Social Behaviour. An excluding order directs the person, if residing in the house, to leave the house and, whether the person is or is not residing at the house, prohibits him / her, for the period during which the order is in force (up to three years), from entering or being in the vicinity of that house, or in the vicinity of any specified housing estate. Excluding orders can be applied for only in respect of members of the applicant's household or persons directly connected to the applicant's own dwelling and not other dwellings.

An excluding order may also prohibit a person 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 house.

Dublin City Council can also make an application for an excluding order if it believes that a tenant, a relevant purchaser, an authorised person or a Chapter 4 tenant is prevented from applying for an excluding order by reason of violence, threat or fear, or for any other reason, and if Dublin City Council believes that it is in the interests of good estate management that such an application should be made.

Before the housing authority can apply for an excluding order the respondent and the Health Service Executive must first have been consulted.

Private property, other than relevant purchase dwellings and Chapter 4 dwellings (RAS) are excluded, as are private housing estates, other than those estates that have one or more dwellings under the control of a housing authority.

In the case of Travellers, the 1998 Act enables the housing authority to apply the excluding order provisions to Traveller specific sites.

#### 12.4.2 Making of an Interim Excluding Order

Section 4 of the 1997 Act provides for the making of an interim excluding order where there is immediate risk of significant harm to a tenant / relevant purchaser or other occupant pending determination of an application for an excluding order.

**12.4.3 Breaching an Excluding Order**

Under section 5 of the 1997 Act, any person who breaches an interim excluding order, or an excluding order, commits an offence. The penalty, on conviction of such offences, is a fine not exceeding €1,905 or, at the discretion of the court, imprisonment for a term not exceeding 12 months, or both. Generally, sections 5 to 12 contain necessary supporting provisions for the operation of the excluding order procedure.

**12.4.4 An Garda Síochána**

Section 12 of the 1997 Act provides for a member of An Garda Síochána, who has reasonable cause for believing that an offence is being or has been committed under section 5 of this Act, may, on complaint to him / her by the tenant, relevant purchaser or housing authority, arrest the respondent concerned without warrant, and for the purpose of arresting, the member may enter (if need be by use of reasonable force) and search any place (including a dwelling) where the respondent is or where the member suspects the respondent to be.

**12.4.5 Voluntary Housing Bodies**

Section 13 of the 1997 Act provides for the application of the excluding order procedure in sections 3 to 12 to houses provided by voluntary housing bodies approved for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act 1992.

**12.4.6 Refusal or Deferral of Letting a Dwelling**

Under section 14 of the 1997 Act, Dublin City Council may refuse or defer the making of a letting of a dwelling to a person where it considers that:

- the person is, or has been, engaged in Anti-Social Behaviour,
- a letting to that person would not be in the interest of good estate management,
- the person has failed to provide, upon request, information necessary in connection with an application for the letting, including information relating to persons residing, or to reside, with that person.

Dublin City Council may also refuse to sell a dwelling to a tenant where it considers that the tenant is, or has been, engaged in Anti-Social

Behaviour or that a sale of a dwelling to a tenant would not be in the interest of good estate management. Section 197 of the Residential Tenancies Act 2004 contains an amendment to section 14 of the 1997 Act and gives more powers to the housing authority to refuse the sale of a dwelling provided by Part V of the Planning and Development Act 2000 if the authority believes that the applicant is or has engaged in Anti-Social Behaviour.

**12.4.7 Request for Information**

Under section 15 of the 1997 Act, Dublin City Council may request information in relation to any person who applies to it for housing, or any person residing or proposing to reside in a house provided by Dublin City Council, or any person whom the Council considers may be or may have been engaged in Anti-Social Behaviour, from:

- another housing authority,
- the Criminal Assets Bureau,
- An Garda Síochána,
- the Minister for Social, Community and Family Affairs.
- the relevant Health Board (Health Service Executive),
- an approved body under the Housing Acts.

**12.4.8 Refusal, Suspension or Termination of a Supplementary Payment**

Under section 16 of the 1997 Act, the Health Service Executive may refuse, suspend or terminate a supplementary payment in relation to rent or mortgage interest in respect of any person:

- who has been required to deliver up possession of a dwelling provided by Dublin City Council, or an approved body for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act 1992 on the grounds of Anti-Social Behaviour or in the interests of good estate management,
- to whom a letting has been refused or deferred under section 14 of the Housing (Miscellaneous Provisions) Act 1997,
- who is a respondent to an excluding order or an interim excluding order made under

section 3 or section 4 of the Housing (Miscellaneous Provisions) Act 1997,

- who has been directed to leave a house under section 20 of the Housing (Miscellaneous Provisions) Act 1997.

**12.4.9 Social Welfare Acts**

Section 17 of the 1997 Act amends the Social Welfare Acts to allow for deduction of local authority rents (without permission of the tenant) at source from social welfare payments. This section has not come into effect as yet.

**12.4.10 Interference with Staff**

Under section 18 of the 1997 Act, any person who causes or attempts to cause any threat, intimidation or harassment, or coerces, obstructs, impedes or interferes with, an officer or employee of a housing authority, or of a health board (HSE), or a member of the family of such officer or employee, or any person who provides or is to provide evidence in any proceedings under section 62 of the Housing Act 1966 or the Housing (Miscellaneous Provisions) Act 1997, commits an offence. The penalty, on conviction, is a fine not exceeding €1,905 or, at the discretion of the court, imprisonment for a term not exceeding 12 months, or both.

**12.4.11 Tenancy Rights**

Section 19 of the 1997 Act provides that any payment to a housing authority by an occupier, where a Notice to Quit has been served and expired, does not recreate tenancy rights in the dwelling.

**12.4.12 Illegal Occupiers**

Under section 20 of the 1997 Act, Dublin City Council can request An Garda Síochána to direct a person who is an illegal occupier (squatter) of a dwelling owned by the Council and who is or has been engaged in Anti-Social Behaviour to leave that dwelling. This provision does not apply to tenants or persons who have failed to vacate dwellings on the termination of tenancies by Notices to Quit.

**12.4.13 Evidence in Court**

Section 21 of the 1997 Act allows for a member of An Garda Síochána, or an officer of a housing authority or health board (HSE), in relation to proceedings under the 1997 Act and under section 62 of the 1966 Act, to state in court

that he / she believes that a person is or has been engaged in Anti-Social Behaviour, and if the court is satisfied that there are grounds for such belief, and that another person would be deterred from providing evidence through violence, threat or fear, then the statement shall be evidence of such Anti-Social Behaviour.

**12.5 FREEDOM OF INFORMATION ACT 1997**

The Freedom of Information Act 1997 came into effect, as far as it concerned information held by local authorities, in October 1998.

Generally, in the interest of combating Anti-Social Behaviour, confidential information is protected from disclosure under Section 26 of the Freedom of Information Act 1997 –

*The head of a public body shall refuse to grant a request for information if the record concerned contains information given to the body in confidence and on the understanding that it would be treated by it as confidential (including such information as aforesaid that a person was required by law, or could have been required by the body pursuant to law, to give to the body) and, in the opinion of the head, its disclosure would be likely to prejudice the giving to the body of further similar information from the same persons or other persons and it is of importance to the body that such further similar information as aforesaid should continue to be given to the body.*

**12.6 HOUSING (TRAVELLER ACCOMMODATION) ACT 1998**

The Housing (Traveller Accommodation) Act 1998 generally applies the excluding order provisions of the Housing (Miscellaneous Provisions) Act 1997 in relation to local authority halting sites for caravans. Where an excluding order is granted against an owner or occupier of a caravan they can be required to remove the caravan from the site.

**12.7 SECTION 197 OF THE RESIDENTIAL TENANCIES ACT 2004**

Commencing on 1st September 2004 the Housing (Miscellaneous Provisions) Act 1997 was amended by section 197 of the Residential Tenancies Act 2004 to make the following essential changes:



- A tenant purchaser, and any person who subsequently acquires the tenant purchaser’s interest in the property, both of whom are now described as ‘relevant purchaser’, can make application for an excluding order in the same way as a tenant, but only in respect of local authority estates where there is at least one tenant to whom the local authority have a continuing duty of care. When the last house is sold in a former local authority estate, the estate is then private.
- The reference to a housing estate has been clarified to refer to an estate in which there is at least one house under the control and management of a housing authority.
- The housing authority can apply for an excluding order if the tenant or relevant purchaser refuses to apply for whatever reason, not only through violence / threat / fear, which was the case according to the 1997 Act.
- In the 1997 Act the housing authority could apply for an excluding order against a joint tenant, however section 197 now prohibits this.
- Substituting ‘Housing Acts 1966 to 1997’ with ‘Housing Acts 1966 to 2002 or Part V of the Planning and Development Act 2000’. In essence this means that a tenant who has been provided with a house under Part V can apply for an excluding order in the same manner as a tenant who has been provided with a house directly by the local authority.

**12.8 HOUSING (MISCELLANEOUS PROVISIONS) ACT 2009**

The most significant Anti-Social Behaviour provisions in the Housing (Miscellaneous Provisions) Act 2009 came into operation on 1st December 2009 as per Commencement Order 2009 (S.I. No. 449 of 2009) and these provisions are as follows:

**12.8.1 Anti-Social Behaviour Strategy**

All housing authorities must draw up and adopt an Anti-Social Behaviour Strategy by 30th November 2010 as per section 35(1). The Strategy will apply to those parts of its administrative area where the authority has:

- Dwellings let under the Housing Acts 1966 to 2009
- Dwellings that are the subject of Chapter 4 tenancy agreements (RAS)
- Dwellings in which relevant purchasers live
- Sites for Travellers – site in this context is defined in the Housing (Miscellaneous Provisions) Act 1997, as amended.

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 2009, and / or his or her successor in title, whether by sale or any other means. Therefore the Anti-Social Behaviour Strategy must cover:

- Tenant purchasers under section 90 of the Housing Act 1966, and their successors and, when the relevant provisions of the 2009 Act are commenced
- Incremental purchasers under Part 3
- Apartment tenant purchasers under Part 4.

**12.8.2 Principal Objectives**

The principal objectives that must be included in the Anti-Social Behaviour Strategy are set out in subsection (2) and are as follows:

- The prevention and reduction of Anti-Social Behaviour
- The co-ordination of services within the housing authority that are directed at dealing with or preventing or reducing Anti-Social Behaviour
- The promotion of cooperation with other persons, including An Garda Síochána, in the performance of their respective functions in relation to dealing with or the prevention or reduction of Anti-Social Behaviour, having regard to the need to avoid duplication of activities by the housing authority and such other persons in the performance of those functions
- The promotion of good estate management (as defined by section 1 of the 1997 Act).

**12.8.3 How the Strategy will be Implemented**

As per subsection (3) housing authorities are also required to detail in the Strategy the way in which its principal objectives are to be attained, including, by way of example:

- Procedures for making an Anti-Social Behaviour complaint to a housing authority
- Initiatives for preventing and reducing Anti-Social Behaviour
- Education and research in relation to Anti-Social Behaviour, its prevention and reduction.

**12.8.4 Consultations**

As per subsection (5) housing authorities will have to consult with the following persons / bodies during the preparation or amendment of their Strategy:

- Joint Policing Committee for the area
- An Garda Síochána
- HSE
- Any other person that the authority considers appropriate.

Local Authority Guidance Note from the Department of Environment, Heritage and Local Government dated November 2009 advises that local authorities should have regard to good practice guidelines issued to housing authorities in 2003 in relation to preventing and combating Anti-Social Behaviour.

**12.8.5 Amendments to the Housing (Miscellaneous Provisions) Act 1997**

There are two amendments being made to the Housing (Miscellaneous Provisions) Act 1997 on foot of this commencement:

- An amendment is being made to the definition of Anti-Social Behaviour in section 1 of the 1997 Act as follows: the word *alarm* is included after the word *damage* in part (b), and part (b) is extended to include:
  - behaviour which causes any significant or persistent impairment of a person’s use or enjoyment of his or her home

- damage to or defacement by writing or other marks of any property, including a person’s home (the full amended definition can be found at 3.0)

- The scope of the power of section 15 of the 1997 Act, which deals with the exchange of information about particular persons, is being extended to cover:

- Occupants of, or applicants for, sites for Travellers
- Tenants of, or applicants for, accommodation provided by approved bodies
- Applicants for, or beneficiaries of, housing support under existing affordable housing schemes.

In addition to the above, once the relevant parts of the 2009 Act have been commenced, the provisions of section 15 will also apply to:

- Tenants of, or applicants for, accommodation under a rental accommodation availability agreement (RAS)
- Applicants for, or beneficiaries of, housing support under the incremental purchase scheme
- Applicants for, or beneficiaries of, housing support under the tenant purchase of apartments scheme
- Applicants for, or beneficiaries of, housing support under the new affordable dwelling purchase arrangements.

**12.8.6 Other Anti-Social provisions yet to be commenced include:**

- Section 29 – Tenancy Agreements – will have to include (a) terms and conditions relating to Anti-Social Behaviour carried out by tenant / household member and (b) provisions and consequences in respect of allowing persons against whom there is an excluding order in force in relation to a dwelling, to enter that dwelling.
- Chapter 4 – Rental Accommodation Arrangements – the provisions of the 1997 Act (including the excluding order provisions)

will apply to tenants of dwellings subject to Chapter 4 tenancy agreements.

- Section 22 – Allocation Scheme – section 14 of the 1997 Act, which relates to the refusal / deferral of the letting or sale of a dwelling on grounds of Anti-Social Behaviour / good estate management, will be expanded to include:
  - i. Chapter 4 allocations (currently Rental Accommodation Scheme)
  - ii. Incremental Purchase Scheme (Part 3)
  - iii. Tenant Purchase of Apartments Scheme (Part 4)
  - iv. Affordable Dwelling Purchase Arrangements (Part 5).
- Section 30 – Delegated Functions – this minor amendment to section 4a(b) of

the 1997 Act (inserted by the Residential Tenancies Act 2004) means the provision of that section will apply to section 30 of the 2009 Act.

- Chapter 2 – Housing Services Plan – when drawing up or amending its Housing Services Plan the housing authority must have regard to its Anti-Social Behaviour Strategy.
- Part 3 (Incremental Purchase) & Part 4 (Tenant Purchase of Apartments) – these respective provisions will give authorities an additional level of control over the resale of properties by incremental or tenant purchasers during the charge period by being able to prevent such a resale where the prospective purchaser is or has engaged in Anti-Social Behaviour or where the sale would not be in the interests of good estate management.

