

Sligo Local Authorities

Housing Department

**Policies, Objectives and Strategies in
Combating Anti-Social Behaviour**

SEPT 2005

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1.0 Introduction

Managing Local Authority estates in the 21st century is becoming more challenging, especially with the persistent problem of anti-social Behaviour. Sligo Local Authorities is committed to the prevention and elimination of anti-social behaviour in its estates.

Under the Local Authority Legislation, primarily, **Housing (Miscellaneous Provisions) Act 1997**, the Sligo Local Authorities have been empowered to tackle the problems associated with Anti-Social Behaviour and promote good estate management. However, the fight against drugs, violence and other social problems must be a co-ordinated and co-operative approach between statutory bodies such as the Garda Siochana and Health Services Executive North West. No one agency can succeed to combat the problems of anti-social behaviour and requires the partnership and mutual support of not only statutory bodies but also the local communities and voluntary organisations. This legislation has been amended by the introduction of **Residential Tenancies Act 2004 – Section 197** enabling the local authority to adopt measures against anti-social behaviour to Tenant Purchasers referred to as “relevant purchaser” to whom a housing authority has sold a house under the Housing Acts 1966 to 2002 or a person who subsequently has a vested interest in the dwelling (see Section 4.12 below)

Indeed there exists an overlap between the definition of Anti-Social Behaviour as found in the Housing (Miscellaneous Provisions) Act 1997 and breach of tenancy as found in the Tenancy Agreement, which all tenants must sign when allocated a dwelling.

Section 1 of the Housing Miscellaneous Provisions Act 1997 gives the definition of anti-social behaviour which includes either or both of the following

- A) deals with all aspects of illegal drug activity in a Local Authority Dwelling except possession of drugs for personal use and
- B) serious violence and intimidation which must be frequent and persistent towards another person.

The Sligo Local Authorities’ Mission Statement is:

“To investigate all complaints of anti social behaviour in a fair, objective and professional manner to enable all residents in Local Authority estates enjoy living in a peaceful and safe environment”.

2.0 Objectives

The Primary Objectives of this Policy is

- To take preventative measures
- To assess persons applying for Sligo Local Authorities housing or purchase of Sligo Local Authorities Housing and subject to Residential Tenancies Act 2004, assess applicants for Affordable Housing and Shared Ownership Schemes.
- To investigate all complaints of Anti-Social Behaviour fairly, objectively and impartially
- Pursuit of Legal Remedies, including court orders for eviction, where necessary.

3.0 Strategies

■ **Structured systems** established to make complaints safeguarding confidentiality of source, investigating all complaints.

■ To build up **closer relations with the Garda Siochana and other Agencies** and to share information in dealing with anti-social Behaviour.

This multi-agency approach with real co-operation and co-ordination is imperative to the success of dealing with Anti-Social Problems in our estates. This partnership and mutual support must also be embraced with local communities and voluntary groups.

■ **To Encourage Greater Participation in Pre-Tenancy Courses.**

Estate Officers have organised Pre-Tenancy Training Courses for all prospective tenants and attendance on these courses is a requirement. The course explains the functions of the Sligo Local Authorities and the services the Sligo Local Authorities provides. The course examines the Tenancy Agreement and explains the consequences of breaching the terms of the agreement and invites speakers from other agencies such as Money Advice Budgeting Services and Garda Siochana. The obligations of tenants (e.g. payment of weekly rent, maintenance of dwellings etc.) are detailed as well as their rights with regard to service/response from the Sligo Local Authorities. The course also deals with anti-social Behaviour and outlines the complaint procedure for prospective tenants. Information leaflet with contact numbers and personnel are provided. It is a very informative

course and assists in the prevention of anti-social behaviour and any breaches of the tenancy agreement.

■ To work in conjunction with all relevant staff within the Sligo Local Authorities

In addressing anti-social problems, these personnel can contribute with their expertise, knowledge and experience as they work closely with families in the Sligo Local Authorities' area and are familiar with the social and cultural issues.

■ Encourage Greater Tenant Involvement in the Management of Sligo Local Authorities Housing Stock

Sligo Local Authorities aim to promote and encourage residents in the management of the Local Authorities estates through Estate Officers and Community/Tenant Liaison Officers setting up of residents/tenants associations to meet the aims of the local community. Sligo Local Authorities will encourage tenants to take a more pro-active approach through Tenant Participation Policies.

■ To establish clear Procedural Guidelines for Staff dealing with Anti-Social Behaviour.

This will encompass reporting, investigating and dealing with Anti-Social Issues. Systems, documentation, communication channels etc will be reviewed.

■ Consultation between Architects and internal staff and subsequently social partners in the design and layout of proposed Housing Schemes.

Estate Management has learnt over the years that Housing Estates should be designed in a manner not to create areas, which attract Anti-Social Behaviour such as laneways, back gardens overlooking green areas etc. To achieve a well-designed housing estate, it is important to liaise with those familiar with the problems on the ground and incorporates their views during design phase of housing estates.

4.0 Legislation

The legislation available to Sligo Local Authorities in dealing with Anti-social Behaviour is as follows:

4.1 Section 62, Housing Act 1966 (as amended)

This legislation enables Sligo Local Authorities to make an application to the District Court for a Warrant for Possession of a dwelling formerly let under the Housing Act 1966 where there is no longer any tenancy in the dwelling. The procedure involves the service of a Notice to Quit, which determines the tenancy and contains the minimum statutory period of 28 days notice to the tenant. This is followed by a Demand for Possession, which notifies the tenant that in the event of refusal of possession the aforementioned application will be made to the District Court.

Sligo Local Authorities are not required under this legislation to provide evidence of the Behaviour that has led to the decision to determine the tenancy. Sligo Local Authorities only has to provide proof that it has followed the statutory procedures in seeking the Warrant.

However, under Section 21 of the Housing (Miscellaneous Provisions) Act 1997 evidence of anti-social behaviour can be accepted by the District Court from Gardai, Sligo Local Authorities officials and Health Authority officials where other possible witnesses are not in a position to give evidence due to intimidation. This can also apply to proceedings under the Housing Act, 1966.

Note: Section 62 of the Housing Act 1966 has already been found to be constitutional by the Supreme Court.

4.2 Housing (Miscellaneous Provisions) Act 1997

Section 1 of this Act states that

“anti-social behaviour’ includes either or both of the following:

- (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, 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 a

housing estate in which the house is situated and without prejudice to the foregoing includes violence, threats, intimidation, coercion, harassment or serious obstruction of any person.”

Serious violence and intimidation is frequently associated with drug dealing and must for the purposes of this Act involve significant or **persistent danger, injury, damage etc. to persons.**

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.

- 4.3** Section 1 also defines Estate Management as
- “(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 1997,
 - (b) the avoidance, prevention or abatement of anti-social behaviour in any housing estate in which is situated a house provided by a housing authority under the Housing Acts 1966 to 1997”

4.4 Section 3 - Excluding Orders

This deals with the application for Excluding Orders by a tenant/relevant purchaser or by Sligo Local Authorities. The legislation is designed to have a more targeted response to anti-social behaviour whereby the specific offenders are dealt with thus avoiding the eviction of the entire household. Tenants would be advised to pursue option of seeking an excluding order rather than considering eviction of the entire family. If granted, an Excluding Order can prohibit the respondent from entering the relevant dwelling or the entire estate for a period up to three years. An Excluding 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.

4.5 Section 4 - Interim Excluding Order

The Court may make 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 of an Excluding Order.

This section also deals with *ex parte* hearings in exceptional cases.

4.6 Sections 5 to 12 – Penalties for contravening Excluding Orders

These sections contain necessary supporting provisions for the operation of the excluding order procedure, including offences for contravening such orders, appeals and Court jurisdiction.

Section 5 (1)

A respondent who contravenes an excluding order or an interim excluding order shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 (€1,905) or, at the discretion of the Court to imprisonment for a term not exceeding 12 months, or to both.

Section 12 (1)

Where a member of the Garda Síochána has reasonable cause for believing that, in respect of an order under this Act, an offence is being or has been committed under section 5, the member may, on complaint being made to him or her by the tenant or the housing authority, arrest the respondent concerned without warrant.

Section 12 (2)

For the purpose of arresting a respondent under subsection (1) a member of the Garda Síochána 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, with reasonable cause, suspects the respondent to be.

4.7 Section 14- Refusal/Deferral the letting of Local Authority Dwelling

This section empowers Sligo Local Authorities to refuse or defer a letting of a dwelling, or to refuse an application from a tenant to purchase a dwelling, where the applicant is or has been involved in anti-social behaviour or where the letting or sale would not be in the interest of good estate management. The power to refuse lettings also extends to applicants who fail to provide required information to the housing authority. A housing authority may also refuse consent to the resale of a tenant purchase dwelling to a person involved in anti-social Behaviour or on grounds of good estate management where the consent of the authority to the resale is required.

4.8 Section 15

This section allows Sligo Local Authorities to apply to other housing authorities or statutory agencies for information in relation to any person seeking a house from the authority or residing or proposing to reside at a house provided by the authority or whom the authority considers may be or may have been engaged in anti-social behaviour

and, notwithstanding anything contained in any enactment, such other housing authority or statutory agency may provide the information.

4.9 Section 16 – Supplementary Welfare Allowance Scheme

This section amends the Social Welfare Acts to enable governing authority to refuse or withdraw rent or mortgage interest supplement for private housing under the supplementary welfare allowance scheme where persons, otherwise eligible, have been evicted, excluded, or removed from, or refused local authority housing.

4.10 Section 18

This section creates a specific offence of intimidation against local authority officials, health authority officials, any member of their family, or any person who provides evidence under section 62 of the Housing Act 1966 or this Act.

A person who causes or attempts to cause any threat, intimidation or harassment, coerces, obstructs, impedes or interferes with, an officer or employee of a housing authority or a health board 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 this Act shall be guilty of an offence.

Penalty - £1500 (€1,905) fine, 12 months imprisonment or both.

4.11 Section 20 - Illegal Occupiers of local authority house involved in Anti-Social Behaviour

This section deals exclusively with squatters. It provides a new power to the Garda Síochána to remove squatters who are engaging or have engaged in anti-social Behaviour from Sligo Local Authorities houses. It empowers the Garda Síochána on notification by the housing authority to direct any illegal occupant of a local authority house engaged in anti-social Behaviour to leave the house. Non-compliance with a Garda's direction is an arrestable offence. There are also powers of search and entry available to the Gardai.

4.12 Residential Tenancies Act 2004 – Section 197

The power of seeking an excluding order or an interim excluding order from the District Court has now been extended to persons **(other than owner)** residing with Tenant Purchasers and with anyone to whom the house is subsequently vested. Sligo Local Authorities are also empowered to refuse to lease or sell a house under the Shared Ownership Scheme and Affordable Housing Schemes, where they consider that the applicant is or has been engaged in anti-social behaviour.

5.0 Policy

Sligo Local Authorities are committed to investigating all complaints of anti-social Behaviour in a fair, impartial and objective manner, and will rigorously enforce the legislation in all serious cases.

5.1 Assessment of Applicants

All application forms for Housing Services will inform applicant of the Authority under Section 14/15 of the Housing (miscellaneous Provisions) Act 1997 to seek information from agencies specified in Section 15 of the Act.

5.2 Excluding Orders

Sligo Local Authorities will always apply Section 3 of the Housing (Miscellaneous Provisions Act) 1997 (Excluding Order) if practicable, in order to allow for a more targeted approach in dealing with persons engaged in anti-social Behaviour and in order to avoid if possible the eviction of an entire household. Where an Excluding Order has been obtained, the Sligo Local Authorities will monitor the Excluding Order in conjunction with the Garda Siochana. In cases relating to drug involvement, Sligo Local Authorities may seek the maximum period of three years and in relation to other cases of Anti-social behaviour it may vary from 12 months to 3 years depending on the circumstances of each case. Depending on the case, excluding order may apply to a local Authority dwelling and/or an entire estate and conditions maybe attached to the excluding order.

5.3 Drug Dealing

Sligo Local Authorities will not tolerate the manufacture, production, preparation, importation, exportation, sale, supply, or possession for the purpose of sale or supply, or distribution of a controlled drug in any of its dwellings and will immediately refer such a complaint to a case conference and if the case is proved will consider legal proceedings by way of an Excluding Order or if necessary eviction proceedings against the entire household.

5.4 Refusal/Deferral of Letting on the Grounds of Anti-Social Behaviour.

Sligo Local Authorities will refuse to make a letting or defer a letting to any housing applicant where it considers the applicant has been involved in anti-social Behaviour. However this refusal/deferral will not be indefinite and every case will be treated on an individual basis. The applicant will be fully informed of the reasons for the refusal/deferral

and if the Sligo Local Authorities are satisfied that the applicant has desisted from such Behaviour the decision will be reconsidered. A housing applicant whose application has been deferred will have the right to have the decision to defer his/her application reviewed after twelve months, at the discretion of the Housing Department.

5.5 Refusal to Sell a Dwelling on the Grounds of Anti-Social Behaviour

Sligo Local Authorities will refuse to sell a dwelling to a tenant if it considers the tenant is or has been involved in anti-social Behaviour. This decision may be reconsidered if Sligo Local Authorities are satisfied that the tenant has desisted from such Behaviour. The tenant will be fully informed of the reasons for the refusal. Sligo Local Authorities will also refuse consent to the sale/purchase of a dwelling if it considers that the intended purchaser is or has been engaged in anti-social behaviour. A tenant applying to purchase, a tenant purchaser applying for consent to sell a dwelling and an applicant for consent to purchase a dwelling whose application has been refused will have the right to have the decision to refuse his/her application reviewed after twelve months, at the discretion of the Housing Department.

5.6 Refusal/Deferral of a Letting on the Grounds of Failing to Provide Information

Sligo Local Authorities will refuse to make a letting or defer a letting to any housing applicant who fails to provide information relevant to their application requested by Sligo Local Authorities and relating to persons residing with or intended to reside with the applicant and which the Sligo Local Authorities considers necessary for the full consideration of the application. The applicant will be fully informed of the reasons for the refusal/deferral and this decision will be reviewed when Sligo Local Authorities are satisfied that all relevant information has been disclosed.

5.7 Refusal/Deferral of Letting on the Grounds of Good Estate Management.

Sligo Local Authorities will refuse to make a letting or defer a letting to any housing applicant where it considers there is good reason for doing so on the grounds of good estate management. Each case will be treated on an individual basis and the applicant will be fully informed of the decision. The decision may be reconsidered depending on the circumstances of the applicant or the estate. A housing applicant whose application has been deferred will have the right to have the decision to defer his/her application reviewed after twelve months, at the discretion of the Housing Department.

5.8 Refusal to Sell a Dwelling on the Grounds of Good Estate Management

Sligo Local Authorities will refuse to sell a dwelling to a tenant where it considers there is good reason for doing so on the grounds of good estate management and will also refuse consent to the sale/purchase of a dwelling on the same grounds. The tenant/tenant purchaser and the intended purchaser will be fully informed of the decision. A tenant applying to purchase, a tenant purchaser applying for consent to sell a dwelling and an applicant for consent to purchase a dwelling whose application has been refused will have the right to have the decision to refuse his/her application reviewed after twelve months, at the discretion of the Housing Department.

5.9 Threats / Intimidation of Sligo Local Authorities Employees

Sligo Local Authorities will not tolerate any assaults, threats, intimidation, obstruction, harassment or interference with its employees who are involved in the implementation of this policy and will institute legal proceedings against any person engaged in such activity. Eviction proceedings may also be instigated.

5.10 Illegal Occupiers

Sligo Local Authorities will request the Garda Siochana to assist with the removal of illegal occupiers of dwellings who are engaging in anti-social behaviour. A member of An Garda Siochana will be requested to direct such a person to leave the dwelling or face arrest and prosecution.

5.11 Informing tenants of policy and procedure

Sligo Local Authorities will inform tenants on an ongoing basis of Sligo Local Authorities' overall policy/procedure in relation to anti-social behaviour through various means, which include pre-tenancy courses, explanatory leaflets, tenant training, etc.

5.12 Sligo Local Authorities will also endeavor to enforce any new legislation introduced which provide local authorities with new measures to combat the problems associated with anti-social behaviour.

6.0 Complaints Procedure.

6.1 General

- Persons who make complaints are requested to attend the Housing Department so that a record can be made of the complaints. In exceptional circumstances a house call to the complainant may be made.

- Complaint is registered with details such as
 - i. Nature of Complaint
 - ii. Name, address and contact no of complainants
 - iii. Name of person(s) involved
 - iv. Confidentiality Details

- Review complaint. 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

6.2 Initial Phase

- Contact complainant by phone or in writing
- Arrange for complainant to be interviewed. A comprehensive interview is convened as to
 - History
 - Detail
 - Dates of incidents
 - Possibility of witnesses
 - Involvement of Gardai
 - Involvement of Health Services Executive –North West
 - Involvement of any other neighbour or agency
 - Involvement of Resident Association
- Interview to be conducted in private
- Confidentiality. If information given by the complainant, who fears reprisal, would likely disclose his/her identity, that information will be kept confidential and will not be divulged to the person against whom the complaint is made. However, if the information is essential for the person, against whom the complaint is made, to know the true nature and the extent of the complaint, the complainant is advised and asked whether or not they wish an investigation to proceed.

6.3 Investigation Phase

- Contact any other agencies or individuals who might have information on complaint
- Contact person(s), against whom the complaint is made in writing and arrange appointment for interview.
 - Advise of nature of complaint
 - Explain that interview is held to elicit response of allegations made and that no judgements have been made and no presumption that the complaints are valid.
 - Record in detail the response and seek details of any confirmation of the alleged perpetrator's response i.e. Gardai, Doctor, residents association, neighbours etc.
 - Make complainant aware of the transgression of the tenancy conditions and of the Housing (Miscellaneous Provisions) Act 1997.
 - Stress that the investigation will continue and confirmation of allegations and defence sought.
 - Inform of likely timescale of investigation and that they will be informed before any decision to continue or end the investigation.
- Contact other agencies or individuals, which the investigation has shown to have knowledge of the complaints.
- Decide that investigation is complete.

6.4 Decision Phase

- Consider the following options
 - A No Action
 - B Verbal/Written warning
 - C Referral to appropriate authority
 - D Final Warning
 - E Excluding Order/Notice to Quit
- With regard to cases whereby Sligo Local Authorities are considering legal action a case conference will be held consisting of investigating officers, senior officials and other statutory bodies involved in the case.
- In cases whereby it has being agreed that excluding order is the appropriate action, Tenant(s) will be advised to make an application to the District Court, to provide proof of the application within a reasonable period of time and to furnish the Sligo Local Authorities with a copy of the excluding Order, if/when granted. If the application for the excluding order is refused, the case will be reconsidered as to the course of action to be taken.
- In cases whereby Notice To Quit is the considered action, minimum statutory period of 28 days notice is given to the tenant(s). Notification will be made in writing to tenant that a notice to quit has been recommended and that they can request

a review of their case by submitting to Sligo Local Authorities, in writing, any additional evidence, material, observations, etc. no later than 7 days if notification. Officers not involved in the initial decision-making process will review the decision.

6.5 Legal Phase

- If after the expiry of the Notice to quit and demand for possession served, and possession has been refused, a warrant of possession will be sought under Section 62 of the Housing Act 1966.
- The Housing Services Executive North West will be informed of Sligo Local Authorities' decision to seek a warrant for possession
- A summons is served on the Defendant (former tenant of the dwelling)
- On hearing of the application, a warrant for possession will issue, if the Sligo Local Authorities satisfy the Court that the tenancy in the dwelling was properly determined.
- If warrant for possession is granted, the defendant can appeal the District Court order to the Circuit Court within 14 days of the District Court's decision.

6.6 Final Phase

- After the warrant for possession is taken up from the Court, it will be given to the Sheriff for Execution.
- Defendant will be notified date fixed by the Sheriff to execute warrant for possession, which will take place within 28 days of the date of the signing of the warrant.
- Health Services Executive will be given prior notice of the eviction.
- Defendant will be given the opportunity to formally surrender the dwelling to Sligo Local Authorities prior to Eviction.

7.0 Customer Service

Sligo Local Authorities are committed to providing a quality service to its tenants and the public. The Liaison Officers will continue to advise the public and its tenants of significant changes in legislation or in Sligo Local Authorities' policies in dealing with anti-social Behaviour. Sligo Local Authorities will continue to meet tenants, resident associations and estate management on a regular basis and will actively advertise its services and the assistance it can provide in improving the quality of life on all Sligo Local Authorities estates.

The address for lodging complaints of all anti-social Behaviour is:

**Sligo Borough Council
Housing Department
City Hall
Quay St.
Sligo**

**Tel (071)9142141
Hours of Business
Mon to Friday 9am to 5pm**

**Sligo County Council
Housing Department
County Hall
Riverside
Sligo**

**Tel (071) 9129800
Hours of Business
Mon to Friday 9am to 5pm**

Complaints concerning the activities or the decision-making process of the Housing Department or any general observations on the work of the section may be made by contacting the relevant Administrative Officer of the Housing Department (Address as above).