



Comhairle Contae Thiobraid Árann
Tipperary County Council

Anti-Social Behaviour Strategy 2024



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Table of Contents

1.0	Introduction	3
2.0	Definitions	5
2.1	Anti-Social Behaviour Definition	
2.2	Data Protection	
2.3	Racism	
2.4	The Complainant and The Respondent	
3.0	Legislation	7
3.1	Housing Acts	
4.0	Strategy Objectives	9
5.0	Allocation of Tenancies	10
5.1	Pre-Tenancy Training	
5.2	Design of Housing Schemes	
6.0	Health & Safety and Employee Wellbeing	11
7.0	Procedure for Investigating Complaints	12
8.0	Options and Decisions	13
8.1	Discussion and Advice	
8.2	Mediation	
8.3	Referral to An Garda Síochána	
8.4	Referral to Health Board Executive and Tusla	
8.5	Verbal Warning	
8.6	Formal Agreements/Acceptable Behaviour Contracts	
9.0	Procedure for Breach of Tenancy	14
9.1	Issue Written Warning	
9.2	Issue Final Warning	
9.3	Statutory Tenancy Warning	
9.4	Review of Tenancy Warning	
9.5	Applying for Repossession	
9.6	Excluding Order	
9.7	Domestic Violence	
9.8	Illegal Occupier	
9.9	Transfer and Estate Management	
10.0	Implementation and Review	17

1.0 Introduction

Accommodation is provided by Tipperary County Council (TCC) in accordance with the Housing Acts 1966-2014 to those who are not in a position to provide it from their own resources. It is provided in a manner that facilitates social inclusion and utilises a mix of house types and sizes to cater for the particular needs of varying households.

TCC is committed to ensuring that all of its tenants enjoy living in their dwellings in a peaceful manner and without undue interference or difficulties emanating from anti-social behaviour. TCC recognises that anti-social behaviour can create major problems in a community for everyone living there and that it can seriously impact on the quality of life of all residents.

TCC also recognises that the vast majority of its tenants live in, and wish to enjoy, the peaceful occupation of their dwellings and that only a very small number of tenants are involved in anti-social behaviour.

TCC is cognisant that anti-social behaviour can have a negative and detrimental effect on the peace and enjoyment of our tenants and families. Therefore, all measures provided for in the Housing Acts 1966-2014 will be utilised to prevent anti-social behaviour from occurring and re-occurring. Furthermore, measures contained in the Garda Síochána Act 2005 will be used in all cases dealing with anti-social behaviour.

The Anti-Social Behaviour Policy is underpinned by the Tenancy Agreement signed by the Tenant and TCC in accordance with the Housing Acts 1966 to 2014. While there is an explicit obligation on the part of the tenant to adhere to the Tenancy Agreement, there is an equal obligation on the part of TCC to enforce the Tenancy Agreement where breaches arise. In the case of the minority of tenants who engage in anti-social behaviour, TCC will take steps, as appropriate, to address this behaviour. This will take the form of the interventions, as outlined in this Strategy.

This Strategy, which will be subject to review on a two-yearly basis, will apply to the following:

- Dwellings constructed or purchased under the Housing Acts 1966 to 2009¹
- Dwellings provided under Part V of the Planning Act 2000 as amended
- Leased dwellings
- Group Housing and Halting Sites for Travellers (a site in this context is defined in the Housing (Miscellaneous Provisions) Act 1997, as amended)

¹ RAS and Availability Agreement tenancies are governed by the Residential Tenancies Act, as amended, and any matters of dispute should be referred to the Residential Tenancies Board as is the case for all other private rented tenancies

2.0 Definitions

2.1 Anti-Social Behaviour

The Housing (Miscellaneous Provisions) Act, 2014 defines anti-social behaviour

"Anti-social behaviour" includes either or both of the following, namely

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 1997 to 2007)

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 1966-2014 of Part V of the Planning and Development Act 2000 or a Housing Estate in which the house is situate and, without prejudice to the foregoing, includes-

- violence, threats, intimidation, coercion, harassment or serious obstruction of any person,*
- behaviour which causes any significant or persistent impairment of a person's use or enjoyment of his or her home, or*
- damage or defacement by writing or other marks of any property, including a person's home."*

Perception of anti-social behaviour can vary, as normal standards of behaviour for one household or individual may be unacceptable to another. Therefore, behaviour must for the purposes of the Housing Acts 1966-2014 involve significant or persistent danger, injury or damage to persons, property, etc.

Anti-social behaviour is often symptomatic of social problems, such as drug or alcohol abuse or family breakdown, which a Local Authority cannot address on its own. In this regard, in many instances, successful resolution of anti-social behaviour can only be achieved based on a multi-agency partnership approach to include An Garda Síochána, Health Service Executive, Tusla and community groups. Procedural mechanisms and protocols to advance the above have to be agreed by all parties involved.

While particular incidents can fall within both anti-social and criminal classifications it is important to state that the Local Authority's role is to pursue incidents through the anti-social provisions of the Housing Acts using the civil law and An Garda Síochána's role is to pursue incidents through criminal justice mechanisms.

2.2 Data Protection

The Data Protection Acts 1988 – 2018 are designed to protect people’s privacy. The legislation confers rights on individuals in relation to the privacy of their personal data as well as the responsibilities on those persons holding and processing such data.

TCC fully respect each tenant’s privacy. Any personal information which is provided to TCC will be treated with the highest standards of security and confidentiality, strictly in accordance with the Data Protection acts 1988 – 2018 as amended

For further information please see <https://www.tipperarycoco.ie/privacy-statement>

2.3 Racism

According to the United Nations Convention on the Elimination of All Forms of Racial Discrimination, the term “racial discrimination” shall mean any distinction, exclusion, restriction, or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

2.4 The Complainant and Respondent

For the purposes of this Strategy, the term 'complainant and respondent' will be used to identify individuals. These terms will be defined as:

The Complainant:

The person who makes the complaint or reports to the local authority will be referred to as a complainant.

The Respondent:

The person whom the complaint is made against will be referred to as a respondent.

3.0 Legislation

3.1 Housing Acts

Section 35 of the Housing (Miscellaneous Provisions) Act 2009, provides the legislative framework and guidelines for all Local Authorities to adopt, by reserved function, an Anti-Social Behaviour Strategy for the prevention and reduction of anti-social behaviour in its housing stock.

The legal redress available to TCC to respond to and address anti-social behaviour caused by tenants or for the breach of the tenancy agreement is covered in a number of pieces of legislation. They include:

- Housing Act 1966
- Housing (Miscellaneous Provisions) Act 1997
- Housing (Traveller Accommodation) Act 1998
- Housing (Miscellaneous Provisions) Act 2009
- Residential Tenancies Act 2004 and 2015
- Housing (Miscellaneous Provisions) Act 2014

In implementing the provisions of this Strategy, the Council will have regard to the following legislation:

- Garda Síochána Act, 2005
- Data Protection Act 1988 -2018
- Freedom of Information Acts, 1997-2014
- Misuse of Drugs Act 1997 -2007
- Planning and Development Act 2000
- Local Government Act 2001

The Criminal Justice Act 2006 gives Gardaí certain powers in relation to Anti-Social Behaviour:

Section 113(2)

Anti-social behaviour occurs where a person or persons cause or, in the circumstances is likely to cause, to one or more persons who are not of the same household as the person;

- Harassment
- Significant or persistent alarm, distress, fear and intimidation or
- Significant or persistent impairment, impairment of their use or enjoyment of their property

Section 114 – What is a behaviour warning

A behaviour warning is the first step that must be taken before an application can be made to the courts for a behaviour order or ASBO. A behaviour warning is a means of putting a person on notice that their behaviour is causing others in the

community distress or fear and is interfering with their enjoyment of their property and that the person should cease or stop such behaviour.

A Garda may issue a behaviour warning if a person is behaving in an anti-social manner. A behaviour warning cannot be issued more than one month after the behaviour took place. A behaviour warning remains in force for three months from the date on which it was first issued.

Section 115 Anti-Social Behaviour Order

A Civil Order is an Anti-Social Behaviour Order or ASBO. A District Court may, on the application of a Superintendent of the Garda Síochána, issue a Civil Order or ASBO which prohibits a person from doing anything specified in the order.

A Superintendent can apply for a civil order when a person has been issued with three behavioural warnings in less than six consecutive months, a person has already been issued with a behavioural warning and has not complied with one or more demands of that order.

A Civil Order can remain in place for a maximum of two years from the date of making the order.

4.0 Strategy Objectives

Working under the provisions of the Housing Acts 1966-2014, TCC will:

- Work to reduce and/or prevent the occurrence of anti-social behaviour in and around TCC housing estates and adjacent amenity or common areas
- Work in conjunction with other stakeholders to reduce anti-social behaviour in TCC housing estates and adjacent amenity or common areas
- Promote relationships and foster co-operation between all stakeholders and resident associations in community projects aimed at improving the well-being of residents and the visual enhancement of estates
- Pro-actively engage and involve communities in the establishment of groups and associations and in regeneration projects
- Work in collaboration with the Joint Policing Committee and sub-committees in tackling anti-social behaviour
- Promote good estate management by all possible means

These objectives will be supported by the following policies.

5.0 Allocation of Tenancies

TCC will endeavour to provide and allocate its social housing units after appropriate vetting and obtaining relevant information from appropriate agencies. Section 15 of the Housing (Miscellaneous) Act 1997 permits the local authority to obtain such information from applicants to help inform decisions regarding any individual who has a history of anti-social behaviour.

The allocation of properties will be in accordance with the TCC Housing Allocations Scheme.

5.1 Pre-Tenancy Training

TCC provides mandatory pre-tenancy training to all new tenants. The Council's Community Liaison Officers (CLO) conduct the training prior to occupancy of the dwelling.

The obligations of the tenants are outlined to the new tenants and the tenancy agreement is fully explained with particular emphasis on tenant involvement and the expectations of the Council as landlord.

Each tenant receives a copy of the Tenancy Handbook & Housing Maintenance Policy at the training which sets out the role and responsibilities of both the tenant and the Council as landlord. This handbook also covers the Council's procedures for dealing with anti-social behaviour and how to make a complaint.

The tenant will be made aware of the Council's Anti-Social Behaviour Strategy and where to view same. The consequences for breach of tenancy and the statutory tenancy warning process is also clearly outlined.

5.2 Design of Housing Schemes

TCC will have continued consideration of the Departments best practice guidelines for "Quality Housing for Sustainable Communities" which outline areas that should be considered during scheme design to ensure security and to help eliminate anti-social behaviour.

6.0 Health & Safety and Employee Wellbeing

Tipperary County Council is committed to providing a safe and healthy workplace for all our employees, elected representatives, customers and those affected by our activities. Regular Risk Assessments are carried out which are communicated to stakeholders working in the Estate Management area.

TCC operates a Dignity at Work Policy that aims to provide a high-quality service, in a safe and secure environment and which seeks to provide protection to employees and elected representatives against threats, harassment and intimidation who implement the objectives outlined in this Strategy.

This includes but is not limited to the posting of unacceptable comments or offensive material on any social media platform or internet site about employees and elected representatives of the Council which refer or relate to their role within the Council. Following investigation should such complaints be upheld against a tenant/housing applicant appropriate sanctions will be taken in line with the council's policies and procedures.

7.0 Procedure for Investigating Complaints

The public are advised to make complaints to TCC in respect of persons to whom this Strategy applies where they believe that anti-social behaviour, as defined in Section 2.0, is occurring in their community. Concerns relating to alleged criminal behaviour, drugs and public order offences should also be referred to An Garda Síochána.

Recording a Complaint:

- Tipperary County Council has a confidential complaints system to manage and monitor all complaints.
- Complaints will be accepted by telephone, email to customerservices@tipperarycoco.ie or in writing giving their name, address and contact details (phone or email).
- If the nature of the complaint would tend to identify the complainant, then the person is made aware of this and will be asked whether or not they wish an investigation to proceed on foot of the complaint.
- TCC does not accept anonymous complaints. However, should an anonymous complaint be received and it is felt that there is substance to the complaint an investigation may be initiated.

Investigating the Complaint

Investigations may be carried out in different manners depending on the seriousness of the complaint. However, all investigations will be carried out in a fair, impartial and objective manner by the Liaison Officer.

This may include:

- Examination of tenant files/previous history
- Interview the Complainant.
- Interview the Respondent.
- Make enquiries within the area where the alleged incident occurred.
- Contact with and statements from An Garda Síochána and with other agencies, as appropriate
- Site visit, photographs

Following investigation, and if further action is considered necessary, a decision on what course of action is to be taken is made.²

² **Noise Complaints** Unreasonable noise from a dwelling is a common problem and if a resolution cannot be agreed then a complainant can make an application to the District Court for a Noise Abatement Order in accordance with Section 108, Environmental Protection Agency Act, 1992. If the noise is significant and persistently occurs an investigation may be initiated as it may constitute a breach of tenancy.

8.0 Options and Decisions

Where TCC has sufficient and reasonable reason to believe that an individual tenant or member of a tenant's household is or has been engaged in anti-social behaviour, TCC will deal with the matter using one or more of the options listed below.

8.1 Discussion and Advice

In the case of low priority complaints and where the incident was a one-off or not persistent in nature, TCC will emphasise the terms of the tenancy agreement and advise against further breaches. Some cases involve families with complex welfare needs, mental health issues, addiction problems, domestic violence, with clear needs for supports and assistance. These cases may be referred by the Liaison Officer to the Council's Tenancy Sustainment Service for appropriate support.

8.2 Mediation

Upon thorough consideration of any complaint, TCC may consider the option of mediation, with the agreement of all parties, where common ground can be achieved and agreement can be reached. The aim of this process will be for the parties involved in a housing estate to resolve the problems without the involvement of An Garda Síochána or referral of the matter through the courts. Mediation is instigated either separately or together and this will be decided by the two parties. TCC will not initiate mediation if there is any violence or threat of violence involved in the case.

8.3 Referral to An Garda Síochána

A referral to An Garda Síochána will occur as a matter of course where the complaint involves an allegation of drugs, criminal activity or public order offences.

8.4 Referral to the Health Service Executive and TUSLA

As per best practice and in line with Children's First Guidelines 2011, TCC will make appropriate referrals to TUSLA in respect of child protection and welfare concerns. Where vulnerable adults are identified as being at risk of abuse, such adults will be referred to the Safeguarding and Protection Team as per HSE's National Procedures of Safeguarding Vulnerable Persons 2014.

8.5 Verbal Warning issued by TCC

Usually reserved for instances of first offences of a low-scale nature.

9.0 Action for Breach of Tenancy Agreement

9.1 Written Warning

TCC will issue a Written Warning to give the tenant prior notice that he/she (or a member of his/her household) is breaching the Tenancy Agreement and is running the risk of receiving a Tenancy Warning.

9.2 Final Warning

If the alleged breach of tenancy persists and following further consideration of the complaint, a final warning letter may be issued to the respondent. This letter may contain reference to legal action that may be instigated against the respondent if breach of tenancy persists. The respondent may also be requested to attend a formal interview with TCC Housing Department Officers at this stage. At this interview, the allegations of breach of tenancy will again be outlined to the respondent and the respondent will have the opportunity to respond.

9.3 Statutory Tenancy Warning

If the above means of resolving the complaint and the alleged anti-social behaviour is unsuccessful and if TCC has formed the opinion that the respondent has breached a specified condition of the tenancy agreement a Tenancy Warning will be issued under Section 7 and or Section 9 of the Housing (Miscellaneous Provisions) Act 2014.³

9.4 Review of Tenancy Warning

If a tenant does not accept that he / she has breached their Tenancy Agreement in the terms set out in the Tenancy Warning, the tenant has a right to request the Council to review the Tenancy Warning. A request to review this Tenancy Warning must be made in writing to the Council and must outline the grounds upon which the tenant disputes the basis for the Tenancy Warning enclosing any relevant supporting documents. The tenant must also state if he / she or a member of its household wishes to make oral representations to the appointed Reviewer as part of the review.

On receipt of a valid review request, the Chief Executive will appoint as the Reviewer of this Tenancy Warning, a Council staff member who was not involved in the decision to issue this Tenancy Warning and who is senior in rank to the staff member who issued the Warning.

The review request should be made within 10 working days of the issue of the warning –or within 20 working days in exceptional circumstances. The reviewer should conclude the review within 20 working days -or 30 working days if the review involves a meeting with the tenant.

³ In serious cases housing authorities can bypass this process and proceed directly to the Courts to recover possession of a dwelling involved in anti-social behaviour

9.5 Applying for Repossession

If the respondent does not deal with the breach of tenancy, even after the Tenancy Warning, TCC may apply to the District Court for a possession order to enable it to repossess the dwelling under Section 12 of the Housing (Miscellaneous Provisions) Act 2014. Where a tenant has been evicted on anti-social behaviour grounds social housing supports may be limited as set out in the Housing Allocations Scheme.

9.6 Excluding Order

An Excluding Order is a targeted approach normally aimed at a member of the respondent's household; however, it can also be aimed at a person directly related to the tenant at the dwelling or a visitor to that dwelling. This targeted approach avoids the possible eviction of an entire household. If an Excluding Order is decided as an appropriate course of action, the respondent is informed to make an application to the District Court for such an Order against the individual engaging in anti-social behaviour. If granted, an Excluding Order can prohibit the respondent from entering the relevant dwelling or the entire estate for a period of up to three years.

If the tenant chooses not to apply for the Excluding Order through violence, threat or fear, or for any other reason, TCC has the authority to, and may apply for, the Excluding Order in the interests of good estate management. This process may be carried out with the support from An Garda Síochána.

An application for an Excluding Order may not be made against a person who is under twelve years of age.

9.7 Domestic Violence

Cases of domestic violence do not come within the scope of the Housing (Miscellaneous Provisions) Act 2009. An Garda Síochána and Tusla (Child and Family Agency) are the statutory agencies responsible for dealing with incidents of such nature and offer advice and support and assist with enforcement. The Domestic Violence Act 2001 is the appropriate legislation for such cases. However, the Council's Liaison officer is available for advice regarding housing support and issues surrounding domestic violence.

9.8 Section 20 of Housing Act 1997

This section deals exclusively with illegal occupiers. It provides power to An Garda Síochána to remove illegal occupiers who are engaging or have engaged in Anti-Social Behaviour from Council houses. It empowers An 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 An Garda Síochána's direction is an arrestable offence. There are also powers of search and entry available to An Garda Síochána.

9.9 Transfer and Estate Management

The Social Housing Allocations Scheme and the Transfer Policy incorporated therein applies to all transfer applications. TCC is committed to dealing with cases of anti-social behaviour where they arise. The objective is to address the behaviour in accordance with the foregoing policy, in order that other residents can enjoy peaceable occupation of their accommodation.

Symptoms of anti-social behaviour may manifest in the form of requests for a transfer of accommodation. Dealing with such symptoms is not generally considered to be good practice in housing estate management. Anti-social behaviour does not constitute grounds for transfer. Requests to transfer on the grounds of good estate management will be considered only in exceptional cases whereby there is a serious threat to life or a threat of serious damage to property. The behaviour has to be significant and persistent and any relocation has to be in the interests of good estate management.

The following conditions will apply;

1. The request will be investigated by the Community Liaison Officer
2. Corroboration from An Garda Síochána supporting the move will be sought
3. The authorised person within the Council will make a recommendation
4. If the request is refused the applicant will be notified in writing with leave to appeal
5. If the request is approved great care will be taken in the allocation of the new dwelling

10.0 Implementation and Review

Section 35 of the Housing (Miscellaneous Provisions) Act 2009, provides for the legislative framework and guidelines for all Local Authorities to adopt, by reserved function, an Anti-Social Behaviour Strategy for the prevention and reduction of anti-social behaviour in its housing stock. The previous Anti-Social Behaviour Strategy was adopted by Tipperary County Council in 2016. This Strategy will be subject to review on a two-yearly basis in line with current Housing Legislation and Guidelines and any other supporting legislation that governs estate management.