

# Comhairle Chontae Liatroma



## Leitrim County Council

### Anti Social Behaviour Strategy

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## Mission Statement

“To prevent and reduce incidence of anti-social behaviour by working in partnership with all relevant organisations”

## Section 1.0 - Introduction

Leitrim County Council recognises and accepts that anti-social behaviour in local authority estates is unacceptable and it can have an adverse effect on the quality of life of both the victim's in question and the other residents of the area. Accordingly it is the policy of Leitrim County Council that anti-social behaviour will not be tolerated and whatever means necessary to combat this issue will be fully utilised.

Leitrim County Council has powers under the Housing (Miscellaneous Provisions) Act 2009 and the Housing (Miscellaneous Provisions) Act 2014 to tackle the problems associated with anti-social behaviour and promote good estate management. However the Local Authority cannot tackle anti-social behaviour issues on its own and therefore Leitrim County Council is committed to working in partnership with An Garda Síochána, the Health Services Executive, Joint Policing Committee, Leitrim Development Company, Leitrim Residents Network, and local communities to address anti-social behaviour problems.

In the last number of years an inter-agency approach was initiated by Leitrim County Council in partnership with the Gardai and the HSE in relation to a number of estates where there were particular issues and successful outcomes were achieved by adopting this approach.

## Section 2.0 - Definition of Anti-Social Behaviour

The Housing (Miscellaneous Provisions) Act 2014 states that “anti-social behaviour” includes either or both of the following, namely-

- 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 2007)
- b) Any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, alarm, loss or fear to any person living, working or otherwise lawfully in or in the vicinity of a house provided by a housing authority under the Housing Acts 1966 to 2014 or Part V of the Planning & 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
  - (iii) Damage to or defacement by writing or other marks of any property, including a person's home”

## Section 3.0 - Legislative Framework- National Context

Section 35 of the Housing (Miscellaneous Provisions) Act 2009, which was enacted on the 1<sup>st</sup> December 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 legislative framework for the operation of the anti-social behaviour strategy is:

- The Housing Act 1966 and the Housing Miscellaneous Provisions Act 2014 are the primary legislation for the Council as a Housing Authority.

## Section 4.0 - Objectives/ Strategic Aims

**4.1** The primary objectives and strategic aims of this Strategy are:

- To prevent and reduce anti-social behaviour
- To investigate all complaints of anti-social behaviour fairly, objectively and impartially
- To pursue legal remedies, where necessary
- To adopt a multi-agency approach in dealing with anti-social behaviour
- To work with voluntary and community groups in relation to preventing and reducing anti-social behaviour
- To promote the principles of good estate management on our estates and the communities in which they are located.
- To establish Management Information Systems which will assist in identifying trends in anti-social behaviour by carrying out regular analysis of reported incidences
- To provide CCTV in high priority estates to prevent ASB
- Reduce the number of vacant local authority houses
- To work closely with the Joint Policing Committees

Joint Policing Committees (JPCs) provide a forum where the local authority (local authority officers and elected members) and Senior Garda Officers policing the local area can participate with Oireachtas members and community representatives to consult, discuss and make recommendations on issues relating to policing and crime in the local area. Joint Policing Committees review crime levels and patterns, cooperate on local responses to issues and consult on anti-social behaviour issues in the area.

Recommendations from JPC's may inform divisional and district policing plans. The Local Authority will liaise with the Joint Policing Committees established under Section 36 of An Garda Síochána Act 2005. Joint Policing Committees (JPC's) aim to develop greater consultation, cooperation and synergy on policing and crime issues between An Garda Síochána, Local Authorities and elected representatives.

**4.2. Design of Housing Schemes**

- All new developments, regeneration or remedial works schemes will have regard for the importance of taking steps to prevent crime, disorder and anti-social behaviour.

- The local authority will address wherever possible, opportunities for anti-social behaviour to develop in the built environment.
- Where housing estates are to be further developed, consultation will take place with the Residents Association regarding measures to prevent the development of anti-social behaviour.

#### **4.3 Housing Assessment and Allocations Management**

Section 15 Housing (Miscellaneous Provisions) Act 1997 allows local authorities to obtain information from other agencies regarding applicants who may have a history of anti-social behaviour. The local authorities will use this legislation to carry out checks on all social housing applicants and have developed strict protocols to protect the information. These checks will be carried out at allocation stage. If information is obtained regarding a negative Garda report, Leitrim County Council may consider the deferral of an offer of social housing.

#### **4.4 Pre-Tenancy Training for Newly Appointed Tenants**

It is the policy of Leitrim County Council that all newly appointed tenants complete mandatory pre-tenancy training. The purpose of the pre-tenancy training is to familiarise persons with their Tenancy Agreement, the policy document on anti-social behaviour and the Tenant Handbook.

The tenants are informed of their rights and obligations as tenants having regard to the Tenancy Agreement and the Anti-Social Behaviour Strategy. Tenants are made aware of the complaints procedure that is in place in relation to the housing department investigating reports of anti-social behaviour.

#### **4.5 Multi Agency Approach**

The Council will ensure that a multi agency approach is adopted where necessary to deal with specific anti-social behaviour issues. In particular the Council will work closely with An Garda Síochána and other agencies and will continue to share information in dealing with anti-social behaviour.

The local authority has extensive expertise in relation to all areas of housing provision and management. Multi-agency panels have been created linking this council, with both statutory and non-statutory organisations. For the purposes of the Anti-Social Behaviour Strategy, the statutory agencies are as follows:

- An Garda Síochána
- Health Service Executive
- Probation Services
- Department of Education & Science
- Department of Social Protection

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

#### **4.6 Promotion of Good Estate Management**

- Leitrim County Council will actively encourage the development of resident groups in its estates.
- All residents and tenants will be encouraged in so far as possible to become involved in the management of their estates.
- Tenancy Agreements will be monitored to ensure ongoing compliance with all conditions.
- The Housing Authority will encourage participation levels in sports through Leitrim Sports Partnership and other sports initiatives.

#### **4.7 Communication**

Leitrim County Council will consider a programme of visiting local secondary schools in order to highlight to our younger citizens the negative affect anti-social behaviour can have on families and communities. This initiative is in compliance with the requirements of the S35 (3) Housing (Miscellaneous Provisions) Act 2009 regarding education and research.

#### **4.8 Health & Safety**

##### **Threats/Intimidation of Council Employees**

Leitrim County Council will not tolerate any assaults, threats, intimidation, obstruction, harassment or interference with its employees who are involved in the implementation of this strategy in accordance with the provisions of the Housing Acts 1966 to 2014 and may issue legal proceedings against any person engaged in such activity and make a statement of complaint to the Gardaí for prosecution. Any incident must be reported as per the council policy on mandatory reporting of incidents.

##### **Risk Assessments, PPE & Communications**

Staff will carry out risk assessments both dynamic if on site and normal when preparing to go on site and will ensure in so far as is reasonably practical that they have sufficient resources with them to achieve a successful conclusion to a site visit.

Staff will ensure that they have adequate personal protective equipment and communication devices such as tetra radio and mobile phone prior to going on any site visit.

## **Section 5.0 - Complaints**

Leitrim County Council has a process to deal with complaints of anti-social behaviour as defined by the Housing (Miscellaneous Provisions) Act, 1997-2014. Complaints that do not fall within the definition of the 1997-2014 Acts as amended may constitute breaches of the tenancy agreement. It may be possible for the Council to deal with such breaches through other means, notwithstanding that they would not be considered as “anti-social behaviour”.

All valid complaints will be investigated in a constructive, fair and impartial manner. The Council will seek to prioritise the more serious allegations of anti-social behaviour such as allegations involving serious ASB activity and threats/violence. Any allegation involving drug related activity will be afforded the highest priority by the Council and referred without delay to the Gardaí. Tenants will also be advised to make a complaint to the Gardaí. Anonymous complaints are not accepted or investigated by Leitrim County Council.

Complaints are categorised as follows:

**Category 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 - 2007)

**Category 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 2014, or a housing estate in which the house is situate and without prejudice to the foregoing includes violence, threats, intimidation, coercion, harassment or serious obstruction of any person.

**Category C** – those terms within the tenancy agreement that do not fall within Category A and B above

The following are indicative of the types of behaviour under each category and will be prioritised as follows:

#### **Category A**

- Drug activity as per legal definition

#### **Category B**

- Non drug related criminal activity
- Public Order
- Violence/Harassment/Intimidation
- Racism
- Vandalism
- Persons occupying shared communal spaces within the estate for the purposes of engaging in anti-social behaviour by the consumption of alcohol and/or other substances.'
- Squatters/illegal occupiers

#### **Category C**

- Noise/Disturbance
- Lack of Parental Control
- Pet/Animal Nuisance
- Physical Condition of Property and rubbish or dumping
- Graffiti

Complaints will be accepted in writing, by telephone, email and all such complaints will be recorded.

The complaints system is a confidential service and every effort is made to protect the identity of the complainants. The Council assumes that a complainant requires the complaint to be dealt with in conditions of complete confidentiality unless the complainant specifically states (in writing)

otherwise. It should be noted that confidentiality is not a right in law and cannot be exclusively guaranteed in every circumstance of complaint.

The Council will fully comply with the provisions of the Freedom of Information Acts, 1997-2003. Information given to the Council by persons complaining of anti-social behaviour may be protected by Section 23 (a) and Section 26 of the 1997 Act.

In certain cases where there is continuous incidents of anti-social behaviour the complainant will be given the option to use a standardised form to record all details of anti-social activity to assist with possible legal action. In addition, persons against whom numerous complaints have been received will be discussed with An Garda Síochána, where this is considered appropriate.

Some complaints in Category C may not in fact constitute “anti-social behaviour” under the definition but the behaviour complained of may nonetheless constitute a breach of the tenancy agreement by the respondent and in those cases, the Council make take action against the respondent.

Complaints regarding rubbish and dumping will be jointly approached with the Community Warden for establishment of fact and in turn the Environment Section of the Council. Once fact has been established the housing department may issue breach of tenancy letters and environment may consider enforcement action also.

### **Noise other than animals**

Where a complainant believes that there is unreasonable noise coming from a dwelling and if a resolution cannot be agreed between the parties involved, then a complainant can make an application to the District Court for a Noise Abatement Order in accordance with S108 Environment Protection Act 1992. If the noise is significant and persistent and the Council housing section receives confirmed complaints from more than one neighbour it will be investigated and may be found to be a breach of the tenancy agreement.

### **Noise and Control of dogs**

- Excessive dog barking that causes a nuisance is an offence. Where the dog owner has not made adequate attempts to control the noise the complainant may make a complaint to the District Court under Section 25 of the Control of Dogs Act 1986. Before the complaint is made, he shall serve notice in the prescribed form on the owner of the dog. The Control of Dogs Regulations 1998 identifies breeds of dog which are subject to stricter regulations and Leitrim County Council tenants are prohibited from keeping these dog breeds –
- American Pit Bull Terrier
- English Bull Terrier
- Staffordshire Bull Terrier
- Bull Mastiff,
- Doberman Pinscher,
- German Shepherd (Alsatian)
- Rhodesian Ridgeback
- Rottweiler
- Japanese Akita
- Japanese Tosa



- Bando
- All Strains and crosses of these dogs

### **5.1 Investigating the Complaint:**

The Council will investigate every valid complaint in a fair, impartial and objective manner. This may involve enquiries with other statutory agencies in accordance with Section 15 of the Housing (Miscellaneous Provisions) Act 1997, and may consult other tenants/residents/and resident committees.

The Council will use all available means at its disposal to investigate a complaint.

The respondent may be interviewed. All allegations will be presented to the respondent and the complaints file will be updated. Following interviews any responses will be fully investigated and taken into account. If there are reasonable grounds for believing that the complaint is unfounded or malicious then no further action will be taken against the respondent.

If the Council determines that the respondent is involved in anti-social behaviour or has breached his/her tenancy agreement the matter will be dealt with in any (or all) the following ways:

#### **Advice Given**

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

#### **Referral to other Agencies such as Gardaí/Health Authority & Tusla**

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 to the HSE/Tusla for appropriate help and advice.

Some complaints are so serious the complainant is immediately referred to An Garda Síochána and the HSE/Tusla. This usually involves complaints of drug dealing from dwellings and child protection issues. Leitrim County Council will implement their child protection policy where child welfare/protection comes to their attention and if staff are in any doubt they will refer.

#### **Mediation**

Mediation may be considered in certain cases.

#### **First Breach of Tenancy Letter**

Usually reserved for more minor breaches of the tenancy agreement whereby it has been established that a breach has occurred. Reference should be made in this letter to any verbal warning issued to the respondent at a previous stage. A tenant may receive numerous breach of tenancy letters. Escalation of this process may not be possible due to the individual specifics of each case and subject to Leitrim County Council's powers under the housing acts.

### **Second Breach of Tenancy Letter**

If the behaviour persists a second breach of tenancy letter may issue, which may threaten legal action and explain the consequences of failing to comply. This letter would issue when Leitrim County Council are confident that an escalation of the breach has occurred and have sufficient evidence and powers under the various acts to proceed to legal action if required.

### **Referral to an In-House Case Conference**

This occurs in serious cases where the above had failed, breach of tenancy letters have been ignored, or the behaviour is so serious it is considered that another breach of tenancy letter would not be sufficient and it warrants an immediate referral and action by Leitrim County Council. The Council will request from the Gardaí in writing substantiated evidence that this serious incident did in fact occur and if any investigation is ongoing.

### In-house Case Conference: (May be held at any time during the procedure if thought necessary)

The in-house case conference is held as soon as is practicable. Where deemed appropriate, representatives of other agencies may be invited to attend. Each case is discussed in detail and a collective decision is made which may include the following:

- No Further Action
- Await investigation by other Agencies
- Referred back to Housing Department/Authorised Person for further enquiries
- Apply for Excluding Order
- Statutory Tenancy Warning Letter
- Or other

### **Statutory Tenancy Warning Letter**

A Statutory Tenancy Warning Letter is served on a tenant pursuant to Section 7, & Section 9 of the Housing (Miscellaneous Provisions) Act 2014 Part 2. Section 7 provides that a Statutory Tenancy Warning Letter be sent in circumstances of anti-social behaviour and Section 9 for breach of the tenancy agreement. Failure by a tenant to adhere to the requirements set out in any such Statutory Tenancy Warning Letter to immediately cease the anti-social behaviour or breach of tenancy agreement may result in the Council initiating repossession proceedings against the tenant in the District Court.

Legal action will be considered for cases involving drug dealing in dwellings or on the estate, and other factors will also be considered such as the number of complaints, breach of tenancy letters issued, effect on victims. The Council will seek the assistance and support of An Garda Síochána in all legal cases involving anti-social behaviour.

### **Excluding Order**

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

If a decision is made that an Excluding Order should be sought, the tenant will be advised in writing to apply to the District Court for such an order in the first instance.

If the tenant/relevant purchaser, through violence, threat or fear will not apply for an Excluding Order, Leitrim County Council may apply for such an order and may consult with the tenant/relevant purchaser. An Garda Síochána will always be consulted and their support required.

**Transfer-Serious Risk-Good Estate Management**

Requests to transfer on the grounds of ASB will be considered only in exceptional cases whereby it is established that there is a serious threat to life. The behaviour has to be significant and persistent and any re-locations have to be in the interests of good estate management and substantiated by written Garda correspondence. These cases are rare.

**Section 6.0 – Appeals and Reviews**

Tenants may appeal in writing to the Senior Executive Officer of the Housing Section where they dispute the content of any breach of tenancy letter issued to them. The SEO will investigate and revert in writing to the tenant.

I/We \_\_\_\_\_ as tenant(s) of Leitrim County Council hereby acknowledge and agree to abide by the terms of this Anti-Social Behaviour document.

**SIGNED:** \_\_\_\_\_

**WITNESS:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

## Section 7.0 - Note on Anti-Social Behaviour Orders

As part of the Council's multi-agency approach matters of anti-social behaviour may lead to An Garda Síochána invoking Anti Social Behaviour Orders (ASBO's). Details on Anti-Social Behaviour Orders are hereunder:

- An anti-social behaviour order (ASBO) is the collective term used to describe warnings that may be issued to a child over 12 years or to an adult by a member of the Garda Síochána or by the Court, requesting the named person to desist from acting in an anti-social manner. These orders were introduced into Irish Law by the Criminal Justice Act 2006 (the Act); Part 11 which came into force on 1<sup>st</sup> January 2007 and Part 13 which came into force on 1<sup>st</sup> March 2007.
- 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 you on notice that your behaviour is causing others in the community distress or fear and is interfering with their enjoyment of their property and that you should cease or stop such behaviour. It includes details of the possible consequences of your failure to comply with the warning.
- A Garda may issue a behaviour warning to you if you are behaving in an anti-social manner. The Garda does not necessarily need to observe or witness the behaviour and can act on a complaint from any member of the public. A behaviour warning cannot be issued more than one month after the behaviour took place, or in the case of persistent behaviour, more than one month after the most recent occurrence of the behaviour.

The Garda can issue a behaviour warning verbally or in writing. If it is given verbally the Garda must record it in writing as soon as reasonably possible and then serve it on you personally or by post.

The Garda may require you to give your name and address for the purpose of the behaviour warning or for the written record of the warning.

- A behaviour warning remains in force for three months from the date on which it has been issued. If an application is made for an ASBO the behaviour warning remains in force until the application is heard by the court.
- 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 you from doing anything specified in the order. Before the court issues the civil order it must be satisfied that:
  - You have behaved in an anti-social manner
  - The order is necessary to prevent you from continuing to behave in that manner
  - Having regard to the effect or likely effect of that behaviour on other people, the order is reasonable and proportionate in the circumstances.
- Before the Superintendent can make an application for a civil order at least one of the following conditions must be met:
  - You have already been issued with a behaviour warning and have not complied with one or more of the demands of that warning

- You have been issued with 3 or more behaviour warnings in less than 6 consecutive months.

If the Superintendent decides to apply for a civil order, the Superintendent must inform you of the intention to apply for the order and give you the details of the time, date and venue of the court hearing. The application must be in the District Court district where you live.

You cannot be charged with, prosecuted or punished for an offence if the offence is the same behaviour that is the subject of an application for a civil order.

- You can appeal the making of the civil order to the Circuit Court. This appeal must be made within 21 days of the making of the order and the Superintendent must be notified. The Circuit Court may extend the appeal period if there are exceptional circumstances.

The order remains in force pending the outcome of the appeal unless the District Court or the Circuit Court puts a stay on the order.

The appeal takes the form of a rehearing of the application for a civil order. Depending on the outcome the Circuit Court can either make or refuse to make a civil order.

Providing the civil order is not discharged or cancelled by the courts, it will last for two years unless a shorter period is stated in the order.

- A court can vary or discharge a civil order if an application is made by you or by a Superintendent of the Garda Síochána. If you are going to apply you are obliged to give notice of the application to the Superintendent of your local area. If a Superintendent intends applying he or she is obliged to notify you.
- When a Garda requests you to give your name and address in relation to the issuing of a behaviour warning and you fail to give your name and address, or you give a false or misleading name and address, then you are committing a criminal offence and are liable on conviction to a class E fine.
- If you, without a reasonable excuse, do not comply with a civil order issued by a court then you are committing a criminal offence and you are liable on conviction to a class B fine or imprisonment for up to 6 months, or both.
- A Legal Aid (Civil Order) Certificate may be granted you, if you apply for it, depending on your financial circumstances and the seriousness of your anti-social behaviour.

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