

GALWAY CITY COUNCIL

Housing Department

Anti-Social Behaviour Strategy



Proposed Amendments

February 2022

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1.0 Introduction

Accommodation is provided by Galway City Council (GCC) 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.

GCC 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. GCC 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.

GCC 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.

GCC 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 and the Data Protection Acts 1998 and 2003 will be used in all cases dealing with anti-social behaviour in Galway city.

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 GCC to enforce the Tenancy Agreement where breaches arise. In the case of the minority of tenants who engage in anti-social behaviour, GCC 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 let by the Local Authority to Tenants under the Housing Acts 1966 to 2014
- Group Housing and Halting Sites for Travellers (a site in this context is defined in the Housing (Miscellaneous Provisions) Act 1997, as amended)

The Housing (Miscellaneous Provisions) Act 2014 provides for statutory warnings to tenants relating to breaches of local authority tenancies and sets down revised procedures for housing authorities to recover possession of their dwellings in specified circumstances.

Under these procedures the District Court (and the Circuit Court on appeal) will adjudicate on the merits of the proposed repossession where the tenant or occupier of the dwelling disputes the basis for it. The Act strengthens the power of Housing Authorities to secure court orders excluding individuals engaged in anti-social behaviour from local authority housing and estates.

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. Any breaches of the tenant's obligations, including alleged anti-social behaviour, must be dealt with by the Landlord together with routine maintenance and repair issues.

In the event of persistent breaches by the tenant, e.g non-payment of rent contribution, anti-social behaviour, GCC may instruct the Landlord to terminate the tenancy as provided for under the Residential Tenancy Agreement. Each case is monitored and decisions taken based on the issues in each individual situation.

In order for a person to be accepted to RAS they must have an open and up to date social housing application and complete a Garda vetting process with no criminal convictions that may impact on good estate management. In this regard, GCC will conduct background checks on all potential RAS tenants before the RAS tenancy is established in the interests of good estate management.

2.0 Definitions

2.1. Anti-Social Behaviour

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

"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 1997 to 2007)
- (b) Any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, alarm, loss or fear to any person living, working or otherwise lawfully in or in the vicinity of a house provided by a housing authority under the Housing Acts 1966-2014 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-
 - 1. violence, threats, intimidation, coercion, harassment or serious obstruction of any person,
 - 2. behaviour which causes any significant or persistent impairment of a person's use or enjoyment of his or her home, or
 - 3. 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. This definition does not include noise and nuisance or other activities, which would not normally be associated with the serious problems towards which the Act is targeted.

Furthermore, 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 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 Act of 2003' means the Data Protection (Amendment) Act 2003 (need to remove this line)

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.

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

2.3. Automated Data

Means information that:

- (a) is being processed by means of equipment operating automatically in response to instructions given for that purpose, or
- (b) is recorded with the intention that it should be processed by means of such equipment.

2.4. 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.'

2.5. The Complainant and Respondent

For the purposes of this Strategy, the term 'complainant and respondent' will be used to identify individuals making a complaint and those responding to the complaint. 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 complainant 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 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 behavior in its housing stock.

The legal redress available to GCC 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, 1998 and 2003 **(Remove)**
- **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

Where relevant, the Council will at all times refer to and quote the above legislation and its policies that govern estate management.

The Criminal Justice Act 2006 gives Gardai 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;

- Harrassment
- 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 behavior warning is a means of putting a person on notice that their behavior 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, GCC will:

- work to reduce and/or prevent the occurrence of anti-social behaviour in and around GCC housing estates and adjacent amenity or common areas
- work in conjunction with other stakeholders to reduce anti-social behaviour in GCC housing estates and adjacent amenity or common areas
- use all available resources, including CCTV where possible, to assist with the enforcement and reduction of anti-social behaviour in Galway City
- promote relationships and foster co-operation between all stakeholders and residents associations in community projects aimed at improving the well-being of residents and the visual enhancement of estates
- provide training to staff working directly on the reduction of anti-social behaviour and ensure all staff are compliant with relevant lone working policies and safe systems of work
- 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, including the use of CCTV information systems
- introduce systems to analyse the incidents, nature and causes of anti-social

behaviour in estates and GCC properties in order to identify supports required for vulnerable locations

- work closely with An Garda Síochána and other local and national organisations in dealing with anti-social behaviour that is racially motivated.

The objectives will be supported by the following policies:

5.0 Allocation of Tenancies

GCC 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 Social Housing Allocations Scheme and Guidelines. The 2017 Scheme of Letting Priorities will be reviewed and updated in 2017 to reflect the provisions of this Strategy. **(Remove this line and replace with) – The 2017 Scheme of Letting Priorities originally adopted by Council in April 2018 was updated and approved by Council in July 2020.**

5.1. Pre-Tenancy Training and Induction

GCC will provide mandatory pre-tenancy training and induction for all tenants. GCC's Housing Estate Liaison Officers (HELO) conduct the training prior to occupancy of the dwelling. An Garda Síochána, Health Service Executive (HSE), Money Advice and Budgeting Service (MABS), Citizens Information Centre (CIC) and Community Wardens may also be involved in such training sessions.

The main aim of the training and induction is to provide tenants with an overview of the services provided by GCC and the above mentioned agencies. It also brings to the tenants' attention the issue of anti-social behaviour and their responsibilities, as a tenant, in the community.

A copy of the Anti-Social Behaviour Strategy **2022** will be issued to each tenant during this training and all procedures regarding anti-social behaviour will be explained in detail. The consequences for breach of tenancy and the statutory tenancy warning process will be clearly outlined.

5.2. Design of Housing Schemes

GCC will ensure that through appropriate planning and design, all social housing constructed in the city will incorporate active and passive surveillance and defensible spaces with the aim of combating and/or minimising anti-social behaviour.

In consultation with tenants in older dwellings or estates when remedial and/or regeneration works are to be carried out, minimising anti-social behaviour will also be incorporated into appropriate design.

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

GCC operates a Dignity at Work Policy that seeks to protect its employees against threats, harassment and intimidation towards its employees who implement the objectives outlined in this Strategy. GCC will protect its employees in accordance with the provisions of the Housing Acts 1966 to 2014. In certain cases, that necessitate enforcement through appropriate legal measures,

GCC will liaise with An Garda Síochána and other bodies as appropriate where notice must be served on individuals or groups who are in breach of tenancy agreements or are causing undue harassment leading to potential anti-social behaviour within an estate.

S.18 of the Housing (Miscellaneous Provisions) Act, 1997 states that 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 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 1997 Act, shall be guilty of an offence and that a person guilty of an offence under shall be liable on summary conviction to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months, or to both.

Any incident of harassment or intimidation towards staff will be reported as per GCC's policy of mandatory reporting of such incidents.

GCC will ensure that front-line staff are well equipped and trained before carrying out site inspection duties. In certain cases, staff will be provided with appropriate personal protective equipment including communication devices for constant communication with City Hall and An Garda Síochána as required.

6.1 Staff Training, Threats, Racism and Intimidation of Staff

GCC will provide the necessary training to its staff in the Housing Department who assist in the enforcement, prevention and combating of anti-social behaviour including customer care and interpersonal skills. Staff with specific responsibility for investigating and dealing with alleged perpetrators of anti-social behaviour will be provided with further specialised training to equip them fully in carrying out their duties.

GCC takes responsibility for the welfare for its employees very seriously. Hence any assaults, threats, intimidation, harassment, racism of any form, obstruction and/or interference with its employees in accordance with the provisions of the Housing Acts 1966 to 2014, may result in legal proceedings against any person engaged in such activity. Any such incident will be reported as per GCC's policy on mandatory reporting, whilst having regard to procedures under our Dignity at Work Policy.

6.2 Risk Assessment, Personal Protective Equipment (PPE) and Communications

Prior to the investigation of any case, staff are required to carry out a risk assessment (dynamic if on the site and normal when preparing to go on site). They will, in so far as is reasonably practical, have sufficient resources with them to achieve a successful conclusion to a site visit. It is GCC policy that all staff will have PPE and communications devices at all times when they are on duty.

7.0 Procedure for Investigating Complaints

The public are advised to make complaints to GCC 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 as a matter of urgency.

The procedure for investigating complaints is as follows:

- Complaints will be accepted by telephone, in writing, in person or by email. Complaints received via email may require verification and, thus, should provide contact details for the complainant. An Anti-Social Behaviour Complaint Form (Appendix 1) is available to download on the Councils website www.galwaycity.ie.
- Once received, the complaint is assigned to a Housing Estate Liaison Officer (HELO) for investigation, based on the geographical location of the alleged anti-social behaviour (Galway East, Galway West, Galway City Centre).
- The HELO initially categorises the complaint, from high priority to low priority, and gives the complaint a reference number. The Council will seek to prioritise the more serious allegations of anti-social behaviour, with regard to the categories below as defined in the Housing (Miscellaneous Provisions) Act 2014.

Anti-Social Behaviour (drug related): Behaviour that includes the manufacture, production, distribution, exportation, sale, supply, possession for purpose to sale or distribute controlled drugs (Misuse of Drugs Act, 1997-2007)

Anti-Social Behaviour (not drug related): Behaviour that includes violence, threats, intimidation, coercion, harassment or serious obstruction of any person that may cause injury, significant or persistent danger, damage, loss or fear to any person living in, working or otherwise lawfully present either in or around 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 situated.

- At this stage, a decision may be made to not proceed with the complaint if, for example, there is reason to believe that the complaint has no substance or is vexatious in nature.
- Anonymous complaints will generally not be considered except in the case where a large number of such complaints are received relating to an individual or household. Such matters will only be dealt with in exceptional circumstances, as considered appropriate.
- **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 persistent and affects more than one neighbour it will be viewed as a breach of the tenancy agreement and will be investigated.

- All valid complaints will be investigated in a fair, impartial and objective manner by the HELO, under the direction of the Administrative Officer for Estate Management. GCC will work with statutory agencies, whenever possible, in accordance with Section 15 of the Housing (Miscellaneous Provisions) Act, 1997 as amended.
- The investigation will depend on the circumstances of the complaint and may involve:
 - examination of the tenancy agreement
 - examination of tenant files/previous history
 - contact with and statements from the party/parties involved
 - contact with and statements from An Garda Síochána and with other agencies, as appropriate
 - site visit, photographs
 - use of CCTV images (This information will be guided by the Code of Practice for Community-Based CCTV Systems under Section 38 (3)(c) Garda Síochána Act, 2005.)
- Following investigation, the HELO may re-categorise and prioritise the complaint. If, at this stage, the complaint is considered to be unfounded or unproven, no further action will be taken and both parties, if appropriate, will be informed accordingly in writing.
- If a breach of the tenancy agreement is suspected, GCC will proceed as outlined in Section 8.0, as recommended by the HELO under the direction of the Administrative Officer for Estate Management.
- The complaints procedure cannot guarantee absolute confidentiality but every effort will be made to protect the identity of the complainants unless the complainant specifically states otherwise. If the nature of the investigation of the complaint is likely to compromise the identity of the complainant, an investigation will not proceed unless the latter gives authorisation to do so.

8.0 Options and Decisions

Where GCC 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, GCC will deal with the matter using one or more of the options listed below.

8.1. Discussion and Advice

In the case of a low priority complaints and where the incident was a one-off or not persistent in nature, GCC 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. The Estate Management team makes referrals through the Social Worker referral form for action and follow up.

8.2. Mediation

Upon thorough consideration of any complaint, GCC 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. GCC 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, GCC will make appropriate referrals to TUSLA in respect of child protection and welfare concerns. This will be carried out through the Child Protection Designated Liaison Officer.

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

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

8.6. Formal Agreements/Acceptable Behaviour Contracts

Whereby an agreement is reached between the Local Authority and the respondent that all behaviour will cease.

9.0 Issue of Breach of Tenancy Letter / Tenancy Warning

In the case where the complaint is proven or persistent in nature, GCC will apply a graduated sanction as follows;

The purpose of issuing a Tenancy Notification(s) is 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.

9.1. First Breach of Tenancy Letter (Tenancy Notification)

A letter is issued to the respondent outlining the complaint and the alleged breach of the tenancy agreement. The respondent may be requested to attend a formal interview with GCC Housing Department officers, at this stage. Reference will be made to all correspondence and to any warnings previously issued to the respondent. In serious cases of alleged drugs, violence and threats, information regarding the involvement of An Garda Síochána and other services will be requested for the records.

9.2. Second Breach of Tenancy Letter (Tenancy Notification)

If the alleged breach of tenancy agreement persists and following further consideration of the complaint, a second letter is 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 be requested to attend a formal interview with GCC Housing Department officers, at this stage.

9.3. Formal Interview

A formal interview may be held with the respondent, HELO and Administrative Officer in Estate Management at any stage in the process. At this interview, the allegations of breach of tenancy will be outlined to the respondent and the respondent will have the opportunity to respond to these allegations.

9.4. Referral to Case Conference

If deemed appropriate and following evidence of continued breach of tenancy, GCC will work with all stakeholders that have been involved in the case to collate as much information as possible. If appropriate, An Garda Síochána will be requested to provide written evidence as regards to the severity of the case and requested to indicate if there are any investigations on-going.

GCC will invite the respondent to a case conference attended by HELO and relevant staff from the Housing Department. If deemed appropriate, GCC will invite other agency representatives to be part of this conference. After thorough discussion of the case, a collective decision will be made and may include the following recommendations:

- No further action required at this time
- Await investigation by other agencies involved in case conference
- Apply for Excluding Order, where appropriate by relevant party
- Issue Statutory Tenancy Warning Letter under 2014 Act
- Any other recommendation deemed suitable.

The purpose of a case conference is to facilitate all issues being raised, to find a workable solution and to formulate a plan for the modification of the behaviour. Respondents will therefore be allowed to bring someone with them to the conference to act as support. However this individual will not be allowed to interfere with the process of the conference at any given time.

9.5. Statutory Tenancy Warning

If other means of resolving the complaint and the alleged anti-social behavior are unsuccessful and if GCC has formed the opinion that the respondent has breached a specified term of the tenancy agreement (that prohibits anti-social behaviour, nuisance, or conduct likely to cause annoyance or disturbance to neighbours, or the tenant(s) from knowingly permitting a person to enter a dwelling against whom an excluding order or interim excluding order is in force with regard to that dwelling), a Tenancy Warning will be issued under Section 7 of the Housing (Miscellaneous Provisions Act) 2017 **replace with (2014)**.

Section 7 of the Act provides that a Statutory Tenancy Warning Letter be issued in circumstances of anti-social behaviour, while Section 9 allows for the same in the case of breach of the Tenancy Agreement.

The Tenancy Warning will be issued by the Administrative Officer in Estate Management and must specify the breach, what the respondent is required to do and the possibility that GCC may look for a possession order against the tenant.

A sample Tenancy Warning is provided in Appendix 3. The issue of a Tenancy Warning is a serious matter for any tenant with serious tenancy and legal implications which could lead to repossession proceedings.

9.6 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 officer or employee who was not involved in the decision to issue this Tenancy Warning and who is senior in rank to the officer or employee who decided to issue 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.

9.7 Applying for Repossession

If the respondent does not deal with the breach of tenancy, even after the Tenancy Warning, GCC 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. The court may order the ending of the tenancy or, in the case of anti-social behaviour, may order the exclusion of a member of the household from the tenancy.

A Tenancy Warning is designed to prevent and prohibit anti-social behaviour; however, 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.

9.8 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, GCC 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.

9.9. Domestic Violence

Cases of domestic violence do not come within the scope of this legislation. 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.

9.10. Section 20 of Housing Act 1997

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

9.11. Transfer and Estate Management

The Social Housing Allocations Scheme and Guidelines and the Transfer Policy incorporated therein applies to all transfer applications.

GCC is committed to dealing with causes 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 as per the adopted policy.

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 Estate Management Unit
- 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 Galway City Council in 2010. 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.

11.0 Appendix

Appendix 1 - ASB Complaints Form

Appendix 2 - Statutory Tenancy Warning Letter

Appendix 2



Comhairle Cathrach na Gaillimhe
Galway City Council

Halla na Cathrach
Bóthar an Choláiste
Gaillimh
H91 X4K8

City Hall
College Road
Galway
H91 X4K8

SAMPLE TENANCY WARNING

HOUSING (MISCELLANEOUS PROVISIONS) ACT 2014 Section 7

This Tenancy Warning is important. Please read it carefully.

To: [insert name(s) of Tenant(s)] Tenant(s)
Of: [insert address of Dwelling]

From: [Name] Council Landlord
Of: [Address]

Clause [insert number] of the Tenancy Agreement dated [insert] 20 made between you and [Name] Council ('the Council') in respect of the premises situate at [insert address] provides:

The Tenant must not cause or commit or allow any Member of the Tenant's Household or any person visiting the Premises or the housing estate within which the Premises at the Tenant's invitation to cause or commit any form of nuisance or engage in conduct likely to cause nuisance, annoyance or disturbance to any other tenants, members of their households, visitors, neighbours, the Council including its employees and contractors or any other member of the general public living or working in the vicinity of the Premises.

The expression "nuisance, annoyance or disturbance" is explained in the clause [insert number] of the Tenancy Agreement as behaviour which interferes with the peace and comfort of any person living, working or otherwise lawfully in or in the vicinity of the premises. Such behaviour includes abusive or insulting words or behaviour, damage to property and making unnecessary or excessive noise by any means whatsoever.

Clause [insert number] also provides that

The Tenant must not play or allow to be played any radio, television, record, sound system, tape recording, musical instrument or machine of any kind so loudly that it causes a nuisance or annoyance to other persons in the neighbourhood or can be heard outside the Premises.

The Council is of the opinion that you and a member of your household, namely, your son Darren have breached clause [insert number] and clause [insert number] of the Tenancy Agreement, which are specified terms within the meaning of section 7(1) of the above mentioned Act on the following grounds:

- (i) On the [date] Darren abused several residents of Paisley Close and their children both in Paisley Close and in the locality of Paisley Close.
- (ii) On the [date] Darren was seen kicking footballs against cars and house walls, threatening and bullying children and was abusive to adults and children in Paisley Close.

- (iii) On the [date] you engaged in threatening and intimidatory behaviour and were verbally abusive towards a resident of Paisley Road.
- (iv) On the evening of [date] and into the early hours of the following morning Darren was playing loud music, drinking alcohol and engaging in rowdy behaviour with other youths in the front garden of your premises.

Such behaviour is causing upset, stress, concern and disquiet amongst the residents of the Paisley housing estate and is having a significant effect on their quality of life. Many residents feel unable to carry out normal their day to day activities through fear and intimidation from members of your household.

YOU ARE REQUIRED TO

- (A) Cease using or engaging in any abusive, threatening or intimidating language or conduct towards any person in or in the vicinity of the Paisley housing estate;
- (B) Exercise proper and reasonable parental control over the behaviour of Darren in order to prevent him from engaging in or becoming involved in conduct capable of causing nuisance, annoyance or disturbance to any person residing in or in the vicinity of Paisley Close and, in particular, to ensure that Darren does not approach, abuse, alarm or distress any person in Paisley Close or in the locality of the Paisley housing estate.
- (C) Not to allow your son or other youths to congregate in the front garden of your premises or to drink alcohol in your front garden.
- (D) Not to allow any sound system or machine of any kind to be played so loudly that it causes a nuisance or annoyance to other persons in the neighbourhood or can be heard outside your Premises.

in order to prevent the breaches of your Tenancy Agreement from recurring or continuing.

If the breach of clause [insert number] and clause [insert number] of the Tenancy Agreement is continued by members of your household in the period of, or is repeated within, 12 months of this Tenancy Warning coming into effect, the Council may make an application under [section 12](#) of the above mentioned Act to recover possession of the dwelling without issuing a further tenancy warning to you.

RIGHT TO REQUEST REVIEW

If you do not accept that you have breached clause [insert number] and clause [insert number] of the Tenancy Agreement in the terms set out in this Tenancy Warning you have a right to request the Council to review this Tenancy Warning.

A request to review this Tenancy Warning must be made in writing to the Council and must

- (a) outline the grounds upon which you dispute the basis for the Tenancy Warning enclosing any relevant supporting documents,
- (b) state whether you or a member of your household wishes to make oral representations to the Reviewer as part of the review.

On receipt of a valid review request the Chief Executive of the Council will appoint as the Reviewer of this Tenancy Warning a Council officer or employee who was not involved in the decision to issue this Tenancy Warning and who is senior in rank to the officer or employee who decided to issue this Warning.

IMPORTANT: A review request must be received by the Council within 10 working days from the date of issue of this Tenancy Warning i.e. no later than [insert the date]. The Chief Executive of the Council has discretion to extend this period of 10 working days by a further 10 working days but only if there are extenuating circumstances. An extension of time cannot be granted after 20 working days from the date of issue of this Tenancy Warning.

DATE TENANCY WARNING COMES INTO EFFECT

Day upon which this Tenancy Warning comes into effect

- (A) If you do not request a review, this Tenancy Warning comes into effect on the second working day after the expiration of the period within which a review request could be received by the Council.
- (B) If you request a review, the Tenancy Warning comes into effect on the second working day after a copy of the reviewer's decision is sent to you unless the Tenancy Warning is annulled
- (C) If you request a review and later withdraw that request, this Tenancy Warning comes into effect on whichever of the following days last occur:
 - (i) on the day determined in accordance with (A) above as if the review request had not been made.
 - (ii) on the second working day after you notify the Council of the withdrawal of the review request.

WARNINGS

The Council may, during the period of 3 years following this Tenancy Warning coming into effect, take this Tenancy Warning into account when considering whether

- (i) to consent to a sale under section 90(12) (a)(ii) of the Housing Act 1966 of the dwelling to the person identified in the Tenancy Warning as causing the breach of the specified term, where the intended sale would, if completed, leave the seller or any person who might reasonably be expected to reside with him without adequate housing.
- (ii) to consent to a sale under section 48(3) (b) of the Housing (Miscellaneous Provisions) Act 2009, during the charged period, of a dwelling to the person identified in the Tenancy Warning as causing the breach of the specified term on the ground that such person is or was engaged in anti-social behaviour or the sale would not be in the interest of good estate management.
- (iii) to consent to a sale under section 76(4) (b) of the Housing (Miscellaneous Provisions) Act 2009 during the charged period, of an apartment to the person identified in the tenancy warning as causing the breach of the specified term or specified terms on the ground that such person is or was engaged in anti-social behaviour or the sale would not be in the interest of good estate management.
- (iv) to consent, under section 29(3)(b) of the Housing (Miscellaneous Provisions) Act 2014, to a sale, during the charged period, of a house to the person identified in the tenancy warning as causing the breach of the specified term or specified terms, where such person is or was engaged in anti-social behaviour or the sale would not be in the interest of good estate management (within the meaning of section 1 of the Act of 1997)/
- (v) to refuse, under section 14(2) of the Housing (Miscellaneous Provisions) Act 1997, to sell a dwelling to
 - (a) the tenant concerned,
 - (b) the eligible household concerned, or
 - (c) the person concerned (in a case to which section 90 of the Housing Act 1966 relates), where the Council considers that the tenant, eligible household or person aforesaid is or has been engaged in anti-social behaviour or that a sale would not be in the interest of good estate management.
- (vi) to refuse to allocate a dwelling under section 14(1) of the Act of the Housing (Miscellaneous Provisions) Act 1997 or to defer the allocation of a dwelling to the tenant or to the household member identified in the Tenancy Warning as causing the breach of the specified term.

ADVICE

If you need advice about this Tenancy Warning and what you should do about it, you should take it as quickly as possible to a Citizens Advice Bureau, a Legal Aid Centre or a Solicitor

Dated:

Signed on behalf of
[Name] Council:

[Name and Title of Housing Officer]