

**Strategy for the avoidance, prevention, and abatement of anti-social behaviour in social housing provided and managed by Longford County Council.**

**2023 – 2029**

**Adopted by Elected Members on 17 January 2024**

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## **1.0 Introduction**

Managing Council estates is becoming increasingly challenging, especially given the problems that arise because of anti-social behaviour. Longford County Council is committed to taking a proactive approach to prevent and eliminate anti-social behaviour in its estates. The Council will investigate and endeavor to resolve all complaints of anti-social behaviour received. It will adopt a multi-agency approach to deal with anti-social behaviour and will liaise with relevant agencies to identify areas where there is a high incidence of anti-social behaviour and to work together to solve the problem. This will make the best use of our available resources, ensure that important information is shared between Departments in a timely fashion and ultimately, that the best outcome is achieved for those we are seeking to support.

It should be emphasised however that the number of Council tenants involved in anti-social behaviour is relatively low and most tenants are able to enjoy living in their dwellings with no anti-social behaviour issues. However, when it does occur, it can have an adverse impact on the quality of neighbouring residents. On occasion it can have devastating consequences for the victims and destabilise the local community. This is particularly the case when that anti-social behaviour is targeted at people who are vulnerable and are often least able to defend or protect themselves.

Tenants may experience different types and levels of anti-social behaviour but ultimately, whether its rowdy behaviour, irresponsible behaviour such as littering or lack of respect for local communities and the environment, the effect is negative and has a considerable impact on quality of life. Additionally, these activities can generate significant costs for local authorities because of vandalism to properties and difficulties in letting dwellings in areas prone to problems of this type.

Reversing the trend of anti-social behaviour is not impossible and a real commitment to tackling these issues can pay real dividends. By working to tackle anti-social behaviour as quickly as possible, the Council will increase public confidence and trust which will also encourage local communities to develop a sense of pride in their area and a willingness to look after their neighbourhoods

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

- Dwellings let by Longford County Council to Tenants under the Housing Acts 1966 to 2014,
- Dwellings in which relevant purchasers reside within the meaning of Section 1 of the Housing (Miscellaneous Provisions) Act 1997 as amended by Housing (Miscellaneous Provisions) Act 2014
- Sites provided for traveller accommodation

- Tenant Purchasers under Section 90 of the Housing Act 1966, and their successor(s) in title.
- Incremental Purchasers under part 3 of the Housing (Miscellaneous Provisions) Act, 2009 and their successor(s) in title.
- Tenant Purchasers of apartments under part 4 of the Housing (Miscellaneous) Provisions Act, 2009 and their successor(s) in title.

The Housing (Miscellaneous Provisions) Act 2014 provides for statutory warnings to tenants relating to breaches of Council 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 Council 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, the Council 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.

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, Longford County Council will conduct background checks on all potential RAS tenants before the RAS tenancy is established in the interests of good Estate Management.

Our Mission Statement is:

***"To investigate all complaints, fairly, impartially and objectively to provide a modern and professional service to those of our tenants who are victims of anti-social behaviour and to work towards the elimination of anti-social behaviour in all Council Estates and Chapter 4 tenancies"***

## **2.0 Definitions**

### **2.1 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-
  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. Longford County Council will follow accepted international practice which is to advise the complainant of the action they can take in accordance with Section 108 Environmental Protection Agency Act 1992 and the National Protocol for dealing with Noise complaints Local Authorities.**

Anti-social behaviour is often symptomatic of social problems, such as drug or alcohol abuse or family breakdown. 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, The Child and Family Agency (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 Council'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 Estate Management**

Estate Management is defined in Section 1 of the Housing (Miscellaneous Provisions) Act 1997 and includes:

- (a) The securing or promotion of the interests of any tenants, lessees, owners, or occupiers, whether individually or generally, in the enjoyment of any house, building, or land provided by a housing authority under the Housing Acts 1966 to 2009 or Part V of the Planning and Development Act 2000.
- (b) The avoidance, prevention, or abatement of anti-social behaviour in any housing estate which is situate, a house provided by a housing authority under the Housing Acts 1966 to 2009 or Part V of the Planning and Development Act 2000.

## **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 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 Council will be referred to as a complainant
- The Respondent - the person whom the complainant is made against will be referred to as a respondent

## **2.5 Data Protection**

Longford County Council will treat as confidential all Personal Data collected and will process Personal Data for the purpose of investigating complaints. Longford County

Council process this Personal Data under Article (6)(1)(e) of the General Data Protection Regulation (GDPR), in the exercise of official authority vested in the Council under the Housing Acts 1966-2014 and Regulations as Amended.

Further information on how Longford County Council process personal data and a person's rights in this regard can be found on the Council's Privacy Policy and on our Data Protection Policy. Both documents are located on our website [www.longfordcoco.ie](http://www.longfordcoco.ie) under Data Protection and are also available at any of our offices.

Any questions regarding the processing of a person's Personal Data can be addressed by contacting the Council's Data Protection Officer by email: [dpo@longfordcoco.ie](mailto:dpo@longfordcoco.ie) or by phone: (043) 3344207 or by Postal Address: Longford County Council, Great Water Street, Longford, N39 NH56.

Any personal information which is provided to Longford County Council will be treated with the highest standards of security and confidentiality and strictly in accordance with the Data Protection Acts 1988 – 2018.

## **2.6 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.

## 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 behaviour in its housing stock.

The legal redress available to Longford County Council to respond to and address anti-social behaviour caused by tenants or for the breach of the tenancy agreement is covered in several 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, Longford County Council will have regard to legislation including:

- 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

Where relevant, the Council will always refer to and quote the above legislation and its policies that govern Estate Management.

### 3.2 The Criminal Justice Act 2006

This Act gives certain powers to Gardaí 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** 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** A Civil Order is an anti-social behaviour order or ASBO. A District Court may, on the application of a Superintendent of An 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 behaviour warnings in less than six consecutive months, a person has already been issued with a behaviour 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.

**The Criminal Justice Act 2006 is a Garda power. Any complaint under this Act would have to be made directly to An Garda Síochána.**

## 4.0 Strategy Objectives

Working under the provisions of the Housing Acts 1966-2014, the principal objectives of this Strategy include:

- Prevention and reduction of incidences of anti-social behaviour in areas where housing units and sites, are provided under the Housing Acts, 1966-2014.
- Co-ordination of services, within the Council, that are specifically directed at dealing with, or preventing or reducing anti-social behaviour.
- Improving the effectiveness of enforcement action where required to deal with persisting anti- social behaviour through coordinated and interagency activities.
- The promotion of co-operation with other persons and agencies, including An Garda Síochána, Health Service Executive & TUSLA in the performance of their respective functions insofar as they relate to dealing with, preventing, or reducing anti-social behaviour, having regard to the need to avoid duplication of activities.

The following are proposed actions for achieving these objectives including, but not necessarily limited to, the following:

- Procedures in relation the making of complaints to the Council in respect of anti-social behaviour.
- Initiatives for the prevention and reduction of anti-social behaviour.
- The provision of education relating to and the carrying out of research into anti-social behaviour, and its prevention and reduction, where resources allow.
- Introduction of systems to analyse the incidents, nature and causes of anti-social behaviour in Council estates to identify supports required for vulnerable locations.
- The investigation of all complaints of anti-social behaviour fairly, objectively, and impartially.
- The provision of CCTV in high priority areas where resources or funding opportunities allow to deter anti-social behaviour.
- Compulsory Pre-Tenancy training for all prospective tenants and transferring tenants.
- Building on the existing good relationship with An Garda Síochána and other relevant agencies and to share information as permitted by Statute in dealing with anti-social behaviour. The effect of this close co-operation will continue to contribute to the successful resolution of anti-social behaviour problems.
- To continue to determine the allocation of tenancies whilst having regard to the principles of "good estate management". This will be achieved by a collaborative approach including structured communications and dialogue between staff dealing with allocations of tenancies and with all staff involved in Estate Management.

- To encourage tenant participation in our estates through Housing Liaison Officer and Community Warden. Tenants will be encouraged to set up or join existing Residents Associations and to take part in Community based activities and programmes.
- To encourage tenants to notify the Council about incidents of anti-social behaviour in their community at the earliest opportunity.
- To swiftly enforce the legislation if it is required.

## **5.0 Allocation of Tenancies**

Longford County Council will endeavor 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 Council to obtain such information from other agencies 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.

Longford County Council will ensure that:

- All applicants are Garda Vetted before allocation of a tenancy particularly in relation to criminal behaviour and anti-social behaviour
- All new and transferring tenants will be required to complete a compulsory Pre-Tenancy Course. This course has a strong emphasis on issuing clear guidelines for all tenants in relation to anti-social behaviour and consequences of not abiding by tenancy agreements
- Housing applicants from outside the local functional area may not be considered for housing unless there is satisfactory evidence provided to prove basis of need in Longford. Some housing applicants from other jurisdictions may be required to submit relevant documentation regarding background checks from their local Police station. Failure to provide this information could result in the Council refusing the application.
- Where an individual has been proven to have been involved in anti-social behaviour and/or criminal activity, the Council has the right to refuse to allocate, sell or transfer an existing tenant on the grounds of good Estate Management
- Where an individual has been proven to fail in providing sufficient or correct information the Council has the right to refuse to allocate, sell or transfer an existing tenant
- Longford County Council will outline to the applicant/tenant an appeals procedure where a refusal is notified

### **5.1 Pre-Tenancy Training and Induction**

Longford County Council will provide mandatory pre-tenancy training for all new and transferring tenants. Longford County Councils Housing Liaison Officer (HLO) conducts the training. The main aim of the training and induction is to provide tenants with an overview of the services provided by Longford County Council. It also brings to the tenants' attention the issue of anti-social behaviour and their responsibilities, as a tenant, in the community.

The consequences for breach of tenancy and the statutory tenancy warning process will be clearly outlined. An explanatory document on anti-social and nuisance behaviour is provided to all new and transferring tenants.

## **5.2 Engaging with Communities**

Longford County Council is committed to building good relations within the community to ensure effective Estate Management.

Longford Council will help and assist in the development of and support of:

- Resident Committees / Networks
- Working with other sections within Longford County Council (to further develop initiatives for the betterment of your community)
- The Local Community Safety Partnership (LCSP) and the Community Safety Partnership will bring together statutory services, the voluntary and community sector, local councillors and community members from around the county to work together to identify and tackle community safety issues that affect people here in Longford
- Administration of Estate Management grants including the Estate Management grant for Longford County Council housing estates, the tidy estates competition and other Estate Management projects including the large project grant
- Development of communication structures to help inform residents of grant funding schemes and programmes available through the Council
- Encouragement of participation in programmes like the National Pride of Place competitions

## **6.0 Health & Safety and Employee Wellbeing**

Longford County Council 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. Longford County Council will protect its employees in accordance with the provisions of the Housing Acts 1966 to 2014. In certain cases, this may necessitate enforcement through appropriate legal measures. Longford County Council 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.

Section 18 of the Housing (Miscellaneous Provisions) Act 1997 is amended by S. 19 (11) of the 2014 Act which creates a specific offence of intimidation against Housing Authority officials or employees, or any members of their families or households or any person who provides or is to provide evidence in any proceedings under the Act or Part 2 of the 2014 Act, the penalty being a Class A fine or 12 months imprisonment or both. Any incident of harassment or intimidation towards staff will be reported as per Longford County Councils policy of mandatory reporting of such incidents.

Longford County Council 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 and communication devices.

### **6.1 Staff Training, Threats, Racism, and Intimidation of Staff**

Longford County Councils Performance Management and Development System (PMDS), monitors the training needs of all staff. Longford County Council 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.

Longford County Council will not tolerate any assaults, threats, intimidation, obstruction, harassment or interference with our employees who are involved in the implementation of this policy in accordance with the provisions of the Housing Acts 1966 to 2014. We will consider legal proceedings against any person engaged in such activity. Assaults against employees will be reported to An Garda Síochána. Any such incident will be reported as per Longford County Councils policy on mandatory reporting, whilst having regard to procedures under our Dignity at Work Policy.

Employees are also guided by a Standard Operating Procedure (SOP) which provides a system to manage the reporting, investigating and possible prosecution of any acts of violent and aggressive behaviour towards employees of the Council. The procedure also provides guidelines for different situations employees may find themselves in when dealing with violence and aggressive people.

## **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 Longford County Council policy that all staff will always have full PPE and communications devices when they are on duty.

## 7.0 Making a complaint

The public are advised to make complaints to Longford County Council 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.

- Complaints will be accepted by telephone, in writing or via email. An anti-social behaviour complaint form (Appendix 3) is available for download on the Councils website [www.longfordcoco.ie](http://www.longfordcoco.ie). Some complaints are complex and can involve serious allegations against neighbours. In these cases, complainants will be required to come to our offices so the complaint can be investigated further.
- Once received, the complaint is categorised from High to Low priority and given a reference number. The complaint is logged on a computerised complaints system. 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. The person making the complaint is known as the complainant. The person complained about is known as the respondent. The investigation of complaints in some cases may make matters worse between neighbours. It can also lead to further reprisals. If this is the case the Council will consult with the complainant before proceeding.
- Anonymous complaints will only be investigated in exceptional circumstances where there is corroboration from other agencies and at the discretion of the Estate Management Unit. Longford County Council recognise how difficult it is for people to make complaints against their neighbours and the need for some complainants to remain anonymous. However, we must protect the integrity of the complaints system and not expose it to malicious 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 Tenancy Agreement and will be investigated.
- An application can be made by a complainant to the District Court under the Control of Dogs Act in relation to persistent nuisance caused by a barking dog.
- All valid complaints will be investigated in a fair, impartial and objective manner by the Estate Management Unit, under the direction of the Administrative Officer, Housing Department.

- Longford County Council will adopt a multiagency approach to investigate complaints 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 include:
  1. examination of the tenancy agreement
  2. examination of previous history/tenant files
  3. statements from the parties involved
  4. statements from witnesses
  5. statements/reports from other agencies
  6. site visit/photographs
  7. use of community-based CCTV systems (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 complaint may be re-categorised/prioritised. If the complaint is considered unfounded or unproven, no further action will be taken and all parties, if appropriate, will be informed in writing.
- If a breach of the Tenancy Agreement is suspected, Longford County Council will proceed as outlined in Section 8.0, as recommended by the Estate Management Unit under the direction of the Administrative Officer, Housing Department.

### **7.1 Unidentified people involved in anti-social behaviour**

It is not possible for Longford County Council to investigate complaints against unidentified people. This relates to complaints such as congregating on estates. Unless we have a name or an address to begin with, we cannot progress the investigation further. The matter will be referred to An Garda Síochána and the Community Garda for appropriate action. Anti- social legislation is designed to operate within a community, and it is expected that most complainants will either know and identify persons involved or the address they reside in.

### **7.2 Domestic Violence**

Paragraph 16 of the Department of the Environment Circular H5/97 dated 13 June 1997 states cases of Domestic Violence are different from anti-social behaviour and need to be dealt with under the Domestic Violence Act 2018. The primary agencies responsible for investigating cases of domestic violence are An Garda Síochána and TUSLA.

Domestic Violence is intentionally excluded from the legislation to prevent Councils from taking legal action with the matrimonial/relationship disputes of its tenants.

### **7.3 Confidentiality**

Longford County Council anti-social behaviour complaint system is confidential, and every effort is made to protect the identity of our complainants. However, it is important to note that confidentiality is not a right in law, and our efforts to protect the identity of our complainants can be overruled by the Courts or by the Office of the Information Commissioner. Access to the complaints database is restricted to authorised personnel only.

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. Some complaints are so specific that it is impossible to protect the identity of the complainant. For example, if a person made an allegation of assault, the respondent is entitled to know who they have allegedly assaulted.

Likewise, if an allegation is made that a car has been damaged, the respondent is entitled to know what car has been allegedly damaged. This is in accordance with the principles of due process, fairness and natural justice. Councils, in the performance of their duties, must follow these principles.

### **7.4 Freedom of Information**

Sections 32, 35, 37, and 42(m) of the Freedom of Information Act 2014, allow Longford County Council to refuse to release information that could lead to a complainant being identified. Personal information is also protected from disclosure. However, our refusal to identify persons can be overruled by the courts. It can also be overruled by the Office of the Information Commissioner or the Data Protection Commissioner. If our decision is overruled, we must reveal a persons identity to the enquirer.

## **8.0 Options and Decisions**

Where there is sufficient and reasonable reason to believe that an individual tenant or member of a tenants household is or has been engaging in anti-social behaviour, Longford County Council 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, Longford County Council 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. This will be referred to our Housing Welfare Officer for referral to other agencies as required.

### **8.2 Mediation**

Upon thorough consideration of any complaint, Longford County Council 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 Court system. Mediation is instigated either separately or together and this will be decided by those involved. Longford County Council 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, Longford County Council 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**

Reserved for instances of first offences of a low-scale nature.

### **8.6 Decisions and the Balance of Probabilities**

Any person who fails to respond to an investigation, who willfully and purposefully avoids contact with the council to address the issue, can have a complaint upheld against them. In these cases, the council can decide based on all the facts and information available to us. This decision or determination is made on the balance of probabilities and the principles of Civil Law.

## **9.0 Issue of Tenancy Notification/Tenancy Warning**

In the case where a complaint is proven or persistent in nature, Longford County Council will apply a graduated sanction as follows:

### **9.1 First Tenancy Notification Letter**

This is a written warning to stop the nuisance or anti-social behaviour. It is usually reserved for more serious offences. It gives 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 Tenancy Notification Letter**

If the alleged breach of tenancy agreement persists and following further consideration of the complaint, a Final Notification 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 Longford County Council Housing Department Officers, at this stage.

### **9.3 Formal Interview**

A formal interview may be held with the respondent, Housing Liaison Officer and/or Estate Manager 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 Tenancy Warning**

If other means of resolving the complaint and the alleged anti-social behaviour are unsuccessful and if Longford County Council 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) 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 a housing official and must specify the breach, what the respondent is required to do and the possibility that Longford County Council may look for a possession order against the tenant. 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.

### **9.5 Appeal/ Review of Tenancy Warning**

The tenant(s) has a right to seek a review of the decision to issue a Tenancy Warning if he/she does not accept that there was a breach of the tenancy agreement.

The request for a review must:

- outline the grounds upon which the tenant disputes the basis for the Tenancy Warning
- state whether the tenant or a member of his or her household wishes to make oral representations as part of the review

The request for a review must be received by the Housing Department within 10 working days. The Chief Executive may extend this time by a maximum of 10 more working days in certain circumstances which are prescribed in legislation.

The Review Officer, who will be appointed by the Chief Executive, will not have been involved in the decision to issue the Tenancy Warning. The Review Officer will be senior in rank to the person who issued the Tenancy Warning.

All requests for a review must be addressed to the Chief Executive, Longford County Council, County Buildings, Great Water Street, Longford.

### **9.6 Case Conference**

A case conference is held to discuss options in relation to serious cases. This usually involves a decision on whether to pursue legal action. It is normally attended by the Senior Executive Officer of the Housing Department and on occasion other senior staff in the Housing Department. 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.

The Estate Management Unit presents its case and makes a recommendation. If deemed appropriate and following evidence of continued breach of tenancy, the Council 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.

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

In serious cases Longford County Council can bypass a graduated sanction process and proceed directly to issue a tenancy warning or, to the Courts to recover possession of the dwelling of those involved in anti-social behaviour.

## **10.0 Legal Proceedings**

### **10.1 Legal Action**

Legal action will be considered in cases involving drug dealing in one of our properties or on the estate. In other serious cases, factors such as the number of complaints, letters issued including Tenancy Warnings, the effect on victims, different types of behaviour, the views of An Garda Síochána and the HSE will be taken into account.

The Council will seek the assistance of An Garda Síochána in all legal cases involving anti-social behaviour. It is also important to note the legislation allows the Council to instigate legal action in serious cases without warnings.

The two types of legal action available to us to deal with anti- social behaviour are:

- excluding orders
- possession orders

### **10.2 Excluding Orders**

An excluding order is an order granted by the District Court to a Housing Authority to stop a person from entering a particular property or entire estate. It must be proven that the person was involved in anti-social behaviour and it is in the interests of good Estate Management. Tenants, Voluntary Housing Bodies, and Local Authorities can apply for these orders. This prevents an entire family from eviction if only one person is involved in the behaviour.

They can be valid for three years and the application is made in accordance with Section 3 Housing (Miscellaneous Provisions) Act 1997. An application for an excluding order may not be made against a person who is under twelve years of age, or against a Tenant. It can prohibit a person from entering the relevant dwelling or the entire estate for a period of up to three years.

### **10.3 Possession Order**

A Local Authority can make an application to the District Court to repossess one of its dwellings on the grounds of anti- social behaviour. This is known as possession proceedings but is sometimes called eviction proceedings.

The application is made in accordance with Section 12 of the Housing (Miscellaneous Provisions) Act 2014 The tenant is entitled to be present in court to defend the case. Council officials can give evidence on behalf of complainants under strict conditions and at the discretion of the Court. However, complainants can also be required to give direct evidence of the behaviour they witnessed.

The Judge of the District Court grants the possession order if they believe it is appropriate and proportionate to do so. The tenancy is terminated the day the tenant is evicted.

#### **10.4 Squatters**

Longford County Council will immediately request An Garda Síochána to assist with the removal of squatters who are engaging in Anti- Social Behaviour. A member of An Garda Síochána will be requested to direct such a person to leave the dwelling or face arrest and prosecution. This is in accordance with Section 20 of the Housing (Miscellaneous Provisions) Act 1997 as amended.

Squatters are distinct from illegal occupiers as they usually break into abandoned properties and generally, have no connection to the property itself. They are trespassing and if they engage in anti-social behaviour An Garda Síochána have immediate powers of arrest upon complaint from the Local Authority. 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.

#### **10.5 Illegal Encampments**

Longford County Council will investigate illegal encampments as they arise throughout the County. Various lawful powers are available to the Council under Section 10 of the Housing (Miscellaneous Provisions) Act 1992 and Section 13 and 69 Roads Act 1993. This gives power to Local Authorities to move families on. An Garda Síochána have powers to assist private landowners to move on illegal encampments under the Public Order Act.

#### **10.6 Transfer and Estate Management**

Longford County Councils allocations scheme and the transfer policy incorporated therein, applies to all transfer applications in accordance with the Social Housing Allocations Regulations. Longford County Council is committed to dealing with causes of anti-social behaviour where they arise. The objective is to address the behaviour in accordance with 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 must be significant and persistent, and any relocation must be in the interests of good Estate Management.

The following conditions will also apply:

- The request will be investigated by the Estate Management Unit
- Corroboration from An Garda Síochána supporting the move will be sought
- Estate Management will make a recommendation on the application to the Administrative Officer of the Housing Department
- If the request is refused the applicant will be notified in writing with leave to appeal
- If the request is approved great care will be taken in the allocation of the new dwelling

## **11.0 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 Longford 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.

## **12.0 Appendices**

**Appendix 1 Sample Tenancy Agreement (ASB conditions)**

**Appendix 2 Explanatory Document ASB & Nuisance Behaviour**

**Appendix 3 ASB complaint form**

## Appendix 1 – Sample Tenancy Agreement (ASB Conditions)

### Section D Conduct of Tenant/Anti-Social Behaviour

46. Neither the Tenant nor any member of his/her household or any household any subtenant or visitor shall cause any nuisance or be guilty of or permit any conduct likely to cause annoyance or disturbance to any neighbours, their children or visitors or any Council staff or engage in anti-social behaviour and in this regard the following provision shall apply;

- (a) The term “neighbours” in this agreement refers to any persons living or working in the vicinity of the Tenants dwelling,
- (b) The term “anti-social behaviour” shall have the meaning conferred by the Housing (Miscellaneous Provisions) Act 1997 as amended by Section 19 of the Housing (Miscellaneous Provisions) Act 2014 (as amended).
- (c) For the purposes of this agreement the phrase “nuisance, annoyance or disturbance” shall include the use by the Tenant of the dwelling for the commission of a criminal offence and without prejudice to the generality of this expression shall include any of the following:
  - (i) harassment;
  - (ii) violence or threats of violence against the person or property;
  - (iii) threats, abuse or harassment of any kind or any act or omission causing disturbance, discomfort, inconvenience or persistent impairment of a person’s use or enjoyment of his or her home
  - (iv) obstruction of any of the common areas, doorways and other exits and entrances in the block and in the estate;
  - (v) making an unreasonably loud noise by shouting, screaming, playing any musical instruments or sound reproduction equipment (including television, radio and hifi) or using other machinery 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 between the hours of 11.00pm and 7.30am).
  - (vi) Any act or omission which creates a danger to the well-being of any neighbour or to his/her belongings
  - (vii) The unlawful possession, cultivation, use and or supply of a controlled substance within the meaning of the Misuse of Drugs Act 1977 to 2007 (as amended).
  - (viii) Knowingly permitting a person against whom an excluding order or interim excluding order under The Housing Acts 1966 as amended, is in force in respect of a dwelling concerned, to enter that dwelling.
  - (ix) Where the Council deems anti – social behaviour is or has been emanating from the address, an application to purchase the dwelling may be refused.
  - (x) Where the Council deems anti – social behaviour is or has been emanating from the address any application to transfer may be withdrawn.

- (xi) The Council may issue a tenancy warning to a tenant where in the opinion of the council the tenant or a member of his or her household has breached the terms of this tenancy agreement.

47. The Tenant is responsible for the actions of their family or any person calling to their property whether socially or on business.

## **Appendix 2 Explanatory Document ASB & Nuisance Behaviour**

### **Anti-Social & Nuisance Behaviour (Explanatory Document)**

This document explains how Longford County Council will deal with anti-social and nuisance issues in council properties. It is given to tenants when they sign their tenancy agreement. It is not a legal document.

This document explains:

- what anti-social behaviour is;
- what nuisance behaviour is;
- what will happen to your tenancy if you, a member of your household, or a visitor engages in either or both of these behaviours; and
- how to complain if you experience these behaviours

#### **What is anti-social behaviour?**

This is serious or persistent behaviour which includes:

- drug-dealing;
- distributing drugs;
- possessing drugs with intent to supply;
- growing cannabis;
- using council homes for any of the above;
- violence, harassment and intimidation of anyone in your estate
- threatening to assault, kill or commit arson; and
- criminal damage

If you take part in these or other anti-social behaviour, you are in breach of your tenancy agreement with Longford County Council. This means you are not following its rules.

#### **What is nuisance behaviour?**

This is behaviour that is not as serious or persistent as anti-social behaviour but is still a breach of your tenancy agreement. This means you have broken the rules of your tenancy agreement with Longford County Council.

Examples of nuisance behaviour include:

- making unreasonable noise;
- obstructing a driveway;
- trespassing;
- parking disputes; and
- boundary issues

#### **How might anti-social or nuisance behaviour affect my tenancy?**

Your tenancy agreement is a legal contract between you (the tenant) and us, Longford County Council (the landlord). There are rules in the agreement which you must follow. These include rules relating to anti-social behaviour and nuisance behaviour. If you break these rules, you could lose your home and become homeless. If issued with a tenancy

warning you will be deemed anti-social by the Housing Authority which will affect your right to transfer or purchase the dwelling. If you are evicted for anti-social behaviour, you can be refused housing in the future.

**Does this apply to all Council tenancies?**

Yes. There may be some minor differences depending on the property you live in. For example, there are specific rules for developments with shared communal spaces that do not apply to standard council housing.

**How does the Council deal with this behaviour?**

Longford County Council has a policy that outlines how we deal with anti-social and nuisance behaviour. Our response must be reasonable and in proportion to the level and extent of the behaviour. When we receive a complaint, we speak to the people involved. If the behaviour does not stop, our response goes through the stages outlined below. To people who suffer from these behaviours we can give advice.

To people who engage in these behaviours we can do the following:

- **Give a verbal warning**  
This is a warning to stop the anti-social or nuisance behaviour. When we give you a verbal warning, we record this in your housing file.
- **Issue a tenancy notification**  
This is a written warning to you to stop the anti-social or nuisance behaviour.
- **Issue a tenancy warning**  
This is a legal written warning asking you to stop the anti-social or nuisance behaviour immediately. If the behaviour repeats within 12 months, we can begin the process to evict you.
- **Issue a possession order**  
This is commonly known as an eviction order and is granted by the District Court. It gives us the power to remove you from your home and to take back possession of the property.
- **Issue an excluding order**  
This is a court order to stop you entering a house or an entire estate for anti-social behaviour.

We do not always follow this order of stages when we issue warnings. In very serious cases we can issue a tenancy warning or apply to the District Court for a possession order or excluding order without giving you either a verbal or written warning first.

### **How do I make a complaint?**

To complain about anti-social or nuisance behaviour, you can do one of the following:

- write to the Estate Management Unit, Longford County Council Housing Department, Town Hall, Market Square, Longford N39 C5F2;
- phone our offices on 043 3343499;
- email [asbcomplaints@longfordcoco.ie](mailto:asbcomplaints@longfordcoco.ie);
- complete the complaints form on [www.longfordcoco.ie](http://www.longfordcoco.ie);
- visit the housing counter at Town Hall, Market Square, Longford N39 C5F2.

### **Will my complaint be kept confidential?**

In most cases, your details will be kept private. However, some complaints, such as assault, are so specific that it will not be possible to keep your identity private. We will discuss this with you before taking any action.

Some people try to find out who made a complaint against them through Freedom of Information or Data Access requests. We are allowed to keep your identity private when dealing with these requests. However, you should know that our refusal to identify you can be overruled by the courts. It can also be overruled by the Office of the Information Commissioner or the Data Protection Commissioner. If our decision is overruled, we must reveal your identity to the enquirer.

## Appendix 3 ASB complaint form

### *Initial Complaint Form*

All sections marked \* must be completed

If you wish to have your name as the complainant withheld please indicate by ticking this box ☐

#### SECTION (A) - Who are you complaining about?

|          |  |
|----------|--|
| *Name    |  |
| *Address |  |

#### SECTION (B) - Details of complaint

|                                   |  |         |  |
|-----------------------------------|--|---------|--|
| Date of incident(s) (if relevant) |  | Time(s) |  |
| Location of incident(s)           |  |         |  |

#### SECTION (C) – Were there witnesses? Are they willing to sign statements of evidence to support your complaint? If so, please supply their information

|                    |
|--------------------|
| Name(s):           |
| Address(es):       |
| Contact Number(s): |

#### SECTION (D) – What happened? (Continue on a separate sheet if necessary)

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**SECTION (E) – Was the matter reported to gardai? If so please supply the following details:**

|                                              |
|----------------------------------------------|
| Person who reported incident and what date:  |
| Garda Station :                              |
| Name of Garda who took Report:               |
| PULSE Number (if known)                      |
| Did Gardai call to investigate the incident? |

**SECTION (F) -What impact has this had on you or your family members? Please give details below (Continue on a separate sheet if necessary)**

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|  |

**PLEASE COMPLETE YOUR OWN DETAILS BELOW:**

**\*NAME(S):** \_\_\_\_\_

**\*ADDRESS:**

\_\_\_\_\_  
 \_\_\_\_\_

**\*Telephone** \_\_\_\_\_

*I confirm that the information given is true to the best of my knowledge and belief. I give Longford County Council permission to contact An Garda Síochána and any other relevant services on my behalf.*

**\*Signed:** \_\_\_\_\_ **Date:** \_\_\_\_/\_\_\_\_/\_\_\_\_

**\*Signed:** \_\_\_\_\_ **Date:** \_\_\_\_/\_\_\_\_/\_\_\_\_

*(Please note that anonymous complaints may not be investigated)*

# CONSENT TO INVESTIGATE A COMPLAINT

I/We, as complainants, understand that during the investigation of my/our complaints there may be a possibility that the nature of my/our complaint is likely to disclose my identity/our identity to the persons being complained of. This is notwithstanding the efforts of Longford County Council to withhold my identity/our identities.

I/we fully understand the risks associated with this and I am/we are prepared to allow Longford County Council to proceed with the investigation of my/our complaints knowing this fact.

## DECLARATION

*I/we have read and understood the above statement and consent to Longford County Council to proceed to investigate this complaint.*

PLEASE PRINT AND SIGN NAME(S)

\*Name \_\_\_\_\_ \*Signature: \_\_\_\_\_

\*Name: \_\_\_\_\_ \*Signature: \_\_\_\_\_

\*Address: \_\_\_\_\_

Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Witnessed by (Council Official) \_\_\_\_\_

Received on : \_\_\_\_/\_\_\_\_/\_\_\_\_

All data supplied by you when completing this form (including personal data) will be used for the purposes of carrying out an investigation in relation to the complaint. In carrying out its functions under the Housing Act 1966-2014, Longford County Council may request and obtain information from other organisations. Longford County Council is compliant with Data Protection Legislation including the provisions of the Data Protection Act 2018 and GDPR. To access Longford County Council's Privacy Statement visit [www.longfordcoco.ie](http://www.longfordcoco.ie)