



KILKENNY LOCAL AUTHORITIES

ANTI-SOCIAL BEHAVIOUR

*Adopted by Kilkenny County Council on 16 June, 2005.
Adopted by Kilkenny Borough Council on 11 July, 2005.*

KILKENNY LOCAL AUTHORITIES
ANTI SOCIAL BEHAVIOUR POLICY

1. INTRODUCTION:

Kilkenny Local Authorities will endeavour to take the necessary steps to ensure that the issue of Anti-Social Behaviour is dealt with in an effective manner in the interest of good estate management and to provide a workable framework document for staff members dealing with issues of anti social behaviour.

2. OBJECTIVE:

The objective is to reduce and if possible eliminate the anti-social behaviour occurring in Kilkenny Local Authority housing estates in order to enhance the well being of residents living in our estates.

- To investigate all complaints of anti-social behaviour.
- To interview/challenge/caution/the alleged perpetrators.
- To take preventive measures.
- To pursue legal remedies, including court orders for evictions, where necessary.

3. LEGISLATION:

Anti social behaviour includes either or both of the following as defined in the Housing (Miscellaneous Provisions) Act, 1997 Act, Section 1

- (a) **“the manufacture, production preparation, importation, exportation, sale, supply possession for the purpose of sale or supply, or distribution of a controlled drug (within the meaning of the Misuse of Drugs Acts, 1977 and 1984)”.**
- (b) **“any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage loss or fear to any person living, working or otherwise lawfully in or in the vicinity of a house provided by a housing authority under the Housing Acts, 1966 to 1997, or a housing estate in which the house is situate and, without prejudice to the foregoing, includes violence, threats, intimidation, coercion, harassment or serious obstruction of any person”.**

This Act provides a range of measures for the Local Authority to address problems arising on their housing estates from drug dealing and anti social behaviour. It introduced the “excluding order” procedure (Section 3, 1997 Act) whereby a Local Authority may take a more targeted approach to deal with a situation where only one or some of the members of a household are engaging in anti social behaviour.

A Local Authority tenant/relevant purchaser can apply for an exclusion order against a joint tenant or member of a household who is engaged in anti-social activities. A Local Authority also has the right to apply for an excluding order against a household member where the tenant may be intimidated or fearful of doing so. A Local Authority cannot apply for an Exclusion Order against a tenant or a relevant purchaser.

The Local Authority also has the power to recover possession of a rented property by eviction under Section 62 of the Housing Act, 1966 as amended. This power could be used in a case where the tenant/all members of a Local Authority household are engaging in anti social behaviour.

Non compliance with the following tenancy conditions can also result in eviction of a tenant.

Conditions No’s: 22 – 25 in the Council’s Tenancy Agreement states:

22. The tenant shall not abuse, harass or interfere with the other tenants in the estate of which the premises form a part of, in nearby premises and shall not through his actions or activities in or in the vicinity of the premises place other residents in fear or distress.
- 25 (a) Neither the tenant, his/her children nor any member of his/her household residing in the premises or any invitee or visitor to the premises shall cause any nuisance or cause or permit any conduct likely to cause annoyance or disturbance to any neighbours, their children, member of their household residing with them, their invitees or visitors or to authorised Council staff.
- (b) The term “neighbours” in this agreement means persons living or working in the vicinity of the premises.
- (c) For the purpose 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 all or 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 or inconvenience;

- (iv) Obstructions of any of the common area, 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 hi-fi) or using other machinery;
 - (vi) Any act or omission which creates a danger to the well being of any neighbour or to his/her belongings.
- (d) The tenant must not, at any time, invite or allow to remain on any part of the premises any persons in respect of whom the Council has notified the tenant that they should not enter or remain on the property.
- (e) A tenant evicted for a breach of this condition or part of it or any condition will be deemed for the purpose of re-housing to have deliberately rendered himself/herself homeless within the meaning of Section 11(2)(b) of the Housing Act, 1988 any may not be provided with another home by the Council until such time as the Council is satisfied that the evicted tenant and his/her family are capable of living and are agreeable to live in the community without causing a further breach of this condition or any other condition of this agreement.
- (f) The Tenant shall not engage in the unlawful possession, cultivation, use and or supply of a controlled substance within the meaning of the Misuse of Drugs Act, 1977, as amended in the Premises, in the estate of which it forms part or in the vicinity thereof.

In addition this policy is guided by the following legislation.

Residential Tenancies Act 2004
 Housing Acts, 1966 – 2002
 Litter Pollution Act, 1987
 Control of Dogs Acts, 1986 – 1992.
 Control of Horses Act, 1996
 Freedom of Information Act 1997 as amended.
 Criminal Justice (Public Order) Act, 1994.
 Public Health (Ireland) Act, 1879.
 Air Pollution Act, 1978.
 Any other appropriate legislation

4. POLICY IN IMPLEMENTING THE LEGISLATION:

Kilkenny Local Authorities will address the problem of anti-social behaviour in, or in the vicinity of, its dwellings by taking measures to prevent and abate such behaviour. All complaints of anti-social behaviour will be investigated in a fair, impartial and objective manner, and will vigorously apply the legislation in all serious cases. Kilkenny Local Authorities will endeavour to liaise with the Gardai and the Health Board on a regular basis.

All complaints from the public, information from the public, records/files, internal case conferences, information received from Gardai/Health Board and the identities of the complainants are protected from disclosure under Section 26 (1) (a) of the freedom of Information Act 1997.

5. PROCEDURE:

The purpose of this document is to clarify the procedures for Kilkenny Local Authorities employees in housing departments dealing with anti-social behaviour.

1. (i) Complaint can be received by means of:

- (a) Phone call – named complainant.
- (b) Written complaint signed or unsigned.
- (c) Complaint to Revenue Collectors.
- (d) Complaint at Housing Department or any Area Office.
- (e) Gardai
- (f) Elected representatives.
- (g) Tenant Liason Officer
- (h) Health Board or other relevant bodies.

Note: Kilkenny Local Authorities will not investigate anonymous complaints.

(ii) Record of complaints received to include the following particulars:

(Form 1 & 2)

- (a) Nature of complaint
- (b) Where it occurred
- (c) Date and Time
- (d) Was incident reported to Gardai and if so when
- (e) Ask complainant to record further incidents

(iii) All complainants to be interviewed within 5 working days

(iv) Initiate investigations within 10 working days

(v) Seek information from other agencies i.e. Health Board, Social Worker, Department of Social and Family Affairs – Section 15 Housing (Misc. (Prov.) Act, 1997.

(vi) Complaints to be kept under review, complainants to be re-visited.

(vii) Maintain constant liaison with local Gardai, Health Board Officials, Residents Associations, etc.

(viii) Maintain a Register of all Anti Social Behaviour Complaints

Persons taking complaint should advise that it is preferable for the Local Authority to receive complaint in writing and that all complaints will be treated absolutely confidentially. It may also be necessary to interview the complainant.

2. All complaints must be logged and filed separately on an anti-social behaviour file that should be kept under lock and key.
3. A decision must be made based on the nature and seriousness of the complaint whether or not to take the next step or to await further complaints.
4. If deemed appropriate further investigation should be undertaken by:
 - (a) Contact local Gardai regarding the complaints(s) Request report.
 - (b) Discuss with other relevant persons/groups/agencies e.g., Revenue Collectors, Health Board, Tenant Liaison Officer etc.
5.
 - (a) If complaint(s) is deemed valid by the Council the tenant(s) or respondent will be requested to attend for meeting with council staff where the allegations/complaints are explained and are invited to respond. Issue letter following meeting regarding contents of agreement or otherwise.
 - (b) If respondent fails to attend after first request, second invite issued by “registered post” to attend for interview.
6. If respondent:-
 - (a) Fails to attend meeting after 2 requests and behaviour persists.
 - (b) Does not offer satisfactory response/explanation or commitment to modify behaviour.

Issue letter as Step 10.

7. If Meeting takes place and respondent gives undertaking to modify behaviour the Council will agree to defer further action and will monitor the situation for a period of one year.

Complete Interview Report Form 3.

8. If the anti-social behaviour desists to the satisfaction of the Council no further action will be taken. The Council will monitor the situation for a period of one year and will reserve the right to issue the Warning Letter if it is satisfied that the anti-social behaviour has recommenced.

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9. A decision will be made by the Council as to which is the most appropriate form of action to take:
 - (a) Seek exclusion order. (in the case of an individual offender).
 - OR**
 - (b) Seek repossession of the property.
10. If the anti-social behaviour persists the Council will then issue a letter stating that the matter has been referred to our Law Agents to obtain either an excluding order under Section 3 of the Housing (Miscellaneous Provisions) Act 1997, or to issue warrant for possession under Section 62 of the Housing Act, 1966.
11. A Court may accept statements by Gardai or Local Authority officials as evidence of anti-social activity where the Court is satisfied that witnesses are prevented from giving evidence due to intimidation.
12. If on foot of letter respondent seeks a meeting revert to step 7.
If respondent does not seek meeting proceed to next step.
13. Inform law Agent to proceed to seek exclusion order or initiate proceedings to recover possession of house.

Possible Resolutions:

1. The situation abates.
2. Tenant voluntary surrenders and seeks alternative accommodation.
3. Court proceedings followed by eviction.

Re-housing:

Applications for re-housing from families who are evicted for anti social behaviour will only be considered where there is sufficient reason to believe that there will not be a re-occurrence of the anti social behaviour. Under section 14 of the Housing Act 1997, a local authority may refuse to make or defer the making of a letting of a dwelling to a person where that person has been engaged in anti social behaviour in the interests of good estate management.

Prevention of Anti-Social Behaviour:

Local Authority tenants will be provided with information about anti-social behaviour through the provision of the Tenants Hand Book and given information about the contents of this policy document at all pre-tenancy training courses.

**KILKENNY LOCAL AUTHORITIES
INITIAL COMPLAINT AND ACKNOWLEDGEMENT FORM**

1. My details :

Residents Name _____

Address : _____

Home Phone/Mobile : _____

2. Details of alleged perpetrator/person(s) who were involved in anti-social behaviour.

Alleged Perpetrators Name (s) _____

Address : _____

3. Details of Anti-Social Behaviour

Description	Yes	No	Date	Location	Time
Drinking in Public					
Drug Dealing					
Drug taking in public/selling alcohol					
Noise pollution					
Indiscriminate burning					
Litter pollution/illegal Dumping					
Physical assault					
Theft of property					
Threatening behaviour					
Trespassing					
Dog/Horse related nuisance					
Harassment					
Intimidation					
Causing Injury					
Coercion					
Causing danger					
Causing damage					
Other nuisance					

4. Brief summary of complaint

5. Was incident reported to Gardai yes no

Date: _____

6. All information provided by me is true to the best of my knowledge.

Signature _____ Date : _____

FORM 2

TO BE COMPLETED BY STAFF OF LOCAL AUTHORITY :

1. Received on behalf of the Local Authority by

2. Date Received :

3. Date complaint passed to Tenant Liason Officer

4. Is complaint valid Anti Social Behaviour.
(as identified by policy) Yes _____ No _____
5. If yes – date complaint acknowledged _____
6. If no - date when complainant notified _____
7. Date complaint passed to Housing Officer _____

Declined to sign

Unsigned Initial Complaint and Acknowledgement forms will be dealt with at the Housing Officers Discretion

Form 3.

Interview Report

Name : _____

Tel _____

Address : _____

Interview Report

Signed (Tenant Liason Officer _____

Date ___/___/___

