

Anti-Social Behaviour Strategy 2018



Adopted by Monaghan County Council on the 4th December 2018

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1.0 MISSION STATEMENT

- 1.1 Monaghan County Council aim to ensure that everyone can live peacefully in an attractive environment. We seek to prevent and reduce the incidence of anti-social behaviour by working in partnership with all relevant organisations, but in particular with communities themselves. We are also committed to preventing and combating Anti Social Behaviour (ASB) within our administrative area and to implement our policies and national legislation in a fair, impartial and objective manner.

2.0 INTRODUCTION

- 2.1 Monaghan County Council recognises that Anti - Social Behaviour has an adverse effect on the quality of life of our tenants and can threaten the sustainability of communities. This can consequently lead to further disadvantages for vulnerable households. In addition, anti-social behaviour can generate significant costs for Local Authorities as a result of vandalism to property and create ongoing difficulties in letting accommodation in affected areas.
- 2.2 The vast majority of tenants are law-abiding, and it is only a small number of tenants who are involved in this type of behaviour. A multi-agency approach is required in order to deal effectively and efficiently with anti-social behaviour.
- 2.3 It is the policy of Monaghan County Council that anti - social behaviour will be tackled and not tolerated. The Housing Section undertakes to pursue proactive measures to prevent such behaviour. To this end Monaghan County Council will investigate and endeavour to resolve all complaints of anti-social behaviour made using all means within its powers in an effective and expeditious manner and to keep the complainant informed, at all stages of any investigation

3.0 DEFINITIONS

- 3.1 Anti-Social Behaviour is defined in the Housing (Miscellaneous Provisions Act) 1997 and as amended through following Housing Acts:

(a) The manufacture, production, preparation, importation, exportation, sale, supply, possession for the purposes of sale or supply, or distribution of a controlled drug (within the meaning of the Misuse of Drugs Acts 1977 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 to 2014 or 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—

- (i) violence, threats, intimidation, coercion, harassment or serious obstruction of any person,
- (ii) behaviour which causes any significant or persistent impairment of a person's use or enjoyment of his or her home, or
- (iii) damage to or defacement by writing or other marks of any property, including a person's home

4.0 LEGISLATIVE BASIS

4.1 Section 35 of the Housing (Miscellaneous Provisions) Act 2009, which was enacted on the 1st of December 2009, provides for the legislative framework and guidelines for all Local Authorities to adopt, by reserved function, an Anti - Social Behaviour Strategy for the prevention and reduction of anti - social behaviour in its housing stock.

4.2 The Housing Acts 1966 to 2014 provide powers to Local Authorities to manage their housing stock, including, in the case of anti-social behaviour, powers to recover possession of dwellings and to seek court orders excluding persons from social housing accommodation or estates for periods of up to 3 years.

4.3 Local authorities are also empowered to refuse to allocate, or to refuse to sell, dwellings to persons engaged in anti-social behaviour, or if in their opinion it would not be in the best interest of estate management to do so.

4.4 Part 2 (the Housing (Miscellaneous Provisions) Act 2014 introduced since the last Anti Social Behavioural Strategy has provided greater powers to local authorities to deal with those who do not meet the terms of their tenancy including in relation to Anti Social behaviour.

4.5 Housing legislation now criminalises certain behaviour and enforcement of sanctions takes place through exclusion from social housing rather than traditional criminal law enforcement.

This incorporates into the role of social housing management the enforcement of criminal law sanctions against a category of persons, defined by the places where they live, who are alleged to have committed anti-social behaviour.

The Council are aware that we are the last resort for many in need of housing. Our Officers reluctantly employ the sanction of repossessing a dwelling but will do so when necessary. The legislation and our procedural framework can stand up to scrutiny when they do so.

4.6 Many of the causes of and solutions to anti-social behaviour on local authority estates cannot be addressed by local authorities alone, therefore we will work with other statutory agencies, community groups, voluntary and co-operative housing bodies and tenant's associations in preventing and combating anti-social behaviour.

In line with the requirements of Section 35 of the Housing (Miscellaneous Provisions) Act 2009 the following bodies will be consulted on this amended strategy. An Garda Siocahana, Tusla, Joint Policing Committee & other persons we consider appropriate.

4.7 It is considered appropriate for the Council to review the strategy adopted by resolution of on 1st November 2010 due to revised legislation. Monaghan County Council now introduces this amended and updated strategy to replace that document and to specifically take into account new legislation outlined in the Housing (Miscellaneous Provisions) Act 2014.

The previous and new strategies have been developed with regard to "Best Practice" guidelines issued by the Housing unit in 2003, obligations under the Housing Acts and by referring to scholarly works by those working in the area.

4.8 The drawing up and adoption, amendment of an antisocial behaviour strategy is not to be taken to confer on any person a right in law that the person would not otherwise have to require a housing authority in a particular case to exercise any function conferred on it under the Act of 1997 or under the 2009 Act or to seek damages for a housing authority's failure to perform any such function.

5.0 APPLICATION OF THE STRATEGY

5.1 The ASB Strategy applies where the housing authority has properties:

- let under the Housing Acts 1966 to 2009
- subject to Chapter 4 tenancy agreements (Rental Accommodation Scheme)
- where 'relevant' purchasers live, i.e. tenant purchasers and their successors, incremental purchasers and apartment tenant purchasers (not commenced yet). (A relevant purchaser is defined in the 1997 Act, as amended, as a person to whom a housing authority has sold a house under the Housing Acts 1966 to 2009, and / or his or her successor in title)

The strategy must also apply where the authority has provided sites for Travelers.

6.0 STRATEGIC AIMS

6.1 The principal overriding aims of this strategy are in line with section 35 subsection 2 of the Housing Act 2009 as follows:

- (a) the prevention and reduction of anti-social behaviour
- (b) the co-ordination of services within the housing authority that are directed at dealing with, preventing or reducing anti-social behaviour
- (c) the promotion of co-operation with other persons/bodies, including the Garda Síochána, in the performance of their respective functions in relation to preventing/reducing anti-social behaviour, in order to avoid or reduce duplication of effort between the housing authority and the other person/body in performing their functions; and
- (d) the promotion of good estate management *Legal sections relating to ASB & Good estate management are outlined in Appendix*

6.2 Within the aims outlined in 6.1 the following objectives will be followed:

- To monitor and record anti - social behaviour incidents on an annual basis.
- To investigate all complaints of anti - social behaviour fairly, objectively and impartially.
- To pursue legal remedies, in relation to these complaints, where necessary.
- To adopt a multi-agency approach in dealing with anti-social behaviour.
- To work with voluntary and community groups in relation to preventing and reducing anti- social behaviour.
- To co-ordinate services within the Council in dealing with anti-social behaviour.
- To promote and develop the principles of good estate management on our estates and the communities in which they are located.

- To establish Management Information Systems which will assist in identifying trends in anti - social behaviour by carrying out regular analysis of reported incidences.
- To reduce the number of vacant LA houses.

6.3 Strategies

6.3. To achieve the main objectives and aims outlined above certain strategic headings are set out below with specific actions incorporated under those headings

Prevention and reduction of anti-social behaviour

- Continued employment of dedicated staff dealing with Anti Social Behaviour. He/She will be responsible for investigating complaints. Monaghan County Council will ensure that the officers involved receive appropriate training to enhance their professional development and ensure that their safety is paramount.
- Enforce legislation through the courts in the most serious of cases and when all other non-legal options have failed.
- Monaghan County Council will not tolerate drug dealing within our properties. Where a person is convicted in a court of law for doing so Monaghan County Council will convene an in house meeting to discuss applying for a possession of the property or an Excluding Order against a specific individual
- The use of Excluding Orders will be utilised, as this option is preferable to terminating the tenancy. It targets the specific perpetrator of anti social behaviour instead of the whole household.
- If squatters (illegal occupiers) are engaging in ASB, Monaghan County Council will request An Garda to direct such persons to leave the dwelling or arrest them.
- Monaghan County Council will seek to ensure that the rights and welfare of those who engage with the ASB section are protected. Where appropriate, respondents may be referred to a Tenancy Sustainment Officer.
- Where an individual has been proven to having been involved in ASB Monaghan County Council have the right to refuse to sell a property to tenants on the grounds of ASB (See appendix)

- Where an individual has been proven to having been involved in ASB Monaghan County Council have the right to refuse to allocate, sell or transfer an existing tenant on the Grounds of Good estate management. (See appendix)
- Where an individual has been proven to having been involved in ASB Monaghan County Council have the right to refuse to allocate or sell a dwelling or deny transfer on the Grounds for failing to provide sufficient and pertinent information
- Where refusal or deferral is proposed in respect of an allocation of a property, sale of a property or transfer application, the use of a “Matrix” template will be followed (*SEE Appendix for matrix*)
- Monaghan County Council will outline to the applicant/tenant an appeals procedure in the event where deferral or refusal is notified. The appeal will be reviewed by an officer not engaged in the original process and will be senior to the officer involved in that process.

Allocation of tenancies

- Garda vetting will be carried by Monaghan County Council of all potential new tenants and new occupants (and transferring tenants when deemed necessary). This will be used as an important preventative measure and may also be used in relation to sales of dwellings and where authorisation is requested for right to reside at dwellings. (see appendix)
- Housing applicants from outside the Jurisdiction may be required to obtain and submit documentation stating that they are of good character and have no previous convictions. Examination of this documentation will be carried out where deemed necessary
- Measured consideration will be taken of allocations in estates to individual households to prevent locating a household to an area in which they may be at risk of anti social behaviour.
- The adopted Deposit Scheme will be reviewed to include that where an individual has been proven to have been involved in Anti Social behaviour and has been evicted on this basis Monaghan County Council have the right to refuse to return the deposit to the tenants on the grounds of anti social behaviour

Compulsory Pre-tenancy Training sessions

- Tenancy agreements can be difficult to understand and so Monaghan County Council will explain in plain language the conditions of the agreement. The pre-tenancy training has as a component, a strong emphasis on issues relating to ASB. Where it is not possible to carry out the session prior to allocation it will take place shortly

thereafter. Tenants will be advised of conditions of the tenancy agreement and their responsibilities as well as Monaghan County Council responsibilities as Landlords.

- Monaghan County Council will update and strengthen tenancy agreements periodically in relation to ASB. (Last updated March 2017) (*Appendix: Tenancy Agreement*).
- At all pre tenancy meetings, all new tenants will be advised of the need to be good neighbours and be encouraged to get involved in community activities, including Residents Associations/Tidy Towns groups

Residents Associations and Community Links

- Monaghan County Council will consolidate and increase existing links with resident's associations/community groups and An Garda Siochana.

Design of Housing Schemes

- There will be liaison between the technical/design sections to ensure that the design of dwellings and layout of estates does not facilitate anti social behaviour.
- There will be liaison with technical/design staff to design out existing problem areas in existing estates which can contribute to ASB when the opportunity arises.

Monitoring and Review of estate safety

- There will be liaison with the Community and Enterprise section in identifying underlying trends which may lead to an increase in ASB e.g. prevalence of vulnerable households, drug & alcohol abuse in concentrated areas.
- When issues regarding maintenance and upkeep of property become apparent letters will be issued promptly to tenants. This will assist in preventing the "broken window" effect. This is where visible signs of anti social behaviour; crime in an urban area encourage further crime and disorder.
- Clear and ongoing communication of our policies will be delivered through the following methods: - Pre-tenancy sessions/ Tenant Handbooks / Tenancy agreements/ - Website and social media/individual correspondence.

Health and safety

- Monaghan County Council Housing officers and other employees/contracted workers of the Council should not be subject to aggression or violence. Monaghan County Council will not tolerate harassment or interference with employees who are involved with the work of this section. Such intimidation will be reported to An Garda and Monaghan County Council will pursue legal proceedings against perpetrators.

7.0 COMPLAINTS

Procedures for the making of complaints

7.1 Anonymous complaints regarding anti-social incidents will not normally be investigated. However, this will be at the discretion of the ASB section. Where complainants are unwilling to supply contact details the complaint will be recorded but will not normally be acted upon.

Complainants will be encouraged to supply contact details and assured that all information provided will be treated in the strictest of confidence.

7.2 Section 26 of the Freedom of Information Act 1997 requires public bodies to refuse to disclose information which has been given to them in confidence.

Section 32 (1) (Law enforcement and public safety) and Section 35 of the Freedom of Information Act 2014 protects information submitted to the Council by complainants. (Information obtained in confidence)

7.3 Monaghan County Council will ensure the confidential storage of documents relating to cases. The complaints recording system is secure and Monaghan County Council will make every effort to keep the identity of complainants confidential, however this is not a right in law.

7.4 Complaints that do not fulfil the legal definition of Anti Social Behaviour are possibly breaches of the tenancy agreement and they will be recorded on the same system. The system is capable of differentiating between the two types.

All information will be held in accordance with Data Protection laws.

Complaints may be made verbally, in writing, in person, by phone or by letter, provided complainants provide their name, address and contact number.

Complaints received by email will have to be verified as it can be problematic to establish the identity of the sender of electronic correspondence.

7.6 If a complaint could lead to the identity of the complainant then he or she will be asked whether they wish Monaghan County Council to proceed to investigate the complaint.

7.7 Unreasonable complaints – Monaghan County councils procedure for dealing with malicious complaints will be followed if necessary.

7.8 The person making the complaint will be known as the “*Complainant*”.
The person they allege to be engaging in anti social behaviour/ breach of tenancy will be known as the “*Respondent*”.

7.9 Complaints can be made by reporting in person, by post, phone to the person responsible for the section- Tenant Liaison Officer/Authorised person

By Post to:
Tenant Liaison Officer/Authorised Person
County offices
The Glen
Glen Road
Monaghan
H18 YT50

By Phone:
047 30525 – Direct line
If staff is unavailable a voicemail is in operation

7.10 Any complaints received in areas other than the central Housing Department (e.g. in MD offices) should be immediately forwarded to the Tenant Liaison or Executive Officer in the Housing Department having elicited the fullest information possible from the complainant.

7.11 The following information should be recorded on standardised forms and or the complaints system:

- *Name and contact details of complainant*
- *Name and address of alleged perpetrator*
- *Nature of complaint*
- *Where and when alleged incident(s) took place*
- *If alleged incident(s) have been reported to the Garda and if so when and to whom*
- *Any other relevant information*

If all information is not forthcoming at the initial complaints stage the items outstanding will be obtained from the complainant as soon as possible. This may entail the complainant being interviewed by the relevant officer.

7.12 In cases where a person is unable to complete the standardised Initial Complaint and Acknowledgment form for anti-social behaviour, a staff member of the housing department may assist the person in completing the form. The Initial complaint and Acknowledgement

form for reporting anti-social behaviour should be signed by the complainant, but the housing officer shall have the discretion to accept an unsigned complaint. Where appropriate the Local Authority may advise the complainant to contact the Gardai Siochana, other statutory or specialist agencies.

8 RECORDING OF COMPLAINTS

Initial assessment of anti-social behaviour

8.1 All reported cases of anti-social behaviour will be submitted to the Tenant Liaison Officer or other designated officer for an initial assessment.

8.2 When a reported case of anti-social behaviour is acknowledged as valid, the Tenant Liaison Officer or other designated officer will provide a Complainant Incident Diary (**Appendix**) to the complainant to record any further incidents.

The complaint will then be categorized as set out below:

Category A- Drug Activity:

The manufacture, production, preparation, importation, exportation, sale, supply, possession for the purpose of sale or supply, or distribution of a controlled drug.

Category B- Non-Drug Related Criminal Activity:

Includes: joyriding, violence/harassment/intimidation, racism, vandalism, selling alcohol.

Category C- Other:

Includes: squatters/illegal occupiers, noise/disturbance, children nuisance, pet/animal nuisance, physical condition of property.

Some of the activities outlined above fall within the legal definition of ASB, others will not but will breach the tenancy agreement and will therefore be investigated.

Valid complaints and cases will be pursued by the Tenant Liaison Officer for further action.

8.3. The Tenant Liaison Officer or other designated officer may dismiss a reported case of anti-social behaviour on the following grounds.

- the complaint is not deemed to be Anti Social Behaviour as outlined in Legislation
- the actions complained of are not deemed to be significant or persistent
- the information regarding the Initial Complaint is incomplete
- the complaints are vexatious or maliciously motivated

- the complaint is made anonymously
- the identity of respondents is unknown

8.4 When a reported case of anti-social behaviour is dismissed the Tenant Liaison Officer or other designated officer will inform the complainant in writing about the dismissal and place a copy of the correspondence on the file. A decision to dismiss any complaint may be appealed in writing to the Senior Executive within 14 days.

9. INVESTIGATING COMPLAINTS

9.1 Monaghan County Council will investigate every complaint in a fair, impartial and objective manner. The complaints recording system will be checked to ascertain previous complaints history and to identify any possible risk factors which need to be taken into account.

9.2 As much independent evidence as possible will be obtained and verified in so far as is practicable. This may involve interviewing complainants and making enquiries with other statutory agencies in accordance with section 15 of the Housing (Miscellaneous Provisions) Act, 1997.

9.3 Once Council officials are satisfied that a complaint regarding anti-social behaviour has some basis and that the alleged activity is sufficiently serious to warrant action on the part of the local authority, contact will be made with the alleged respondents and they will be invited to a meeting to discuss the incident in question. The respondent will be advised that he/she may be accompanied by a friend or other representative at the interview.

The purpose of the meeting is to provide alleged respondents with an opportunity to tell their side of the story. All communication with alleged respondents of anti-social behaviour will be objective and impartial.

The respondent may be interviewed at his/her dwelling, or at Council offices. All allegations will be presented to the respondent and the response recorded. Any responses will be fully investigated and taken into account, as appropriate.

9.4 Juveniles/minors engaged in Anti Social behaviour will not be interviewed unless the parents expressly wish it and only in their company.

9.5 Consultation with a Tenants/Residents Association may take place where a properly established representative forum is in operation. However, the local authority will be mindful of the fact that not all committees/associations are fully inclusive and therefore may not represent the views of the tenants as a whole. All such consultation will be conducted in general terms and specific details of incidents or alleged perpetrators will not be disclosed in the interests of confidentiality, safety and security of both the complainant and alleged perpetrator.

10 POSSIBLE COURSES OF ACTION

10 .1 If the Local Authority has reasonable grounds for believing that the respondent is involved in Anti-Social behaviour the matter will be dealt with in any or all the following ways:

- Issue Notification letter (Informal warning)
- Enter a formal agreement with the tenant that they do not engage in such behaviour.
- Serve a Statutory tenancy Warning: *(Sample in appendix)*
- Referral to other Agencies such as Gardai/Health Authority/TUSLA
- Offer Mediation- Trained mediators may offer mediation support, between the complainant and alleged perpetrator.
- Convene a case conference with other agencies
- If deemed appropriate and with the respondent's permission external agencies may be utilized in order to prevent repossession e.g. Focus Tenancy Sustainment Officer, Tusla. Garda.
- If deemed appropriate, negotiate with respondent to voluntarily relinquish the tenancy
- If deemed appropriate, make an application to court for exclusion of the tenant or member of household
- If deemed appropriate, make an Application to court for re-possession of the dwelling.

STATUTORY WARNING

10.2 The 2014 act introduced a new process, namely a 'tenancy warning procedure'. In short, this process, which is prescribed in sections 7 & 9 of the act, allows a local authority to issue a tenancy warning where, "in the opinion of the authority, the tenant or a member of his or her household has breached a specified term of the tenancy agreement". The tenancy warning must set out the term breached and the specifics of the breach. The tenancy warning will also set out how the person accused of the breach can remedy their behaviour. The tenancy warning must also include notice to the tenant that, if there is a repeated action within 12 months, the local authority can make an application to Court either for an order for possession or for an excluding order.

10.3 If a tenant does not accept the grounds on which a warning has been issued the tenant may request a review, pursuant to section 10 of the act. The tenant will be advised in the tenancy warning of the right to this review.

Following a request for a review, the chief executive "shall appoint as the reviewer of the tenancy warning concerned an officer or employee of a local authority who was not involved in the decision to issue the tenancy warning, and who is senior in rank to the officer or employee who has decided to issue that warning"

APPLICATION TO DISTRICT COURT: POSSESSION OR EXCLUSION

10.4 As preparation for legal action, the Authorized Officer will ensure that the Anti-Social Behaviour Case file is completed, that all necessary documentation is attached to the file and that all required approvals are obtained.

10.5 Respondents will have the right to an independent Court hearing regarding their right to remain in their home, (this was not the case prior to the introduction of the 2014 act) The possession proceedings require a District Court judge to make an order for possession if it appears to the court that the housing authority has grounds for recovering possession “and that it is reasonable having regard to all of the circumstances of the case”.

The act has a list of factors to be considered in deciding what is reasonable, including “the proportionality of making a possession order, having regards to the grounds for the possession application”.

10.6 Where it is not appropriate to apply for the re-possession of the dwelling e.g. where a son or daughter (over 18yrs) or other occupant is involved in anti-social behaviour, application to court may be made for an “Excluding Order” against that member.

10.7 Where an excluding order or order for possession has been obtained through the courts the tenant or occupant shall be deemed to have rendered themselves homeless and therefore will not, in the short term, be considered for re-housing by Monaghan County Council. However, they may be offered alternative Housing support through the “Housing Assistance Payment” in order to seek and obtain accommodation in the Private Rented Sector.

10.8 Where it comes to the attention of Monaghan County Council that an existing tenant has been convicted in a court of law of an offence considered to be anti-social behaviour, the Council will seek legal advice with a view to evicting/excluding the tenant involved.

10.9 If a tenant receives a prison sentence, Monaghan County Council will liaise with others in the household in an effort to safeguard their home and ensure rent payments are maintained.

However, in cases where a sole tenant receives a custodial sentence longer than six weeks Monaghan County Council reserves the right to regain possession of the dwelling as an absence from the dwelling for a period of six weeks or more in any fifty two week period is a breach of tenancy. Other factors that will be taken into consideration will include any restrictions imposed by the courts and the person’s previous history as a tenant.

However, the home may well be a significant factor in the rehabilitation of the offender and therefore following liaison with An Garda and the probation service we will take any mitigating circumstances into account prior to any decision regarding terminating a tenancy in such situations.

11. ANNUAL REPORT

11.1 The Anti Social behaviour section will provide to the Management Team and the Joint Policing Committee the following information that includes:

- Number of anti Social behaviour cases received
- Number relating to each category
- Number of Tenancy notifications/informal warnings issued
- Number of Statutory tenancy warnings issued
- Number of dwellings surrendered in lieu of legal action
- Number of applications to court for Excluding Orders and re-possession orders
- Number of Excluding Orders and re-possession orders granted by the Court

APPENDICES

MONAGHAN COUNTY COUNCIL HOUSING SECTION - DEFERRAL MATRIX

No.	Category	Indicator	Points 1 - 5
1	Policy	Councils policy undermined	
2	Offence(s)	Number & seriousness	
3	Time	Behaviour/Offence/recent/Old	
4	Interview	Applicants demeanour/remorse/rehabilitation	
5	Capability	Independent living, suitability to area	
6	Risk	Risk assessment/interests of estate management	

1. Will the Councils policy be undermined if applicant is approved for an allocation?
2. Number of offences relating to ASB, seriousness of offence, whether there are charges pending or complaints on file.
3. Time- how recent or old is the behaviour
4. Interview: Did the applicant display remorse or was he/she aggressive, non co operative etc.
5. Suitability: Is the applicant capable of independent living?
6. Is there a high risk of the applicant re offending? Take into consideration the community or past victims nearby. Are there areas to avoid on the grounds of estate management?

Lowest score 0 highest score 5

Scores:

15 – 30 range

If an applicant is scored between 15 & 30 points the application could be deferred for a period of time until the Council are of the opinion that the applicant is rehabilitated and the risk of him/her re offending is low.

Range of 14 – 16 - open to debate or discussion

Range 0-15 - Do not defer

Monaghan County Council Tenancy Agreement – (Relevant clauses)

24. The Tenant must not, at any time, invite in or allow remain on any part of the dwelling or garden, any person in respect of whom the Council has notified the Tenant that such person should not enter or remain in or on any part of the dwelling.
25. The Tenant must not knowingly permit any person against whom an Excluding Order or an Interim Excluding Order has been made in respect of the dwelling to enter the dwelling in breach of the Excluding Order or Interim Excluding Order as the case may be at any time when such Order is in force.
26. The Tenant must not cause or engage in or allow any member of the Tenant's household or any person visiting or present at the dwelling at the Tenant's invitation to cause or engage in Anti-social Behaviour. For the purpose of this Tenancy Agreement the phrase 'Antisocial behaviour' includes either or both of the following, namely—
- (a) the manufacture, production, preparation, importation, exportation, sale, supply, possession for the purposes of sale or supply, or distribution of a controlled drug (within the meaning of the Misuse of Drugs Acts 1977 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 the dwelling or a housing estate in which the dwelling is situate and, without prejudice to the foregoing, includes—
 - (i) violence, threats, intimidation, coercion, harassment or serious obstruction of any person,
 - (ii) behaviour which causes any significant or persistent impairment of a person's use or enjoyment of his or her home, or
 - (iii) damage to or defacement by writing or other marks of any property, including a person's home.
28. (a) The Tenant must not cause or commit or allow any member of the Tenant's household or any person visiting the dwelling to cause or commit any form of nuisance or engage in conduct likely to cause nuisance, annoyance or disturbance to any other tenants or members of their households, visitors, neighbours, neighbours' children, Council employees and contractors or any other member of the general public living or working in the vicinity of the dwelling.
- (b) For the purpose of this Tenancy Agreement the phrase 'nuisance, annoyance or disturbance' is any behaviour which interferes with the peace and comfort of a person living, working or otherwise lawfully in or in the vicinity of the dwelling and, without prejudice to the foregoing, includes (but is not limited to)
- (i) abusive or insulting words or behaviour

- (ii) offensive drunkenness
- (iii) damage or threat of damage to property belonging to another person including damage to any part of a person's home
- (iv) writing graffiti
- (v) making unnecessary or excessive noise by any means whatsoever by shouting, screaming, door slamming, playing any musical instrument or sound reproduction equipment (including television, radio, hi-fi) or using equipment or machinery
- (vi) using or allowing the Premises to be used for prostitution or for keeping, dealing in or using any controlled drugs or for keeping unauthorised firearms and ammunition
- (vii) using the dwelling for the handling or storage of stolen property
- (viii) any nuisance or annoyance caused by pets including barking and fouling; and
- (ix) any nuisance or annoyance caused by obstruction of common area, doorways, other entrances and exits, pavements.
- (x) playing ball games close to another person's property.
- (xi) Any act or omission which creates a danger to the well being or any neighbour or his property.

29. A Tenancy Warning may be issued by the Council to the Tenant under section 7 of the Housing (Miscellaneous Provisions) Act 2014 where the Council is of the opinion that the Tenant or a member of the Tenant's Household has breached a specified term of this Tenancy Agreement or under section 8 of the that Act for breach of a rent related obligation or under section 9 of that Act where the Tenant or a member of the Tenant's Household has breached any other term of this Tenancy Agreement that is not a specified term or a rent related obligation.

30. The specified terms of this Tenancy Agreement within the meaning of section 7 (1) of the Housing (Miscellaneous Provisions) Act, 2014 are contained in clause 26, 27 and 28 above.

MONAGHAN COUNTY COUNCIL

CONFIDENTIAL

BREACH OF TENANCY/ANTI SOCIAL BEHAVIOUR -INITIAL COMPLAINT FORM

Complainant's name: _____

Address: _____

Telephone No. _____

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

Alleged perpetrator(s) name Address

Alleged perpetrator(s) name	Address

Description of anti social behaviour

Description	Tick	Date	Time	Description	Tick	Date	Time
Physical assault				Litter / dumping/refuse			
Drug dealing				Theft			
Intimidation				Indiscriminate burning			
Harassment				Trespassing			
Coercion				Dog/Horse related nuisance			
Causing Injury				Drinking in Public			
Threatening behaviour				Noise Pollution			
Causing damage				Causing danger			

Location of incident(s)

Brief summary of complaint:

WAS THE MATTER REPORTED TO AN GARDA ?

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

Signature: _____ Date: _____

If complainant declines to sign, please state reason:

SAMPLE TENANCY WARNING

Tenant Name,
Tenant Address,
County Monaghan.

Date:
Reference No.

Re.: Tenant Name & Address
Statutory Warning Letter in respect of Anti-Social Behaviour
S7 Housing (Miscellaneous Provisions) Act 2014

Dear Sir/ Madam,

We refer to the above.

Please note this is a tenancy warning letter issued pursuant to Section 7 of the Housing (Miscellaneous Provisions) Act 2014. We advise that you read this letter carefully as failure to comply with the within warning could have serious consequences.

When you signed your Tenancy Agreement with Monaghan County Council (hereafter “the Council”) on the */*/*, (signed copy of same enclosed herewith) you undertook to adhere to the conditions therein, including the social behaviour conditions set out in Section C of the Tenancy Agreement. In particular you agreed to refrain from:

- engaging in anti-social activity or behaviour;
- causing nuisance or engaging in conduct likely to cause annoyance or disturbance to neighbours;
- allowing other occupiers of, or visitors to, the above dwelling to behave within it, or in its vicinity, in a way that is anti-social or to cause a nuisance.

It has come to the Council’s attention that you (*or a member of your household or a visitor*) has breached a condition set out in Section *** of the Tenancy Agreement as follows:

***identify the precise term or terms breached, the nature of that breach, including the name of the household member (if that name is readily available to the housing authority) who caused that breach, the occasion and dates of the breach and, where relevant, the significant or persistent detrimental effect of the breach on the quality of life of those in the locality of the dwelling to which the Tenancy Agreement relates. ***

You are required to cease this breach of the Tenancy Agreement (*or to undertake such specified actions*) with immediate effect in order to prevent any further detrimental effects of the breach from occurring (*or if a household member or visitor has caused the breach to ensure that he or she ceases it with immediate effect*).

If the breach continues during, or is repeated within 12 (twelve) months of this tenancy warning letter coming into effect, the Council may either:

- i. apply under Section 12 of the Housing (Miscellaneous Provisions) Act 2014 to recover possession of the dwelling, or

- ii. apply to the District Court for an excluding order against the household member who caused or is causing the breach referred to above.

Further note that the Council may during the period of 3 (three) years following a tenancy warning coming into effect, take the tenancy warning into account when considering whether:

- i. to consent, under subsection (12) of section 90 of the Housing Act 1996, to a sale of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term, where the grounds for refusal would be those set out in subparagraph (a)(ii) of that subsection,
- ii. to consent, under subsection (3) of section 48 of the Housing (Miscellaneous Provisions) Act 2009, to a sale, during the charged period, of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term, where the grounds for refusal would be those set out in paragraph (b) of that subsection,
- iii. to consent, under subsection (4) of section 76 of the Act of the Housing (Miscellaneous Provisions) Act 2009, to a sale, during the charged period, of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term or specified terms, where the grounds for refusal would be those set out in paragraph (b) of that subsection,
- iv. to consent, under subsection (3) of section 29 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 the grounds for refusal would be those set out in paragraph (b) of that subsection,
- v. to refuse, under section 14(2) of the Housing (Miscellaneous Provisions) Act 1997, to sell a dwelling to—
 - 1. the tenant (within the meaning of Part 4 of the Housing [Miscellaneous Provisions] Act 2009 or to whom Part 3 applies) concerned,
 - 2. the eligible household (within the meaning of Part 3 or 5 of the Housing [Miscellaneous Provisions] Act 2009 concerned, or
 - 3. the person concerned (in a case to which section 90 of the Housing Act 1966 relates), or
- vi. to refuse, under section 14(1) of the Housing (Miscellaneous Provisions) Act 1997, to allocate a dwelling, or to defer the allocation of it, to the tenant or to the household member identified in the tenancy warning as causing the breach of the specified term.

Should you not agree that a breach of your Tenancy Agreement has occurred in the terms set out in this letter, you may request a review of this tenancy warning pursuant to Section 10 of the Housing (Miscellaneous Provisions) Act 2014. The request for a review must be in writing and must be received by the Council within 10 working days from the issuing of this tenancy warning. You may contact ___ of Monaghan County Council should you wish to avail of this right.

Yours faithfully, _____ **Monaghan County Council**

Housing Miscellaneous Provisions act 1997 (as amended)

Definition of anti social behaviour

1.—(1) In this Act, unless the context otherwise requires—

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

(a) the manufacture, production, preparation, importation, exportation, sale, supply, possession for the purposes of sale or supply, or distribution of a controlled drug (within the meaning of the Misuse of Drugs Acts, 1977 and 1984),

(b) any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, alarm, loss or fear to any person living, working or otherwise lawfully in or in the vicinity of a house provided by a housing authority under the *Housing Acts, 1966 to 1997*, or a housing estate in which the house is situate and, without prejudice to the foregoing, includes:

(i) violence, threats, intimidation, coercion, harassment or serious obstruction of any person

(ii) behaviour which causes any significant or persistent impairment of a persons use or enjoyment of his or her home or

(iii) damage to or defacement by writing or other marks of any property including a persons home

Definition of estate management

"estate management" 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 1997*,

(b) the avoidance, prevention or abatement of anti-social behaviour in any housing estate in which is situate a house provided by a housing authority under the *Housing Acts, 1966 to 1997*;

Please Note the following in relation to ant social behaviour:

*The exception to this is where a **private landlord** is initiating eviction proceedings in a Chapter 4 tenancy (Rental Accommodation Scheme), in which case the definition contained in the Residential Tenancies Act 2004 is used.*

- *Possession of illegal drugs solely for personal use does not come within this definition of Anti-Social Behaviour.*
- *Activities that do not fall within the definition can represent breaches of the Tenancy Agreement. If this is the case and if legal action is deemed appropriate, then proceedings may be initiated for breach of Tenancy Agreement under the same section*

that is used to initiate proceedings for Anti-Social Behaviour, namely section 62 of the Housing Act 1966.

- Cases of domestic violence do not come within the scope of the definition. Of anti social behaviour. The Domestic Violence Act 2001 is the appropriate legislation for such cases.

Housing Miscellaneous Provisions act 1997 - Refusal to sell, allocate or defer allocation Letting and sale of local authority housing.

14.—(1) Notwithstanding anything contained in the Housing Acts, 1966 to 1992, or in a scheme made under section 11 of the Housing Act, 1988 , a housing authority may refuse to make or defer the making of a letting of a dwelling to a person where—

- (a) the authority considers that the person is or has been engaged in anti-social behaviour or that a letting to that person would not be in the interest of good estate management, or
- (b) the person fails to provide information, including information relating to persons residing or to reside with that person, which is requested by the housing authority and which the authority considers necessary in connection with an application for the letting.

(2) Notwithstanding anything contained in section 90 of the Housing Act, 1966 (inserted by section 26 of the Housing (Miscellaneous Provisions) Act, 1992), or a purchase scheme under the said section 90 , a housing authority may refuse to sell a dwelling to a tenant where the authority considers that the tenant is or has been engaged in anti-social behaviour or that a sale to that tenant would not be in the interest of good estate management.

(3) Section 90 (12) of the Housing Act, 1966 (inserted by section 26 of the Housing (Miscellaneous Provisions) Act, 1992), is hereby amended by the substitution of the following paragraph for paragraph (a)—

“(a) the housing authority may, without prejudice to any other power in that behalf, refuse to consent to a sale of a dwelling if they are of the opinion that—

- (i) the intended purchaser is not a person in need of housing, or
- (ii) the intended purchaser is or has been engaged in antisocial behaviour or that the intended sale of the dwelling would not be in the interest of good estate management, or
- (iii) the intended sale would, if completed, leave the seller or any person who might reasonably be expected to reside with that person without adequate housing;”.

Housing Miscellaneous Provisions act 1997 Excluding orders. –

3.—(1) A tenant may, in respect of a house let to the tenant by a housing authority, apply to the District Court for an order (to be known and referred to in this Act as an “*excluding order*”) against a person including a joint tenant (to be known and referred to in this Act as “*the respondent*”) whom the tenant making the application believes to be engaging in anti-social behaviour.

(2) A housing authority may, in respect of a house provided by the authority under the *Housing Acts, 1966 to 1997*, apply to the District Court for an excluding order against a respondent whom the authority believe to be engaging in anti-social behaviour where the authority—

- (a) having consulted the tenant and the health board in whose functional area the house is situate, believe that a tenant may be deterred or prevented by violence, threat or fear from pursuing an application for an excluding order, and
- (b) consider that, in the interest of good estate management, it is appropriate, in all the circumstances, to apply for the excluding order.

(3) Where the court, on application to it, is of the opinion that there are reasonable grounds for believing that the respondent is or has been engaged in anti-social behaviour it may by order—

(a) direct the respondent, if residing at the house in respect of which the application was made, to leave that house, and

(b) whether the respondent is or is not residing at the house, prohibit the respondent for the period during which the order is in force from entering or being in the vicinity of that house or any other specified house or being in or in the vicinity of any specified housing estate.

(4) An excluding order may, if the court thinks fit, prohibit the respondent from causing or attempting to cause any intimidation, coercion, harassment or obstruction of, threat to, or interference with the tenant or other occupant of any house concerned.

(5) Where an excluding order has been made, the tenant or the housing authority, as appropriate, or the respondent, may apply to have it varied, and the court upon hearing the application shall make such order as it considers appropriate in the circumstances.

(6) An excluding order, whether made by the District Court or by the Circuit Court on appeal from the District Court, shall, subject to *subsection (7)* and *section 9*, expire three years after the date of its making or on the expiration of such shorter period as the court may provide for in the order.

(7) On or before the expiration of an excluding order to which *subsection (6)* relates, a further excluding order may be made by the District Court or by the Circuit Court on appeal from the District Court for a period of three years, or such shorter period as the court may provide for in the order, with effect from the date of expiration of the first-mentioned order.

Housing Miscellaneous Provisions act 1997 Interim excluding orders.

4.—(1) If, on the making of an application for an excluding order or between the making of the application and its determination, the court is of the opinion that there are reasonable grounds for believing that there is an immediate risk of significant harm to the tenant or other occupant of the house if the order is not made immediately, the court may by order (to be known and referred to in this Act as an “*interim excluding order*”)—

(a) direct the respondent, if residing at the house in respect of which the application was made, to leave that house, and

(b) whether the respondent is or is not residing at the house, prohibit the respondent from entering or being in the vicinity of that house or any other specified house or being in or in the vicinity of any specified housing estate until further order of the court or until such other time as the court shall specify.

(2) *Subsections (4) and (5) of section 3* shall apply to an interim excluding order as they apply to an excluding order.

(3) Where the court in exceptional cases considers it necessary or expedient in the interests of justice, an interim excluding order may be made *ex parte* or notwithstanding the fact that the originating document or other notice of the application required to be duly served on the respondent to the application for an excluding order has not been so served.

(4) An interim excluding order shall cease to have effect on the determination by the court of the application for an excluding order.

Offences

5.—(1) A respondent who contravenes an excluding order or an interim excluding order shall be guilty of an offence and 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.

HOUSING MISCELLANEOUS PROVISIONS ACT 2014

PART 2

Termination of
Local Authority
Tenancies, etc.

Interpretation (*Part 2*)

6. (1) In this Part—

“affordable housing” means—

- (a) an affordable house provided under Part V of the Planning and Development Act 2000 or Part 2 of the Housing (Miscellaneous Provisions) Act 2002 , or
- (b) an affordable dwelling purchased under affordable dwelling purchase arrangements provided for by Part 5 of the Act of 2009, as the case may be;

“dwelling” means a dwelling provided by a housing authority under the Housing Acts 1966 to 2014 or Part V of the Planning and Development Act 2000 , other than affordable housing, and includes any building or part of a building of which an authority is the owner and which the authority requires for the purposes of those Acts;

“rent-related obligation” means—

- (a) the term of a tenancy agreement requiring payment on the due dates of the amount of rent determined under section 58 of the Principal Act or section 31 of the Act of 2009, and
- (b) a term of rescheduling arrangements;

“rescheduling arrangements” means arrangements relating to payment of rent arrears and includes arrangements referred to in section 34(2) of the Act of 2009;

“tenancy agreement” means—

- (a) an agreement, between a person and a housing authority, that is of a type referred to in section 58(4)(b) of the Principal Act, under which the person is permitted to occupy or use a dwelling to which that section applies, or
- (b) a tenancy agreement referred to in section 29 of the Act of 2009.

(2) A reference in this Part to rent includes a reference to charges

in respect of a dwelling, whether by way of rent or otherwise, in respect of works or services provided under the Housing Acts 1966 to 2014 or Part V of the Planning and Development Act 2000 .

Tenancy warning relating to anti-social behaviour, etc.

7. (1) In this section “specified term” means a term of a tenancy agreement that prohibits—
- (a) anti-social behaviour,
 - (b) nuisance or conduct likely to cause annoyance or disturbance to neighbours, or
 - (c) the tenant from knowingly permitting a person, against whom an excluding order under section 3 of the Act of 1997 or an interim excluding order under section 4 of that Act is in force in respect of the dwelling concerned, to enter the dwelling in breach of the excluding order or interim excluding order, as the case may be.
- (2) A housing authority may issue a tenancy warning under this section to a tenant where, in the opinion of the authority, the tenant or a member of his or her household has breached a specified term of the tenancy agreement.
- (3) A tenancy warning issued under this section shall, subject to *subsection (5)*, set out the basis for its issue and the reason for its issue and for those purposes shall—
- (a) set out—
 - (i) the specified term or specified terms that has or have, in the housing authority’s opinion, been breached,
 - (ii) the nature of that breach, including the name of the household member (if that name is readily available to the housing authority) who caused that breach, the occasion of the breach and, where relevant, the significant or persistent detrimental effect of the breach on the quality of life of those in the locality of the dwelling to which the tenancy agreement relates,
 - (b) require the tenant to ensure that the household member who caused that breach—
 - (i) ceases or does not repeat specified actions, or
 - (ii) undertakes specified actions,

in order to prevent the detrimental effect of the breach from

recurring or continuing,

- (c) indicate that, if the breach continues during, or is repeated within, 12 months of the tenancy warning coming into effect, then the authority may either—
 - (i) apply under *section 12* to recover possession of the dwelling, or
 - (ii) where appropriate, apply to the District Court (under section 3 of the Act of 1997) for an excluding order against the household member who caused that breach,
- (d) indicate that the housing authority may, during the period of 3 years following a tenancy warning coming into effect, take the tenancy warning into account when considering whether—
 - (i) to consent, under subsection (12) of section 90 of the Principal Act, to a sale of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term, where the grounds for refusal would be those set out in subparagraph (a)(ii) of that subsection,
 - (ii) to consent, under subsection (3) of section 48 of the Act of 2009, to a sale, during the charged period, of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term, where the grounds for refusal would be those set out in paragraph (b) of that subsection,
 - (iii) to consent, under subsection (4) of section 76 of the Act of 2009, to a sale, during the charged period, of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term or specified terms, where the grounds for refusal would be those set out in paragraph (b) of that subsection,
 - (iv) to consent, under *subsection (3) of section 29*, 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 the grounds for refusal would be those set out in *paragraph (b)* of that subsection,
 - (v) to refuse, under section 14(2) of the Act of 1997, to sell a dwelling to—
 - (I) the tenant (within the meaning of Part 4 of the Act of

2009 or to whom *Part 3* applies) concerned,

(II) the eligible household (within the meaning of Part 3 or 5 of the Act of 2009) concerned, or

(III) the person concerned (in a case to which section 90 of the Principal Act relates),

or

(vi) to refuse, under section 14(1) of the Act of 1997, to allocate a dwelling, or to defer the allocation of it, to the tenant or to the household member identified in the tenancy warning as causing the breach of the specified term,

and

(e) set out the tenant's right, under *section 10*, to request a review of the tenancy warning.

(4) A tenancy warning shall be served on the tenant (either at the dwelling concerned or otherwise) or, in his or her absence from the dwelling, on such other person at the dwelling as may be prescribed or, if the housing authority has attempted to but has not been able to so serve, by so serving subsequently or by serving in such other manner as may be prescribed.

(5) In setting out the basis for a tenancy warning under this section, a housing authority shall have due regard to protecting the identity of persons informing it of the breach of the specified term in circumstances where, in the opinion of the authority, not to do so—

(a) could render those persons, or persons associated with them, liable to violence, threat or fear as a consequence of so informing, or

(b) might otherwise have prevented those persons from so informing because of such violence, threat or fear.

Tenancy warning relating to other tenancy breach

9. (1) A housing authority may issue a tenancy warning to a tenant under this section where he or she or a member of his or her household has breached a term of the tenancy agreement other than a term to which *section 7* or *8* relates.

(2) The tenancy warning shall—

(a) subject to *subsection (4)*, set out the basis for the tenancy warning, that is to say, the term of the tenancy that has been

breached, the nature and occasion of the breach and the name of the person (if that name is readily available to the housing authority) who caused the breach,

(b) require—

(i) the person causing the breach, and

(ii) where appropriate, either or both the tenant and other household members,

to cease, or not to repeat, specified actions or to undertake specified actions in order to prevent the breach from recurring or continuing,

(c) indicate that, if the breach continues in the period of, or is repeated within, 12 months of the tenancy warning coming into effect, the authority may apply under *section 12* to recover possession of the dwelling without issuing a further tenancy warning to the tenant, and

(d) set out the tenant's right, under *section 10*, to request a review of the tenancy warning.

(3) A tenancy warning shall be served on the tenant (either at the dwelling concerned or otherwise) or, in his or her absence from the dwelling, on such other person at the dwelling as may be prescribed or, if the housing authority has attempted to but has not been able to so serve, by so serving subsequently or by serving in such other manner as may be prescribed.

(4) In setting out the basis for a tenancy warning under this section, a housing authority shall have due regard to protecting the identity of persons informing it of the breach of a term of the tenancy agreement in circumstances where, in the opinion of the authority, not to do so—

(a) could render those persons or persons associated with them liable to violence, threat or fear as a consequence of so informing, or

(b) might otherwise have prevented those persons from so informing because of such violence, threat or fear.

Review of tenancy warning

10. (1) This section applies where a tenant does not accept that a breach of a tenancy agreement or rent-related obligation has occurred in the terms set out in a tenancy warning issued to him or her under *section 7*, *8* or *9*.

- (2) A tenant may request in writing (in this section referred to as a “review request”) a housing authority to review a tenancy warning issued to him or her.
- (3) A review request shall—
 - (a) outline the grounds upon which the tenant disputes the basis for the tenancy warning and be accompanied by any relevant supporting documents, and
 - (b) state whether the tenant or a member of his or her household wishes to make oral representations to the housing authority as part of the review.
- (4) Subject to *subsection (5)*, a review request shall be received by the housing authority within 10 working days from the issuing of the tenancy warning to the tenant.
- (5) The Minister may prescribe the types of extenuating circumstances as a consequence of which the period of 10 working days referred to in *subsection (4)* may, at the discretion of the chief executive of the local authority concerned and upon being satisfied that any such circumstance does apply, be extended upon application by or on behalf of the tenant for such further period as decided by that chief executive, but any such further period as so decided shall not, taken together with the 10 working days from the issuing of the tenancy warning concerned, exceed 20 working days from such issue.
- (6) On receipt of a valid review request the chief executive of the local authority concerned shall appoint as the reviewer of the tenancy warning concerned an officer or employee of a local authority who was not involved in the decision to issue the tenancy warning and who is senior in rank to the officer or employee who decided to issue that warning.
- (7) The reviewer shall review the decision to issue the tenancy warning as if the matter were being decided for the first time and on the basis of the information available to him or her.
- (8) A reviewer may make such enquiries and meet with any person, including the tenant, a household member and a member of An Garda Síochána, that he or she considers it appropriate to meet in the circumstances.
- (9) Except where the reviewer and the tenant otherwise agree in writing, the reviewer shall make a decision on the review within 20 working days of his or her appointment or, where—

- (a) the tenant or a household member wishes to make oral representations,
 - (b) the reviewer wishes to meet the tenant or a household member as part of the review, or
 - (c) the tenant proposes a variation to the tenancy warning or is given the opportunity to comment or make representations (either orally or in writing) on a variation proposed by the reviewer to the tenancy warning, within 30 working days of his or her appointment.
- (10) A decision on a review request by a tenant shall—
- (a) confirm the tenancy warning in its original terms,
 - (b) vary the tenancy warning in specified terms, or
 - (c) annul the tenancy warning, and shall state the reasons for doing so and the housing authority shall send a copy in writing of the reviewer's decision and reasons to the tenant.
- (11) Any variation to a tenancy warning proposed by the reviewer under *subsection (10) (b)*, other than to correct any clerical error of a non-material nature, shall not be made without first giving the tenant an opportunity to comment or make representations on such a variation.
- (12) A tenant who has made a review request may, at any time before the review is completed, notify the housing authority in writing that he or she is withdrawing the review request but any such withdrawal is subject to *subsection (13)*.
- (13) A reviewer may, notwithstanding the withdrawal of a review request by the tenant and where the reviewer is satisfied that it is in order to do so continue the review under this section as if the withdrawal had not been made and the housing authority shall notify the tenant in writing accordingly.
- (14) Where, in a review under this section, a member of An Garda Síochána or an officer of a housing authority states that he or she believes that a person is or has been engaged in anti-social behaviour, then, if the reviewer is satisfied that there are reasonable grounds for such belief and that another person would be deterred or prevented by violence, threat or fear from providing evidence in that regard, the reviewer may accept that statement as evidence of such anti-social behaviour.
- (15) In a review of a tenancy warning under this section, the housing authority concerned and the reviewer shall have due

regard to protecting the identity of persons informing the authority or reviewer of the breach in circumstances where, in the opinion of the authority or the reviewer, not to do so—

- (a) could render those persons or persons associated with them liable to violence, threat or fear as a consequence of so informing, or
- (b) might otherwise have prevented those persons from so informing because of such violence, threat or fear.

Day that tenancy warning comes into effect

- 11.** (1) Subject to *subsections (2) and (3)*, a tenancy warning comes into effect on the second working day after the expiration of the period within which a request to review that warning could be received.
- (2) Where a tenancy warning was the subject of a review request under *section 10* and either—
- (a) the tenancy warning was not withdrawn before the day the review was completed, or
 - (b) *section 10 (13)* applies to the tenancy warning, then, except where the tenancy warning is annulled on review, the tenancy warning comes into effect on the second working day after a copy of the reviewer’s decision is sent to the tenant for the purposes of *section 10(10)* and in the terms specified in the review decision.
- (3) Where a tenancy warning was the subject of a review request under *section 10* and that request was withdrawn before the day the review was completed then, except where *section 10 (13)* applies, the tenancy warning comes into effect on whichever of the following days last occurs:
- (a) on the day determined in accordance with *subsection (1)* as if the request had not been made;
 - (b) on the second working day after the tenant notifies the housing authority in accordance with *section 10 (12)* of the withdrawal.

Proceedings for possession of local authority dwelling

- 12.** (1) Where a tenant or a member of his or her household breaches a tenancy agreement or rent-related obligation, the housing authority may, subject to *subsection (3)*, apply (in this section referred to as a “possession application”) to the District Court for a possession order under this section.

- (2) A housing authority may make a possession application in respect of a dwelling under this section notwithstanding the fact that there may be in progress a review of a tenancy warning that relates to a breach of a type referred to in *subsection (1)* that is of a similar nature to the breach to which the possession application relates.
- (3) (a) Subject to *paragraph (b)*, a housing authority shall, not less than 10 working days before the hearing by the District Court of a possession application under this section in respect of a dwelling, give the tenant notice in writing of—
- (i) the authority's intention to make such an application,
 - (ii) the information to be included in the application, and
 - (iii) the date on which the authority intends to make the application.
- (b) In a case where the housing authority is satisfied that the breach of the tenancy agreement to which the possession application relates has had or is having a significant or persistent detrimental effect on the quality of life of those in the locality of the dwelling, the authority shall, not later than at the time that it makes the possession application, give a copy of the possession application to the tenant.
- (4) A possession application shall set out—
- (a) the grounds for the application, that is to say, the term of the tenancy agreement or rent-related obligation that is alleged to have been breached and the nature and occasion of the breach including the name of the person (if that name is readily available to the housing authority) who caused the breach and, where relevant, the significant or persistent detrimental effect of the breach on the quality of life of those in the locality of the dwelling,
 - (b) where any housing authority previously issued a tenancy warning to or in respect of a person within the period of 5 years prior to the date of the application and such person is the tenant of the dwelling to which the application relates or is a member of the tenant's household, the terms of that warning and the outcome of any request for its review, irrespective of whether or not the breach the subject of that warning is of a similar nature to the breach to which the possession application relates,
 - (c) where the housing authority did not issue a tenancy warning in relation to the breach to which the application relates, a

- statement as to why the housing authority did not do so,
- (d) where the housing authority did not issue a notice to the tenant under *subsection (3) (a)*, a statement as to why the housing authority did not do so, and
 - (e) whether or not the situation specified in *subsection (2)* applies and, if it does apply, a statement as to why the housing authority is seeking the possession order while the tenancy warning is under review.
- (5) In setting out the grounds for a possession application under this section, a housing authority shall, where appropriate, have due regard to protecting the identity of persons who informed it of the breach in circumstances where, in the opinion of the housing authority, not to do so—
- (a) could render those persons or persons associated with any of them liable to violence, threat or fear as a consequence of so informing, or
 - (b) might otherwise have prevented those persons from so informing because of such violence, threat or fear.
- (6) The grounds for a possession application referred to in *subsection (4)* may be provided by information on oath given by an officer or employee of the housing authority concerned duly authorised to give that information and, for the purposes of this section shall—
- (a) form part of the possession application, and
 - (b) be served on the tenant concerned in accordance with *subsection (3)*.
- (7) Where the tenant does not, without due cause, appear at the hearing of the possession application under this section and subject to *subsection (8)*, the District Court may, where it is satisfied that there is a prima facie case for doing so, grant an order in the terms sought by the authority.
- (8) The District Court may, as it thinks fit, adjourn proceedings under this section for a period fixed by the Court, with or without imposing conditions as to the conduct of the tenant or a household member, payment of either or both rent and rent arrears, or otherwise.
- (9) (a) Without prejudice to *subsection (7)*, the District Court shall make a possession order in respect of the dwelling the subject of a possession application under this section if it appears to the Court that the housing authority has grounds

for the recovery of possession and that it is reasonable having regard to all the circumstances of the case to make the order.

- (b) In considering the reasonableness of making a possession order under this section, the District Court shall, where appropriate, have regard to the following:
- (i) the steps taken by the housing authority to secure the cessation or non- repetition of the breach of the term of the tenancy agreement or rent-related obligation, including the issue of any tenancy warning;
 - (ii) the response of the tenant to the steps taken by the housing authority referred to in *subparagraph (i)* ;
 - (iii) the effect, if any, that the breach of the tenancy agreement had or is having on the quality of life of those in the locality of the dwelling;
 - (iv) whether in the circumstances it is just and equitable to make the order notwithstanding that—
 - (I) the housing authority did not issue a tenancy warning in respect of the breach of the term of the tenancy agreement or the rent-related obligation,
 - (II) a tenancy warning issued by the housing authority in respect of a breach of the term of the tenancy agreement or the rent-related obligation of a similar nature to the breach to which the possession application relates is under review, or
 - (III) in accordance with *subsection (3) (b)*, the housing authority did not issue a notice to the tenant under *subsection (3) (a)*;
- and
- (v) the proportionality of making a possession order under this section, having regard to the grounds for the possession application.

- (10) A possession order under this section shall specify the commencement date for the period during which the housing authority has the right to recover possession of the dwelling and the length of that period, which shall not be less than 2 months or more than 9 months, and shall have the effect of terminating the tenancy on the date that the housing authority recovers possession of the dwelling in pursuance of the order.

- (11) Where the District Court (or the Circuit Court on appeal) is satisfied that it is desirable, because of the nature or circumstances of the proceedings before it under this section or that it is otherwise in the interest of justice, the whole or any part of those proceedings may be heard otherwise than in public.
- (12) Where the grounds for a possession application are anti-social behaviour by a household member other than, where there is no joint tenant, the tenant, then the District Court—
- (a) may decide that, as an alternative to determining the possession application, the possession application shall be deemed to be an application by the housing authority under section 3(2) of the Act of 1997 for an excluding order against that household member, notwithstanding that the provisions of paragraphs (a) and (b) of the said section 3(2) have not been complied with, and
- (b) where the District Court so deems an application under *subsection (3)*, shall require such notice (if any) to be given to the member of the household as the District Court considers appropriate in the circumstances.
- (13) In proceedings under this section, a document purporting to be the relevant tenancy agreement produced by the housing authority shall be prima facie evidence of the agreement and it shall not be necessary to prove any signature on the document.
- (14) The jurisdiction of the District Court in respect of an application under this section may be exercised, as regards the District Court, by a judge of the District Court for the time being assigned to the District Court district where the dwelling in relation to which that application was made is situate.
- (15) Where a judge of the District Court to whom *subsection (14)* relates is not immediately available, the jurisdiction of the District Court under that subsection may be exercised by any judge of the District Court.
- (16) Nothing in the Landlord and Tenant Acts 1967 to 2008 or the Housing (Private Rented Dwellings) Acts 1982 and 1983 relating to the obtaining of possession of a dwelling or building or part thereof shall be deemed to affect this section.

Proceedings for possession against person in occupation of local authority dwelling

- 13.** (1) In circumstances where—
- (a) there is no tenancy in a dwelling other than in circumstances

to which *section 17* relates, or

- (b) the dwelling has been abandoned by the tenant, and a person, without lawful authority or any right to become the tenant of the dwelling, resides in or otherwise occupies the dwelling (in this section referred to as a “person in occupation”), then the housing authority may apply (in this section referred to as a “possession application”) to the District Court for a possession order under this section.
- (2) A possession application shall set out the grounds for the application and, where the occupier of the dwelling applied to the authority to become the tenant of the dwelling, the basis upon which the application was refused.
- (3) In setting out the grounds for a possession application under this section, a housing authority shall have due regard to protecting the identity of persons who informed the authority of matters referred to in *subsection (1)* in circumstances where, in the opinion of the housing authority, not to do so—
- (a) could render those persons or persons associated with any of them liable to violence, threat or fear as a consequence of so informing, or
 - (b) might otherwise have prevented those persons from so informing because of such violence, threat or fear.
- (4) A housing authority shall, not less than 10 working days before the hearing by the District Court of a possession application under this section in respect of a dwelling, give to the person that the authority has reasonable grounds for believing to be the person occupying the dwelling, notice in writing—
- (a) addressed to that person, or
 - (b) where the authority has a doubt about that person’s identity, addressed to the “occupier”,
- of—
- (i) the authority’s intention to make such an application,
 - (ii) the information to be included in the application, and
 - (iii) the date on which the authority intends to make the application.
- (5) The grounds referred to in *subsection (2)* for a possession application may be provided by information on oath given by an officer or employee of the housing authority concerned duly

authorised to give that information and, for the purposes of this section shall—

- (a) form part of the possession application, and
 - (b) be served in accordance with *subsection (4)* on the person occupying the dwelling.
- (6) Where the person in occupation does not, without due cause, appear at the hearing of the possession application under this section and subject to *subsection (7)*, the District Court may, where it is satisfied that there is a prima facie case for doing so, grant an order in the terms sought by the authority.
- (7) The District Court may, as it thinks fit, adjourn proceedings under this section for a period fixed by the Court, with or without imposing conditions as to the conduct of the person in occupation or of persons associated with the person in occupation.
- (8) Without prejudice to *subsection (6)*, the District Court shall make a possession order under this section in respect of the dwelling that is the subject of a possession application if it appears to the Court that—
- (a) the housing authority has grounds for the recovery of possession,
 - (b) recovery of possession by the housing authority is a proportionate response to the occupation of the dwelling by the person concerned, and
 - (c) it is reasonable having regard to all the circumstances of the case to make the order.
- (9) A possession order under this section has the effect of giving the housing authority the right to recover possession of the dwelling, which right may be specified not to come into effect before a date specified in the order, but the date so specified shall not be more than 6 months after the date the order is made.
- (10) Where the District Court (or the Circuit Court on appeal) is satisfied that it is desirable, because of the nature or circumstances of the proceedings before it under this section or that it is otherwise in the interest of justice, the whole or any part of those proceedings may be heard otherwise than in public.
- (11) The jurisdiction of the District Court in respect of an application under this section may be exercised, as regards the

District Court, by a judge of the District Court for the time being assigned to the District Court district where the dwelling in relation to which that application was made is situate.

(12) Where a judge of the District Court to whom *subsection (11)* relates is not immediately available, the jurisdiction of the District Court under that subsection may be exercised by any judge of the District Court.

(13) Nothing in the Landlord and Tenant Acts 1967 to 2008 or the Housing (Private Rented Dwellings) Acts 1982 and 1983 relating to the obtaining of possession of a dwelling or building or part thereof shall be deemed to affect this section.

(14) (a) Subject to *paragraph (b)*, where—

(i) there is no tenancy in a dwelling or the dwelling has been abandoned by the tenant in circumstances to which *section 14* has been or could be applied, and

(ii) a person makes an entry into the dwelling, or uses it for human habitation or otherwise occupies it, without the consent of the housing authority,

such person, subject to *paragraph (b)*, commits an offence and is liable on summary conviction to a class C fine or, at the discretion of the court, to a term of imprisonment not exceeding one month or to both.

(b) *Paragraph (a)* does not apply in relation to a person—

(i) who was ordinarily resident in the dwelling at the time when the tenancy last created in the dwelling was terminated or otherwise ceased to exist,

(ii) who was ordinarily resident in the dwelling at the time the dwelling was abandoned by the tenant in circumstances to which *section 14* has been or could be applied,

(iii) making an entry into the dwelling for the purposes of normal social relations with the person to whom *subparagraph (i)* or *(ii)* relates, or

(iv) making an entry into the dwelling (but not using it for human habitation) in the course of his or her ordinary business, profession, vocation or trade.

Abandoned local authority dwellings

14. (1) For the purposes of this section and *section 15* and in relation

to the calculation of any period of abandonment of a dwelling, a dwelling continues to remain abandoned during such period notwithstanding any occasional visit to the dwelling by the tenant or a member of his or her household for the purpose of removing from the dwelling any property and for any other purpose that is incidental to the first-mentioned purpose.

(2) This section applies where the rent payable in respect of a dwelling the subject of a tenancy agreement between the housing authority and the tenant is in arrears for a period of not less than one month and the authority has reasonable grounds for believing that—

(a) the dwelling has not been occupied by the tenant or a member of his or her household for a continuous period of more than 6 weeks, and

(b) that household does not intend to occupy the dwelling as its normal place of residence, and either—

(i) there is a risk of non-minor damage, or of unquantifiable damage that could be of a non-minor nature—

(I) to the dwelling due to vandalism, or

(II) to the dwelling, or to any neighbouring property, due to any electrical, water or gas supply situated in that dwelling,

or

(ii) steps are necessary to prevent entry to the dwelling by trespassers or other unauthorised persons.

(3) Subject to *subsection (4)*, a housing authority may enter a dwelling to which this section applies for the purpose of—

(a) securing the dwelling and any of its fittings and fixtures against vandalism,

(b) rendering safe any electrical, water or gas supply situated in that dwelling, or

(c) securing the dwelling against trespassers.

(4) Except with the consent of the tenant, or where the housing authority has reasonable grounds for believing that—

(a) there is an imminent risk of damage of a type referred to in *paragraph (i)* of *subsection (2)*, or that such damage is occurring, and irrespective of whether or not the risk of

such damage arises in circumstances to which *paragraph (ii)* of that subsection also relates, and

- (b) in the circumstances, in order to protect the dwelling it is not practical or expedient to have to wait to apply to the District Court for a warrant under *subsection (5)*, the authority shall, before entering a dwelling under this section, apply under *subsection (5)* to a judge of the District Court for a warrant to enter the dwelling.
- (5) (a) A judge of the District Court may issue a warrant under this subsection in respect of a dwelling if satisfied, by information on oath of an officer or employee of the housing authority that—
- (i) there are reasonable grounds for believing that the circumstances set out in *subsection (2)* apply to the dwelling, and
 - (ii) it is necessary for the purposes set out in *subsection (3)* to enter the dwelling.
- (b) A warrant under this subsection shall operate to authorise the person named in the warrant, accompanied by such other persons as the named person thinks necessary, to enter (if need be by force), at any time or times within one month from the date of the issue of the warrant, on production if so required of the warrant, the dwelling named in the warrant for the purposes set out in *subsection (3)*.
- (6) An officer or employee of the local authority concerned shall not enter a dwelling for the purposes of this section except—
- (a) with the consent of the tenant,
 - (b) in accordance with a warrant issued under *subsection (5)*, or
 - (c) in circumstances to which *paragraphs (a) and (b) of subsection (4)* apply, with the written authorisation, in respect of the dwelling, of—
 - (i) the chief executive of the local authority concerned, or
 - (ii) an officer or employee of the local authority authorised in writing by that chief executive to give such written consent,

which authorisation may be expressed to enable a named officer or employee to be accompanied by such other persons as the officer or employee thinks necessary, and to

enter (if need be by force) the dwelling for the purposes of taking such measures as are considered appropriate in the circumstances.

- (7) Where a housing authority has taken under this section all reasonable steps in the circumstances to make a dwelling secure from vandalism, it shall not by reason of taking such steps be liable for any damage subsequently caused to the dwelling or its contents by vandalism.
- (8) This section is without prejudice to the right of a housing authority to exercise any other power it has in relation to a dwelling.

Repossession of abandoned dwellings

15. (1) A housing authority wishing to take possession of a dwelling that has been abandoned by the tenant's household, whether or not in circumstances to which *section 14* applies, shall serve on the tenant a notice—

- (a) stating that the authority has reason to believe that the dwelling is unoccupied and that the household does not intend to occupy it as its normal place of residence,
- (b) requiring the tenant to inform the authority in writing within 4 weeks of service of the notice if the household intends to occupy the dwelling as its normal place of residence, and
- (c) advising the tenant that, if at the end of the period to which *paragraph (b)* relates—
 - (i) the tenant has not informed the authority in the manner required by *paragraph (b)*, and
 - (ii) it appears to the authority at the end of that period that the dwelling is unoccupied and that the household does not intend to occupy it as its normal place of residence,

then the authority will serve a further notice on the tenant bringing the tenancy agreement to an end with immediate effect.

(2) Where—

- (a) the housing authority—
 - (i) has served on the tenant a notice in accordance with *subsection (1)*, and
 - (ii) has made such inquiries as may be necessary to satisfy itself that the dwelling is unoccupied and that the

tenant's household does not intend to occupy it as its normal place of residence,

and

- (b) at the end of the period mentioned in *subsection (1) (b)* the authority is so satisfied, then the authority may serve a further notice on the tenant bringing the tenancy agreement to an end with immediate effect.
- (3) Where a tenancy agreement has been duly terminated in accordance with this section, the housing authority is entitled to take possession of the dwelling without any further proceedings.
- (4) In taking possession of the dwelling under this section, the housing authority shall, subject to *subsection (6)*, secure the safe custody and delivery to the former tenant of any property found in the dwelling that does not belong to the authority, but, before that property is so delivered, the authority may require the former tenant to pay to it the reasonable cost of effecting such custody and delivery, including storage costs.
- (5) If the former tenant has not arranged for the delivery by the housing authority to him or her of the property referred to in *subsection (4)* before the expiry of 2 months following the termination of the tenancy, the authority may, subject to *subsection (6)*, dispose of the said property, and apply any proceeds in the following order of priority:
 - (a) firstly, towards any costs incurred by the authority in removing, storing and disposing of the property together with the costs associated with the application of the proceeds under this subsection;
 - (b) secondly, towards any legally enforceable prior claim under any other enactment in respect of the proceeds, or on any part of the proceeds that the authority is aware of or could, with due diligence in the circumstances and having regard to the amount of the proceeds involved, become aware of;
 - (c) thirdly, towards any rent due but unpaid by the former tenant to the authority in respect of the dwelling concerned;
 - (d) fourthly, towards any other monies duly owed to and recoverable by the authority from the former tenant; and any sum remaining after such application of the proceeds shall be paid to the former tenant.
- (6) Where a housing authority is satisfied that certain property held by it by virtue of *subsection (4)* is the property of a person

other than the former tenant, it shall, unless it has reasonable grounds for believing that the property has been abandoned, take all reasonable steps in the circumstances to identify that person and offer to return that property to that person upon proving ownership, subject to the payment, at the discretion of the housing authority and where appropriate, of some or all of the cost of removing and storing such property.

Application to court in respect of tenancy terminated under *section 15*

16. (1) Where a person—

(a) was, immediately before the termination of a tenancy, the tenant of a dwelling to which *section 15* relates, and

(b) is aggrieved by the termination of that tenancy, then the person (in this section referred to as the “applicant”) may make application to the District Court in respect of the termination of the tenancy within 6 months after the date of that termination.

(2) *Subsection (3)* applies where, in proceedings under this section, it appears to the District Court—

(a) that the housing authority—

(i) had failed to comply with any provision of *subsections (1) and (2) of section 15*, or

(ii) did not have reasonable grounds for finding that—

(I) the dwelling was unoccupied by the applicant’s household, or

(II) the applicant’s household did not intend to occupy the dwelling as its normal place of residence,

or

(b) that the housing authority was in error in finding that the applicant’s household did not intend to occupy the dwelling as its normal place of residence, and that the applicant had reasonable cause, by reason of illness or otherwise, for failing to notify the housing authority of his or her household’s intention to so occupy it.

(3) Where this subsection applies, the District Court shall—

(a) if the dwelling has not been let to a new tenant and continues to be a dwelling to which this Part applies, grant a declaration that the notice under *section 15 (2)* bringing

the tenancy agreement to an end is of no effect, or

- (b) in any other case, direct the housing authority to allocate another dwelling in respect of the applicant's household that is suitable for his or her adequate housing, and that is located as near as practicable to the dwelling in which the tenancy was terminated under *section 15* .

Death of tenant and recovery of possession in certain cases

17. (1) In the case of a dwelling where a tenancy has ended due to the death of the tenant and the dwelling is occupied by—

- (a) a member of that tenant's household who is not entitled to become a tenant of the dwelling as a consequence of that death, or

- (b) by a person purporting to be a member of the tenant's household, then the authority may apply to the District Court for a possession order under this section (in this section referred to as a "possession application").

(2) A possession application shall set out the grounds for the application including, where the occupier of the dwelling applied to the authority to become the tenant of the dwelling, the basis upon which the application was refused including reference to the housing authority's written policy in relation to succession to the tenancy of a deceased tenant.

(3) A housing authority shall, not less than 10 working days before the hearing by the District Court of a possession application under this section in respect of a dwelling, give to the person that the authority has reasonable grounds for believing to be the person occupying the dwelling, notice in writing—

- (a) addressed to that person, or
- (b) where the authority has a doubt about that person's identity, addressed to the "occupier",

of—

- (i) the authority's intention to make such an application,
- (ii) the information to be included in the application, and
- (iii) the date on which the authority intends to make the application.

(4) The grounds referred to in *subsection (2)* for a possession application may be provided by information on oath given by an officer or employee of the housing authority concerned duly

authorised to give that information and, for the purposes of this section shall—

- (a) form part of the possession application, and
 - (b) be served in accordance with *subsection (3)* on the person occupying the dwelling.
- (5) Where the person in occupation does not, without due cause, appear at the hearing of the possession application under this section and subject to *subsection (6)*, the District Court may, where it is satisfied that there is a prima facie case for doing so, grant an order in the terms sought by the authority.
- (6) The District Court may, as it thinks fit, adjourn proceedings under this section for a period fixed by the Court, with or without imposing conditions as to the conduct of the person in occupation or of persons associated with the person in occupation.
- (7) Without prejudice to *subsection (5)*, the District Court shall make a possession order under this section in respect of the dwelling that is the subject of a possession application if it appears to the Court that—
- (a) the housing authority has grounds for the recovery of possession,
 - (b) recovery of possession by the housing authority is a proportionate response to the occupation of the dwelling by the person concerned, and
 - (c) it is reasonable having regard to all the circumstances of the case to make the order.
- (8) A possession order under this section has the effect of giving the housing authority the right to recover possession of the dwelling, which right may be specified not to come into effect before a date specified in the order, but a date so specified shall not be in respect of a date that is more than 6 months after the date the order is made.
- (9) Where the District Court (or the Circuit Court on appeal) is satisfied that it is desirable, because of the nature or circumstances of the proceedings before it under this section or that it is otherwise in the interest of justice, the whole or any part of those proceedings may be heard otherwise than in public.
- (10) The jurisdiction of the District Court in respect of an application under this section may be exercised by a judge of

the District Court for the time being assigned to the District Court district where the dwelling in relation to which that application was made is situate.

- (11) Where a judge of the District Court to whom *subsection (10)* relates is not immediately available, the jurisdiction of the District Court under that subsection may be exercised by any judge of the District Court.
- (12) Nothing in the Landlord and Tenant Acts 1967 to 2008 or the Housing (Private Rented Dwellings) Acts 1982 and 1983 relating to the obtaining of possession of a dwelling or building or part thereof shall be deemed to affect this section.

Part 2 and amendment of Principal Act

18. (1) Section 3 of the Principal Act is amended—

(a) in subsection (4) by substituting “, a notice mentioned in subsection (4) of section 117 of this Act or a notice mentioned in *section 15* of the *Housing (Miscellaneous Provisions) Act 2014*,” for “or a notice mentioned in subsection (4) of section 117 of this Act”, and

(b) by inserting the following subsection after subsection (7):

“(8) In this section ‘notice’ includes a tenancy warning under *section 7, 8 or 9* of the *Housing (Miscellaneous Provisions) Act 2014* and—

(i) references (however expressed) in this section to the serving of a notice on a person includes the serving of any such tenancy warning to a person under the said *section 7, 8 or 9*, as the case may be, and

(ii) subsection (5) shall apply to a tenancy warning affixed on or near the dwelling concerned in a manner prescribed under the said *section 7(4), 8(3) or 9(3)*, as the case may be.”

(2) Section 62 of the Principal Act is repealed.

Part 2 and amendment of Act of 1997

19. (1) Section 1 of the Act of 1997 is amended—

(a) by inserting the following definition before the definition of “anti-social behaviour”:

“‘affordable house’ means an affordable house provided

under Part V of the Planning and Development Act 2000 or Part 2 of the Housing (Miscellaneous Provisions) Act 2002 or an affordable dwelling purchased under affordable dwelling purchase arrangements under Part 5 of the Housing (Miscellaneous Provisions) Act 2009 as the case may be;”,

(b) by substituting the following for the definition of “excluding order”:

“‘excluding order’ has, where the context admits or requires, the meaning assigned to it by subsection (1) or (2) of section 3;”,

(c) by substituting the following for the definition of “anti-social behaviour”:

“‘anti-social behaviour’ includes either or both of the following, namely—

(a) the manufacture, production, preparation, importation, exportation, sale, supply, possession for the purposes of sale or supply, or distribution of a controlled drug (within the meaning of the Misuse of Drugs Acts 1977 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 to 2014 or 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—

(i) violence, threats, intimidation, coercion, harassment or serious obstruction of any person,

(ii) behaviour which causes any significant or persistent impairment of a person’s use or enjoyment of his or her home, or

(iii) damage to or defacement by writing or other marks of any property, including a person’s home;”,

and

(d) by substituting the following definition for the definition of

“relevant purchaser”:

“‘relevant purchaser’ means (subject to section 1A)—

- (a) a person to whom a housing authority has sold a house under the Housing Acts 1966 to 2014 other than an affordable house, or
- (b) a person in whom there subsequently becomes vested (other than for valuable consideration) the interest of the person referred to in paragraph (a) of this definition in the house referred to in that paragraph;”.

(2) The Act of 1997 is amended by inserting the following section after section 1:

“Person ceasing to be relevant purchaser

1A. (1) A person shall cease to be a relevant purchaser for the purposes of this Act—

- (a) where the sale of the house concerned was effected by a transfer order made by way of a shared ownership lease provided for in accordance with Regulation 11 of the Housing (Sale of Houses) Regulations 1995 (S.I. No. 188 of 1995)—
 - (i) on the date of expiry of the lease due to the effluxion of time, or
 - (ii) where the purchaser purchases the reversion expectant on the termination of the lease, on the expiry of—
 - (I) the period of 20 years from the date the transfer order became effective, or
 - (II) the period from the date the transfer order became effective to the date of purchase of the reversion expectant on the termination of the lease,

whichever is the longer period,

- (b) in the case that the sale of the house was effected by a transfer order made by way of a lease other than a lease referred to in paragraph (a) —

- (i) on the date of expiry of the lease due to the effluxion of time, or

(ii) where the purchaser acquires the fee simple in the house from the housing authority under section 26 of the Landlord and Tenant (Ground Rents) (No. 2) Act 1978 , on the expiry of—

(I) the period of 20 years from the date the transfer order became effective, or

(II) the period from the date the transfer order became effective to the date of acquisition of the fee simple,

whichever is the longer period,

(c) in the case that the house was sold under Part 3 or 4 of the Housing (Miscellaneous Provisions) Act 2009 or *Part 3 of the Housing (Miscellaneous Provisions) Act 2014*, on the expiration of the charged period provided for by each of those Parts respectively, or

(d) in any other case, on the expiry of the period of 20 years from the date of the sale of the house.

(2) Subsection (1) shall apply to a person irrespective as to when the house (other than an affordable house) was sold by the housing authority to the person concerned and, in the definition of ‘relevant purchaser’ in section 1—

(a) the reference in paragraph (a) of that definition to the Housing Acts 1966 to 2014, and

(b) paragraph (b) of that definition,
shall be construed accordingly.”

(3) Section 2 of the Act of 1997 is amended by substituting “*Part 2 of the Housing (Miscellaneous Provisions) Act 2014*” for “section 62 of the Housing Act, 1966 ,” in both places where it occurs.

(4) Section 3 of the Act of 1997 is amended—

(a) by substituting the following subsection for subsection (2):

“(2) A housing authority may, in respect of a house referred to in subsection (1), apply to the District Court for an order (in this Act referred to as an ‘excluding order’) against a person, other than the tenant, where there is no joint tenant, or relevant purchaser of the house (in this Act referred to as the ‘respondent’), whom the authority

believe to be engaging in anti-social behaviour where the authority—

(a) believe that the tenant or relevant purchaser—

- (i) may be deterred or prevented by violence, threat or fear, either to himself or herself or to persons associated with him or her, from pursuing an application for an excluding order, or
- (ii) does not intend, for whatever other reason, to make such an application,

and

(b) consider that, in the interest of good estate management, it is appropriate, in all the circumstances, to apply for the excluding order.”,

(b) by inserting the following subsection after subsection (2):

(2A) An application under subsection (1) or (2) may not be made against a person who is under 12 years of age.”,

and

(c) by substituting the following subsection for subsection (3):

“(3) Where the court, on application to it, is of the opinion that there are reasonable grounds for believing that the respondent is or has been engaged in anti-social behaviour it may by order—

(a) in the case of a respondent who is under 18 years of age and is residing at the house in respect of which the application was made, prohibit the respondent, during the period when the order is in force—

- (i) from entering or being in the vicinity of another specified house or being in or in the vicinity of any specified place or area, consisting of a place or area where one or more of the houses there are under the control and management of a housing authority, or
- (ii) from doing all or any of the things referred to in subparagraph (i) unless specified conditions provided for by the order are complied with,

(b) in the case of a respondent who is under the age of 18 years and is not residing at the house in respect of which the application was made, prohibit the

respondent during the period when the order is in force—

- (i) from entering or being in the vicinity of that house or any other specified house or being in or in the vicinity of any specified place or area, consisting of a place or area where one or more of the houses there are under the control and management of a housing authority, or
- (ii) from doing all or any of the things referred to in subparagraph (i) unless specified conditions provided for by the order are complied with,

(c) in any other case—

- (i) direct the respondent, if residing at the house in respect of which the application was made, to leave that house and not re- enter it or be in its vicinity during the period that the order is in force, and
- (ii) whether the respondent is or is not residing at the house in respect of which the application was made, prohibit the respondent for the period during which the order is in force—
 - (I) from entering or being in the vicinity of that house or any other specified house or being in or in the vicinity of any specified place or area, consisting of a place or area where one or more of the houses there are under the control and management of a housing authority, or
 - (II) from doing all or any of the things referred to in clause (I) unless specified conditions provided for by the order are complied with.”

(5) Section 3A of the Act of 1997 is amended—

(a) by substituting the following subsection for subsection (2):

“(2) A housing authority or an approved body may, in respect of a site provided by the housing authority or the approved body under the Housing Acts 1966 to 2014, apply to the District Court for a site excluding order against a respondent whom the housing authority or the approved body believes to be engaging in anti-social behaviour and where the housing authority or the

approved body—

(a) has reasonable grounds to believe that an authorised person—

(i) may be deterred or prevented by violence, threat or fear, either to himself or herself or to persons associated with him or her, from pursuing an application for a site excluding order, or

(ii) does not intend, for whatever other reason, to make such an application,

and

(b) considers that, in the interest of good estate management, it is appropriate, in all the circumstances, to apply for a site excluding order.”,

(b) by inserting the following subsection after subsection (2):

“(2A) An application under subsection (1) or (2) may not be made against a person who is under 12 years of age.”,

and

(c) by substituting the following subsection for subsection (3):

“(3) Where following an application under this section, the District Court, or the Circuit Court on appeal from the District Court, is of the opinion that there are reasonable grounds for believing that the respondent is or has been engaged in anti-social behaviour it may by order (in this Act referred to as a ‘site excluding order’)—

(a) in the case of a respondent who is under 18 years of age and is residing at the site in respect of which the application was made prohibit the respondent during the period when the order is in force—

(i) from entering or being on or being in or in the vicinity of any other specified site or being in or in the vicinity of any specified place, or

(ii) from doing all or any of the things referred to in subparagraph (i) unless specified conditions provided for by the order are complied with,

(b) in the case of a respondent who is under the age of 18 years and is not residing at the site in respect of which the application was made, prohibit the respondent, for the period during which the order is

in force—

(i) from entering or being on or being in or in the vicinity of that site or any other specified site or being in or in the vicinity of any specified place, or

(ii) from doing all or any of the things referred to in subparagraph (i) unless specified conditions provided for by the order are complied with,

(c) in any other case—

(i) direct the respondent, if residing at the site in respect of which the application was made, to leave that site and not re-enter it during the period that the order is in force, and

(ii) whether the respondent is or is not residing at the site in respect of which the application was made, prohibit the respondent for the period during which the order is in force—

(I) from entering or being on or being in or in the vicinity of that site or any other specified site or being in or in the vicinity of any specified place, or

(II) from doing all or any of the things referred to in clause (I) unless specified conditions provided for by the order are complied with.”

(6) Section 4 of the Act of 1997 is amended by substituting the following subsection for subsection (1):

“(1) If, on the making of an application for an excluding order relating to a house or between the making of the application and its determination, the court is of the opinion that there are reasonable grounds for believing that, if the order is not made immediately, there is an immediate risk of significant harm to any person residing, working or otherwise lawfully in or in the vicinity of such house or of a housing estate in which such house is situate, the court may by order (in this Act referred to as an ‘interim excluding order’)—

(a) in the case of a respondent who is under 18 years of age and is residing at the house in respect of which the application was made, prohibit the respondent, until further order of the court or until such other

time as the court shall specify—

- (i) from entering or being in the vicinity of another specified house or being in or in the vicinity of any specified place or area, consisting of a place or area where one or more of the houses there are under the control and management of a housing authority, or
- (ii) from doing all or any of the things referred to in subparagraph (i) unless specified conditions are complied with,

but no interim excluding order in respect of a respondent to whom this paragraph relates shall be made *ex parte* by virtue of subsection (3),

- (b) in the case of a respondent who is under the age of 18 years and is not residing at the house in respect of which the application was made, prohibit the respondent—

- (i) from entering or being in the vicinity of that house or any other specified house or being in or in the vicinity of any specified place or area, consisting of a place or area where one or more of the houses there are under the control and management of a housing authority, or
- (ii) from doing all or any of the things referred to in subparagraph (i) unless specified conditions provided for by the order are complied with,

but no interim excluding order in respect of a respondent to whom this paragraph relates shall be made *ex parte* by virtue of subsection (3),

- (c) in any other case—

- (i) direct the respondent, if residing at the house in respect of which the application was made, to leave that house until further order of the court or until such other time as the court shall specify, and not re-enter it during the period that the order is in force, and
- (ii) whether the respondent is or is not residing at the house in respect of which the application was made, prohibit the respondent—

- (I) from entering or being in the vicinity of that

house or any other specified house or being in or in the vicinity of any specified place or area, consisting of a place or area where one or more of the houses there are under the control and management of a housing authority, or

(II) from doing all or any of the things referred to in clause (I) unless specified conditions provided for by the order are complied with.”

(7) Section 5 of the Act of 1997 is amended by substituting the following subsection for subsection (1):

“(1) (a) A respondent who is under the age of 18 years and who contravenes an excluding order or an interim excluding order, as the case may be, commits an offence and is liable on summary conviction to a class D fine or, at the discretion of the court, to detention in a children detention school (as defined in section 3 of the Children Act 2001) for a period not exceeding 3 months, or to both.

(b) A respondent (other than a respondent to whom paragraph (a) relates) who contravenes an excluding order or an interim excluding order shall be guilty of an offence and shall be liable on summary conviction to a class B fine or, at the discretion of the court, to imprisonment for a term not exceeding 6 months, or to both.”

(8) Section 12 of the Act of 1997 is amended by deleting “, on complaint being made to him or her by the tenant or the housing authority,”.

(9) Section 14 of the Act of 1997 is amended by substituting the following subsection for subsection (1):

“(1) Notwithstanding anything contained in the Housing Acts 1966 to 2014, or in an allocation scheme made under section 22 of the Housing (Miscellaneous Provisions) Act 2009 , a housing authority may—

(a) refuse to allocate, or defer the allocation of, a dwelling to which subsection (1) of the said section 22 refers, to a household where—

(i) the authority considers that any member of the household is or has been engaged in anti-social behaviour or that an allocation to that household

would not be in the interest of good estate management, or

- (ii) the household fails to provide information, including information relating to members residing together or proposing to reside together as part of the household, which is requested by the authority and which the authority considers necessary in connection with an allocation,

or

- (b) refuse to permit a person, or defer permitting a person, to take up or resume residence or enter or be in a dwelling to which section 22(1)(a) of the said Act refers where—

- (i) the authority considers that the person is or has been engaged in anti-social behaviour or that such permission would not be in the interest of good estate management, or

- (ii) the tenant of the dwelling or the person concerned fails to provide information that is requested by the authority and which the authority considers necessary in connection with deciding whether to give, refuse or defer such permission.”

(10) The Act of 1997 is amended by substituting the following section for section 14A:

“Authorisation to occupy caravan on site

14A. Notwithstanding anything contained in the Housing Acts 1966 to 2014, a housing authority may refuse or defer an authorisation to a person to occupy a caravan on a site where—

- (a) the authority considers that that person or a member of his or her household is or has been engaged in anti-social behaviour or that the occupation by that person or household member of a caravan on the site would not be in the interest of good estate management, or
- (b) that person fails to provide information, including information relating to persons residing or to reside with that person, which is requested by the authority and which the authority considers necessary in

respect of the application for such authorisation.”

(11) The Act of 1997 is amended by substituting the following section for section 18:

“Intimidation, etc.

18. (1) A person commits an offence if he or she causes or attempts to cause any threat, intimidation or harassment, coerces, obstructs, impedes, or interferes with—

(a) an officer or employee of a housing authority in respect of the exercise of a function of the authority by such officer or employee, or

(b) a member of the family or household of such an officer or employee in contemplation or as a consequence of the exercise of functions of the housing authority by the officer or employee, or

(c) any person who provides or is to provide evidence in any proceedings under this Act or *Part 2* of the *Housing (Miscellaneous Provisions) Act 2014*.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a class A fine or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both.”

(12) The Act of 1997 is amended by substituting the following section for section 21:

“Evidence

21. Where, in any proceedings under section 3, 3A, 4 or 9 of this Act or *Part 2* of the *Housing (Miscellaneous Provisions) Act 2014*, a member of An Garda Síochána or an officer or employee of a housing authority states that he or she believes that a person is or has been engaged in anti-social behaviour, then, if the Court is satisfied that there are reasonable grounds for such belief and that another person would be deterred or prevented by violence, threat or fear from providing evidence in that regard, the statement shall be evidence of such anti-social behaviour.”

Part 2 and amendment of Act of 2009

20. The Act of 2009 is amended by inserting the following section after section 29:

“Revision of existing tenancy agreements

29A. (1) Where, by or under any provision of an Act (whether enacted before or after the passing of this Act), a term or condition of an existing tenancy agreement is affected or the need for a new term or condition arises by or under that provision, then, without prejudice to that provision duly having effect, the Minister may prescribe by regulations that a housing authority shall, in the interest of good estate management—

- (a) revise the terms and conditions in a manner so prescribed, and
- (b) give notice of that provision to the tenants concerned in a manner so prescribed.

(2) For the purposes of this section, regulations made under section 3 may—

(a) require the revision by housing authorities concerned of the terms and conditions in existing tenancy agreements—

(i) by substituting a prescribed term or condition for an affected term or condition,

(ii) by inserting a new term or condition, or

(iii) partly by so substituting and so inserting,

(b) require the re-issue of all or part of the terms and conditions of existing tenancy agreements to tenants concerned so as to take account of the matters referred to under paragraph (a), and

(c) prescribe the manner in which the tenants concerned are to be informed of the revision, which shall include writing to each tenant concerned and may include one or more of the following:

(i) by publication in a newspaper circulating within the administrative area of the housing authority concerned or, if a dwelling concerned is not situated in that area, in the area where it is situated;

(ii) by making it available on the Internet at the web address of the local authority concerned.”

FREEDOM OF INFORMATION ACT 2014

Law enforcement and public safety

32. (1) A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to—

(a) prejudice or impair—

- (i) the prevention, detection or investigation of offences, the apprehension or prosecution of offenders or the effectiveness of lawful methods, systems, plans or procedures employed for the purposes of the matters aforesaid,
- (ii) the enforcement of, compliance with or administration of any law,
- (iii) lawful methods, systems, plans or procedures for ensuring the safety of the public and the safety or security of persons and property,
- (iv) the fairness of criminal proceedings in a court or of civil proceedings in a court or other tribunal,
- (v) the security of a penal institution,
- (vi) the security of a children detention school within the meaning of section 3 of the Children Act 2001 ,
- (vii) the security of a remand centre designated under section 88 of the Children Act 2001 ,
- (viii) the security of the Central Mental Hospital,
- (ix) the security of a building or other structure or a vehicle, ship, boat or aircraft, or
- (x) the security of any system of communications, whether internal or external, of the Garda Síochána, the Defence Forces, the Revenue Commissioners or a penal institution,

(b) endanger the life or safety of any person, or

(c) facilitate the commission of an offence.

(2) Where an FOI request relates to a record to which *subsection (1)* applies, or would, if the record existed, apply, and the head concerned is satisfied that the disclosure of the existence or non-existence of the record would have an effect specified in *paragraph (a), (b) or (c)* of that subsection, he or she shall refuse to grant the request and shall not disclose to the requester concerned whether or not the record exists.

(3) *Subsection (1)* does not apply to a record—

(a) if it—

(i) discloses that an investigation for the purpose of the enforcement of any law, or anything done in the course of such an investigation or for the purposes of the prevention or detection of offences or the apprehension or prosecution of offenders, is not authorised by law or contravenes any law, or

(ii) contains information concerning—

(I) the performance of the functions of an FOI body whose functions include functions relating to the enforcement of law or the ensuring of the safety of the public (including the effectiveness and efficiency of such performance), or

(II) the merits or otherwise or the success or otherwise of any programme, scheme or policy of an FOI body for preventing, detecting or investigating contraventions of the law or the effectiveness or efficiency of the implementation of any such programme, scheme or policy by an FOI body,

and

(b) in the opinion of the head concerned, the public interest would, on balance, be better served by granting than by refusing to grant the request concerned.

(4) For the purposes of *subsection (1)* “penal institution” means any or all of the following:

(a) a place to which the Prisons Acts 1826 to 2007 apply;

(b) a military prison or detention barrack within the meaning, in each case, of the Defence Act 1954 ;

(c) Saint Patrick's Institution.

**Information
obtained in
confidence**

35. (1) Subject to this section, a head shall refuse to grant an FOI request if—
- (a) the record concerned contains information given to an FOI body, in confidence and on the understanding that it would be treated by it as confidential (including such information as aforesaid that a person was required by law, or could have been required by the body pursuant to law, to give to the body) and, in the opinion of the head, its disclosure would be likely to prejudice the giving to the body of further similar information from the same person or other persons and it is of importance to the body that such further similar information as aforesaid should continue to be given to the body, or
 - (b) disclosure of the information concerned would constitute a breach of a duty of confidence provided for by a provision of an agreement or enactment (other than a provision specified in column (3) in *Part 1* or *2* of Schedule 3 of an enactment specified in that Schedule) or otherwise by law.
- (2) *Subsection (1)* shall not apply to a record which is prepared by a head or any other person (being a director, or member of the staff of, an FOI body or a service provider) in the course of the performance of his or her functions unless disclosure of the information concerned would constitute a breach of a duty of confidence that is provided for by an agreement or statute or otherwise by law and is owed to a person other than an FOI body or head or a director, or member of the staff of, an FOI body or of such a service provider.
- (3) Subject to section 38, *subsection (1)(a)* shall not apply in relation to a case in which, in the opinion of the head concerned, the public interest would, on balance, be better served by granting than by refusing to grant the FOI request concerned.
- (4) Where—
- (a) an FOI request relates to a record to which *subsection (1)* applies but to which *subsection (2)* and *(3)* do not apply or would not, if the record existed, apply, and
 - (b) in the opinion of the head concerned, the disclosure of the existence or non-existence of the record would have an effect specified in *subsection (1)*,

he or she shall refuse to grant the request and shall not disclose to the

requester concerned whether or not the record exists.

- (5) Subject to section 2 , in this section “record” includes information conveyed in confidence in person, by telephone, electronically or in writing (including a written note taken of a phone message by a person authorised to receive such message).

FREEDOM OF INFORMATION ACT 1997 (AS AMENDED)

Information obtained in confidence. **26.—**(1) Subject to the provisions of this section, a head shall refuse to grant a request under section 7 if—

- (a) the record concerned contains information given to the public body concerned in confidence and on the understanding that it would be treated by it as confidential (including such information as aforesaid that a person was required by law, or could have been required by the body pursuant to law, to give to the body) and, in the opinion of the head, its disclosure would be likely to prejudice the giving to the body of further similar information from the same person or other persons and it is of importance to the body that such further similar information as aforesaid should continue to be given to the body, or
- (b) disclosure of the information concerned would constitute a breach of a duty of confidence provided for by a provision of an agreement or enactment (other than a provision specified in *column (3)* of the Third Schedule of an enactment specified in that Schedule) or otherwise by law.

(2) *Subsection (1)* shall not apply to a record which is prepared by a head or any other person (being a director, or member of the staff of, a public body or a person who is providing a service for a public body under a contract for services) in the course of the performance of his or her functions unless disclosure of the information concerned would constitute a breach of a duty of confidence that is provided for by an agreement or statute or otherwise by law and is owed to a person other than a public body or head or a

director, or member of the staff of, a public body or a person who is providing or provided a service for a public body under a contract for services.

(3) Subject to section 29, *subsection (1) (a)* shall not apply in relation to a case in which, in the opinion of the head concerned, the public interest would, on balance, be better served by granting than by refusing to grant the request under section 7 concerned.