

An Overview of Policies and Practice on Anti-Social Behaviour in Dublin



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Introduction

1.1 Background

The Homeless Agency is 'responsible for the planning, co-ordination and delivery of quality services to people who are homeless in the Dublin area'. The role of the Agency is to work towards the minimization of homelessness through partnership with a range of voluntary and statutory agencies that provide services to people who are homeless. An Action Plan on Homelessness (2001-2003) was developed by voluntary and statutory agencies working with people who are homeless in which specific objectives relating to the prevention or reduction of homelessness were identified along with related strategic objectives. The Homeless Agency has primary responsibility for implementation of the Action Plan.

Within the framework of the Action Plan, working towards the elimination of homelessness involves developing and implementing strategies that prevent homelessness from occurring as well as implementing activities that contribute to an improvement in the services delivered to people while they are experiencing a period of homelessness. Specific activities involved in the prevention of homelessness include: identifying groups at risk of homelessness, identifying appropriate responses to those groups with an emphasis on early intervention and analysing statutory policies and programmes (including the policies and procedures of local authorities and health boards) to ensure they are contributing to prevention rather than creation of homelessness. Activities that contribute to the improvement of services include: promoting and facilitating better access to entitlements (in health, social welfare, etc.), facilitating an increase in transitional and long term housing for people who are homeless and facilitating access to specialist settlement and other services.

1.2 Rationale

Since the introduction of the Housing (Miscellaneous Provisions) Act, 1997 measures to deal with anti-social behaviour has been a contentious issue and a topic of considerable debate within the homeless sector. The issue came to the fore once

again in early 2003 with the death of a man following his eviction from local authority housing for anti-social behaviour.

The incident highlighted some of the concerns previously expressed by service providers regarding local authority procedures and practice relating to anti-social behaviour. The incident also resulted in the issue being discussed at a meeting of the Homeless Agency Consultative Forum in February 2003. With heightened interest in anti-social behaviour at that time the Homeless Agency undertook to do some research on the issue.

Anti-social behaviour is of relevance to the Homeless Agency in terms of how it may contribute to homelessness (through eviction or exclusion from local authority housing) and in terms of how it may act as an obstacle to housing or re-housing. In 'Shaping the Future: an Action Plan on Homelessness in Dublin 2001-2003', four strategic objectives and actions are identified in relation to anti-social behaviour as follows:

- The Homeless Agency to ensure that each local authority has in place clear and fair written policies on the role of local communities in vetting prospective tenants. (Action 7.3.2)
- The Homeless Agency to ensure that each local authority has in place clear and fair written policies in relation to anti-social behaviour, including procedures for early intervention and for re-housing households with a history of anti social behaviour. (Action 7.3.1)
- Local authorities, in conjunction with the Homeless Agency, will publish written policies on how they will support tenants who are vulnerable to homelessness. (Action 2.8.2)
- The Homeless Agency to ensure that local authorities and voluntary housing associations publish information on a quarterly basis of the number of eviction orders made and the reasons for them. (Action 7.2.6)

1.3 Purpose of the Research

The purpose of the research was:

- To establish which, if any, local authorities in the Dublin area have written policies on anti-social behaviour.
- To establish what procedures are in place in local authority offices that relate to anti-social behaviour, including procedures for responding to
- complaints, processing evictions, processing (re-) housing applications and allocating housing.
- To establish current practice with regard to anti-social behaviour and to identify where practices across local authority offices are similar and where they diverge.
- To identify shortcomings and inconsistencies in policies, procedures and practice.
- To make recommendations relating to shortcomings and inconsistencies in policies, procedures and practice.
- A secondary purpose of the report was to gain clarification of current practice in local authorities with regard to housing applications and allocations in general.

1.4 Methodology

Research for the report included:

- Interviews were held with six officials from three Area Offices in Dublin City Council.¹ Interviews were comprehensive and involved discussion of current practice in Area Offices as well as discussion of policy and procedures on anti-social behaviour. Chapters in the report on current practices relate to practices in Area Offices of Dublin City Council as outlined in interviews.
- Given time constraints telephone conversations, as opposed to one-to-one interviews, were conducted with representatives from Fingal County Council, Dun Laoghaire/Rathdown County Council and South Dublin County Council. The focus of those conversations was on policy and procedures on anti-social behaviour (or the absence thereof). Telephone conversations were also conducted with officials from Housing Maintenance & Estate Management in Dublin City Council.
- One-to-one interviews were also conducted with four service providers in homeless and mainstream services. Due to time constraints and restrictions on the length of the report the findings of those interviews are not outlined in detail. However, the views expressed were used to inform the analysis of the report and in particular the recommendations made.
- Desk research – reports, legislation and related documents on anti-social behaviour.

1.5 Structure of the Report

The report is structured as follows:

In Chapter 2 legislation and the current policy context with regard to anti-social behaviour is discussed. In Chapter 3 current practice in Area Offices of Dublin City Council with regard to eviction is outlined. This includes an examination of response to complaints, attempts to prevent eviction and the processing of evictions as well as identification of issues relating to those practices.

In Chapter 4 current practice in Area Offices of Dublin City Council regarding housing applications and allocations is examined and again issues relating to practice are identified.

In Chapter 5 the conclusions of the report and related recommendations are outlined. Appendix A contains statistics provided by Dublin City Council on evictions. Appendix B contains two case histories provided by service providers interviewed for the study.

¹ Dublin City Council's Area Offices are: South East Area, South Central Area, Central Area, North West Area, North Central Area and Ballymun Area.

Chapter Two

Legislation and Policy Context

2.1 Legislation

When the Housing (Miscellaneous Provisions) Act 1997 was being introduced the policing role it accorded local authorities was criticised within the homeless sector.² A particular concern was that implementation of the Act would lead to significant numbers of people becoming homeless. In reality the number of people ‘officially’ evicted and excluded since the introduction of Act is considerably less than anticipated with most evictions and exclusion orders having been issued in the first two years of its implementation.³ (For figures on evictions refer to Appendix A).

Anti-social behaviour is defined in the Housing (Miscellaneous Provisions) Act 1997 essentially as drug dealing and violent or intimidating behaviour.⁴ In the notes to the Act, further detail is given on behaviour that is included within that definition.⁵ For example, possession of illegal drugs for personal use is clearly stated as not coming within the definition of anti-social behaviour whereas behaviour that is seen as related to drug dealing, such as serious violence and intimidation is regarded as coming under the definition of the Act. Similarly, concepts such as nuisance-making or other activities ‘which would not normally be associated with the serious problems at which the Act is targeted’ are considered to be outside the definition. However, it is stated that housing authorities may continue to take “whatever measures are appropriate” under existing legislation to address “other forms of ‘anti-social’ activities” which do

² Concerns relating to the Act are outlined in ‘Estate Management and Anti-Social Behaviour in Dublin: A Study of the Impact of the Housing (Miscellaneous Provisions) Act 1977’ by Threshold, 2000.

³ Official figures for evictions for anti-social behaviour do not include all tenants evicted because of anti-social behaviour. For example, an eviction may be sought and obtained under the 1966 Act for reasons like rent arrears but the primary reason for the eviction may be anti-social behaviour. Similarly, official figures don’t include the number of people who may leave without notice or voluntarily surrender their tenancy because of concerns about the consequences of anti-social behaviour. This issue is dealt with in greater detail in Chapter 3.

⁴ The exact definition is either or both of the following: a) the manufacture, production, preparation, importation, exportation, sale, supply, possession for the purposes of sale or supply, or distribution of a controlled drug, b) any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, loss or fear to any person living, working or otherwise lawfully in or in the vicinity of a house provided by a housing authority...and...includes violence, threats, intimidation, coercion, harassment or serious obstruction of any person.

⁵ Appendix to circular H5/97 of 13 June, 1997: Notes for housing authorities on the main provisions of the Housing (Miscellaneous Provisions) Bill, 1997.

not come within the definition of the Act but which may “still represent a breach of the terms of a letting agreement”.

One official explained that local authorities treat behaviour as anti-social behaviour if in their view it constitutes anti-social behaviour but is not in breach of the tenancy agreement. Whereas behaviour that is seen to constitute both anti-social behaviour and a breach of tenancy is usually dealt with as a breach of tenancy. In other words, wherever possible local authorities respond to problematic behaviour as a breach of tenancy rather than anti-social behaviour.

2.2 Interpretation of Legislation

All officials interviewed emphasised that eviction was undertaken as a last resort when all other options or responses to anti-social behaviour had failed. They also stated that in general the most extreme outcomes of an investigation into anti-social behaviour, i.e. eviction or exclusion, occurred in cases of particularly problematic or serious behaviour, in other words anti-social behaviour as defined in the 1997 Act.

Nonetheless, the way in which legislation is currently formulated means that certain types of behaviour, which do not fit within the definition of anti-social behaviour as defined in the 1997 Act, may nonetheless be perceived as, both by local authorities and local communities, and possibly responded to, as anti-social behaviour. To illustrate, a representative from Dun Laoghaire/Rathdown County Council pointed out that some of their cases of anti-social behaviour relate not to drugs or violent behaviour but rather to eccentric behaviour (sometimes conducted by elderly people) that disturbs neighbours on an on-going basis. Similarly, the distinction made in the 1997 Act between drug dealing and drug using has been found to be problematic. Some service providers have had experience of working with clients evicted from local authority housing for drug use as opposed to drug dealing. They have suggested that estates and communities may differ in their responses to and tolerance of drug use and consequently more pressure may be placed on some local authorities relative to others to evict drug users.

2.3 Policy Context

Before outlining the findings and key issues identified in interviews, the current situation with regard to local authority policy on anti-social behaviour in the Dublin area is worth noting.

- In South Dublin County Council, allocations staff are currently working on a written policy on anti-social behaviour and it is expected that the policy will be finalized quite soon.
- Fingal County Council does not have a written policy on anti-social behaviour and does not have plans at this point to draft one.
- Dun Laoghaire/Rathdown County Council has drafted a document on complaints but does not have an overall policy on anti-social behaviour.
- The Housing Unit is currently developing 'Guidelines on Combating Nuisance and Anti-Social Behaviour' for use by local authorities throughout the country. A policy is not included in the guidelines but development of a policy on anti-social behaviour in each local authority is one of its recommendations. Use of the guidelines will contribute to improvements in procedures and greater consistency of practice on issues relating to anti-social behaviour.
- The situation with regard to Dublin City Council is as follows:
 - There is no one policy on anti-social behaviour to which all Area Offices within Dublin City Council adhere. Rather the development of a policy on the issue has been at the discretion of each Area Office. None of the Area Offices included in interviews had a written policy on anti-social behaviour.
 - Dublin City Council is in the process of drafting Guidelines of Good Practice on Anti-Social Behaviour. The guidelines will identify good practices on all aspects of anti-social behaviour of relevance to local authorities and use of the guidelines is expected to facilitate greater consistency of practice across Area Offices.

- Initially the guidelines were to be developed without a policy component. There were concerns that a broad policy on anti-social behaviour would prevent individual offices from dealing with cases on a discretionary basis. However, three policy documents are now being incorporated into the guidelines. They are: 'Anti-Social Behaviour and Your Area', 'Anti-Social Behaviour – Policy and Procedure' and 'Anti-Social Behaviour – Incorporating Guidelines & Good Practice in the Investigation of Complaints'.⁶
- A representative of Housing Maintenance and Estate Management at Dublin City Council expressed concern about copies of the guidelines being made widely available. The concern related specifically to the way in which individuals and more particularly service providers working on their behalf might use this information to advocate for a particular outcome. Some officials interviewed echoed this concern.

Key issues relating to current practice on anti-social behaviour are outlined in Chapters 3 and 4.

⁶ Copies of the policies documents were not available at the time of writing.

Chapter Three

Current Practice Relating to Eviction and Exclusion

As noted in Chapter 1, time constraints led to interviews being conducted with representatives from Area Offices at Dublin City Council only and telephone conversations with representatives from other local authorities in the Dublin Area. Therefore, current practices outlined in this and the next chapter relate specifically to current practices in Area Offices at Dublin City Council.

3.1 Responses to Complaints

Cases of anti-social behaviour begin with a complaint being made to the local authority about the behaviour of a local authority tenant. (The person who makes the complaint may or may not be a local authority tenant). From interviews it was apparent that complaints made to local authorities about tenants relate to behaviour that is clearly anti-social in nature, as defined in the 1997 Act, as well as behaviour that constitutes wider 'estate management' issues. For example, complaints are made about dogs barking and children playing as well as intimidating behaviour and drug dealing. Regardless of the nature of the complaint the local authority is obliged to investigate its authenticity. On the basis of the outcome of the investigation and the seriousness of the complaint, the local authority then decides what it considers to be an appropriate response. From interviews it appears that Area Offices follow a broadly similar process in their responses to complaints. That process has a number of stages to it as follows:

- The first stage is investigation, where the local authority conducts a check to establish the legitimacy and seriousness of the complaint. Investigations may involve checks with neighbours, local authority staff and the gardai.
- When the initial investigation is complete and the local authority is satisfied that there is substance to the complaint, a first meeting is held with the tenant about whom the complaint has been made. That meeting provides the tenant with an opportunity to respond to the complaint. It is also when an attempt is made to negotiate with the tenant towards achieving a change in their behaviour. The exception to this is drug dealing. It was stated that notice to

quit is served immediately if evidence of drug dealing is found. (Detail of what would constitute such evidence was not given). Attempts may also be made at this point to link the person into services. This is discussed in greater detail below.

- If the tenant changes their behaviour following the meeting and the local authority is satisfied that the tenant's behaviour has changed then the complaint is dropped. If the behaviour continues then a second meeting is called.
- There were differences in the way in which officials described the purpose and content of the second meeting. In one Area Office, an official explained that the usual process is to issue a verbal warning at the first meeting, a written warning at the second and to issue notice to quit after the second meeting if the tenant's behaviour has not changed. Whereas an official from another Area Office explained that tenants are told during the first meeting that they will be called in for a second meeting if their behaviour continues. He added that people called in for a second meeting may be informed that the local authority is serving notice to quit.
- All officials interviewed emphasised the degree to which actions taken vary depending on the circumstances of cases. In other words, the response to individual cases is to a large degree at the discretion of the relevant local authority office. Taking into account variation in responses due to differences in the details of cases, the interviews nonetheless suggest that there are differences across offices in terms of their usual responses to anti-social behaviour.

3.2 Preventing Eviction & Seeking Support

Differences across Area Offices were particularly marked with regard to attempts to link people into services. Some differences noted in this context are as follows:

- One Area Office relies primarily on its Welfare Section for support and involves welfare staff at early stages in the process if a complaint is considered serious

and behaviour is found to be problematic.⁷ In addition, people at risk of eviction are referred to treatment centres for problems with addiction and links are made with Family Support Services where appropriate. The Health Board is notified when an eviction order is granted.⁸ Local authority officials in this office expressed a lack of clarity as to the responsibilities of the health board in general for people at risk of eviction.

- In another Area Office it was indicated that while people at risk of eviction would be given opportunities to change their behaviour, attempts would not generally be made to link them into services. (The exception to this would be in specific estates where a Dublin City Council project, established to work specifically with people at risk of eviction, was being implemented). This office notifies the Health Board when notice to quit is issued. There has been some experience of social workers advocating on behalf of clients when notice to quit is issued but it was implied that intervention at that stage is not generally successful.
- In the third Area Office people at risk of eviction are advised to get support and information. Formal links with statutory agencies and support services have been established through membership of a Drugs Task Force. Other members of the taskforce include officials from the Health Board, the Probation and Welfare Service and Merchants Quay.⁹ In addition the Area Office participates in meetings of the Community Policing Forum.¹⁰ The way

⁷ The Housing Welfare Section of Dublin City Council provides a social work service to tenants, tenant purchasers and potential tenants of the council. The aim of the service is to meet the combined needs of the tenant, Dublin City Council and the local community. Housing Welfare Officers have weekly clinics in the areas for which they have responsibility.

⁸ 'E.H.B./Housing Authority Communication Procedures under Housing (Misc. Prov.) Act 1997' states that the 'Housing Authority shall notify the Board in writing when the court order authorising the eviction has been made.' This is to allow sufficient time for notice of the eviction to be sent to community welfare district offices in advance of any possible application for a rent supplement. Under Section 16 of the Housing (Miscellaneous Provisions) Act 1997, Community Welfare Officers may refuse rent supplement to a person who has been evicted from local authority accommodation on the basis of anti-social behaviour.

⁹ The Local Drugs Task Forces were set up in 1997 'to facilitate a more effective response to the drug problem in the areas experiencing the highest levels of drug misuse'. Task forces comprise a partnership between the statutory, voluntary and community sectors. Each task force prepares and oversees an action plan to co-ordinate relevant drug programmes in its area and address gaps in service provision. Action plans might include activities in education about drugs, prevention of drug use, and treatment and rehabilitation. (Refer to the website of the Department of Education and Science).

¹⁰ In some of the areas in which Drugs Task Forces operate, Community Policing Forums were established with the aim of reducing the supply and availability of drugs. The function of forums is to provide a formal mechanism for exchange of information about drug-dealing and related anti-social behaviour. Members of forums include the Gardai, community representatives and relevant statutory agencies. behaviour. Members of forums include the Gardai, community representatives and relevant statutory agencies.

in which those links work in terms of specific cases, however, was not clear. In particular, it was difficult to establish the degree to which the Area Office actively seeks support for tenants at risk of eviction.

There are two issues worth noting in this context. Firstly, the responsibility of local authorities to link people at risk of eviction into services has not been clearly outlined and this is reflected by the absence of procedures in this area. Secondly, differences in practice across Area Offices may also reflect variation in interpretation of responsibility at an individual level. In other words, local authority officials appear to differ in the degree to which they see themselves as responsible for attempting to link people at risk of eviction into appropriate services with some officials clearly stating during interviews that they did not see this as their responsibility.

3.3 The Processing of Evictions

As mentioned in Chapter 2, all officials interviewed described eviction as a last resort and emphasised that it was undertaken when all other options had failed and the tenant's behaviour continued to be problematic. If a local authority decides to evict a tenant on the basis of anti-social behaviour, the eviction is usually sought under Section 62 of the Housing Act 1966 rather than under the Housing (Miscellaneous Provisions) Act 1997. A number of reasons were given for this:

- When the 1997 Act was introduced local authorities were not always granted eviction orders under the legislation. Difficulties in securing evictions under the 1997 Act have not been resolved and consequently local authorities tend to use the Housing Act 1966.¹¹
- Section 62 of the Housing Act 1966 allows for the repossession of rented property by the local authority on any grounds once fair procedures have been followed. In practice, district court judges sometimes ask why an eviction is being sought but local authorities are not required under this legislation to provide evidence of the behaviour that is resulting in the eviction. In other words, a district court judge may ask for an explanation for the eviction and the local authority is required by legislation to provide proof that it has followed fair and correct procedures in seeking an eviction but it is not required to give evidence of the behaviour that has given rise to the eviction.

- By contrast, evidence of anti-social behaviour would be required for evictions under the Housing (Miscellaneous Provisions) Act 1997. Under Section 21 of the Act, evidence is accepted by court from Gardai, housing authority or health board officials where other possible witnesses are not in a position to give evidence due to intimidation. Local authority officials interviewed indicated that they had concerns about the security risks that providing evidence might pose for their staff and other individuals involved. They stated that as a result they are more likely to use the 1966 legislation.

Given the way in which evictions are now sought, considerable weight is attached to proof that fair and correct procedures have been followed. Consequently, local authorities pay considerable attention to the recording of information on each case during each of its stages, i.e. from the time the first complaint is made through the investigation and so on. This includes correspondence with the tenant involved, notes to the file on conversations with, or relating to, the tenant and minutes of meetings with the tenant. In addition, records are kept of any information provided by other local authority staff, such as housing welfare officers, and staff from other agencies, such as the gardai or health boards, who are in contact with the tenant.

Training is worth mentioning in this context. In each of the Area Offices visited, staff dealing directly with cases of anti-social behaviour had received training on the issue. Training was developed and delivered primarily to ensure that local authority staff deal with cases of anti-social behaviour in the correct legal manner. The focus of training, therefore, is on accurate recording of information, building a file, due process, etc. One official interviewed made reference to training recently conducted by The Housing Unit. Training on anti-social behaviour organised by The Housing Unit included methods of dealing with violence and aggression and mediation skills as well as aspects of the legal process. The Unit has plans to deliver further training of this kind throughout the country, which is a positive development. Nonetheless, it is significant that the primary emphasis of training on anti-social behaviour to-date for local authority staff in the Dublin area has been primarily and often exclusively on legal process, i.e. processing evictions and excluding orders, as opposed to methods of intervention that might prevent eviction or exclusion.

¹¹ Section 62 of the 1966 Housing Act, which allows for the repossession of property by the local authority, has already been reviewed and found to be constitutional by the Supreme Court.

3.4 Excluding Orders¹²

Under Section 3 of the Housing (Miscellaneous Provisions) Act 1997 an excluding order may be sought against a tenant found to be engaging in anti-social behaviour. Tenants may apply (to the district court) for excluding orders against another member of the household (including a joint tenant). Alternatively, local authorities may apply for an excluding order on behalf of a tenant against a member of their household.

Excluding orders were introduced as one alternative to seeking repossession of a dwelling and the eviction of an entire household.¹³ Interviews confirmed that excluding orders are used to that end. Local authorities sometimes suggest to tenants that they seek an excluding order against a member of their household when that person's behaviour is found to be problematic. For example, excluding orders might be sought by a parent against a son or daughter with a drug addiction that is manifesting in anti-social behaviour or by a tenant against a violent and aggressive partner.

However, tenants are not always prepared, to seek or support an exclusion order against a member of their family or household and this can result in the entire household being evicted. In this context, some officials stated that it is not uncommon for women to be evicted because of the problematic behaviour of their partners. Further, some service providers have found that the problematic behaviour of partners can also act as an obstacle to women being re-housed even in cases where the relationship with that partner has ended by the time a housing application is being made.

¹² Statistics on exclusion orders by Dublin City Council were not available at the time of writing.

¹³ Appendix to Circular H5/97 of 13 June, 1997.

3.5 Quitting

A final issue relating to evictions on which officials were questioned was 'quitting', i.e. where tenants leave local authority accommodation without notice.¹⁴ Officials interviewed were somewhat reluctant to answer questions on quitting and they disagreed with the suggestion that people at risk of eviction are sometimes encouraged to quit. However, they agreed that people who quit their tenancy are treated more leniently if they re-apply for housing at a later stage than those who are evicted. (This is also the case with tenants who voluntarily surrender the tenancy). This confirms the perception that current systems and procedures encourage quitting among people at risk of eviction.

Officials stated that they would not usually have contact with a tenant or be aware that a tenant is going to leave their accommodation prior to their departure. This contradicts information provided by service providers with clients who claim to have been encouraged by local authority staff to voluntarily surrender their tenancy. In that situation some clients quit rather than surrender the tenancy.

¹⁴ The term quitting is used to refer to tenants who leave local authority accommodation without giving notice of their departure to the local authority, whereas voluntary surrender refers to situations where tenants inform the local authority that they intend to leave their accommodation.

Chapter Four

Current Practices on Housing

4.1 Housing Applications & Allocations in General

The standard process for housing applications and allocations was outlined in interviews as follows:

- A person who wishes to obtain local authority housing makes a housing application and is awarded points by the local authority.¹⁵ Housing applications are generally taken on their merit and hence background checks on the applicant are not usually made at this stage.
- A new Scheme of Letting Priorities was introduced in Dublin City Council in December 2002. Each Area Office now has three housing lists: a standard points list (as outlined above), a transfers list and a priorities list. The priorities list includes people who are registered as homeless as well as medical priorities and welfare priorities. Area Offices divide housing allocations evenly between the three housing lists. In other words, every third vacancy now goes to people on the priorities list, some of whom are homeless.
- When an applicant is close to being offered a letting the local authority conducts a background check. This involves contacting other local authorities to ascertain if the applicant lived previously in local authority housing in other areas. A garda check is also conducted to establish if the potential tenant has a criminal record. If there is a tenants committee in the area, they are

¹⁵ There are differences in the way in which local authorities allocate points on housing applications with regard to the criteria used and the number of points assigned to specific criteria. For example, some local authorities assign significantly more points than others for the length of time that has passed since the application was made. Dublin City Council awards points for conditions in the dwelling where the applicant is staying and on the basis of the applicant's personal circumstances. For example, dwellings are assessed in terms of whether they are fit for habitation (the more unfit the higher the points), the level of access to facilities for washing, cooking, etc. (the fewer the facilities the higher the points) and the number of people with whom space and facilities are shared (the more people the higher the points). Personal circumstances that are considered include the number of years since the date of application, the number of people in the household (in both cases the greater the number, the higher the points allocated) and the area in which the person is currently residing (more points are awarded if the applicant is residing in the area where they are seeking housing). Refer to 'Revised Scheme of Letting Priorities 2002', Dublin City Council.

informed at this stage of the name/s of the person/s being considered for housing. Tenant's committees usually carry out their own checks through informal networks.

- All officials interviewed stated that there are no differences in the procedures and practices applied to housing applications and allocations for people with a history of anti-social behaviour whether they are on the homeless list, the standard points list or whatever. In other words, applicants on the homeless list with a history of anti-social behaviour are not treated any differently from applicants on another type of housing list with a history of anti-social behaviour. (One official noted that people on the homeless list are more likely to have a history of anti-social behaviour and suggested that their problematic behaviour is likely to have contributed to their homelessness in the first place).
- In all of the Area Offices visited, pre-tenancy training had been introduced for new lettings. In other words, successful housing applicants undergo training with the local authority prior to moving into their accommodation. Officials stated that anti-social behaviour is one of the issues covered in pre-tenancy training.

4.2 Housing Applications & Anti-Social Behaviour

There are a number of stages at which an applicant's history of anti-social behaviour may become apparent. In some cases, the local authority is aware of anti-social behaviour when the application is being made, for example where the applicant had previously lived in local authority housing in that area. It is more usual, however, for the local authority to become aware of a history of anti-social behaviour when a background check is conducted, prior to an offer of housing being made.

Occasionally, tenants' committees identify and disclose to the local authority incidents of anti-social or other problematic behaviour. Officials interviewed indicated in this context that it is unusual for tenants' committees to disclose information that hasn't already been obtained during background checks and that such information would be checked with other sources.

If an applicant is found to have a history of anti-social behaviour the local authority seeks to establish what the applicant has been doing since the time of their eviction, exclusion, etc. This might include, for example, contacting the gardai or other local

authorities to establish if the person has been involved in other incidents of problematic behaviour. It might also include obtaining evidence of changed behaviour. For example, it is not unusual for applicants with a history of drug use to be asked for urine samples.

Seeking support in addressing problematic behaviour, say undertaking a drug or alcohol rehabilitation programme, is to the advantage of the applicant. However, officials interviewed emphasized that this would not guarantee a positive outcome as each case is dealt with and treated on its own merit. If the local authority is satisfied that the applicant has altered their behaviour and is now suitable for housing, the tenants committee is informed.¹⁶

4.3 Tenants Committees

Officials interviewed stated that in general they found tenants committees to be fair in their attitudes towards people with a history of anti-social behaviour and to have an understanding of related issues like drug and alcohol addiction. However, when informed of the names of people being considered for housing in their area tenants committees can, and sometimes do, oppose housing allocations on the basis of anti-social behaviour. When that situation arises local authority officials usually meet with members of the tenants committee to listen to their concerns and officials may be asked for assurances of a prompt response if the person's behaviour were to become problematic again. However, all officials interviewed emphasised that in this situation, the final decision regarding the housing allocation is with the local authority.

Nonetheless, all officials interviewed acknowledged the positive role that tenants committees play in building communities and making areas attractive places in which to live. Maintaining good relationships with tenants committees is perceived, therefore, as a significant factor in maintaining good relationships with wider communities and contributing to good estate management. Further, officials interviewed emphasised that in the context of anti-social behaviour they had responsibilities not only to prospective tenants with a history of anti-social behaviour but to all tenants living in an area. Given that, it is not surprising that local authorities

¹⁶ While it is common practice for local authorities in the Dublin area to inform tenants committees of the names of people it is considering for housing, this is not the case in local authorities outside of Dublin. It is worth noting in this context that Section 25 of the Department of the Environment Circular H5/97 states that 'in the event of information being requested by other persons or groups such as tenants' organisations, information should only be provided with the consent of and through the individual concerned and requests and information supplied should be recorded.'

attempt to 'soften' decisions to house people not approved of by the tenants committee by arranging meetings with them, etc. as mentioned above.

There has been some discussion within the homeless sector in recent years about the role of tenants committees in decisions relating to the allocation of local authority housing and concerns expressed about the degree to which they may unfairly influence local authorities in this regard. It was not possible to establish from these interviews the degree to which local authorities might alter their decisions to allocate housing because of the views of tenants committees. However, it does seem an issue worthy of further consideration and examination.

4.4 Exclusion From Housing

An important issue relating to housing allocations is exclusion from housing on the basis of anti-social behaviour and in particular the absence of procedures and common practice with regard to the length of time for which people can be excluded. On this issue, marked differences across Area Offices were noted as follows:

- In one Area Office unsuccessful applicants with a history of anti-social behaviour are advised not to re-apply for housing for two years.
- In another, a time period is not specified rather unsuccessful applicants are advised to re-apply when their circumstances have changed. For example, if the member of the household responsible for anti-social behaviour had left the rest of the household would be more likely to be considered for housing by the local authority.
- In the third a project officer stated that he would not consider a person for re-application for a minimum of six months but he added that this was his personal view and a set time had not been established by the office or put in writing. This indicates that there may be differences within Area Offices as well as across Area Offices in the length of time for which people may be excluded. (It is worth noting that in this Area Office case conferences are held for people who are re-applying for housing with a history of anti-social behaviour).

Chapter Five

Conclusions and Recommendations

5.1 Legislation

As noted in Chapter 2, legislation relating to anti-social behaviour is not without its shortcomings. Firstly, the legal definition of anti-social behaviour, as defined in the Housing (Miscellaneous Provisions) Act 1997 is problematic. In the Act, anti-social behaviour is defined as drug dealing and serious violence and intimidation and a distinction is made between such behaviour and other 'anti-social activities' such as nuisance behaviour. Further, the Act allows that local authorities may respond to the second type of behaviour by 'taking whatever measures are appropriate...under existing legislation'. In practice, however, the distinction between anti-social behaviour and other anti-social activities is not always clear with the result that perceptions of what constitutes anti-social behaviour may vary across and within offices and from case to case.

Secondly, the legal context is made more complicated by the use of the Housing Act 1966 rather than the 1997 Act for evictions in cases of anti-social behaviour. The 1966 Act facilitates local authorities to evict tenants on the basis of anti-social behaviour without providing evidence of the anti-social behaviour.

Finally, implementation of the 1997 Act has been linked to quitting. Eviction on the grounds of anti-social behaviour can result not only in the loss of a tenancy but also in the loss of entitlement to rent allowance (Section 16) and in exclusion from local authority housing in the future (Section 14). Because the consequences of eviction are so great leaving local authority accommodation (either quitting or voluntarily surrendering the tenancy) may seem a 'safer' option to tenants than remaining in the tenancy. Consequently, tenants may quit rather than find ways of addressing their behaviour for example, by attending a rehabilitation programme, seeking support from relevant agencies, etc.

Recommendations:

1. Clarify types of activities that constitute anti-social behaviour and types of activities that constitute 'other anti-social activities' or nuisance behaviour. Identify appropriate responses to each type of behaviour.
2. Breakdown information on eviction and excluding orders according to categories or types of anti-social behaviour such as drug-dealing, intimidation, violence, etc. Monitor the types of behaviour that result in eviction or exclusion from local authority housing and note any differences across offices.
3. Challenge the perception that quitting is a preferable outcome to addressing problematic behaviour and thereby facilitating the tenant to maintain the tenancy.

5.2 Policy

Significant differences were found in practice relating to anti-social behaviour across Area Offices. This is not surprising given the complexity of the legal context and shortcomings of legislation on the issue as outlined above. It is also a reflection of the absence of clear written policies on anti-social behaviour to-date. The development and implementation of clear written policies on anti-social behaviour would, therefore, go some way towards addressing shortcomings in legislation and could significantly reduce differences in practice across Area Offices (and across local authorities in the Dublin area if adopted more widely). The absence of a clear policy was more noticeable with regard to some aspects of anti-social behaviour than others. Issues on which Area Offices were found to lack clear and definite policy positions are identified in the recommendations. These recommendations are consistent with Strategic Objectives 7.3.1 and 2.8.2 in the Action Plan on Homelessness as outlined in Chapter 1.

Recommendations:

1. Identify issues and establish or clarify a policy position on the following:
 - a. The responsibilities of local authorities towards people at risk of eviction/exclusion. For example, clarify if and the degree to which the local authority is responsible for pursuing activities to prevent eviction/exclusion and linking tenants at risk into support services.
 - b. Quitting and voluntary surrender of tenancies (i.e. tenants leaving local authority accommodation with or without notice).
 - c. The length of time for which people can be excluded from housing on the basis of anti-social behaviour.
2. Develop a written policy on anti-social behaviour.

5.3 Responses to Complaints

Area Offices were found to operate in a similar fashion in the initial stages of their response to complaints of anti-social behaviour. However, differences were noted at later stages in the process with some offices appearing to resort to eviction more quickly than others. Use of the Guidelines of Good Practice currently being developed by Dublin City Council may go some way towards reducing such differences across Area Offices within Dublin City Council. Development of similar guidelines in other local authorities would facilitate consistency of practice on this issue in the wider Dublin area. However, in addition, there may be need for further examination and monitoring of such differences.

Recommendation:

1. Monitor differences across offices in responses to complaints (refer to 5.1.2).

5.4 Support Services

Significant differences were found across Area Offices in their attempts to link tenants at risk of eviction into support services. These differences related both to the extent to which Area Offices sought support and where support was sought. Many officials did not see this activity as the responsibility of the local authority. All officials interviewed expressed a lack of knowledge about the responsibility of the Health Board towards people at risk of eviction. Service Providers suggested that the Health Board could play a significant role in preventing eviction/exclusion if it were included or were to intervene at an early stage in the process. This might involve, for example, the organization of case conferences at which tenants' needs and relevant support services are identified. These recommendations relate to strategic objectives 7.3.1 and 2.8.2 in the Action Plan on Homelessness.

Recommendations:

1. As in 5.2.1, clarify the responsibilities of the local authority to link tenants at risk of eviction/exclusion to support services. Identify relevant support services at local level.
2. Clarify the responsibilities of the Health Board with regard to tenants at risk of eviction. Identify related and appropriate actions for intervention.
3. Develop procedures outlining a) the responsibilities of the Health Board and local authorities towards tenants at risk of eviction and b) mechanisms to facilitate co-operation between the two agencies in this context.

5.5 Training

As noted, training on anti-social behaviour for local authority staff has focused primarily if not exclusively on correct legal procedures in responding to cases of anti-social behaviour. This focus has arisen primarily from concerns about failing to secure evictions due to errors in legal process and procedures followed. Such training may have contributed to some shortcomings in current practice, such as reluctance among local authority officials to link tenants at risk of eviction/exclusion into support services and the perception of quitting or voluntary surrender as a

(relatively) positive outcome. In other words, the focus of training on the issue to-date may have contributed to more of an emphasis in practice on legal intervention rather than on actions that may prevent legal intervention.

Recommendation:

1. Incorporate into training on anti-social behaviour for local authority staff issues such as:
 - Early warning signs – identifying indicators of risk of eviction (these might include rent arrears, evidence of drug or alcohol addiction, family conflict) and sources of that information (e.g. rent records, reports from Housing Welfare Officers and other relevant agencies, such as the Health Board).
 - The responsibilities of local authorities with regard to prevention of eviction/exclusion (refer 5.2.1 and 5.4.1).
 - Skills in dealing with tenants with drug or alcohol addictions or behavioural disorders (where the addiction or disorder is resulting in problematic behaviour).
 - Mediation skills for dealing with cases of anti-social behaviour (or alternatively to identify in training where independent professionals with mediation skills can be accessed as required).
 - Procedures for linking tenants at risk of eviction into support services (refer 5.4.3).

5.6 Client Information

Service providers working with tenants at risk of eviction as a result of anti-social behaviour have found that their clients are provided with very little information regarding their case (such as the details of the complaint, the source of the complaint and the possible outcome). Further, service providers/key workers have indicated difficulty in accessing information from local authorities with regard to general procedures on anti-social behaviour. Lack of information about specific cases and general procedures makes it difficult for service providers/key workers to advocate for clients prior to eviction/exclusion. It can also mean that some tenants don't recognise the seriousness of their situation and consequently don't seek assistance early enough in the process to prevent eviction.

Recommendations:

1. Clarify information that can be provided to tenants at risk of eviction and/or their key workers with regard to details of specific cases.
2. Draft information for tenants and service providers outlining procedures relating to the following:
 - Investigating and responding to complaints of anti-social behaviour
 - Stages of eviction and exclusion
 - The process for appeals of decisions to evict or exclude

5.7 Housing Applications

Similarly, service providers identified lack of information about individual cases as well as about standard procedures as an issue with regard to housing applications.

Service providers gave examples of applicants who were refused housing but not given clear explanations as to why they were refused or given different explanations by different officials. Generally, if housing is refused on the basis of anti-social behaviour little information is given beyond that (such as specific information that the local authority has with regard to the problematic behaviour, the source of information, the level of proof etc.) In addition, little information is given to unsuccessful applicants to facilitate them in making another and more successful application in the future. This is related in part to the absence of a standard length of time for which people can be excluded from housing on the basis of anti-social behaviour.

Service providers also expressed concerns with regard to the way in which anti-social behaviour may be unfairly used to prevent people who have applied for housing from being housed. Service providers interviewed had experience of clients inaccurately labelled as anti-social. One example was of an applicant who was refused housing because he was suspected of, yet never charged with, involvement in an incident of anti-social behaviour. (Refer Case History 1, Appendix B). Service providers also had experience of clients being refused housing because of their relationship with another person with a history of anti-social behaviour. It has been noted that women in particular are refused housing on the basis of their relationships with other people whose behaviour is perceived as problematic, such as partners, ex-partners or members of their family. (Refer Case History 2, Appendix B). The recommendations below relate to Strategic Objective 7.3.1 in the Action Plan on Homelessness.

Recommendations:

1. Develop procedures on housing applications that:

- Clearly establish the process to be followed with regard to housing applications where applicants have a history of anti-social behaviour.
- Clarify grounds for refusal of housing.
- Ensure that decisions made with regard to housing applications and allocations are consistent and fair.
- Clarify information that can be provided to an individual applicant or his/her key worker with regard to his/her housing application.

2. Draft information for tenants and service providers/key workers outlining procedures on the following:

- Housing applications & allocations.
- Appeals of housing decisions.

5.8 Tenants Committees

Tenants committees are given notice of all applicants the local authority is considering for housing allocations. Officials interviewed described tenants committees as being quite fair in their consideration of applicants with a history of anti-social behaviour. They also emphasised that local authorities had the final say where local authorities and tenants committees disagreed on an allocation. However, officials also perceived maintaining good working relationships with tenants committees as an important element in sustaining good relationships with wider communities and contributing to effective estate management.

There have been concerns within the homeless sector about the role of tenants committees in decisions to allocate housing. In particular, there has been concern about the degree to which tenants committees may unfairly influence local authorities

in this context. It was not possible in the course of this work to establish the extent to which local authorities might alter their decisions on housing allocations as a result of the views of tenants committees. It is an issue worthy of further consideration. Given the legal situation on this where local authorities are permitted to provide such information to tenants' organisations only with the consent of the individual involved, it might be appropriate to review current practice. At minimum it would be helpful to develop procedures that clearly outline the role of tenants committees in the housing allocations process and that clearly demarcate their responsibilities in this regard. This recommendation relates to Strategic Action 7.3.2 in the Action Plan on Homelessness.

Recommendation:

1. Review current practice with regard to providing information on prospective tenants to tenants committees.
2. If current practice continues, develop procedures on the role of Tenants Committees in vetting prospective tenants to ensure fair process. Procedures should clarify the role and responsibilities of tenants' committees with regard to the allocations process.

5.9 Exclusion from Housing

The length of time for which people may be excluded from a housing list is currently at the discretion of each local authority. On the basis of interviews it was found that there is significant variation across local authority offices with regard to the length of time for which people are excluded. There also appears to be variation within offices in terms of the length of time applied in different cases. In the interests of fairness and efficiency it would be preferable for all local authority offices to operate according to an agreed standard on this. The recommendations relate to Strategic Action 7.3.1 in the Action Plan on Homelessness.

Recommendations:

1. As in 5.2.1, agree and adhere to a standard length of time for which people may be excluded from housing on the basis of anti-social behaviour.
2. Incorporate the identified standard time-scale into procedures on housing applications (refer 5.7.1).

Appendix A

Table 1: Number of Evictions for Anti-Social Behaviour carried out by four Local Authorities in the Dublin area.

	1998	1999	2000	2001
Dublin City Council	44	30	12	10
South Dublin County Council	1	1	1	0
Dun Laoghaire/Rathdown	6	1	1	2
Fingal County Council	0	0	N/A	N/A

Table 2A: Eviction Statistics, Dublin City Council, 1997

Type of Cases	Total Warrants	Evicted	Settled
Arrears	66	22	44
Squatters	10	9	1
Illegal Occupiers	2	1	1
Technical	2	2	0
<i>Estate Management</i>	22	21	1
Transfers	0	0	0
T.P. Arrears	7	0	7
Total	109	55	54

Table 2B: Eviction Statistics, Dublin City Council, 1998

Type of Cases	Total Warrants	Number Evicted	Settled
Arrears	33	8	25
Squatters	5	5	0
Illegal Occupiers	3	3	0
Technical	2	2	0
<i>Estate Management</i>	44	44	0
Transfers	3	3	0
T. P. Arrears	0	0	1
Other	2	2	0
Total	93	67	26

Table 2C: Eviction Statistics, Dublin City Council, 1999

Type of Cases	Total Warrants	Number Evicted	Settled
Arrears	66	27	39
Squatters	0	0	0
Illegal Occupiers	6	6	0
Technical	5	5	0
<i>Estate Management</i>	31	30	1
Transfers	0	0	0
T.P. Arrears	5	0	5
Other	3	1	2
Total	116	69	47

Table 2D: Eviction Statistics, Dublin City Council, 2000

Type of Cases	Total Warrants	Number Evicted	Settled
Arrears	95	34	61
Squatters	1	1	0
Illegal Occupiers	4	3	1
Technical	0	0	0
<i>Estate Management</i>	<i>14</i>	<i>14</i>	<i>0</i>
Transfers	1	1	0
T.P. Arrears	3	0	3
Other	1	1	0
Total	119	54	65

Table 2E: Eviction Statistics, Dublin City Council, 2001

Type of Cases	Total Warrants	Evicted	Settled
Arrears	77	25	52
Squatters	0	0	0
Illegal Occupiers	5	4	1 surrendered
Technical	1	1	0
<i>Estate Management</i>	<i>14</i>	<i>12</i>	<i>2 surrendered</i>
Transfers	1	1	
T.P. Arrears	3	0	3
Other	1	0	1
Total	102	43	59

Table 2F: Eviction Statistics, Dublin City Council, 2002

Type of Cases	Total Warrants	Evicted	Settled
Arrears	56	15	41
Squatters			
Illegal Occupiers	1	1	0
Technical	4	3	1
<i>Estate Management</i>	<i>8</i>	<i>8</i>	<i>0</i>
Transfers	4	4	
T.P. Arrears	2	0	2
Other	3	2	1
Total	78	33	45

Appendix B

Case Studies

Case History 1

A key worker started working with a couple, John and Mary, in August 2001.¹⁷ The couple were on the homeless housing list with a county council in the Dublin area and were waiting to be housed for the first time. In April 2002, the key worker contacted the county council to enquire about their housing application and was told that it was likely that the couple would be made an offer quite soon. In May, John and Mary's file was sent to the Estate Management section of the county council to be considered for a housing allocation.

In June, the key worker called the local authority and was told that there were questions around garda clearance. During the time the application was being processed John attended a social gathering where fighting broke out. He denied any responsibility for the incident, a position that the keyworker accepted, but the gardai had questions about his involvement.

In August, the keyworker spoke with an official in housing allocations. He explained that a number of cases were being reviewed and that the couple's case would be included in that review. The keyworker had three further telephone conversations with local authority officials to follow up on the review. The outcome of the review was that John would not be allocated housing at that point.

In September, the keyworker contacted the county council and was informed that they would be seeking clarification from the gardai as to what had happened at the incident in June. The keyworker followed up on this with three further telephone calls to the local authority between September and December. She was told that no further information had been provided by the gardai. In January 2003, the keyworker contacted the local authority and was informed that they had decided not to allocate housing to John and Mary in the immediate period. The local authority had made that decision on the basis of information received from the gardai. Although details of that information were not made available to the keyworker she was informed that the gardai had found that John was present but not responsible for the incident. (It is

worth noting that he was not charged in relation to the incident). Nonetheless, John and Mary were refused housing because of John's presence at the incident. Further, they were advised that they would only be considered for housing after a period of two years if they re-applied with a 'clear record' (i.e. no association with or involvement in further incidents).

¹⁷ Names have been changed.

Case History 2

A woman with a background of petty crime was released from prison in 1998. She had served some time in prison for minor offences and was staying with family on release. This was on a temporary basis as the family home was overcrowded and relationships were strained. She linked into support services and made an application for housing. She had two children and was a lone parent.

About six months later a local authority flat became available. The client was interested in the flat and the local authority initiated an estate management check, as is standard when an applicant is being considered for a housing allocation.

The local authority advised the client that there might be problems due to her family name, which was associated with serious criminal activity in the Dublin area (although her direct family would not have been involved in serious criminal activity). While the estate management check was being conducted the flat was allocated to another applicant. Two further flats that the client was interested in became available. On each occasion the client was informed that estate management checks were on-going and the flats were offered to other applicants. (Her care worker was of the opinion that the issue was not so much her family name but rather her own background of petty crime).

In 1999, another flat in which the client was interested became available. By this time, her family wanted her to leave home. On this occasion, the local authority informed her that there were issues not with the client or her family but rather with her boyfriend.

By 2000, the client had become homeless and had had another child. She was staying at a B&B and then with extended family. Two flats became vacant early in 2001 but she was not allocated either of those flats. She was finally allocated a flat in August 2001. By that time she had 105 points, which is well above the average number of points for housing. It had taken two years for an estate management report on the client to be completed and three years for the client to be housed. This was in spite of representations made on her behalf by her care worker to relevant authorities. There have been no problems with her tenancy in the eighteen months since she moved into the flat.

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