



Waterford City & County Council

Anti-Social Behaviour Policy 2024

Table of Contents

| | |
|---|----|
| Introduction..... | 1 |
| Mission Statement..... | 1 |
| Policy Statement..... | 1 |
| Principal Objectives - (To Prevent, Co-ordinate, Adopt and Promote)..... | 2 |
| Strategies..... | 2 |
| 1. To continue to operate a dedicated Tenancy Management and Anti-Social Behaviour Unit..... | 2 |
| 2. To respond to all Anti-Social Behaviour complaints within 5 working days and initiate an investigation within 15 working days, sources permitting..... | 2 |
| 3. To enforce the possession legislation in the most serious cases..... | 2 |
| 4. To build up closer relations with An Garda Siochana and other Agencies and to share information in dealing with Anti-Social Behaviour..... | 2 |
| 5. To encourage meaningful participation in mandatory Pre-Tenancy/Tenancy Information Courses..... | 3 |
| 6. To work in conjunction with the Housing Welfare Service..... | 3 |
| 7. To issue Advice, Verbal Warnings, Tenancy Notifications and Tenancy Warnings for non-upkeep of property..... | 3 |
| Preventing and Combating Anti-Social Behaviour..... | 3 |
| Definition of Anti-Social Behaviour..... | 4 |
| The Housing (Miscellaneous Provisions) Act, 2014 defines Anti-Social Behaviour as..... | 4 |
| Definition of Estate Management..... | 5 |
| Confidentiality..... | 5 |
| Section 32..... | 5 |
| Section 35..... | 6 |
| Tenancy Agreement and Legislation..... | 6 |
| Tenancy Agreement..... | 6 |
| Hereunder is a sample of these rules..... | 6 |
| Legislation..... | 7 |
| Policy regarding the implementation of the Legislation..... | 7 |
| Excluding Order:..... | 7 |
| Possession Order:..... | 8 |
| Refusal/Deferral of an allocation on the grounds of Anti-Social Behaviour:..... | 8 |
| Refusal/Deferral of an allocation on the grounds of failing to provide information:..... | 9 |
| Refusal/Deferral of an allocation on the grounds of good Estate Management:..... | 9 |
| Refusal to sell a dwelling on the grounds of Anti-Social Behaviour:..... | 9 |
| Refusal to sell a dwelling on the grounds of good Estate Management:..... | 10 |
| Anti-Social Behaviour checks..... | 10 |
| Procedures for dealing with Complaints..... | 13 |

| | |
|--|--------|
| Recording the Complaint:..... | 13 |
| Investigating the Complaint..... | 13 |
| Tenancy Notification..... | 14 |
| Tenancy Warning:..... | 14 |
| Tenancy Appeal/Review | 15 |
| In-House Case Management Team /Legal Action..... | 15 |
| Health and Safety of Staff | 16 |
| Threats/Intimidation of staff: | 16 |
| Customer Service/Appeals | 16 |
| Freedom of Information /Data Protection | 16 |
| Appendix 1 - Other Complaints | 17 |
| Noise:..... | 17 |
| Dogs – excessive barking: | 17 |
| Unlawful and Illegal Occupiers | 18 |
| Appendix 2 - Summary of Anti-Social Behaviour Complaints Procedure | 19 |
| Step 1: Contact the complainant..... | 19 |
| Step 2: Interview with the complainant | 19 |
| Step 3: where the ASB team are satisfied that a breach of tenancy has occurred | 19 |
| Step 4: Interview with the respondent..... | 20 |
| Step 5: resolving the difficulties between the parties | 20 |
| Figure 1 Anti-Social Behaviour Check process | 12 |

Introduction

Waterford City and County Council is committed to working with our tenants and with other agencies to prevent and combat Anti-Social Behaviour. The Council has created an Anti-Social Behaviour Unit that will investigate and endeavour to resolve all valid complaints of Anti-Social Behaviour made to it. The Unit will use a multi-agency approach, when required, in order to resolve incidents of Anti-Social Behaviour that will include consultation with An Garda Síochána, the Health Service Executive and Tusla (Child and Family Agency). The Council acknowledges that while the vast majority of its tenants are law-abiding, there are a small number involved in Anti-Social Behaviour and this will not be tolerated by the Council.

Section 35 of the Housing (Miscellaneous Provisions) Act, 2009 provided the Council with the legislative framework to create its original Anti-Social Behaviour Strategy which was adopted at the Council Plenary meeting held on the 9th of April 2015. This Strategy has now been reviewed due to the enhanced powers for dealing with Anti-Social Behaviour that have been created with the enactment of the Housing (Miscellaneous Provisions) Act, 2014.

This strategy applies to the parts of the area where the Council has:

1. Dwellings let under the Housing Acts 1966 to 2014.
2. Dwellings let under the Rental Accommodation Availability Agreements (chapter 4) as defined in the Housing (Miscellaneous Provisions) Act, 2009.
3. Sites for Travellers (as defined in the Housing (Miscellaneous Provisions) Act, 1997, as amended).

Mission Statement

“To work towards the elimination of Anti-Social Behaviour by investigating all such complaints fairly, impartially and objectively and to provide a modern and professional service to our tenants, thereby helping to create a quality, peaceful and safe living environment”

Policy Statement

Waterford City and County Council recognises that Anti-Social Behaviour can have an adverse affect on the quality of lives of its tenants and occupants and others visiting or working in areas that have Council dwellings. The vast majority of Council tenants and occupants are law-abiding and it is only a small number that are involved in Anti-Social Behaviour. The Council also recognises that it has a responsibility to all of its tenants and occupants to promote the peaceful occupation and enjoyments of its dwellings. Accordingly, it is the policy of the Council that Anti-Social Behaviour will not be tolerated and the Council commits to taking proactive action in seeking to eliminate such behaviour by combating and preventing it. This will be achieved by more effective management of our estates and dwellings and by using all legislative means available to the Council to combat such behaviour.

This policy will be implemented by achieving the principal objectives and applying the strategies detailed in this document. The Council hereby re-affirms its strong commitment to tackling this problem. This policy interfaces with the Council’s Allocations Scheme, the Framework Homeless Action Plan and the Traveller Accommodation Programme 2019-2024 and will interface with any subsequent revisions/amendments.

Principal Objectives - (To Prevent, Co-ordinate, Adopt and Promote)

- To prevent and reduce Anti-Social Behaviour
- To co-ordinate services within the housing authority in dealing with Anti-Social Behaviour
- To adopt a multi-agency approach in dealing with Anti-Social Behaviour
- To promote the principles of good estate management

These objectives are in accordance with section 35 of the Housing (Miscellaneous Provisions) Act, 2009.

Other issues can arise in households between neighbours which may not strictly fall between the definition of Anti-Social Behaviour. **See Appendix 1**

Strategies

1. To continue to operate a dedicated Tenancy Management and Anti-Social Behaviour Unit

The Council will continue to ensure that there is a dedicated Unit in place to deal with Anti-Social Behaviour, with specially trained staff working closely with Senior Housing Management and its Legal Advisors. The Council will endeavour to avoid rotation of staff in this Unit as far as possible ensuring the skills and competencies are retained within the Section. Staff members will be responsible for investigating Anti-Social Behaviour complaints and appropriate training and on-going advice will be available at all times. The Section will have its own budget to meet these needs. Identification of training needs will be in accordance with the Council's PMDS System.

2. To respond to all Anti-Social Behaviour complaints within 5 working days and initiate an investigation within 15 working days, sources permitting

To facilitate an efficient response to all complaints the Council has installed a modern computerised complaints system. This ensures that all complaints are recorded and investigated to a high standard. Statistical information can also be used to monitor performance and targets.

3. To enforce the possession legislation in serious cases

In cases of serious Anti-Social Behaviour, the Council will make use of existing legislation and institute legal proceedings which may lead to eviction or exclusion by way of the Courts issuing Eviction Notices and/or Excluding Orders. The council recognises that enforcement in serious cases can lead to the prevention of future Anti-Social Behaviour.

4. To build up closer relations with An Garda Siochana and other Agencies and to share information in dealing with Anti-Social Behaviour

The Council will be very proactive in developing closer and stronger relation with An Garda Siochana and other Agencies in an effort to combat, prevent and ultimately eliminate Anti-Social Behaviour. This will ensure that duplication of effort is minimised between the bodies involved and it will also give them the opportunity to share information, thereby making more informed decisions and taking more appropriate action in tackling Anti-Social Behaviour. The Council's Tenancy Management and Anti-Social Behaviour Unit liaises with specific Units of An Garda Siochana, and on occasion the HSE and Tusla (Child and Family Agency) as required.

5. To encourage meaningful participation in mandatory Pre-Tenancy/Tenancy Information Courses

In an effort to prevent Anti-Social Behaviour the Tenancy Agreement is examined as part of these courses- specifically the consequences of breaching the terms of this Agreement. The tenants obligations are outlined as well as their rights with regard to service/response from the Council.

6. To work in conjunction with the Housing Welfare Service

The Housing Welfare Officer regularly liaises with the Tenancy Management and Anti-Social Behaviour Unit to discuss individual cases and to accept referrals where it is considered necessary. Some families involved in low levels of Anti-Social Behaviour require assistance, support and linkage to other agencies/services. The Housing Welfare Officer provides this link, which often leads to the Anti-Social Behaviour issue being addressed.

7. To issue Advice, Verbal Warnings, Tenancy Notifications and Tenancy Warnings for non-upkeep of property

For breaches of the Tenancy Agreement relating to the non-upkeep of a property by a tenant, the Council has the power to advise the tenant of the need to keep the property in good repair. If the issue is not rectified then a Verbal Warning can be issued and in more serious cases a Tenancy Notification and Tenancy Warning can be issued which could ultimately lead to the Council taking legal action to re-possess the dwelling.

8. Pre Tenancy/Pre Transfer checks

As part of a Housing Application or transfer application an Anti-Social Behaviour check is submitted to An Garda Síochána for every applicant. If categories or excessive numbers of convictions are confirmed as part of this check, then the Tenancy Management and Anti-Social Behaviour Unit will interview the applicant to discuss the convictions with a view to deciding whether or not the allocation/transfer would be in the interests of good estate management. By anticipating potential Anti-Social Behaviour in this way it helps to prevent it from occurring.

Preventing and Combating Anti-Social Behaviour

- The Council will adopt a policy of rigorous screening of all applicants prior to allocating any dwelling. This includes requesting information on applicants for accommodation and on persons it believes to be, or have been, engaged in Anti-Social Behaviour, from other Local Authorities or specified bodies including An Garda Síochána, the Health Service Executive and the Criminal Assets Bureau in accordance with section 15 of the Housing (Miscellaneous Provisions) Act, 1997.
- The Council will be pro-active in supporting and developing effective Estate Management in all of its residential areas. They will meet with and assist existing resident associations in an effort to resolve potential Anti-Social Behaviour issues and encourage the creation of residents associations in areas where none exist. They will also liaise with outside Agencies whose co-operation and resources may be required in promoting better Estate Management. This Multi-Agency approach will help to build closer relations between all parties and through sharing information it will be possible to avoid duplication of effort and lead to a more streamlined approach to dealing with incidents of Anti-Social Behaviour.
- The Council may use its right under section 14(1) of the Housing (Miscellaneous Provisions) Act, 1997 (as amended) to refuse to let, or to defer the letting of a dwelling where;
 - (a) A Garda report confirms an applicant's conviction(s)-an applicant for housing support, or a person who forms part of an application for housing support, that has a court conviction must

- demonstrate a subsequent period crime free, before the application can be processed any further (excluding any period of custodial sentence).
- (b) The Council receives information that there is a serious criminal investigation on-going against the applicant or against a person who forms part of the application – when there is a serious criminal investigation on-going the application will be deferred for an appropriate period or pending the outcome of the investigation.
 - (c) The council believes an applicant is or has been engaged in Anti-Social Behaviour, and where such a letting would not be in the interest of good Estate Management – the application will be deferred until such time as the Council is satisfied that the offender has remained crime free for an acceptable period of time.
 - (d) The applicant fails to provide information, including information relating to person(s) residing or intending to reside with the applicant, and which the Council deems necessary to assess his or her application for housing.
- Include appropriate measures to “design-out” Anti-Social Behaviour issues in the design of estates
 - Facilitate and encourage tenant participation in preventing and combating Anti-Social Behaviour
 - Introduce this policy to all new tenants as part of pre-tenancy training and issue all new tenants with the tenants handbook which includes a section on Anti-Social Behaviour
 - The Council may refuse to sell a dwelling to a tenant whom it believes is or has been engaged in Anti-Social Behaviour or where such a sale would not be in the interests of good Estate Management (section 14(2) of the Housing (Miscellaneous Provisions) Act, 1997).
 - Under Section 26 of the Freedom of Information Act, 1997, as amended, the Council guarantees confidentiality to the complainant (the person making the complaint). The name of the complainant will not be passed on to any other Agency without the prior consent of the complainant.
 - Tenants will be informed of their right to apply for an Excluding Order against any other occupant of their dwelling where the tenant believes that the other occupant is engaging in Anti-Social Behaviour, as defined under section 3 of the Housing (Miscellaneous Provisions) Act, 1997.
 - Where the tenant, through fear, will not make the application for an Excluding Order, the Council may exercise its right to make the application or seek redress in the District Court pursuant to section 12 of the Housing (Miscellaneous Provisions) Act, 2014.
 - Where there is a conviction for drug dealing, the Council will ~~consider~~ proceeding for either an Excluding Order, or where all occupants are involved, an application to the District Court under section 12 of the Housing (Miscellaneous Provisions) Act, 2014 a Possession Order.
 - The Council is committed to putting in place, good practice guidelines in relation to preventing and combating Anti-Social Behaviour and will continue to carry out research in this area

Definition of Anti-Social Behaviour

The Housing (Miscellaneous Provisions) Act, 2014 defines Anti-Social Behaviour as:

“Anti-Social Behaviour” includes either or both of the following, namely-

- a) *The manufacture, production, preparation, importation, exportation, sale, supply, possession for the purpose 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 that 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.*

In cases where the use of drugs, as defined in the Misuse of Drugs Acts, results in incidents of Anti-Social Behaviour, such incidents will be dealt with under the Terms of this Strategy. In addition, any acts of Anti-Social Behaviour as defined in sections 40 – 43 of the Councils Tenancy Agreement shall also be dealt with under the Terms of this Strategy. In relation to these sections, neither the tenant nor any member of their household or any household or visitor shall cause any nuisance, annoyance or disturbance to any neighbours, their children, visitors or Council staff.

Definition of Estate Management

The Housing (Miscellaneous Provisions) Act, 1997 states that “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.

Possession of illegal drugs for personal use does not come within this definition. However, it may be considered to be a breach of the Tenancy Agreement. The Housing (Miscellaneous Provisions) Act, 2009 widens the powers to include acts of vandalism such as graffiti and criminal damage to property. Serious violence and intimidation is frequently associated with drug dealing and must for the purposes of this Act involve significant or persistent danger, injury, damage etc. to persons. The definition does not include noise and nuisance or other activities, which would not normally be associated with the serious problems towards which the Act is targeted. However lesser activities could represent breaches of the Tenancy Agreement and if this is the case legal proceedings under current legislation can be considered.

Confidentiality

The Council guarantees confidentiality to the complainant (the person making the complaint). The name of the complainant will not be passed on to any other Agency without the prior consent of the complainant. The person making the complaint is protected by section 32 and section 35 of the Freedom of Information Act, 2014.

Section 32 provides, inter alia, that a request for information may be refused if access to the record could 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, 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 of persons and property
- (b) Endanger the life or safety of any person, or
- (c) Facilitate the commission of an offence

Section 35 provides that a request for information shall be refused if:

1. 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.

Tenancy Agreement and Legislation

Tenancy Agreement

Every Waterford City and County Council tenant signs a Tenancy Agreement when allocated a dwelling. The Tenancy Agreement contains a set of rules that apply to the conduct of Tenants and Occupants in relation to Anti-Social Behaviour. Breaches of these rules are considered to be serious and will be investigated by the Anti-Social Behaviour Unit.

Hereunder is a sample of these rules:

- Neither the tenant nor any member of their household or any household or any sub-tenant or visitor shall cause any nuisance, annoyance or disturbance to any neighbours, their children or visitors or to council staff
 - The term “neighbours” in this Agreement means persons living or working in the vicinity of the tenants dwelling
 - For the purpose of this Agreement the phrase “nuisance, annoyance or disturbance” includes inter alia the following:
 - 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
 - Violence or threats of violence, intimidation, coercion, harassment or serious obstruction of any person
 - Threats, abuse or harassment of any kind or any act or omission
 - Behaviour which causes any significant or persistent impairment of a person’s use or enjoyment of his or her home
 - Damage to or defacement by writing or other marks of any property, including a person’s home
 - Causing disturbance, discomfort or inconvenience
 - Making an unreasonably loud noise by shouting, screaming
 - Playing any musical instrument or sound reproduction equipment (including television, radio and hi-fi) or using other machinery (including mini bikes etc.)
 - Any act or omission which creates a danger to the well-being of any neighbour or to his-her belongings

- Obstructions of any of the common areas, doorways and other exits and entrances in the block and in the estate
 - The unlawful possession, cultivation, use and/or supply of a controlled substance within the meaning of the Misuse of Drugs Act 1977, as amended. *The tenant is also responsible for the actions of any person calling to the property whether socially or on business*
- The tenant must not, at any time, invite or allow to remain on any part of the dwelling or garden, any person in respect of whom the City and County Council has notified the tenant that they should not enter or remain on the property
- A tenant evicted for a breach of this condition or part of it or any condition will be deemed for the purpose of re-housing to have deliberately rendered themselves homeless within the meaning of Section 11(2)(b) of the Housing Act 1988 and may not be provided with another home by the City and County Council until such time as the City and County Council is satisfied that the evicted tenant and their family are capable of living and are agreeable to live in the community without causing a further breach of this condition or any other condition of this Agreement.
- A tenant is prohibited from knowingly permitting a person against whom an Excluding Order under section 3(2) of the Housing (Miscellaneous Provisions) Act 1997 or an Interim Excluding Order under section 4 of the said Act obtained on the application of the City and County Council's or the tenant is in force in respect of the dwelling, to enter the dwelling

Legislation

The legislation available to Waterford City and County Council in dealing with Anti-Social Behaviour includes the following:

- Housing (Miscellaneous Provisions) Act, 1992
- Housing (Miscellaneous Provisions) Act, 1997
- Housing (Miscellaneous Provisions) Act, 1998
- Housing (Miscellaneous Provisions) Act, 2009 and
- Housing (Miscellaneous Provisions) Act, 2014

With regard to amendments of legislation, Waterford City and County Council will implement, at the appropriate time, relevant parts of amending legislation. Also the Strategy will have regard to any subsequent revision/amendment of the Council's Tenancy Agreement which will form part of the Strategy.

Policy regarding the implementation of the Legislation

Waterford City and County Council is committed to investigating all complaints of Anti-Social Behaviour in a fair, impartial and objective manner, and will rigorously apply the legislation in all serious cases. Issues are dealt with on a case by case basis by an in house Case Management Team, (Comprising of) Housing Officer, Welfare Officer, ASB Team Lead and any other staff as required.

Excluding Order:

An Excluding Order can be applied for by a tenant/relevant purchaser or the Council. It specifically targets the offender(s) and avoids the need to evict the whole household. A tenant has the right to apply for an

Excluding Order against any other occupant of their dwelling where the tenant believes that the other occupant is engaging in Anti-Social Behaviour. Where the tenant, through fear, will not make the application, the Council can exercise its right to make the application for the Excluding Order.

If granted, the Excluding Order can prohibit the offender(s) from entering the relevant dwelling or the entire estate for a period of up to 3 years. It can also prohibit the offender(s) from causing or attempting to cause any intimidations, coercion, harassment or obstruction of, threat to, or interference with the tenant or other occupant(s) of the dwelling concerned. Any breaches of the Order will be referred to An Garda Síochána for enforcement.

In accordance with legislation, the Council will not seek an Excluding Order against a juvenile who is under 12 years of age. Where the juvenile is over 12 (and under 18) years, and the case is serious and significant, the application will refer to a specified property, place or area other than the juvenile's family home.

Possession Order:

When all other efforts have failed the Council have the right to seek a possession order. The recommendation to apply for a Possession Order will emanate from an In-House Case Conference and will be in the interests of good estate management. Except in urgent cases, the tenant/relevant purchaser will have been issued with a Tenancy Warning and been given the opportunity to appeal the decision. A Possession Order, when granted by the District Court, will include the commencement date for the period during which the Council has the right to recover possession of the property. The length of this period 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 Council recovers possession of the dwelling in pursuance of the Possession Order. This will be done in consultation with An Garda Síochána.

Once the Council obtains the Possession Order, the In-House Case Management Team will make a recommendation to the Director of Housing as to whether or not to proceed with eviction. They will give consideration to on-going complaints, the seriousness of the history, the effect on the community and other relevant factors. If a decision is taken to proceed with the eviction, then the matter will be referred to the County Sheriff and other Agencies will be consulted if required, along with the Council's Welfare Officer and Homeless Services. Members of the Anti-Social Behaviour Unit will attend the eviction and the dwelling will be boarded up immediately. Tenants evicted for Anti-Social Behaviour cannot apply to join the Council's Housing waiting list or avail of any housing services, including the Homeless Service, for a period of 18 months. When this period has expired, they then become eligible to apply to go on the Council's Housing waiting list but will not be allocated another dwelling unless the Council is satisfied that they have addressed the issues that contributed to the Anti-Social Behaviour. The Council may consult An Garda Síochána if considering allocating a dwelling to an individual previously evicted for Anti-Social Behaviour.

Refusal/Deferral of an allocation on the grounds of Anti-Social Behaviour:

Waterford City and County Council will refuse to make an allocation or defer an allocation to any housing applicant where it considers the applicant is, or has been involved, in Anti-Social Behaviour. The refusal or deferral will include any person proposing to reside in the dwelling and each case will be considered on an individual basis. The applicant will be notified in writing of the reasons for the refusal/deferral and can appeal the decision in writing within 21 days. An applicant can also apply in writing on an annual basis to have a decision reviewed. If the Council is satisfied that the applicant has desisted from such behaviour, and sufficient time has elapsed to substantiate this, the decision may be reconsidered.

- The Council may use its right under section 14(1) of the Housing (Miscellaneous Provisions) Act, 1997 (as amended) to refuse to let, or to defer the letting of a dwelling where;
 - (e) A Garda report confirms an applicant's conviction(s)-an applicant for housing support, or a person who forms part of an application for housing support, that has a court conviction must demonstrate a subsequent period crime free, before the application can be processed any further (excluding any period of custodial sentence).
 - (f) The Council receives information that there is a serious criminal investigation on-going against the applicant or against a person who forms part of the application – when there is a serious criminal investigation on-going the application will be deferred for an appropriate period or pending the outcome of the investigation.
 - (g) The council believes an applicant is or has been engaged in Anti-Social Behaviour, and where such a letting would not be in the interest of good Estate Management – the application will be deferred until such time as the Council is satisfied that the offender has remained crime free for an acceptable period of time.
 - (h) The applicant fails to provide information, including information relating to person(s) residing or intending to reside with the applicant, and which the Council deems necessary to assess his or her application for housing.
 - (i) An applicant with a conviction for a sex crime (against adults or children) must agree to have a risk assessment submitted from a recognised body.

Refusal/Deferral of an allocation on the grounds of failing to provide information:

Waterford City and County Council will refuse to make an allocation or defer the making of an allocation to any housing applicant who fails to provide information requested by the Council relating to persons residing with or intended to reside with the applicant and which the Council considers necessary for the full consideration of the application. The applicant will be informed in writing of the reasons for the refusal/deferral. The applicant will be notified in writing of the reasons for the refusal/deferral and this decision will be reviewed when the Council is satisfied that all relevant information has been disclosed.

Refusal/Deferral of an allocation on the grounds of good Estate Management:

Waterford City and County Council will refuse to make an allocation or defer an allocation to any housing applicant where it considers there is good reason for doing so on the grounds of good Estate Management. The refusal or deferral will include any person proposing to reside in the dwelling and each case will be considered on an individual basis. The applicant will be notified in writing of the reasons for the refusal/deferral and can appeal the decision in writing within 21 days. An applicant can also apply in writing on an annual basis to have a decision reviewed. The decision may be reconsidered depending on the circumstances of the applicant or the estate.

Refusal to sell a dwelling on the grounds of Anti-Social Behaviour:

Waterford City and County Council will refuse to sell or will defer the sale of a dwelling to a person who it considers is, or has been involved, in Anti-Social Behaviour. The refusal or deferral will include any person proposing to reside in the dwelling and each case will be considered on an individual basis. The applicant

will be notified in writing of the reasons for the refusal/deferral and can appeal the decision in writing within 21 days. An applicant can also apply in writing on an annual basis to have a decision reviewed. If the Council is satisfied that the applicant has desisted from such behaviour, and sufficient time has elapsed to substantiate this, the decision may be reconsidered.

The Council will also refuse consent to the sale/purchase of a dwelling if it considers that the intended purchaser is, or has been involved, in Anti-Social Behaviour. A person/tenant applying to purchase, a tenant purchaser and/or his or her successor in title applying for consent to sell a dwelling and an applicant for consent to purchase a dwelling whose application has been refused/deferred will have the right to appeal the decision in writing within 21 days. An applicant can also apply in writing on an annual basis to have a decision reviewed. This section will apply to dwellings provided by the following enactments:

- S.90 Housing Act 1966 (tenant purchase scheme)
- S.3 Housing (Miscellaneous Provisions) Act 1992 (shared ownership scheme)
- Part V Planning and Development Act 2000
- S.6 Housing (Miscellaneous Provisions) Act 2002 (affordable houses scheme)
- Part 3 Housing (Miscellaneous Provisions) Act 2009 (incremental purchase scheme)
- Part 4 Housing (Miscellaneous Provisions) Act 2009 (tenant purchase apartment scheme)
- Part 3 Housing (Miscellaneous Provisions) Act 2014 (purchase of houses by tenants)

Refusal to sell a dwelling on the grounds of good Estate Management:

Waterford City and County Council will refuse to sell a dwelling to a person/tenant where it considers there is good reason for doing so on the grounds of good Estate Management and will also refuse consent to the sale/purchase of a dwelling on the same grounds. The person/tenant purchaser and the intended purchaser will be informed in writing of the Council's decision. A person/tenant applying to purchase, a tenant purchaser applying for consent to sell a dwelling and an applicant for consent to purchase a dwelling whose application has been deferred/refused will have the right to appeal the decision within 21 days. An applicant can also apply in writing on an annual basis to have a decision reviewed.

Anti-Social Behaviour checks

Before a decision is made in relation to the allocation, permission to reside, transfer or the sale of a dwelling, the Council carries out an Anti-Social Behaviour check on all individuals that are part of the application that are over 18 years of age. All applicants are requested to give their consent to the Council to carry out an Anti-Social Behaviour check as part of the application process. The procedure is as follows:

- The Council requests an Anti-Social Behaviour check from An Garda Síochána and any other Agency, if required. There are strict procedures in place for the requesting, recording, storing, retrieving and securing the information included in the check and this information can only be used for the purposes of the Housing Acts 1966 to 2014.
- If the Anti-Social Behaviour check for an individual is adverse (i.e. if a conviction is identified), or if there are issues regarding estate management, then that individual may be requested to attend for interview. The request to attend an interview will depend on the nature of the conviction and the timeframe involved.
- Interviews are conducted in private and the individual is given every opportunity to make submissions in relation to the outcome of the Anti-Social Behaviour check.

- If the individual disputes the overall outcome of the Anti-Social Behaviour check, then they have the right to contact An Garda Síochána to clarify the findings
- Based on all of the information available a decision is then made regarding the application by the In-house Case Management Team
- Each case is treated on an individual basis
- Whether the application is passed or deferred, the applicant is informed in writing regarding the decision
- If the applicant is dissatisfied with the decision, then they can appeal it within 28 days of the date of the written decision
- This Policy will operate in conjunction with the Council's Allocation Scheme
- Certain house types and tenures are not appropriate for some applicants due to their specific needs or history and it may be more appropriate to consider their applications under separate approved policies.
- All decisions made give serious consideration to good practice in Estate Management and sustainable communities, these include the following:
 - Limiting the number of allocations in an area to members of the same family, except in circumstances where family supports in close proximity would help sustain the tenancy
 - Being mindful of social integration
 - The Council are cognisant of housing a previously evicted individual in the same area

Anti-Social Behaviour check process

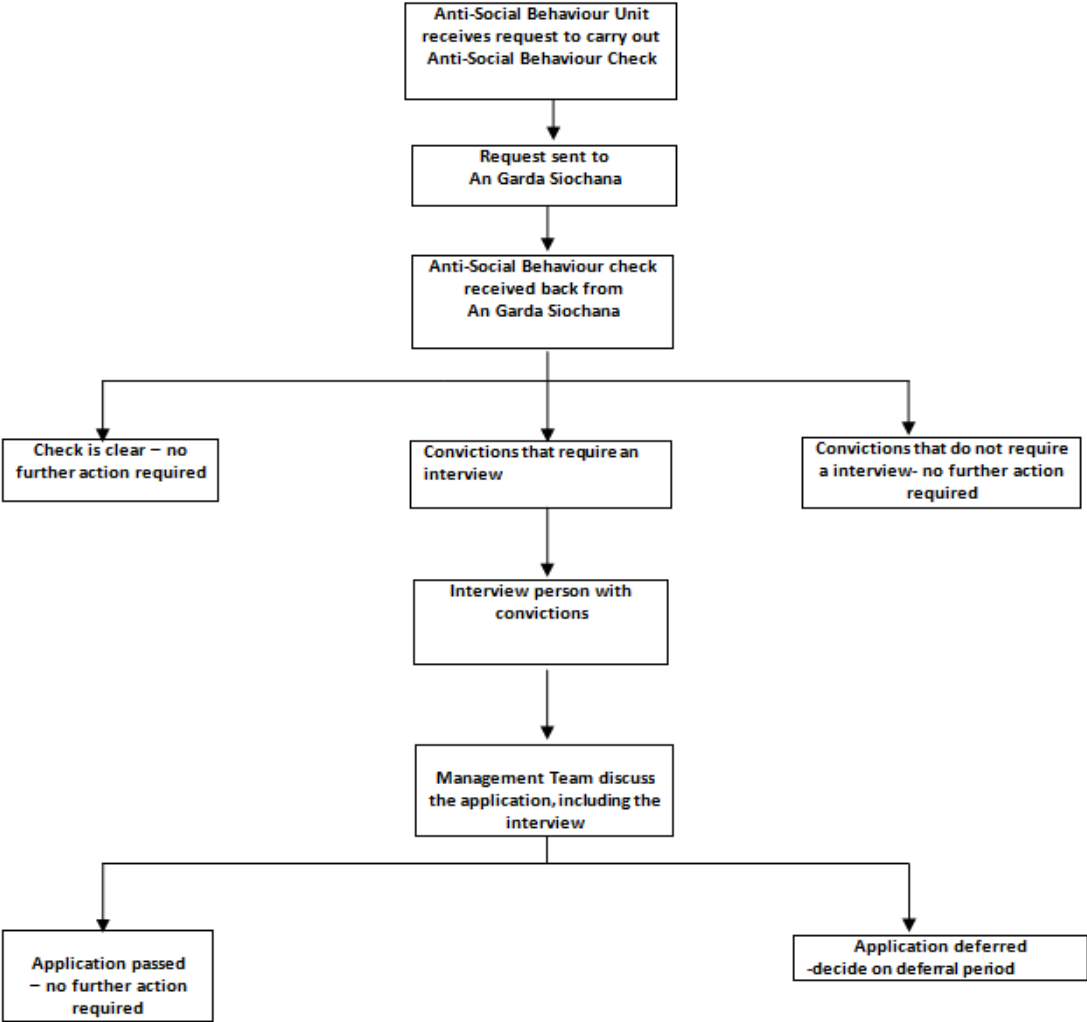


Figure 1 Anti-Social Behaviour Check process

Procedures for dealing with Complaints

Recording the Complaint:

- Waterford City and County Council operates a computerised complaints system for managing and monitoring complaints of Anti-Social Behaviour.
- Complaints can be made by telephone, in writing or in person in the Customer Service Office(s)
- Complaints must include the complainants (the person making the complaint) name, address and telephone contact details, if possible.
- Anonymous complaints will only be investigated in exceptional circumstances where there is corroboration from other agencies or other complaints and/or at the discretion of the Anti-Social Behaviour Unit.
- Procedures are in place to identify and deal with malicious complaints where they occur
- The complaints database is confidential and access to it is restricted and all written records are locked and secured

Investigating the Complaint:

- Waterford City and County Council will investigate every complaint in a fair, impartial and objective manner
- Depending on the seriousness of the complaint, the Council may make enquiries with the following:
 - Other statutory Agencies in accordance with section 15 of the Housing (Miscellaneous Provisions) Act, 1997 and amended
 - Consulting with other tenants/residents and resident associations
 - Interview, and/or discuss the complaint with, the complainant
 - Interview, and/or discuss the complaint with, the respondent (the person against whom the complaint is being made)
 - Interview, and/or discuss the complaint with, other relevant parties
- Juveniles will not usually be interviewed unless the case warrants it and with the permission of the parent/guardian who must be present at the interview
- The respondent will be advised that they can be accompanied by a friend or other representative at the interview. This person must identify themselves by stating their name and address. Their role is to offer moral support to the respondent and to facilitate any difficulties in communication between the Council and the respondent.
- The respondent will be given every opportunity to address the allegations being made against them and this will be factored in to the overall investigation prior to any final decision being made
- A respondent who refuses to attend for interview or fails to respond to the Council's questions or investigation or obstructs or impedes the Council's investigation will be deemed to be uncooperative and the Council can draw such an inference.
- The interview will be conducted by two members of staff from the Anti-Social Behaviour Unit
- All relevant statements and comments will be recorded in the interview notes. The notes will be signed by one of the members of staff from the Anti-Social Behaviour Unit and the respondent will be given the opportunity to also sign the notes – this is to confirm that they are a fair and true record of the interview. The respondent will also be offered a copy of the signed notes.

See Appendix 2 for summary of ASB complaints procedure

Case Handling

Following the investigation, the Anti-Social Behaviour Unit will decide on the appropriate course of action. The options available will include one or more of the following:

- **No Further Action**

If the Anti-Social Behaviour Unit has reasonable grounds for believing that the complaint is unfounded or malicious then no further action will be taken against the respondent

- **Advice/Referral/Verbal Warning:**

For minor and first time offences advice and/or referral to a supporting body (e.g. Housing Welfare) in an effort to resolve the dispute. A Verbal Warning may also be issued at this stage.

- **Written warnings – see below**

Tenancy Notification

For other offences a Tenancy Notification will be issued putting the tenant on notice that if the behaviour continues a statutory Tenancy Warning will be issued. The Tenancy Notification will be issued in writing and will state the nature of the complaint and the member of the household against whom the complaint has been made. The tenant will be made aware that if this behaviour continues, then they are running the risk of receiving a Tenancy Warning.

Tenancy Warning:

For persistent or significant offences a statutory Tenancy Warning will be issued. The Tenancy Warning will be issued in writing to the tenant and set out the specific term of the Tenancy Agreement that has been breached and if relevant shall include:

- The nature of the breach
- The name of the person responsible
- The occasion of the breach i.e. the date and time as far as is practicable
- The effect of the breach on the quality of life of other residents
- A requirement for the tenant to remedy the behaviour by ensuring that the household member involved ceases the behaviour or does not repeat it or similar behaviour
- The tenants right to have the Tenancy Warning reviewed

The consequences of a Tenancy Warning can be highlighted as follows:

- If the behaviour continues within 12 months of the Tenancy Warning being issued, then the Housing Authority may apply to the District Court to recover possession of the dwelling or for an Excluding Order against an individual(s).
- The tenant(s) shall be informed that the issuing of the Tenancy Warning will be taken into account for a period of 3years from the date of its issue for the following:
 - when considering a tenant(s) right to purchase a council dwelling under the various tenant purchase and right to buy schemes

- when considering a tenant(s) or household member involved in Anti-Social Behaviour for the allocation of a dwelling
- when considering consent to sale under the various schemes to a relevant purchaser

Tenancy Appeal/Review

A tenant to whom a Tenancy Warning has been issued can appeal to have it reviewed if the tenant does not accept that the breach of the Tenancy Agreement as outlined in the Tenancy Agreement has occurred. This request must be made by the tenant to the Housing Authority in writing and within 10 working days of the issue of the Tenancy Warning. It should contain details of the grounds for the disputing of the Tenancy Warning, any supporting documentation and whether oral representations are to be made by the tenant or any member of the household.

In-House Case Management Team /Legal Action

In cases where the behaviour does not cease or is repeated within 12 months from the date of issue of the Tenancy Warning, then the Housing Authority will apply to the District Court for an Excluding Order or a Possession Order. This decision will be taken at an In-House Case Conference which will be attended by members of staff from the Anti-Social Behaviour Unit, Senior Housing Management, other relevant sections within the Council and other Agencies, where appropriate.

In urgent cases, i.e. where the substantiated complaint is having a significant or persistent detrimental effect on the quality of life of those in the locality of the dwelling, the In-House Case Conference may also be called to decide on possible legal action without first issuing a Tenancy Notification or Tenancy Warning. The following are the possible options available to the In-House Case Conference:

1. Referred back – the matter may be referred back to the Anti-Social Behaviour Unit for additional information or clarification
2. Apply for an Excluding Order where a targeted approach is more appropriate– the tenant/relevant purchaser will be advised that they can instigate such proceedings but if they are unwilling to do so on the grounds of potential violence, threat or fear, then the Council may apply for such an order after consultation with the tenant/tenant purchaser.
3. Apply for a Possession Order-the Council will apply to the District Court for such an order and must inform the tenant of this intention not less than 10 working days before the hearing by The District Court.

Health and Safety of Staff

- Training is provided for all staff in the Anti-Social Behaviour Unit, including training with regard to the legal options available to deal with Anti-Social Behaviour
- Where necessary for safety reasons, staff will generally operate in twos
- The assistance and advice of An Garda Síochána, and other Agencies, will be called upon when required
- Violent offenders will be requested to attend Council Offices for interview where the environment is safe and secure
- Counselling and medical assistance is available to staff if required
- The Council's PMDS scheme monitors the training needs and personal development of staff
- Rotation of staff in the Anti-Social Behaviour Unit is kept to a minimum, as far as possible, ensuring key skills and competencies remain within the Unit
- Staff are encouraged to contribute their experiences and observations on a continuous basis to help further develop and enhance the Anti-Social Behaviour strategy
- Risk Assessments are regularly taken on specific complaints and before callouts are initiated

Threats/Intimidation of staff:

Section 18 of the Housing (Miscellaneous Provisions) Act, 1997 is amended by S.19 (11) of the 2014 Act which creates a specific offence of intimidation against housing authority officials or employees, or any members of their families or households or any person who provides or is to provide evidence in any proceedings under the Act or Part 2 of the 2014 Act, the penalty being a Class A fine or 12 months imprisonment or both.

Waterford City and County Council will not tolerate any assaults, threats, intimidation, obstruction, harassment or interference with its employees who are involved in the implementation of this policy and will consider legal proceedings against any person engaged in such activity. Assaults against employees will be reported to An Garda Síochána.

Customer Service/Appeals

Waterford City and County Council is committed to providing a quality and professional service to its tenants and the public. The Anti-Social Behaviour Unit will at all times adhere to this Policy document when carrying out any investigations and ensure that the principles of objectivity and fairness are adhered to throughout.

A nominated officer of at least Administrative Officer grade will have the responsibility of arbitrating with tenants/relevant purchasers and all of our customers if they are not satisfied with the results of any investigation or by the work and procedures of the Anti-Social Behaviour Unit. Where eligible requests for a review of a decision made under this Policy are received by the Council, a Review Officer, who is senior in rank to the original officer, and who was not involved in making the original decision, will investigate the matter.

Freedom of Information /Data Protection

The Council will fully comply with the provisions of the Freedom of Information Act 2014 and the Data Protection Act, 2018 and GDPR.

Appendix 1 - Other Complaints

Noise:

The complainant and the respondent should initially attempt to resolve the noise issue in an amicable fashion. If this is not attainable the complainant can make an application to the District Court for a Noise Abatement Order in accordance with S108 Environment Protection Act, 1992. The person making the complaint does not need to be represented by a Solicitor and the District Court only charges a nominal fee to process the action. Failure by the respondent to comply with a Noise Abatement Order may result in them receiving a fine, imprisonment for up to 12 months, or both. If the noise is significant and persistent and occurs regularly the Anti-Social Behaviour Unit may investigate the matter as it may constitute a breach of the Tenancy Agreement.

Dogs – excessive barking:

Section 25 of the Control of Dogs Act 1986 deals with nuisance by barking dogs. If you don't get a satisfactory response from the dog owner, you may complain to the District Court, using the form prescribed under the Control of Dogs Act. These forms are available from the Environment Section of Waterford City and County Council.

The District Court may make an order requiring the occupier of the premises in which the dog is kept to abate the nuisance by exercising due control over the dog. The court may limit the number of dogs that can be kept on a premises or may direct that a dog be delivered to a dog warden to be dealt with as unwanted.

Pets:

The only animal that can be kept on or about the premises is a domestic pet. That is, a dog or a cat and only one dog or one cat per dwelling is permitted.

It is not allowable to keep any animal as a pet that is likely to cause a nuisance, annoyance or disturbance to a neighbour. Therefore it is strictly forbidden to keep poultry, pigeons, pigs, greyhounds or any other animal likely to cause a nuisance, annoyance or disturbance.

Also the Control of Dogs (Restriction of Certain Dogs) Regulations 1991 lists the breeds of dogs that are strictly prohibited from being kept on or about any dwelling, the list is as follows:

- American Pit Bull Terrier
- English Bull Terrier
- Staffordshire Bull Terrier
- Bull Mastiff
- Bandog (cross between American Pit Bull Terrier and Mastiff)
- Doberman Pinscher
- German Shepherd (Alsatian)
- Japanese Akita/American Akita
- Japanese Tosa
- Rhodesian Ridgeback
- Rottweiler

Non-compliance with any aspect of the above may be deemed to be Anti-Social Behaviour and, if that is the case, then the Council will take appropriate action to rectify the matter.

Domestic Violence:

Cases of domestic violence do not come within the scope of this legislation. An Garda Síochána and Tusla (Child and Family Agency) are the statutory agencies responsible for dealing with incidents of such nature and offer advice and support and assist with enforcement. The Council is available for further advice and support regarding housing issues surrounding domestic violence.

Squatters:

Waterford City and County Council will immediately request An Garda Síochána to assist with the removal of illegal occupiers (squatters) of dwellings who are engaging in Anti-Social Behaviour. A member of An Garda Síochána will be requested to direct such a person to leave the dwelling or face arrest and prosecution.

Vacant Dwellings:

Vacant dwellings can become a target for Anti-Social Behaviour. This can include squatters, illegal dumping, drug-fuelled parties and fire damage. Therefore it is essential that the Council immediately becomes aware when a dwelling has been vacated so that they can turn the dwelling around in the fastest time possible and re-allocate it to another tenant. This also ensures that the possibility of Anti-Social Behaviour occurring is minimised or prevented altogether.

Don't assume that the Council is aware that a dwelling has become vacant. If you are aware that a dwelling has become vacant, or even if you only suspect that one has, please contact the Housing Office on 0761 10 20 20. Every report that a dwelling has been vacated is fully investigated by the Tenancy Management Unit of the Housing Office in order to confirm, or not, that the dwelling has become vacant. Early reporting of suspected vacancies is an essential element in minimising and preventing Anti-Social Behaviour.

Unlawful and Illegal Occupiers

The Council must be informed of every person occupying, and wishing to occupy, a Council dwelling. Failure to do so is a serious breach by the tenant of their Tenancy Agreement and the Council will take appropriate action to rectify this tenancy breach up to and including applying to re-possess the dwelling through the Courts.

In the case of a person wishing to reside at a property, the tenant must submit a Permission to Reside Application to the Housing Office where a decision will be made in this regard.

Under no circumstances can a Council dwelling, or any part of it, be sub-let by the tenant to any other person. The Council takes such tenancy breaches very seriously and will continue with its Policy of showing no tolerance for such behaviour.

Appendix 2 - Summary of Anti-Social Behaviour Complaints Procedure

The Housing (Miscellaneous Provisions) Act 1997, as amended, defines Anti-Social Behaviour with regard to the Tenancy Agreement. Should someone wish to make such a complaint (the complainant) they must do the following:

- Contact the Customer Services Department (CSD) and make the complaint
- CSD will then create a Case File on the Council's Complaints System
- The address against which the complaint is being made will be used to create the Case File
- Details of the complaint will then be recorded on this Case File
- Should further complaint(s) be made against the same address, then the same Case File will be used and the new complaint(s) will be added to this
- This action ensures that there is only one Case File against a given property even though there may be a multiple of complaints recorded on the said Case File relating to the said property
- CSD will then forward this complaint to the Anti-Social Behaviour Unit which will instigate the following procedure:

Step 1: Contact the complainant

- Contact the complainant and arrange for the complainant to attend for interview at Council offices.
- Where the complainant refuses to attend for interview, no further action is possible.
- Prior to the interview, review the potential respondent's original signed tenancy agreement to ensure the alleged breach of tenancy is listed in the conditions of the signed tenancy agreement or listed in the legislation.

Step 2: Interview with the complainant

The complainant should be advised of the following at the outset of the interview:

- Complete confidentiality at this point of the process.
- The purpose of the interview.
- The interview will be documented/recorded and statements given by the complainant will need to be signed off as accurate by the complainant.
- Advise the complainant of the overall procedure which will follow including the possibility of a court appearance.
- The complainant should be advised to contact the Gardai where appropriate, this will assist in accurate incident recording/evidence gathering.
- Where necessary the complainant should create a record/log of each incident including the nature of the incident, time, date and any witnesses

Step 3: where the ASB team are satisfied that a breach of tenancy has occurred

- The respondent shall be issued with a letter outlining the alleged breach of tenancy and requested to attend for interview at the Councils offices.
- Where the respondent refuses to attend for interview, a tenancy notification will be issued to the respondent outlining the alleged breach of tenancy and the Councils policy in this regard, a further invitation to attend for interview should be included.
- Continued refusal to co-operate with the Council or where ongoing ASB reports are received will result in tenancy warnings being issued and ultimately the possibility of court proceedings, Cases which are likely to require tenancy warnings and leading to court proceedings must be

referred to the case conference team and the Council's Legal Advisors for review and advice prior to any progression of tenancy warnings.

Step 4: Interview with the respondent

The respondent should be advised of the following at the outset of the interview:

- Complete confidentiality at this point in the process.
- The purpose of the interview.
- The interview will be documented/recorded and statements given by the respondent will need to be signed off as accurate by the respondent.
- Advise the respondent of the overall procedure which will follow including the possibility of court proceedings to resolve the situation.

Where appropriate i.e. admission of breach of tenancy, issue tenancy warning.

Where the respondent is denying the allegation or accusing the complainant of ASB, seek evidence to support the respondent's opinion/ allegation.

Step 5: resolving the difficulties between the parties

- Following the initial investigations, interviews and evidence gathering, the case will be reviewed by the ASB team and a proposed strategy will be presented to the case conference team for decision on the best method of resolving the case.
- Where the team agree to progress the matter through the judicial system by means of a possession order or excluding order the appropriate files/evidence shall be review by the Council's Legal Advisors before instigating the legal process.

Other means of resolving issues to be considered prior to legal proceedings

- Provide mediation service
- Involving other agencies

NOTE: Anonymous complaints will only be investigated where there may be a significant risk of injury to a member of the public, tenant, Council employee or significant damage to property.