

**Social Housing PPP Programme – ANTI
SOCIAL BEHAVIOUR POLICY**

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Acronyms

ASB.....	Anti-Social Behaviour
CDO.....	Community Development Officer
HSCO	Housing Services Co-ordinator
HM.....	Housing Manager

Anti-Social Behaviour Procedure

1. Introduction

TORC is committed to preventing and tackling Anti-social Behaviour (ASB) within all social housing developments. TORC is cognisant that anti-social behaviour can have a negative and detrimental effect on the peace and enjoyment of our tenants and families. Therefore, all measures will be undertaken to ensure tenants can live in their homes free from ASB and from any nuisance behaviour that detracts from their quality of life.

TORC recognises that while there is an obligation on tenants to adhere to the Tenancy Agreement, there is also an obligation on TORC to enforce the Tenancy Agreement, when breaches arise.

Our ASB strategy complies with the legislative and regulatory framework principally derived from the Housing Acts 1966 - 2009. It is also consistent with the requirements of the project agreement and relevant Local Authority policies.

2. Anti-Social Behaviour Definition

ASB is defined in the Housing (Miscellaneous Provisions) Act 2014 as:

- The manufacture, production, preparation, importation, exportation, sale, supply and possession for the purposes or supply or distribution of a controlled drug;
- Any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, alarm, loss, or fear to any persons living, working or otherwise lawfully in or in the vicinity of a house and includes:
 - Violence, threats, intimidation, coercion, harassment, or serious obstruction of any person.
 - Behaviour which causes any significant or persistent impairment of a person's use or enjoyment of their home.
 - Damage or defacement to properties i.e., graffiti.

The definition does not include disturbance, annoyance or nuisance or other activities, which would normally be associated with the serious problems by which the Act is targeted. Such activities would likely represent a breach of tenancy agreement and are included in **Section E – Conduct of Tenants/Anti-Social Behaviour** of the tenant agreement which advised that:

- Neither the Tenant nor any member of his household shall use the Dwelling for any illegal or immoral purpose or for the commission of an Arrestable Offence.
- The Tenant shall not cause any nuisance or be guilty of or permit any conduct likely to cause annoyance or disturbance to his/her neighbours.

The phrase “nuisance, annoyance or disturbance” includes, inter alia, the following:

- Harassment violence or threats of violence, intimidation, coercion, harassment or serious obstruction of any person or property.
- 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.
- Threats, abuse or harassment of any kind or any act or omission 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.
- Any act or omission, which creates danger to the well-being of any neighbour or to his or her belongings.
- The Tenant must not, at any time, invite or allow to remain on any part of the Dwelling or garden, any persons in respect of whom the Landlord has notified the Tenant that they should not enter or remain on the property.

- Obstructions of any common areas, doorways and other exits and entrances in the block and in the estate.

It should be noted, any Tenant evicted for a breach of the above, will be deemed for the purpose of rehousing to have deliberately rendered himself homeless within the meaning of Section 2 of the Housing Act, 1988, and may not be provided with another home by the Landlord. In order for the landlord to be satisfied that the evicted tenant and his family are capable of living and agreeing to living in the community without causing a further breach for this condition, that the circumstances of their eviction need to be considered as part of their return on a case by case basis.

3. ASB Strategy

TORC recognises that the most effective method to combat ASB is to prevent it from occurring. We have a full time Community Development Office and dedicated HSCO's who are responsible for dealing with all interactions with tenants. They will work to proactively prevent ASB as follows:

- Pro-actively engage and involve tenants in the establishment of resident's associations to encourage greater tenant participation in estates, to help build positive communities.
- Work closely and maintain relationships with An Garda Síochána, HSE and other local and national agencies to reduce ASB in estates.
- Promote relationships and foster co-operation between all stakeholders and residents' associations in community projects aimed at improving the well-being of residents and the visual enhancement of estates; and
- Promote good estate management by ensuring all tenants participate in a pre-tenancy course prior to the occupation of any dwelling.
- Work in tandem with other agencies and organisations to encourage and promote youth development within the area.
- Provide training to staff working directly on the reduction of anti-social behaviour and ensure all staff are compliant with relevant lone working policies and safe systems of work.

TORC will also continually work with tenants and partner agencies such as the Community Gardaí, resident's associations, neighbourhood watch etc. to develop strategies to discourage and prevent ASB within the Social Housing Developments. We undertake this in the following ways:

- Where necessary, develop crime prevention initiatives in partnership with other agencies.
- Ensure clear and comprehensive information (e.g., Tenant Handbook, Tenancy Agreement) is provided at 'sign up' stage to ensure that the tenancy conditions are fully understood.
- Proactively promote resident associations and link in with community initiatives such as neighbourhood watch schemes.
- Ensure that all potential Tenants have clear Estate Management Checks.

4. Complaints Procedure

While tenants can report ASB verbally to the Helpdesk, directly to the HSCO, in writing or via email. We will follow up with the complainant within 1 day of receipt of any report of ASB to determine the cause and nature of the complaint and its impact on the complainant and wider community. We will encourage complainants to complete an 'An Anti-Social Behaviour Complaint Form' (**Appendix 1**).

As part of this form, the complainant will give permission to use information/evidence given should the complaint need to progress through the courts.

We will advise the complainant that concerns relating to alleged criminal behaviour, drugs and public order offences should also be referred by them to An Garda Síochána as a matter of urgency.

The ASB form will require the following details to be provided:

- Date (and time if known) of the incident
- Details of the alleged offender/s if known
- Nature of the incident

- Details of any witnesses; and
- Supporting evidence of the incident from another source, e.g., the Gardaí.

All valid complaints will be investigated in a fair, impartial, and objective manner.

5. Responding to a Report of ASB

The HSCO will seek to ensure that complaints are not vexatious or without substance and to establish, where possible, the reliability and credibility of all complainants. To eliminate vexatious reports, we will encourage all complainants to complete the ASB form (**Appendix 1**). However, if we are satisfied that more than one resident has been impacted by the same ASB and has been verified we can investigate and determine what action is required.

Following receipt of receiving the completed ASB Form, the HSCO will contact the complainant within **1 working day** of receiving the complaint to discuss the complaint. This may include:

- Confirm with the complainant that permission is granted to use information/evidence given should the complaint need to progress through a dispute resolution process.
- Agreement to discuss the matter with all parties involved including the alleged perpetrator.
- Discuss the need to possibly obtain statements from other witnesses.
- Seeking supporting evidence from other agencies where applicable.

If the complaint is specific and easily identifiable to the other party, it will not be possible to talk in general terms to the respondent, so therefore it must be made clear to the complainant that to pursue the complaint, TORC will need to make specific references to the complainant and they should be made aware of the potential consequences of this. The HSCO will advise and encourage all residents to report and contact the Gardaí to report incidents of ASB or disturbances which may impact on them. By doing so, the Gardaí attending will keep a record and a relevant pulse number will be given to the complainant. The HSCO can request this and refer to it as required. The benefits of external agency involvement can help to strengthen and enhance the gathering of evidence and potential witnesses where residents are reluctant to come forward with and identify themselves as complainants.

The HSCO should also raise the possibility of Legal Action being taken, should the alleged ASB be persistent and substantiated. The complainant should understand why Legal Action might be necessary, and what is required in terms of evidence, and what is potentially required of them as a witness. The HSCO will confirm and record with the complainant if they would be willing to act as a witness in any subsequent Legal Action.

If the complainant does not agree to TORC contacting the respondent, the reasons for this should be recorded by the HSCO, it is unlikely that TORC will be able to rectify the problem without this contact; this should be clearly explained to the complainant.

Following a discussion between the HSCO and the complainant, the HSCO should produce a full written account of the discussion, and all notes and actions should be recorded on file. A copy of this will be sent to the complainant for their records.

An interview with the respondent will only take place with the complainant's permission. If the complainant does not wish to be identified; the HSCO will determine if the complaint warrants further investigation. In this case, the HSCO should only invite the respondent for interview, if they are confident that the complaint can be discussed in general terms and will not result in the complainant's identity being disclosed or guessed. The respondent must be advised in this case, that they cannot be told the name of the complainant.

It is important to note, that following the above process, the HSCO may determine that the complaint of activities does not fall within the definition of ASB but does constitute a breach of the tenancy agreement. These will also be investigated but treated as a breach of tenancy. In some cases, it may be inappropriate or unnecessary to interview the respondent, e.g., where a complaint is not of a serious nature.

6. Investigating a complaint(s):

Following receipt of a complaint form received, initial discussion with the complainant and initial investigations by the HSCO, the respondent is written to and requested to attend for a meeting either face to face or over the phone, within a reasonable maximum timeframe of 4 working days. The letter will advise that we have received a complaint, the name of the HSCO to contact, and that the meeting will give them an opportunity to present their point of view.

At the meeting, the complaints should be put simply and clearly giving only the basic facts and the HSCO should approach the interview with an open mind and use it as an opportunity to establish the facts. There may be a reasonable explanation for each incident or evidence to show that the complaints are unfounded or malicious.

The HSCO should have a copy of the Tenancy Agreement with them, to be able to point out any breaches to the respondent.

The respondent should be allowed time to give full and clear answers to each point raised. The HSCO should take comprehensive notes of what is discussed and produce a full written account of the interview and agreed actions after the interview and enter the account on the case file.

At the end of the meeting, the HSCO should confirm the next steps and any further actions that can be agreed at this stage. All of what was discussed will be recorded on the tenants file. A copy of this will be sent to the respondent for their record in the event there is follow up action.

Following this, the HSCO will gather and verify as much independent evidence as possible and additional information will be requested from other statutory agencies such as the Gardaí that may be of relevance to the investigation. Having fully considered all relevant information relating to the investigation, in deciding the appropriate course of action to take consideration is given to:

- The seriousness/nature of the complaint.
- The reliability of the information grounding the complaint.
- The response of the respondent to the complaint.
- The history of past behaviour (if any).
- The adequacy of alternative measures.
- The interest of good estate management; and
- All information / submissions / representations received.

TORC, acting as the agent on behalf of the Local Authority will use a variety of enforcement actions including:

- No further action warranted – complaint closed.
- Mediation – initially in house but when required outsource external services i.e., Threshold.
- In house Tenant Training
- Verbal Warning.
- 1st Written Warning
- 2nd Written Warning; or
- Statutory Tenancy Warning and/or re-possession proceedings.

All actions taken, will be recorded on the tenants file so that reference can be made to the information at any time.

While TORC will seek to ensure that all steps are taken to ensure ASB is prevented in estates, they will also work with tenants to ensure that statutory tenancy warnings and repossession proceedings are a last resort.

7. Breach of Tenancy Agreement

As mentioned above, the HSCO may determine that the complaint of activities does not fall within the definition of ASB but does constitute a breach of the tenancy agreement. These will also be investigated but treated as a breach of tenancy.

Examples of breaches to the letting agreement are detailed with **Section C** and **Section D** of the **SHB 2 PPP Residential Tenancy Agreement**.

Additionally, the HSCO or CDO while on site, or during a house inspection may identify a potential breach of a tenancy agreement. In this instance, the HSCO may discuss the breach with the tenant while on site there and then or ring them to discuss the breach if they are not available.

The HSCO will record all notes of the discussion with the tenant on their account. The HSCO will also determine the best course of action to take and explain this to the tenant. The HSCO may decide no further action is required if the tenant can remedy the breach immediately or may decide to issue a 1st or 2nd written warning. The HSCO will advise the tenant of this during their discussions.

8. Tenancy Warnings and Possession Protocol

There may be instances when further action may be required, resulting in formal legal proceedings against the tenant being undertaken which could ultimately lead to repossession of the property, in the most exceptional circumstances.

The possession of a dwelling may be required if there has been a serious or repeated breach of a Tenancy Agreement, where a dwelling is occupied by a person who has no lawful authority to reside there or where dwelling has been abandoned and lawful ground to recover possession of the dwelling exist. In these instances, TORC will initiate the Tenancy Warnings and Possession Protocol (Schedule 10 Appendix 2).

9. Tenancy Warning Notices

If TORC decides a tenancy warning should be issued to a Tenant for the purposes of the Housing Acts 1966-2014, TORC will, within **five working days** of forming this opinion will inform the Local Authority in writing, The Notice will include as a minimum the following:

- The statutory provision and/or nature of the Tenancy Agreement which has been breached.
- The nature, occasion, and effect of the breach.
- The requirements in regard to the cessation of the breach.
- Proposed action to be taken in the event of continuation of this breach.
- The details of the Tenant's right to request a review of the tenancy warning notice.
- Details of the complainant and the fact due regard has been taken to ensure that person is not subject to violence, threat, or fear as a consequence of informing TORC of the breach.
- Recommendations of TORC as to whether a tenancy warning should be issued or whether it should be dispensed with an application for possession of a dwelling should be undertaken. Our in-house legal advisor can provide advice on this process as required; and
- A warranty to the LA that all information contained in the notice is true and accurate and that no omission has been made that would make the notice misleading, untrue or inaccurate in any way, and all opinions are honest and reasonable and that it is not aware of any facts or circumstances that have not been disclosed to the LA which might if disclosed, adversely affect the decision of the LA whether or not to issue a tenancy warning notice.

Following receipt of the above, once the LA in its discretion determines that the tenancy warning should be issued to the Tenant, the following occurs:

1. The HSCO prepares the Tenancy Warning Notice and gives this to the Helpdesk. This is then passed to the Local Authority. The Local Authority reviews and signs the tenancy warning notice and returns it to the Helpdesk.

2. The Helpdesk receives the tenancy warning notice signed from the Local Authority and passes it to the HSCO who serves the tenant with the notice in accordance with the Law.

10. Proceeding for possession of a Dwelling

If TORC is of the view that an application for entry to and security of, or possession of a Dwelling, or exclusion of a tenant from a dwelling, should be made to the Irish Courts for the purpose of Housing Acts 1996-2014, TORC will within five working days of forming this view, inform the Local Authority of this view by way of written notice.

The notice will include as a minimum:

- The statutory provision and/or nature of the Tenancy Agreement which has been breached.
- The nature, occasion, and effect of the breach, including if applicable the repetition of a breach following a tenancy warning notice; and
- Details of the complainant and the fact due regard has been taken to ensure that person is not subject to violence, threat, or fear because of informing TORC of the breach.
- A warranty to the LA that all information contained in the notice is true and accurate and that no omission has been made that would make the notice misleading, untrue or inaccurate in any way, and all opinions are honest and reasonable and that it is not aware of any facts or circumstances that have not been disclosed to the LA which might if disclosed, adversely affect the decision of the LA whether or not to issue a tenancy warning notice.

Following receipt of the Notice, and in the event that the LA, in its discretion determines that an application should be made to the Irish Courts, TORC will following the procedure as follows:

- Prepare the requisite documentation, in accordance with the Law, in order to enable the Local Authority to make an application in its name, as the Landlord.
- Instruct suitably qualified and experienced legal counsel
- Revise the requisite documentation, in accordance with the Law, if required, following consultation with legal counsel and the Local Authority
- File and serve the requisite documentation in the Irish Court and upon the tenant, as applicable in accordance with the Law
- Attend the hearing of the Application before the Irish Court and give evidence if required

Following the hearing of the Application, TORC will inform the LA of the outcome of the application. Where successful, TORC will manage the enforcement of the order issued by the Irish Courts in accordance with the terms of the court order and the Law and may include, without limitation, liaising with the relevant sheriff's office; and manage to the return to the Tenant, or disposal of, the contents of the dwelling in accordance with the Law.

It is important to note that if any error, omission, inaccuracy, or inadequacy of any kind whatsoever in any documentation relevant to the above is identified by Torc, they will inform the Local Authority immediately and take reasonable steps at its own cost to remedy any error, omission, inaccuracy, or inadequacy of any kind whatsoever.

PPP Co. shall indemnify, keep indemnified and hold the Local Authority and the Authority harmless against any claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising out of any act, omission, default.

11. Appendix 1 - Anti-Social Behaviour Complaint Form

ANTI SOCIAL BEHAVIOUR COMPLAINT FORM

Strictly Confidential

Complainant details

Name			
Address			
Telephone		Email	

Person(s) about whom the complaint is being made

Name			
Address			

Nature of complaint (list specific incidents including location, times, dates, other witnesses etc., as detailed as possible

Reporting details

Reported to Gardai	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Garda station	
Name of Garda						

Declaration

I hereby declare that the foregoing information I have supplied to TORC Sustainable Housing is truthful and accurate.







I Agree to the information on this this form being used by TORC Sustainable Housing as part of evidence and agree that they can follow up on complaint accordingly

Signature _____

Date _____

Return completed forms to:
 TORC Sustainable Housing – 1 Empress Place, Summerhill North, Cork
 Email: info@torcsustainablehousing.ie

12. Appendix 2 – Local Authority Policies

Council	ASB Strategy
<p>Kildare County Council</p>	<p> Anti social behaviour strategy adopted 170; Anti social behaviour strategy adopted 170;</p>
<p>Cork County Council</p>	<p> Cork County Council Anti Social Behaviour Cork County Council Anti Social Behaviour</p>
<p>Waterford City & County Council</p>	<p> SHB2 - Waterford - Anti Social Behaviour SHB2 - Waterford - Anti Social Behaviour</p>
<p>Galway City Council</p>	<p> Anti-Social Behaviour Strategy 2017.pdf Anti-Social Behaviour Strategy 2017.pdf</p>
<p>Roscommon County Council</p>	<p> RCC ASB - adopted 26th June 2017.pdf RCC ASB - adopted 26th June 2017.pdf</p>
<p>Clare County Council</p>	<p> Clare County Council ASB Strategy Clare County Council ASB Strategy</p>