

# Estate Management and Anti-Social Behaviour in Dublin

A Study of the Impact of the Housing  
(Miscellaneous Provisions) Act 1997

Clodagh Memery  
Liz Kerrins



A Threshold Publication

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**Clodagh Memery  
Liz Kerrins**

# Estate Management and Anti-Social Behaviour in Dublin

A Study of the Implementation of the Housing (Miscellaneous Provisions) Act 1997

# 1

## Placing the Housing Act 1997 in Context

### 1.1 Introduction

Drug related anti social behaviour has become one of the highest profile and contentious issues in relation to estate management and local authority housing. The development of more locally based estate management practices at a time of increasing pressure from communities affected by the drug issue for action to be taken, led to the introduction of the Housing (Miscellaneous Provisions) Act 1997 and a series of new practices in relation to this anti social behaviour. The pressure on local authorities due to increasing waiting lists for housing has also played its role in the development of local authority practices for tackling anti social behaviour.

The growth of drug usage and the subsequent public health problems has never been fully dealt with by central government and has manifested itself in 'anti-social behaviour' in local authority estates in particular (although the drug issues are not confined solely to these areas).

There are a series of issues that must be referred to at this stage of the report in relation to the development of local authority housing.

Historically local authorities have concentrated on the centralised management of its housing stock in relation to administrative issues such as housing allocation, periodic repairs and rent collection. Up until possibly the mid-1990s, there has been a failure by local authorities to recognise the importance of local integrated estate management practices. Even now many local authorities are only beginning to engage in these activities.

Local authority housing is in many ways a residual housing sector. This has been partly due to tenant purchase schemes, housing allocations practices of the 1980s and the absence of local estate management and community empowerment. The pursuit of home ownership by the vast majority of the population through financial backing from the government has also been a major factor in the residualisation of local authority housing.

The combination of these practices led to the creation of local authority estates with tenants largely from the one socio-economic background, particularly in flat complexes. At the same time the physical up keep of these complexes was poor and the local authorities definition of successful estate management did not include the wide range of social, economic and cultural needs of the tenants, leading to the building of viable communities. The residualisation of the local authority housing sector has led to it becoming the housing tenure of the most disadvantaged in Irish society. Those in employment have either availed of tenant purchase or purchased their own home privately.

In the 1990s the Dublin local authorities began a process of regeneration of estates, and in various areas started to work in partnership with community based organisations and in particular the area based partnerships. In these environments the local authorities began to learn the importance of estate management practices, which recognise the need to develop sustainable communities. At the same time local authority officials and residents have had to cope with drug-related issues that are affecting the sustainability of their communities and therefore their futures. The economic growth of the 1990s has not resolved the difficulties for all local authority residents.

By the 1990s communities began to take matters into their own hands. This was through drug marches and vigilante activities as a means of drawing attention to the drug problem and also as a means of removing identified drug dealers in the area. This action was one of the factors that led to the speedy introduction of the Housing Act 1997. Section 1.4 discusses these issues further.

Housing lists for local authority housing across the country are at the time of writing in the region of 40,000 households. Dublin local authorities have no problems finding tenants for their dwellings in comparison to the 1980s. All areas with local authority housing have long waiting lists, even in estates where it would have been very difficult to get people to take a tenancy before the current housing crisis. Consequently there is now an allocations culture that not only assesses the means and housing needs of applicants, but also handpicks the 'ideal' tenant for housing.

Paradoxically in the context of the current housing affordability crisis, employed local authority tenants who in the past would have bought a house in the private market (particularly if they were living in flat complexes and removed from tenant purchase) are possibly remaining in their local authority accommodation. This brings a better mix to local authority estates and may contribute to the stabilisation and development of these estates.

## **1.2 Purpose of the Study**

The aim of this study is to monitor the implementation of the Housing (Miscellaneous Provisions) Act, 1997 and to gauge the extent of new 'anti-social' homeless resulting from the operation of the Act.

The study has four main objectives:

1. to study the progress of the implementation of the Housing Act, 1997 by the four Dublin local authorities;
2. to assess the role of the Housing Act 1997 in the overall estate management practices of the four Dublin local authorities;
3. to monitor the implementation of the Housing Act 1997 by Community Welfare Officers in the ERHA with regard to rent supplement; and
4. to examine the impact of the implementation of the 1997 Act upon homeless service providers in Dublin as the result of actions taken by local authorities and the Eastern Regional Health Authority.



### 1.3 Basic Principles

It is important to set out basic principles in relation to housing and drug use before reporting on this study. These principles should be kept in mind when reading this report;

- ◆ Threshold believes that people have a right to a home;
- ◆ households have a right to the quiet enjoyment of their homes;
- ◆ social landlords, primarily local authority in the context of this report, have a duty to ensure that tenants can live without fear in their community;
- ◆ community groups have an important role to play within estate management;
- ◆ the future of an estate cannot be destroyed by the activities of a few; and
  - ◆ housing provision alone does not build sustainable communities.

### 1.4 Background to Housing (Miscellaneous Provisions) Act 1997

It is important to review the environment that led to the introduction of the Housing Act 1997. In 1996 there was a great urgency by which the government wanted to 'do something' about the level of drug dealing on local authority estates due to a combination of factors.

Over the course of the 1980s and early 1990s, there was clear evidence of the deterioration of several local authority estates, particularly flat complexes in Dublin. There was a combination of factors which led to social exclusion i.e. unemployment, low levels of education and training, poor housing conditions and drug abuse leading to prevalence of drug dealers.

Local estate management was non-existent and many communities, particularly in Dublin, began to take matters into their own hands to draw attention to the drug dealers. Members of the community engaged in direct action by marching on the homes of suspected drug dealers with the intention of intimidating them out of the community. At times vigilante behaviour of a more violent type occurred and the peak of this type of activity came with the killing of Josie Dwyer in Dublin city in 1996.

The following statement is taken from a leaflet put through the doors of residents in Ballybough in 1996 which illustrates the level of feeling in communities:

Get out and lets clear this scum out once and for all and tell the others they are not welcome

Drug marches led to increased media attention and the wider public took more notice of what was happening on these estates largely due to the link between drugs and crime. Veronica Guerin was murdered in 1996 and drugs went straight to the top of the political agenda. The series of combined events increased the public intolerance of drug related activity as a whole. The quote below illustrates the type of political statements being made;

'...it is not an exaggeration to say that the drugs and crime problem is the greatest epidemic since the outbreak of TB'

(*Gay Mitchell T.D, Deal Speech reported in the Irish Times, 27/7/96*).

The pressure was on the government to take legislative steps to tackle the issues of drug dealers, associated crime and vigilante activities.

In December 1996, the government introduced the Housing (Miscellaneous Provisions) Bill. The arrival of this Bill was publicised by the Government as part of its wide-ranging legislative response to the drugs crisis and the concern at the time with public order. The Bill quickly proceeded through the Dail with few amendments and was enacted in July 1997.

According to the circular released by the Department of the Environment at the time of commencement of the 1997 Act:<sup>1</sup>

The primary purpose of the Act is to provide for a range of measures to assist housing authorities and approved voluntary housing bodies in addressing problems arising on their housing estates from drug dealing and serious anti-social behaviour. The Act forms part of a wider range of measures undertaken by Government to deal with the issue of drugs and related crime.

## **1.5 Provisions of the Housing (Miscellaneous Provisions) Act, 1997.**

The Housing Act 1997 provides a range of measures to give local authorities (and approved housing bodies/voluntary housing organisations) the powers to deal with problems arising on their estates from anti-social behaviour, namely drug dealing and violence and intimidation. In practice actions taken are related to drugs in some manner. These measures in this Act that are of relevance to this study in relation to anti-social behaviour are:

- ◆ excluding orders;
- ◆ the power to refuse or defer the letting or sale of a local authority property;
- ◆ the removal of squatters; and
- ◆ the refusal/ withdrawal of SWA by health boards.

The complete legislation is attached in Appendix 1.

### ***1.5.1 Section 3 - excluding orders can be sought by a tenant or a local authority.***

A tenant may apply for an excluding order against any other occupier, including a joint tenant, where the tenant making the application believes the other occupier to be engaging in antisocial behaviour.

A local authority can also apply for an excluding order against an occupier whom the local authority believe to be engaging in anti-social behaviour. This can happen when the tenant and the relevant health board believe that the tenant may be prevented by threat or violence from pursuing an exclusion order application and the local authority believe it to be in the interest of good estate management to apply for the order.

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<sup>1</sup> Department of the Environment Circular H5/97. 13 June 1997

### ***1.5.2 Section 14 (1) - a local authority can refuse to let to, or defer a letting***

A local authority can refuse to let, or defer a letting to a person where the authority considers that person to be involved in anti-social behaviour. A letting can also be refused or deferred where an applicant has not provided the information the local authority deems necessary to an application for housing or if a letting to that person would not be in the interests of good estate management.

### ***1.5.3 Section 14 (2) - refusal to sell***

A local authority can refuse to sell to a tenant where the local authority considers that the tenant is or has been engaged in anti-social behaviour or that the sale would not be in the interests of good estate management

### ***1.5.4 Section 16 - Refusal by a Health Board to pay rent or mortgage supplement***

A health board can refuse to pay rent or mortgage supplement to a person who has been refused housing, evicted or excluded by the local authority on the grounds of anti-social behaviour or in the interests of good estate management.

### ***1.5.5 Section 20 - Removal of Squatters engaged in anti-social behaviour***

Local authorities can request the Gardai to direct a squatter, engaged in anti-social behaviour to leave a local authority dwelling. Gardai have powers to search and arrest those refusing to leave. Penalties include fines and imprisonment for those not complying.

## **1.6 Definitions**

The 1997 Housing (Miscellaneous Provisions) Act can be invoked on the grounds of *anti-social behaviour* by the tenant or occupier or in the interests of *good estate management*.

According to section 1 - (1) of the 1997 Act:

*Anti-social behaviour* includes either or both of the following, namely

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

This definition of anti-social behaviour was clarified in the circular H5/97, bringing a more useful working definition to the legislation. It stated that anti-social behaviour was divided into two types namely drug dealing and serious violence and intimidation. It went on to state that possession of illegal drugs for personal use did not fall into this definition. Neither does damage of property unless this damage is associated with intimidation or threatening behaviour. Any serious intimidation or threatening behaviour must be 'significant and persistent' for the purpose of the 1997 Act.

*Estate management* according to the 1997 Act itself 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.

While the 1997 Act gave the first legislative recognition to estate management, its areas of concern are limited to the management by local authorities of their stock in relation to responding to anti-social behaviour by tenants or occupiers. This view of estate management is negative in that it relates to the removal of tenants and occupiers from their housing and makes no attempt to take a holistic view of the building of communities in relation to employment, education, training or childcare.

## **1.7 The Voluntary Sector Response**

There was not blanket support from the voluntary sector for the Housing Act 1997 and the concerns regarding this Act, came from the agencies that support and campaign for the homeless particularly:

- ◆ Threshold
- ◆ Merchants Quay Project
- ◆ Simon Community

In the run up to the enactment of the legislation Threshold's main concerns regarding the initial Housing Bill 1996 were that:

1. the standard of proof required of anti-social behaviour was very low;
2. the definition of anti-social behaviour contained in the Bill was not confined to drug dealing and related behaviour, but also to a wider range of behaviour;
3. the provisions had the power to remove all access to housing through refusal of lettings which could also lead to a refusal by the health board to pay SWA rent supplement, without any further requirement of proof; and
4. there was no provision for dispute resolution measures as an alternative to punitive action.

The Merchants Quay Project believed back in 1997 that due to the proposed legislation there would be:

- ◆ an increase in homelessness levels among drug users;
- ◆ a strain on resources of the providers of homeless services;
- ◆ increase in drug taking on the street as the problem transferred out of local authority areas onto the streets;
- ◆ a deterioration in the health of drug users who could be evicted; and
- ◆ targeting of drug users for exclusion because it is normal practice for most drug users to sell on a small amount of their drugs to make some money for their next purchase.

The Simon Community also expressed concerns about the Housing Bill 1996, for similar reasons. At a press briefing organised by Threshold in January 1997, Conall MacRiocard of the Simon Community is quoted as saying that whilst he sympathised with local communities affected by drug abuse, the legislation proposed was far too broad and would lead to organisations like Simon ending up with those evicted from local authority estates for drug use (*The Irish Times*, 22/1/91).

The concerns of the voluntary organisations in 1999 are addressed in chapter three.

## **1.8 The Homeless Initiative**

The Homeless Initiative also had fears about the outcomes of the implementation of the Housing (Miscellaneous Provisions) Act, 1997. These concerns were set down in a response to the Department of the Environment's draft circular to local authorities on the Housing Act 1997<sup>2</sup> and they were as follows:

1. people evicted because of anti-social behaviour would be homeless and therefore dependent on services for homeless people;
2. legislation would effectively move the problem of anti-social behaviour from local communities into Dublin city centre where the services for homeless people are located, and disrupt the homeless community already in existence; and
3. the provisions in the legislation to refuse rent supplement and local authority housing, would have the potential to 'lock these people into permanent homelessness'.

As a result of their concerns the Homeless Initiative sponsored this Threshold study.

## **1.9 Methodology**

When Threshold decided to monitor the impact of the Housing Act 1997, it was expected that the local authorities and subsequently the Eastern Regional Health Authority (ERHA) would use the provisions of this Act extensively. This assumption was linked to the particularly high media profile of drug dealing on council estates in Dublin and the extent of vigilante activity

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<sup>2</sup> Homeless Initiative. Comments on the Department of Environment Draft Circular to Local Authorities on the Housing (Miscellaneous Provisions) Act, 1997. June 1997.

and community protest.

In fact the issues surrounding the Housing Act 1997 are more related to estate management practices, the operation of the Housing Act 1966, allocations procedures and the role of the Scheme of Letting Priorities.

Therefore the methodology can be described as follows:

1. Examination of estate management practices of local authorities in relation to antisocial behaviour;
2. Collecting information from the four Dublin local authorities on numbers of tenants, housing applicants and illegal occupiers directly affected by the Housing Act 1997;
3. Collecting information on numbers refused rent supplement due to their removal from local authority accommodation for anti-social behaviour; and
4. Contacting appropriate voluntary organisations to assess the increase level of service demand.

### ***1.9.1 Monitoring Contacts***

A number of contacts were established at the outset of the study, to act as contact point for accessing the data regarding the number of households affected by the 1997 Act. These contacts were also interviewed regarding their practices in relation to estate management, which forms the core of this study. The contacts were:

- ◆ Mick Ryan, Administrative Officer, Estate Management Section, Dublin Corporation
- ◆ Joe Farrell, Estate Services Officer, Ballymun Regional Office
- ◆ Gilbert Power, Chief Regional Officer, Ballyfermot Regional Office
- ◆ Jim Beggan, Chief Regional Officer, North Inner City Regional Office
- ◆ George Perry, Chief Regional Officer, Darndale Regional Office
- ◆ Damien Rafferty, Regional Housing Officer, Darndale Regional Office
- ◆ Hugh Coughlan, Housing Officer, Housing Department, Dun Laoghaire-Rathdown County Council
- ◆ Martin Judge, Administrative Officer, Housing Department, South Dublin County Council
- ◆ Richard Brady, Administrative Officer, Housing Department, Fingal County Council
- ◆ Gerry Kenny, Superintendent Community Welfare Officer, Homeless Services, Eastern Health Board
- ◆ Dermot Kavanagh, Research Manager, Merchants Quay
- ◆ Sean Megahey, Outreach Co-ordinator, Simon Dublin
- ◆ Louise Mullen, Dublin Services Co-ordinator, Threshold

### ***1.9.2 Data Collection: August 1999 to October 1999***

Threshold knows from experience that the direct use of the Housing Act 1997 has been limited and that discretionary and indirect practices are more common. Often the Housing Act 1966

is used to deal with anti-social behaviour (see section 2.7) through evicting households or encouraging voluntary surrender. (Chapter 2 discusses the findings in detail).

In August 1999 it was decided that following two years of existence of the Housing Act 1997, that it was time to document what impact its provisions have been having in Dublin. Semi-structured interviews were carried out with the identified contacts (1.9.1) to establish the practices and processes adopted in the utilisation of the provisions of the Housing Act 1997. These interviews were conducted over the telephone or in person depending on the level of activity that local authorities were reporting in relation to estate management and anti-social behaviour. The contacts supplied the data that was available, which was limited due to the more common use of discretionary practices, which is discussed in Chapter 2.

Interviews were also conducted with the voluntary sector contacts to assess the impact on their services and their current views on the Housing Act 1997.

## **1.10 Report Structure**

The remainder of the report is structured as follows:

Chapter 2 - reports on the direct and indirect use of the legislation by the local authorities and the ERHA.

Chapter 3 - reports on the voluntary sector perspective. Chapter 4 - sets out the conclusions and a series of recommendations.

# Approach of the Dublin Local Authorities and Eastern Regional Health Authority to Anti-Social Behaviour

## 2.1 Introduction

This chapter examines the level of use of the Housing (Miscellaneous Provisions) Act 1997 by the four Dublin local authorities and the Eastern Regional Health Authority (ERHA).

Firstly there are a series of overall points, which must be made, in order to put the findings in context:

1. Approximately 63% of the local authority housing stock in Dublin is held by Dublin Corporation;
2. Fingal County Council have only 3,200 units of accommodation of which 36 are flats while South Dublin County Council hold almost 8,000 units with 300 of those in flats. Dun Laoghaire–Rathdown’s proportion of flats is slightly higher having 897 out of approximately, 4,000 housing units;
3. Of Dublin Corporation’s 24,000 housing units approximately 16,000 are flats, often centrally located in the city; and
4. Flat complexes have become associated with drug dealing and drug taking particularly in lift shafts, basements, stairwells, and abandoned flats.

Firstly this study demonstrates that most of the activity in relation to anti-social behaviour is linked to Dublin Corporation reflecting the size and nature of their housing stock. Consequently Dublin Corporation has a developed policy on anti-social behaviour. Fingal County Council report little activity in this area, due to a small stock of mainly houses, and will largely not be referred to in this chapter. Appendix 2 provides a copy of ‘anti-social behaviour complaint handling procedure’ received from Fingal County Council.

Secondly, during this study it became clear that outside of the Dublin Corporation area, there is little direct use of the measures of the Housing Act 1997. Instead evidence exists of the use of indirect provisions of the 1997 Act. Records are not kept for many of these types of practices, making many actions taken in relation to the provisions of the 1997 Act near impossible to quantify for the purpose of this report.



It should be stated at this point that all Dublin local authorities use the powers to check the backgrounds of prospective tenants with the Gardai, as provided for in the 1997 Act (see section 2.4.1). The Eastern Regional Health Authority also exercises its power under the 1997 Act to refuse the rent supplement to those losing their local authority accommodation due to the use of the 1997 Act. However the use of this power is poorly recorded by the ERHA thus making quantification difficult (see section 2.6).

### ***2.1.1 Defining the terms ‘direct’ and ‘indirect use of the 1997, Housing (Miscellaneous Provisions) Act***

This report uses the terms ‘direct\* and ‘indirect’ in its description of how the Housing Act 1997 is used.

1. Direct use - includes full legal proceedings in the case of evictions or removals, excluding orders, official documentation of refusal to let and refusal to sell, use of Garda checks for potential tenants of local authority housing, documentation of refusal of SWA rent supplement;
2. Indirect use - full legal proceedings not followed through as person involved adopts an alternative course of action, such as voluntary surrender; following meeting with the local authority regarding alleged anti-social behaviour the person leaves voluntarily for fear of losing access to SWA rent supplement, and local authority housing lists; following similar meeting, person changes their behaviour for fear of losing tenancy and access to SWA rent supplement, and local authority housing lists; person leaves to ensure that the actual tenant does not lose their tenancy due to his/her actions.

### ***2.1.2 Chapter Structure***

This chapter focuses on both the direct and indirect use of each of the four provisions of the Housing Act 1997 that we are concerned with:

1. excluding orders;
2. removal of illegal occupiers;
3. refusal to let and refusal to sell; and
4. refusal of SWA rent supplement.

Focusing on the above four provisions, the analysis of the actual use and impact of the Housing Act 1997 is in three parts.

1. Quantify the direct use of the Housing Act 1997;
2. Assess the indirect use of the Housing Act 1997; and
3. Examine processes where possible.

This analysis is based upon the recorded information supplied by the four Dublin local authorities and the ERHA and the interviews conducted with the monitoring contacts (section 1.9.1)

## 2.2 Section 3 Housing Act 1997 - Excluding Orders

The Housing Act 1997 provides that the tenant or the local authority may seek to exclude an individual engaging in anti-social behaviour. The tenant can take out an order to protect his or her own tenancy. This normally prevents eviction of an entire household under the Housing Act 1966. At the time of introduction of this legislation, excluding orders were hailed as a positive and fairer addition to estate management by local authority officials and the community.

In terms of applying for an excluding order, the onus is initially on the tenant to undertake this route. If this is not practical, due to fear and intimidation, the local authority can take out the excluding order. A local authority excluding order must involve the Eastern Regional Health Authority and the Gardai in association with the Housing Welfare Officer.

### 2.2.1 *Distinguishing between tenant exclusion orders and local authority exclusion orders*

In the opinion of many of the local authority officers interviewed, excluding orders undertaken by the local authority have the following enforcement benefits over tenant excluding orders:

- ◆ greater enforcement power, principally because the landlord rather than a tenant takes out the order;
- ◆ the Gardai will enforce a local authority excluding order, should the excluded individual re-appear at the house or flat that s/he was barred from. The Gardai will still take action even if the tenant has allowed the excluded individual re-entry; and
- ◆ the Gardai will also remove the person from any area that the individual enters that they are excluded from eg a block of flats, (excluding orders do not have to be limited to the dwelling unit).

The feeling amongst the local authority panel members interviewed was that an exclusion order taken out by the tenant is weaker because:

- ◆ a tenant who has excluded a household member may voluntarily let that person back in again and the exclusion order is presumed to be then void (not yet tested in court). Obviously if the tenant is being harassed or trying to prevent re-entry from the individual excluded, the Gardai can remove them as long as the tenant has not voluntarily allowed the person back into their home; or
- ◆ the tenant may be intimidated by the excluded party and forced to 'agree' to let the person concerned back in. The tenant is then at risk again from the threat of eviction under the Housing Act 1966 once the local authority and/or community knows that the person identified as engaging in anti-social behaviour has returned.

Dublin Corporation did not share this view, and believed that an excluding order of any type is a court order to be enforced. At the same time the practical difficulties for a tenant achieving an excluding order were recognised.

### 2.2.2 *Findings and Comment*

By December 1999 only **one** excluding order was taken out by a local authority in the Dublin region. Dublin Corporation sponsored this exclusion order, which covered both the dwelling and the block of flats that the unit was in. The exclusion from the block of flats meant that other residents could inform the Garda if the person under the order was seen in the vicinity

of the block. Also exclusion from the block of flats means that the excluded individual cannot be using intimidation strategies in the general area of the flat that s/he is excluded from.

Details of the excluding order that has been taken out and the process involved are in Box 1.

### **Box 1: Excluding Orders - A Case Study of the Process**

The process adopted by the Ballymun Regional Office to achieve an exclusion order, highlights the particular circumstances, the players involved, the sources of information gathered, and the route through the courts.

#### ***Background:***

A father and son were residing in a Dublin Corporation dwelling in Ballymun. The father was the tenant and the son was living in the flat on an 'ad hoc' basis. The son was using the flat for drug dealing and drug usage. Drug parties and gatherings were regular occurrences. The father was removed from the home while these activities were going on and was also being physically assaulted by his son. The father then went to Ballymun Regional Office to seek support. The official recommended an excluding order undertaken by Dublin Corporation through the Regional Office.

#### ***Process:***

- ◆ the tenant came into the Regional Office and a statement was taken regarding the son's behaviour;
- ◆ the individual involved had a joint interview with the Housing Welfare Officer and the tenant; .
- ◆ Gardai were asked for their knowledge of the individual and the anti-social behaviour exhibited and gave verification of this to the Regional Office;
- ◆ the official only met the son once, in the Garda station, where he explained the reasons for the Regional Office seeking the excluding order and explained the power that the local authority had to take this action under the Housing Act 1997;
- ◆ the Gardai then served Notice of Intent;
- ◆ the Eastern Regional Health Authority examined the file, returned comments and had no objections to proceeding with the excluding order.

#### ***Legal Process:***

An excluding order had not been taken out before under this Act and the Ballymun Regional office prepared the case. It was then passed to the Legal Department of Dublin Corporation and a Senior Counsel reviewed the case. Only the local authority officer involved had to act as a witness in court giving evidence of the anti-social behaviour. Neither the housing welfare office nor the Garda were called to the stand. The whole process from opening of file to achieving the excluding order in the courts took six weeks.

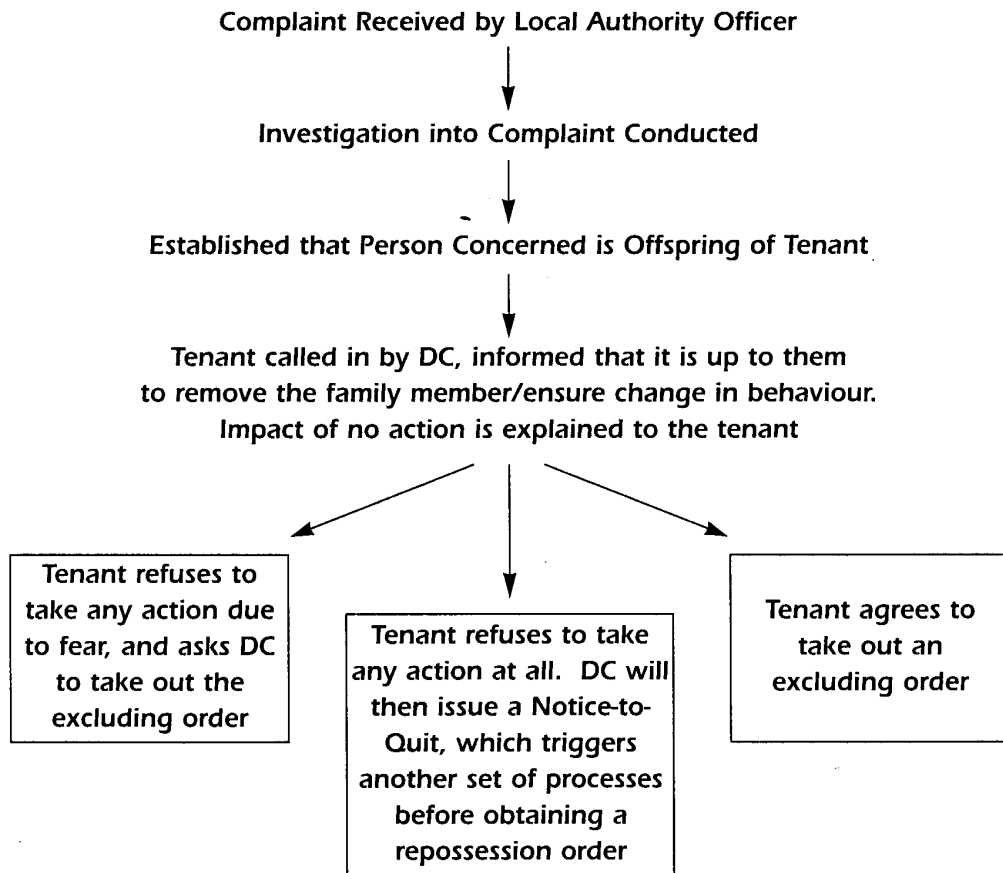
For future exclusion orders, the officer at Ballymun Regional Office believes that the process can be expedited. This is possible because:

1. there is a pro forma to work from in terms of the Court application; and
2. through experience the process could be streamlined.

A small number of excluding orders have been taken out by Dublin Corporation tenants. This number is in single figures. A form has been designed for applying for such an order by Dublin Corporation. The Courts have been made aware that these excluding orders can be granted under the Housing Act 1997.

Figure 1 describes the process in Dublin Corporation, which can lead to an excluding order being taken, either by tenant or local authority or the instigation of the Housing Act 1966, normally in the case where an offspring is engaging in anti-social behaviour.

**Fig 1: Dublin Corporation (DC) Process for Removal**



It appears that excluding orders taken out by the local authority can be more effective because:

1. through the local authority applying for the excluding order, a distance is created between the tenant and the person that s/he wants removed;
2. the local authority can use its resources and legal expertise to move forward with the excluding order.

After the welcoming of Section 3 provision, why has the use of this power been so low? The local authority officers interviewed gave their perspective.

The view from the South Dublin County Council was that the non-use of Section 3 excluding orders to date in their jurisdiction has been related to:

- ◆ a tenant's fears of the person they wish to exclude means that they are reluctant to take out an excluding order themselves;
- ◆ the requirement of proof to be gathered by the local authority to take out an excluding order is off-putting to their officials; and
- ◆ the tenant may not co-operate with the local authority in supporting an exclusion order due to fear and intimidation from the person they are seeking to exclude.

The Dun Laoghaire-Rathdown County Council representative stated that the option of an exclusion order is presented to tenants by the local authority staff, but so far this course of action has not been chosen. It should be emphasised that the local authority concerned is not offering to take out the exclusion order directly. The official stated that the tenant sometimes takes out a barring order under pre-existing legislation.

### ***2.2.3 Indirect Excluding Orders***

Local authorities use discretionary practices in relation to anti-social behaviour. The Housing Act 1997 gave local authority officials additional estate management tools to encourage those involved in anti-social behaviour to leave the estate. This power comes through the provisions of the Housing Act 1997 to allow for the:

- ◆ refusal of SWA rent supplement (section 1.5.4)
- ◆ refusal to let by local authorities (section 1.5.2)

for those that have been excluded or evicted due to anti-social behaviour. This leaves little to no housing options for households concerned, should they choose to wait for a repossession order. It is not Dublin Corporation's policy to encourage people to leave an estate, according to the contact official interviewed. Although-while legal proceedings are being put in place, the person (s) concerned may choose to leave before their case gets a court hearing.

Local authority officials found themselves with increased powers to encourage other tenants in the household to make the person concerned to leave through the 1997 Housing Act. Consequently under pressure from both the officials and the local communities, women (normally) are in many cases encouraged to 'get rid' of their partner, son or daughter, from the home. In doing so the main tenant is told that the tenancy is safe, otherwise an eviction of the entire household under the Housing Act 1966 may take place, citing anti-social behaviour. The provisions under Section 14 and Section 16 of the 1997 Housing Act leave no alternative housing options, bar emergency accommodation.

This approach is sometimes referred to as '**tough love**' by the voluntary sector. The contacts from the voluntary sector particularly stressed the importance of this indirect use of the legislation. Families are being forced to make a choice between their partners and children (over 16 years) and maintaining their home, in the knowledge that the household could be evicted and other housing options would probably be closed to them.

'In-house' excluding orders can be undertaken by the local authorities, citing the tenancy agreement signed at the commencement of tenancies. The Dublin Corporation contact interviewed stated that these types of exclusion orders are important for estate management. He stated that they are often used by the local authority where a female tenant has a partner

that is not supposed to be living at the tenancy and who is engaged in anti-social behaviour.<sup>1</sup> The tenancy agreement used by Dublin Corporation now also states that a named individual believed, by the local authority to be engaged in anti-social behaviour, should not be allowed on the property, even as a visitor.

The consequences of being forced out of the home, particularly for young and vulnerable people with a drug habit, leads to a whole new set of problems for the individual which is discussed in section 3.2.

At the same time there are families who suffer through the anti-social activities of their partners and children and are fearful of taking out excluding orders or asking the person concerned to go. Intervention by the local authorities may be welcome as sometimes, due to intimidation, it is very difficult for the tenant to take action against a household member in order to protect the tenancy.

The options for these families are very limited, which is why there is a need for wider housing based solutions, (section 4.3.2)

### **2.3 Section 20 of Housing Act 1997 – Removal of Illegal Occupiers**

Section 20 of the Housing Act 1997 allows for the removal by local authorities of illegal occupiers (squatters) who are considered to be engaging in anti-social behaviour. Prior to this legislation all illegal occupiers were evicted under the Housing Act 1966, which requires a court order and can take from six months to one year. The advantage for local authorities of Section 20 is that they do not need to go to court to remove illegal occupant (s) involved in anti-social behaviour, thus quickening removal.

The basic process identified is that the local authority makes contact with the Gardai reporting the illegal occupant (s), and the Gardai can then remove the person (s), usually in the presence of a local authority official. Residents often draw the attention of such illegal occupants to the local authority officials

#### ***Dublin Corporation***

Table 2.1 shows that Section 20 is used widely by Dublin Corporation. Removals under Section 20 have been largely confined to areas such as Ballymun, St. Michael's Estate and Fatima Mansions. Dublin Corporation statistics relate particularly to activities by the Ballymun Regional Office, which has removed 203 illegal occupiers since the introduction of the 1997 Act.

According to the Ballymun Regional Office the profile of those removed under Section is young (under 30 years), single, and they are not using the flats as their primary home. It is suspected by the Regional Office that many of those removed returned went back to the family home, as

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<sup>1</sup> Local authorities may inform a tenant that they 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 Council/Corporation has notified the tenant that they should not enter or remain on the property. If this person enters the dwelling or the environs of the dwelling, there is a breach of the tenancy agreement and this can lead to eviction and subsequent refusals to house by the local authority.

**Table 2.1: Removal of Illegal Occupiers, 1997 Act, Section 20**

<b>Local Authority</b>	<b>1997</b>	<b>1998</b>	<b>1999*</b>
Dublin Corporation	110	97	73
Dun Laoghaire-Rathdown County Council	0	0	0
Fingal County Council	0	0	0
South Dublin County Council	0	2	1

\* to October 1999

largely the flats were being used for a drug dealing base. The experience from Ballymun is that squatting drug users become magnets for the drug dealers to move in among them.

The reason for the high level of illegal occupiers involved in anti-social behaviour, typically drug-dealing, in Ballymun is due to practices dating back to the 1980s and into the early 1990s, whereby keys were openly sold for flats in the area. Drug dealers and drug users largely bought these keys. The original tenants typically moved on elsewhere, often abroad. Many flats had also been abandoned and squatters broke into these flats.

Section 20 has been widely used and is one of the provisions of the Housing Act 1997 most welcomed by the local community. The speed by which removals of illegal occupiers engaging in anti-social behaviour are made has impacted positively upon communities. Dublin Corporation welcomes this measure on an economic basis also as it allows quicker repossession of a dwelling with normally less damage, than if the Corporation had to wait a year or more for a Court Order for eviction.

#### ***Dun-Laoghaire - Rathdown County Council***

The Dun Laoghaire -Rathdown Council representative stated that the reasons for their non-use of Section 20 to date are:

- ◆ the illegal occupants engaged in anti-social behaviour, that they encounter in their housing stock, tend to be living with tenants without the local authorities permission rather than occupying a previously abandoned unit;
- ◆ the local Gardai have reservations about removal under these circumstances, because they believe that Section 20 is vague about whether it can be used in such instances; and thus
- ◆ both the local authority and the Gardai are afraid of a legal challenge.

Their estate management section is currently in discussions with their legal department about the feasibility of using Section 20 for these types of illegal occupancies.

Dun Laoghaire-Rathdown County Council appears to be complicating matters for themselves. As discussed earlier in relation to in-house exclusion orders, (section 2.2.3), the individual living illegally with a local authority tenant, can be dealt with, within certain conditions of the original tenancy agreement. Also the local authority could take out an excluding order.

#### ***South Dublin County Council***

A South Dublin County Council official stated that the Council has little use for Section 20 as it has few illegal occupiers engaging in anti-social behaviour largely due having a low level

of stock in flat complexes. In addition resident committees tend to know in advance when a flat is to become vacant and inform the local authority. The flat is then quickly boarded up before anyone can attempt to move in.

### ***2.3.1 Indirect Use of Section 20***

Local authority officers will enter into dialogue with illegal occupiers engaging in anti-social behaviour, in order to encourage them to take the route of a voluntary surrender of the dwelling unit.

The 1997 Act strengthens the impact of discretionary practices. The reasons for this are:

- ◆ speed which removal can take place as removal only requires the Gardai and not the courts, therefore the illegal occupiers concerned know that they will not be able to hold out for long; and
- ◆ the powers contained in section 14 and section 16 as discussed earlier, should they be removed due to anti-social behaviour, means that alternative routes to housing are cut off.

## **2.4 Section 14 (1) Housing Act 1997 - Refusal to let**

Under section 14 (1) of the Housing Act 1997, a local authority can refuse to let to a household where there have been difficulties due to anti-social behaviour. In practice the local authorities deny access to the actual housing lists for those considered to fall into this category. It is very difficult to gauge the real impact of this measure to date, due to the fact that there is a lack of consistency in the manner in which the records are kept of refusals. At the time of writing Dublin Corporation did not have figures for the number of official 'refusal to let' cases, but it was thought to be in the region of **five**.

Dun Laoghaire - Rathdown County Council prefer to use the method of advising would-be applicants for local authority housing not to go ahead as they will be refused due to their record of anti-social behaviour. This is because they are concerned about the legal consequences of an outright refusal to let. Already this council made **one** official refusal to let, and the applicant concerned has taken the case to the Ombudsman.

In Fingal County Council there have been **three** official refusal-to-let under Section 14 (1). The Council gathers information from statutory agencies. The Gardai and tenants groups are a particularly important source of information. Often the prospective tenant will be called into the local authority offices to discuss the allegations of anti-social behaviour as part of the decision-making process, regarding a refusal to let.

However whilst refusals to let under section 14 (1) may be low, the threat of invoking Section 14 in the future is used as a powerful discretionary estate management tool as discussed previously (2.2 and 2.3).

### ***2.4.1 Garda Checks***

For those applying to be included on a local authority housing waiting lists and/or receive an allocation, Garda checks are often carried out, to ascertain whether the applicant is associated with any anti-social behaviour. In particular local Garda and regional offices (Dublin



Corporation area) work close together and have a very good local knowledge. The Housing Act 1997 allowed for formal arrangements for vetting of prospective tenants by the Gardai, which had been undertaken prior to the Act, but ran into difficulties over 'data-protection issues.

All local authorities are availing of the Garda checks under the Housing Act 1997.

It is practice within Dublin Corporation to check lettings with the Gardai, but not all lettings have to go through this process. The housing application form asks for permission by the applicant to check their name with the Gardai and the local community. This is referred to as the 'tenant consultation on allocations' process. Normally staff will first check the name with the local community, and in some cases, if there are no objections raised, a Garda check may not be considered necessary.

In Ballymun an average of 30 names are sent to the local Garda station for vetting each week. Like every area in Dublin, housing lists are growing in Ballymun and checks are an important part of the lettings process.

### ***2.4.2 Getting Back on the Housing Lists***

For those that have been refused access to housing lists, on account of anti-social behaviour, either through a past record with the local authorities or a Garda check, the route back into local authority housing is not always clear. There is no formal listing of steps to be taken in the Tenant Handbooks or in information leaflets.

The Dublin Corporation contact stated that they have a procedure in place to allow people back onto local authority housing lists following exclusion. Firstly the individual must prove that s/he is making an effort to stop their anti-social behaviour, typically by being in a rehabilitation programme. The procedure for getting onto the housing list under these circumstances are as follows:

**Step 1:** Person informs Dublin Corporation that they want to get back on the housing list.

**Step 2:** The Housing Welfare Officer will examine the case

**Step 3:** The applicant will be interviewed by allocations, welfare and estate management officials

**Step 4:** A case conference will be conducted involving all parties listed at step 3

**Step 5:** Decision will be made whether to place the person onto the housing list.

However Dublin Corporation work in co-operation with tenants organisations as part of estate management, and these organisations have a say in who is housed, when a dwelling comes up for allocation. The person allowed access back onto the housing list would have to go through community and Garda checks as normal, if a dwelling becomes available for them. It was stressed though that the Scheme of Letting Priorities is the statutory basis for lettings and that Dublin Corporation have the ultimate decision in determining their tenants.

The Ballymun Regional Office has allowed ten people back into Ballymun following exclusion for anti-social behaviour, largely through voluntary surrender. Return to the area is based on demonstration that the person involved has been through a rehabilitation programme and has changed their ways. Social workers are in contact with the office and so the process has been successful to date.

The North East Inner City Regional Office stated that whilst there is a route back onto the housing lists and ultimately re-housing, that in their specific area there is considerable local intolerance to drug use, which is acting as a barrier to excluded tenants accessing local authority housing again, assuming that they have been involved with a treatment programme.

Dun Laoghaire-Rathdown County Council<sup>2</sup> has developed a database of people involved with anti-social behaviour, to be checked on for allocations. Where believed necessary, a more extensive check will be made with the Gardai. All tenants on transfer lists are vetted for antisocial behaviour. Any deferring of an application for housing is reviewed within six months, and if the anti-social behaviour has been eliminated and will not recur, then the application will be reconsidered.

Further discussion regarding re-housing following exclusion is contained in chapter 3 and chapter 4.

## **2.5 Section 14(2) Housing Act 1997 - Refusal to Sell**

A local authority tenant may be refused the right of tenant purchase if the household has been involved in anti-social behaviour. This power is little used by the local authorities to date.

Dun Laoghaire - Rathdown County Council have attempted to refuse to sell on one occasion but it was decided by the council that the proof of the anti-social behaviour was not sufficient to proceed. However, another separate attempt to refuse a sale is to be made under Section 14, at time of writing. Similarly South Dublin County Council came close to a refusal to sell, but felt that they would need strong evidence of anti-social behaviour to proceed, and decided against this course of action. The officials of these two local authorities appear to share the view that too large a level of evidence is required to prove anti-social behaviour, in order to prevent the sale of a house.

Dublin Corporation do not share this view and believe that the level of evidence required for a refusal to sell is no more than the evidence required for other measures under the Housing Act 1997. The Dublin Corporation contact stated that they are always careful in the manner that they establish anti-social behaviour following a complaint. By December 1999, Dublin Corporation had made 3 refusals to sell, all of which were being challenged at time of writing.

There was no evidence that refusals to sell were made by Fingal County Council.

### **2.5.1 Comment**

Refusal to sell may not be yielding any significant numbers at present, and possible reasons for this may be:

- ◆ perception by officials in South Dublin County Council and Dun Laoghaire - Rathdown County Council, that strong evidence of anti-social behaviour is required; this has yet to be tested in a court case; and
- ◆ concentration of drug-related problems in flat complexes and absence of tenant purchase scheme for flats (i.e. tenant purchase is a non-issue).

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<sup>2</sup> Dun Laoghaire-Rathdown County Council, Council Practice and Policy - Anti-Social Behaviour, Internal Document.

The sale of a local authority dwelling to a tenant known for anti-social behaviour, typically drug dealing, has serious consequences for estate management. The tenant becomes a homeowner and falls outside the housing legislation for local authority tenants. A drug dealing operation of a private homeowner now firmly belongs in the hands of the Gardai who must use criminal procedures to bring charges. It is well known that it is very difficult to convict for drug dealing, due to the wide range of distribution networks utilised, ensuring little stock on their premises. Estate management becomes very difficult if drug dealers become home owners and can continue to supply drugs within the community.

## **2.6 Section 16 Housing Act 1997 – Refusal of SWA Rent Supplement**

Section 16 of the Housing Act 1997, allows for the refusal of SWA rent or mortgage supplement to those excluded, evicted or removed from local authority accommodation due to anti-social behaviour. The existence of Section 16 is an important incentive for people to voluntarily leave a local authority tenancy in order to keep open the option of being housed within the private rented sector.

### ***2.6.7 Local Authority Perspective on Section 16***

All four Dublin local authorities report to the Eastern Regional Health Authority on those who have been removed, evicted or refused local authority accommodation on the grounds of antisocial behaviour under both the Housing Acts 1966 and 1997.

According to the Dublin Corporation officer interviewed, upon being informed of action by Dublin Corporation against a tenant for anti-social behaviour, the Eastern Regional Health Authority (ERHA) seek the background to the anti-social behaviour allegation. It is then up to the ERHA to make their own decision on whether or not to give SWA rent supplement to the person (s) involved.

There are other economic considerations in this area raised by Dublin Corporation. If the ERHA decides to give SWA rent supplement or more typically pay for B & B accommodation to a person who has been evicted by the local authority, ultimately the bill for this accommodation is passed to the local authority concerned. This is obviously not satisfactory for local authorities.

### ***2.6.2 Perspective of the Eastern Regional Health Authority (ERHA)***

According to the Eastern Regional Health Authority contact, information is received from all local authorities on the background of cases due for eviction. If eviction takes place for antisocial reasons, SWA rent supplement is not available under the Housing Act 1997. If such a person approaches the ERHA for rent supplement, s/he will be informed of the legal impediment to accessing this supplement. This does not mean that the person cannot make an application for rent supplement if they believe that there is a case to be made for his/her particular circumstances. There is an information gap in relation to those who were evicted and decide not to proceed with an application for rent supplement, due to the legislative position of the Housing Act 1997. This is because there is no record generated for a refusal for rent supplement because a formal application has not taken place.

If the tenant surrenders the tenancy before an ejection order is issued by the Courts, often due to encouragement by the local authority, rent supplement and therefore access to the private rented sector may be available to the tenant concerned.

According to the ERHA contact, the ERHA does not always receive information with regard to the more indirect measures used by local authorities and/or communities to remove tenants involved in anti-social behaviour.

Finally where a person is refused a letting by a local authority, there is more discretion exercised by the ERHA in terms of SWA rent supplement.

### **2.6.3 Comment**

In terms of indirect actions undertaken by local authorities, particularly referred to by South Dublin County Council and Dun Laoghaire - Rathdown County Council, there is a benefit for tenants who are involved in anti-social behaviour to take the option of leaving, before the background to their case is at a stage whereby it is referred to the ERHA.

It is within this 'space' created between the point in which no formal action has been taken by the local authority (eg notice to quit issued) and the point at which information on anti-social behaviour must be forward to the ERHA, that it can be made clear to a tenant that it is their best interest to leave. Therefore there are no formal barriers generated to accessing rent supplement for the tenant (s) involved.

The anti-social behaviour problem is therefore solved for the local authority and the . community. The 'tenant' still has the option of seeking accommodation in the private rented sector. Unfortunately this is not the solution for drug users, because due to their drug use they will find it difficult to access or hold onto housing within the private rented sector. They can quickly enter a cycle of hostels and street homelessness with very little opportunity to enter into any support programmes, (refer to chapter 3)

Finally the ERHA has a legal duty to provide emergency accommodation for people, and this typically takes the form of B & B or hostel provision, again drug users will find it difficult to remain in this type of accommodation possibly leading to street homelessness. (refer to chapter 3)

## **2.7 The Housing Act 1966 and Housing Act 1997 -Interlinks**

It is impossible to examine exclusions for anti-social behaviour without reference to the Housing Act 1966, although it is not within the remit of this study to monitor activities under the Housing Act 1966.

Under the Housing Act 1966, local authorities have the powers to evict their tenants, and anyone residing with them, on the basis that the tenancies are periodic and can be terminated by a 28 day notice to quit. Once the notice to quit has expired and the dwelling has not been vacated, the local authority can seek a court order for possession.

To grant the order, the District Courts' function is to establish that all the procedural steps have been followed correctly. There is no hearing on the merits of the case. The local

authority must satisfy the judge that:

1. the dwelling was provided by the local authority under the 1966 Act;
2. there is no tenancy in the dwelling;
3. possession of the dwelling was duly demanded;
5. the occupier failed to give up possession of the dwelling; and
6. the demand for possession included a statement of the intention of the housing authority to apply for a warrant of possession if the demand was not complied with.

If the above have been satisfied, the judge has no discretion in the matter and will award a possession order, bearing in mind the requirements of Constitutional Justice.

In practice, it is the intention of local authorities to create lifelong tenancies and they only initiate eviction procedures on the grounds of serious rent arrears, anti-social behaviour or behaviour not in the interests of 'good estate management'. It should be noted that not all notice-to-quit result in court orders and not all court orders result in evictions. Matters are often resolved during this period of time, sometimes to the benefit of both parties.

### ***2.7.1 Evictions for anti-social behaviour in the light of the Housing Act 1997***

Table 2.2 lists the numbers of evictions for anti-social behaviour under the Housing Act 1966 between 1997 and 1999.

**Table 2.2: Evictions for anti-social behaviour Housing Act 1966**

<b>Local Authority</b>	<b>1997</b>	<b>1998</b>	<b>*1999</b>
Dublin Corporation	22	44	30
(all estate management issues)	16	33	25
Dublin Corporation (drugs)	0	6	1
Dun Laoghaire-Rathdown Co.Co.	0	0	0

*\* to October 1999*

However, we need to look behind these figures when accounting for the numbers of people removed from local authority accommodation. There was a surge in numbers evicted under section 62 of the Housing Act 1966 by Dublin Corporation in 1997. The monitoring contact stated that this was largely due to the review of the tenancy agreements which were instigated prior to the introduction of the Housing Act 1997. The 44 evictions for estate management reasons (including drug dealing) exceeded every total for anti-social evictions between 1990 and 1997.

The Dublin Corporation contact believes that these types of evictions have peaked and are now on the decrease due to:

- ◆ impact of Drug Task Force within communities;
- ◆ greater enforcement of criminal law by the Gardai in relation to drug dealers;

- ◆ letting procedures now in place; and
- ◆ general economic improvements.

In Ballymun in 1997, 82 ‘notice to quits’ were served on tenants for anti-social behaviour under the 1966 Act, yet only 7 court orders were obtained and executed. This is because a series of dialogue and negotiation is entered into following issuing of notice-to-quit, as it tends to make tenants face up to the consequences of their anti-social behaviour. According to the office’s anti-social behaviour report (1999), this lack of court action following notice to quit is due to these cases being resolved to the satisfaction of all parties. This may be interpreted as either the tenants involved surrendering their tenancies, the individual engaging in anti-social behaviour leaving the household or an end being put to the anti-social behaviour for good.

Some of the evictions and surrenders in relation to anti-social behaviour took place in Ballyfermot. According to the officer interviewed, this was down to a backlog of ‘hardcore dealers’, mainly families that had been living in the area for many years. The opening of the regional office meant that these families could be identified and their anti-social behaviour dealt with.

In 1998 in South Dublin County Council, there were 64 voluntary surrenders and bar five cases, all gave up their dwellings for fear of not being re-housed in the future due to anti-social behaviour.

For the contact in Dun Laoghaire - Rathdown County Council the Housing Act 1997 was of value in ‘putting anti-social behaviour activities on the map’. Anti-social behaviour is now cited in court applications for possession of the property. For Dun-Laoghaire - Rathdown Council, this approach has speeded up the eviction process and made it harder to make an argument against individual evictions.

However there is a feeling amongst the local authority officers interviewed that while certain provisions of the Housing Act 1997 were a good addition to the estate management package, that section 62 of the Housing Act 1966, gave the local authorities much of the power that they need to evict those that they consider to be engaging in anti-social behaviour.

Following the introduction of the Housing Act 1997, there has been an increase in evictions related to anti-social behaviour, by Dublin Corporation under the Housing Act 1966. The Dublin Corporation contact believes that this is due to the use of ‘in house exclusions’ but agrees that the Housing Act 1997 has made it easier to evict for anti-social behaviour through defining in legislation what anti-social behaviour means in practice.

The view from the voluntary sector is that the Housing Act 1997 gave the go-ahead to local authorities to actively use their eviction powers under the Housing Act 1966 in order to remove tenants engaging in anti-social behaviour. The viewpoint from three voluntary sector organisations is reported in the following chapter.

## Views and Experience from the Voluntary Sector

### 3.1 Introduction

One of the main purposes of conducting this study was to assess the impact of the Housing Act .1997 on homelessness and services for the homeless.

Chapter 1 detailed the concerns expressed by Threshold, Merchants Quay Project and Simon at the time of the publication of the Housing Bill 1996 (Section 1.7). Interviews took place with the voluntary sector contacts to re-visit their views on this legislation following over two years of its enactment.

The most detailed interview took place with the Merchant Quay Project (MQP) due to their particular work with drug users and homelessness, their own research and development programme into drug use and the provision of a range of services through Failtiu.

### 3.2 Merchants Quay Project

The Merchant Quay Project (MQP) and Failtiu are both part of the Franciscan Social Justice Initiative and both offer a range of supports and services for drug users and homeless persons.

The MQP dealt with 2,500 clients at their crisis contact centre, which accounted for approximately 30,000 visits in 1999. More than half of regular users of their service reported themselves homeless in February 1999. The MQP provide a range of services for drug users and their families from health promotion and crisis support services to stabilisation programmes and drug free residential treatment.

The Failtiu Resource Centre offers a range of services for homeless people including advice and information, settlement support and personal development programmes.

Mr. Kavanagh believes that the Housing Act 1997 has had an impact on the users of the MQP because from experience the number of drug users reporting themselves as homeless when coming to the project has increased substantially between 1997 and 1999. Also there has been an increased number of drug users using the Failtiu service.

The view of the MQP is that the Housing Act 1997 gave the 'political green light\* to local authorities to accelerate the use of the Housing Act 1966 for evictions against those involved

in anti-social behaviour. The 1997 Act fails to take account of the difficulty in differentiating between drug use and drug dealing in that many drug users engage in small scale dealing to support their habit. The government at the time of the introduction of the legislation saw the eviction and removal of drug dealers (and consequently many drug users) from local authority estates as their response to the call from the concerned communities. Mr. Kavanagh believes that the 1997 Act was put in place on 'a tide of media hysteria' with regard to drug dealing and vigilante behaviour without examination of any alternatives to deal with the actual problem of drug use and accommodation.

The MQP believes that the indirect use of the Housing Act 1997 has contributed to the increase in homeless drug users in Dublin. This has had a serious impact on the existing homeless community in Dublin, who until 1997 had mainly consisted of older men with a different range of needs. The increase in the number of young people who are drug users into the homeless community causes friction between the two groups and has changed the attitude of the general public towards homeless people.

The MQP is particularly concerned with the issue of the health and well-being of the drug users as a result of having to leave home. Riskier drug-taking practices increase among homeless drug users particularly with regard to sharing needles and public usage. The MQP report, (Cox and Lawless, 1999) found that:

- ◆ 56% of respondents reported that their drug use had increased as a result of being out of home;
- ◆ 92% of rough sleepers inject drugs in public places as opposed to 37% of those staying with friends; and
- ◆ 49% shared injecting paraphernalia.

I've got really careless about safe injecting, because I don't have fresh water and a safe place to inject (p.49).

The increased taking of drugs in public by homeless drug users, means that more of the general public are being directly exposed to observing the taking of drugs, which further hardens attitudes and breeds increased intolerance to homeless people overall.

In relation to encouragement given to families to 'kick out' drug using members, Mr. Kavanagh explains that this approach may be detrimental to the drug users, as family supports are eroded. This retards the process for drug users to reaching the stage of undertaking treatment to becoming drug free.

The same MQP (1999) report provides a series of reasons given by respondents for leaving home (Table 3.1).

It is possible that the respondents in the research who left due to family issues (41%) was due partly to the 'tough love' policies being operated by the local authorities (section 2.2.3). Also evident from these findings is that the combined level of pressure from tenants associations and vigilantism, accounts for the reasons behind 21% of respondents leaving their homes.

Another concern for the MQP is the fact that following exclusion from local authority housing, either directly or indirectly, providers of hostel beds are expected to deal with 'anti-social behaviour' without the appropriate resources.



**Table 3.1: Forced to Leave Accommodation by Gender**

Forces	Male		Female		Total	
	%	n	%	n	%	n
Court Order	13	(17)	14	(8)	13	(25)
Landlord	12	(16)	9	(5)	10	(21)
Vigilantism	10	(13)	9	(5)	11	(18)
Tenants/Residents Assoc.	8	(11)	15	(9)	10	(20)
Family	42	(55)	37	(22)	41	(77)

*Source: Merchant's Quay Project, 1999, Table 4.5, p.20.*

So what is the way forward for drug users who end up on the streets either through formal eviction by the local authorities, voluntary surrender, or by being required to leave their families (tough love) ?

MQP believe that problem drug use and related antisocial behaviour is best dealt with at local level. Policies focused on the exclusion or eviction of drug users tends to shift the problem to Dublin city centre where homeless drug users end up. Police, local authorities and drug treatment services should be brought together to develop locally based programmes aimed at minimising drug related nuisance and anti-social behaviour. These programmes would emphasis early intervention and treatment options as alternatives to evictions.

The MQP has also been running a training programme for community activists in areas which have drug-related problems. Typically it has been women attending, but it is hoped that through increased education that there will be a better understanding of drug-users leading to the building of new options for them within their communities. Mr. Kavanagh believed that the development of 'neighbourhood nuisance' programmes is a better alternative to forced eviction for anti-social behaviour.

### 3.3 Threshold Advice Office - Dublin

Threshold, the voluntary housing agency, offers information, advice and advocacy for those experiencing difficulties in their housing or are having difficulties accessing housing. The view of the co-ordinator of the Threshold Advice Office Dublin is largely unchanged since the 1997 Act was introduced. These concerns of Threshold in 1997 are documented in section 1.7.

Threshold's Dublin Advice office, despite close proximity to the Eastern Regional Health Authority Homeless Services, has not been inundated with clients refused SWA under the Housing Act 1997 seeking advice. The conclusion from this is that the people being caught by the system in the manner by which refusal for SWA rent supplement is made are not seeking assistance to put forward a case for rent supplement and are entering into a cycle of homelessness. Failure to seek assistance may relate to the individuals concerned inability to seek assistance, and articulate their problems.

The experience of the Dublin Threshold Advice Office is that local authority practice in allocations and estate management has always been highly discretionary, even with the Scheme of Letting Priorities. Therefore it can be difficult to separate out which actions are results of the existence of the Housing Act 1997 and which are not. The Housing Act 1966 gives local authorities the power that they need to evict tenants involved in anti-social

behaviour, through the one-month notice to quit procedures, followed up by a Court order for repossession (described in section 2.7)

The Dublin Advice Office co-ordinator believes that there is no reason to assume that the direct uses of the Housing Act 1997 will always be as it is now, i.e. apparently limited in use. The existence of this Act has left the local authorities in a powerful position and the office has dealt with clients who have been affected by indirect practices. It may be just a matter of time until the officials become more confident with regard to direct use of the Housing Act 1997. Indirect use will continue and Threshold will continue to advise clients of their next steps with regard to accommodation.

### **3.4 Dublin Simon Community - Outreach Service**

The Dublin Simon Community Outreach Service works directly with rough sleepers in Dublin City and surrounding areas. The service aims to assess the needs of rough sleepers, support them and link them in with appropriate services for their physical, mental health and other needs.

The Simon Outreach Service meets those individuals that have been excluded from the family local authority dwelling or from the estate by the local authority usually for drug related activity and become street homeless. Sean Megahey of the Simon Outreach Service believes that this exclusion has been a result of the indirect use of the Housing Act 1997 and reflects the concerns expressed in 1997 by Simon (section 1.7)

Mr. Megahey also drew attention to the following issues, which compound the problems for homeless drug users:

- ◆ estate management practices which are leading to exclusions of drug users and no clear route back into accommodation;
- ◆ negative impact of homeless combined with drug addiction on clients of Simon - riskier drug taking practices etc.;
- ◆ many hostels will not take known drug-users; and
- ◆ shortage of detoxification services for drug users, particularly those with no fixed abode, and the related issue of being in the catchment area.

Thus the cycle of homelessness and drug addiction is compounded.

Resettlement is important in breaking the cycle of homelessness for rough sleepers. According to the outreach service, since the introduction of the Housing Act 1997 it has been increasingly difficult to provide support for rough sleepers in meeting their accommodation needs. Recent research<sup>1</sup> by Simon and Merchants Quay Project into the feasibility of establishing an open access hostel, has demonstrated how avenues for resettlement of homeless people, excluded for anti-social behaviour, are very restricted due to:

- ◆ the denial of a local authority housing allocation without proof of drug rehabilitation;
- ◆ even with proof of rehabilitation, the blocking of allocations by residents association in local authority areas can prevent re-housing; and
- ◆ vigilante activity prevents a return to the family home.

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<sup>1</sup> Simon/Merchant's Quay Towards Inclusion. CPA: Dublin (forthcoming)

# Conclusions and Recommendations: Finding Solutions

## 4.1 Introduction

It can be argued that the purpose of the enactment of the Housing (Miscellaneous Provisions) Act 1997 was to demonstrate to the public and concerned communities in 1997, that the government was ‘tough on drugs’, rather than a co-ordinated policy to tackle the issues relating to drug taking in a holistic and progressive manner.

Instead of working to resolve the wider and complex drug issues for these communities and address the needs of drug users directly, a very blunt piece of legislation was put in place with the emphasis on excluding those involved with drugs from local authority housing.

The particular focus of the Housing Act 1997 through excluding drug users from their homes rather than developing more practical harm reduction policies has been the manner in which drug related policies, such as health, have been dealt with for many years. Butler (1991) illustrated this approach in his review of drug policies in Ireland over the previous twenty-five years. This absence of ‘harm reduction\* policies in relation to housing provision has been clearly demonstrated in this monitoring study.

Box 2 overleaf briefly refers to some of the approaches Co anti-social behaviour that have been taken in the UK. In the UK context anti-social behaviour covers a wider range of activities, but has been a key area of debate in housing in the 1990s.

This final chapter then draws out the main conclusions from this study and puts forward a set of recommendations, which can be divided into a ‘good practice’ approach which can be implemented relatively quickly and a range of wider housing solutions, which require further exploration.

## 4.2 Conclusions

The overall conclusions are brought together under the headings of the agents involved and affected by the Housing Act 1997.

### 4.2.1 *Local Authorities in Dublin*

From the perspective of the four Dublin local authorities, the Housing Act 1997 gave them the political go-ahead to evict tenants on the grounds of anti-social behaviour, largely through

## **Box 2: A Brief Overview of Approaches in Anti-Social Behaviour and Housing in the UK**

Anti-social behaviour is a particularly important issue on many social housing estates in the UK. Anti-social behaviour in the UK consists of a widespread of behaviour from rent arrears to drug dealing, from loud music to children's behaviour. Scott and Parkey (1998) note that the term anti-social behaviour has become a catchphrase holding a variety of meanings. Difficulties in defining anti-social behaviour means difficulties in trying to evaluate local authority responses to it. The Chartered Institute of Housing (1995) and the Scottish Affairs Committee (1996) have lumped together a range of problems from neighbourhood difficulties such as rubbish dumping to crime issues and have presumed that standards of behaviour are universal. Bannister and Scott (1997) view anti-social behaviour as having three distinct components: neighbour problems, neighbourhood problems and crime problems.

Prior to the Housing Act 1996 (England and Wales) housing authorities and registered social landlords were already taking their own steps:

- ◆ court injunctions against defined behaviour of tenants, with possibility of prison if injunction broken;
- ◆ excluding orders under the 1972 Local Government Act;
- ◆ Tower Hamlets - integrated approach to alternative housing for families willing to undergo supported programmes, with final return back into their tenancy, located in dispersed residencies;
- ◆ tightening up of tenancy agreements in relation to anti-social behaviour;
- ◆ one-year 'probationary' tenancy offered by some local authorities;
- ◆ use of professional witnesses, multi-agency teams, and mediation services, largely to seek out-of-court solutions; and
- ◆ social landlord developing 'bad tenant' lists and allowing access to same.

Housing, anti-social behaviour and neighbourhood nuisance was addressed in the Housing Act 1996 (England and Wales) through the one-year probationary tenancy. New tenants had to prove their commitment before being awarded an assured tenancy.

There is a recognition within housing management and policy in the UK of the causes of the anti-social behaviour linked to economic and social exclusion, housing design, estate facilities, environment etc.

Malik (1998), a lawyer for Oldham Council in anti-social behaviour cases, believes that in order to turn around an estate that there has to be a mixture of initial tough fire-fighting to remove the most troublesome households and individuals. The fire-fighting can then be replaced by housing based solutions linked to treatment programmes, social and educational initiatives, community and leisure facilities linked to community building strategies.

This latter approach is also to develop a civic pride and sense of community to residents. In the UK there is a movement away from focusing on the individual and their housing rights to the wider building of communities.

Writing in Roof, Bailey (1999) believes that a judicious use of evictions, careful lettings policy, and a strengthened community can reverse estates in decline. The concern with

regard to exclusions is that it removes people from a range of social services and community based services in the UK.

She calls for:

- ◆ a case conference to be called when an exclusion occurs, otherwise person excluded will enter into a chaotic lifestyle;
- ◆ exclusion should bring access to temporary accommodation with pathways back into social housing, to prevent the label of 'intentionally homeless' which restricts social housing access;

Under the Crime and Disorder Act 1998, local authorities can make a decision to turn down a tenancy, if they believe that it will cause disruption to the community. This is a considerable power for a local authority, and reflects the changing focus on community from individual. This approach may change somewhat due to the activities of the Social Exclusion Unit and the expected new housing legislation, particularly with regard to homelessness. Progression in this area will be worth watching due to similar problems and approaches by UK social landlords.

Scotland is not affected by the Housing Act 1996, and with a new Scottish Parliament it will be interesting to see how anti-social behaviour is tackled. Already there is the possibility of establishing one form of social tenancy for both housing associations and co-operatives and local authorities.

section 62 of the Housing Act 1966. The new measures also allowed the local authorities to use indirect means to remove those considered to be engaging in anti-social behaviour through encouraging voluntary surrender or encouraging other members of the household to exclude the individual involved and thereby protect their own tenancy. (Section 2.2)

Estate management received statutory recognition through the Housing Act 1997, in the context of promoting the interests of other occupiers of local authority estates through the 'avoidance, prevention and abatement of anti-social behaviour'. The Housing Act 1997 was another tool in the estate management package of local authorities and added to and complemented other changes in estate management such as tenant participation and the decentralisation of management of the housing stock, the latter referring to the development of Regional Offices in the Dublin Corporation catchment area.

In relation to local authorities, this monitoring study has demonstrated that the Housing Act 1997:

- ◆ provides local authority officials with the tools to tackle anti-social behaviour on their estates, through its direct and indirect use;
- ◆ increases and quickens evictions and voluntary surrenders under the Housing Act 1966;
- ◆ greatly quickens the process of removing illegal occupiers engaged in anti-social behaviour through the removal of the necessity for a court order for repossession (very important for Dublin Corporation officials);
- ◆ reduces the level of evidence required to proceed against an anti-social tenant,
- ◆ thereby strengthening estate management practices, in order to exclude an individual, whether directly or indirectly;

- ◆ allows for Gardai/ERHA/Local Authority partnerships to be placed on a formal level and be recognised as legitimate contacts for estate management in terms of establishing anti-social behaviour and/or vetting waiting lists;
- ◆ allows local authorities to demonstrate to tenants campaigning for estates to be ‘cleaned up’, that they are serious about anti-social behaviour, due to the new measures given; and
- ◆ of the four Dublin local authorities, Dublin Corporation has made the most use of the Housing Act 1997 both directly and indirectly, reflecting the size, location and nature of their housing stock

Further conclusions can be drawn with regard to the practices of local authorities from the interviews conducted for this report. Overall officials outside of the Dublin Corporation area are more likely to adopt the indirect route towards exclusion thereby avoiding the courts and any subsequent legal challenges. The indirect forms of exclusion are also difficult to monitor due to the lack of official recording.

Dublin Corporation has put in place their own procedures in relation to the Housing Act 1997 and do not have difficulties in using the measures directly. At the same time indirect methods are important because their officials can come to agreements with people engaged in antisocial behaviour or with their families to re-consider their position, and make positive steps such as entering rehabilitation.

It appears that there is some confusion in other local authorities regarding the legal requirements of the Housing Act 1997 in terms of establishing the claims of anti-social behaviour. This has been exacerbated by some local authorities using evidence given by their own officials of anti-social behaviour in eviction cases under the Housing Act 1966 (as demonstrated through the case involving Cork Corporation).<sup>1</sup>

Ultimately it appears to be debatable from the study undertaken, whether the key drug dealers have been removed from local authority estates as a result of the Housing Act 1997. In Ballymun, it is considered by the Regional Office that the overall drug problem has been reduced through actions undertaken by way of the Housing Act 1997. The voluntary sector’s (chapter 3) experience is that drug users are leaving local authority housing and finding themselves in a cycle of homelessness, where individuals cannot receive support for drug rehabilitation, and/or be offered alternative housing programmes. This goes against the tone of the Department of the Environment Circular, H5/97, which stated that the legislation was to target drug dealers and not drug users, (section 1.4) There is fine line between drug use and drug dealing due to the prevailing drug culture. This fine line is drawn by communities, local authority officials and the Gardai and is not fixed. It is a very difficult area for the communities and the local authority to work with.

Finally it must be remembered that local authorities in Dublin are trying to manage a housing stock, in an environment of large pressures on housing lists due to general housing shortages. Also the local authority officials have to cope in some areas, with stock in serious need of physical regeneration, which can lend itself to anti-social behaviour by providing locations for drug dealing and drug use. Many areas are still lacking in facilities and continue to suffer from high levels of unemployment and benefit dependency as a legacy of past recession in Ireland.

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<sup>1</sup> Currently there is a challenge to the use of the Housing Act 1997, Section 21 for an eviction under the 1966 Act in Cork, by the Heaphy family.

This is not to dismiss the progress which has been made in many communities to tackle these issues, in particular successes in bringing people back into the job market.

#### **4.2.2 *Excluded Individual/Family***

The measures of the Housing Act 1997 can close off almost all housing avenues for people excluded for anti-social behaviour, with no formal route back into local authority housing. Return to local authority housing is also made difficult because of the power of tenant organisations. Practices are highly discretionary, which is why many tenants take the indirect exclusion route to keep open housing alternatives, such as the receipt of SWA rent supplement (section 2.6). Discretionary practices by the ERHA means that people who have been excluded from local authority housing, particularly where children are involved and the person involved with anti-social behaviour has left the family will probably access rent supplement. Emergency accommodation has to be offered by the ERHA to those who present themselves as homeless, but drug-users will often fall out of this accommodation and become street homeless.

The encouragement of tenants, by local authorities, to exclude the individual involved in antisocial behaviour from the home - 'tough love' - split families up (section 2.2) and through this action some drug users lose essential support and stability in their lives. Exclusion policies also mean that drug users are removed from community based drug support systems which are working to assist drug users into rehabilitation, education and/or training, often through Drug Task Forces where they exist.

Street homelessness resulting from exclusion leads to open drug taking and riskier drug taking practices. This increases the risk of viral infections such as HIV and Hepatitis C. Public drug taking has brought increased intolerance by the general public towards people with drug use problems, as distinct to the intolerance of drug dealers. (Section 3.2)

#### **4.2.3 *Tenant Organisations***

Tenant organisations have now established a more formal role in the process of tackling antisocial behaviour in their community. These organisations have a greater say in allocations as well as reporting on people involved in anti-social behaviour. Dublin Corporation made it very clear in this study that even though the community has a co-ordinated voice in relation to tenancies, the ultimate decision on a tenancy or access to a housing list lies with Dublin Corporation itself.

Since the introduction and use of this legislation there has been a reduction in the number of drug marches. It is not clear how much of this reduction can be attributed to the Housing Act 1997 and how much has been due to changes in relation to the approaches adopted by the Gardai. The local authorities believe that tenant organisations now have more faith in the local authorities ability to deal with anti-social behaviour, largely through exclusions and consequently there has been a substantial reduction in 'drug marches' and linked vigilante behaviour.

Channels have been established for the exchange of information between tenants, local authority officials and the Gardai in terms of identifying those suspected of engaging in antisocial behaviour.

Tenant organisations can exert a strong voice when it comes to trying to bring a household/person back into local authority housing, following rehabilitation. This can lead to

a 'block' on people seeking re-housing following rehabilitation. This is an important area to watch for the future, in order to establish just how much power some or all tenant organisations are developing in relation to estate management practices.

#### **4.2.4 Voluntary Sector**

The impact upon the voluntary sector organisations, providing homeless and drug services in Dublin city, has been considerable. These organisations claim that there has been increased pressure on the resources of homeless service providers in Dublin due to the increases in the numbers of homeless. The consequences are that:

- ◆ homeless service resources are stretched;
- ◆ hostel providers are having to cope with anti-social behaviour without the appropriate resources; and
- ◆ increased pressure on organisations trying to find accommodation solutions for those excluded from local authority housing.

The measures within the Housing Act 1997 cause concern to homeless service providers, and drug related support projects due to the increased number of homeless drug users in Dublin. In addition, there is the difficulty of firstly accessing rehabilitation programmes for people who are homeless and secondly following successful rehabilitation of drug users, there are difficulties in trying to get them settled in accommodation. The latter is due to the lack of local authority policy in relation to people accessing local authority housing lists and accommodation following rehabilitation. Also difficulties arise in relation to objections raised by tenant organisations to allowing a former drug user back into the area.

### **4.3 Recommendations**

Before setting out the recommendations of this study, the most recent commentaries on antisocial behaviour and local authority housing should be set out.

Fahey (1999) recommends measures to reintegrate marginalised 'trouble-makers' into community life by way of an integrated response by statutory and voluntary agencies. Services targeted at disruptive individuals or households would work in conjunction with housing management with the aim of improving life on local authority estates and minimising the use of exclusionary estate management practices, (p.262)

Responding to this recommendation, Dublin Corporation's Assistant City Manager Philip Maguire (1999) feels that a realistic view must be taken and due attention must be given to the victims and not just the perpetrators in terms of anti-social behaviour. In his article he includes 'yes evictions' as one of the methods being used 'to resolve situations and control behaviour'. There is no reference as to what happens to the individuals after they are excluded.

Mr. Maguire states that the local authority response to 'serious anti-social behaviour' must be eviction, and defines serious anti-social behaviour in terms of 'drug dealing, violence, harassment, intimidation and public disturbances', which covers most neighbourhood nuisance claims bar noise levels and children's behaviour.



The following is a series of recommendations based on the outcomes of this study. These recommendations are not solely for the Dublin local authorities involved in this study, but many are applicable to local authorities across the country. The recommendations can be divided into two sections: a 'Good Practice' section, in which the recommendations can be implemented under current structures without a large amount of upheaval. The second section contains recommendations, which look at wider housing solutions that require a more radical re-think of drug users and accommodation.

All recommendations are based on the premise of tackling the drug problem where it presents itself initially, i.e within local authority estates. These recommendations are being put forward as a means of reducing the number of drug users who find themselves homeless in Dublin City as a result of exclusion policies<sup>2</sup> as distinct from those who are the drug dealers in local authority housing estates.

### ***4.3.1 Good Practice Approach - Immediate Response***

- 1. Training for local authority officials in the appropriate and correct use of the Housing Act 1966 and the Housing Act 1997 in relation to anti-social behaviour.** Chapter two demonstrated the variation in the understanding of the legal requirements of the legislation between local authorities, particularly when it comes to linking these two Acts together in order to exclude people.
- 2. A clear statement of procedures to be used in anti-social cases, by the local authority officials, in order to ensure equal treatment in all cases.** (This has been developed to a certain extent by Dublin Corporation.)
- 3. All contacts with tenants in relation to anti-social behaviour and any resulting indirect surrender of tenancy or exclusion to be recorded.** Responses to antisocial behaviour are governed by our understanding of how the tools, which local authorities have at their disposal, are used. Lack of comprehensive information makes it more difficult to design reforms and develop solutions. Lack of recording of meetings with regard to anti-social cases leads to the potential for unequal treatment between cases.
- 4. Insert a clear explanation of the Housing Act 1997 and consequences for tenants participating in anti-social behaviour into the Tenant Handbooks.** Tenants should be informed at the outset about the measures contained in the Act and the impact that their behaviour or that of their family members may have on their tenancy. Direct and indirect consequences of the existence of the legislation should be explained. Existing tenants should receive up-dated handbooks. Tenants should be made aware of the serious risk of losing their home, if they choose or a person at the dwelling chooses to be involved in anti-social behaviour.
- 5. Clear Guidelines to be established in each local authority regarding the steps that excluded individuals must take to either access the housing waiting list, or to return**

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<sup>2</sup> Recommendations for homeless services are taken from the Merchants Quay Project report *Wherever I Lay My Hat*.

- ◆ increased availability of emergency accommodation
- ◆ increased access to emergency accommodation
- ◆ the provision of day care services for homeless people
- ◆ restructuring of existing emergency accommodation
- ◆ establishment of a hostel for homeless drug users

**to the family home that they were excluded from. These Guidelines should be published in an information leaflet.** If an individual has taken steps to deal with their drug usage and related behaviour, housing options cannot be closed off to them forever.

6. **Training for resident groups with regard to drug use, estate management and community development.** This type of approach can be incorporated into community capacity building programmes.
7. **ERHA officials to keep records of meetings with people who have been excluded from local authority housing, either directly or indirectly, for anti-social behaviour.** It is very difficult to determine how many people are being refused rent supplement at point of contact with CWOs who are made aware of their position with regard to anti-social behaviour. Discouragement before an application is made (informing that the application will not be passed) needs to be recorded.
8. **Training for local authority and ERHA officers involved, with regard to drug use, estate management and community development.**
9. **Adoption of Mediation Services** - in many cases of anti-social behaviour, evidence comes from residents and there is conflict between the parties over whether the allegations are true etc. Mediation services provided by qualified third - party agencies may be able to establish the existence of anti-social behaviour, unravel the difficulties involved and then come to a resolution, which will be of benefit to all parties where possible.
10. **Support to be offered to families where member(s) have been excluded due to anti-social behaviour.**

#### ***4.3.2 Housing Based Solutions - Search for Innovation***

There is a need to look closer at accommodation and services solutions with regard to drug use and related behaviour on local authority estates. As stated earlier exclusion is not a sufficient answer to difficulties relating to drug users within communities. Exclusion only pushes the problem on elsewhere and increases hardship in relation to homelessness and access to already stretched support services. At the same time adopting a position that a person has the right to remain housed whilst involved in activities which are disrupting the community or adjacent residents, is not an acceptable one, in that it does not take into account the rights of other neighbours to live in relative quiet enjoyment of their home.

The housing solutions that are put forward below are based on attempting to adopt an approach, which recognises the particular problems and needs of drug users but also the problems that are caused within communities as a result of the prevalence of drugs in the area. (It is not an approach for the actual drug dealers who need to be removed.)

Assuming the continued development of estate management strategies in Dublin the following housing based recommendations are made in relation to the issue of anti-social behaviour:

1. **The development of a professional housing management structure, with appropriate qualification from certification to degree level across all housing authorities in association with academic institutions and the voluntary sector. Linked to this a development of a career path within housing management.** Housing should not be considered as another administrative arm of local authority activity. Housing policy and practice affects people's lives directly in relation to stability, employment and education opportunity, health and well-being. The

*Programme for Prosperity and Fairness* recognises the need to examine the possibility of developing a housing profession (p.89)

2. **Alongside professional housing management, there is a need for housing authorities to directly employ professionals in a range of social services.** For example professionals in the area of drug addiction.
3. **Specialised Housing Associations to offer accommodation and supported services to drug users and/or families during and following rehabilitation.** Supported accommodation of this type would not only assist people who have been excluded from local authority housing but also people who are in need of supported accommodation due to their drug use and are perhaps housed in the private rented sector or in emergency accommodation. Prospective tenants of such specialised voluntary housing would have to sign-up to an agreement to participate in the programmes. The supported housing should also be linked to training and employment projects. The end of a successful supported accommodation period should not lead to the individual or their family having to look elsewhere for accommodation. The housing association transfer the tenants into alternative accommodation within the voluntary housing sector, either within other stock that the association owns, or through agreement with other neighbouring housing associations. This type of approach is dependent on the future expansion of the voluntary housing association movement.
4. **Development of transitional housing, for local authority tenants disrupting other tenants and the community, but who are willing to participate in an integrated rehabilitation programme on the basis of being able to return to their own community without loss of their local authority tenancy.** This is an approach that involves either the individual or the whole family if this is seen as more appropriate. A contract between the tenants and the local authority is entered into in terms of participation on the programme and guarantee of housing on their return. The local authority provides dispersed housing units for these purposes in alternative locations, and appropriate professionals are attached to each households to assist them in participating on a integrated rehabilitation programme, which would also include education and training components. Those involved in this programme would be then prepared for an eventual return to their community. The ability to return to their community would be guaranteed by their agreement to participate fully on the programme i.e. tenant organisations would not be given the opportunity to block the household's return.
5. **Research into housing alternatives** - further research is required into wider housing alternatives for drug users and their families. These alternatives need to take into cognisance the other actors in the system i.e. the local authority and the community. A comparative study linked to a testing of potential models for the Irish system with those concerned, would bring a new practical perspective to this issue.

## **Finally**

In order for any initiatives to have an impact on the issues surrounding anti-social behaviour and drug use, there must continue to be improvements to the quality of life and opportunities for residents on many local authority housing estates, in particular the young adults and children.

This involves the continuation and further development of community and educational

facilities building upon programmes such as the Early School Leavers Initiative. Affordable childcare facilities must be provided to allow young parents, particularly lone parents whose choices are most limited, the opportunity to train, to be educated and to work. There must be an emphasis on providing leisure facilities for children and young adults, which generates interests and alternatives in their daily lives. The economic and social development measures leading to greater social inclusion must be in operation concurrently with the various initiatives to tackle accommodation and social issues in relation to anti-social behaviour. Local based approaches to the improvement of the economic, social and physical aspects of housing estates must continue and be expanded in order to try to decrease the number of new drug users among the young, as well as building alternatives for the future of those who are drug users.

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# **APPENDIX 1**

Housing (Miscellaneous Provisions) Act 1997



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Number 21 of 1997

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## HOUSING (MISCELLANEOUS PROVISIONS) ACT, 1997

AN ACT TO AMEND AND EXTEND THE HOUSING ACTS, 1966 TO 1992, AND THE SOCIAL WELFARE ACTS, TO MAKE PROVISION IN RELATION TO INTIMIDATION OF CERTAIN PERSONS AND TO PROVIDE FOR CERTAIN OTHER MATTERS IN RELATION TO HOUSING.

[7th May, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

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

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

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

“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*;

“excluding order” has the meaning assigned to it by *section 3*;

“health board” means a health board within the meaning of the Health Act, 1970;





- (a) having consulted the tenant and the health board in whose S.3 functional area the house is situate, believe that a tenant may be deterred or prevented by violence, threat or fear from pursuing an application for an excluding order, and
  - (b) consider that, in the interest of good estate management, it is appropriate, in all the circumstances, to apply for the excluding order.
- (3) Where the court, on application to it, is of the opinion that there are reasonable grounds for believing that the respondent is or has been engaged in anti-social behaviour it may by order—
- (a) direct the respondent, if residing at the house in respect of which the application was made, to leave that house, and
  - (b) whether the respondent is or is not residing at the house, prohibit the respondent for the period during which the order is in force from entering or being in the vicinity of that house or any other specified house or being in or in the vicinity of any specified housing estate.
- (4) An excluding order may, if the court thinks fit, prohibit the respondent from causing or attempting to cause any intimidation, coercion, harassment or obstruction of, threat to, or interference with the tenant or other occupant of any house concerned.
- (5) Where an excluding order has been made, the tenant or the housing authority, as appropriate, or the respondent, may apply to have it varied, and the court upon hearing the application shall make such order as it considers appropriate in the circumstances.
- (6) An excluding order, whether made by the District Court or by the Circuit Court on appeal from the District Court, shall, subject to *subsection (7)* and *section 9*, expire three years after the date of its making or on the expiration of such shorter period as the court may provide for in the order.
- (7) On or before the expiration of an excluding order to which *subsection (6)* relates, a further excluding order may be made by the District Court or by the Circuit Court on appeal from the District Court for a period of three years, or such shorter period as the court may provide for in the order, with effect from the date of expiration of the first-mentioned order.
- 4.—(1)** If, on the making of an application for an excluding order Interim excluding or between the making of the application and its determination, the orders. court is of the opinion that there are reasonable grounds for believing that there is an immediate risk of significant harm to the tenant or other occupant of the house if the order is not made immediately, the court may by order (to be known and referred to in this Act as an “interim excluding order”)—
- (a) direct the respondent, if residing at the house in respect of which the application was made, to leave that house, and
  - (b) whether the respondent is or is not residing at the house, prohibit the respondent from entering or being in the vicinity of that house or any other specified house or being in or in the vicinity of any specified housing estate until further order of the court or until such other time as the court shall specify.



(2) The validity of any order made under this Act shall not be affected by non-compliance with *subsection (1)*.

**8.**—(1) An appeal from an excluding order shall, if the court that made the order or the court to which the appeal is brought so determines (but not otherwise), stay the operation of the order on such terms (if any) as may be imposed by the court making the determination.

(2) An appeal from an interim excluding order shall not stay the operation of the order.

**9.**—(1) Where an excluding order or interim excluding order has been made, the tenant or the housing authority, as appropriate, or the respondent may apply to the court that made the order to have that order discharged and thereupon the court shall discharge that order if it is of the opinion that the circumstances no longer require that the order should continue in force.

(2) For the purposes of this section and *section 3 (5)*, an order made by a court on appeal from another court shall be treated as if it had been made by that other court.

**10.**—(1) The jurisdiction of the court in respect of proceedings under *section 3, 4 or 9* may be exercised, as regards the District Court, by the judge of the District Court for the time being assigned to the District Court district where the house in relation to which that application was made is situate.

(2) Where a judge of the District Court to whom *subsection (1)* relates is not immediately available, the jurisdiction of the District Court under that subsection may be exercised by any judge of the District Court.

**11.**—Proceedings under *section 3, 4 or 9* may be heard otherwise than in public.

**12.**—(1) Where a member of the Garda Síochána has reasonable cause for believing that, in respect of an order under this Act, an offence is being or has been committed under *section 5*, the member may, on complaint being made to him or her by the tenant or the housing authority, arrest the respondent concerned without warrant.

(2) For the purpose of arresting a respondent under *subsection (1)*, a member of the Garda Síochána may enter (if need be by use of reasonable force) and search any place (including a dwelling) where the respondent is or where the member, with reasonable cause, suspects the respondent to be.

(3) This section shall not prejudice any power of arrest conferred by law apart from this section.

**13.**—(1) *Sections 3 to 12* shall apply in relation to a house provided by an approved body in the same manner as those sections apply in relation to a house provided by a housing authority under the *Housing Acts, 1966 to 1997*, and, for this purpose, references to “housing authority” in the said sections and in the definitions of “anti-social behaviour”, “estate management” and “tenant” in

S.13 *section 1(1)* shall be construed as including a reference to an approved body.

(2) In this section “approved body” means a body approved of for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992.

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

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

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

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

- “(a) the housing authority may, without prejudice to any other power in that behalf, refuse to consent to a sale of a dwelling if they are of the opinion that—
  - (i) the intended purchaser is not a person in need of housing, or
  - (ii) the intended purchaser is or has been engaged in antisocial behaviour or that the intended sale of the dwelling would not be in the interest of good estate management, or
  - (iii) the intended sale would, if completed, leave the seller or any person who might reasonably be expected to reside with that person without adequate housing;”.

Provision of information. **15.**—(1) In this section, “specified person” means any of the following, that is to say:

- (a) the Criminal Assets Bureau;
- (b) a member of the Garda Síochána;
- (c) the Minister for Social Welfare;

- (d) a health board; or S.15
- (e) a body approved of for the purposes of section 6 of the *Housing (Miscellaneous Provisions) Act, 1992*, (to be known and referred to in this section as “an approved body”).

(2) A housing authority may, for the purposes of any of their functions under the *Housing Acts, 1966 to 1997*, request from another housing authority or a specified person, information in relation to any person seeking a house from the authority or residing or proposing to reside at a house provided by the authority or whom the authority considers may be or may have been engaged in anti-social behaviour and, notwithstanding anything contained in any enactment, such other housing authority or specified person may provide the information to the housing authority requesting it.

(3) A health board may, for the purposes of its functions under Chapter 11 of Part III of the *Social Welfare (Consolidation) Act, 1993*, request from a housing authority information in relation to any claimant for a payment to supplement the claimant’s income in respect of rent or mortgage interest or in relation to any person residing or proposing to reside with the claimant and, notwithstanding anything contained in any enactment, the housing authority may provide the information to the health board.

(4) An approved body may request from a housing authority information in relation to any person seeking accommodation from the body or residing or proposing to reside at accommodation provided by the body, and, notwithstanding anything contained in any enactment, the housing authority may provide the information to that body.

**16.**—The *Social Welfare (Consolidation) Act, 1993*, is hereby amended by the insertion of the following section after section 179: Supplementary welfare allowance.

“179A.—(1) This section applies to a person who—

- (a) has been required to deliver up possession of a dwelling provided by a housing authority or a body approved of for the purposes of section 6 of the *Housing (Miscellaneous Provisions) Act, 1992* and the reasons for such requirement include anti-social behaviour or the interests of good estate management, or
- (b) is a person to whom a letting has been refused or deferred under *section 14 of the Housing (Miscellaneous Provisions) Act, 1997*, or
- (c) is a respondent to an excluding order or an interim excluding order made under *section 3 or 4 of the Housing (Miscellaneous Provisions) Act, 1997*, or
- (d) is a person who has been directed to leave a house under *section 20 of the Housing (Miscellaneous Provisions) Act, 1997*.

(2) A health board may determine that, notwithstanding anything contained in any enactment, a person to whom this section applies shall not be entitled to a payment to supplement the person’s income in respect of rent or mortgage interest, or may terminate or suspend the payment.



**19.**—Where there is no tenancy in a dwelling, any payment offered to or accepted by a housing authority or other person acting in the capacity of a landlord shall not be deemed to create or have created a tenancy in the dwelling. Payments to a housing authority or other landlord

**20.**—(1) Where— Illegal occupiers of local authority housing

(a) a house provided by a housing authority or any part thereof is occupied, whether continuously or otherwise, by a person (other than the tenant or a person who has failed to vacate a house on termination of a tenancy), and

(b) a member of the Garda Síochána has received notification from the housing authority that the authority believe that the person is or has been engaged in anti-social behaviour and that it is necessary in the interest of good estate management that the said person be required to leave the house,

a member of the Garda Síochána may direct the person to leave the house immediately in a peaceable and orderly manner and that person shall comply with the direction.

(2) A person who does not comply with a direction under *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months, or to both.

(3) Where a person does not comply with a direction under *subsection (1)* a member of the Garda Síochána may arrest the person without warrant.

(4) For the purpose of arresting a person under *subsection (3)*, a member of the Garda Síochána may enter (if need be by use of reasonable force) and search any place (including a dwelling) where the person is or where the member, with reasonable cause, suspects that person to be.

(5) This section shall not prejudice any power of arrest conferred by law apart from this section.

**21.**—Where, in any proceedings under section 62 of the Housing Act, 1966, or *section 3, 4 or 9*, a member of the Garda Síochána or an officer of a housing authority or a health board states that he or she believes that a person is or has been engaged in anti-social behaviour, then, if the Court is satisfied that there are reasonable grounds for such belief and that another person would be deterred or prevented by violence, threat or fear from providing evidence in that regard, the statement shall be evidence of such anti-social behaviour. Evidence

**22.**—Section 11 (5) to (12) and (14) of the Housing (Miscellaneous Provisions) Act, 1992, shall apply and be deemed always to have applied, to a loan made by a housing authority in accordance with terms and conditions approved of for the purposes of section 5 (2) of the Housing Finance Agency Act, 1981, by the Minister for the Environment and the Minister for Finance. Housing loans.





# APPENDIX 1

## Fingal County Council Anti-Social Behaviour Complaint Handling procedure<sup>1</sup>

- (a) Record Complaint
  - ◆ name and address of complainant
  - ◆ nature of complaint, as much detail as possible
  - ◆ if the complaint is anonymous, check if the complainant is residing in the area
- (b) Verify the Complaint
  - ◆ officials checking on the ground
  - ◆ local people
  - ◆ Gardai (obliged to verify complaint and furnish any information)
- (c) Write to Tenant
  - ◆ invite tenant (s) to attend for interview
  - ◆ state in letter that a Notice to Quit may be served if complaint is verified
  - ◆ the interview – it is important to keep a detailed record of the interview and what was discussed
  - ◆ if the tenant provides any information it is important that this is followed up
  - ◆ have an agreed minute of the meeting
- (d) When all details are considered, make decision. If anti-social behaviour is being carried out, in the interests of good estate management a Notice to Quit should be served.
- (e) Inform tenant(s) of the decision

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<sup>1</sup> copy of contents of procedure received under the Freedom of Information Act from Fingal County Council