



# NIFHA Response to Consultation

**Date:** 19<sup>th</sup> February 2014

**Consultation:** Proposed Housing (Anti-Social Behaviour) Bill Northern Ireland

## Introduction

The Northern Ireland Federation of Housing Associations (NIFHA) represents 26 registered housing associations in Northern Ireland.

Collectively our members provide 44,000 homes comprising general needs, specialist and supported accommodation, as well as shared ownership. Further information on our members and NIFHA's work is available at [www.nifha.org](http://www.nifha.org).

Housing associations are not-for-profit social businesses which increasingly borrow significant amounts of private finance to deliver public benefit in meeting housing need, supporting their tenants and investing in communities.

## Background

Anti-social behaviour is one of the key issues affecting the successful management of tenancies, neighbourhoods and communities. Housing associations are fully committed to creating and maintaining safe and sustainable homes and communities which foster a sense of security and wellbeing for all who live in them. Dealing with anti-social behaviour can be time consuming, resource intensive and expensive. Even with the commitment of housing associations using all of the powers and interventions available to them, it can still be difficult to successfully resolve anti-social behaviour to the satisfaction of those affected by it. We welcome, therefore, a focus on this issue, its impact on the lives of social housing tenants and the need for social landlords to be adequately equipped to play their part in dealing with anti-social behaviour.

Effectively tackling anti-social behaviour is an important priority for housing associations for a number of reasons. First and foremost is addressing the situation for individual tenants who are affected by behaviour; then ensuring that it isn't having a detrimental and disruptive impact on the wider community; and finally minimising the time and resource required to manage a tenancy and property where anti-social behaviour is happening. Housing associations demonstrate their commitment to tackling anti-social behaviour through Customer Charters<sup>1</sup>, Anti-

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<sup>1</sup> Clanmil Housing [http://www.clanmil.org/CustomerCharter\\_final\\_version.pdf](http://www.clanmil.org/CustomerCharter_final_version.pdf)

social Behaviour Booklets<sup>2</sup> and Good Neighbour Agreements<sup>3</sup> and specific policies and procedures to respond to activity deemed to be anti-social. All housing associations communicate their approach to dealing with anti-social behaviour to tenants and other stakeholders, usually via their website and publications, and will have clear internal policies and procedures that housing officers follow when they receive a complaint.<sup>4</sup>

The following steps indicate how an association will respond to a report of anti-social behaviour in one of their homes:

- Quickly and formally acknowledge all reports of Anti-Social Behaviour
- Seek to investigate all reported instances of Anti-Social Behaviour at office level in a timely manner
- Provide advice and support
- Identify and interview all interested parties
- Establish inter-agency working where appropriate
- Use legal action when all efforts at conciliation have failed. Action can include possession, injunction and applying to relevant authorities for an Anti-Social Behaviour Order. It should be noted that conciliation is not always appropriate and sometimes it is necessary to resort to legal action immediately.
- Endeavour to take action on behalf of Association tenants who are the victims of Anti-Social Behaviour
- Seek to respond to instances of Anti-Social Behaviour on Housing Association land whether the complainant is a tenant, private tenant or owner occupier, and in the context of re-housing, take full account of any Anti-Social Behaviour carried out by the housing applicant or their household, to the extent that this is legally permissible.<sup>5</sup>

Housing associations have a range of strategies and tools at their disposal when it comes to dealing with cases of anti-social behaviour. This ranges from working with tenants involved in anti-social behaviour and using mediation services to resolve disputes through to taking legal action against tenants.

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<sup>2</sup> Oaklee Housing <http://www.oaklee.org.uk/Uploads/document/070320121320506966456.pdf>

<sup>3</sup> Ulidia Housing <http://www.ulidiahousing.org/>

<sup>4</sup> Some examples can be found at: Apex

<http://www.apexhousing.org/Housing/AntiSocialBehaviour/tabid/482/Default.aspx> ; Connswater

<http://www.connswater.org.uk/documents/tenants/tenant-antisocial.pdf>; Flax

[http://www.flaxhousing.com/DatabaseDocs/med\\_2396272\\_hm\\_06\\_antisocial\\_behaviour\\_policy.pdf](http://www.flaxhousing.com/DatabaseDocs/med_2396272_hm_06_antisocial_behaviour_policy.pdf)

; Triangle <http://www.trianglehousing.org.uk/section.php?section=3>

<sup>5</sup> Fold Group [http://www.foldgroup.co.uk/uploads/cms\\_file/1357899588-4.pdf](http://www.foldgroup.co.uk/uploads/cms_file/1357899588-4.pdf)

NIFHA would stress that the ending of a social housing tenancy and subsequent eviction is a measure of last resort for housing associations, when the full range of other options has been exhausted. In some cases, however, this is the only way to address anti-social behaviour and resolve the situation satisfactorily for its victims.

NIFHA and our members believe that a holistic and multi-agency approach that is focused on prevention, early intervention and support is the best way to tackle anti-social behaviour effectively and sustainably.

## **General Comments**

There is already a clear legislative framework in place to address anti-social behaviour in housing association tenancies. The Housing (NI) Order 1983, Housing (NI) Order 2003 and Housing (Amendment) Act (NI) 2010 provide the framework by which housing associations take action against cases of anti-social behaviour.

This consultation proposes bringing forward new legislation that will:

- i. Introduce a new type of social housing tenancy (the **short secure tenancy**), which will be specifically for those tenants who have been involved in anti-social behaviour and;*
- ii. Amend existing legislation to provide individuals who engage in anti-social behaviour following an assessment under homelessness legislation can be treated as ineligible **at any stage** before they are allocated a tenancy of social housing.*

NIFHA has consulted with our members and their view is that this legislation will not enhance the existing legislative powers around anti-social behaviour. Furthermore they are concerned that these proposals if enacted could actually delay the successful resolution of anti-social behaviour cases.

One thing that makes a fundamental difference to the ability of housing associations to effectively tackle anti-social behaviour, however, is access to information from the Northern Ireland Housing Executive (NIHE), PSNI and local councils. There is a formal information-sharing protocol between housing associations and the NIHE which is working well.

NIFHA is currently engaged with the PSNI to produce an information-sharing protocol between housing associations registered with NIFHA and the PSNI. Our members believe that this will have a significant beneficial impact on the measures

they take to address anti-social behaviour. It has been identified as the single most important action that will improve the management of anti-social behaviour in housing association properties.

NIFHA is also engaging with local councils with a view to establishing arrangements whereby housing associations, as non-statutory bodies, can be included in Anti-Social Behaviour Forums and Policing and Community Safety Partnerships. We believe that this will enable informal information sharing; collaborative approaches to addressing particular cases and anti-social behaviour more generally within local communities; and a more preventative approach.

Our members have indicated that focusing on these avenues is more likely to lead to successful outcomes in tackling anti-social behaviour.

Overall we feel that there is a general lack of detail and clarity within the draft Bill. NIFHA would be concerned that the proposed legislation could be misinterpreted due to ambiguity on a number of points. For example, in relation to the assessment of behaviour that is 'capable of being addressed by counselling or other support'<sup>6</sup>, we would have reservations as to who makes this judgement and by what criterion this judgment is based. Similarly the delivery of support as mentioned, but not with any real detail, in the Bill has the potential to lead to a situation where there is inequity across the social housing sector in terms of the support provided.

In addition, we feel that there is to be a lack of clarity and guidance with respect to the intention of use of short secure tenancies, with the consultation document stating that 'short secure tenancies are not intended to be used where individuals are causing harm or serious distress to their neighbours.'<sup>7</sup> NIFHA has concerns as to how this is defined and how this would be effectively monitored.

Chapter 1 of the consultation document lists a range of methods for dealing with anti-social behaviour. NIFHA is conscious that this list is already comprehensive and would be cautious about adding additional mechanisms to this already significant list.

## **Specific Comments**

### **Short Secure Tenancies**

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<sup>6</sup> Ibid, p5.

<sup>7</sup> Ibid.

**1. Do you agree that the proposals on short secure tenancies will provide social housing providers with an appropriate tool to ensure their tenants and others can peacefully enjoy their homes?**

NIFHA does not feel that short secure tenancies are necessarily the best means of addressing anti-social behaviour and this proposal is an area of concern for our members.

Scotland was used as the example by which to model the proposed legislation, however, there are major differences between the Scottish legislation and the proposed legislation for Northern Ireland. In fact, there are a number of crucial deficiencies in the proposed legislation that are present in the Scottish legislation and guidance. In Scotland, whilst anti-social behaviour is a fundamental element in the original intent of the legislation, it is not the only reason why the legislation is introduced. The Scottish legislation also dealt with other mitigating circumstances which are not mentioned in this consultation paper, but may have been useful to consider.

There is much greater clarity and detail in a number of areas which include a concise and coherent definition of 'support', as well as clarity in the situation where a tenant refuses the support offered by the social landlord. There also appears to be greater understanding in the legislation and policy framework in Scotland that anti-social behaviour can only be effectively addressed with the cooperation of a range of agencies and stakeholders. Anti-social behaviour cannot be seen as a housing problem to be managed primarily by landlords. There must be concerted and collective ownership and action across all stakeholders when it comes to tackling anti-social behaviour in our communities

The proposals put forward in this consultation document are unhelpful in that they simply delay dealing with anti-social behaviour issues for a further six month period rather than dealing with the issue(s) from the outset. Housing associations already provide much of the support proposed in the Bill and continually seek additional practical mechanisms to manage anti-social behaviour. Our members are concerned that introducing a short secure tenancy would simply interrupt that process of intervention and support in a way that ultimately has little effect on the ground for the person involved in the anti-social behaviour, affected tenants and the housing association. There are major issues with regard to the impact that this proposed legislation will have on neighbouring tenants who are living with anti-social behaviour and their confidence around the effective management of anti-social behaviour.

We feel that there is too great an emphasis on securing tenant evictions, which is seen by housing associations as a 'last resort' when all other avenues have been exhausted.

In addition to this, there is no mention of information sharing within the consultation document, which is disappointing for NIFHA and our members. We would stress that information sharing between all key agencies and multi-agency cooperation in dealing with specific instances of anti-social behaviour is the key to effectively resolving these issues. Our members have advised that this approach would be much more productive in tackling the problem of anti-social behaviour in social housing and managing the root causes of such behaviour than changes to tenancy.

**2. Do you agree that the proposals on short secure tenancies will provide social housing providers with an appropriate tool to help struggling tenants to sustain their tenancies?**

It is not entirely clear what is meant by the term 'struggling tenants'. Housing associations will already provide specific tenancy sustainment support across a range of areas where there is an identified need to work with tenants. Our members did not make a connection between short secure tenancies and effectively supporting tenants. NIFHA believes that this is an unnecessary step as housing associations already have a number of support mechanisms in place to deal with these issues, as and when they arise. These mechanisms are common practice in situations of anti-social behaviour and/or when tenants are in difficulty. Housing associations are also continually seeking to add to existing good practice and we are actively exploring options such as more formal mediation arrangements for example as an additional tool in effectively resolving anti-social behaviour complaints.

**3. How can social landlords best work in partnership with others in the delivery of support services to those tenants holding short secure tenancies?**

We welcome the recognition that dealing with anti-social behaviour is a collective responsibility across a range of agencies and organisations. While housing associations should and do take action when anti-social behaviour is reported in their properties and is impacting on other tenants, resolving these cases cannot be their responsibility alone. Anti-social behaviour is not a straightforward issue and there can be many contributing factors. These factors may not be best addressed by housing professionals, but by colleagues working in other sectors. Housing associations can provide valuable support around maintaining a tenancy and being a good neighbour and offer mediation where appropriate. They may not, however, be best placed to make assessments about the reasons for anti-social behaviour or

determine what the right support structures should be. That is why we would advocate a holistic approach to the delivery of support services.

Housing associations are working closely with the PSNI, local councils, NIHE and community groups to address anti-social behaviour. Our members believe partnership working is key to effectively tackling this problem within communities. The Colin Housing Providers Forum is a good example of how partnership working can support social landlords in dealing effectively with anti-social behaviour. In relation to the delivery of support services, many housing associations use independent organisations to provide mediation in appropriate cases. There is however, always scope to improve and build upon existing partnerships – the work on information-sharing protocols is a case in point – and NIFHA and our members are committed to working closely with other stakeholders.

Given that we do not believe short secure tenancies would be an effective tool, we would not necessarily take a view on specific support services linked to this form of tenancy.

**4. Are there any additional proposals, including non-statutory actions, which should be considered?**

As we have already stated, housing associations believe that effective information sharing protocols - to include housing associations, the PSNI and local councils – are the best means of tackling anti-social behaviour.

Housing associations are already progressing this through NIFHA and we have had constructive discussions with the PSNI and local councils to establish how we can move this forward. We believe that multi-agency working that includes housing associations as key partners in addressing anti-social behaviour with clear policies and procedures for sharing information and working together is the best way to resolve anti-social behaviour cases and prevent them occurring in the first instance.

**Ineligibility for Homeless Assistance**

**5. Do you have any comments on the proposal to amend the Housing (Northern Ireland) Order 1988 as proposed above, i.e. to provide that a person can be found ineligible for homelessness assistance at any stage before they are allocated a tenancy of social housing?**

NIFHA has been advised by DSD that this proposal is of a technical nature in relation to the Housing (NI) Order 1988 and as such we have no significant comments.

## **Conclusion**

Overall NIFHA believes that this proposed legislation will not add value to the legislative provisions already in place and being used by housing associations.

NIFHA and our members feel that many of the proposals overlap with already existing good practice between housing associations and tenants. Housing associations view court proceedings and eviction as a last resort when all other avenues have been exhausted, and believe that these proposals place too great an emphasis on securing evictions, the process of which has significant impediments. We feel that there are other legal and practical remedies in place, and that the proposed legislation would seek to hinder a process that is already occurring. If the legislation is to be progressed we feel that much greater exposition and clarity will be necessary to provide assurance for social landlords and other stakeholders.

It is disappointing that there is a lack of any meaningful attempt at facilitating or encouraging information sharing between the relevant agencies which NIFHA and our members feel is paramount to ensuring the effective management of anti-social behaviour in social housing. NIFHA is progressing this on behalf of our members and welcomes the co-operation of the PSNI and Department of Justice in seeking to achieve a more streamlined, successful and timely solution to anti-social behaviour issues within housing association properties. However, legislation may be necessary to adequately address the issue of information-sharing and engagement and this could have been a useful opportunity to consider how that could best be achieved.

We believe that the capacity of housing associations to successfully address anti-social behaviour can be increased and would welcome further discussion with the Department as to how this can be progressed. Essentially better engagement across all statutory and non-statutory organisations working to deal with anti-social behaviour would be a significant step towards better outcomes. Joined up working that enables sharing of information and resources and communicates a strong message that everyone is working together to tackle this problem will be much more effective than enhanced legal powers.

### **Submitted on behalf of NIFHA by:**

Katherine McCloskey

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