

community mediation works



**in working class
communities**

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**The State
Of
'Anti-Social Behaviour'
In Working Class Communities**
Policy & Practice

Community Mediation Works,

© 2010

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Part I

Introduction



"That these neighbourhoods should have become so besieged is the product of the decades of the ill-considered housing policies behind the concentrating of large numbers of families with high levels of need while offering little social support and few if any amenities. Housing management policies that make enabling tenant purchase the priority rather than fostering life-affirming, sustainable, neighbourhoods only render the situation more difficult."

1.1 Executive Summary

This report reflects the experiences of people who have been the victims of anti-social behaviour and the experiences of those who have been threatened with or faced punitive action under the provisions against anti-social behaviour in the Housing (Miscellaneous Provisions) Act 1997, drafted on the heel of the heroin crisis of the 1990s.

Based on first-hand accounts of how anti-social behaviour is interpreted in practice on two local authority housing estates in Dún Laoghaire – Rathdown and one in Wicklow, the report considers the measures used to deal with behaviour deemed to be anti-social and the effects those measures have on personal, family, and community life.

The report also looks at alternatives to evictions and exclusions. Rather than more of the same, the report calls for measures that help reweave, not further unravel, the fabric of community life.

1.2 Methodology

This report is grounded in community-based qualitative research, a model that seeks to deepen a community's own understanding of its relationships and experiences. To do that, it explores why and how along with who, what, where, and when.

Consultations with 125 residents and 28 interviews with families and youth groups living in two local authority housing estates in Dún Laoghaire-Rathdown and one in Wicklow allow those most affected to speak directly about anti-social behaviour, the policy designed to curb it, and the effect of that policy on individuals, families, and

communities. We also interviewed a councillor from the Dún Laoghaire-Rathdown County Council, a member of the Dublin City Tenancy Sustainment Service team and Dún Laoghaire – Rathdown County Council's tenancy sustainment Officer.

1.3 Background

In 2004 Community Mediation Works produced *The State of Conflict in Working Class Communities*, a report documenting the types of conflict that typically exist in poor working-class neighbourhoods and the damaging effects those conflicts have on community and family life. In that report, residents spoke of community spirit giving way to pervasive hopelessness and of the profound difficulties they encounter when trying to resolve conflicts both within the community and through the relevant authorities. The report also explored the

tendency of poverty to intensify conflict and the failures of statutory and voluntary agencies to alleviate the situation. *The State of Anti-Social Behaviour: Policy & Practice* builds on our 2004 report and analyses in greater depth the formal response to conflicts arising out of conduct that has come to be deemed "anti-social".

Deficiencies in estate design, the lack of good maintenance and the very clear physical divides between local authority estates and private rental or owner-occupied housing have long combined to make local authority housing one of the most graphic symbols of social segregation and exclusion in Irish society. As is amply documented elsewhere, local authority housing caters overwhelmingly for those with the lowest

Given that where we live plays a key role in access to services and opportunities, residing in a local authority estate itself markedly reduces the prospects for and intensifies the exclusion of a population that has long been hard-pressed to survive.

incomes and the highest levels of dependence on welfare, a pattern that began in the early 1980s and continues with ever-greater concentrations of disadvantage.¹ Within these concentrations are further concentrated some of the most vulnerable members of Irish society—lone parents, people out of work, elderly people, and people with psychiatric disabilities. Given that where we live plays a key role in access to services and opportunities, residing in a local authority estate itself markedly reduces the prospects for and intensifies the exclusion of a population that has long been hard-pressed to survive.²

Poor policies, coupled with the faltering economy and high unemployment of the 1980s, have in effect created ghettos. By the 1990s, drug dealing and related crime had begun to skyrocket, particularly in and around Dublin. The neighbourhoods most affected were and continue to be poor ones and are found largely though not entirely in local authority housing estates. The drugs crisis would, arguably, take some neighbourhoods to the breaking point.

That these neighbourhoods should have become so besieged is the product of the decades of the ill-considered housing policies behind the concentrating of large numbers of families with high levels of need while offering little social support and few if any amenities. Housing management policies that make enabling tenant purchase the priority rather than fostering life-affirming, sustainable, neighbourhoods only render the situation more difficult. For many years, local

authorities had dismissed drug dealing and related crime as the responsibility of An Garda Síochána, a force lacking the resources to deal with the problems, particularly in circumstances where relations between local residents and the Gardaí were already characterised by mutual distrust.

Faced with syringe-littered green areas and other common spaces, some citizens' groups called for direct action against suspected drug dealers, publicly denounced known dealers, marched on their homes and evicted some. In the aftermath of a meeting in May 1996, a group of men attacked two heroin addicts, killing one. The series of vigilante actions combined with other events—including the murder of a journalist investigating the drug trade—to keep the problem on page one of the daily newspapers and to put it at the top of the political agenda.³

Rather than better equipping law enforcement to curb what are clearly criminal acts, however, in 1997 the government brought in the Housing (Miscellaneous Provisions) Act, which grants local housing authorities the power to deal with drug dealing and related crime. Like similar measures elsewhere, the approach offers symbolic reassurance to the wider public that the problem is both confined and in hand.⁴ Widely criticised for the severity of its provisions and the lack of procedural safeguards for those targeted, the Act remains in place today.

¹ For an exploration of the Irish State's role in creating the problem, see Cathal O'Connell's *The State and Housing in Ireland: Ideology, Policy and Practice* (New York: Nova Science Publishers, 2007).

² For earlier warnings about our increasingly divided society and an overview of the situation, see Combat Poverty, "Submission on the Review of Housing Management Policy and Practice" (Dublin: Combat Poverty Agency, 1996), 3-4.

³ Clodagh Memery and Liz Kerrins, "Estate Management and Anti-Social Behaviour in Dublin: A Study of the Impact of the Housing (Miscellaneous Provisions) Act 1997" (Dublin: Threshold, 2000), 9-10.

⁴ John Flint, "On The New Front Line: Social Housing and the Management of 'Problematic Populations,'" paper presented at the Housing Studies Association Spring Conference, Sheffield Hallam University, 15-16 April 2004.

1.4 Defining Anti-Social Behaviour

A month before the Housing (Miscellaneous Provisions) Act 1997 became law, a government circular offered the following rationale:

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.⁵

Notes for local housing authorities, appended to that circular, clearly state that drug possession for personal use does not constitute anti-social behaviour under the Act. Nuisance-making and damage to property are similarly excluded.⁶

According to the Act, anti-social behaviour consists of

(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.⁷

By the government's own reckoning, the Act splits anti-social behaviour into two categories: the first includes drug dealing; the second covers serious intimidation and

threatening behaviour.

Within the meaning of the Act, behaviour deemed intimidating or threatening must be 'significant or persistent'.

At first glance, the legislation and the thinking underlying it seem straightforward: no

one wants the neighbourhood to be beset by drug dealing and related crime. What 'significant or persistent' anti-social behaviour *means*, however, varies according to the perceptions of local authorities and those in the community asked to describe it. Moreover, where 'violence' and 'injury' convey criminal acts, what today can constitute 'harassment' or 'obstruction' not that long ago meant something very different – 'being a nuisance' or 'annoying' – and reflect power relations, conflict between generations, and a suspicion of difference.

Widely criticised for the severity of its provisions and the lack of procedural safeguards for those targeted, the Act remains in place today.

⁵ Circular H5/97, Department of the Environment, 1997.

⁶ See "Notes for Housing Authorities on the Main Provisions of the Housing (Miscellaneous Provisions) Bill, 1997," Appendix to Circular H5/97, Department of the Environment, 13 June 1997. In 2008 the legislative definition was updated to include damage to property.

⁷ Acts of the Oireachtas, Irish Statute Book, Ministry of the Attorney General, Housing (Miscellaneous Provisions) Act of 1997. Act number 21 of 1997.

1.5 The Norris Recommendations

In 2003 Dublin's Housing Unit, in conjunction with the City and County Managers Association and the Department for Environment, Heritage and Local Government, published a set of good practice guidelines to help local authorities curb anti-social behaviour.⁸ The guidelines recommend that all local authority residents receive written service guides outlining the local authority's policy on anti-social behaviour. Service guides should include:

- **Clear definitions of anti-social behaviour.**
- **Examples of anti-social activities.**
- **A clear statement that it is the policy of the local authority to investigate anti-social activities and to take appropriate action to deal with them.**
- **Details of the measures employed by the local authority to prevent anti-social activities from arising.⁹**

In this report we explore the extent to which the Norris recommendations are in effect and the impact of their presence or absence on the daily lives of those who live in local authority housing. It is worth noting that by 2003, the year the guidelines were issued, the available evidence indicated that the 1997 Housing Act had led to an over-reliance on eviction as the solution of choice to anti-social behaviour: evictions for anti-social behaviour by the four Dublin local authorities were high when

compared to the eviction rates for British local authorities.¹⁰

Neither guidelines for managing behaviour nor housing management reforms, however, can get at the roots of the problems. Nor should the guidelines be seen as a replacement for, or the equivalent of, the right to the fair hearing and other fundamentals of due process denied local authority tenants: even the most well-intended management measures are no replacement for basic rights.

Even the most well-intended management measures are no replacement for basic rights.

⁸ Michelle Norris, "Preventing and Combating Anti-Social Behaviour—Good Practice in Housing Management: Guidelines for Local Authorities" (Dublin: The Housing Unit, 2003).

⁹ Norris, 47.

¹⁰ Michelle Norris and Cathal O'Connell, "Local Authority Housing Management Reform: Progress and Prospects," paper presented to the Irish Social Policy Association (ISPA) Annual Conference, 4–5 September 2003, 16.

Part II

Telling It Like It Is — Residents in Their Own Words



"Little in the way of positive intervention is available to those who complain or to those who are the subject of complaints."

2.1 Situations of Alleged Anti-Social Behaviour

Although drug use, including alcohol, does not necessarily in itself make for poor neighbourhood relations, some behaviour commonly associated with drug and alcohol use—particularly disturbing the peace or an apparent inability or lack of interest in maintaining a clean and quiet household—clearly does damage the quality of life for neighbours. Methadone, a heroin replacement treatment, provides addicts with a route away from illegal street dealing, away from the health risks associated with heroin use, and lessens the burden on the health service of complications arising from intravenous drug use. For real rehabilitation to take place, however, treatment programs must include training in, long-term back-up for, and follow-up on the communication and other personal skills needed for living peacefully with neighbours. As we heard, when these skills are not fostered, the neighbourhood suffers:

They sleep all day, and then they're up all night. And I can hear them going up and down the stairs all night—you know, when you're trying to go asleep. And then sometimes you might get four or five or six in there at night then ... You wouldn't get to sleep at night, shouting and roaring, you know ... I used to go out to them, but I wouldn't go out anymore—it's too dodgy. I've rang the Guards loads of times to get them moved on—they wouldn't be in anybody's house, they'd just be out on the street roaring and shouting.

The following interview excerpts illustrate what it is like to live alongside clearly anti-social behaviour:

*The fact that that boy is, you know [using cocaine]—it's the anti-social behaviour that goes with that ... For one individual to make six or eight families feel unsafe because he's trying to deal with his own sh*t, I would have thought is very unfair. I wasn't asking for the mother to lose her house. She's entitled to live there—but that kind of anti-social behaviour from that one individual—I personally thought the Council should've come up here and said, 'Now you move him on. This is not on.'*

And

They were keeping [someone else's dog] and they had other dogs. The person who owned the dog wasn't living there at the time. He'd come up once or twice a week and the dog would never, ever be out ... the smell and the bluebottles during the summer—it was unbelievable ... They shouldn't be allowed to have animals because they don't look after them. It's desperate—the dogs are whining all the time. Sometimes, if the dogs are barking they'd be shouting out the windows at the dogs.

Although the government, agencies, and the voluntary sector have long stressed the need for a pro-active, multi-agency approach to such problems, in practice there are two routes: sanctions for anti-social behaviour and Garda intervention in cases of criminal behaviour. Little in the way of positive intervention is available to those who complain or to those who are the subject of complaints. A resident of a private dwelling describes the local authority's response to a complaint about the state of a neighbouring home:

There's an open sewer next door ... You can't open the back door – the bluebottles fly in from the sewerage and everything. I don't bother ringing anymore because that's what I get anytime I ring them: It's my own problem ... It's no use getting onto the Council.

A majority of the residents we consulted spoke about local authorities with a great deal of scepticism and had little faith in their ability or willingness to tackle problems in the estates—not just anti-social behaviour but also general maintenance and repairs. Because most local authority housing leases have clauses putting the onus for maintenance on the tenant, damage caused by others leaves tenants with little recourse apart from a hard-to-prove criminal complaint and with no support:

[They're] drunk and they are out of hand, and go by the houses. And if anybody like their friends are fighting with them, they start smashing your windows and your car windows.

Norris recommends that complainants of anti-social behaviour who fear for their safety or who experience significant distress be referred to the Gardaí, or Victim Support, or related agencies. For serious cases of anti-social behaviour, or where complainants are vulnerable, Norris further recommends that local authorities consider designating a liaison officer who regularly monitors complainant welfare and informs complainants of the progress of the case.¹¹ We found no evidence of such provisions in place. In their absence, as the following account reveals, residents who face retaliatory threats for complaining are reluctant to make further complaints:

I approached [the family] and told them that I was going to go to the Council and

*report them if they didn't clean up ... I thought it was a fair enough request ... The son came and stood outside my front door and roared and screamed and shouted who the f**k did I think I was and he'd 'knock my f***ing head off' for me if I made a complaint [about] the dog. That was the only approach I ever made to them, and I thought it was a fair enough approach.*

In time, that resident did make a complaint to the local authority but stresses

I didn't go down there lightly – it took me four years to get the courage to go down because all the other little things are only little things, but when cars start getting set on fire ... Everybody is bold now and again, and maybe everybody can't afford to shift their rubbish, but if it's left for months on end, then I think people should be told: 'Clear it up.'

Our interviews also explored what it means to be the subject of complaints that in many instances are petty but are nonetheless deemed to fall within 'securing and promoting the interests of any tenants'.

In one instance a resident reports a housing officer who was not heavy-handed:

[A man] called to the door, but I wasn't here, so he left a note that I had to ring him – just a little card to say 'I was up to see you; can you get in touch?'

I rang him and he told me that it was about me son and could I come down and see him. My son and a few of his little friends – they were getting up to some mischief. And he just said that I need to know where he is and what he's doing at all times.

¹¹ Norris, 82.

He said, 'We'll leave it at that now unless anything else pops up,' so nothing else has, thank God. He wasn't annoyed with me, wasn't giving out about him. Just saying that I need to know where he is and keep an eye on him – that was it.

A significant portion of other residents, however, reported being the subject of unreasonable or petty complaints that concern behaviour the legislation is not meant to address. The following comment represents widespread views:

Anti-social behaviour I would class as drunk and disorderly, smashing people's windows, that type of thing, causing a lot of bother or cursing or abuse or something, but not just tapping a ball from one kid to another.

Parents worry that some youth seem to be singled out for engaging in informal sports. A parent recalls:

An example of one [complaint] was the kids playing football – at least ten boys outside playing football, right outside my house. I don't mind, as long as I can look out and see where mine are, but [the complainants] would pinpoint mine.

So [the local authority] would call up and say, 'We've got a complaint. Your boys were playing football.' When they came up, they were saying, 'We are going to other people,' and I found that fair.

But then I found out afterwards that I was the only person they did come to – that I was just being used as an example, which I found very unfair.

So I rang them back and said, 'You actually didn't go to the other persons because I asked the other parents and they said no.' They said they would get on to

them, but months later, they still haven't got onto them.

[The man from the local authority] was saying that people were ringing up complaining about us: 'Your son is playing football on the road.'

'My son now,' I said, 'is it? That doesn't happen to the rest of the teenagers that lives up in [another estate] or up on the private estate that comes down and plays football. Does that include them?'

'Oh,' he says, 'I don't know about that.'

So I said, 'How come you know about my son and you don't know about them?'

He said, 'That's the complaint we got.'

The other complaint was they were stopping traffic, which they're not – because if a car comes up, they just automatically all spread out, they let the car go by, and they all go back in and kick the football ...

Norris recommends that local authorities 'strike a balance between enabling tenants to report legitimate concerns to the local authority ... and discouraging frivolous or vexatious complaints ...'¹² A parent echoes a common report that no such balance exists:

The kids walk by [a neighbour] and [the neighbour]'s really grumpy with them. And the kids – all the kids play football here – and [the neighbour]'s continuously ringing the police on them and ringing the Council. I said to the Council, 'If they're outside my house I feel he's not doing any harm. They're kicking a ball.' But they said that's another anti-social thing where he was guilty of doing football, you know.

¹² Norris, 31.

One parent calls for closer screening of complaints and describes informal neighbour-to-neighbour solutions:

I think that they need to look into who is reporting it and how often they ring and report people. I would have to say the majority of people up here, we wouldn't be ringing the Council every week or anything like it. It would be just if we had a big huge problem we would ring them.

But generally we would sort it out amongst ourselves ... Like me and me neighbour – she used to mind mine when I would be in work, and if I saw her kids doing anything, I'd only have to call them by name and they would stop. And that worked out really well – we just always kept an eye on each other's [and knew] if they are up to mischief.

Similarly, another parent recalls when her children were young and getting into wrangles:

You go over to your neighbour and you say to your neighbour, "Look, talk to [your child], I talked to [mine]," and it's sorted out – that's my belief, that's the way I was brought up.

Another parent, however, suggests that such an approach has all but vanished:

I don't think there's much community going on in this estate.

Norris calls for a means of monitoring complaints of anti-social behaviour, one that looks at characteristics shared by complainants and those subject to complaints.¹³ Such monitoring might be a means of filtering frivolous and vexatious complaints. As the following account reveals, however, the experiences of many of

those we interviewed suggests that all complaints are given the same weight:

*[A neighbour] just stands there looking at people coming in and out of here for some reason. And maybe he has nothing better to be doing – maybe he needs someone to say 'hi' to him, maybe break the [isolation]. But I'm not going to bother – when [my son] was small, [my son] was in his garden, they were playing hide and seek, and I had come out, and I'd seen [the neighbour]. He'd grabbed him by the neck and pushed him. 'Get the f**k out of my garden,' he was saying. So I said to him, 'He's only a child.' But the thing was, he was saying they were damaging his property as well, which is a lie.*

Self-organised informal sport is neither encouraged nor tolerated. A mother offers a contrast with the past:

Kids have to play. We used to play Rounders at eleven o'clock at night – you couldn't even see the tennis ball, you spent more time looking for the ball – now you can't. It's classed as trespassing if you step into someone's garden to get a ball.

We also found the widespread view that those with the power to put alternatives in place dismiss out of hand suggestions for low-cost, easily organised recreation. A parent recounts:

When we lived in [another town] the boys had the swimming pool beside them; they had Gaelic football. I'm living up here twelve years now and we're still blue in the face saying you need something for the teenagers. Like meself and the neighbour said if they had a DVD night – a DVD costs nothing to hire out for the night. If you wanted to charge the kids twenty cents each, whatever. In our youth club

¹³ Norris, 37.

when I was a teenager, they had a snooker table and [you paid] 20 pence, but everybody watched or they waited on their turn. Another thing I would suggest is a dartboard—for insurance reasons, you can't have dartboards! Everything is all about insurance. No one will bring [teenagers] on trips. You can't do that because the insurance is too high.

Another stresses the need for youth club:

They should have a youth club for kids – something for the teenagers up here, because you see here Friday, Saturday and Sunday – nothing to do ... They should have something for the teenagers.¹⁴

A youth makes a comment we hear often:

There's absolutely nothing to do.

Another says:

What do we do? Sit at a pole all day, walk around all day, sit at the steps. There's nothing for us to do around here – talk to your mates, meet your mates.

And another:

The only thing we do have is the club up there, and that's only once a week.

To which a friend counters:

Yes, but they don't do much.

Another, now of age, recalls:

*When you're 17, like, you have nothing to do – it's just horrible. You're at the age where you want to go out to town and all, but you can't. But you're at the age where you can't stay around the estate and do nothing. It's all f**king s**t, like, when you're 17.*

A youth remembers a dismissive response to an idea:

I don't know who he is. We asked him. 'Could you do a disco?' And he said, 'No, we can't do that – it's not up to us to do it; it's up to your parents.' Now how is my Ma supposed to go up and start putting a whole load of DJ lights and a big DJ box and all? They're the ones with the money. They're the anti-social behaviour. Why don't they get off their arses and do something for us? That annoys me.

A parent observes that her local council 'wants the kids off the road' but does nothing to help parents who put their time and energy into providing alternatives. Her partner

was doing the football with the kids for two years. And the lads we were doing it with were at that funny age, like 15, 16. We used to ring the Council about cutting the grass, and they were very slow about doing that.

I thought: you're trying to get the kids up to do something two nights a week, and then when it came into the winter they'd no lights. They couldn't train – there was no lights on the road. You'd ring the Council to fix the lights. No, the lights weren't fixed. They want the kids off the road and to do something, and then when there's someone actually there doing it for them, they're not there to help out even that little bit.

Another parent remembers that a request for a small playground was met with the presumption that it would inevitably be used badly:

¹⁴ In Kilkenny, for example, €500 was enough to start a youth club. See *Changing Ireland*, Issue 17, Spring 2006.

We have asked for a little playground, but their attitude is that we won't look after it – the kids would be drinking there.

We asked young people what they would like to see made available.

Just stuff to do at nighttime. Yeah, sports. Even somewhere we can sit in. The community centre there – you're allowed in until four or five o'clock, but you're mostly not even allowed sit in there when you don't have a leader with you.

We were in there once a week, and say if you needed to use the toilet sometimes, you wouldn't be allowed, you have to have a membership card or else they would just talk to you through the microphone.

"The way it's portrayed is that the people down here are the scum of the earth."

A parent sums it up:

They won't build a park for them or anything – a little thing for snooker down there is all there is – and half the time they go down there and there's trouble at it, so they can't go in there. Basically, they get put down by the people that are running it and they don't want to be in it.

Then if they're playing football on the road and they get put down for that.

*So you have to understand that the lads that do go a bit crazy, because they're getting told: it's a free country, but you can't be free in it. You can't go there, you can't do this – it's no wonder there's so many kids committing suicide, the young fellas, do you know what I mean? Because they haven't got a f***ing life!*

The youth we interviewed are well aware of how others see their neighbourhoods. In their responses to the question 'What do you think it would be like growing up in a

private estate?' they demonstrate a painful knowledge of the stigma attached to local authority housing. As two youths from separate local authority estates commented:

It'd be totally different – like, [the Gardaí], they just go to the places that are poor, you know. Say like someone who looked rich, you know, and they had cans – they wouldn't hassle them as much as like if it was one of us. It's down to the way we look and dress as well. Even if you're just wearing a tracksuit you're just getting stopped. I just feel comfortable in a tracksuit – like we all do instead of wearing jeans – but you're just being stopped [by the Gardaí] for wearing a tracksuit.

[There was a] rumour going around about the swimming pool, that people from [this estate] weren't allowed in it. The way it's portrayed is that the people down here are the scum of the earth. That's the way I think they look at people down here, that's the way you feel from all those posh people, you know like, with all their big money ...

An adult's comment echoes that youth's view:

... And there's a funny kind of feeling that [residents of private estates] kind of look down on you a little bit. They do, yeah.

2.2 Experience of Policy & Practice

Once a local authority decides to take action on a complaint of anti-social behaviour, it usually notifies tenants in writing and requests a meeting between the alleged perpetrator or his or her parent or guardian and one or more local authority officials to

discuss the matter, usually at a local authority office.

According to the Norris guidelines, this letter 'should stress that the complaint is purely an allegation and that the purpose of this meeting is to offer the alleged perpetrator an opportunity to present his/her side of the story. In addition the confidential nature of all meetings of this nature should be emphasised.'¹⁵ In contrast, a resident reports:

It was just stating the point across and that was it – as if you didn't have a say. I mean that's it – 'there's rules' ... I've been told he's not to be out there playing football, because he's doing this and that – that he's not doing. I know he's not doing, but to their 'knowledge' he is.

Another resident reports that instead of being called for a meeting at a local authority office, officials paid visits to their home, often unannounced. Not only do home visits in lieu of a letter clearly stating the allegations run counter to the guidelines, such actions also violate residents' privacy and can easily breach confidentiality:

The first time they called out, two of them came in. 'Course I had a loada kids here at the time – I nearly died. 'We're from the Council.' It was a little bit intimidating. I had about five or six and everyone else's kids were in the house at the time – I'll never forget it.

I find it very intimidating when two men call to your house – when you're there on your own – to give out to you about something. When they do call unexpected, I say it to them that 'I'd prefer if you let

me know when you're calling.' If I go down to the Council, I make sure someone is with me.

The guidelines stress the need for a fair procedure:

Once local authorities are satisfied that a complaint regarding anti-social behaviour has some basis and that the alleged activity is sufficiently serious to warrant action, they should make contact with the alleged perpetrator and invite him/her to a meeting to discuss the incident in question. Fair procedure requires that all communication and meetings with alleged perpetrators of anti-social behaviour are objective and impartial. The purpose of this stage of the investigative process is to provide the alleged perpetrators with an opportunity to present their side of the story.¹⁶

Because the basis for regarding anti-social behaviour as 'sufficiently serious' is subject to far-ranging interpretations and is determined bureaucratically, residents report not objectivity and impartiality but that the local authority

...wouldn't really be listening to you. It wasn't even that they weren't investigating – I just thought you were guilty anyway no matter what you said.

Meetings are described as negative, accusatory, and at times intimidating. Several residents advise bringing a friend along. As one said,

I was really frustrated and I couldn't actually speak for myself. [A local community activist] came down with me. There seems to be a kind of block between

¹⁵ Norris, 60-62.

¹⁶ Norris, 61.

you and them – it's like you're saying something, it's not actually getting through to them, or if they're telling you something, they're not actually really talking to you. They have their sources and that was that – the 'reliable source' that told them. It was like your hands were tied and you were just guilty.

It was 'anti-social' behaviour because they weren't allowed play ball, and they weren't allowed obstruct traffic, and they weren't allowed urinate against the wall. None of this was actually happening, but to their 'knowledge' it was.

And

It wasn't even like they sit you down and give you a bollicking, a good aul fright. [The Council] didn't want to get us informed on how to do this, or go about this or, give any advice or nothing. It was like 'you done this and this' and right – bang! It was so like that.

Once a meeting date is set, little heed appears to be paid to exceptional circumstances:

I rang them up and I asked if it was okay not to go down – they put a leaflet in the door that morning – but he said, 'No, no, no. I want you down here.'

I then said I was unable to go down – that my Mother was dying in a hospice and only had three weeks to live, and we were trying to spend as much time as we could with [her].

I did explain all this to him, I said, 'Look, my Mam is very sick, she hasn't got long to live, do I really have to go down, can it not wait for a little while?'

But he said, 'No, no, it's very important.' So the way I looked at it was: all these

people with their stupid complaints about footballs was more important – they wanted it sorted out straight away, then and there – that was it.

The Norris guidelines also state that

The vast majority of complaints regarding anti-social behaviour will warrant further investigation before they can be properly assessed. A number of techniques can be employed to do this and in some cases more than one method of investigation will be required to accurately assess complaints.¹⁷

An accurate assessment demands fair and impartial investigation by persons well trained in how to investigate. Investigations must also be seen to be fair and impartial. The following account of a disputed complaint suggests an investigation that was neither fair, nor impartial, nor accurate:

I was out and I had my eldest son babysitting. Two girls had got paint from somewhere, and they painted everybody's walls and doors. One of my neighbours had gone out to [one of my children] and said, 'I'm going down to the Council to report you tomorrow' – because he was kicking a football around.

The girl whose house was painted actually seen the two girls who done it, so I went over to [the complainants] and said, 'Look, don't go down to the Council and report it. It wasn't my boys – it was the two girls, and there are witnesses.'

The girl that got her house painted said she'd go down to the Council for me to state that it wasn't my boys, that it was the two girls. But the Council still didn't take it, even though I had a witness to go down with me. Who ever made the

¹⁷ Norris, 58.

complaint, they were right – even though they knew in their hearts that it wasn't the lads who done it.

Even when I said that I'd bring the girl down, they said, 'No, it's okay,' but I still have an [anti-social behaviour complaint] on me, even though they done nothing wrong.

Had anyone at the Council told her she could defend herself against the accusation?

No. And then we have the Guards saying, 'Now, now, lads. You do live around here. You can't be vandalising your own place.'

It wasn't even them, so I made a complaint to the Guards that I didn't want my kids stopped on the road and being blamed for things that they didn't do. I'm not saying that they're angels – they do things as I did admit to the man that one of mine had thrown the eggs. But he wasn't on his own – there were three other lads with him.

I was the only one they came to, to make the complaint. Yet he was the only one taken in off the road that night, and the rest of them still stayed out to play, which I found very unfair, to me and him.

Inadequate, inaccurate investigations quite readily serve as a conduit for petty grievances amongst neighbours – 'the frivolous and vexatious' complaints the guidelines say should be discouraged:

People ring, make a complaint. I could get on the phone tomorrow and make a complaint, you know – make up lies just because I don't like somebody – 'I'm going in or out and I'm getting jeered. The kids are throwing stones at me.' Just because

I'm the one who made the complaints, does that mean that they have to listen to me? I could be a liar, just because I'm jealous of that person. Whoever makes the complaint is the one they take sides with, without listening to the other side.

And

As I said to [a local authority official] once, 'Do you believe everything you hear on the phone?' You see, I could ring up and say, 'You have a bomb in your pocket.' Who's to say you haven't? 'We write them all down,' [he said].

Anybody can pick up the phone and make a complaint: it's proving it is the problem, and the only way you can prove it is getting the witness up in the box but the people won't come up. They don't want to

come up.

In one instance a letter of complaint happened to include names of children who did not live in the household and were not related to the family receiving the letter:

They even added other people's kids to mine as well.

Local authority residents are left wondering

- What qualifications and experience in investigation do housing officers inquiring into complaints of anti-social behaviour have?
- What safeguards are in place to ensure that complaints are investigated fairly and impartially?
- To what extent does the task of managing housing stock and the need to lower wait times for housing influence judgements that potentially transgress basic rights?

- Where are the safeguards to ensure that guilt by association is not a factor: i.e. that past anti-social behaviour judgements against one family member does not lead to the presumption that other families members should also be so judged?

Most of those we interviewed about their meetings with the local authority about alleged anti-social behaviour said that it seemed that the official had decided the outcome before the meeting began:

I don't think you could have done anything. I think they have their way. If they're telling you that

your child has done something like anti-social – that's it; that's the way it is. I tried it when I went down. I was saying to him, 'I know it wasn't him.' 'No, it was him,' [they said]. And it was so frustrating because I said. 'I know it wasn't him.' 'But you don't know,' [they said].

As earlier comments indicate, residents also report that local authorities are unwilling to accept testimony on behalf of the accused from local witnesses. Our research included an instance when a complainant was prepared to write a letter on behalf of the youth accused. A parent whose family risked eviction for a son's alleged anti-social behaviour explains:

I know the neighbour who [reported me] because they told me they reported the loud music – there was never any threats or windows [broken], there was nothing like that. Basically it was a bad patch. [My son] would have a couple of his friends calling here – which I didn't mind because I'd rather have them here – but it

was when I wasn't here, which wouldn't be very often. It was mostly during they day. He'd have the music blaring.

They sent me back a letter saying my neighbours felt intimidated, but I mean, they talk to me! That woman – now I know there's only himself and her – and she told me she reported me for loud music one time, but I'm grand about it. Even when I was going to court she said, 'Do you want my husband' – he has his own business – 'to write you a letter saying that everything is alright?' They just don't take any of that into consideration.

Strict reliance on bureaucratic procedures rule out alternatives that could prevent individuals and entire families being evicted. In the case of teenagers, troublesome behaviour can end within months:

I'm going to be perfectly honest with you. That was a very bad patch that [my son] was going through, and it wasn't just [him] – it was other lads in the area, they were drinking. But I'm being evicted – since then there's been no trouble with [my son] with the police, there's been no anti-social behaviour and they won't take that into account.

Commenting on an eviction, a resident refers to weak ties among neighbours:

*No, no petition or anything went around saying 'Do you want these people evicted?' They were getting evicted and that was the end of it: no one stood up for them – a travelling family. Helicopters and everything. It was unbelievable. A f**king joke was what it was.*

Once the local authority serves someone with an exclusion order, any breach of that order is deemed a breach of tenancy, automatically putting the whole household at risk of eviction. Rather than building community, such measures further fragment it. It is a terrifying situation for families already facing many hardships to find themselves completely at the mercy of housing officials.

A parent remembers:

It was just the Council's word and that was it. That's it, end of story. No rights whatsoever. And if [my son] comes up and puts his foot inside my front garden, I will have five days to quit the house. I'm here [for] years and I don't think I've ever even had an argument with a neighbour.

I was terrified, I really was.

2.3 The Role of Agencies

The perception that some children are simply 'out running amok on the roads – ten and eleven year olds, no discipline on them' led one local councillor to claim

Parents should be made responsible. These parents are unwilling or unable to correct or control their children. I think that the parent's tenancy should be affected.¹⁸

Households coping with many difficulties easily become a source of moral indignation for the more socially or financially secure members of the community.¹⁹ The local

councillor's view that 'the parent's tenancy should be affected' is a common one. However, approaches that redefine solving social problems as a management function

also ignore cost-effective programs proven to help families in difficulty live peaceably with their neighbours.²⁰

In response to the councillor's comments, Sandra Fox of the

Simon Community and Dublin City Tenancy Sustainment called for more local services:

Yes, there are some people creating a nuisance and sometimes terrorising people in the community, but we don't want the situation where there are more homeless people. There has to be more local services to help families, whether its truancy officers or simple parenting skills. These are needed for people who find themselves in difficulties – there really needs to be early intervention. We should treat people with dignity and respect and not ostracise them further.²¹

Tenancy sustainment, based on well-proven methods from Europe and the UK, forms part of the Homeless Agency's action plan to eliminate the need to sleep rough in Dublin by 2010.²² In 2006 the Dublin Simon

Crime: Research, Policy and Practice, Kevin Lalor et al, eds (Dublin: Centre for Social and Educational Research; Dublin, 2007), 107.

²⁰ See "The Dundee Families Project: Final Report," Jennifer Dillane et al (Glasgow: Centre for Child and Society and the Department of Urban Studies of the University of Glasgow, 2001). Available online and from the Stationary Office Bookshop, 71 Lothian Road, Edinburgh EH3 AZ9.

²¹ *Evening Herald*, 27 October 2008.

²² Homeless Agency, "A Key to the Door: The Homeless Agency Partnership Action Plan on Homelessness in Dublin 2007–2010," (Dublin: Homeless Agency, 2007).

¹⁸ "Out-of-control kids 'to get their parents kicked out of home'" (*Evening Herald*, 27 October 2008).

¹⁹ Jonathan Ilan, "Young People and Street Crime in an Inner City Dublin Community – An Ethnographic Approach," in *Young People and*

Community joined forces with the Homeless Agency and Dublin City Council to create the Dublin City Tenancy Sustainment Service (DCTS), which offers practical, needs-determined, individualised plans to help people keep their housing. The service is publicised through leaflets and can be easily found on Dublin City Council's website. In the words of a team member, those who were homeless turned to DCTS because

they weren't able to maintain [a household], they hadn't cooked for themselves, they hadn't paid rent in a long time, they didn't know the local community...

Sometimes dealing with people was a difficulty because if they felt disrespected for a long time it was hard for them to be assertive without being aggressive, and then [they needed to gain skills in] interview techniques and [developing] self-esteem and life skills etc.²³

Although initially meant to prevent people who had been homeless from becoming homeless again, tenancy sustainment also provides the much-needed services that keep people from becoming homeless in the first place:

It's anything and everything. One of our key performance indicators is that we get into a home with somebody and try sort the problem out as quickly as possible, and that we refer them onwards and outside of ourselves, because we're a small group and although we all have our own individual skills, if they need a psychiatric nurse we would refer them on, if they need a new GP, if they need a crèche facility we would refer them to what's in their local community because the whole thing is about making

sustainable communities so people can continue to live there peacefully.²⁴

One stumbling block is that the services people need, particularly within the health service, don't always exist. As well, voluntary and statutory agencies do not always link their efforts. Pre-tenancy training, for example, would be the ideal time for tenancy sustainment staff to introduce themselves to tenants-to-be.

In June 2009, the Dún Laoghaire – Rathdown County Council had but one tenancy sustainment officer in place. That officer could not comment on whether the service has adequate funding or staff. As with Dublin City Tenancy Sustainment, people may refer themselves or be referred by voluntary agencies. Dún Laoghaire – Rathdown Council does not seem to have a protocol that would make referrals automatic, nor is information on tenancy sustainment easy to find on the Council's website. Prevention is not mentioned: the information is slotted under 'Homeless Advice and Information' and reads:

Homeless Advice and Information provides an Outreach service to individuals and families who are homeless and a Settlement and a Tenancy Sustainment service to those who are moving out of homelessness and into settled accommodation. The Homeless section also makes referrals to other support services.²⁵

Over the course of our door-to-door research we found a widespread lack of awareness about tenancy sustainment. The only reference to it during our interviews was indirect and underscores the need for the Council to publicise the service and how to arrange to use it:

²³ Interview with Sandra Fox, Dublin, 6 November 2008.

²⁴ Fox interview.

²⁵ Accessed 9 July 2009 by searching within the Council website: www.dlrcoco.ie.

Family member A: Do you know is there someone actually in the Council whose actual job is to help families in these sort of situations? Because we were told that, and if that was the case we haven't –

Family member B: Nobody's been in touch with us.

Family member A: I think from now on, that if there isn't one, there definitely should be a person who should be able to come out to families who are having some problems and give a bit of advice and give a bit of leeway, do you know what I mean? Have that sort of thing between, so they're not feeling like two rivals like the tenant against the Council.

Family member B: That's when we went down to that guy one time. But I mean he was –

Family member A: – He wasn't helpful. He was sort of telling you what you can't do –

Family member B: – You literally won't get a house again; you won't get another place. Everything was negative. Everything from the Council is negative. Everything. That's why I felt so helpless.

Automatic referrals to tenancy sustainment services could prevent problems:

Family member A: Do they not see that actually not giving advice to, say, the tenants or whoever they're having a problem with, they're actually going to make matters worse by evicting people and therefore not giving them any other chance?

Family member B: Because if you're in a Council house in the first place, you're not going to have any money behind you to go and set up a new life. They're sort of

just putting the problem with someone else.

We do not minimise the frustration felt by those confronted with persistent indisputably anti-social behaviour. As our 2004 report documents, some residents see the law as ill-equipped to deal with underage offenders and cite youths who feel free to behave anti-socially because of their age:

The police understand [what is going on], but because they're underage, the police legally can't do anything. Their hands are tied; I know that; but there should be other things they can implement.²⁶

In theory, there are other measures. The Children's Act 2001 provides for the Garda Diversion Programme and the Juvenile Liaison Officer (JLO) scheme, which makes principles of restorative justice part of the juvenile justice system. The Act distinguishes between 'non-offending out-of-control children (dealt with through health boards) and children whose actions constitute an offence' (dealt with through the diversion programme and restorative justice). The government has reported that progress is being made through the diversion program and that it needs to be developed further.²⁷

We met with mixed reports of the effectiveness of the JLO system. A youth comments:

He was grand, yeah ... you know, he was just supposed to keep you on the straight and narrow like.

²⁶ Community Mediation Works, *The State of Conflict in Working Class Communities* (Dún Laoghaire: Community Mediation Works, 2004).

²⁷ Mr. B. Lenihan, Minister of State, Department of Justice, Equality and Law Reform, Seanad Éireann, Wednesday, 20 October 2004.

A parent, however, recalls that her son's JLO officer was

a big man, very intimidating ... trying to make me feel very uncomfortable.

Another parent would like to see a community-based liaison system for the young people of the estate and linked her idea to the upkeep of the estate:

Before the estate was redone, there was a guy living on the estate used to caretake the estate – and that was his job. When you've a person like that in situ, that's going and saying to the kids: 'I've to pick up them bottles. Don't be throwing them like that,' and not being at the kids' backs all the time but communicating with the kids and saying, 'Will you use the bins, lads,' and you keep the communication flowing ...

I think that the estate should have somebody like that – somebody needs to be on the ground that's out and about walking around. And when the kids are out hacking away at the trees – if their parents are not going to do it, if you have one care-taker on the estate that was going to be teaching the kids from other angles, I think that that would work really well.

We also do not dispute that communities have the right to exclude certain members in the interests of the whole: that is why we have the criminal law. At the same time, most youth living in local authority housing are not criminals, nor should they be treated as such. Many of the youth we interviewed report the Gardaí as confrontational and at times abusive.

Comments such as

The Garda kicked our ball miles over the wall and started laughing at us.

And

They always say stuff just to piss you off.

reflect the widespread view that youth living in local authority housing are seen as second-class citizens. As one youth told us,

I was in here and [the Garda] said, 'Go into your own house.'

And I said, 'No, sorry, I'm in my own garden with my friend – that's my house.'

He said, 'That's not your house, it's a Council house.'

Another youth recalls a similar exchange with the Gardaí:

They just come and say, 'Yes, well you shouldn't be sitting there, and you're causing harm to other neighbours.' We're only sitting here, there's nothing else for us to do, and he says, 'If yous don't move now, yous are all going to get arrested.'

And then we start to walk off, [the Garda] says 'If I catch you at the pole again, we're going to get a Black Mariah up, and yous are all gonna be arrested – move outside your own houses.' Then when you move outside your own house, they still come up and say it to you.

Another youth adds:

Obviously you have to stand somewhere – you can hardly sit out in the middle of the road.

Comments such as the next one suggest that the health board is ill-prepared to respond early on and thus is very limited in its ability to help. A parent describes her frustration at having repeated requests for help with a child with serious behaviour problems ignored:

I was constantly at the health board saying, 'If you don't do something about

this it's just going to get bigger, things will be bigger, his problems will be bigger.' And of course it did happen.

That youth was eventually diagnosed with Attention Deficit Disorder and needed specially structured schooling. Parents we spoke to had made great efforts towards keeping their children out of trouble and receiving the support they needed, including one mother who prevailed on the local off-license not to serve her son alcohol. For some though, the High Court is the only place to secure the help and support that is needed.

*It ended up then that I took a High Court action against the Eastern Health Board and the Minister for Education – because my son was in a special school, and he got put out, and he was left at home for over a year, and nobody gave a s**t whether he was being educated or not, so that was the grounds that we went into court on.*

Excluding young people from the family home and severing all community ties severely undermines prospects for stability and raises the risk of drug-taking and crime.

okay. Most of the time I can't eat because it's on my mind all the time.

There are alternatives to exclusion and eviction.

Community Mediation

Community mediation offers a voluntary, safe, confidential and impartial way for people to hear and be heard, a neutral space where neighbours can come up with non-confrontational, non-adversarial ways to resolve conflicts. Just as people have different ways of living, different expectations, and different levels of tolerance, so too

they can come to understand these differences, act on what they share, and reach practical, peaceful solutions. From Cork to Tallaght, Buenos Aires to Brussels, the Scottish Highlands to Rome and Turin, and Vancouver, Canada, to Vancouver, USA, community mediation is bringing people together to work out their differences.²⁹

2.4 Outcomes, Actual and Desired

For people of any age, eviction can mean sleeping rough, which sharply raises the risk of assault, serious illness, and early death.²⁸ A mother whose son ended up excluded from the home recalls learning that he had been sleeping rough:

It's a horrible situation that I can't have my own son here when he's so young and so vulnerable – he's not a bit streetwise or anything like that. I don't even sleep at night because I do be wondering where he is or is he

²⁸ Simon Community website: <http://www.simon.ie/index.php?page=health-and-homelessness> (accessed 15 June 2009).

²⁹ For an introduction to community mediation in Buenos Aires, see Asociación Respuesta para la Paz at www.respuetaparalapaz.org.ar and the UN 2006 Best Practices Database in Improving the Living Environment 2006, "Community Mediation as Public Policy," <http://www.unhabitat.org/bestpractices/2006/mainview04.asp?BPID=841> (both accessed 14 June 2009). For Brussels and Turin, see Sven Engel, "Summary Report of the Brussels Seminar" (Paris: European Forum For Urban Safety, 2005). For Rome, see Leonardo Carocci and Antonio Antonilli, "Mediación social y seguridad urbana: la proyección participativa como factor de protección de la violencia y inseguridad urbana" ("Social Mediation and Urban Safety: The Role of Participatory Projects in Preventing Urban Violence and Insecurity") www.revistalatrampa.com (accessed 15 June 2009) *La trama: revista interdisciplinaria de mediación y resolución de conflictos*, diciembre 2005; the site also provides English-language summaries of articles. Information on community mediation in Vancouver, Canada, and

In Scotland community mediation began in 1995 and grew rapidly over the next ten years. In part that growth stemmed from Scotland's long history of a strong voluntary sector. That alone, however, does not account for the growth. The Scottish Government has committed itself to the extension of free community mediation services across the country, promotes conflict resolution across Scottish society, and set up and funds the national mediation consultancy and training service, managed by SACRO.³⁰ An early study for the Scottish Office took pains to note that despite perceptions to the contrary, disputes between neighbours may not necessarily indicate that either party is behaving anti-socially but may result from 'innocent clashes of interest'.³¹

Five years later, another study for the Scottish Office stressed that police and housing authority staff need to become familiar with mediation so that they may convey how it works to potential participants. By then, all Scottish local authorities were reporting that before taking legal action they would, wherever possible, refer cases to mediation. The study found

that in Scotland community mediation costs fifteen times less than taking legal action to resolve questions of anti-social behaviour. It concludes:

Although mediation will not be sufficient to deal with serious anti-social behaviour, which is associated with alcohol and drug abuse, mental health problems, or criminal activity, its cost effectiveness suggests that there is considerable scope to extend mediation in the area of neighbourhood disputes.³²

Scotland's community mediation services now serve most of the country, including the Highlands, which are served by travelling mediators based in Inverness. By 2006, community mediation was helping Scots resolve 3,000 disputes between neighbours a year.³³ Mediation is less developed in Wales, but there, too, it is among the recommended measures for addressing complaints of anti-social behaviour in local authority housing estates. As part of the community safety aspect of Better Homes for the People of Wales, itself part of the Welsh Assembly Government's strategic plan, Better Wales, the Assembly provides funds for Mediation Wales to develop community mediation services, promote awareness of the benefits of community mediation, and train and support mediators.³⁴

Vancouver, USA, is available at <http://www.vcn.bc.ca/cmss/services.html> and <http://www.cityofvancouver.us/mediation.asp?menuid=10461&submenuid=19371&itemID=19376>, respectively.

³⁰ SACRO stands for Safeguarding Communities, Reducing Offending. For an introduction to SACRO, see Ian McDonough, "Community Mediation and Community Development in Scotland," Restorative Justice Online, September 2006 edition, <http://www.restorativejustice.org/editions/2006/september06/communitymediation-and-community-development-in-scotland> (accessed 1 July 2009).

³¹ Robert E. Mackay and Amanda J. Brown, "Community Mediation in Scotland: A Study of the Implementation" (Dundee: University of Dundee, Department of Social Work, 1998), 1, 7. Prepared for the Scottish Office Central Research Unit, Edinburgh.

³² Alison P. Brown, Aileen Barclay, Richard Simmons, and Susan Eley, "The Role of Mediation in Tackling Neighbour Disputes And Anti-Social Behaviour" (Stirling: Stirling University Department of Applied Social Science, 2003), 3. Prepared for the Scottish Office.

³³ McDonough.

³⁴ Welsh Assembly Government, "Anti-Social Behaviour: Policies and Procedures—Code of Guidance for Local Authorities and Housing Associations (Cardiff: Llywodraeth Cynulliad Cymru/Welsh Assembly Government, 2005), 14, 17, 27, 31, 52, 62; Welsh Assembly Government, "The Prevention of Homelessness: An Advice Note Issued by the Welsh Assembly Government"

As in Scotland, Buenos Aires' community mediation program, Asociación Respuesta para la Paz (ARP) works to prevent conflicts from escalating and to promote social inclusion. Between 2001 and 2005, ARP mediated 16,444 disputes, 98 per cent of which were between neighbours.³⁵ Winner of a UN Habitat Award for Improving the Living Environment in 2006, the ARP model has spread to the Argentinean provinces of Neuquen, Cordoba, Chaco, and Mendoza, to Barcelona, to Lyon, France, and in Mexico to Nuevo Leon, Toluca and Mexico City.³⁶ As well, community police in the Argentinean province of Salta are fostering community mediation networks as a means of reducing violence and in the province of Misiones police are working with the schools on teaching conflict resolution.³⁷

(Cardiff: Llywodraeth Cynulliad Cymru/Welsh Assembly Government, 2004), 9, 15-18, 21-22; Welsh Assembly Government, *Better Homes for the People of Wales* (Cardiff: Llywodraeth Cynulliad Cymru/Welsh Assembly Government, c. 2000-2001); Welsh Assembly Government, "One Wales: A Progressive Agenda for the Government of Wales—An Agreement between the Labour and Plaid Cymru Groups in the National Assembly" (Cardiff: Llywodraeth Cynulliad Cymru/Welsh Assembly Government, 2007), 27.

³⁵ UN 2006 Best Practices Database.

³⁶ For more information on ARP's work in poor neighbourhoods in Buenos Aires, see Diana de la Rúa Eugenio, "Mediación frente a las problemáticas contemporáneas: barrios marginales y su necesidad de mediación comunitaria" ("Marginal Neighbourhoods: The Need for Community Mediation"), *La trama: revista interdisciplinaria de mediación y resolución de conflictos*, marzo 2006, <http://www.revistalatrampa.com.ar/contenidos/revista/data.php?id=117> (accessed 14 July 2009). An English-language summary is also available at that link.

³⁷ For details on police practice in Salta and Misiones with respect to community mediation, see Walter C. Milogis, "Dos experiencias, una visión: presentación de la policia comunitaria, Provincia de Misiones" ("Two Experiences, One Vision: Presentation on the Community Police"), *La trama:*

Tenancy Sustainment Services and Intensive Family Support Projects

A 2008 evaluation prepared for the Homeless Agency recommends that long-term as well as short-term housing support be formally recognised as essential for tenants whose housing is at risk as well as for those who are or were homeless:

This is explicit in its form that is currently called tenancy sustainment, where a tenant who is experiencing difficulties that may threaten her or his tenancy is helped to maintain the tenancy and so avoid homelessness, but in more general terms any service which aims to assist people to maintain their tenancy will also work to prevent homelessness.³⁸

Tenancy sustainment in Dublin City begins with a risk assessment. The plans worked out cover many areas, including help with 'tenancy agreements, form-filling, mental and physical health, addiction, debt and arrears management, training and employment, social contact and activities, support groups, family contacts, leisure, self-care, and advocacy', and connects participants with other services. The service, run in conjunction with specially trained volunteers from the Dublin Simon Community, provides short-term early intervention that focuses on practical ways

revista interdisciplinaria de mediación y resolución de conflictos, septiembre 2005, <http://www.revistalatrampa.com.ar/contenidos/revista/data.php?id=105> (accessed 14 July 2009). Also of interest is the interview with Campana police chief Fernando Montecchiari in the same issue. An English-language summary covering both can be found at the link.

³⁸ Simon Brooke, Roger Courtney, Muireann Morris, Fran Cassidy, Jane Pillinger, Mary Lee Rhodes, *Evaluation of Homeless Services 2008 Series* (Dublin: Homeless Agency, 2008), 86.

to help people keep their tenancies. No one is excluded.³⁹

Intensive family support projects are a longer-term but cost-effective form of tenancy sustainment. Originating with Scotland's Dundee Families Project in 1996, these programs work with families where one or more members engage in indisputably anti-social behaviour. The Dundee Families Project is explored in part in an Irish 2008 working paper on international responses to anti-social behaviour on housing estates.⁴⁰ The working paper calls for an Irish pilot project set up along the lines of Scotland's first such project in Dundee, which was set up to work with

families who are homeless or who are at risk of being homeless as a result of anti-social behaviour ... to change their behaviour, re-establish tenancy arrangements and avoid eviction.⁴¹

The working paper concludes:

The Dundee model has been extended to other parts of the UK and Scotland because of its success. It has proved an effective way of tackling anti-social behaviour in social housing estates. Lessons can be learned for the Irish context.⁴²

An independent 2009 cost-benefit evaluation of the Dundee Families Project, the Aberdeen Families Projects (set up in 2005), and newer demonstration projects in Falkirk, Perth & Kinross, and South Lanarkshire confirms the possibilities such projects can open up for families and communities:

Although measurement and interpretation is complex, it would appear that complaints of antisocial behaviour had (at the point of case closure) been reduced in 94% of cases. (Project records here closely matched those of the agencies from which referrals had originated).⁴³

... The wider rollout of the Dundee Families Project model to a new generation of intensive family support schemes has proved a successful venture. As in Dundee, the new Projects have been able to engage with numerous families experiencing complex problems and in many cases facing a significant risk of eviction and/or family break-up.⁴⁴

Many of the benefits associated with intensive family support projects will be enjoyed by adults as well as by children and young people. Some of the benefits

³⁹ "Dublin City Tenancy Sustainment. Information Leaflet (Dublin: Dublin City Tenancy Sustainment Service, nd.) and Dublin Simon Community, "Dublin City Tenancy Sustainment," online information, accessed 15 June 2009. See www.dubsimon.ie/services/dcts.htm.

⁴⁰ Jacinta Cunneen, Working Paper No. 1: "Tackling Anti-Social Behaviour: International Problems. Indigenous Solutions" (Dublin: Centre for Housing Research, 2008).

⁴¹ Cunneen, 26.

⁴² Cunneen, 29. See also, Dáil Éireann, Vol. 601, 04 May 2005, Adjournment Debate, Anti-Social Behaviour Project, Mr. Kirk's comments in favour of a pilot project. Although the Dundee project had by then been evaluated twice and expanded, Mr. Ahern's response was lukewarm.

⁴³ Hal Pawson, Emma Davidson, Filip Sosenko, John Flint, Judy Nixon, Rionach Casey, Diana Sanderson, *Evaluation of Intensive Family Support Projects in Scotland* (Edinburgh: Scottish Government Social Research, 2009), 12. The Falkirk, Perth & Kinross, and Lanarkshire projects were piloted as part of the Breaking the Cycle strategy; the Dundee project has been running for more than a dozen years and the Aberdeen project for going on five years.

⁴⁴ Pawson et al, 14. For a summary of the findings that led to the introduction of Dundee-style families projects in England, see "Anti-Social Behaviour Intensive Family Support Projects: An Evaluation of Six Pioneering Projects for Families at Risk for Losing Their Homes as a Result of Anti-Social Behaviour" (London: Communities and Local Government, *Housing Research Summary*, No. 230, 2006).

are expected to extend over a person's lifetime (and, indeed, may also extend to future generations).⁴⁵

Similarly, an evaluation of the Welsh Valleys Inclusion Project, a Welsh two-year pilot project to provide floating support to families in Rhondda Cynon Taf and Caerphilly County Boroughs who were facing eviction because of anti-social behaviour found:

clear evidence that the project was successful in demonstrating that a reduction in anti-social behaviour and the threat of homelessness could be achieved through the provision of support.

... If other longer-term impacts are also taken into account, it is likely the benefits (of mainstreaming such projects) would significantly outweigh the costs.⁴⁶

In 2006 then Minister of Social and Family Affairs Martin Cullen acknowledged that tenancy sustainment as 'a powerful tool in the fight against further marginalisation'⁴⁷ Its full use, however, is yet to be deployed.

Alternatives to exclusion and eviction exist. Responses to allegations of anti-social behaviour need to be balanced, proportionate, and flexible.⁴⁸ Exclusion or eviction, should be the last resort, not the first choice. What is lacking is strong

commitment to, and backing for, tenancy sustainment services, Dundee-style families projects, and community mediation. All are needed to take us forward in reaching the goals set out in the Homeless Agency's action plan: *A Key to the Door*.

⁴⁵ Pawson et al, 2009.

⁴⁶ Tessa Colquhoun and Michael Thomas, "Valleys Inclusion Project: Final Evaluation Report" (Swansea: Shelter Cymru, 2007), 1, 4, 39.

⁴⁷ Speech by Martin Cullen, TD, Minister of Social and Family Affairs on the occasion of the launch of the 2006 Annual Report of the South East Simon Community, 8 October 2007, 5-6.

⁴⁸ Llywodraeth Cynulliad Cymru/Welsh Assembly Government, *Anti-Social Behaviour: Policies and Procedures – Code of Guidance for Local Authorities and Housing Associations* (Cardiff: Llywodraeth Cynulliad Cymru/Welsh Assembly Government, 2005), 60, 63.

Part III

Analysis



"For older children and teenagers, the space and opportunity for socialising, rather than the equipment, is the most important consideration. This group has almost no facilities provided for them and the only place in which to hang out in the evening are green areas and street corners. This often results in complaints from the public about noise and nuisance, alienating further young people who have nowhere to go. The introduction of Behaviour Orders under the Criminal Justice Act, 2006 further compounds their difficulties using these public spaces."

3.1 Legislation

A passage from Cathal O'Connell's 2007 analysis of Ireland's housing system succinctly summarises the effect of the Housing Act of 1997 on the tenants of local authorities:

Criminal behaviour and responses to it should rightfully be the responsibility of the police and the judicial process. However, the 1997 Act would appear to start from the premise of implicitly criminalising all local authority tenants and deriving management strategies accordingly. It is surely repugnant to the fundamental values of citizenship that one particular group in the population are subject to different treatment under the law simply by virtue of their housing status.⁴⁹

"If you have evidence there, you'd want to put it on the table and show everyone, so there's no doubt in the matter."

Unlike private renters, local authority tenants do not have the right to due process when it comes to eviction and exclusion. Instead, Section 21 (headed 'Evidence') of the 1997 Act requires only a State official's *belief* that a local authority tenant is engaging in or at some unspecified time in the past did engage in anti-social behaviour. Those whose beliefs are accepted as evidence are a Garda, or a housing officer, or a health board member:

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.⁵⁰

Section 62 of the Housing Act 1966 deals not with 'evidence', then, but with the issuing of a warrant for the repossession of a dwelling let by the local authority or other housing agency. As Citizens Information explains:

...a local authority in Ireland can evict you *without any reason* as long as the correct procedure is followed. This means first issuing a "notice to quit" and then applying to the District Court for an order.⁵¹

The District Court, however, considers only whether a local authority has followed correct procedure; to date, Irish case law is that the District Court cannot rule on the merits of the case.⁵²

⁵⁰ Section 62, Housing Act 1966.

⁵¹ Emphasis added. Citizens Information, "Notice to quit and eviction in Ireland, Local authority tenants," <http://www.citizensinformation.ie/categories/using/local-authority-and-social-housing/notice-to-quit-and-eviction> (accessed 17 June 2009). Citizens Information passes over the lack of due process: 'However, in practice, local authorities in Ireland do not evict their tenants without reason ...'

⁵² Irish Human Rights Commission. "IHRC Policy Statement on Section 62 of the Housing Act 1966 for the Recovery of Possession of a Local Authority Dwelling" (Dublin: IRHC, Dublin, March 2009), 3.

⁴⁹ O'Connell, 66.

Nor does Section 62 comply with the 'minimum procedural protections against eviction' required by the European Convention on Human Rights,⁵³ a convention Ireland ratified in 1953 and incorporated into national law in 2003. Article 6(1) of the Convention provides that 'in the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.'⁵⁴

In contrast, a resident recalls the eviction of a single-parent family:

A lady – last year, just down the road and the girls staying with her – they're her three children. They were really hard working. The Council arrived up there with the Guards, threw her out of her house and all her belongings out on the road. I thought it was very sad to treat her like that because of the way her children were going on – they threw her out on the road and that was it.

An analysis of training for local authority staff charged with dealing with anti-social behaviour found that training focused on ensuring that the correct legal procedures were followed when issuing notice to quit. In other words, this training does not cover how to conduct a fair and impartial investigation, nor does it consider community mediation and tenancy sustainment services as alternatives to eviction and exclusion:⁵⁵

I had two letters. And then I was handed with a notice to quit my home. They didn't say, 'Oh look, we see you're a tenant – you pay your rent,' you know, 'you've a good job', and things like that. They wouldn't take any of that into consideration, they just said, 'That's it.' They wouldn't give me a chance.

Once evicted, the chances of future access to council housing plummet:

I actually went down to [another] County Council to see if they'd put my name on the list, but they won't accept me because they said once you've been evicted from a local authority they won't re-house you.

The chances of finding private housing also drop sharply. The Health Service Executive administers the supplementary welfare rent allowance but lacks the power to make an independent assessment of a local authority's decision to evict. People evicted from local authority housing estates may thus be denied the means to rent private accommodation.

The lack of due process leaves residents facing eviction shocked, angry, and powerless:

If you had evidence there to prove that so and so is doing this and that, you'd easily go, 'Now hold on, I have –' If you have evidence there, you'd want to put it on the table and show everyone, so there's no doubt in the matter. I think it's an absolute crazy thing that they don't have to show evidence. Crazy.

We do not dispute that residents making complaints need to have their safety

⁵³ Irish Human Rights Commission, Policy Statement on Section 62. See also the Convention itself for a full rendering of what fundamental rights and freedoms entail.

⁵⁴ Irish Human Rights Commission, Policy Statement on Section 62, 6.

⁵⁵ Homeless Agency, "An Overview of Policies and Practice on Anti-Social Behaviour in Dublin" (Dublin: Homeless Agency, 2004), 16.

ensured. Clearly, however, the lack of due process opens the door to abuse:

Anybody could ring up the County Council and say this and that and the other. I was just gobsmacked that someone could just ring up the County Council and say this person, that person, and that person ...

Local authorities' use of Section 62 of the Housing Act 1966 to evict residents for alleged anti-social behaviour and their use of exclusion orders under the Housing Act (Miscellaneous Provisions) 1997 also runs counter to Articles 6, 8, 13, and 14 of the European Convention on Human Rights (ECHR).

Article 6 of the Convention affirms the right to a fair trial:

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 8 affirms the right to respect for private and family life:

Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society...

Article 13 affirms the right to an effective remedy:

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a

national authority, notwithstanding that the violation has been committed by persons acting in an official capacity.

Article 14 prohibits discrimination:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Not surprisingly, a number of the European Court of Human Rights decisions on evictions from public housing across Europe have ramifications for Ireland –

“The European Court has found that every local authority tenant faced with eviction must know the reasons why they are being evicted, and if there is a dispute as to the facts, the tenant has the minimum right to have the matter determined in a full hearing before a court or independent and impartial tribunal. In addition any such court or tribunal should be in a position to assess the proportionality of the eviction against the objective of the local authority in seeking the eviction, considered in light of the particular circumstances of the case.”⁵⁶

Except where statutes requires otherwise, Section 3 of the European Convention on Human Rights Act 2003 obliges ‘organs of the State’ to operate in accordance with the Convention. Breach of that duty may result in damages being awarded. In *Dublin City Council v Fennell*, Ireland’s Supreme Court

Ireland’s High Court has three times granted a declaration that Section 62 is incompatible with Article 8 of the Convention.

⁵⁶ Free Legal Aid Centres, *Public Interest Law Network Ireland Bulletin*, 7 May 2009.

ruled on 12 May 2005 that the European Convention on Human Rights Act 2003 did not apply because the Council had applied for the possession order before the 2003 Act became law. However, Mr Justice Kearns noted in his judgement that

It may also be seen that the summary method ... may arguably infringe certain articles of the European Convention on Human Rights, and in particular, Articles 6, 8 and 13 thereof, and also Article 1 of Protocol 1 (Protection of property) of the Convention.⁵⁷

Since then, Ireland's High Court has three times granted a declaration that Section 62 is incompatible with Article 8 of the Convention.⁵⁸

In the first case, *Donegan v Dublin City Council*, Ms Justice Laffoy granted a declaration that Section 62 is incompatible with Article 8 of the Convention. That case concerned eviction proceedings against a father and son renting from Dublin City Council. The son was a known drug user. During a search of the premises, Gardaí claimed to have uncovered circumstantial evidence pointing to drug dealing. The father claimed that his son was a drug user, not a drug dealer. Nonetheless, Dublin City Council initiated eviction proceedings.

Ms Justice Laffoy's judgement, dated 8 May 2008, states in part:

Article 8 provides that:

1. Everyone has the right to respect for his private and family life, his home...
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is

necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, and for the protection of the rights and freedoms of others.⁵⁹

The Laffoy judgement makes five points:

1. For purposes of Article 8, the house is the tenant's home.
2. Eviction under Section 62 would interfere with the tenant's right to respect for that home under Article 8.
3. Under Irish law, the tenant has no defence against the Council's claim for possession, so that interference would accord with Irish law.
4. The Council has asserted a legitimate aim—the need to deal with anti-social behaviour in its estates and its statutory duty to provide housing for those who qualify.
5. However, Section 62 has no built-in procedural safeguard for independent rulings on disputed facts and Irish law provides no other means to that end.

'In short,' Ms Justice Laffoy concludes, 'it is the law that is defective vis-à-vis Article 8.'⁶⁰

Nor, as the judgement pointed out, can a judicial review examine the merits of a decision:

... the High Court cannot substitute its

⁵⁷ *Dublin City Council -v- Fennell* [2005] IESC 33.

⁵⁸ Some of the decisions cited here were under appeal as we went to press.

⁵⁹ *Laffoy, J. Donegan -v- Dublin City Council & Ors* [2008] IEHC 288.

⁶⁰ *Laffoy judgement*. See also *Connors -v- U.K.* [2004] 40 E.H.R.R. 189, discussed at length in Ms Justice Laffoy's judgement.

own findings of fact for the findings of the decision maker under review.⁶¹

The Laffoy judgement further states:

Moreover, lurking in the background is the bigger question of the wisdom of public authorities seeming to promote judicial review, a remedy that can only be obtained in the High Court, as an answer to the procedural safeguard deficit argument.⁶²

In the second case, *Dublin City Council v Gallagher*, 11 November 2008, anti-social behaviour was not at issue. The point in dispute was whether the tenant was entitled to rent the local authority house that he had resided in with his late mother. In this case, also concerning Section 62, Mr Justice O'Neill also granted a declaration of incompatibility.⁶³ As in the Donegan case, proportionality is at issue:

The European Court of Human Rights has recognised in a series of judgments that Article 8 encompasses implicit procedural requirements and that these must be considered when assessing the proportionality of the interference with Article 8 rights.⁶⁴

The O'Neill judgement found that Mr Gallagher's Article 6 rights had been breached, but the declaration of incompatibility appears to be limited to Article 8.

Like the first case, the third—*Pullen and Others v Dublin City Council*—involved

allegations of anti-social behaviour. In this instance, following 'complaints of un-neighbourly conduct',⁶⁵ the Council issued a notice to quit and then undertook eviction proceedings under Section 62. As in all other Section 62 applications, the District Court had no jurisdiction to decide the merits of the case.

On 12 December 2008, Ms Justice Irvine ruled that the tenants' rights to a fair hearing were breached under Convention Article 6(1), the right to a fair hearing, and that the house was their home for the purposes of Article 8. Proportionality is at issue here, too. In point five of a nine-point conclusion, Ms Justice Irvine noted that the Council's recourse to Section 62

... was not justified as being necessary in a democratic society and was disproportionate to the [Dublin City Council's] stated aims having regard to the significance of the rights interfered with.⁶⁶

Convention Article 14, prohibition of discrimination, provides that

The enjoyment of the rights and freedoms set forth in this convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Unlike local authority tenants, people renting from private landlords do have procedural safeguards: the Private Residential Tenancies Act 2004 established the Private Residential Tenancies Board to rule on disputes between private landlords and their tenants; its procedures comply

⁶¹ Laffoy judgement.

⁶² Laffoy judgement.

⁶³ Quoted in O'Neill, J. *Dublin City Council -v- Gallagher*. [2008] IEHC 354. For a discussion of this and related judgements, see Michael Farrell's 'Recent Developments in Human Rights and Judicial Review: The Role of the European Convention on Human Rights Act, 2003'. Free Legal Advice Centres, Dublin, 16 May 2009.

⁶⁴ O'Neill judgement.

⁶⁵ Irvine, J. *Pullen & Ors -v- Dublin City Council* [2008] IEHC 379.

⁶⁶ Irvine judgement.

with the right to a fair hearing provided in Convention Article 6. Because there are procedural safeguards, whether it is necessary to interfere with a tenant's rights under Article 8 can be considered and weighed. In contrast, the Housing Acts, 1966-2003, effectively deny those rights to tenants of local authority housing and thus breach Article 14 as well.⁶⁷

In a policy statement issue in March 2009, the Irish Human Rights Commission called for amendments to Section 62 of the Housing Act 1966 to bring the legislation in line with the European Convention on Human Rights. The IHRC recommends that Ireland enact measures that would provide local authority tenants with the protections they are entitled to under Article 8 (right to respect for private life and the home), Article 6 (right to a fair hearing) and Article 14 (protection from discrimination) of the European Convention on Human Rights.⁶⁸

Even where a domestic court considers the merits of a case and then grants an eviction, if the person to be evicted does not have alternative accommodation, the eviction may still run counter to Article 8 of the ECHR. This is the case with Section 62, where an eviction on the grounds of alleged anti-social behaviour can result in a housing application being deferred or refused and an application for a rent supplement for privately rented housing also being refused.⁶⁹

3.2 International Perspectives

To broaden the discussion about the politics of conduct and to encourage measures that

deal with indisputably anti-social behaviour without recourse to evictions or exclusions, we turn now to initiatives underway in Australia, Scotland, and Wales. To explore non-traditional approaches to strengthening communities, we look at Canada. To better understand the situation of Irish youth, we turn to research carried out for the Irish Ombudsman for Children.

Australia – Youth and Public Space

Public Places for Young People: Creative Projects and Positive Strategies

This Australian government good practices guide on youth and public space, is part of a broader framework on youth justice.⁷⁰ The managements of local authority housing estates could usefully adopt the fundamentals of the approach. These include:

- Taking a social development perspective, focusing on local conditions, and encouraging young people as well as adults to take part in

⁷⁰ Rob White, *Public Spaces for Young People: A Guide to Creative Projects and Positive Strategies* (Canberra: Commonwealth Attorney-General's Office, 1998. Reprinted 2002). See also Cassie Skelly, "Kids in Space," Report to the National Youth Roundtable (Canberra: Department of Education, Employment and Workplace Relations, 2002); Garner Clancy, Sally Doran, and Don Robertson, *Creating the Space for Dialogue: The Report* (Australia: The University of Western Sydney, 2003) and Garner Clancy, Sally Doran, and Don Robertson, *Creating the Space for Dialogue: A Guide to Developing a Local Youth Shopping Centre Protocol*: (Australia: The University of Western Sydney, 2003). The report and the protocol arose out of efforts to find alternatives to banning youth from shopping centres. The protocol includes a management checklist on policies and attitudes towards youth, a grievance procedure, and distinguishes between minor matters (for example, riding the escalator the wrong way), general matters (for example, interfering with others), serious matters (for example, intimidation), and criminal matters (for example shoplifting and assault).

⁶⁷ Irish Human Rights Commission, Policy Statement on Section 62, 3-4.

⁶⁸ Irish Human Rights Commission, Policy Statement on Section 62, 11-12.

⁶⁹ Irish Human Rights Commission, Policy Statement on Section 62, 4, 11.

the negotiations and decisions that affect them and those around them.

- Listening carefully and non-judgementally to what young people have to say, approaching each contact positively rather than in suspicion and fear, and taking a problem-solving approach to rule-breaking, one grounded in respect.

Scotland—Policy Shift on Anti-Social Behaviour

Promoting Positive Outcome:

Working Together to Prevent Antisocial Behaviour in Scotland

This policy framework considers housing within the context of a major shift in Scottish Government thinking on anti-social behaviour. The four-pillar framework, released in March 2009, arises from the conviction that ‘prevention, through meaningful community engagement gives [Scotland] the best chance of success.’⁷¹ The Scottish Government is not seeking to repeal legislation and is not foregoing enforcement altogether, but as the policy review leading up to the policy shift confirmed, Scotland sees ways it can better tackle the problem, including

- Moving away from a narrow focus on enforcement to one of prevention and early, effective intervention,
- Creating more chances and more choices, so that people may succeed,
- Encouraging balanced, evidence-based reporting and countering negative stereotypes and the demonisation of young people in the media, and

- Measuring success by positive outcomes, not by how many times a particular enforcement measure is used.⁷²

Among the good practice examples explored is Breaking the Cycle—intensive family intervention projects piloted in Falkirk, Perth & Kinross, and South Lanarkshire, based on the already-proven Dundee Families Project. In reporting on the lives improved and the money saved by Breaking the Cycle, *Promoting Positive Outcomes* finds:

An independent evaluation found 81% of families were at reduced risk of eviction, 50% of families were at reduced risk of family break-up and 94% of families were the subject of less ASB complaints following involvement in the projects. The evaluation estimated that potential cost savings are considerable and could easily amount to £100,000 per family per year.⁷³

According to Andrew Girvan, Director of Children’s Services for Action Children Scotland, which managed Breaking the Cycle:

Identifying and addressing the underlying causes of antisocial behaviour is the only way to help people to change. Our work has helped to strengthen families, secure a better future for children and create more peaceful communities. It has also reduced the need for evictions and prevented children being taken into care, resulting in substantial financial savings for local authorities. ... Ultimately these programmes can stop the children of problem-families today becoming the parents of problem-families tomorrow.⁷⁴

⁷¹ Scottish Government, *Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour in Scotland—The Framework*. Vol. 1 (Edinburgh: The Scottish Government, 2009), 1.

⁷² *Promoting Positive Outcomes*, Vol. 1, 14.

⁷³ *Ibid*, Vol. 1, 27.

⁷⁴ *Ibid*, Vol. 1, 22.

The background research for *Promoting Positive Outcomes* explored community mediation as well as Dundee-style families projects and other forms of tenancy sustainment. Recommendations for improving Scottish practice are that:

- Mediation should be considered at the earliest possible stage in a complaint. To ensure this happens, local housing officers, community wardens and the police (as well as the ASB units) should be briefed by their local mediators on their role and what their services offer.
- ASB units should aim to develop a close dialogue with their local mediation team to ensure that potential referrals can be discussed with and pursued by the mediators personally.⁷⁵

Nearly 50 good practice examples of initiatives from across Scotland add some bricks and mortar to the framework. We look into some of these initiatives in our recommendations.

Wales—Intensive Support for Troubled Families

Positively Affecting Lives:

Evaluation of Four Anti-Social Behaviour Projects in Wales

An independent evaluation of four very different one-year Welsh pilot projects

designed to prevent anti-social behaviour highlights the importance of community-wide consultation, including with youth. The pilot projects, run by Community Safety Partnerships in Torfaen, Melincryddan, Lliswerry, and Cardiff, ranged from engaging at-risk and youth in-need in activities of benefit to their neighbourhoods, to tackling sex- and drug-related anti-social behaviour in parks. In identifying what helps and what hinders, the evaluation stressed that:

- A significant part of the fear of crime—and even more so of anti-social behaviour—lies in factors other than the actual risk of being a victim and include a general anxiety unrelated to the level of crime. Perception may be skewed, as when youth simply standing on a street corner, talking to friends, are seen as threatening and reported for anti-social behaviour.
- Projects benefit from early robust public consultation and continued awareness-raising. Capacity building and trust take time. What may appear to be a ‘negative culture’ among residents often stems from sub-standard public services, low wages, and unemployment. Time spent in learning about the issues and understanding the often-diverse perspectives pays off in the long term.
- Projects with clear exit routes for participants show the greatest potential for long-term sustainability. In the best cases, young people use what they’ve learned as a foundation for future self-development.⁷⁶

⁷⁵ *Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour in Scotland— The Research, Analysis and Public Consultation That Informed the Review of National Antisocial Behaviour Policy*, Vol. 2. (Edinburgh: The Scottish Government, 2009), 36. Community mediation is mentioned repeatedly in both volumes.

For press commentary on the shift away from an over-reliance on enforcement, see “Fewer ASBOs to be used in Scotland,” *The Daily Record*, 19 March 2009.

⁷⁶ *MVA Consulting, Positively Affecting Lives: Evaluation of Four Anti-Social Behaviour Projects in Wales* (Cardiff: Llywodraeth Cynulliad Cymru/Welsh Assembly Government, 2007), 101-111.

Canada – Expanding the Range and Meaning of Community Engagement

The Working Together Project

Public libraries now have a long history of surveying and consulting the public. Increasingly, too, public libraries are active partners in economic development.⁷⁷ Few public libraries anywhere, however, have gone as far in promoting community engagement as the public libraries of Working Together, a federally-funded four-year demonstration project that sent community development librarians into marginalised neighbourhoods in Vancouver, Regina, Toronto, and Halifax to connect, consult, and collaborate with street youth, poor working-class adults, immigrants and refugees, people of aboriginal descent, people recovering from or living with mental illness, and people recently released from federal prisons. People on the margins were part of each step, from needs assessment to evaluation.⁷⁸

Although Working Together focused on how public libraries can better serve the whole public, the underlying principles—and many of the practices—are applicable to all institutions seeking to bring people in from the margins. These principles include recognising that:

- Demographic data about a community does not illuminate the lives of the individuals concerned, nor reveal their needs and aspirations,
- Preconceptions cut off the possibility for engagement and stifle creativity,
- Traditional models of consultation and outreach fail to engage those in the margins.^{79, 80}

⁷⁷ For recent initiatives, including public library activism in promoting economic development, see *Libraries Build Communities* (Evanston, Illinois: Urban Libraries Council, 2005), *Chicago Stories of Community Building* (Evanston, Illinois: Urban Libraries Council, 2005), and Wendy Newman, *Third Generation Public Libraries: Visionary Thinking and Service Development in Public Libraries (to 2020)*. Report for the Ontario Ministry of Culture (Toronto: Queen's Printer, 2008).

⁷⁸ For an overview of the Working Together Project, see Kenneth Williment, "It Takes a Community to Create a Library," *Information Practice and Research*, Vol. 4, No. 1, 2009. For how Halifax Public Libraries collaborated with the residents of Greystone Housing Project, see Darla Muzzerall, "From Target Populations to Real People," Halifax Public Library Presentation to the Ontario Library Association Conference, Toronto, 2 February 2006. For an Irish critique of the limits of the prevalent thinking on partnerships and social inclusion, see Stephen O'Brien and Mairtin Ó Fathaigh, "Critiquing the Partnership Ideal for Social Inclusion," paper presented at the EAN Annual Conference, Antwerp, 4–6 July 2004.

⁷⁹ Combat Poverty's 2004 report *Access to Public Libraries for Marginalised Groups* comments on the need to remove systemic barriers but stops short of envisioning the community engagement that characterised *Working Together*. Similarly, An Chomhairle's recommendation that library authorities 'give priority to how their services can be marketed to disadvantaged communities and to those who do not use libraries' also does not see community engagement as the path to social inclusion. See *An Chomhairle Leabharlanna, Realising Potential: The Public Library Service and Cultural Inclusion: Submission to the NESF* (Dublin: An Chomhairle, 2006), 36.

⁸⁰ See *Community-Led Libraries Toolkit: Starting Us All Down the Path toward Developing Inclusive Public Libraries* (Vancouver: The Working Together Project, 2008). The 148-page free toolkit is based on what the project learned in Halifax, Toronto, Regina, and Vancouver, and offers practical suggestions for identifying needs, developing policies, planning services, day-to-day customer service, staff development, and evaluation. The toolkit can be downloaded at http://librariesincommunities.ca/Led_Libraries_Toolkit.pdf. More traditionally-based but creative outreach efforts elsewhere are also aimed at inclusion, and in the case of Edinburgh's Sighthill Public Library, at preventing anti-social behaviour: after Sighthill Public Library changed its approach to youth, vandalism, graffiti, and threatening behaviour dropped dramatically (*Promoting Positive Outcomes*, Vol. 1, 65). Sighthill's youth programme

Ireland – Office of the Ombudsman for Children

Barriers to the Realisation of Children's Rights in Ireland

Commissioned for the Office of the Ombudsman for Children, this study calls attention to Ireland's multiple barriers to, and multiple breaches of, the UN Convention on the Rights of the Child.⁸¹ In a word, children and youth in Ireland are invisible—meant neither to be seen nor to be heard. The study's comments on the importance of young people having the space and opportunity to socialise with each other underscore the points the youth we interviewed made:

For older children and teenagers, the space and opportunity for socialising, rather than the equipment, is the most important consideration. This group has almost no facilities provided for them and the only place in which to hang out in the evening are green areas and street corners. This often results in complaints from the public about noise and nuisance, alienating further young people who have nowhere to go. The introduction of Behaviour Orders under the Criminal Justice Act, 2006 further compounds their difficulties using these public spaces.

Research has shown that the key barriers identified by young people with regard to leisure are time, transport, money, and a lack of facilities in the locality. The research also showed that 'hanging around outside' is an important leisure time activity for adolescents, with over 90

per cent of adolescents of all ages reporting that they enjoyed hanging around with their friends. Youth cafés which are co-run with youth clearly fill this gap. There is a clear need for to develop and mainstream such initiatives.⁸²

The study also recommends that Gardaí be given more training in children's rights, youth justice, and child psychology.⁸³ Such training could help make 'It's not *your* house, it's a *Council* house' a thing of the past.

Since the appointment of the present Ombudsman for Children, she and her staff have met with thousands of Ireland's children and youth and heard from thousands more. Those conversations bear out the findings of *Barriers to Children's Rights in Ireland*. Children and youth tell the Ombudsman's Office that they want to be treated with respect, instead of being stereotyped and discriminated against because of their age and where they live and being told to 'move on'. They want playgrounds and places to go and things to do for those whose families can't afford the expense of pay-for activities. And they want help for young people involved in anti-social behaviour.⁸⁴ Underlying it all is the wish to be taken seriously.

includes 'Reading the Game', an award-winning football and literacy project for young men, as well as résumé workshops, career sessions, and a photography competition.

⁸¹ Ursula Kilkelly, "Barriers to the Realisation of Children's Rights in Ireland. (Dublin: Office of the Ombudsman for Children, 2007).

⁸² Kilkelly, 75.

⁸³ Kilkelly, 38-40.

⁸⁴ Emily Logan, Ombudsman for Children, *What Children Care About: Issues Raised by Children and Young People with Our Office in 2007* (Office of the Ombudsman for Children, Dublin, c. 2008).

Part IV

Conclusions



"Youth, no less than adults, have a stake in their communities. We can – indeed we must – engage youth in ways that draw on their inherent creativity and drive."

4.1 Summary of Findings

Local authorities are encouraged to rely on perception over fact and empowered to take action against behaviour that does not fit within the 1997 Act:

... the way in which legislation is currently formulated means that certain types of behaviour, which do not fit within the definition of anti-social behaviour as defined in the 1997 Act, may nonetheless be perceived as, both by local authorities and local communities, and possibly responded to, as anti-social behaviour.

...concepts such as nuisance-making or other activities 'which would not normally be associated with the serious problems at which the Act is targeted' are considered to be outside the definition.

However, it is stated that housing authorities may continue to take 'whatever measure are appropriate' under existing legislation to address 'other forms of "anti-social activities" which do not come within the definition of the Act but which may 'still represent a breach of the terms of a letting agreement'.⁸⁵

While the Housing (Miscellaneous Provisions) Act was before the Oireachtas, the voluntary sector cautioned that:

Rather than solving the problem of drug dealing and related crime, the legislation would simply shift the

problem to city and town centres, where the services for homeless people are located, and that

The targeting of small dealers, who commonly sell small amounts of drugs to finance their own addiction, would not stem drug abuse but would instead lead to more drug use on the street, increasing homelessness amongst drug users and increasing pressure on already over-strained agencies providing service to the homeless and the prospect for wider drug abuse.⁸⁶

Just as the voluntary sector cautioned against exporting drug use to the streets, it had other serious criticisms of the legislation, including

- The low standard of proof required to deem behaviour 'anti-social',
- The expansion of 'anti-social' beyond behaviour confined to drug dealing and

related crime, contrary to the Department of the Environment and Local Governments stated intentions,

- The refusal of all access to local authority housing and to the rent allowance for private housing,
- The lack of alternatives to punitive sanctions.⁸⁷

The Act has been in effect for a dozen years. The criticisms made while the Act was before the Oireachtas still stand. The conflation of criminal acts with 'hanging around' has served to reward the intolerant

The conflation of criminal acts with 'hanging around' has served to reward the intolerant and to push the already excluded even further to the margins.

⁸⁵ Memery and Kerrins, "An Overview of Policies and Practice on Anti-Social Behaviour in Dublin" (Dublin: The Homeless Agency, 2003), 8.

⁸⁶ Memery and Kerrins, "Estate Management," 6-7.

⁸⁷ Memery and Kerrins, "Estate Management," 6, and Memery and Kerrins, "Overview," 8-9.

and to push the already excluded even further to the margins.⁸⁸

Since the beginnings of local authorities in Ireland, tenant participation has been largely limited to paying the rent on time and obeying the rules. Historically, tenants having problems typically turned not to each other, not to an organisation they had been part of building, but to local politicians.⁸⁹

Today, definitions of anti-social behaviour are shaped partly by government directives on local government reform, which led to various forms of tenant participation in estate management.

Tenant participation schemes vary, but all involve groups of tenants working with the local authority. Genuine tenant participation arises, however, not from central government directives or local government management strategies but when tenants organise themselves and speak with a collective voice. Well-intentioned as contemporary tenant participation schemes may be, they foster the politics of conduct, not community-building.⁹⁰ They do so because housing management functions oblige housing authorities to deal with behaviour Councils

deem anti-social. Local Authorities, under the 1997 Act, are responsible for:

(a) the securing or promotion of the interests of any tenants, leasees, 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.

In consequence, local authority tenants still lack the protections against summary eviction afforded residents of privately owned housing. The powers the 1997 Act grants local authorities are all the more disturbing for the pattern of investigations that run counter to the presumption of innocence, a fair hearing and due process people living in a democratic society expect to be accorded.

The 1997 Act cannot get at the root of even indisputably anti-social behaviour. Decades of mass unemployment and declining trade union affiliation, coupled with high concentrations of people living on the margins, have severed many ties that once strengthened working-class communities and created in their absence a pervasive sense of alienation.⁹¹ Vulnerable because of their youth and powerless within the community, many young people are convinced there is no route out. Punitive

Genuine tenant participation arises not from central government directives or local government management strategies but when tenants organise themselves and speak with a collective voice.

⁸⁸ Peter Squires, "The Politics of Anti-Social Behaviour," *British Politics*, No. 3, 2008, 300-323. See also Andrew Millie, "Looking for Anti-Social Behaviour," *Policy & Politics*, Vol. 35, No. 4, 2007, 611-627. Millie's review of UK national survey findings on the public perception of anti-social behaviour points out that a high portion of those surveyed responded as if they were 'thinking in terms of annoyance, inconvenience or offense—rather than harassment, alarm or distress.'

⁸⁹ O'Connell, 72.

⁹⁰ O'Connell, 72-118. See also John Flint's "Governing Neighbours: Anti-Social Behaviour Orders and New Forms of Regulating Conduct in the UK," *Urban Studies*, Vol. 43, No. 5-6 (2006), 939-955.

⁹¹ O'Connell, 69-70.

approaches to troubled families only intensify those convictions and encourage youth who see no future to live in the moment.⁹²

When the needs of residents, youth and adult alike, are not met, the meanings of order and disorder are more likely to be contested. Adult housing authority residents themselves have little power over their lives, but they do have more power than the young, so it is not surprising that young men can be deemed to be behaving anti-socially for gathering together, conduct that was once—and in many jurisdictions still is—a pastime of the young so ordinary that it is rarely remarked upon.

Residents' accounts reveal that the term 'anti-social behaviour' takes in the serious and the rude, the dangerous and the annoying, the threat and the irritation: some youth find themselves targeted for criminal behaviour such as drug dealing or threatening, others for less serious but nonetheless long-prohibited behaviour such as drinking in public places or being disorderly. Still others face sanctions for playing football on the road or gathering in public spaces or near commercial establishments—activities that in themselves cause little comment in many parts of the world.⁹³ What may seem at best to be a lack

of respect—and at worst malevolently motivated—may just as well reflect a clash of interests. What often goes unrecognised is that *anyone* can behave in ways that to others smack of disrespect or malevolence. Those who disrespect youth very rarely face sanctions.⁹⁴

Before we can begin to change contentious relations between youth and the wider community, we need to take a closer look at the meaning of community itself, particularly at whether a consensus on values and the correct moral order can be taken for granted. Communities do not automatically give rise to mutual consensus on the meanings of order and disorder, to shared values or to a sense of mutual responsibility. On the contrary, order and disorder are largely defined in accordance with the thinking of the more powerful and influential within the community. Our youth have little if any say in defining these concepts.⁹⁵

That 'lack of say' stands out in respect to an important aspect of youth culture: its use of street corners and open public space. Youth are rarely acknowledged as full-fledged members of the public, making it all the more likely that for some adults, the very sight of youth 'hanging out' suggests disorder or even menace. In contrast, elsewhere those in charge of public space are seeking out youth opinion on how to make that space more youth-friendly.⁹⁶ The

⁹² Michael Rush, Paula Brudell, and Aogán Mulcahy, "Youth, Marginalisation and Joy-riding," in *Young People and Crime*, 57.

⁹³ Street hockey remains a thriving tradition in many parts of Canada and the United States. In Dublin, however, class distinction has meant that playing football in the street has been sanctioned for more than eighty years: 'You could play football in the streets but if you were caught you were summonsed. Take you to Children's Court and might be fined a half crown. The Guards would be on a bike and maybe give you a smack, let you off with a caution ... they *knew* you had to play in the street 'cause we'd *nowhere else* to play.' Tommy Maher interview in Kevin C. Kearns, *Dublin*

Tenement Life: An Oral History (Dublin: Gill & McMillan, 1994), 40.

⁹⁴ Millie, Andrew, "Anti-Social Behaviour: Concerns of Minority and Marginalised Londoners," *Internet Journal of Criminology* (2006), www.internetjournalofcriminology.com/Millie%20-%20Anti-social%20Behaviour.pdf (accessed 30 May 2009).

⁹⁵ Claire Hamilton and Mairéad Seymour, "ASBOs and Behaviour Orders," in *Young People and Crime*, 76-78.

⁹⁶ See the Australian shopping centre protocol described earlier in this report and White. Canada,

situation is made worse by the lack of spaces and activities available to youth in communities where parents often cannot afford the fees for supervised activities, where public institutions offer little in the way of free or low-cost recreation and other activities, where commercial establishments often refuse youth entry because of prior transgressions by their peers.

It is disturbing that so little institutional effort goes into finding common ground. Instead, the implicit assumption is that youths and adults cannot come to accommodate each other. In consequence, legislation put forward as a means to improve life on local authority housing estates instead fosters not 'better' behaviour but intolerance towards youth.⁹⁷ Moreover, as our section on Policy & Practice underscores, the reliance on exclusion and eviction result brings severe consequences for the whole family.

Much more effort needs to go into reaching a balanced view on the differences between behaviour that is irritating or vexing in some way and behaviour that truly constitutes a threat to the peace. When matters are serious, people have recourse to An Garda Síochána. There have long been—and remain—informal ways of preventing situations from getting out of hand. Much more effort needs to go, too, into measures short of eviction and exclusion—measures that elsewhere are proving powerful in

fostering stronger communities—including community mediation, tenancy sustainment, family projects along the lines of the proven-successful Scottish ones, and community development.

4.2 Policy Recommendations

The Legislation

The High Court has ruled on a number of occasions that the use of sec. 62 of the 1966 Housing Act for the eviction of local authority tenants has been incompatible with the rights guaranteed them under the European Convention on Human Rights.

Recommendation:

Amend the housing legislation to ensure that local authority tenants have the rights to which they are entitled under the European Convention on Human Rights, itself a part of Irish law since 2003.

Youth and Public Space

It is not only possible—it is critical—to work *with* youth to find ways to better manage public spaces.

Recommendation:

Evaluate the management of public spaces in terms of community relationships, not as tasks accomplished.

Community Mediation

Elsewhere, local authorities have learned that making community mediation an early port of call is both cost-effective and goes a long way towards heading off serious conflicts and building mutual respect.

too, is beginning to consider how to make public space youth-friendly. In 2007 participants in Flash Drive, a youth forum organised by Canada's National Capital Commission, produced one-minute videos addressing these questions: Do you think there is a need for more youth-friendly places in your community or in the Capital where you can feel free to get together and hang around with your friends? What type of space would this be?

⁹⁷ Hamilton and Seymour, "ASBOs and Behaviour Orders," 79.

Recommendation:

Strengthen and promote existing independent community mediation programmes and extend these services to communities not yet served.

Tenancy Sustainment and Intensive Family Support Projects

Just as tenancy sustainment and intensive family support projects are proven to open a path to better futures, so too they save money.

Recommendation:

Strengthen, extend, and promote existing tenancy sustainment programmes and pilot a Dundee-style families project.

Community Development and Local Employment

Youth, no less than adults, have a stake their communities. We can—indeed we must—engage youth in ways that draw on their inherent creativity and drive.

Along with the many successful initiatives we have mentioned in this report, there are several others that go beyond traditional community development:

- Hip-Nós at the Ballymun Axis Arts Centre is the fruition of committed youth projects and initiatives in the Ballymun area which allow local youth to explore cultural engagement and production. Through hip-hop, graffiti and break-dancing local youth have the opportunity to articulate their experience and identity. Hip-Nós then brought this unique ‘street culture’ of youth together with traditional musicians and dancers from Donegal to create a unique musical and theatrical form. The

project was performed for the public at Dublin’s prestigious Vicar St venue alongside internationally renowned hip-hop groups. Engaging, participant driven projects of this nature allow marginalised young people to develop their social and cultural awareness, discover their own voices and most importantly, have a powerful outlet to voice who they are, what they need and where they want to go.

- Midnight Soccer leagues are taking off through the UK, Northern Ireland and the Republic of Ireland. First initiated in hot spots of anti-social behaviour, midnight soccer addresses the lack of youth provision in impoverished communities, forming an alternative to ‘hanging around on the streets with nothing to do’. Friendships and relationships are formed between young people, community leaders, youth organisations and entire communities. Engaging young people and local communities in such ways builds much needed community cohesion and helps foster a sense of belonging to often disenchanted youth.
- Glasgow’s Bolt-FM, a youth-led community radio station run in conjunction with Fablevision, encourages all participants to take part in running the organisation. It draws many participants who are known to police and social services and who want nothing to do with traditional youth projects. In the words of one young woman, ‘I’ve seen people knifed in the streets, people wae nae hope, nothin’ tae dae. A could be wan o’ them. Wae Bolt there wis always somthin’ tae look forward tae, and if somethin’ was too

hard, then there was always someone to help.’⁹⁸

- Youthbuild helps marginalised young people between 18 and 25 in Glasgow and Inverclyde gain access to six-month paid work placements in the construction industry. About a fifth of its participants move on to traditional apprenticeship schemes; in all, three-quarters have found permanent jobs or further training in construction.
- Aberdeen Foyer provides education, training, housing, and healthcare support to vulnerable 16 to 25-year-olds and helps fund that work through Foyer-owned businesses that also train and employ young people—a restaurant and gallery consistently rated among Aberdeen’s top three places to eat, a second restaurant in the theatre district and a graphic design studio.⁹⁹

Recommendation:

Pilot community development /employment projects that acknowledge youth as full-fledged members of our communities and that encourage them to shape their own solutions by engaging the full spectrum of skills and abilities of our young people

⁹⁸ *Promoting Positive Outcomes*, Vol. 1, 58-59.

⁹⁹ Scottish Social Enterprise Coalition, “Social Enterprise and Scotland’s NEET Group,” briefing (Edinburgh: Scottish Social Enterprise Coalition, 2006).

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