



4 March 2024

## **PPR input to the joint DFC / DOJ consultation on proposals to amend the legislation to help tackle Anti-Social Behaviour**

This joint [consultation](#) addresses changes to:

1. enforcement around drinking in public
2. the definition of Anti Social Behaviour (ASB); measures to address perceived barriers to obtaining and imposing ASB Orders as well the introduction of 'positive requirements' to ASBOs
3. the threshold for granting injunctions against ASB as well to power of arrest / power of exclusion from home for breaches of the same
4. introduction of absolute grounds for possession (enabling the court to make an order for possession where there is clear evidence that anti-social behaviour has already been proven to the satisfaction of another court)

Recent press scrutiny of the [level of victims' reporting](#) of threat, intimidation, harassment and violence – and of the [characteristics](#) of such acts – have shone a spotlight on the need for a change of focus in the current approach. Our submission duly focuses on anti-social behaviour in the housing context, **from the perspective of its victims**. While some of the proposals outlined in the consultation paper may have a positive impact in the long term, they remain largely focused on the perpetrator. What remains essential is a deep re-orientation towards security, protection and well-being of victims of sectarian, domestic, racially-motivated or any other threat, intimidation, harassment or violence.

### **1. NIHE policy: Housing Selection Scheme and Community Safety Strategy**

The NIHE website contains a page with [advice to tenants](#) on reporting anti-social behaviour to the organisation; it links through to a NIHE [Policy on anti-](#)

[social behaviour](#) dating from 2011, under which incidents are delegated to the Neighbourhood Officer Service (p. 9). There are clear barriers to victims' ability to access and act on this (outdated) information.

The more recent NIHE [Community Safety Strategy](#) 2020-2023 sets out NIHE's current general approach to **anti-social behaviour**, which is described as

an incremental approach, working with the perpetrator through a range of interventions in an attempt to keep them in their homes whilst addressing their unacceptable behaviour (p. 8)

This work is led by a [dedicated Community Safety Team](#), within a framework of Anti-social behaviour Forums and partnership arrangements with Northern Ireland Alternatives (NIA) and Community Restorative Justice Ireland (CRJI) in Community Based Restorative Justice Schemes (via a Mediation and Community Support (MACS) Project in specific parts of Belfast, Newtownabbey and North Down (pp 18-19)).

A Mediation and Community Support Hate Crime Project, with Northern Ireland Alternatives in South, East and North Belfast, is described as acting

in a mediatory and brokering role allowing prospective tenants from ethnic minority backgrounds to accept an offer of accommodation. It also aims to promote understanding for the need for acceptance of change and diversity (p. 19).

While this description gives a nod to people from ethnic minority groups, the main focus appears, characteristically, to be not on them but on outreach and awareness-raising amongst their neighbours.

On the issue of intimidation points, guidance to tenants on the current [Housing Selection Scheme 2023](#) explains that applicants for social housing will be assessed and awarded points according to their housing need under four categories. One of these is intimidation, in the event that:

- 1) Your home has been destroyed or seriously damaged (by explosion, fire, or other means). OR
- 2) You cannot reasonably be expected to live or to resume living in your home because if you were to do so there would, in the opinion of the Housing Executive, be a serious and imminent risk that you, or a member of your household, would be killed or seriously injured.

The circumstances above must arise as a result of terrorist, sectarian or racial attack, or because of an attack motivated by hostility because of an individual's disability or sexual orientation or as a result of an attack by a person who falls within the scope of the Housing Executive's statutory powers to address neighbourhood nuisance or other similar forms of anti-social behaviour.

Detailed investigations will be necessary to establish if any of the above criteria apply and to decide to award Intimidation points.

The bar for intimidation points – death or serious injury – is clearly too high. Victims of anti-social behaviour do not receive the same level of points, underscoring the reports from some of them that they feel that the pressure they are under is not accurately appreciated by NIHE. Too many have reported feeling unsupported and unprotected by NIHE, as though the threat they feel under is not taken seriously.

This appears to be a systemic issue, not one only affecting people who have already suffered harm. When PPR recently submitted a Freedom of Information request about guidance offered to people joining the NIHE's (area of choice-based) waiting list for social housing with regard to the safety of different areas, particularly for minority ethnic and newcomer applicants, the [response](#) was that NIHE does not carry out such analysis. Home Office policy changes have resulted in an increasing number of individuals and families receiving their refugee status – meaning that responsibility for responding to their Homelessness falls on the NIHE. A preventative approach that appreciates and takes account of people's vulnerability from the beginning is required in these circumstances.

## **2. Changes to NIHE policy following the 'fundamental review of social housing allocations'**

Following its '**fundamental review of social housing allocations**', on 30 Jan 2023 NIHE [announced](#) changes to the (20-year-old) housing selection scheme and to the underlying policy, [Housing Selection Scheme Rules](#). Under these changes, in the first three quarters of 2024 NIHE will be implementing changes that give NIHE staff increased powers with regard to '**unacceptable**' or **anti-social behaviour**:

- ☐ an applicant who has been involved in unacceptable behaviour will not be eligible for social housing or Full Duty homelessness status unless there is a reason to believe – at the time the application is considered – that the unacceptable behaviour is likely to cease. (The relevant consultation [paper](#) explained that this (proposal 2) is intended as a deterrent).
  
- ☐ NIHE may treat a person as ineligible for Full Duty homelessness status on the basis of their unacceptable behaviour at any time before allocating that person a social home. (The [consultation paper](#) stated that this proposal 3 'should also ensure good housing management and aim to reduce nuisance to tenants; striking a better balance between excluding people from the waiting list and prioritising vulnerable groups')

(With regard to intimidation points, the paper says that at the NIHE's request further investigation will be carried out on the removal of intimidation points from the Selection Scheme altogether.)

While the fundamental review outcomes described above increase the powers of NIHE staff with regard to anti-social behaviour, as stated above too many tenants' testimony indicates that they feel insufficiently protected from such behaviour, and that too often they are left to deal with it on their own. They question NIHE's actual commitment and responsiveness to countering what feels to them like racially-motivated threat, intimidation and violence. Specific measures are needed on their behalf, to ensure that they can live in security and free from fear.

### **Human rights challenges**

The NI Human Rights Commission has [issued](#) a legal challenge against NIHE and the Department for Communities regarding the allocation of intimidation points under the Housing Selection Scheme:

it is our position that the limitations and inconsistent provision of points for social housing fails to respect, protect and fulfil the human rights of people who are very vulnerable. This is compounded by the absence of an appeal process to review and challenge relevant decisions made by the Housing Executive. Both in design and implementation, we believe the scheme does not properly consider people's circumstances and fails

to address domestic violence, gender-based violence, the intimidation of individuals from within their own community or the real impact of anti-social behaviour.

The NIHRC [fact sheet](#) on the challenge adds:

a person who has been refused intimidation points may have difficulties being rehomed in a safe place. This exposes them to the risk of homelessness. Where they must leave their home to escape threats to their safety, they might be provided with temporary accommodation, for example, in a hostel. This type of accommodation may not be suitable for a variety of reasons. The only available hostel may be many miles away from their family, friends, doctor, place of work and support network. Without adequate points they might be left there for a very significant period of time- many months or even years. Alternatively, to avoid this situation they may feel it necessary to stay in the area where they have been threatened and this places them in danger.

In this context, the re-definition of anti-social behaviour proposed by the DOJ and DFC in this consultation, for instance to include conduct impeding other people's enjoyment of their home (your para. 4.17) is positive, but insufficient on its own. Similarly, expanding the pool of bodies able to make applications for ASB Orders to include housing associations (your para. 4.21), or injunctions; or establishing absolute grounds for possession (your para. 6.4) may be positive steps; but must be accompanied by a **deeper re-orientation towards and commitment to victims' immediate support and protection, and to their wellbeing over the longer term.**