



# An Garda Síochána

## Policy Document

### Repossessions and Evictions

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<b>Effective Date</b>	06/10/2020
<b>Version No.</b>	1.0
<b>Approved by</b>	Garda Executive
<b>Introduced by</b>	<a href="#">HQ Directive 050/2020</a>
<b>Policy Owner</b>	Assistant Commissioner, Southern Region

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## 1. Introduction

The purpose of this Policy is to outline the process for members of An Garda Síochána upon a request for, and if necessary the attendance at, the scene of a repossession or eviction of a private house or property. On planning a response, it is imperative that all personnel have a clear understanding of the request and the role that personnel will perform if and when attending such repossession or eviction.

## 2. Scope

This Policy document and all associated documentation apply to all members of An Garda Síochána and Garda staff. It also applies to Police Officers from the Police Service of Northern Ireland (PSNI) seconded to An Garda Síochána in accordance with Section 53, Garda Síochána Act 2005.

## 3. Relevant Terms & Definitions

**Spontaneous Notification of a Repossession or Eviction:** This refers to repossessions/evictions which take place spontaneously and where An Garda Síochána has had no prior or insufficient warning or notification to develop strategies, tactics or operational plans for the attendance at such repossession/eviction.

**Planned Repossession or Eviction:** These are all other incidents and/or operations not falling within the ‘*Spontaneous Notification of a Repossession or Eviction*’ definition and where An Garda Síochána has had the opportunity to develop strategies, tactics and operational plans before the repossession/eviction takes place.

## 4. Roles & Responsibilities

**Control Room Operative** - Is a member of An Garda Síochána or Garda Staff assigned to the relevant Regional Control room who shall carry out duties as appropriate to the role and which will encompass that of a Call Taker or Dispatcher. The duties of a Call Taker or Dispatcher shall include the following:

- **Call Taker** – shall receive emergency 999/112 calls and extract relevant and specific information in relation to the call as soon as possible in order to determine the correct response required. This is the person to whom a member of the public reports a call for service and enters the data into the CAD System. A Call Taker may be an incident entry operator or any person who is authorised to record incidents/calls for service from the public. The Call Taker will assess the information provided and make decisions in relation to categorising, prioritising and entering detailed information on CAD.
- **Dispatchers** – shall dispatch the appropriate Garda resources to the location of pending incidents, and update these incidents with additional information furnished to them by the resource attending the incident until it is complete. The Dispatcher is responsible for the monitoring, management and administration of all CAD incidents within a specific Division or Divisions. The Dispatcher must communicate and record information effectively, to assess problems and make decisions, to direct and control mobile resources throughout the tour of duty. The Dispatcher must ensure that all incidents are managed expeditiously. (See Garda Síochána Code Volume 1 Chapter 35.50.) Divisional Dispatchers shall make full use of all available resources and ensure that each mobile is dispatched as a divisional resource.

## 5. Processes

An eviction is the action of removing a person or persons from a property. This may occur as a result of a repossession where an individual(s) offer the property as security for a mortgage debt and the mortgage is in arrears. Generally, an eviction occurs following a civil action whereby a Civil Bill for Possession of the Land or Property has issued. Where a court decides the civil action in favour of the plaintiff, a named person is ordered by the court to deliver up possession of land or property to another named person. This Order is referred to as an “Execution Order for Possession” is directed at the Sheriff or County Registrar directing them to take possession of the land or property and deliver it to a named person.

### 5.1. Spontaneous Notification of Repossession or Eviction

Upon receipt of a notification of a repossession or eviction the Control Room operative will ensure that the District Officer or relevant Superintendent in who’s area the repossession/eviction is about to take place (taking place) is informed.

If a Garda presence is deemed necessary and a resource is dispatched to the repossession/eviction, the senior member attending the scene shall carry out a Dynamic Risk Assessment (*If possible Section 5.3 below should be used as a guide*) and shall make any decisions based on this assessment utilising the Garda Decision Making Model (GDMM).

The District Officer or relevant Superintendent shall direct the resources upon being informed of same utilising the Risk assessment as outlined in **Section 5.3** below until a conclusion has been reached.

### 5.2. Planned Repossession or Eviction

The responsibility for the response to a planned repossession or an eviction lies with the District Officer or relevant Superintendent in the area that the Repossession/Eviction is due to occur. The deployment of Garda resources to such repossession or eviction shall be based on the appropriate risk assessment as set out at **Section 5.3** below.

### 5.3. Risk Assessment relating to a Repossession/Eviction

The Risk Assessment (attached) carried out by the District Officer/relevant Superintendent, for the area that the Repossession/Eviction is due to occur, shall be based on the following areas:

- The legality of the repossession or eviction
- The role (*if any*) of An Garda Síochána as outlined in the related Court Order/document
- The content of any ‘Health and Safety Statement’ and ‘Risk Assessment’ of the Company/Agency carrying out the repossession or eviction to which they are required to have under the ‘Health and Safety at Work Act 2005’
- Any Human Rights concerns including freedom of persons to carry out their business and daily life
- Measures taken by agents to minimise the risk of public disorder or any measures taken regarding the possibility of resistance (including physical obstructions, fortified areas etc.)
- Are the agents suitably trained?
- Is there an Operational Plan being carried out by the agents?
- Is there potential for any breach of the peace to occur based on previous adverse incidents, information, intelligence etc. at the house or property including its occupants
- Children and vulnerable people should be considered given their ability / lack of ability to understand processes and procedures.



- Persons displaying Mental Illness, Acute Behavioural Disorder, exhibiting learning difficulties or any other psychological impairment should also be considered, as the process will likely create disorientation, stress and anxiety.
- Any other information deemed necessary

The District Officer/relevant Superintendent will then utilise this [Risk Assessment](#) to inform his/her decision on whether or not to deploy resources, the quantity and type of resources or the necessity of an Operational Plan that should be engaged and deployed. This will then inform any and all decisions made utilising the Garda Decision Making Model (GDMM).

#### 5.4. Garda Role

The function of the Garda Síochána is defined pursuant to [Section 7 of the Garda Síochána Act 2005](#). While providing policing and security services for the State, An Garda Síochána shall complete this function including but not limited to the objective of preserving peace and public order, protecting life and property and vindicating the Human Rights of each individual.

An Garda Síochána should not engage in any such tenancy disputes unless a Criminal Offence is alleged or disclosed. Should members of An Garda Síochána be present at an eviction, the role of An Garda Síochána is to ensure peace and public order is maintained, and no criminal offence is committed. The company/agency or Sheriff should be advised that it is the Policy of An Garda Síochána to have prior notice of a planned repossession/eviction so the necessary [Risk Assessment](#) may be carried out and resources allocated, if deemed appropriate.

Where a person refuses to comply with an Execution Order for Possession, the applicant may apply to the court for an Order of Attachment. An Order of Attachment is directed to An Garda Síochána, [HQ Directive 04/2019](#) refers and should be read in this regard.

#### 5.5. Human Rights Considerations

The vindication of human rights is a key policing objective, and is the very basis of policing. Garda Personnel play a vital role in ensuring that citizens may enjoy their rights to live free from violence, abuse and crime. Garda Personnel also help preserve an environment in which people can live free from fear and enjoy other rights and freedoms.

In the decision to proceed with an Eviction, personnel should be aware that every person has the right to respect, fair treatment and personal dignity and any action taken must not unjustly, unreasonably or arbitrarily discriminate between individuals.

#### 5.6. Garda Powers and related legislation

Members of An Garda Síochána present at a repossession/eviction should be familiar with the following legislation:

- Prohibition of Forcible Entry and Occupation Act 1971
- Criminal Damage Act 1991
- Criminal Justice (Public Order) Act 1994
- Non-Fatal Offences Against the Person Act 1997
- Residential Tenancies Act 2004
- Criminal Justice Act 2007

In accordance with Thorpe v DPP [2006] IEHC 319, the common law offence of breach of the peace may occur in a private place. In order to effect an arrest in a private dwelling where entry has not been

permitted but required, for the common law offence of breach of the peace, a member of An Garda Síochána may rely on section 6(2) of the Criminal law Act 1997.

Where the presence of CCTV footage is known to Gardaí at an event where an offence has been alleged to have occurred, Gardaí must seek out and retain such CCTV evidence, *Scully v DPP* [2005] 1 IR 242 and *Braddish v DPP* [2001] 3 IR 127. HQ Directive 07/09 and 101/08 refer.

The recording of individuals in public places, by An Garda Síochána, with video cameras constitutes surveillance within the scope of the Criminal Justice (Surveillance) Act 2009. Surveillance is defined by the Act as monitoring, observing, listening to or making a recording of a particular person or group of persons or their movements, activities or communications, or monitoring or making a recording of places or things by or with the assistance of surveillance devices. Recording of individuals by An Garda Síochána should not occur without the appropriate authorisation, HQ Directive 11/2019 refers.

## 6. Compliance

Compliance with this Policy is mandatory for all members of An Garda Síochána and Garda staff.

## 7. Related Documents

- [HQ Directive 68/07](#) – RE: Residential Tenancies Act 2004
- [HQ Directive 101/08](#) – Digital CCTV as Evidence
- [HQ Directive 07/09](#) – Duty to Seek Out, Retain and Preserve Evidence
- [HQ Directive 04/19](#) – Orders of Attachment and Orders of Committal
- [HQ Directive 11/19](#) – Use of Body Worn Cameras
- [Risk Assessment](#) - Repossession/Eviction

## 8. Legal & Human Rights Screening

This document has been legal and Human Rights screened in terms of the respective obligations placed on An Garda Síochána for the subject area concerned.

## 9. Ethical Standards & Commitments

Every person working in An Garda Síochána must observe and adhere to the standards and commitments set out in the [Code of Ethics](#) for An Garda Síochána and uphold and promote this Code throughout the organisation.

## 10. Policy & Procedure Review

This document will be reviewed 12 months from its date of effect and every three years thereafter or as appropriate.

## 11. Disclaimer

This document is not intended to, nor does it represent legal advice to be relied upon in respect of the subject matter contained herein. This document should not be used as a substitute for professional legal advice.

## 12. Policy & Procedure Document Feedback

The Policy and Governance Coordination Unit maintains a Policy Issues Log. Where there are potential issues regarding the implementation of the Processes set out in this document, please forward an outline



of same through the relevant Divisional Office to the Section mail-box [policy.governance@garda.ie](mailto:policy.governance@garda.ie). Divisional submissions will be recorded in the Policy Issues Log and forwarded to the Policy Owner for whatever action deemed necessary.

*(**Please note** that where there is an urgent issue arising regarding the implementation of this Policy document it should be clearly flagged as urgent / important and also reported directly to First Line Supervisors/Managers to ensure it is addressed).*

### **13. General Data Protection Regulations / Directive 2016/680/EU - Police and Criminal Justice Authorities Directive**

Personal data shall only be processed for the purposes specified in this policy, and within a clearly defined lawful basis under the (EU) General Data Protection Regulation (GDPR) ((EU) 2016/679) and the Data Protection Acts 1988/2018. All necessary measures will be put in place to ensure personal data is kept safe and secure. Only authorised personnel shall have access to personal data. Only relevant personal data will be processed, and will not be retained for longer than is necessary.