

OPCC Antisocial Behaviour Case Review Appeal Process

Overview

The ASB Crime and Policing Act 2014 sets out the ASB Case Review process, formerly known as Community Trigger. ASB Case Review is a mechanism for victims of persistent ASB, which has been reported to any of the main responsible agencies, to request a multi-agency case review of their case when a locally set threshold is met. The relevant bodies (local authorities, the police, health providers and providers of social housing) then have a duty to undertake a case review if it is deemed that the threshold has been met.

Who can raise an ASB Case Review

An ASB Case Review can be raised by a victim of ASB or by a third party (with the victim's consent), such as a family member, friend or local elected representative (a councillor or MP). The applicant may be an individual, a business or a community group. The ASB Case Review cannot be raised anonymously.

How it works

Each local area sets a threshold which must be met for the ASB Case Review to be used. The threshold is about the incidents reported, not whether the agency responded. The threshold should be no higher than 3 complaints within 6 months, but agencies may choose to set a lower threshold. If the qualifying complaints were made, a case review must be held to then determine the adequacy of the agency responses.

The relevant bodies and responsible authorities who undertake the case review are:

- Councils
- Police
- Integrated Care Boards
- Registered providers of social housing

The relevant bodies must publish the ASB Case Review procedure to ensure that victims are aware that they can apply to activate the procedures in appropriate circumstances. The information should be provided on the websites of all the relevant bodies, signposting the public to the lead agency's website, a point of contact and the procedures for activating the process.

The process

When an ASB Case Review is requested, agencies must decide whether the threshold has been met and communicate this to the applicant.

The review encourages a problem-solving approach aimed at dealing with some of the most persistent, complex cases of ASB.

Consideration should always be given as to how victims can best express the impact that the ASB has had on their lives.

If the threshold is not met

A letter will be sent to the applicant to explain why the threshold has not been considered to be met.

If the threshold is met

A case review will be undertaken by the relevant bodies. Agencies will share information related to the case, review what action has previously been taken and decide whether there are additional actions that can be taken. The local ASB Case Review procedure should clearly state the timescales in which the review will be undertaken.

Where most of the agency representatives have been involved in a particular case, consideration should be given to involving somebody independent in the review to provide an external or fresh perspective on the case and the action that has been taken. Consideration should also be given to whether the review meetings should be chaired by an appropriately trained independent lead.

Relevant local agencies should always consider inviting the victim to attend the case review to help all members of the panel understand the level of harm and impact. It is always good practice to have somebody involved in the case review to represent the victim, such as from a victim support organisation or a representative of the victim.

The applicant is then informed of the outcome of the review. Where further actions are necessary an action plan will be discussed with the victim, including timescales.

Communications and support

Relevant bodies must respond to the applicant at particular points in the process. These include:

- the decision as to whether or not the threshold is met
- the outcome of the review
- any recommendations made as an outcome of the review

Where the victim is considered to be particularly vulnerable, the relevant bodies should consider whether additional practical and emotional support can be offered to the victim.

Appeal Process

The ASB Case Review procedure must include a process for the victim to appeal if they are dissatisfied with the way in which a case review has been carried out. Within Cleveland the OPCC is the route for any ASB Case Review appeals.

The appeal process is fully conversant with Schedule 4, Part 1 of the ASB Crime and Policing Act 2014 which details that a victim (or a person acting on their behalf with their consent) has the right to request an appeal if they are dissatisfied with the way in which the relevant bodies have carried out an ASB Case Review.

An ASB Case Review may only be escalated to the OPCC on the following grounds:

- **Threshold** - The relevant bodies have rejected an application on the basis that the threshold has not been met and the victim disagrees with that assessment
- **Process** - The ASB Case Review has failed to consider a relevant process, policy or protocol.
- **Evidence** - The ASB Case Review has failed to consider relevant factual evidenced information

It is not enough for an applicant to simply appeal because they do not agree with the decision of the case review panel. Any appeals received on this basis will be refused by the OPCC

An ASB Case Review can also not be escalated where an applicant is dissatisfied that a particular agency has not utilised a particular enforcement tool and where it has been established through the review that appropriate consideration has been given to the use of that tool but, having consideration of the facts and relevant protocols, that agency has determined that it would not be appropriate to utilise the enforcement tool.

The role of the OPCC will be to consider due process and ensure that the relevant bodies have properly and effectively undertaken a review. In considering an ASB Case Review escalation the OPCC can either:

- Uphold the appeal and refer the case back to the relevant bodies asking them to either review the threshold decision or to consider a particular process, policy, protocol or piece of evidence not previously considered;
- Determine that the relevant bodies have reviewed the case, considering all relevant policies, process and protocols satisfactory in line with its ASB Case Review Procedure.

All requests for an appeal must be made in writing by an applicant within ten working days of being informed of the outcome(s) of the case review meeting.

If an applicant is appealing more than ten working days after being informed of the outcome(s) of the case review meeting they must explain why their appeal has been delayed. The time limit to make an appeal may be extended if there are good reasons for the delay. The OPCC reserves the right to refuse to accept late appeals.

All requests for an appeal must be made directly to the Local Authority who dealt with the original case review. The Local Authority will then seek the consent of the applicant to pass the appeal request and data relevant to the undertaking of the appeal to the OPCC.

Any request to undertake an appeal must clearly state the reasons for requesting an appeal together with any supporting information/evidence, applicant contact details and details of the geographic location where the original case review took place.

Within 2 working days of receiving a request through the Local Authority to undertake an appeal an OPCC officer will be appointed to lead on the case. A panel of at least one additional OPCC staff member will be identified to handle the appeal.

The OPCC panel will initially review the request to ascertain if it meets the criteria for an appeal:

- **Threshold** - The relevant bodies have rejected an application on the basis that the threshold has not been met and the victim disagrees with that assessment
- **Process** - The ASB Case Review has failed to consider a relevant process, policy or protocol.
- **Evidence** - The ASB Case Review has failed to consider relevant factual evidenced information

Within 2 working days of the case being assigned the OPCC admin team will write to the applicant to either:

- In instances where the case is not deemed to meet the criteria for an appeal, inform the applicant of this decision.
- In instances where the case is deemed to meet the criteria for an appeal, seek further information on the request for escalation including any additional information or evidence which the applicant feels is relevant to the case

Within 2 working days of the case being assigned the OPCC admin team will also write to the Local Authority lead in the area where the original case review was conducted to request all relevant information in order to undertake the appeal.

Relevant information will include:

- Details of all reports made to the relevant authorities during the qualifying period
- Details of activity undertaken by the relevant authorities as a result of reports
- Any other materials which were considered as part of the original case review
- Any action plans/reports produced as a result of the original case review
- Any correspondence with the victim as part of the original case review

The requested information is to be supplied to the OPCC admin team within 5 working days to be passed to the appointed OPCC lead officer.

For transparency all correspondence with the applicant will also be sent to the Local Authority and all correspondence sent to the Local Authority will also be sent to the applicant. To avoid the use of individual's email addresses correspondence to the Local Authority should be sent to the below email inboxes:

- Middlesbrough - FSM@middlesbrough.gov.uk
- Redcar and Cleveland - contactus@redcar-cleveland.gov.uk
- Stockton - SMSupportServicesLegal@stockton.gov.uk
- Hartlepool - community.safety@hartlepool.gov.uk

The appeal process will be a desk top review undertaken by the appointed OPCC panel. This should be concluded no more than 10 working days after the receipt of information from the applicant and lead Local Authority. A report detailing suggested recommendations from the appeal process will be produced and sent to the relevant bodies and to the applicant within 2 working days of the review being concluded.

Where an applicant continues to dispute the outcome of their ASB Case Review appeal they retain the right to submit a Formal Complaint to the appropriate authorities under their respective Formal Complaint policies.

Applicants also retain the right to submit a Formal Complaint to the appropriate authorities' independent regulators. (Local Government Ombudsman, OPCC Resolution Team, Health Service Ombudsman, Housing Ombudsman).

Both these complaints routes would sit independently of the ASB Case Review process.

Appendix A details the complete appeals process.

As part of the governance of the appeals process an annual review/improvement meeting between the OPCC and representatives from the four Local Authorities will take place to highlight any learning across the areas covered by the process and to ensure that the process remains fair, impartial and fit for purpose.