

ASB Case Review Appeals Procedure

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1. Introduction

The Anti-Social Behaviour (ASB) Case Review (previously called the Community Trigger) is a power available under the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act). It provides victims and communities with a greater say in the way anti-social behaviour is dealt with by giving them the ability to request a review of their case if they feel that insufficient action has been taken to resolve the matter.

Anyone who has been the victim of anti-social behaviour (or another person acting on behalf of the victim with their consent) can apply for an ASB Case Review to be undertaken. The victim may be an individual, a business or a community group.

For the purposes of an ASB Case review, anti-social behaviour is defined under s105(4) of the Act as “behaviour causing harassment, alarm or distress to members or any member of the public”.

This definition relates specifically to ASB Case Reviews.

The term 'harassment, alarm or distress' is not defined by the Act, therefore the words should be given their ordinary meaning;

- harassment, means to subject someone to constant and repeated physical and / or verbal persecution;
- alarm, means a frightened anticipation of danger and;
- distress, means to cause trouble, pain, anguish or hardship.

The ASB Case Review procedure is not a complaints process and if an individual is unhappy with a service they have received from any agency they should consider making a formal complaint by contacting the organisation directly. If an ASB Case Review is carried out this does not remove the option to make a formal complaint.

The Act also states that local procedures for the carrying out of ASB Case Reviews **must include a process for the victim to appeal**. In Warwickshire it has been agreed that this appeals process will be conducted independently by the Office of the Police and Crime Commissioner (OPCC) for Warwickshire and this document sets out how this will be undertaken.

All applicants should be made aware of their right to appeal if they are informed that the threshold for a case review has not been met, or at the conclusion of a case review if one is undertaken.

2. Grounds to request an appeal

A victim of anti-social behaviour (or another person acting on their behalf with their consent) can make an appeal in relation to an ASB Case Review if they are dissatisfied with:

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1. the decision by the relevant bodies on whether the threshold for a Case Review was met (*i.e. the application was declined on the basis the threshold was not met*), or
2. the way in which the case review has been carried out by the relevant bodies

An appeal cannot be requested solely on the grounds that the victim was dissatisfied with the outcome of an ASB Case Review.

Relevant Bodies

The relevant bodies and responsible authorities who come together in Warwickshire to consider applications for case reviews and undertake those that meet the threshold are:

- The relevant district/borough council
- Warwickshire Police
- Coventry and Warwickshire NHS Integrated Care Board
- Registered providers of social housing who may be co-opted into this group

Each district/borough council have identified a Single Point of Contact (SPOC) to coordinate the response to case review applications for their geographical area, on behalf of and in liaison with the other relevant bodies.

Case Review Threshold

To meet the threshold to request an ASB Case Review, the victim (or another person acting on their behalf with their consent) must have made at least three qualifying complaints in the previous six month period. A complaint is qualifying if it is made within the period of one month from the date on which the behaviour is alleged to have occurred. The three complaints do not have to have been made to the same organisation but must relate to the same issue of anti-social behaviour.

The threshold relates to the number of incidents reported and not whether an agency responded. A case review may be undertaken when fewer than three qualifying complaints have been made. In considering whether the threshold is met in such circumstances regard shall be had to:

- the persistence of the anti-social behaviour
- the harm or potential harm caused by the anti-social behaviour, and
- the adequacy of the response to the anti-social behaviour.

The harm, or the potential for harm to be caused to the victim, is an important consideration in determining whether the threshold is met because the more vulnerable will be less resilient to anti-social behaviour. People can be vulnerable for various reasons, and vulnerability or resilience can vary over time depending on personal circumstances and the nature of the anti-social behaviour.

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Behaviour which falls below the level of harassment, alarm, or distress, may not meet the threshold, but when assessed on the grounds of potential harm to the victim, the impact of the behaviour may be such that the threshold is considered to be met.

The decision on whether the threshold for a case review has been met is taken jointly by the responsible authorities.

Carrying out a Case Review

An ASB Case Review seeks to bring relevant bodies and responsible authorities together to take a joined up, problem-solving approach to find a solution for the victim. They will prepare and share information for the case review, which should include the involvement they have had with the victim and the case, and review what action has previously been taken and decide whether additional actions are possible.

The victim should be given the opportunity to express the impact the anti-social behaviour has had on their life.

By adopting a problem-solving approach, relevant bodies will ensure that all the drivers and causes of the behaviour are identified and a solution sought, whilst ensuring that the victim receives appropriate support and is kept updated of progress;

On completion of the case review the victim is informed of the outcome. Where further actions are necessary an action plan will be discussed with the victim, including timescales.

3. Case Review Appeals Process

Who can make an appeal?

In Warwickshire, appeals in relation to ASB Case Reviews are conducted independently by the Office of the Police and Crime Commissioner (OPCC) for Warwickshire.

An appeal which meets the grounds set out above can be made to the OPCC by anyone who has submitted an application for an ASB Case Review. This includes the victim or another person acting on their behalf. If you are acting as an advocate on behalf of somebody else, a signed consent letter (or copy of Power of Attorney for Health and Welfare) should be submitted along with the appeal.

Please note that the OPCC cannot act as an advocate for a victim during the actual ASB Case Review process as this could compromise a subsequent appeal. Organisations which can offer advice and support during this time include [ASB Help](#) or [Victim Support Warwickshire](#).

Timescales

An appeal must be made within twenty eight working days of receiving either the decision that the threshold has not been met or the outcome of a completed case review.

The OPCC will acknowledge the appeal request within five working days of receipt and will aim to complete appeals within six weeks, although where an appeal is particularly complex this may take longer.

How will the appeal be dealt with?

The OPCC will undertake due process to ensure that the case review panel has properly and effectively considered the case review application and where a case review has been conducted, that the panel has undertaken a proper and thorough review of the case, taking a problem solving approach.

Appeals will be conducted by way of a desktop review. Information will be requested from the case review panel via the relevant district/borough council SPOC. The appeal will not involve hearings or meetings with victims or case review panel members, although this may be considered in exceptional circumstances.

Appeal applicants will receive a formal response from the Commissioner once the appeal is complete.

Type 1 appeals (Case Review declined)

For these appeals, the OPCC will review the number of qualifying incidents of anti-social behaviour reported within the last six months and also whether the application for a case review was made within the period of six months from the date on which the first complaint was made.

If three qualifying incidents were reported within the previous six months and the case review application was made in the relevant timeframe, the OPCC's decision to uphold the appeal will be straightforward.

If there are fewer than three qualifying incidents, the OPCC will consider whether sufficient regard was paid to the persistence of the anti-social behaviour, the harm or potential harm caused by the anti-social behaviour and the adequacy of the response to the anti-social behaviour.

The OPCC will aim to complete Type 1 appeals within 2 weeks of receiving an application. However, more complex cases may take longer.

Where an appeal is upheld, the OPCC will make a recommendation to the responsible authorities via the relevant district/borough council SPOC that a Case Review be conducted and will request a response to the recommendation from the SPOC. The

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responsible authorities are required to take cognisance of OPCC recommendations but are not under any legal obligation to comply with them.

An appeal will not be upheld if the OPCC determines that the case review panel satisfactorily considered the application and correctly determined that the threshold was not met.

Type 2 appeals (Case Review process unsatisfactory)

For these appeals, the OPCC will consider how the case review was carried out by the panel to determine whether a proper, thorough and proportionate approach was undertaken. The appeal will consider the following:-

- Were all relevant bodies involved in the Case Review? For example, where the victim has a health related vulnerability, did a health partner contribute to the case review?
- Was there appropriate contribution to the Case Review from specialist departments within a relevant body? For example, where the ASB was noise related, was there a contribution from Environmental Health?
- Was the Case Review sufficiently thorough in determining what actions had been taken (and not taken) by agencies, alone and in partnership, in response to the original reported incidents of anti-social behaviour?
- Was the adequacy of the response to the original reported incidents included as part of the Case Review?
- Did the Case Review consider and determine what further action needed to be taken in an effort to resolve the ASB in the future?
- Has any required further action been set out by the Case Review in a written plan, and has this plan of action been agreed with the victim?
- Was a thorough partnership problem-solving approach undertaken throughout the Case Review that sought solutions to prevent the ASB issues from happening in the first place?

The appeal will not itself consider the adequacy of the response to previously reported incidents, but will look at whether this was adequately considered by the Case Review Panel as part of the review.

Type 2 appeals will generally be more complex and lengthy than Type 1 appeals as they will involve consideration of more information.

The OPCC will aim to complete Type 2 appeals within 4 weeks of receiving an application. However, more complex cases may take longer.

If the appeal is upheld, the OPCC will make recommendations to the responsible authorities via the relevant district/borough council SPOC. Recommendations could

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include a proposal to consider a particular policy, procedure, process, protocol, piece of information/evidence, or proportionate line of enquiry, not previously considered. The OPCC will request a response to the recommendations from the responsible authorities via the relevant district/borough council SPOC. The responsible authorities are required to take cognisance of OPCC recommendations but are not under any legal obligation to comply with them.

An appeal will not be upheld if, after considering the information provided by the case review panel, the OPCC determines that the case review has been satisfactorily undertaken using a problem-solving approach, and has considered all relevant policies, procedures, processes, protocols, pieces of information/evidence, and proportionate lines of enquiry.

How to make an appeal

Appeals must meet one of the two grounds set out on page 2 of this document. An appeal cannot be requested solely on the grounds of the victim being dissatisfied with the outcome of an ASB Case Review. The decision of the Police and Crime Commissioner on either of the two grounds is final and the applicant has no further opportunity to challenge the decision made.

Where the applicant is dissatisfied with the delivery of an action plan which has been produced as part of a case review, or is unhappy that a particular enforcement tool or power has not been implemented, this should be raised with the district/borough council SPOC for that case.

To make an appeal, applicants must complete the ASB Case Review Appeal Application Form, which can be [downloaded from the OPCC website](#). The completed appeal form should be sent to OPCC Warwickshire by email to opcc@warwickshire.police.uk:

Anti-Social Behaviour (ASB) Case Review – OPCC Appeal Procedure

