

# Essex ASB Case Review Guidance

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## **Background**

Anti-Social Behaviour, Crime And Policing Act 2014

An Act to make provision about anti-social behaviour, crime and disorder, including provision about recovery of possession of dwelling-houses; to make provision amending the Dangerous Dogs Act 1991, the Police Act 1997, Schedules 7 and 8 to the Terrorism Act 2000, the Extradition Act 2003 and Part 3 of the Police Reform and Social Responsibility Act 2011; to make provision about firearms, about sexual harm and violence and about forced marriage; to make provision about the police, the Independent Police Complaints Commission and the Serious Fraud Office; to make provision about invalid travel documents; to make provision about criminal justice and court fees; and for connected purposes.

[13th March 2014]

The Act includes new measures designed to give victims a say in the way anti-social behaviour is dealt with and provides for the introduction of ASB Case Reviews (previously referred to as the Community Trigger) in October 2014.

Across Essex a consistent approach has been developed to support all agencies involved in the use of the new legislation, aiming to provide victims of anti-social behaviour with a coherent and effective response regardless of where they live in the County.

Anti-social behaviour (ASB) is a broad term used to describe the day-to-day incidents of crime, nuisance and disorder that can make many people's lives a misery from litter and vandalism to public drunkenness or noisy and abusive neighbours. Such a wide range of behaviour means that responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the police, councils and housing providers.

## **Purpose**

We know that, where left unchecked, anti-social behaviour can have an overwhelming impact on its victims and in some cases, on the wider community. Therefore, the formal ASB case review is an important safety net in ensuring that victim's voices are heard. Victims of anti-social behaviour will be able to use the power in the event that they feel that agencies have not taken action in respect of their complaint, and where the case meets the locally defined threshold.

For the purpose of the ASB Case Review, anti-social behaviour is defined as behaviour "causing harassment, alarm or distress" to a member, or members, of the public. However, when deciding whether the threshold is met agencies should consider the harm or potential harm caused to the victim, rather than rigidly deciding whether each incident reached the level of harassment, alarm or distress.

In instances where the threshold is met relevant bodies including councils, the police, clinical commissioning groups and housing providers have a duty to undertake

an Anti-Social Behaviour Case Review by way of a Review Panel. It is intended that the purpose of the review panel should be for agencies to take a more joined up, problem solving approach aiming to find a solution for the victim.

The ASB Case Review can also be used by any person on behalf of a victim, for example a family member, friend, Carer, Councillor, MP or other professional person. It is intended to ensure that all victims are able to use the review albeit the victim's consent should be sought by the person using the ASB Case Review on their behalf.

The ASB Case Review can be used by someone of any age, and agencies should make it as accessible as possible to all victims.

### **Threshold**

Section 104(4) of The Anti-Social Behaviour, Crime and Policing Act 2014 sets a baseline threshold and no additional factors should be added to the simple test that:

- an application has been received and the victim has made at least three qualifying complaints.

For victims who perceive the ASB to be of a Hate Crime nature the threshold has been set lower that:

- an application has been received and the victim has made at least one qualifying complaint of a Hate Crime nature.

Section 104(5) of the Act states that in any other situation where an application is received, the question as to whether the threshold for a case review is met must be decided by the relevant bodies in accordance with the review procedures, and may take account of:

- (a) The persistence of the anti-social behavior about which the original complaint was made;
- (b) The harm caused, or the potential for harm to be caused, by the behaviour;
- (c) The adequacy of the response to that behaviour;

### **Qualifying complaints**

Section 104(11) of the legislation sets out what will be considered a 'qualifying complaint' for using the ASB Case Review to prevent someone reporting historical incidents of anti-social behaviour in order to use the ASB Case Review. The legislation sets out the following standards: (agencies can set different levels if appropriate for their area, as long as it does not lower the standard set out)

- The anti-social behaviour was reported within one month of the alleged behaviour taking place; and
- The application to use the ASB Case Review is made within six months of the report of anti-social behaviour.

## **Risk assessment**

The harm, or potential 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. Victims vulnerabilities will be assessed through the risk based harm model already in use across Essex to assess whether the threshold is met and assist in judging an appropriate response. 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.

## **Information sharing**

Agencies have signed up to the Essex Trust Charter and/or local Community Safety Partnership Data Sharing Protocols already exist, the requirement to establish another data sharing protocol for the purposes of the Essex ASB Case Review was not considered to be necessary.

Requests for Information will be made through the form attached at Appendix 8.

## **Vexatious and complaints procedures**

A statement is to be included within local authority vexatious complaints policies stating that “vexatious complaints relating to the ASB Case Review Process will be dealt with through the local authority policy”.

Local authorities will need to agree this approach locally with Registered Social Landlords and Housing Providers that operate in their area.

Reference is to be made within Complaints Procedures to show how complaints of ASB are dealt with.

## **Appeal process**

The review procedures must include provision about what is to happen when an applicant is dissatisfied with the way in which the relevant bodies have:

Dealt with an application for a review; or  
Carried out an ASB Case Review

In such cases these will be sent to the Chair of the relevant Community Safety Partnership in the first instance and notified to PCC's office. If the outcome is disagreed with, an appeal can be made in writing within 21 days of receiving the outcome.

## **Single point of contact (SPOC)**

Each area is to identify a SPOC who has some level of independence and who would not generally be involved in ASB case management. In some areas this will be Community Safety Manager, in others this may not be appropriate and will need to

be determined locally.

### **Publishing the ASB case review procedure and contact details**

The responsible bodies must publish the ASB Case Review procedure, including the point of contact for making an application to use the ASB Case review.

The ASB Case Review procedure will be published on local Council websites and will include details on how to make an application, contact details, phone no. email address. It is intended for generic materials to be produced and used County-wide.

### **Role of the Police, Fire and Crime Commissioner**

The local PFCC must be consulted on the ASB Case Review procedure when it is established must be consulted whenever the procedure is reviewed. The PFCC may be involved in the auditing and monitoring of the use of the ASB Case Review, as well as provide a route for victims to appeal decisions as to whether the threshold was met or the way the ASB Case Review was conducted.

The Essex model has made provision for the PFCC to be notified of an appeal by the Chair of the local Community Safety Partnership, acting as an independent body if necessary.

The PFCC may choose to monitor the use of the ASB Case Review across the County to identify any learning points to be disseminated to local Single Points of Contact.

### **Guidance for use of the model**

#### **Step 1: Gateway to ASB Case Review**

Victims will be able to access the ASB Case Review through the on-line reporting form which is required to be publicised on local Council websites. Hard copies of forms must be made available upon request – mechanism for doing this to be determined locally.

Each area is to have its own dedicated email address and telephone nos. promoted locally.

Upon receipt of the reporting form there is to be an acknowledgement sent within 3 working days, realistically this can be sent automatically through email or local areas may wish to use the letter attached to this guidance.

#### **Step 2: Determine if Threshold has been met**

The reporting form will be sent through to local Single Point of Contact, who along with the ASB Manager/lead will determine whether the threshold has been met. In some cases this may be obvious; in others it may be that an initial scoping exercise is undertaken with the relevant agencies to assist the determination.

The SPOC will send a determination letter to victim within 10 working days advising

of decision, along with details of the appeal process if the threshold hasn't been met.

### Step 3: Information Requests

If the threshold has been met the SPOC will send an information request to the relevant agencies asking for details of the case to be submitted to the identified SPOC within 10 working days and advising that their agency is required to part of the ASB Case Review Panel.

### Step 4: Review Panel Meeting

The identified SPOC will arrange and Chair a review panel meeting where previous actions will be considered and recommendations will be provided. The Review Panel must formulate an action plan, details of which will be sent to the applicant. This must take place within 10 working days of the information requests being received.

### Step 5: Decision Letter to Applicant

If the Review Panel determines that all agencies have taken appropriate action and that no further resolutions can be offered, a letter advising of the determination and providing details for decision will be sent to victim, along with details of the appeals process if they are dissatisfied with the outcome. Decision letter is to be sent within 10 working days.

If the Review Panel determines that further action can be taken, a letter will be sent to the victim advising of the action plan detailing next steps and advising of anticipated timescales for delivery. This decision letter will provide details of the appeals process if they remain dissatisfied with the outcome. Decision letter is to be sent within 10 working days.

### Step 6: Response to Case Review

The Chair of the Community Safety Partnership (or other identified partnership) will sign off the ASB Case Review and the method for achieving this will be determined locally.

### Step 7: Escalation to Appeal

If the applicant remains dissatisfied with the outcome they have a right to appeal the decision and the case will be escalated to the CSP Chair (or other identified person) who will review the details of the case and consider if there are grounds for appeal. The CSP Chair will notify the PFCC of decision accordingly. The Applicant must do this within 21 days of the date of the decision letter.

### Essex ASB Case Review Model

