

## Sections 104 - 105 Anti-Social Behaviour, Crime and Policing Act 2014

### **Procedure for anti-social behaviour (ASB) case reviews (formerly known as the community trigger)**

The council and the other relevant bodies are required to adopt and publish a procedure for ASB case reviews in relation to their Response to Complaints of ASB in the Borough of Gosport pursuant to Sections 104 - 105 Anti-Social Behaviour, Crime and Policing Act 2014 (the "Act").

### **INTERPRETATION**

**"Application"** means an application for the ASB case review to the council or another relevant body.

**"Applicant"** means a person who makes an application for an ASB case review.

**"Anti-social behaviour (ASB)"** means behaviour in the Borough of Gosport causing harassment, alarm or distress to members of the public which has been reported to a relevant body.

**"CE"** is the Chief Executive of the council.

**"ASB case review (formerly known as the community trigger)"** is where an individual or person on their behalf, or business, or community organisation has made a complaint about ASB in the Borough of Gosport to a relevant body and applies to that body for a review of its response to that ASB. The relevant bodies must, if the threshold is met, carry out an ASB case review.

**"Complaint"** is a historic complaint of ASB reported to a relevant body whether made in writing, electronically, telephone or in person.

**"Co-opted provider of social housing"** is where the complaint relates to housing-related conduct which affects the housing management function of a registered provider of social housing the relevant provider so concerned.

**"Head of CPCS"** – the Head of Corporate Policy and Community Safety for the council.

**"Procedure"** – the procedure adopted by the council in relation to the determination of application for the ASB case review.

**"Qualifying complaint"** - A complaint of ASB is a qualifying complaint if a) the ASB was reported within the period of one month beginning with the date on which the behaviour is alleged to have occurred; and) b) the application for the ASB case review is made within six months of the reported ASB.

**"Relevant bodies"** means:

- Gosport Borough Council (the "council")
- Chief Officer of Hampshire Constabulary (the "police")
- Integrated Care Board ("health") and
- Any co-opted local private providers of social housing (the "PSH s") where the perpetrator is a tenant.

**"Response"** – The response of the relevant bodies to a complaint of ASB

**“Threshold”** – The threshold that the application for an ASB Case Review must meet before the relevant process steps can be carried out is as follows:

- an application for an ASB case review is made; and
- at least three Qualifying Complaints have been made about the ASB in the previous six months to which the application relates.

In any other situation where an application for an ASB case review is made, the question of whether the threshold for a review is met must be decided by the Head of CPCS in accordance with the review procedures which may include reference to any of these matters:

- the persistence of the ASB about which the original complaint was made;
- the harm caused, or the potential for harm to be caused, by that behaviour;
- the adequacy of the response to that behaviour.

## **1.0 Adoption and publication of the procedure**

1.1 In adopting this procedure the council and the other relevant bodies have had regard to the requirements of the Act and subordinate legislation, and the statutory guidance published by the Home Office for frontline professionals in relation to discharging its functions under the Act.

1.2 The CE pursuant to the scheme of officer delegation in the council’s constitution is authorised for and on behalf of the council to adopt the procedure. The assessment of the effectiveness of this procedure will be in consultation with the relevant bodies and be kept under review by the CE. Any revision made to the procedure will be published by the council. The CE has sub-delegated the carrying out of ASB case reviews under the procedure to the Head of CPCS.

1.3 The relevant bodies have agreed that the council will receive and administer applications for ASB case reviews on behalf of the relevant bodies.

1.4 In adopting the procedure, the council has consulted the Office of the Police and Crime Commissioner, the police, the Integrated Care Board, and local providers of social housing in its area.

## **2.0 Who can make an application?**

2.1 A victim of ASB or another person acting on behalf of the victim with their consent, such as a carer or family member, Member of Parliament, local Councillor or other professional may make an application. The victim may be an individual, a business or a community group.

2.2 The ASB case review mechanism cannot be used to review decisions previously been made by the Crown Prosecution Service (CPS) which should be referred to the CPS complaints process.

## **Form of application**

- 2.3 Applications should be made to Hampshire Constabulary preferably via 101. The ASB case review form, once completed with the applicant, will be sent to the Head of CPCS. Any application made to another relevant body should also be sent to the Head of CPCS.
- 2.4 The application will be shared with the other relevant bodies including any relevant co-opted registered provider of social housing identified.
- 2.5 The Head of CPCS will, on receipt of an application, write to the applicant within 10 working days to acknowledge receipt, explain what will happen next and the likely timescale.

### **3.0 Threshold for an ASB case review to be assessed**

- 3.1 The local ASB case review threshold for a review to be undertaken is that there have been three qualifying complaints made in the previous six months.
- 3.2 The definition of anti-social behaviour in this context is behaviour causing harassment, alarm or distress to a member or members of the public.
- 3.3 Generally, neighbourhood disputes (unless being used as harassment or intimidation) do not amount to criminality or anti-social behaviour and private civil remedies should be accessed by the individuals concerned instead.
- 4.4 Previously concluded case reviews, unless there is a change in circumstances or new evidence, will not normally be re-considered.
- 4.5 When deciding if the threshold is met, agencies may consider the cumulative effect of the incidents and consider the harm or potential harm caused to victims, rather than rigidly deciding whether each incident reached the level of harassment, harm or distress.
- 4.6 The decision with reasons as to whether the threshold for the ASB case review is met will be sent to the applicant in writing within 15 working days of consent to share confirmation.

### **5.0 Threshold met: ASB case review to be conducted**

- 5.1 If the threshold is met the Head of CPCS will convene a meeting to take place within 20 working days from receipt of the acknowledgement that it has met the threshold. The panel will comprise of the relevant bodies and agency representatives.
- 5.2 The applicant will be invited to make a short representation at the start of the panel meeting if they wish to do so and this will help the panel understand the ASB and its impact. The applicant will also be given the option to bring a representative from an organisation supporting victims including an advocacy service to attend with them. The applicant will not remain at the meeting for the agency discussions.
- 5.3 Should the applicant not wish to attend the panel meeting, they will be given the opportunity to ask someone to represent them such as Victim Support or another organisation providing support for victims including an advocacy service.

- 5.4 The applicant will be asked, during the panel meeting, if there are any areas they feel the action plan should specifically focus on addressing and they will be made aware of this opportunity in advance.
- 5.5 The Head of CPCS will chair the review meetings and has the casting vote should the relevant bodies fail to reach a consensus as to findings of fact or what action, if any, should be taken. If the Head of CPCS has been actively involved in the case, consideration will be given to another relevant body taking the role of chairperson.
- 5.6 The council and other relevant bodies, upon carrying out the ASB case review and appeal (if made), may make the following decisions:
- the response to the complaint is satisfactory and no further action is required; or
  - recommendations will be made to a person who exercises public functions including the police or the council or other agencies.

The legislation places a duty on a person who carries out public functions to acknowledge and have regard to the recommendation although there is no obligation to carry them out.

- 5.7 The outcome of the review meeting will be provided to the applicant in writing within 20 working days of the meeting including what action is to be taken (if appropriate).
- 5.8 The applicant will be given the opportunity to provide written feedback on the draft outcome within 20 working days of its communication. The chairperson will consider this in liaison with the other relevant bodies and will communicate the final outcome to the applicant in writing within a further 20 working days.
- 5.9 If the applicant does not provide feedback on the draft outcome within 20 working days of its communication then the outcome becomes the final outcome.

## **6.0 Appeals**

- 6.1 An appeal can be made regarding application of the threshold or regarding the way in which a case review was carried out in respect of due process (i.e. if the review has failed to consider a relevant process, policy, protocol, legislation or relevant factual information).
- 6.2 The applicant can appeal by contacting the Head of CPCS within 20 working days of the notification of the final outcome stating the specific grounds of the appeal which must accord with para 6.1. If appropriate, the Head of CPCS will convene an appeal panel of senior representatives from the relevant bodies within 20 working days and the applicant will be informed accordingly.
- 6.3 For appeals made in respect of the threshold decision, the applicant will be required to make a written representation to the panel. For appeals in respect of due process, the applicant will be invited to attend the start of the appeal panel meeting if they wish to do so and may bring a representative from an organisation supporting victims including an advocacy service to attend with them. This opportunity will enable the applicant to inform the senior representatives of why the appeal has been requested. The applicant will not remain at the appeals panel meeting for the senior representatives' discussions.

- 6.4 Should the applicant not wish to attend the appeals panel meeting they will be given the opportunity to ask someone to represent them such as Victim Support or other organisation providing support for victims including an advocacy service.
- 6.5 The appeal meeting is not a re-run of the original panel meeting, but it will assess if the grounds of appeal are appropriate and if upheld recommendations will be made as necessary.
- 6.6 The appeal panel will communicate its decision to the applicant within 20 working days of the appeal panel meeting.
- 6.7 There is no further right of appeal. If the applicant is dissatisfied with a specific partner's involvement, they will be signposted to that organisation's individual appeals or complaints procedure.

## **7.0 Data Sharing**

- 7.1 The operation of the ASB case review requires the relevant bodies to share information for the purpose of carrying out the review. Relevant bodies should therefore have agreements in place for information sharing and a common understanding of the aims of the ASB case review.
- 7.2 Applicants also need to give their consent for information about them to be collected and shared between agencies.
- 7.3 Relevant bodies may request any person to disclose information for the purpose of the case review. If a request is made to a person who exercises public functions and they possess the information, they must disclose it. The only exception to that is where to share the information would be either:
- A disclosure of personal data in contravention of any of the provisions of data protection legislation which are not exempt from those provisions; or
  - A disclosure which is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

## **8.0 Publication of statistics about ASB case reviews**

- 8.1 The legislation states that relevant bodies must publish information covering:
- The number of applications for ASB case reviews received
  - The number of times the threshold for review was not met
  - The number of ASB case reviews carried out
  - The number of ASB case reviews that resulted in recommendations being made

This data represents the whole area and is not broken down by the relevant bodies. The council will publish this information on the Safer Gosport website annually on behalf of all the relevant bodies in the area. The published information will not include details which could identify victims.

## **9.0 Review**

- 9.1 This process will be reviewed and updated by the relevant bodies as necessary.

Updated June 2023

**Anti-Social Behaviour Case Review (formerly known as Community Trigger) applications****Process flowchart**