

# ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 6: Local involvement and accountability**

##### ***Section 101: The community remedy document***

223. Sections 101 to 103 provide for the victim of low-level crime or anti-social behaviour to have a say in the determination of the punishment imposed on or actions required of the offender where he or she is dealt with by way of an out-of-court disposal. Section 101 requires the local policing body, namely the Police and Crime Commissioner or, in London, the Mayor's Office for Policing and Crime or the Common Council of the City of London, to prepare a "community remedy document" (*subsection (1)*).
224. *Subsection (2)* defines a community remedy document as a list of actions that might be carried out by an offender or a perpetrator of anti-social behaviour as a sanction without going to court. The local policing body must ensure that the actions in the community remedy document are reasonable and proportionate. The community remedy document could include actions such as paying compensation to the victim, making good any damage caused or mediation to resolve a dispute.
225. *Subsection (3)* specifies that actions in the community remedy document must be rehabilitative, restorative and/or punitive.
226. *Subsection (4)* requires the local policing body, when preparing the community remedy document, to consult the chief officer of police and local authorities within the force area, consult whatever community representatives are considered appropriate and carry out whatever public consultation is considered appropriate. This might include consulting with local faith leaders or leaders of community groups, holding public meetings, or putting up notices in prominent places within the community. *Subsection (4)* also requires the local policing body to have regard to the need to promote public confidence in out-of-court disposals and to any guidance issued by the Secretary of State, which must be published (*subsection (8)*).
227. *Subsection (7)* requires the local policing body to publish the community remedy document in whatever way is considered appropriate which might be, for example, on its and the police force's website.

##### ***Section 102: Anti-social behaviour etc: out of court disposals***

228. *Subsection (1)* ensures that the community remedy can only be used where a constable (or other person listed under *subsection (2)*) thinks there is enough evidence to apply for an injunction under section 1 of the Act or to take other court proceedings and when it is not considered that a conditional caution would be appropriate (see section 103 where a conditional caution is considered appropriate).

229. Before determining the appropriate action to require of the perpetrator, the constable or other relevant person must make reasonable efforts to ascertain the views of the victim or victims who will be able to indicate which of the actions listed in the community remedy document they consider appropriate in that case (*subsection (3)*). There is no requirement on the victim to express a view if he or she does not wish to do so. *Subsection (4)* provides that where the victim has expressed a view as to the appropriate action there is a presumption that the constable (or other person) would invite the perpetrator to carry out that action unless the action was considered by the constable (or other person) to be inappropriate. For example, where it would be unreasonable to ask an offender to carry out an action that was incompatible with their disability. However, if the perpetrator did not agree to the sanction, this could lead to more formal sanctions.

### ***Section 103: Criminal behaviour: conditional cautions***

230. *Subsections (1) and (2)* insert new section 23ZA into the Criminal Justice Act (which provides for conditional cautions) and new section 66BA into the Crime and Disorder Act 1998 (section 66A of which provides for youth conditional cautions) respectively. A conditional caution is available for any offence although for adults some offences including domestic violence or hate crime are excluded from being offered a conditional caution. New section 23ZA of the Criminal Justice Act and new section 66BA of the Crime and Disorder Act 1998 make equivalent provision in respect of conditional cautions and youth conditional cautions as section 102 does in respect of other out-of-court disposals.

### ***Section 104: Review of response to complaints***

231. This section provides for the community trigger. The community trigger is a mechanism for victims of persistent anti-social behaviour to request that relevant bodies undertake a case review. A case review would entail the relevant bodies sharing information in relation to the case, discussing what action has previously been taken, and collectively deciding whether any further action could be taken. Relevant bodies are set out in section 105 and include local authorities, the police, health providers and providers of social housing. Any individual, community or business can make an application for a case review, and the relevant bodies must carry out a case review if the threshold is met. The threshold will be set by the relevant bodies and could, for example, be three reports of separate incidents of anti-social behaviour in a six month period, where there has not been an adequate response to that behaviour. The threshold may also be set with reference to the persistence of the behaviour, the potential for harm to the victim, and the adequacy of response from agencies. *Subsection (4)* provides that the threshold should be set no higher than three complaints, but agencies may choose to set a lower threshold. *Subsection (11)* defines a “qualifying complaint” as one which is made within one month of the incident occurring and provides that the application for the case review should be made within six months of the original complaint. The community trigger is intended as a backstop safety net for the victims of anti-social behaviour who consider that there has not been an appropriate response to their complaints about such behaviour.
232. The relevant bodies in each local government area must make and publish arrangements for review procedures (*subsection (2)*). *Paragraph 8* of Schedule 4 allows for joint arrangements to be made for a larger area such as the police force area. The procedures must include the point of contact for making applications and ensure that applications are passed to all the relevant bodies in the area. The bodies carrying out the review must inform the applicant of their decision on whether or not the threshold for review is met, the outcome of the review and any recommendations made as a result of the review (*subsections (6) to (8)*). The bodies carrying out the review may make recommendations to a person who carries out public functions, including any of the bodies that have taken part in the community trigger review, and the person must have regard to the recommendations.

*These notes refer to the Anti-Social Behaviour, Crime and Policing Act 2014 (c.12) which received Royal Assent on 13 March 2014*

233. *Subsection (9)* requires relevant bodies to publish information about the number of community trigger applications they received, the number of times the threshold was not met, the number of case reviews carried out and the number of reviews that resulted in further action.

***Schedule 4: ASB case reviews: supplementary provision***

234. **Schedule 4** makes additional provisions for the community trigger. The review procedures must include:
- a. what happens when the applicant is dissatisfied with the way their application was dealt with or the review carried out (*paragraph 3*);
  - b. an assessment of the effectiveness of the procedures and revising them (*paragraph 4*).
235. In making and revising the procedures, the relevant bodies must consult the PCC (or Mayor's Office for Policing and Crime or Common Council of the City of London), and the appropriate local providers of social housing (*paragraphs 1 and 2*).
236. *Paragraph 7* sets out the information sharing requirements. The relevant bodies may request any person to disclose information in order to carry out the case review. If the information relates to a public function, agencies must comply with the request for information unless it contravenes the Data Protection Act 1998 or Part 1 of the Regulation of Investigatory Powers Act 2000.
237. **Part 2** of Schedule 4 sets out arrangements for co-opting local providers of social housing to be included among the relevant bodies. In practice this may mean that larger housing providers play a regular part in community trigger case reviews in their area, and in setting up the procedure; whereas smaller housing providers would be consulted on the procedures and be involved in community triggers which relate to their tenants. The providers of social housing must co-operate with the relevant bodies for the purpose of the case reviews.

***Section 105: ASB case reviews: interpretation***

238. This section defines terms used in section 104 and Schedule 4.