

Barrister **Alister Turtle** of Bond Solon, outlines why keeping a log is essential

Keeping record

For staff working in the fields of emergency planning and response, log-keeping is crucial.

Why is this process so important?

For a number of critical reasons. Log-keeping helps with situational awareness, or the Common Recognised Information Picture as it is officially known; it helps decision-makers to make lawful decisions during an emergency and it also helps to account for the way the emergency was handled after the event.

Authorities are required to reach lawful, necessary and proportionate decisions when dealing with an emergency. In order for them to be able to do this, there needs to be a logical approach to the decision-making process. An audit trail helps the decision-makers to ensure this happens.

Emergency workers can also be better informed if a timely and accurate record is being kept of key data, such as decisions, communications, resources deployed and actions required and taken.

So - what is a log? For these purposes, it is: an accurate and timely record of the emergency response (*incident log*), and of the decision-making process (*decision log*).

There is no prescribed formula for what a log should look like. However, it should clearly be contemporaneous. The incident log should also be verified before it is closed, otherwise personnel who have provided information for the log would be deemed to be giving 'hearsay' evidence.

A decision-log should provide practical assistance to the decision-maker at the time of and after the emergency. It must help the decision-maker to prove that they reached a 'reasonable decision'. A reasonable decision is one that other decision makers would have reached in the same circumstances.

The closer in time to the emergency the logs are kept, the greater the weight attached to them in the Courts, should this ever be necessary. The Courts have long recognised that a witness can refer to their contemporaneous records from the witness box. Contemporaneous records can also be used as a basis for writing witness statements, no matter how long after the emergency response.

After an emergency, personnel may be

required to account for their actions, omissions, and decisions.

It is no longer the case that decisions by public authorities are immune from accountability. The first major step towards removing immunity came in 1999 with the decision of the European Court of Human Rights in the case of Osman.

In this case, the death of a person during a police investigation resulted in the Court ruling that, in certain circumstances, the authorities might be answerable if they did not do all that could be reasonably expected of them to avoid a real and immediate risk to life that they knew or ought to have known about.

Accountability may arise before internal investigations, investigations involving Regulators, the Coroner, the Criminal or Civil Courts or a public inquiry. Whatever the forum, the question will often be the same: did the responder respond in a *reasonable way*, and did the decision-maker reach a *reasonable decision*.

The answer to these questions might be used to help determine whether there has been misconduct, gross negligence or civil negligence.

In order to fully account for a response to an emergency, responders will need to explain the process and the circumstances or context within which they responded and took decisions.

Failure to do this can, at worst, result in a reasonable decision being seen to be unreasonable and, under the law, potentially negligent or criminal.

Adrian Battaini, business continuity and risk manager at **Stansted Airport**, highlighted the importance of log-keeping:

"We are a major airport and we do face challenges, such as an aircraft accident or an injury at work, which may result in a public inquiry or legal action. Log-keeping is one of the major competencies which we deem a necessary requirement for our incident management team.

"Training is essential and makes the difference between something that can be produced in Court and a few scribbled notes cobbled together."

Simon Rowles, training and delivery manag



About the author

Alister Turtle, LLB (Hons), Barrister, Head of Programmes, was called to the Bar in 1994. He previously served as an officer in the Army for three years, and then qualified as a barrister. He practised for 10 years, mainly in the field of criminal law.

Alister trains in many areas, including: Emergencies on Trial, Log Keeping, Law, Evidence, Procedure & Best Practice, Statement and Report Writing, and Witness Familiarisation.

His clients include: CIPFA, DSTL, Environment Agency, HMRC, MOD, Police, UK Border Agency, and Vodafone, to name a few.

Alister also assisted in the development of the ACPO National Decision Model.

er at **West Sussex Fire and Rescue Service**, said log-keeping was a crucial process and allowed the service to reflect on its actions and to ensure it reached a reasoned, justifiable and necessary decisions.

He said: "Through the keeping of a record of events and decisions behind all of our activities - along with a means of recalling information which may become key in any changes to our ways of working and formal enquiry - we are ensuring we meet our obligations under any due legal process."

He added: "We understand that to achieve this recording of information in a fast-moving emergency requires pre-planning and training. We therefore ensure key personnel understand the value of training."