

Report of: Neighbourhood Renewal Business Manager

To: Executive Board

Date: 13 March 2006

Item No:

Title of Report : Use of Incident Diaries by City Council Business Units



Summary and Recommendations



Purpose of report: To respond to concerns raised by the Council in an adopted motion in December

Key decision: No

Portfolio Holder: Executive Member for Community Safety

Scrutiny Responsibility: Community

Ward(s) affected:

Report Approved by: Michael Lawrence, Strategic Director (Housing, Health and Community)
Jeremy Thomas, Head of Legal and Democratic Services
Mike Baish, Finance and Asset Management Business Manager.
Councillor Susan Brown, Portfolio Holder

Policy Framework: None

Recommendation(s): That the findings of the internal review that diaries are an effective means of gathering evidence be noted.



A motion to Council was adopted on 21st November, 2005, which stated;

1. "This Council notes our concern over aspects of the Council's procedure used for dealing with persistent anti-social behaviour, as follows:-
 - In a number of cases residents and tenants who have complained about anti-social behaviour are given diaries to record incidents prior to any strategy being worked out for resolving the situation.
 - Accordingly, residents have filled out diaries, in some instances for several months or more, before being instructed to make an official complaint to the appropriate body. The result is that many hours' worth of diary testimony ends up being inadmissible at court. The demoralising effect on residents concerned can discourage them from continuing to pursue the matter, without in any way reducing the frustration and distress caused by continuing anti-social behaviour.
 - Overall, this has a detrimental impact on the goal of reducing anti-social behaviour that blights the lives of tenants and residents in the City.
2. This Council therefore invites the Executive Board to agree to review procedures for dealing with complaints against anti-social behaviour, in order to ensure the following:-
 - (i) Complainants are provided with a realistic assessment of the chances of success of a given course of action recommended by the Council;
 - (ii) Complainants are given advice on how to improve the chances of success and that steps may be required to achieve resolution of the matter, eg that other residents or other bodies will have to become involved;
 - (iii) The procedure of filling in diaries is not initiated until the proper steps have been taken in order to maximise the usefulness of any recorded evidence;
 - (iv) Every effort is made to ensure a timely response to ongoing anti-social behaviour problems complained of."

Background.

3. Incident Diaries have been used by at least one other business unit within the Council, having been originally developed by the Research and Procedures Officer within the Neighbourhood Renewal Business Unit, as a result of research in Manchester and elsewhere.
4. The Diaries address the need to gather evidence that avoids the collation of bits of paper and irrelevant information into a contemporaneously recorded single document. Without them, there would be less control over the evidence; the diaries provide a framework for what would otherwise be random information.
5. The Diaries have proved extremely effective, and have provided key evidence in many of the Council's investigations, and crucially, have provided evidence towards Anti Social Behaviour Orders, Injunctions, and Housing Possessions, amongst other legal actions.
6. The Incident Diaries are also used by Housing Services in response to complaints about their tenant's behaviour.
7. The Environmental Health Service do not use incident diaries but use a noise record sheet that has been an integral part of their system for investigating noise complaints for over 10 years.
8. Whilst the Diaries appear to have been used effectively in virtually all cases, there is anecdotal evidence that some members of the public feel that the diaries are issued to them in order to appease them, and not for the recording of good quality evidence.
9. Whilst that is clearly against the principle of issuing diaries in the first place, this consideration was in the forefront of a recent review that has been undertaken of the diary's effectiveness, and which was prompted following the motion to Council.
10. It should be clarified that issuing Incident Diaries is not standardised in every case; officers assess the situation and the suitability of issuing diaries at an early stage of any investigation.
11. Recently, the use of Diaries was highlighted by a case where copies of completed Incident Diaries had been inadvertently delivered to the wrong person (i.e. not the person who had completed them). As a consequence of this, an investigation took place, which has recommended changes to the procedure for transmitting information within the Neighbourhood Renewal Business Unit, which are being implemented now.

Review of Noise Record Sheets and Incident Diaries.

12. The Director of Housing, Health and Communities has reviewed the flow chart and procedures and sample letters used by Environmental health and his view is that the use of the noise record sheet does fully meet members recommendations.
13. Diaries issues by Housing Services are usually issued in pursuit of cases already referred to CANAcT. However, there are a few exceptions to this; in those cases and Housing Officers follow the procedures for use drawn up by CANAcT.
14. There has been a review of the use of incident diaries issued by CANAcT. This review has highlighted that a large number of them are used in court cases and provide effective evidence.
15. However, some do not provide suitable evidence, and this is as a result of information in the diaries being unusable in court. For example, in November 2005 there were 48 Diaries issued by CANAcT. 12 were used to support court cases. Of the remaining 36 diaries, the majority have been used effectively in helping to resolve cases in other ways, and some may still be useable in future court actions.
16. Guidance upon the use of the diaries, for both Officers and for members of the public, and which is very clear and specific, is given in the inside cover of the diary. Officers are expected to go through these guidelines with members of the public as part of the issuing procedure. Officers also provide those completing diaries with realistic expectations as they go through the guidelines with them.
17. At a very early stage in any investigation, officers collect data about who else is involved in a case, and identify the need to involve other agencies or to link up with them if they are already involved.
18. For instance, if a diary simply records that a neighbour has visited a property, or has carried out certain actions, without implying that harassment, alarm or distress has been caused to another party, this evidence has only limited application, and is almost certainly unusable in court.
19. In such cases, officers endeavour to explain to the person completing the diary that this is the case, and to advise them either to maintain the diary, but include more significant events, or to stop completing a diary.
20. Diaries are always collected, under the rules under which they are issued within seven to ten days of issue.

21. There have been some anomalies around this, but on the whole, diaries are correctly issued, returned and new diaries issued as appropriate.

Conclusions.

22. The review of Diaries has identified that they are an effective method for providing evidence in court. They may also identify and lead to other solutions such as mediation.

23. It is concluded that there is clear guidance for Officers and members of the public on the use of the Diaries. These are spelt out on the cover of the Diary. However, the actual use is not standardised in every case, and is dependent upon officers making assessments of the situation. In some cases this may have led to some raised expectations.

24. In some cases Diaries are not used against people, either because the evidence is not good enough or because they actively show that there is not a case to be made.

25. As a result of an investigation changes have been made to the procedures for transmitting information within the Neighbourhood Renewal Business Unit. These are being implemented now.

Recommendation

26. That the findings of the internal review that Diaries are an effective means of gathering evidence be noted.

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Background papers: None

