



Ministry of
JUSTICE
National Offender
Management Service



**HM PRISON
SERVICE**

Public Protection Manual

Chapter 9

Risk of Harm

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1. INTRODUCTION

This chapter focuses on the assessment and management of the risk that prisoners present to members of the public beyond the prison gates and to staff and other prisoners in prison.

The main body of this chapter is sourced from the De-Montfort University Risk of Harm Guidance and Training Resource which provides detailed information relating to the risk assessment and management of a range of offenders/prisoners. It is designed to help develop knowledge and skill and to increase competence and confidence within this area of work. A one day training course is also available for all staff 'Introduction to Risk Assessment and Management' which has been developed by the Curriculum Department at Newbold Revel in conjunction with the National Offender Management Service (NOMS).

All prison staff have a responsibility to contribute to the risk assessment and management of each prisoner, with some staff taking a primary role such as offender supervisors and seconded probation staff whilst others such as personal officers, workplace supervisors, and education staff will have a supporting role.

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Hyperlink to Risk of Harm Guidance Disc	Risk of Harm Guidance and training resources Version 3.05(May 2008)
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1.1 WHAT IS IT?

This guidance and learning resource has been commissioned by the Public Protection Unit for use by the prison and probation services. The resource itself has been designed by De - Montfort University. It is available to staff in prisons through the Intranet only.

1.2 WHO IS IT FOR?

The information in the resource will be of interest to any staff working with offenders and need to understand the concepts of risk that apply to their work. In a prison context, it will be of particular interest to:

- staff who are responsible for MAPPA arrangements
- staff working in offender management units (OMUs), including OASys assessors
- staff who prepare reports for the Parole Board
- staff who assess offenders in the context of sentence planning, preparation for release and delivery of programmes and interventions
- managers of staff in these areas
- governors and others contributing to decisions that require an assessment of risk

1.3 HOW CAN I AND MY TEAM USE IT?

The resource is set out in a modular format and you need only select the areas that apply to your work. For the majority of staff, the introductory module will provide grounding in the basic concepts and terminology of risk assessment and management. For staff with more specialised training needs, further modules can be studied as required. It is an interactive learning tool and contains self-assessment questions to check understanding of the main learning points.

1.4 IS IT MANDATORY?

The content of the resource has been endorsed by the Public Protection Unit, the national probation service and HMPS.

Completion of the learning modules in the resource is not at present compulsory for prison staff. However the resource presents an opportunity for staff and managers to obtain key information about risk assessment and management tailored to their jobs.

It is therefore strongly recommended that managers consider setting SPDR objectives where appropriate for members of staff to study one or more modules as part of their development of skills in this area.

1.5 WILL IT BE UPDATED?

Yes. It will be updated as required by the NOMS Public Protection Unit (PPU) to ensure that the information it contains is up to date and consistent with new legislation and policies. It is intended that new versions will be published on the intranet as they become available.

2. THE IMPORTANCE OF RISK

Risk assessment and risk management are core tasks for the National Offender Management Service (NOMS). Both HM Prison Service and the National Probation Service (NPS) are tasked with **protecting the public**. This means protecting the public from general offending, and importantly from the serious harm caused by the offending and re-offending of violent and sexual offenders. Both of the latter concerns have given rise to legislative changes and policy initiatives that have directly impacted on the work of the Prison Service and the National Probation Service. In particular:

- The extended use of custody for 'dangerous' offenders and the use of preventative sentencing on the grounds of risk.
- Extended monitoring and surveillance of those offenders who present a high risk of harm in the community and upon release from prison. This includes the use of registers, 'tracking' systems, and the targeting of high risk offenders for more intensive interventions, restrictive conditions, and control measures.

This has changed the work of both agencies and made risk assessment and risk management key priorities. In the Prison Service it is important to:

- Manage high risk prison populations safely.
- Reduce violence to prisoners and staff.
- Manage prisoner contacts with past and potential victims (including children).
- Address risky behaviours, for example through intervention programmes.
- Assess risk prior to release and consider appropriate licence conditions.
- Contribute to release planning and the effective management of the prisoner in the community (for example through multi-agency working and the use of licence conditions).

2.1 WHAT IS RISK?

In general terms the criminal justice system has defined risk as:

- The risk of re-offending - will an offender/prisoner re-offend and what is the probability of this within a particular time scale?
- The risk of reconviction - will an offender/ prisoner offend, be arrested and reconvicted within a particular time scale (usually two years)? This is not the same as re-offending risk as an offender may re-offend but not be apprehended or convicted.
- The risk of harm - will the offender/ prisoner commit a harmful offence and in particular an offence of 'serious harm'?

A range of other risks will also be of concern for example these will include risk of escape, risk to other prisoners and to staff, risk of re-offending during parole, and the risk of self-harm.

2.2 THE TWO DIMENSIONS OF RISK

Risk of harm to others posed by prisoners can be seen as having two key dimensions:

- The relative **likelihood** that an offence or harmful act will occur.
- The relative impact or **harm** of the offence – what exactly might happen, to what or whom, under what circumstances and why.

The OASys risk assessment tool defines 'serious harm' as 'a risk which is life threatening and/or traumatic and from which recovery, whether physical or psychological, can be expected to be difficult or impossible' (OASys Manual chapter 8).

It is important to understand these two dimensions of risk. Some crimes (like shoplifting for example) have relatively little impact or harm but, statistically, are the ones most likely to be repeated. Others (for example homicide) are unlikely to be repeated but cause maximum damage.

A good risk assessment will help to:

- Make a prediction of risk along both dimensions.
- Identify the Risk of re-offending.
- Identify the Risk of harm (what harm and to whom?).
- Identify the key risk factors that led to the offence under consideration and that should be addressed to reduce the riskiness of the person/situation.

It can also act as the baseline for measuring the effectiveness of interventions chosen to reduce risk (by comparing levels of risk as assessed before and after interventions).

Deciding the relative harm of different offences requires an assessment of **likelihood** and **harm** in each individual case. Consideration also needs to be given to:

- The circumstances under which the offence took place.
- The motivation of the offender/ prisoner to commit the offence.
- Type and vulnerability of the victim (past and potential).
- The conditions under which the offender/ prisoner usually commits the offence (e.g. with peers, under the influence of alcohol or drugs).

Some important caveats:

- It is important to assess risk of harm in all cases and not just those that obviously pose a high or very high risk of harm.
- There are degrees of harm and it is important to manage all cases in a manner commensurate with the level of risk they pose.
- Risk of harm can go up and down, risk levels change over time.
- Categories of risk are not fixed and we need to remain responsive to change.

It is also important to bear in mind:

- The difference between objective and subjective perceptions of risk. What we think of as risky depends on our outlook, background and values - and such perceptions change over time, as the socio-economic and political climate changes and different crimes rise to prominence.
- The notion of 'risky circumstances' - the conditions and triggers associated with offending.

Risk management involves attempts to put in place controls that will minimise:

- The motivation to offend
- The 'risky circumstances'.
- The likelihood of the offence occurring.
- The impact of the harm.

In the context of **assessing** the risk of harm posed by a prisoner we can translate this formula into a need to investigate both the prisoner and the circumstances under which the offence is committed.

Risk **management** is about addressing both the potential 'riskiness' of the prisoner and the circumstances in which she or he tends to commit offences.

2.3 WHAT IS RISK ASSESSMENT?

Risk assessment must consider the interaction between likelihood and impact/harm. A model of risk assessment that combines these two dimensions is represented in the table below. (Impact is changed to harm in this model and is concerned with harm to people rather than property.)

Risk Category	Seriousness	Imminence
Low	'risk of serious harm'	'current evidence does not indicate likelihood of causing serious harm'
Medium	'risk of serious harm'	'there are identifiable identifiers of risk of serious harm'
High	'risk of serious harm'	'could happen at any time'
Very High	'risk of serious harm'	'more than likely to happen'

2.4 ACTUARIAL ASSESSMENT

Have you ever asked for an insurance quote over the phone? Your data - the car you are driving, the neighbourhood you live in, your age and gender, the number of accidents you have had before and so on - are fed into a computer. The computer predicts the likelihood of an accident or theft based on the percentage of accidents/theft that have befallen other cars of that type, in that type of area, with driver details and incident records similar to your own. It then comes up with a percentage likelihood that you will make a claim of some kind within the period of the policy, and this determines the cost of your insurance.

Actuarial risk assessment in criminal justice works in a similar way. Statistical calculations are used to predict the likelihood that an offender will be re-convicted, say, within a defined period, based on the reconviction rates for offenders with similar characteristics in similar situations.

2.5 CLINICAL ASSESSMENT

Clinical assessment methods are used to predict both the risk of re-offending and the likelihood/nature of potential harm. They often involve one-to-one, in-depth interviewing and observation of the offender, helping the practitioner to understand risky behaviour by establishing.

2.6 STRUCTURED HOLISTIC RISK ASSESSMENTS

Increasingly, there is interest in developing holistic approaches that build on the strengths of each approach. In part, this is a question of using actuarial data to ground the clinical data and vice versa.

Additionally, a trend over the last decade or so has been the development of assessment tools that structure the interview. OASYS for example is a structured assessment tool which combines attention to criminogenic risk factors with the main statistically based predictors of reconviction from the Offender Group Reconviction Scale (OGRS). For young offenders, the Youth Justice Board's risk assessment tool is **Asset**. Practitioners working with young offenders should refer to the **Asset** guidance [Managing Risk in the Community](#) available on the [Youth Justice Board](#) website.

A structured approach helps to ensure consistency - with every practitioner covering the main personal, situational and environmental factors associated with risk within their interview. This helps to:

- Reduce some of the potential for bias associated with the clinical approach by:
 - Guiding the thinking of the assessor.
 - By helping them check that they have addressed the most important areas.
 - Allowing them to analyse and record the evidence for their assessment.
- Make results more directly comparable, helping to improve prediction rates

2.7 WHAT ARE THE MAIN INDICATORS USED IN ASSESSING RISK OF HARM?

There are a number of formal risk assessment tools to assess harmful offending, usually designed and targeted at sex offenders, violent offenders, and those committing spousal abuse.

However, all the tools cover the same key areas and these can be summarised as: **Main indicators**. These are helpfully supplemented by Scott's Model (1977) in which he suggests asking:

- What do I know about the prisoner? What is the past history and pattern of offending? What actuarial and clinical factors are present?
- What do I know about past victims? How were they targeted and groomed? Who might potential victims be? How vulnerable are they? What do I know about the prisoners' proximity/access to and potential grooming of victims?
- Under what conditions and circumstances does the offending usually take place? What are the social and environmental conditions and situational triggers for this prisoner? What opportunities are there for offending and is there anything I can do about them?

3. KEY PRINCIPLES OF RISK ASSESSMENT

Risk assessment is a continuous and dynamic process.

Ongoing risk assessment is an essential element of effective risk management. Risk assessment involves:

- Accurate, reliable and fair assessment of risk.
- Day to day alertness to, and recording of, information relevant to the assessment of risk.
- A formal review of that risk whenever indicated by significant further information, or by agency policy, or the demands of the legal process.

3.1 RISK ASSESSMENT SHOULD AIM FOR FAIRNESS AND BALANCE.

Risk assessments will lead to judgements about the level of risk posed and therefore the response to that risk, which may involve limitations on the person's freedoms and rights. It is therefore very important that a risk assessment is:

- Fair, taking into account personal and situational factors that tend to increase risk and those that help to reduce risk.
- Carried out by assessors who are alert to their own possible sources of bias.
- Carried out in an organisational context that supports fair and accurate risk assessment.

3.2 RISK ASSESSMENT SHOULD LEAD TO, AND INFORM, RISK MANAGEMENT.

Just as it is important that risk assessment is understood as an ongoing process, it is also important to recognise that such a process has implications for future risk management. Risk management plans should:

- Clearly derive from the risk assessment.
- Have objectives relevant to the risk factors identified in the risk assessment.
- Consider how plans will be reviewed and therefore how ongoing risk assessment will be integrated into risk management.

RISK ASSESSMENT TOOLS: OASYS AND ASSET

THE CORE TOOLS

One of the aids to **accuracy**, **reliability** and **fairness** which have been introduced into the risk assessment of offenders/ prisoners is the use of risk assessment tools. The National Offender Management Service (**NOMs**) uses the Offender Assessment System (**OASys**) as its core structured risk assessment tool. The Youth Justice System uses **Asset** to assess offenders of 17 years old and younger.

The Prison and Probation Services jointly designed OASys as an essential part of the '**What Works**' approach to reducing re-offending amongst offenders. '**What Works**' uses the evidence from research to shape interventions (programmes) that are deemed most likely to achieve reductions in re-offending.

Central to '**What Works**' is the concept of criminogenic factors. The OASys Manual quotes in defining a criminogenic factor as:

'.. any area where the offender currently had needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of reconviction.'

Examples of criminogenic factors are; unemployment, lack of stable accommodation, drug misuse. These needs or risk factors are dynamic, which means that unlike past or static information they can change over time. It is changes in those dynamic risk factors that the sentence plan is intended to bring about, in order to make further offending less likely.

4. THE ROLE OF OASYS

OASys is therefore used to help assessors in:

- Understanding the 'why' of offending.
- Identifying the dynamic risk factors that need to be addressed in order to reduce the risk of re-offending.
- Identifying motivation and any obstacles to engagement that may exist.

In order to promote and support 'what works' or evidence based practice with prisoners the assessment tool helps to make sure that:

- The most intensive interventions are directed at those whose risk of re-offending is highest i.e. those offenders with the highest level of criminogenic needs.
- That needs linked to offending behaviour or criminogenic needs are prioritised.
- That the ability of a prisoner to engage with the service being delivered and the ability of that service to encourage that engagement are addressed (responsivity).

Understanding the individual prisoner is crucial to personalising the assessment and working out how general risk factors apply in a particular set of circumstances to a particular offender.

4.1 RISK MANAGEMENT

Risk management should be understood as risk reduction rather than elimination, that is, reducing:

- The factors which lead to risks occurring; and/or
- The impact of the risk once it has occurred.

This approach is often referred to as 'harm reduction' (Laws 1996) and is widely used in the treatment of drugs and alcohol abuse. The key principle of harm reduction is that reduction in the frequency of harmful behaviours is a gain, as this reduces the number of victims, and, that any positive change in harmful behaviours will lessen the impact of such behaviours on others.

Risk management has three basic components:

- Interventions that change risky behaviour(s);
- Restrictive conditions that limit the opportunity to carry out such behaviours or restrict access to potential victims; and
- Monitoring, surveillance and control procedures that provide high levels of vigilance on offenders.

Risk management packages may contain one or all three of these components, and may require the services and personnel of more than one agency to provide the risk management plan.

- **Intervention programmes** are defined as programmes designed to assist offenders to change their criminal behaviour through control and/or management of thinking patterns, feelings, drives and attitudes. Intervention programmes may use a range of methods, but in practice have been based upon intensive cognitive-behavioural methods delivered both in custody and within the community.
- **Restrictive conditions** are those conditions attached to supervision orders or licences which restrict where a released prisoner can go, live, what they can or cannot do, who they must not approach or contact. For example, a sex offender may have a restriction against using certain leisure facilities (e.g. swimming pools), approaching local schools, and may have a condition to reside in a certain place (e.g. a probation hostel / approved premises).

Offenders can also be made the subject of a curfew to restrict their activities at certain times of the day or night when they are known to be more risky. These conditions restrict the opportunity to commit offences and to 'groom' victims. Restrictive conditions are specific to individual offenders, and it is important that they are well matched to the assessed risk factors, are proportionate, justified and workable in practice. It is also important that they are monitored and enforced if breached. Within the prison this may mean assessing release risks in order to apply appropriate licence conditions, and to control access to past and potential victims in the custodial setting (e.g. visits from children), limiting internet access, and restricting access to previous offending networks.

- **Monitoring, surveillance and control procedures** are those which provide a 'watching eye' over the offender, usually used to monitor compliance with restrictive conditions, to monitor grooming activities and to gain further information on networks and criminal activities. These procedures can include electronic or satellite tracking, CCTV, and police observation; and in prison may include monitoring mail, phone calls, visitor contact, and prisoner contact.

It is important to recognise that risk(s) can escalate and de-escalate that prisoners can progress from low risk to high and very high risk and vice versa. It is essential to remain alert and to be vigilant about changes in circumstances, attitudes and behaviours. **Risks that are well contained in custody can escalate quickly upon release.**

4.2 KEY PRINCIPLES OF RISK MANAGEMENT

As stated earlier, risks cannot necessarily be eliminated, but they can be reduced. Risk management should therefore be understood as **risk reduction**, with no situation considered as entirely risk free. Risk management should also be:

Proportionate – matched to the risks identified and neither over or under intrusive.

- **Fair and just** – justified, non-discriminatory, does not over intrude on particular groups
- **Defensible** – open and transparent to public accountability with clear decision-making.
- **Realistic and achievable** – interventions and actions are realistic and achievable; plans are 'do-able'.
- **Protective** – offers reasonable protection to victims.

Risk management has two dimensions – **reducing the likelihood** that a harmful offence will occur, and **reducing the impact** of the risk should it occur.

Risk management plans should also be **SMARTA**:

Specific, Measurable, Achievable, Realistic, Targeted (and timely), and **Anti-Discriminatory**

4.3 ROLE, RESPONSIBILITIES AND SETTING

The principles and strategies of risk management are shared across the National Offender Management Service, but their application will differ depending upon the role and responsibilities you have and the setting within which you work and whether you are an Offender Manager or an Offender Supervisor. Some staff are directly involved in and responsible for risk management, other staff have an indirect role in supporting interventions, programme work, monitoring or restricting the activities of prisoners. The effective risk management of many prisoners will require the co-ordinated and committed work of a range of staff, sometimes across settings (for example as prisoners approach release). It is therefore important that all staff have an understanding of risk management and can make an appropriate contribution from their own role.

4.4 RISK MANAGEMENT STRATEGIES

Risk management strategies can be grouped into two broad categories: those that rely on external controls and those that promote internal controls.

External controls are strategies aimed at reducing triggers to and opportunities for harmful behaviour, for example by restricting access to particular venues (like schools, leisure facilities) or access to previous victims. Risk management is generally delivered primarily through external limits and controls.

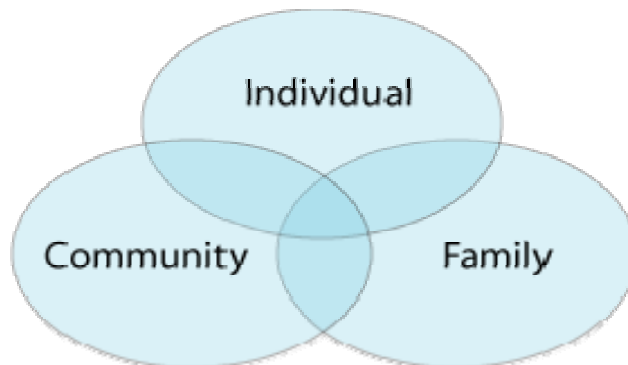
Internal controls are strategies that focus more on developing the offenders own ability to avoid and manage risk situations and will include accredited programmes. Self-risk management is promoted through programmes of intervention that seek to address the prisoners readiness to change and to help them develop skills and strategies for:

- Avoidance – e.g. of specific triggers for offending behaviour.
- Involvement in other activities to ‘divert’ away from offending.
- Cognitive skills – understanding consequences of behaviour, identifying reasons not to Strengthening Protective Factors

As well as identifying risk factors, it is important to identify protective factors that can counteract negative influences. Interventions should aim to strengthen and develop these protective factors alongside other measures to promote external and internal controls.

- Individual factors e.g. education/employment achievements, constructive leisure activities, friends who are not involved in offending, sense of self-efficacy, having goals and ambitions, resilience, opportunities for turning points, a willingness to discuss problems, willingness to engage with interventions
- Family factors e.g. positive and stable relationships, family members who model pro-social behaviour
- Community factors e.g. receiving professional help/support, strong stable relationship with pro-social others outside the family home, involvement in community activities.

.. and these factors often interact. The diagram shows how protective factors overlap:-



5. PRISON BASED INTERVENTIONS

Within the prison service, risk management is ‘core business’ and integral to sentence planning (Public Protection Manual 2008). Sentence planning should reflect the level and classification of risk, and enable the effective management of the prisoner including the appropriate allocation to intervention programmes (such as SOTP, ETS, anger management, etc.). Early attention to the risk of harm also:

- Prevents unintended (and intended) collusion with the offending behaviour and anti-social attitudes.
- Enables early allocation to a relevant programme.
- Facilitates focused one to one work via personal officers or probation officers.
- Informs long-term sentence planning.
- Pre-release planning including the use of appropriate use of conditions and restrictions.
- The continuation of intervention programmes in the community.
- Remember without risk management risk(s) may remain once the control of prison is removed the prisoner is released!

5.1 INTERVENTIONS

Cognitive behavioural therapy (CBT) programmes such as the Sex Offender Treatment Programme (SOTP) form the core of many prison based risk management strategies. Such programmes are often delivered by specialists and cover:

- The thinking patterns of prisoners, and in particular their 'cognitive distortions'. These are the thoughts and beliefs that support and justify their offending. For example, sex offenders may 'believe' that the age of consent is too high, that children are sexualised; or violent offenders may 'believe' that they have been provoked.
- Target and challenge problematic behaviours and work on strategies for change.
- Promote victim empathy where appropriate.
- Give prisoners 'corrective' information and education them.
- Promote self risk management, particularly of negative emotions and thoughts.
- Enhance problem solving skills.
- Devise specific relapse prevention strategies.

5.2 THE ROLE OF PRISON STAFF IN RISK MANAGEMENT

Non-specialist staff have a key role in supporting the programme interventions work and in other aspects of risk management. It is important to:

- Look, listen, observe and report information about the offender.
- Remember that even small pieces of information can be crucial to risk assessment and effective management.
- Work as part of a team! Multi-disciplinary and team based assessment and management are more effective.
- Not undermine the key messages of the programme or one to one work.
- Not collude with offending behaviour, anti-social attitudes, or justifications that blame the victim.
- Not 'go along with' the prisoner when they minimise their offending.

5.3 OTHER KEY ISSUES FOR PRISON STAFF

There are other key issues in the daily management of prisoners to ensure their effective risk management:

- Monitor and risk manage the prisoner's contacts, for example with children, vulnerable adults, women (if previously offended against women), victims (past and potential). This will include personal visits, letters, responses to personal advertisements, reading material and internet access.
- Monitor home leave (e.g. through home probation staff or police), including what the home leave is used for, who is approached, what activities the prisoner engages in. Home leave requires careful risk assessment, but if used with care, can also test progress, response to interventions (can the programme learning be applied by the prisoner in the community), and the potential effectiveness of community risk based plans.
- Monitoring progress and change post programme, for example through transfer to less secure conditions, testing relapse prevention plan, reducing the intensity of programmes/interventions.

5.4 CARRYING OUT SENTENCE PLAN REVIEWS

A core feature of such reviews will be risk assessment and risk management planning for release. The Offender Manager has the authority to chair these meetings, to request inputs and information from Offender Supervisors and Key Workers and to set targets and expectations for future interventions. A range of prison service staff will be invited to contribute to such sentence planning reviews to share critical information for example regarding progress on current targets and interventions.

6. BEST PRACTICE IN RISK MANAGEMENT

Key Rules for Risk Management

Never think that dangerous people stop being dangerous – don't assume that:

- Insight into their offending means that they will not repeat it.
- New 'strengths in the situation' automatically immunise them from it.
- Compliance with the requirements of their sentence means they will not offend (false compliance is often worse than healthy rebellion).

Use healthy suspicion, curiosity and an investigative approach at all time:

- Use information from as many sources as possible (family, friends, personal officers, work-place supervisors).
- Follow up/test out what you are told.
- Monitor and reassess the offender/situation constantly.

Develop your thinking processes:

- Check for 'cosiness' with the prisoner- its important to develop rapport but it's also imperative to remain objective. (Remember that the more you get to know them, the worse your judgement tends to become/Conditioning).
- Learn to think laterally.
- Know the case inside out so that you know when something doesn't ring true.
- Watch for patterns of behaviour linked to the personal characteristics and situational stressors that you have identified during assessment.

Share successes and failures, insights and problems with colleagues and your line manager.

Put public protection before offenders/ prisoners' interests.

Acknowledge that coming to the right decision is very difficult. But you must **ensure** that your **decision is defensible** – so:

- Stick within your service procedures.
- Base all decisions on evidence not conjecture.
Record all your decisions and the thinking process which led to them, use the risk assessment tool and the risk management format required by your agency

7. WORKING WITH DIFFERENCE AND DIVERSITY

Diversity and difference may affect:

- The individual prisoner and the pattern of offending and risky behaviour they display.
- The practitioner and the understandings and potential prejudices they bring to their practice.
- The institutional and policy context within which risk assessment and management take place.

Whilst there may be common risk factors (for example previous convictions), risky behaviours may be individualised and dependent upon context and circumstances. Risk assessments need to take into account how cultural, ethnic and gender differences may result in different patterns of offending and impact upon risky behaviours. For example there may be fewer women than men who sexually abuse children, but it is important to recognise that they can and do, and that their behaviour will require specific programmes of intervention.

Risk management planning and delivery must also be sensitive to such differences, and this highlights the importance of using the evidence boxes of OASys to explain individual behaviours and circumstances.

The experience prisoners have of marginalisation and discrimination is important, but it is crucial to show what impact this has had on them in relation to their offending, for example in their risky choices or in their previous responses to supervision or parole. These experiences may be important for risk management planning, and for how those plans are subsequently delivered.

When working with difference staff must guard against prejudice, stereotyping and bias in both risk assessment and in risk management planning. An example might be in failing to thoroughly discuss and challenge risks with an offender whose culture or background is very different, or to assume that certain prisoners are more likely to respond negatively or violently to challenge. Another example might be to assume that a prisoner with learning difficulties is less likely to be able to learn and implement self-risk management strategies.

8. MAKING DEFENSIBLE DECISIONS

A defensible decision has been defined as a decision that will withstand scrutiny relating to were all steps reasonably taken that could have been taken should the case 'go wrong' and negative outcomes have occurred. A decision is defensible if, in spite of a negative outcome, it can be demonstrated that all **reasonable steps had been taken in its assessment and management**. This is particularly important for those agencies that carry out risk assessment in the public eye, and where risk assessment and management failures can be very costly for victims, and to organisational credibility.

In the case of probation for example, cases are subject to a Serious Further Offence review if an offender commits a further serious offence whilst the service has statutory responsibility for them. **A similar test will apply to any risk management failures in prison.**

It is therefore imperative that practitioners make defensible decisions in all cases. In practice this means **to make a defensible decision you must:**

- Ensure decisions are grounded in the evidence.
- Use reliable risk assessment tools.
- Collect, verify and thoroughly evaluate information.
- Record and account for your decision making.
- Communicate with relevant others, seek information you do not have.
- Stay within agency policies and procedures.
- Take all reasonable steps.
- Match risk management interventions to risk factors.
- Maintain contact with offender at a level commensurate with the level of risk of harm.
- Respond to escalating risk, deteriorating behaviour, and non-compliance.

8.1 WHAT ARE REASONABLE STEPS?

- A full risk assessment - revised appropriately as circumstances change.
- Appropriate and prompt allocation of cases. Risk management plans well - matched to the risks identified.
- Risk management plans delivered as intended.
- Appropriate response to deteriorating behaviour and escalating risk including the implementation of contingency plans.
- Swift enforcement of conditions and requirements.
- Prompt action on non-compliance.
- Clear responsibility for case management vested in appropriately trained, competent, experienced and supervised staff.

8.2 ETHICAL ISSUES

There are ethical issues at most stages of the risk assessment/management process. Each time you meet prisoners, you will be updating your knowledge about them and their situation in order to update your assessment of the risks they represent – and sharing it, where appropriate with other criminal justice agencies. In some cases this will leave you with difficult decisions to make about, for example:

- Passing on information given to you in confidence when the risk of inaction outweighs the rights of the offender.
- Balancing the need to ask probing questions, to assess risk, against the need to develop a trusting relationship. (The more you treat people as risky, the harder it is to treat them as people).
- Your competence to make the assessment
- Identifying needs that you know will not be met.

8.3 RIGHTS VERSUS RISKS

The assessment and management of risk of harm is an area where tensions between rights and risks are often present. For example the rights of the prisoner to a 'fresh start' after a custodial sentence weighed against the rights of potential or actual victims to protection, dignity and safety, and the rights of the wider public to be protected from harmful prisoners upon release. The general principle is that public and victim protection should outweigh offender and prisoner rights, and that this is justified on the basis of the 'significant risk' of serious harm posed.