

“LET’S TAKE A RISK WITH RISK.”

David Carson, Associate, Ulster University.
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Have I come to tell a fairy tale?

“Fairy tales do not tell children that dragons exist.
Children already know that dragons exist.
Fairy tales tell children that dragons can be killed.”
(G.K. Chesterton.)

- No! I come to kill the risk aversion dragon.**
- No fairy tale is needed to tell managers that risk aversion exists.
- Managers already know that risk aversion exists.
- Adopting risk precepts shows managers how the risk aversion dragon can be killed.

David Carson. [1]

Formerly Reader in Law and Behavioural Sciences.

- At universities of Southampton and Portsmouth.
 - Informing law about behavioural sciences
- Focus upon prevention rather than pathology
 - E.g. poor risk decision-making.
 - How to be a good witness in court.
- Was member of Area (Hampshire) and District (Winchester) Health Authorities.
 - Risk-taking ‘policy’ adopted for, and tested in, learning disability services.
 - We were commended by a Coroner!

David Carson [2]



Wrote and lectured on risk-taking decision-making.

- ▣ Carson, D. and Bain, A.J. (2008). *Professional Risk and Working with People: Decision-Making in Health, Social Care and Criminal Justice*. London: Jessica Kingsley Publications.
- ▣ Regularly lectured to psychiatrists, psychologists, nurses, SWs, etc.

Advised U.K. police

- ▣ Leading to adoption of Ten Risk Principles.
 - ▣ <http://www.app.college.police.uk/app-content/risk-2/risk/>

Currently working on investigations.

- ▣ Precepts to enhance efficiency of, and justice from, inquiries into adverse events.

If the risk precepts are good enough for the police, why not for HSC Trusts?



“Risk principles

The approval of ten risk principles is a first step towards the police service encouraging a more positive approach to risk by openly supporting decision makers and building their confidence in taking risks.

The ten principles convey strong and consistent messages about the nature and consequences of risk taking and should provide reassurance to the public and the police service. When police officers and staff use the [national decision model](#) (NDM) and the principles, they have a more flexible policing environment where they are better equipped and supported in exercising professional judgement.”

- ▣ From: <http://www.app.college.police.uk/app-content/risk-2/risk/>



Context.

Key concepts. Risk-taking.

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Risk involves:

- Degrees of outcome: Beneficial and harmful.
- Involves values.
 - Competent adults entitled to judge.
- Degrees of likelihood.
 - Matter for science (actuarial assessment.)

Risk decision-making involves:

- Risk **assessment**
 - Comparison of likely benefits and possible harms.
- Risk **management**:
 - Use of resources (including people, skills, services, facilities, time) to maximise chance of benefit and minimise possibility of harm.

Key concepts. Judging risk-taking.

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Inaction can be harmful.

- Duty to take risks when and where apt.

Conservative risk-taking is poor practice.

- False positives (e.g. detaining when unnecessary).
 - The most common wrong (poor?) decision is unnecessary intervention.

Must account for difficulties when making decisions, e.g.:

- Emergencies. Insufficient time to gather necessary information.
- Dilemmas. Whatever is done harm will result.

Must judge the quality of decision-making, not the outcome.

- A decision may be poor/good whether harm occurs or not.
 - The outcome may be accidental.
 - It is only fair to criticise if would also criticise if no harm had occurred.

18 'Let's take a risk with risk.'

Suggested precepts.

Precept 1. Duty to take – not to avoid - risks.

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1. All professional Health and Social Care (HSC) staff have a positive duty to take risk decisions relating to, and affecting, their patients and clients.

- Risk-taking is inevitable, and regularly desirable, when providing health and social care. Without it there would be stasis.
- The failure to take apt risks can be as damaging, and unprofessional, as making inappropriate risk decisions.
- When assessing a risk, the possible outcomes, both beneficial and harmful, must be considered alongside their likelihoods.
- The risk of a large amount of harm, including death (e.g. crossing a road), can be justified by the low chance of its occurrence.

Precept 2. Judge the decision, not the outcome!

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2. By definition harm will, sometimes, arise from risk-taking, irrespective of how well the decision was made and managed.

- That harm results from risk-taking cannot, by itself, demonstrate that an inapt decision was made. Harm can be an accidental consequence of good decision-making.
- That no harm results from risk-taking cannot, by itself, prove that a good decision was made.

Precept 3. Consider benefits as well as harms, risk management as well as risk assessment.

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3. Professional risk-taking requires an assessment and comparison of the possible outcomes - both the benefits and the harms - and the management of the resulting decision.

- The potential benefits, of a risk decision, regularly justify the chance of harm. A failure to consider potential benefits, or deliberately undervaluing them, is as unprofessional as a failure to consider, or properly assess, potential harms.
- Motivating a patient or client to change, to become more independent, etc., is often critical for progress.
- Whilst risk assessment is an intellectual and scientific exercise, the implementation of risk decisions involves practical skills and requires the investment of resources.
- Risk decisions must be implemented. That requires management, which includes the investment of different resources to maximise the chances of success and minimise the possibility of harm. A risk decision may be well made but poorly implemented, managed.

Precept 4. Managers need a full, not partial, understanding of decision-making.

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4. Good risk-taking, which achieves goals or prevents losses, deserves recognition.

- To judge an individual's, or a service's, risk-taking we need to know the frequency and extent of good - as well as bad - decision-making. The value of preventive work may not be immediately apparent (e.g. because harm does not occur), but we need to know about it.
- We can – and do - learn more by studying, and replicating, good practice than by analysing, and avoiding, atypical poor practice.

Precept 5. Acknowledge both values and the best available science.

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5. Professional risk-taking involves relative values, as well as an imperfect science.

- Professional staff must abide by the law relating to patients' and clients' capacity to make decisions. Whilst HSC staff must provide individualised advice about their risk-taking, competent patients and clients are entitled to take decisions affecting themselves. Whilst competent adults are entitled to make their own decisions about values, HSC professionals invariably have a better understanding of the likelihoods involved.
- Whereas professionals' likelihood assessments should be based upon actuarial research, clinical factors (including risk management), should be taken into account in risk management.

Precept 6. Adopt the laws of negligence and capacity.

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6. Professionals' risk decisions, and risk management, must satisfy the requirements of the civil law of negligence, (i.e. they must be compatible with decisions that would be made by a responsible body of co-professionals).

- Professionals' risk decisions need not be supported by most, let alone all, co-professionals. It need not be the best practice, just approved, in practice, by a responsible body of colleagues.
- The circumstances, in which professional risk decisions are made, will be taken into account. This includes emergencies, when - for good reasons - there is not the time to obtain or to take into account all the desirable information, and dilemmas, when - whichever decision is made - harm will result.
- Whilst procedures and protocols will often reflect good practice a particular professional risk decision may be negligent because the procedure, protocol, etc. which was followed was inappropriate, or was implemented improperly.

Precept 7. Judge the decision-making, not the outcomes.

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7. We, ..., need to learn about risk decision-making and risk management - both successful and otherwise – without making assumptions because of particular outcomes.

- That harm, or success, follows a risk decision does not – cannot – prove that the likelihood assessment was wrong. ... The use of hindsight, to argue that the assessment was wrong, may be a commonplace reaction but it remains wrong. Other evidence ..., must be found to demonstrate any error in assessment.
- Success or harm may follow upon a professional risk decision; that cannot prove it was caused by it. ... A risk decision is poor if, and only if, it should be criticised even if no harm had resulted
- To judge otherwise involves responding to the outcome (i.e. that someone was injured), which may be accidental ...
- Risk assessment, and its implementation in risk management, should be considered and judged separately. The quantity and quality of the resources made available, for risk management, must be considered.

Precept 8. Identify range of causes, from success and failures.

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8. We should seek to identify, and learn from, all the significant causes of both our successful and unsuccessful risk decision-making and risk management.

- It is neither possible nor proportionate to identify all of these causes and influences after every risk decision. Nevertheless, we should develop systems so that we may learn how to reduce the inherent uncertainty of risk-assessment, and how to improve control through risk management.
- It is often easier, and more efficient, to disseminate good practice by identifying it elsewhere.
- Root cause, or similar forms of analysis, should be applied to understand why particular outcomes, successful or otherwise, occurred. To ensure that an apt breadth and depth of analysis takes place, a number of template hypotheses should regularly be considered (e.g. that a lack of apt resources, and/or a poor working culture, was a causal factor).
- 'Systemic' factors (including organisational, cultural, managerial and procedural) may be more prominent, and significant, than individual contributions. They need to be identified, not least because it will often be easier to change them.

Precept 9. Distinguish 'cause,' 'responsibility' and 'blame.'

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9. Conclusions, about responsibility or blame, should not be drawn just from findings about cause.

- Whilst a cause may be sufficient to create legal liability that is insufficient to justify attributing responsibility or blame.
- ...
- Blame involves a moral attribution so it also requires further information and analysis
- Both actions and omissions should be considered. ...
- No professional should be considered a cause of harm, let alone held responsible or blamed for it, just because they 'had an opportunity' to act differently ...
- ... [E]mployers and managers should seek and retain a 'just culture' at work ... can expect ... staff to be open to, accountable for, and willing to learn from any errors ..., because they ... believe ... they will be treated fairly....
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