



**BEDFORD**  
**BOROUGH COUNCIL**

**Adult Services Directorate**  
**Adult Social Care**  
**Risk Enablement Panel Policy**  
**And Practice Guidance**

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## Document Control Sheet

<b>Title of Policy</b>	Risk Enablement Policy and Practice Guidance
<b>Purpose of Policy</b>	The purpose of this policy is to create a sound framework for decision making in relation to the management of risk and to support those involved to explore issues and make arrangements which go as far as possible towards meeting the individual's aspirations whilst balancing the needs and risks to themselves, others and the Council. Bedford Borough Council wants to ensure that risk is not only identified but that subsequent appropriate action is then taken. It will also perform a function of supporting the resolution of disputes about risk taking.
<b>Type of Policy</b>	Operational Policy
<b>Target Audience</b>	Adult Social Care Practitioners and Managers
<b>Implementation Date</b>	October 2022
<b>Action Required</b>	Adoption of this policy as a framework for risk management within Adult Social Care
<b>This policy supersedes</b>	Risk Enablement Policy Version 2 2012
<b>This Policy should be read alongside</b>	Corporate Risk Policies, BBP24 Multi Agency Adult Safeguarding Policy, Practice and Procedures
<b>Lead Chief Officer</b>	Mark Harris

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# Risk Enablement Policy

## 1. Policy Statement

### Defining Risk

- 1.1 Bedford Borough Council (the Council) has adopted the following definition of risk from HM Treasury's Orange Book:

*“Risk is defined as the uncertainty of outcome, whether positive opportunity or negative threat, of actions and events. The risk has to be assessed in respect of the combination of the likelihood of something happening, and the impact which arises if it does actually happen.”*

- 1.2 The Council recognises that risk is an inevitable consequence of people taking decisions about their lives. This policy highlights the arrangements that the Council will put in place to address complex risk situations in which there are different views held between an individual, family carers or professionals.
- 1.3 To make good choices, people need to understand the consequences and take some responsibility for them. Bedford Borough Council wants to promote a culture of choice that entails responsible, reasonable, supported and shared decision-making.
- 1.4 Bedford Borough Council Adult Social Care must exercise its statutory duties and its responsibility not to agree a care support plan if there are serious concerns that it will not meet an individual's needs or if it places the individual at unacceptable risk.
- 1.5 The aim of this policy is to create a sound framework for decision making in relation to the management of risk and to support those involved to explore the issues and make arrangements which go as far as possible towards meeting the individual's aspirations, whilst balancing the needs and risks to themselves, others and the Council. Bedford Borough Council wants to ensure that risk is not only identified but that subsequent appropriate action is then taken. It will also perform a function of supporting the resolution of disputes about risk sharing.

### Type of Risk

This policy covers the most common risks:-

- Risks to the service user – including safeguarding issues
- Risks to unpaid carers

- Risks to the public
- Infrastructure or Organisational risks arising from service or facilities issues, including third party providers or partners.
- Market risks: risks arising from local market conditions affecting the quality or availability of services and support.
- Environmental risks: e.g. severe weather, public health or pollution issues subject to emergency planning
- Financial and Budgetary risks arising from the availability and allocation of resources, fraud or theft
- Legal and Regulatory risks: including the legality of items in a care support plan or compliance with legislation
- Reputational risks: issues that could affect the public reputation of the organisation

This policy should be read in conjunction with the Bedford Borough Council Corporate Risk Framework and Safeguarding Adults protocols and procedures, which are already in place.

## **2. Guiding Principles**

### **Capacity, Consent and Decision Making**

- 2.1 In line with the requirements set out in the Care Support Planning Policy, a person must be assumed to have capacity unless it is established that he/she lacks capacity. Capacity will be determined in line with the requirements of the Mental Capacity Act 2005.
- 2.2 An individual who has the mental capacity to make a decision, and chooses voluntarily to live with a level of risk, is entitled to do so. The law will treat that person as having consented to the risk and so there will be no breach of the duty of care by professionals or public authorities.
- 2.3 However, the Council remains accountable for the proper use of its public funds, and whilst the individual is entitled to live with a degree of risk, the local authority is under no obligation to fund it. In very complex cases, there will need to be a robust process whereby conflict about the acceptability of risk or otherwise can be properly debated and resolved.
- 2.4 Bedford Borough Council, as a provider or commissioner of services could, however, be exposed to litigation if it places people in a position of risk. There is an important distinction between putting people at risk and enabling them to choose to take reasonable risks.
- 2.5 It is important to take a positive approach to risk with people and to

recognise that people's needs may fluctuate, and, therefore it is important for the council to review and monitor their risk arrangements regularly. The involvement of the individual and their family / carer, if appropriate, in this process is crucial.

In its management of risk the Council seeks to:

- Ensure that people who use services in Bedford Borough are allowed to take informed risk as they go about their daily lives;
- Ensure that service users are safe, building on its existing arrangements for safeguarding people;
- Involve individuals in decisions about risk which affect them and promote understanding that making a choice can involve some risk;
- Demonstrate that people have choice and control over their lives, so that even if people do not always get what they want, their rights and dignity will be respected;
- Develop a fair and just approach to risk and treat people proportionately and equitably;
- Help people understand their responsibilities and the implications of their choices, including any risks;
- Acknowledge that there will always be some risk and that trying to remove it altogether can outweigh the quality of life benefits for the person;
- Ensure that its workers and the public are properly protected. (e.g. where third parties are directly employed by the service user to do support planning we will continue to ensure that all advice regarding being an employer comes from a competent source of independent advocates).
- Ensure that appropriate support services are available to provide information advice and guidance.
- Minimise negative effects without stifling innovation and learning within the organisation;
- Ensure that through support planning, a service user's safety is not put at risk through delays in providing services, and that a clear distinction is drawn between putting a person at risk and enabling them to manage risks appropriately.

### **3. Outcomes**

3.1 The benefits of successful risk management include:

- Maximum choice and control on the part of service users with minimal risk to themselves, others or the organisation
- Effective operational performance
- Improved financial performance
- Reduction of the possibility of failure and the uncertainty of achieving the organisation's overall objectives
- Better organisational understanding of risks
- More comprehensive arrangements for safeguarding people (service users and staff).
- The development of a culture which is accepting of risk.

### **4. Scope and exclusions**

4.1 This policy applies to the whole of Adult Social Care in relation to the provision of services to all users and carers. The Council will, through its commissioning arrangements aim to encourage agencies and services it contracts with to adopt a positive risk-taking approach, to ensure consistency.

### **5. Policy Requirements**

- 5.1 Risk management is an important and necessary process that enables us to maximise opportunities and creativity in our work as well as identify threats to our delivery. In line with Strengths Based Practice, the aim of Adult Social Care is to make risk management dynamic, empowering and a process which puts the service user at the heart of any decision making about risk and enables effective management of the Council's resources.
- 5.2 The purpose of assessment is to identify people's needs and this forms the basis for determining their eligibility for services. The Council has a statutory duty under the Care Act 2014 to carry out an assessment for those people in their area who may be in need of services whether or not an individual will be eligible to receive a service to meet identified eligible



needs.

- 5.3 For people who are eligible for services, a risk assessment must be carried out to establish relevant issues, which may range from risk of accidental harm to risk of self harm or of abuse, or in a small number of cases risk to others.
- 5.4 Self funders who have been assessed and risks identified will be provided with information on where to access advice. If the risk is too great then the Council will need to look at the risk of commissioning a service versus not commissioning one.
- 5.5 It is important that good quality information is recorded which includes the type of risk, its specific nature and context and any actions to be taken to manage the risk. Contingency planning which is agreed with the service user is also a key consideration in the mitigation of risks. This leads in to planning what support the person requires to meet the needs that have been identified.

### **Care Support Planning**

- 5.6 The purpose of care support planning is to identify how the person's eligible needs will be met. This includes consideration of how any risks identified will be addressed through the undertaking of a risk assessment. The risk assessment will identify how any risks arising from their needs or proposed support will be addressed. This process identifies the first stage of the management of risk, in line with the Council's Corporate Risk Policy.
- 5.7 Care Support planning is also the process by which the design of a service user's budget spending is defined and agreed. In order for a decision making officer to agree the release of money for the personal budget, they must be able to see and agree a plan that meets clear criteria. A key characteristic of the care support planning process is the importance of service user ownership of the support plan.
- 5.8 With this in mind, it is important to spend time with the service user to develop a good support plan with a completed risk assessment. High quality and clear information is required to help people make informed choices, with the use of appropriate interpretation and advocacy services for those with language or sensory needs to ensure the best possible outcomes.

### **Risk Assessment Tool**

- 5.9 Managing risk involves exploring the consequences of a decision; weighing the likelihood of something happening as a result of the chosen course of action and assessing the likely impact of this upon the service user, their family or carers, council staff or the public involved in providing a service and upon the Council's reputation.

- 5.10 Each care support plan needs to identify clear lines of accountability. Where there is an intractable dispute between the individual and practitioner, or a question over the appropriate use of resources, complaints resolution processes may be necessary. Mechanisms include referral to senior management or a decision making panel.
- 5.11 The Council acknowledges that a person's wishes may not always be in their best interest or that a person may recognise the risk but wish to persist with a specific course of action anyway. If the risk is clearly identified, discussed with the service user and addressed in the support plan, the plan should proceed to the escalation stages of validation. This policy highlights an integral part of the validation process and addresses how risk should identified as part of an individual's support plan.
- 5.12 If, following the care support planning process any risks remain unresolved, managers should attempt to resolve these as part of the validation process. Difficult or contentious decisions may be escalated to more senior levels for resolution, and ultimately could be dealt with through the complaints process. A partially validated care support plan or a managed service will be put in place where necessary to avoid any delay in meeting the person's eligible needs or those of their carers.

### **Validation Board**

- 5.13 The purpose of validation (validation Board) is to approve the care support plan and to confirm the amount of the personal budget. One of the aspects that will be validated is whether risks have been properly identified and mitigating actions included in the care support plan. If there are any outstanding risks or if there are issues associated with any of the mitigating actions, in the first instance the care support plan will be returned to the person and their support planner with guidance on what is required. If the risks or the issues concerned are such that they cannot be resolved in this way, the matter will be referred through the escalation process identified in the Validation of Care Support Plans and Personal Budgets Policy and if there is still no resolution may proceed to the Directorate Risk Enablement Panel. It is important to note that the Risk Enablement Panel can be called at any stage of the escalation process should an appropriate level of risk be identified, Refer to Appendix B for An example of how this might potentially work.

### **Structure**

- 5.14 In the first instance responsibility for validation lies with the line Manager (or Operational service manager/head of service where there isn't one). However, whenever a risk is identified for example, the plan costs more than the indicative budget or staff are concerned about a risk to reputation they would escalate it to the next level (Operational service manager/head of service or Assistant Director). Guidance on the amounts of increase to

the indicative personal budgets that each level of management can agree will be in the Validation of Care Support Plans and Personal Budgets Policy under the Ready Reckoner Calculator

## Escalation

5.15 The escalation process will apply to risks that cannot be resolved at Validation Board.

Escalation should happen where;

- The cost of the personal budget or the proposed increase in the personal budget is above the level that a manager can agree (see Validation process);
- The risks identified fall within those mentioned under the policy statement for this policy (see page 3);
- The manager is concerned that agreeing a care support plan has a high degree of risk attached to it.

5.16 If a service user disputes a decision then the matter would be dealt with via the escalation process or the relevant stage of the complaints process. On receipt of an appeal it would be assigned to another team manager responsible for a similar team. This approach is suggested to demonstrate objectivity in the management of risk and to only operate in exceptional circumstances. A Risk Enablement Panel will then be convened should consist of the following; see 7.20

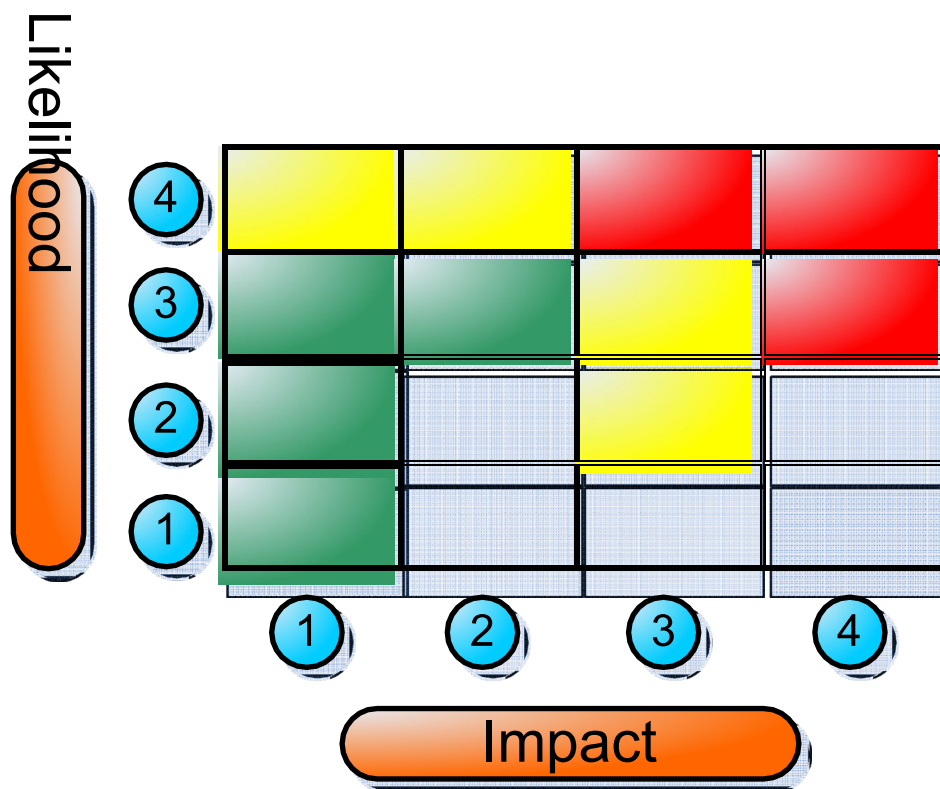
- Chief Officer
- Service Manager Lead
- Commissioning Lead
- Care Standards Lead
- Safeguarding Lead
- Note Taker
- When appropriate a suitable representative from the following:
  - 🕒 NHS representative (e.g. district nurse)
  - 🕒 Housing representative
  - 🕒 A representative from legal services/or legal advice
  - 🕒 And other key organisations deemed necessary for the panel
  - 🕒 Partnership Agencies e.g. ELFT

5.17 The decision on whether or not an issue could potentially be referred to the Risk Enablement Panel will be assessed using a simple outcome based system – risk summary exercise, as indicated below: see 7.20

5.18 In line with the Validation of Care Support Plans and Personal Budgets Policy, the Council will also ensure that a quality monitoring process is introduced, involving sampling of cases, to confirm the quality and consistency of decision-making and ensure that the right criteria are being used effectively.

**5.19 Level and Classification of Risk**

## Level and Classification of Risk



The above model is based on the likelihood of a risk occurring versus the impact it could have on the organisation and should look at the risk to the service user and the organisation. It maps risks on a matrix against:

**Likelihood**

- Likelihood: 1
- Hardly Ever: 2
- Possible: 3
- Probable: 4

**Impact**

- Almost certain: 1
- Negligible: 2
- Minor: 3

Major: 4  
Critical

The use of this model, as a risk assessment tool, will promote discussion about the resolution of risk at the ground level, (and in line with complaints processes), however it is anticipated that staff will be trained in its use as appropriate.

### **Outputs Required for Risk Enablement Panel**

A current care support plan, latest assessment/review or other necessary documentation associated with the individual.

### **Risk Enablement Panel**

5.20 The Risk Enablement Panel will provide a forum to consider identified risks and mitigating actions where these cannot be resolved during the normal process of assessment, care support planning, validation or review. It is anticipated that it will operate only in exceptional circumstances as part of the stage of validation where disputes occur and cannot be resolved and will be convened as required.

5.21 The Risk Enablement Panel does not have the authority to provide extra staff or financial resources to manage identified risk.

### **Purpose**

5.22 The purpose of the panel will be:

- To guide, advise and support individuals, (including third parties) to minimise risks and manage complex risk situations, including cases involving differences of opinion.
- To seek positive solutions and outcomes for individuals and resolve issues regarding the sharing of risk between individuals, third parties and the organisation.
- To ensure that no individual is left to make a difficult decision without support and that the Council can demonstrate it has fulfilled its duty of care around the support of service users.
- To provide a forum where staff at different levels of the organisation can share risk decision making where there is concern about the level of risk.
- To take the final decision on issues involving risk, in conjunction with senior managers where necessary.

- To promote a consistent approach to managing complex risk decision making,

### **Scope of Responsibility**

The Risk Enablement Panel will liaise with the Senior Management Team regarding issues arising out of the management of complex risk cases.

- Existing arrangements for safeguarding individuals will take priority. However, the Risk Enablement Panel will review cases, which do not meet the specific criteria for discussion under safeguarding arrangements.
- The panel will act as a decision maker and offer advice and guidance, but it is the responsibility of the relevant senior/service manager and the team delivering the outcome to agree how they will put this advice into action.
- The Panel may also perform a role of drawing attention to knowledge and skills gaps within the organisation or the need to update policy and process.
- The Panel may also contribute to the development of the organisation risk policy, procedures and training needs.

### **Principles of referral to the Risk Enablement Panel**

Examples include;

- Does the service user have capacity to consent to the decision regarding the potential risk:
- Are the risks to the service user such that cannot be resolved through care planning or normal safeguarding processes
- Could the risk cause endangerment to other people (third parties);
- Could the risk expose the council to political or reputational risk;
- Legal and regulatory issues – including the status of measures in a support plan or compliance issues
- Suspected fraud
- Risks arising from the availability of services or facilities
- Risks that are not specific to the individual or their support plan

but relate to wider organisational issues, including potential service failure or the suitability of equipment or facilities

- Financial or budgetary risks that cannot be resolved through the validation process

5.23 The Panel will need to reflect a broad range of knowledge & skills regarding broader risk issues, especially the risk to independence. Best practice would suggest that the Risk Enablement Panel should consist of a core team as identified in paragraph 7.16.

5.24 Other relevant agencies/organisations can be invited if appropriate to provide necessary support for the service user, such as communication, language support and/or to provide support due to impairment.

5.25 The specific role of the Risk Enablement Panel will be to;

- Deal with disputes arising from the escalation process as part of validation.
- Co-ordinate risk management across Adults and Community services and potential links with other directorates.
- Monitor developments nationally in risk management, and considering their relevance to the Council
- Provide a forum to consider how risk management can support corporate initiatives.
- Ensure effective co-ordination and promotion of other risk management options such as Health & Safety, Insurance, Business Continuity, Emergency Planning and Disaster Recovery.

## **Roles and Responsibilities of key staff in managing risk**

### **5.26 Practitioners**

- Identifying any risk highlighted through risk assessment using the risk assessment tool and sharing this information with the service user as appropriate. Identification of a risk should involve a balanced approach, which looks at what is and is not an acceptable risk. Practitioners should identify as far as possible, in discussion with the individual, carer or advocate the level of risk and measures that may be needed to manage them.
- Gather relevant information – Practitioners involved in the assessment of need or provision of support should gather and review assessment information as to whether the provision of support is meeting the individual carer eligible need.

- Accurately Recording Information, Practitioners must ensure that information shared or gathered is properly recorded to be able to evidence the:
  - Formulation of a logical, informed opinion as to the severity of risk.
  - Organisation of discussions with the adult, their family and any health, social care, advocacy or independent sector professional involved.
  - Inclusion of the adult and their family in decision-making.
  - Identification of conflicting opinions and interests.
  - Clarification of lines of accountability.
  - Justification of actions.
  
- The needs of the individual carer will be the primary focus of the risk assessment process supported by a carer or advocate assessment Planning Process. The individual's view of risk and that of their families and carers have a prominent place in the identification, assessment and management of risk. The individual is enabled to understand any potential risks and make an informed choice.
  
- When gathering information from individuals or family/ carers, practitioners need to emphasise the importance of information that is both accurate and identifies any concerns or issues that may increase the probability of an event occurring.
  
- There should be a focus on individuals 'strengths' to provide the basis for a positive support plan supporting positive risk-taking. Consideration should be given to the strengths and abilities of the individual, their wider social and family networks and the diverse support and advocacy services available to them.

## **5.27 Line Managers**

- Acting as the main contact for their service (directorate) and its management on risk matters, and ensuring that corporate information and requirements are communicated.
  
- Representing their service (directorate) at the Risk Enablement Panel (as requested).
  
- Providing support on risk management to directors, heads of service and other managers within the service (directorate).
  
- Promoting the benefits of risk management across their service.



- Ensure that the team are aware of their responsibilities in terms of the management of risk and that clear lines of accountability are in place.
- Ensure that contingency planning is in place as appropriate to mitigate any identified risk.

### **5.28 Operational Managers**

- Communicating the Adults and Community Services approach to risk management to staff.
- Identifying training needs of staff and report these to their service senior management group.
- Ensuring that they and their staff are aware of the service requirements.
- Ensure that staff are aware of their responsibilities in term of the management of risk and that clear lines of accountability are in place.
- Ensure that contingency planning is in place as appropriate to mitigate any identified risk.

5.29 'Our Choices in Mental Health' provides a best practice framework for providers to extend choices and practical support for people who use mental health services and their carers. The values underpinning the framework are:

- living a normal life as far as possible
- being included in local communities and activities
- not being stigmatised or discriminated against on any grounds
- easy access to up-to-date and accurate information
- genuine options and/or choices of care available locally
- personalised care plans that are built around the wishes of each individual and their carer
- services and staff that promote and enable recovery and well-being

5.30 These values are entirely consistent with the principles set out in the guiding principles of this policy.

## 6.0 Safeguarding

- 1.1 The Council needs to maintain a delicate balance between empowerment and safeguarding; choice and risk. It is important for practitioners to consider when the need for protection would override the decision to promote choice and control. In the risk management context, a clear distinction will be drawn between putting a person at risk and enabling them to manage risks appropriately.
- 1.2 Bedford Borough Council is committed to the protection of vulnerable adults from abuse.
- 1.3 Where any risks to a service user identified fall within the scope of the Safeguarding protocols and guidelines they should be addressed under those procedures. Where risks to an individual are identified that fall outside the scope of the protocol and that cannot be addressed within the normal process of care support planning, the matter should be referred through the Validation process to the Risk Enablement Panel. The Risk Enablement Panel will work closely with the Safeguarding Team where necessary to reach their decision on how to manage the risk.

## 7.0 Fraud

- 1.4 In line with Safeguarding Adults Guidelines this policy covers **financial or material abuse**, including theft, fraud, exploitation, pressure in connection with wills, property or inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits;
- 1.5 Bedford Borough Council is committed to achieving high standards of integrity and accountability and expects the same commitment from service users and carers to whom it gives financial support.
- 1.6 We are therefore determined to combat fraud wherever it arises and, in this way, ensure as far as possible that social care funding is used for legitimate purposes.
- 1.7 To minimise the risk of fraud the Council needs to put in place monitoring and auditing systems to check that the assessed needs of service users are genuine and that their care support plans are meeting their needs. The level of control, monitoring and auditing will be proportionate to the level of risk, to avoid undermining the basic aim of promoting choice that service users are given responsibility and autonomy for the planning and delivery of their care.
- 1.8 In line with the Validation of Care Support Plans and Personal Budgets Policy where an individual is unhappy with the Council's final decision on validation of their care support plan or personal budget (or the decision of the Risk Enablement Panel), they will have the right to complain if they

are unable to resolve it through discussion with the local manager (pre-stage 1 of complaints procedure). This will be through the Adult Social Services complaints procedure, which is based on a statutory structure. Ultimately the service user has the right to complain to the Local Government Ombudsman or to apply for judicial review.

## **Appendix A**

### **Risk Enablement Panel Terms of Reference**

#### **1.0 Overall Purpose**

The purpose of the Risk Enablement Panel is to provide a forum to consider identified risks and mitigating actions where these cannot be resolved during the normal process of assessment, care support planning, validation or review. It is anticipated that it will operate only in exceptional circumstances as part of the stage of validation where disputes occur and cannot be resolved and will be convened as required.

The Risk Enablement Panel will not have the authority to provide extra staff or financial resources to manage identified risk.

#### **2.0 Aims**

The Risk Enablement Panel aims to liaise with the Senior Management Team regarding issues arising out of the management of complex risk cases to ensure that:

- The existing arrangements for safeguarding individuals are a priority. However, the Risk Enablement Panel will review cases, which do not meet the specific criteria for discussion under safeguarding arrangements.
- advice and guidance is offered to the relevant senior/service manager including how to deliver the outcome and how they will put this advice into action.
- attention is drawn to knowledge and skills gaps within the organisation or the need to update policy and process.
- Panel learning contributes to the development of the organisation risk policy, procedures and training needs.

#### **3.0 Objectives**

The key objectives of the panel are:

- To guide, advise and support individuals, (including third parties) to minimise risks and manage complex risk situations, including cases involving differences of opinion.
- To seek positive solutions and outcomes for individuals and resolve issues regarding the sharing of risk between individuals, third parties and the organisation.

- To ensure that no individual is left to make a difficult decision without support and that the Council can demonstrate it has fulfilled its duty of care around the support of service users.
- To provide a forum where staff at different levels of the organisation can share risk decision making where there is concern about the level of risk.
- To take the final decision on issues involving risk, in conjunction with senior managers where necessary.
- To promote a consistent approach to managing complex risk decision making,

#### **4.0 Outcomes**

The specific outcome of the Risk Enablement Panel will be to;

- Deal with disputes arising from the escalation process as part of validation.
- Co-ordinate risk management across Adult social care and potential links with other directorates.
- Provide a forum to support staff and managers and other key stakeholders in a 'blame free' learning environment.
- Monitor developments nationally in risk management, and considering their relevance to the Council
- Provide a forum to consider how risk management can support corporate initiatives.
- Ensure effective co-ordination and promotion of other risk management options such as Health & Safety, Insurance, Business Continuity, Emergency Planning and Disaster Recovery.

#### **5.0 Membership**

- Chief Officer (Chair)
- Manager Lead
- Commissioning Lead
- Care Standards Lead
- Safeguarding Lead
- Note Taker
- When appropriate a suitable representative from the following:

- 🕒 NHS representative (e.g. district nurse)
- 🕒 Housing representative

- 🕒 A representative from legal services/or legal advice
- 🕒 And other key organisations deemed necessary for the panel
- 🕒 Partnership Agency SEPT

## **6.0 Meeting frequency**

The panel group will meet on every second week, which will be reviewed after six months. Unless it is deemed that a Risk Enablement Panel needs to be convened urgently, in which case staff from the membership list will be called to meet based on a quorum of no less than 5 staff.