

North Somerset Council Adult Social Services

Risk Enablement Policy and Guidance





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1. Document information

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encouraged to share with practitioners.

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2. Aim and audience for this policy

This policy is aimed primarily at social workers, occupational therapists and adult social care workers working in the adult social services and housing solutions directorate. It may also be applied by practitioners elsewhere in the directorate. The policy may be of interest to people who draw on care and support and their carers as it outlines our approach to risk enablement and risk management.

As practitioners, we work with a diverse range of people who access adult social services and housing solutions provision. As is the case with all people, some of the people we support take risks that could potentially lead to harm. This policy describes how we, as practitioners, can support the decision making of adults with care and support needs who take risks.

Positive risk taking involves taking carefully considered risks that lead to person centred outcomes for people with care and support needs. Our position is that we are risk aware, not risk adverse. We support risk enablement, and in situations where someone lacks capacity around taking risks, we support a positive risk taking approach in the person's best interests.

We promote positive risk taking and support individuals to make well-informed and balanced decisions which support their goals, choices, and aspirations. Whilst keeping people safe is important, we recognise that it is rarely, if ever, the right decision to keep someone safe at the expense of their personal autonomy, dignity, human rights, and emotional wellbeing.

Our approach reflects the document Embracing risk; enabling choice — Guidance for occupational therapists along with our corporate priorities as outlined in the North Somerset Council's Corporate Plan:

- A thriving and sustainable place
- A council which empowers and cares about people
- An open and enabling organisation.

This document includes guidance on how we should evidence decision making using a risk enablement plan (see appendix one).



The risk enablement plan is a person-centred plan that supports people, or decision makers, to explore risks and how they can be managed. The risk enablement plan provides a clear structure for recording the discussions and decisions made and how they will be monitored. This is a positive approach which evidences the likelihood and severity of possible harm caused by risk taking behaviour and mitigating factors which have been considered. It provides a clear rationale for risk management decisions.

This approach to risk management, risk enablement and positive risk taking, while primarily aimed at social workers, occupational therapists, and adult social care workers, can potentially be applied in other social care settings.

3. What is risk enablement?

Risk is the uncertainty of something happening, which may lead to a positive or negative outcome. Risk enablement is not promoting risky behaviour, it is empowering people to live with autonomy by considering the risks that are associated with their actions and behaviour (Research in Practice for Adults 2016). It is important for practitioners to acknowledge the value and benefit of carrying out an activity or task, especially from the perspective of the person drawing on care and support. It is important to assess what can be gained from the activity occupationally, physically, psychologically, and socially. Taking risks can create positive outcomes for people (Sorensen 2015) and risk enablement aligns with a human rights and person-centred approach to working with adults with care and support needs.

We are committed to promoting a person's right to autonomy and independence; therefore, it is important that we are confident in both assessing and managing risk, and supporting people to assess and manage risk their own risk.

4. What is risk management?

Risk management involves a range of responses including preventative, responsive and supportive measures to reduce potential negative consequences, and to promote the potential benefits of taking risks.



5. Legal context

Effective risk enablement is fundamental to supporting people's independence and to maximise people's control over their own lives, whilst also supporting people to make informed decisions. We aim to promote as much choice and control as possible over how people choose to live their lives, in line with the law.

Ensuring we are comfortable discussing and assessing risk without being risk adverse aligns with the Human Rights Act (1998). Article 2 protects people's right to life. It requires us, as a public authority, to take reasonable steps to protect individuals if their life is at risk. This is an absolute right. Article 8 protects people's right to respect for their private and family life. It helps people to live their life as they choose and make their own lifestyle choices without interference from the government. However, this is a qualified right so there are some circumstances where it is necessary and proportionate to take actions which might interfere with this right, for example to protect public safety or to protect the rights and freedoms of other people.

North Somerset Council has a duty under <u>Section 1 of the Care Act (2014)</u> to promote the wellbeing of adults who access adult social services. We therefore need to consider the impact of taking risks on people's wellbeing. <u>Section 1, paragraph 3(a) of the Care Act (2014)</u> assumes that individuals are best placed to know how to ensure their own wellbeing. We have a key role in supporting positive risk taking, promoting human rights and supporting independent decision making in line with peoples wishes and feelings.

As well as promoting a person's wellbeing, North Somerset Council has a safeguarding duty under <u>Section 42 of the Care Act (2014) and will undertake an enquiry</u> if there is reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):

- has needs for care and support (whether or not the authority is meeting any of those needs),
- is experiencing, or is at risk of, abuse or neglect, and



 as a result of those needs is unable to protect themselves against abuse or neglect or the risk of it.

To ensure adults who have been referred due to safeguarding concerns are actively involved in the safeguarding process, 'Making Safeguarding Personal' has been embedded into safeguarding duties. Making Safeguarding Personal focuses on the person's choice and requires us to appreciate the inter-relationship between mental capacity, risk, choice and safeguarding. Discussion about risk is part of making safeguarding personal, as this should be a collaborative activity with the person, with practitioners listening to the individual's view and own assessment of risk, whilst weighing up the benefits and drawbacks of different options.

<u>Section 1 of the Mental Capacity Act (2005)</u> has five key principles that need to be understood in relation to decisions about risk.

- A person must be assumed to have capacity unless it is established that they lack capacity.
- 2. A person is not to be treated as unable to make a decision unless all practicable steps to help them to do so have been taken without success.
- 3. A person is not to be treated as unable to make a decision merely because they make an unwise decision.
- 4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in the persons best interests.
- 5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

Where someone has been assessed as lacking mental capacity in relation to a specific decision, social care practitioners may need to make a best interest's decision on behalf of that person. Best interests' decisions should be made in line with <u>section 4 of the Mental Capacity Act 2005</u>, so the individuals' past and present wishes, beliefs and values must be considered, alongside the views of others engaged in caring for the person or interested in the person's welfare.



Where a person is presumed to have mental capacity or has been assessed as having capacity in relation to a specific decision relating to risk, then it is their choice whether to continue to engage in risky behaviour. This is the case even if their behaviour causes concern or their decision is considered "unwise". The role of the adult social services practitioner is to work collaboratively with that person to assess the severity and likelihood of the risk and then discuss how this can be mitigated.

There are some circumstances when a person may appear to meet the functional test for mental capacity (i.e. they appear able to understand, retain, use and weigh salient information and communicate their decision) in the context of an abstract conversation. However, when it comes to enacting decisions, their actions may not be in keeping with what they say they will do. There may be a variety of reasons for this, and it is potentially a normal part of human behaviour. However, where there is a pattern of someone repeatedly saying they will do something, which is not later reflected in their actions, this may, in some circumstances, call into question their ability to "use or weigh" salient information at the appropriate moment. In situations where this disparity is placing someone at risk, this may require their mental capacity assessment to be revisited. Practitioners should consider arranging further investigations and assessments exploring the person's ability to use salient information in the appropriate context using relevant observations (for example, a person may be able to describe the process of making a meal in the abstract, but, under observation, lack capacity to use this information and make a meal in reality). If this is the case, it might be a sign of executive dysfunction, which can be caused by a range of factors such as acquired brain injury, dementia, or health conditions arising from long-term alcohol use. Social care practitioners are not qualified to diagnose executive dysfunction and should not reach this conclusion without supporting medical evidence. Where executive dysfunction is suspected, practitioners should discuss the appropriateness of a specialist assessment with the person's GP.Risk assessment is the process of evaluating the potential harm of a behaviour or activity the person is engaging in and then working together to mitigate this risk. The risk assessment should be completed by an adult social services practitioner who is working with the person. Any relevant information relating to risk should be provided



in an accessible format to ensure every effort is taken for the person to understand what is being said.

We assess the likelihood and severity of the risk in collaboration with the person. The risk enablement plan (<u>see appendix one</u>) is a risk assessment tool to support the management of risk. This tool should be used when there is a concern about risks associated with a person's behaviour. The risk enablement plan is designed to be used in collaboration with the person but can also be used with the person's network of support, or key agencies where appropriate.

Sometimes it will not be possible to mitigate risks using the tool and concerns will remain. Where significant or high-level risks (high severity and likelihood of harm) remain following the person's decision, we will work with people and their support networks to develop a plan that is proportionate to the likelihood and severity of the risk and use this plan to monitor and review the situation. This might involve a third party, such as a support worker or family member. We will consider whether there are likely to be changes to the person's mental capacity or whether the person is likely to change their mind. The person's choices and human rights should always be respected. A senior practitioner should always be consulted in situations where concerns about risk cannot be appropriately mitigated.

The following procedure outlines the steps that should be followed when identifying risk:

- 1. When a concern has been raised, use the risk enablement plan with the person to identify the likelihood and severity of harm.
- 2. Provide information and advice to help the person to understand their responsibilities and the implications of their choice including any risk (or risks).
- 3. Fully explain the risk (or risks), including the likelihood and severity of potential consequences.
- 4. Ensure the person understands the risk (or risks) including the likelihood and severity of potential consequences, undertaking a Mental Capacity Assessment when this is in doubt.
- 5. Confirm who is responsible for actions.



- 6. Confirm who is the decision maker.
- 7. If applicable, agree on a time to review the risk enablement plan.
- 8. If the person is the decision maker, ensure they sign the documentation to confirm ownership of the risk enablement plan.
- 9. A copy of the document must be given to the decision maker. If the person is the decision maker, then consent must be sought from them before sharing the document with others involved in supporting them to manage the identified risk[s] – family etc. If the decision maker is not the person, then the decision makers consent must be sought before sharing the document with others.
- 10. Upload the risk enablement plan on to LAS.
- 11. Record a case note that captures the decisions taken (see section 7.1 on what should be recorded).
- 12. The agreed intervention should be monitored and reviewed.
- 13. Any new risks should be identified, and the procedure followed again.

6. Management of Risk

6.1. Risk management with people who have been assessed as having capacity in relation to a specific decision regarding risk taking behaviour.

When supporting individuals to take an active approach to weighing up the benefits and drawbacks of engaging in risk taking behaviours, if an individual does not have an impairment of the mind or brain and there is no reason to question their capacity to make decisions relating to the risk, we will complete the risk enablement plan (as outlined in section 6). This is in collaboration with the person to ensure they fully understand the risk[s] (See 7.2 below for people who have been deemed to lack mental capacity in relation to a decision involving risk).

On completion, we will save the risk enablement plan on to the Liquidlogic Adults' Social Care System (LAS) in the 'documents' section on the person's Liquidlogic Adults' Social Care System (LAS) file. This should be accompanied with a case note that records:

 the outcome of the discussion the practitioner has had with the person regarding risk.



- the reasons for decisions taken.
- whether a capacity assessment has been conducted in relation to who is the decision maker.
- if a review is to be completed.
- signposting to where the risk enablement plan is uploaded.

Adult social service practitioners should discuss with their supervisor if the risk has not been mitigated and remains significant (high severity and likelihood of harm). The escalation procedure for risk management where significant risk remains is as follows:

- 1. Person drawing on care and support presents with risk taking behaviours.
- 2. Allocated practitioner completes risk enablement plan with the person which is a co-produced document. If there is significant risk (high severity and likelihood of harm) at the beginning of the risk enablement and risk management process, discuss with the team manager.
- 3. If risks remain after a period of monitoring escalate to team manager. If risks become significant (high severity and likelihood of harm) after a period of successful risk management escalate to team manager.
- 4. Where appropriate the team manager may escalate to the relevant Head of Service. The Head of service, where appropriate may escalate to the Assistant Director.
- 5. A multi-agency meeting may then be called and chaired by the relevant practitioner to review the risk enablement plan. Invites will be sent to all relevant professionals, with non-attendance clearly recorded. Discussions about appropriate changes to risk enablement plan, how the plan will be monitored, and how updates/changes are shared with the attendees/decision makers to be agreed at each meeting. Copies of the risk enablement plan and agreed actions to be shared with attendees, and where appropriate the person drawing on care and support.
- 6.If all options have been exhausted and significant risk (high severity and likelihood of harm) remains the Assistant Director, or, in their absence, two Heads of Service



will chair an initial and/or additional multi-agency meeting. All possible outcomes will be considered. If it appears there is no longer a meaningful role for Adult Social Services, closing the case may be considered providing this decision does not conflict with any legal obligations or duty of care, for example under the Care Act 2014 or Human Rights Act 1998.

N.B. the multi-agency meeting in this protocol will be formalised as Multi Agency Risk Management Meetings (MARMs) at a later date.

Due to potential concerns around safety and the risk to life, we have a duty to monitor and review the risk even if the person has been assessed to have capacity relating to the decision.

6.2 Risk management with people who have been assessed to not have capacity in relation to a specific decision regarding risk taking behaviour.

If there is any doubt about a person's ability to understand, retain, use, or weigh up the salient information related to the risk and we suspect there is an impairment or disturbance in the functioning of the mind or brain, a mental capacity assessment must be completed. This is in relation to the specific decision in line with <u>Section 3(1)</u> of the Mental Capacity Act (2005).

When assessing capacity, we will always take steps to enable the person to make the decision themselves, in keeping with Principle 2 of the Mental Capacity Act (2005). If the person is assessed as lacking capacity in relation to this decision, then a decision should be made in their best interests in line with Section 4 of the Mental Capacity Act (2005). The most appropriate adult social care practitioner will become the decision maker, unless there is an individual that has registered Lasting Power of Attorney to make decisions regarding the person's health and welfare in the person's best interests, in which case, the person with Lasting Power of Attorney becomes the decision maker. The principles of risk enablement and positive risk taking should still be adhered to. As a result we can still complete a risk enablement plan with the person, but the decision maker needs to be clearly recorded.

On completion, we will save the risk enablement plan on to the Liquidlogic Adults' Social Care System (LAS) in the 'documents' section on the person's Liquidlogic



Adults' Social Care System (LAS) file. This should be accompanied with a case note that records the information outlined in section 7.1. The wishes and feelings of the person should be clearly recorded.

7. Risk enablement and manual handling risk assessments

Manual handling risk assessments may also identify risk to the person and/or carers in relation to a given task[s] or the environment in which a person lives. Manual handling risk assessments seek to empower people to live with autonomy by developing, recovering, or maintaining a person's competence in meaningful activities, reducing the negative consequences of risk, and promoting the benefits of taking risks (such as reducing the inability to engage in the roles, relationships and occupations expected of a person of a similar age and sex within their particular cultural context). Social service practitioners competing manual handling risk assessments must follow the process for completing complex Manual Handling Assessments and complete the manual handling profile and risk assessment. It is important to note that risk assessments must record that catastrophic risks (e.g. falling out of a sling and sustaining a fatal injury) are always going to be present albeit very unlikely to occur.

In the event that a person's personal assistant does not follow the manual handling plan it is important to ascertain whether this is due to a lack of training or because this a preference expressed by the individual they are supporting. If the personal assistant is not following the manual handling plan due to a lack of training, then it is the personal assistant's employer who is responsible for seeking the necessary training. Where an individual has expressed a preference regarding manual handling that does not align with the manual handling plan, a risk enablement plan should be completed with them, and were consented, with their personal assistant. This will enable the person to explore the risks to themselves and their personal assistant and how these can be managed.

In the event that a person's carer[s] is not following the manual handling plan it is important to ascertain whether this is due to a lack of training or because this is a preference expressed by the individual they are supporting. If a carer[s] is not



following the manual handling plan due to a lack of training, we should suggest they consider request a carers assessment to ascertain whether manual handling training and support is needed. If it assessed as being required, then we should commission this training. It is important to ensure that if carers are using equipment, they are competent to do so. Where an individual has expressed a preference regarding manual handling that does not align with the manual handling plan, a risk enablement plan should be completed with them, and were consented, with their carer[s]. This will enable the person to explore the risks to themselves and their carer[s] and how these can be managed.

If there are doubts about the person's mental capacity to make decisions about manual handling and risk, then a Mental Capacity Assessment must be completed. Where a person is assessed as lacking capacity around decisions related to manual handling a decision maker must be established. A risk enablement plan should then be completed with the relevant people, adhering to best interest principles and practice guidelines.

8. Further information

The follow documents are available alongside this guidance.

- Fact sheet
- Easy read
- Embracing risk; enabling choice Guidance for occupational therapists Royal
 College of Occupational Therapists

9. Complaints

If you are unhappy about any action or decision taken by Adult Social Services in relation to risk enablement and risk management, you should initially talk to the person you normally deal with. If you are unable to resolve your complaint in this way, you can contact:

Complaints Manager,
Adult Social Services and Housing,



Town Hall,
Walliscote Grove Road,
Weston super Mare,
BS23 1UJ

Telephone: 01275 882171

Email: complaints.manager@n-somerset.gov.uk

10. Accessible information

Council documents can be made available in large print, audio, easy read, and other formats. Documents on our website can also be emailed to you as plain text files. Help is also available for people who require council information in languages other than English. Please email asshsstrategyandpolicyteam@n-somerset.gov.uk or ring 01934 888 888.

11. References

Mitchell W, Baxter K and Glendinning C (2012) 'Updated Review of Research on Risk and Adult Social Care in England'. Risk, Trust, and Relationships in an Ageing Society. York: Joseph Rowntree Foundation

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12. Appendix One - Risk Enablement Plan

Instructions

This 'Risk Enablement Plan' should primarily be used when the person you are working with has been assessed as having mental capacity to make decisions about risk.

When assessing capacity, always consider the person's ability to put into practice what they say they have decided. Repetitive behaviours of concern, especially when behaviours differ from what the person says they have decided, could indicate an issue with the person's ability to use or weigh salient information and should prompt further consideration of mental capacity using observation to assess a person's ability to use information in the appropriate context.

If the person has been assessed as lacking capacity, then a decision should be made in their best interests in line with s.4 MCA 2005. The RISK ENABLEMENT PLAN might be useful to support best interest decision making but ultimately the person will not be the decision maker if they have been assessed to lack capacity in relation to behaviours of concern.

If the person has been assessed to have capacity in relation to behaviours of concern, then please follow this guidance on how to use the RISK ENABLEMENT PLAN:

- 1. Print blank copies of the RISK ENABLEMENT PLAN and take them and the 'Guidance Notes' (below) with you when you meet with the person.
- 2. Use the 'Guidance Notes' as a prompt to help you discuss with the person how to complete the RISK ENABLEMENT PLAN and together complete a plan for each risky behaviour of concern.
- 3. In collaboration with the person use the matrix to assess the 'likelihood' and 'severity' of the risk and assign a risk rating. When assessing please consider the following points:
 - The risk of harm to self, whether from accidents, self-neglect, or self-harm





- The risk of harm from others, including physical and sexual violence, psychological harm, neglect, or exploitation
- The risk of harm to others
- The risk of loss of independence or breakdown of support.
- Also consider the potential benefits of the risk for that person.
- 4. Discuss with the person what could be done to reduce this risk and record the decision made.
- 5. Use the matrix again to assess the 'likelihood' and 'severity' of the risk once the decision is in place and assign a new risk rating.
- 6. Where significant or high-level risks remain following the person's decision, practitioners should develop a proportionate plan for monitoring and reviewing the situation. This might involve a third party, such as a support worker or family member. Practitioners should consider whether there are likely to be changes to the person's mental capacity or whether the person is likely to change their mind. The person's choices and human rights should always be respected.
- 7. Interventions put in place to mitigate risk should monitored and reviewed at agreed intervals. The frequency of review should be proportionate to the risk rating and take into account the person's wishes.



Risk Enablement Plan – see guidance regarding completion and risk matrix

Owner(s) of this risk enablement plan:	Date of Plan:
Person responsible for the review:	Review Date:

What are we worried about?	What might happen? What is the risk? What might be the benefit?	What could go wrong? Potential harm caused to me or someone else.	What could be done to reduce the risk?	What plan have we agreed?



	Risk Severity (1-4) see Matrix Risk Likelihood (1-4) see Matrix		_	d Risk Severity d Risk Likeliho	• •				
Risk Rating	g :				New Ris	k Rating:			
Low	Moderate	Significant	High		Low	Moderate	Significant	High	

Signed by owner(s) of risk assessment:

Risk Enablement Plan - Guidance Notes

Taking risks is part of everyday life. Sometimes taking a risk can be positive. Even if the outcome is not so good, you might say, "Well I tried it, it didn't work, but I've learned something". However, taking risks can lead to you, or someone else being hurt or harmed. 'Risk enablement planning' is a way of stopping and thinking about the possible risks and deciding if it is possible to change things so there is less chance of anyone coming to harm and if you (and others involved) can cope with any remaining risk.

Firstly, it's helpful to think about how badly you (or anyone else) would be affected if you simply went ahead and got on with the task or activity without making any changes at all. This is called the 'severity' of the risk and you score it between 1 and 4 (where 4 is **the worst possible thing** that could happen, such as risk to you, or someone's life). You need to balance that against the actual chances of things going wrong – this is the 'likelihood' of the risk, which you also score between 1 and 4 (where 4 means it is **certain** to happen). You will need a separate plan for each risk and your Adult Social Care Practitioner will use the plan as evidence of your decision making.

Have a look at the examples below for Peter and Jen. Peter and Jen both work with an Adult Social Care Practitioner to complete the risk assessment and by comparing what they have scored for 'severity' against 'likelihood' in the risk matrix, they assess this risk to be 'significant' (high severity and likelihood of harm). After discussing what could be done to reduce the risk, the risk is assessed again. In



Peter's case, the risk is reduced to 'moderate'. They agree to have a follow up meeting in a month to see how Peter is getting on. In Jen's case, the risk remains "significant" (high severity and likelihood of harm). Again, a review is arranged in a month.

Risk Matrix

Likelihood		Severity				
On a scale of 1 to 4	1. No risk of injury/harm	2. Slight risk of injury/harm	3. Moderate risk of injury/harm	4. Serious risk to life		
4. Certain to happen	Low	Significant	High	High		
3. Likely to happen	Low	Moderate	Significant	High		
2. Moderately likely to happen	Low	Moderate	Significant	High		
1. Unlikely to happen	Low	Low	Moderate	Significant		



Example 1

What are we worried about?	What might happen? What is the risk? What might be the benefit?	What could go wrong? Potential harm caused to me or someone else.	What could be done to reduce the risk?	What plan have we agreed?
Peter wants to continue to walk around his home by holding onto furniture. Peter has already fallen three times this year and had to go to hospital on one occasion.	Peter may misjudge how far away the furniture is and fall over. Peter feels more independent when he doesn't use a walking stick.	Peter could seriously hurt himself and not be able to get help.	Peter could use his walking stick and place this near his armchair, so he remembers to use it. Or Peter could get a Care Link pendant alarm and press this if he falls, alerting paramedics if necessary.	Peter agreed to keep his walking stick near his armchair and will use it when he wants to walk around his home.

Risk Severity (1-4) see Matrix = 3	Updated Risk Severity (1-4) see Matrix = 3
Risk Likelihood (1-4) see Matrix = 3	Updated Risk Likelihood (1-4) see Matrix = 1
Risk Rating:	New Risk Rating:
Low Moderate Significant High	Low Moderate X Significant High



Example 2

What are we worried about?	What might happen? What is the risk? What might be the benefit?	What could go wrong? Potential harm caused to me or someone else.	What could be done to reduce the risk?	What plan have we agreed?
Jen has a moderate learning disability. She recently moved into supported accommodation having previously lived with her parents. Jen has discovered she loves to go clubbing in Bristol on a Friday and Saturday night.	Jen has recently been spending a lot of money buying drinks for strangers she has met in pubs and nightclubs. Sometimes this has left her with limited money for the rest of the week. Jen has fun on the night out and makes new friends.	There are concerns from support workers that Jen may be taken advantage of financially. Jen's parents think she should be prevented from going out by support staff.	Jen could agree not to go out to nightclubs anymore. Jen could agree to be accompanied by a support worker or a friend. Jen could agree to go out with a limited amount of money. Jen could be provided with information about healthy friendships and financial exploitation.	Jen has decided she wants to continue going out clubbing at weekends. She says she likes meeting new people and buying them drinks. Jen does not want to be accompanied by support workers or friends. She does not want to limit the amount she spends. Jen has agreed to some conversations with support workers about healthy friendships and financial exploitation.

Risk Sev	verity (1-4) see M	latrix = 3		Updated Risk Severity (1-4) see Matrix = 3
Risk Like	elihood (1-4) see	Matrix = 3		Updated Risk Likelihood (1-4) see Matrix = 3
Risk Rati	ing:			New Risk Rating:
Low	Moderate	Significant	High	Low Moderate Significant X High