

# What are Defensible Decisions?

Kemshall (2009) states that defensible decisions are those *'that will withstand the harsh scrutiny of hindsight bias in the event of a risk failure...informed, balanced, proportionate and just risk decisions.'* Cooper (2011) states that defensible decisions are *'critical, reflexive and careful judgements...with the fully considered evidence of incomplete knowledge so that you can defend and justify your assessments, plans and interventions.'* A defensible decision is one that is evidence based; uses all the information available/discoverable to you at the time; evidences rationale for the decision, including anyone consulted, such as your manager; follows policy and legislative responsibilities and duties; and is recorded in a way which evidences all the above. Good practice around decision making includes ensuring all reasonable steps are taken, for example, risk assessment and risk management plans well-matched to the identified risks; use of reliable assessment methods; thorough evaluation and analysis of information that has weighed up different outcomes and options before deciding; prompt completion of actions; and practitioners and managers are investigative and proactive.

## Further Information

Practitioners can find further guidance via links provided throughout this briefing. In addition, the following resources are also available: [Good Decision-Making: Practitioners' Handbook - Research in Practice](#); [Good practice in recording and access to records: Strategic Briefing - Research in Practice](#); [OSAB Safeguarding Supervision Guidance](#); [Reflective Supervision Resource Pack - Research in Practice](#); ['Why intersectionality matters for social work practice in adult services'](#) from Gov.uk; and the [Tiered Risk Assessment and Management \(TRAM\) Protocol](#). Practitioners can access multi-agency training about a range of safeguarding topics via the [OSAB website](#).

## Unconscious Bias

Safeguarding requires us to be professionally curious if we are to check and challenge any unconscious bias on our part. Unconscious bias refers to unconscious forms of discrimination and stereotyping based on, for example, race, gender, sexuality, ethnicity, ability, or age. In addition, intersectionality is an approach used to understand the ways in which people experience overlapping/intersecting forms of oppression and discrimination based on different aspects of their identity. Unconscious bias recognises that we all hold certain social stereotypes about groups and people. This is normal and stems from a tendency to organise our social world by categorising it into 'safe' and 'unsafe'. Unfortunately, this categorisation system, which we learn from childhood, can go wrong and can lead us into making incorrect assumptions about groups of people in different situations. This system is flawed and in certain scenarios it can activate our unconscious attitudes and beliefs in a way that has a profound negative impact, a bias. It is important to acknowledge this and ensure decisions are not made based on our own bias. Stereotyping individuals based on 'difference' is potentially discriminatory and can lead to poor practice/decision making. The Equality Act protects specific individuals from discrimination. We have a duty to ensure 'reasonable adjustments' are considered when supporting people who have 'protected characteristics'. For more details see the [Reasonable Adjustments Briefing](#).

# Analysis and Critical Reflection

Analysis and critical reflection includes being aware of where our thoughts, beliefs and actions come from; critically evaluating our thoughts, beliefs and actions; and being able to explain our thoughts, beliefs and actions to others. Analysis and critical reflection helps us to be more confident about our decision-making as we have increased awareness of where our decisions have come from. We can more easily identify where there is bias or discrimination and act less oppressively and our knowledge can be used and challenged more effectively. Critical reflection looks at how we know what we know. Analysis and critical reflection are particularly important in helping us to generate hypotheses about what is happening; test hypotheses through identifying what we do not know and gathering evidence; understand other perspectives; identify the impact of our beliefs, values and emotions on our thinking; identify the impact of our emotions on our thinking; identify the impact of ourselves on a situation; and learn from successes, mistakes and near misses. It helps us to identify why we pick a particular interpretation of events and, therefore, what we base decisions on.

## Key Considerations

Be mindful of decision fatigue - a well-documented phenomenon in psychological research. As we make more decisions throughout the day, our ability to make thoughtful choices deteriorates, we often run on autopilot or make poor decisions. Be mindful of the complex environment in which we work and the potential impact on decision making. Reflect on the potential impact of external factors such as staff/resource shortages, performance targets, organisational change and complex modern practice. Focus on building routines, prioritising important decisions, and taking breaks to recharge regularly.

## Skills, Approaches and Postive Risk Culture

Decision makers should always bear the following skills and approaches in mind: be committed to continuous learning and improvement; be [professionally curious](#); take a person-centred approach - always think 'Human Rights'; be strengths-based and [trauma informed](#) in your approach, work with the values of transparency and integrity; work cohesively with, and seek the views of, other agencies and professionals; be willing to challenge and escalate concerns; and be analytical and reflective. Reflective supervision is essential. Supervision should develop practice in order to improve outcomes for the individuals you support.

It is important to ensure a positive risk culture. Risk assessment practice should be 'defensible' rather than 'defensive' (Langan and Lindow, 2004) otherwise it can deny individuals freedom, control and autonomy. Baker and Wilkinson (2011) identify that organisations need to develop approaches to risk-taking and decision-making that are not defensive, and do not only rely on practitioners following technical processes or procedures.



## Defensible Decision Making

## Recording Analysis, Rationale Decisions and Actions

As a general rule, records should always include what information was gathered, from who, and why (clearly distinguishing between facts, opinions, professional judgements and hearsay); what you thought it meant and why (analysis and critical reflection); what your professional judgment was based on (whether this was a legal framework, procedures you applied, theories considered or other factors); what decision was made and who was involved in decision making; and what action was, or was not, taken as a result of the above summary, analysis and evaluation (Nosowska, 2014). Compliance with your own organisational recording systems and policies is also important. Consider recording as soon as possible after events. Good record keeping is key to defensible decision making and accountability, to the individual, to managers, to inspections and audits. For more information see the [OSAB Record Keeping and Information Sharing 7-Minute Briefing](#).

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