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Rose Cottage Counselling Confidentiality Policy

This document will set out guidelines for maintaining confidentiality on all matters pertaining to the client, these include clinical and administration information. Every effort must be made to preserve the confidentiality of clients both verbally and written records. The BACP produces several documents to support this policy that relate to Confidentiality, Note-Keeping and Access to Records, these are available for guidance.

Client Confidentiality

The limitations of confidentiality within the services offered must always be discussed with the client at the initial assessment stage and then clarified at the beginning of the counselling contract. Clients are entitled to information about the purpose and nature of records kept about them and they must be made aware of their right to see that information if required. Clients must be informed that confidentiality is held within Rose Cottage Counselling and that the counsellor receives regular supervision whereby client issues are discussed. The client must also be given information relating to issues of risk or public interest that might affect the counsellor's ability to offer confidentiality. The principles of confidentiality are upheld after a client's death unless there are overriding legal or ethical obligations.

Verbal Confidentiality

There must always be a clear purpose for the counsellor to discuss the client outside supervision and a confidentiality agreement should have been made by all present. Wherever possible the discussion should be done in non-specific and non-identifying terms. Client details should never be discussed in public places, social situations or on social media.

Written Confidentiality

There needs to be an acknowledgement of the difference between client records and counsellor's personal notes.

- **Client's Records**

Client records are kept in a locked cabinet in the locked office of Rose Cottage Counselling. Each client has a file and is only identified by the client code and the majority of these files only contain specific information about the client relevant to the service currently offered. Rose Cottage Counselling adheres to the BACP's guidance on record keeping which refers to issues of trust and privacy. The information is stored securely and is kept for 3 years after the client completes counselling, in line with GDPR and the company's Insurance requirements.

- **Counsellor Notes**

Counsellor notes are kept in order to aid memory, focus thoughts and to use for supervision. These notes are kept under conditions of strict confidentiality and in a secure locked cabinet with no identifiable information relating to the client. The client's name will not appear on any of the information and is only identifiable by the client code allocated to them. Similar care is taken with regards to the use of technology for taking and recording notes and records.

It must be recognised that the counsellor notes could be legally viewed as part of the organisational records and might need to be produced under a subpoena in a court of law.

The counsellor has an arrangement for the safe disposal of these records and notes by a colleague/supervisor or appropriate person should a situation arise whereby the counsellor is unable to do so.

Client's Access to Notes and Records

According to GDPR clients can request to see and have copies made of all information held about them, this would include organisational client records. Counsellor's notes can also be viewed as part of the client records in the eyes of the law and may be disclosed if ordered to do so by the court. Organisational GDPR policy is to be referenced alongside this for further guidance.

Sharing Client Information

Sharing of information with another professional or an external agency should only be made with the written permission of the client. The only exceptions to this would be if there was a risk to the client or a third party. Full details of any contact with other professionals must be recorded and stored with client notes.

Third Party Access to Client Records and Information

Solicitors, police, or any outside body or agency seeking information or records should be directed to apply in writing. This also applies to requests for letters of confirmation of attendance. The counsellor should make their supervisor aware of this request and inform the client to gain consent. If a client became involved in a legal process during ongoing counselling, the counsellor should inform their supervisor and may decide to seek legal advice, as requests for information or records may follow. Always ensure, as well as gaining clients consent, the client has read, understood and validated the records or notes before they are released to the third party. Before release the counsellor also needs to establish whether the release of the documents might cause serious harm to the client or to a third party.

Requests for clinical judgement or diagnosis will be rejected as counselling is not a diagnostic therapy and the counsellor isn't qualified for this practice.

Court Orders, Court Reports and Summons

In the event of client notes and records being subpoenaed by a court, Rose Cottage Counselling may seek advice before proceeding. Destruction of any notes at this stage could amount to contempt of court and could lead to prosecution. If the court requires the counsellor to appear as a witness, then legal advice will be sought before proceeding. Requests for court reports will initially be dealt with in the same way as third-party requests for information and a brief factual summary may be sufficient.

Although the wellbeing and best interests of the client is paramount, ensuring trust and privacy of personal information, there are occasions when the public interest outweighs the benefits of confidentiality, e.g.: reporting child abuse, serious crime, threatened harm to the client or a third party or when required to do so by the law.

Obligations to Disclosure

Restrictions on confidentiality where the counsellor is required to pass on information without the client's consent are relatively few in numbers.

These legal statutes include The Terrorism Act 2006 and The Drug Trafficking Offences Act 1994.

The Terrorism Act 2006 places an obligation on the counsellor to pass on information about planned or actual terrorist offences. The definition of terrorism is drawn deliberately wide and for more information on this Act visit: <https://www.legislation.gov.uk/ukpga/2006/11/contents>

The Drug Trafficking Offences Act 1994 requires any person to disclose to the authorities if they know or suspect that a person is concealing money made through drug trafficking. For more information visit: <https://www.legislation.gov.uk/ukpga/1994/37/contents>

Both these Acts state that to NOT make a disclosure is an offence and informing the client that you have notified or are going to notify, the police could constitute as a separate offence.

Other Disclosures or Breaches of Confidentiality

Counsellors also need to be aware of the potential impact that Safeguarding Vulnerable Adults and The Children Act 1989 could have on their practice. Disclosure or suspicion of abuse relating to these two pieces of legislation could present an ethical dilemma for the counsellor and discussions with their supervisor would support the counsellor with the management of breaches of confidentiality.

In the first instance the counsellor should always gain the client's permission to act and make them aware of any associated implications.

Safeguarding Vulnerable Adults was introduced to help protect vulnerable adults from abuse and neglect. It is also there to ensure a vulnerable adult's views, beliefs and wishes are upheld and respected. For more information visit: <https://www.gov.uk/government/publications/safeguarding-policy-protecting-vulnerable-adults>

The Children Act 1989 defines a child as a person under the age of 18 years. The Act was introduced to outline the legal responsibility where there is a possible child protection concern; priority is given to ensure the safety and welfare of the child. It is a professional duty to not only raise concerns with the client but to share relevant information with other services/professionals involved with a client when there are genuine child protection concerns. For more information visit: <https://www.legislation.gov.uk/ukpga/1989/41/contents>

Suicidal Clients

Responding appropriately to clients with suicidal intent can be challenging. The management of confidentiality with these clients is linked to decisions about when to act with regards to preservation of life and the client's right to autonomy. See also Rose Cottage Counselling's Risk Management Policy and Safety Plan for further guidance.