

RDCounselling

Confidentiality & Data Protection Policy for Supervision Services

Introduction

A solid foundation of trust is essential to all supervisory relationships and the confidentiality between supervisor, supervisee the supervisee's clients, is a fundamental requirement of the ongoing supervisory relationship. The content of supervisory and counselling sessions is confidential, in accordance with the ethical framework and professional standards of the BACP (British Association of Counselling and Psychotherapists, of which I am a registered member (no: 123781).

Any individual who makes contact with RDCounselling for information about the supervision service or engages into a supervision agreement, is protected under the RDCounselling Confidentiality and Data Protection Policy. No information about the supervisees or their clients will ordinarily be divulged to any person or organisation outside of RDCounselling, outside of supervisory supervision, without the supervisees' permission. The policy applies to any supervisee for whom contact does not proceed beyond an initial enquiry. The death of the supervisee does not end the obligation of confidentiality.

There are some circumstances in which there could be grounds to breach confidentiality and these are listed below, and discussed later in this policy. All supervisees who enter into an agreement with RDCounselling will be made aware of these exceptions.

- i. Supervision: clients and the therapeutic work are discussed with a professional counselling supervisor and will only be known either by initial, first name or reference. This is to ensure that clients remain anonymous and are receiving the best quality of care and appropriate counselling, as required by the BACP.
- ii. There is the risk of harm to self and/or to others
- iii. The Terrorism Act (2000) requires that the counsellor disclose any belief of suspicion of acts of terrorism
- iv. The Drug Trafficking Act (1986) requires the counsellor to disclose to the police information of any individual making money through drug trafficking
- v. The Road Traffic Act (2000) requires the counsellor to provide information to the police that might identify a driver in a traffic offence. In addition, if a counsellor becomes aware that a client may be

driving whilst unsafe (e.g. through epilepsy, medical condition, drug or alcohol abuse) the law requires the counsellor to pass this information to the DVLA

- vi. The Children Act (1989) requires the counsellor to disclose information or belief that a person under age 18 is a risk of harm
- vii. If a court order requesting information about the client is received
- viii. A written request from the client to release information to a third party e.g. a solicitor or doctor
- ix. There is a breach of agency policy by the supervisee
- x. A competency or conduct concern is identified regarding the supervisee
- xi. If RDCounselling believes there are grounds for taking action, it will be discussed with the supervisee (if reasonably possible) before any action is taken
- xii. In the event that RDCounselling is incapacitated, you will be contacted by an appropriately qualified person who will assist practical aspects of ongoing supervisory support for the counsellor

Data Protection

Access to the information held by RDCounselling on its' supervisees is compliant with the Data Protection Act 2018 (DPA) and General Date Protection Regulation (GDPR). Under the terms of the DPA we are required to inform supervisees, of data held which identifies the supervisee personally and whether and how this is accessible to the supervisee. The information held is kept confidential and all records are kept in written form and securely stored for a period of seven years, as required for insurance purposes. Notes on individual sessions are retained for reference purposes only and are also stored securely. These notes are available to view if requested by the supervisee but remain the property of RDCounselling and may not be copied without prior agreement. The records we hold on individual supervisees are in three parts:

1. Supervisees approaching RDCounselling are asked to provide their name, contact details, emergency contact details, training history, insurance details, details of counselling work undertaken
2. Notes taken during the initial contact and subsequent sessions
3. Supervisors normally keep confidential records which are only accessed by them. These notes may contain notes on the clients being supervised and the supervisee, all of which are coded and unidentifiable back to the client

Any request to see these notes should be made to the RDCounselling in writing. RDCounselling will not release any information regarding the supervisee to any enquirers, without the express permission of the supervisee, or required to do so by law.

Maintaining Client Confidentiality

- i. Identifying and sensitive information should be passed to RDCounselling on a “need to know” basis. Such information includes name, address, biographical details and other descriptions of the client's life and circumstances which might result in the client's identification
- ii. Referral to another agency should be made only with informed consent from the client
- iii. Identifying and sensitive information should be passed to other agencies only with the agreement of the client
- iv. If a client or potential client is known to an RDCounselling associate, then RDCounselling should not engage in the supervision of that client
- v. Supervisees should not be asked to state the nature of their contact for supervision in the presence, or within the hearing, even on the phone, of others
- vi. Care is needed to maintain security when storing, processing or transferring all paper or electronic information
- vii. Emails sent between supervisor and supervisees should also maintain confidentiality:
- viii. Information emails: providing local information, confirming appointments should not contain client specific information
- ix. Support emails: RDCounselling does not currently provide supervision support via email

The need to share information within Supervision

The confidentiality agreement is between RDCounselling and the supervisee. Clients are not fully identifiable within supervision (although this may become necessary for purposes of risk assessment or where the supervisor takes responsibility for a necessary report to another agency). There may be good reason for a supervisor to ask questions about an individual client, including the possibility that the supervisor may have concerns that a potential risk could arise, (e.g. in connection with child protection or with a vulnerable adult). If a reason for concern is identified, those involved in the consultation must share full information about the client, although care will be taken before it is decided to share any of this outside RDCounselling.

Exceptions to Confidentiality

Outlined below are a set of circumstances in which confidentiality may need to be breached without the supervisee's agreement. The need to do this is rare and there are exceptional circumstances when the maintenance of trust may be outweighed by issues of public interest. It may be necessary to break confidentiality, or to vary the confidentiality agreement, in the following broad categories of circumstances, where:

- There is a risk of serious harm to the client, to someone else, or to the public at large, and it is necessary for RDCounselling to act because the supervisee (and client) is unable or unwilling to do so.

- There is a legal obligation (normally a court order or witness summons)
- Serious Harm (see below)
 - i. Where there is reason to believe that a child or young person may be at risk.
 - ii. Where there is reason to believe that a vulnerable adult may be at risk.
 - iii. Where there is reason to believe that the client or someone else is likely to be at serious risk or has already been seriously harmed (e.g. the person has previously been attacked and the attacker is still at large, or threats have been made). Serious harm may be physical, psychological or financial. This includes adult disclosures of historic abuse
 - iv. Suicide risk
 - v. Risks to counsellor should be included in any assessment of the potential for serious harm

Emergency Situations

Some situations of immediate or threatened serious violence will justify an immediate 999 call. The safety of the counsellor, client and those in the immediate vicinity is paramount. In general, it is preferable for a client who needs further help, or who is aware of a situation which should be reported to the police or to another authority, to undertake this themselves. However, the more serious the situation appears to be, the more important it is that RDCounselling demonstrates that the correct action has been taken, and in rare circumstances, this will involve contacting further help (e.g. the police, Social Services, or medical assistance) without the client's permission.

Other situations, although giving rise to serious concern, may allow the possibility of more consultation. In all cases, an experienced supervisor must be consulted. The counsellor and the supporting supervisor must agree an action and communication plan, bearing in mind that in difficult situations, the order in which individuals are given information may affect their safety or the safety of others.

In some situations, the plan may of course include attempts to persuade the client to report the matter themselves to the appropriate authority, but if this does not succeed, it may be necessary for RDCounselling to do this. In some such cases, it may be desirable to ask the Police for advice to protect the counsellor's safety.

Supervisees will normally be informed of any action which has been taken to breach confidentiality, unless to do so would incur further risk to the safety of the client, the counsellor, or someone else, or would risk impeding an investigation under Child Protection or other relevant procedures.

Legal Obligations

- The police have no access to records without a court order
- A court may order RDCounselling to appear as a witness, and to produce records

- Subject to the exceptions listed, there is no legal duty to report a crime. If RDCounselling is concerned about information that they may have about a crime not covered by the exceptions listed, this should be tested, with a supervisor, against the “serious harm” criteria set out above

In practice, the courts are sensitive to the ethical dilemma; it is permissible as a “conscientious witness” to request the court to waive or restrict its powers to order disclosure. In criminal cases, information held by RDCounselling will rarely constitute evidence. In civil cases, RDCounselling would not have the status of “expert witness.”

Consent to disclosure to a third party of confidential information

Referral to other agencies

RDCounselling works on the principle that client autonomy will be respected. If it is felt that a client would benefit from the services of another agency, RDCounselling will discuss this with the supervisee, who will supply the relevant information and support the client to make contact themselves. Only in cases where the client seems too distressed, shocked or otherwise incapacitated will supervisees do this on the client’s behalf, with their permission, which should be gained as informed consent.

Potential court cases

The courts are public arenas; disclosure of the details of a supervisory relationship risks eroding public perception of the confidentiality of RDCounselling services; it should be avoided if possible. Supervisees must inform RDCounselling of any pending court cases of which they have involvement.

Civil claims for psychological injury

Any solicitor seeking a report to support such a claim should employ a suitably qualified expert witness; RDCounselling is not qualified to act in this capacity. It occasionally happens that a solicitor will receive permission from the client for the RDCounselling record to be disclosed, in the belief that it is relevant to a claim for psychological injury. The record may only be disclosed on receipt of a written request from the client for disclosure of their records, under the Data Protection Act (2018). Requests for RDCounselling to provide a witness statement should be refused on the ground that they are not an expert

Potential criminal prosecutions

It may also occur that supervisees are supporting clients in criminal cases where a serious crime may be disclosed. This is most likely to happen when the crime has been disclosed in the course of ongoing support and has not previously been reported to the police (e.g. earlier physical and/or sexual abuse suffered by the client). The information held by RDCounselling is unlikely to be evidence; cases should be treated on their individual merits after appropriate consideration and consultation.

RDCounselling is aware that information provided to the prosecution forms part of the case file, and may be disclosed to the defence. Whether there are any concerns for the safety of the client, RDCounselling, or anyone else as a result of what is disclosed, is an issue which must be considered. If necessary, advice must be sought from the Police or the Crown Prosecution Service.

Adult disclosures of previous child abuse

Disclosures in the course of ongoing support work, where the alleged perpetrator is still alive, may raise concerns as to whether they have access to children, whether in a family setting, through employment, or any other situation. The supervisee must always consult their supervisor in this situation. It is not the role of RDCounselling to investigate but as a supervisor, RDCounselling must ensure that appropriate advice is obtained. Where the situation is serious enough, the welfare of any children who could potentially be at risk must be paramount. Advice should be sought from the Social Services Department or from a senior police officer with appropriate experience. Unfortunately, in some cases likely to result in a prosecution, evidential concerns may affect the further provision of support to the client.

Recording of decisions regarding confidentiality breaches

In all cases where a difficulty over confidentiality has occurred (whether or not it is decided to breach confidentiality), a brief signed note should be included in the client record of:

- i. The reasons for concern
- ii. The advice taken and who has been consulted
- iii. The decisions taken and the reasons for them
- iv. The information which has been provided to any third party/ies. Any disclosure of confidential information should be restricted to relevant information, conveyed only to appropriate people and for appropriate reasons

Children and Young People

RDCounselling does not currently offer supervision services to counsellors working with children and young people (under age 16).

Complaints about alleged unjustified or careless breaches of confidentiality

Any complaints are taken seriously and will be dealt with in accordance with the BACP Complaints procedure. Any concerns should be addressed initially to RDCounselling. If the supervisee and supervisor are not able to resolve the issue verbally, then a written complaint should be made to RDCounselling. All supervisees and third parties have the right to make their concerns known to the BACP, of which Rebecca Duncan is an accredited registered member: no 123871. Further guidance is available at www.bacp.co.uk/prof_conduct.