



Confidentiality Policy

Includes guidance on:

- the terms that apply to information that is voluntarily given to us by people using our services or attending counselling, in person or remotely
- the limitations to confidentiality and how we manage information sharing in the context of a serious risk of harm
- upholding clients' rights to protection of privacy

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Responsible Group: Board of Trustees, Clinical Management Team

Date Ratified:

Where this is to be held: In the main MCS office, digitally

Information from/sourced/referenced:

- MCS Vulnerable Adult and Child Policy (C-001)
- Covid-19 New working protocol (P-019)
- Online and phone therapy (OPT) competence framework (BACP 2021)

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If you would like this document in other languages or formats (i.e. large print) please discuss with the administrator who will endeavour to help you.

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1. Introduction

1.1 The Principle of Trust Throughout the Counselling Process

We understand the word 'confidential' to infer being trusted with private information. For the purpose of therapy, we endeavour to achieve as full a trust as possible with clients. The nature and level of that trust will vary from client to client, dependent upon their own past experiences and vulnerabilities. However, it is important to state, in this context, that confidentiality is not absolute. With this in mind our policy follows the guidelines below.

1.2 Trust begins at the point of referral where personal information may be disclosed by the referrer. The fact that the person referred is requesting counselling is deemed a confidential piece of information.

1.3 The principle of confidentiality is that a client invests trust in the individual practitioner they elect to disclose information to. This allows for the therapeutic process to manifest itself and continue over time. MCS holds to the principle that to break such trust may be considered abusive.

2. Legal Requirements

2.1 The information which is verbally related to us at the assessment stage, and during counselling sessions, is given with the understanding that confidentiality will not be broken except under the rules of disclosure enshrined in British Law, these are when:

- A person discloses information about drug-trafficking or money laundering
- A person discloses information about an act of terrorism
- When a judge or coroner issues a legal order for the release of client notes

In some circumstances, with the person's explicit consent, confidential information may be shared (see section 3 below). This may be:

- Where the person concerned believes it to be in their best interests and gives specific instructions re what may be shared.
- In circumstances where the person concerned or a member of the public is considered to be at risk (sometimes referred to as "in the public interest"). This includes factors outlined in the Vulnerable Adult and Child Policy (C-002)
- There is no legal obligation for an independent counsellor to inform a third party of their client's intention to commit suicide (See P-011)

2.2 The governance of all information pertaining to an individual is held confidentially in line with the Data Protection Act 2018. This includes the amendments as set out in the GDPR framework and consistent with the terms set out for organisations by the Information Commissioners Office (ICO).

3. Information Sharing

3.1 Private information offered by clients will only be shared with a third party for a specific purpose endorsed by the client and be the minimum necessary to achieve that purpose. Consent for the sharing needs to be obtained beforehand after an appropriate level of discussion regarding possible repercussions, including any further limitations to confidentiality.

3.2 **General Practitioners**

- At assessment clients are asked to give consent for information to be shared with their GP if serious concerns for their safety arise (See Safeguarding policy C-001)
- Consent is not a condition for receiving counselling. In such circumstances if the client is concerned about confidentiality this will be recorded in the assessment notes.
- In the instance of a counsellor having concerns about the safety a client, the counsellor will remind the client of the prior agreement to contact the GP – if consent was given – or if not discuss who it is most appropriate to involve, before any action is taken. This might include returning to the issue of consent to contact the GP.

3.3 **Next of Kin / Family**

- At assessment the client is asked for a contact person to stand as next of kin. This is solely for the purpose of making contact in a medical emergency during the counselling sessions.
- We do not discuss the client's sessions with family members including confirming whether or not the client is attending for counselling.
- It is acknowledged that it might sometimes be difficult to not respond to a request for such confirmation, such as when the next of kin or family member is paying for the sessions. However, this will have been explained when the arrangement was first made. The client takes responsibility for whether or not they inform a family member or carer about their attendance.

3.4 **Supervision**

All counsellors working for MCS receive supervision within the organisation. This ensures that confidential information is kept 'in house'. The only exception to this is when a counsellor is trained in a specific technique which is outside the supervisors' areas of expertise. In this instance an external supervisor is found who will agree to abide by the confidentiality policy of MCS, and indicate to the clinical director if they have any concerns about the work of the counsellor. The client experiencing the technique will still be discussed in supervision within MCS. Supervision is a required element for all counsellors who are working professionally. The provision of adequate supervision is a requirement for the organisation's BACP accreditation. Supervisors meet for peer supervision in Clinical Management Meetings. Where they take the work of the therapist to an external supervisor for discussion, confidentiality is protected by the same agreement as with counsellors

3.5 **Students**

Periodically our counsellors may undertake further training which necessitates the discussion of their work within the training organisation. If a student wishes to use the material from a client in this way, they will first seek the client's permission, clarifying how the material will be used and to what purpose. All such material will have any identifying information removed and MCS has a form for written consent from the client. It is made clear to clients that they do not have to agree to their work being used in this way in order to receive therapy.

4. **Written Notes and Records**

4.1 **Referral**

On referral basic information is recorded by the administrator on a file card which is kept in a locked file in the office. The client is informed verbally about our privacy policy and how this data will be kept. This is the only paper record which holds the client's name. An ID code is assigned which identifies all subsequent notes which are kept in a separate locked cabinet. The file card is the only place that links the name and ID code.

4.2 **Assessment**

This is conducted by a qualified and accredited psychotherapist. Registration may be through the United Kingdom Council for Psychotherapy (UKCP), the British Association of Counselling and Psychotherapy (BACP) or the Health and Care Professions Council (HCPC). A written assessment summary is recorded. This is not a psychiatric assessment, but an overview of the client's situation for the purpose of clinical risk assessment and allocation to an appropriate counsellor/therapist. The summary is used, in a structured process, to determine whether therapy is an appropriate treatment. It records whether an individual is psychologically minded and might benefit from one of a number of therapy approaches MCS provides. It indicates whether the client might be put at psychological risk through receiving therapy in this context. The clinical assessment also serves to determine apparent risk for suicide, self-harm and violence. The client is not named but referred to by their ID and any possible identifying information such as place of work is anonymised. Where the assessment is transferred between people digitally a fully encrypted platform is used (Protonmail).

4.3 **Contract**

The MCS client/counsellor agreement provides clients with relevant information about how we manage what they tell us, and when and how we might need to break confidentiality. Included is information about the period of counselling, the fee and session boundaries. The client and counsellor complete a written contract at the beginning of therapy and time is taken to ensure that the client fully understands and is happy with the terms of the agreement.

Clients will also be made aware of the MCS Privacy Policy (O-010) which includes their rights with regard to the information that we hold about them.

4.4 **Counselling/Therapy Notes**

During counselling our counsellors maintain brief notes which is understood as good practice. MCS expects counsellors to familiarise themselves with note writing principles as set out in the relevant policies (see Note Writing Policy (P-014)). Counselling notes are not intended to be a detailed account of what is said in the session. Their principal purpose is to monitor changes in presentation and risk. They provide a very brief outline of the counselling sessions, and are kept in a locked cabinet in the building for the use of the counsellor assigned. The British Association for Counselling and Psychotherapy (BACP) ethical framework (by which we abide) encourages record keeping. It is not a legal requirement. If sessions are conducted remotely, notes are held by the therapist in an equally secure place until they can be filed in the office.

4.5 **Other Records**

Other papers pertaining to the counselling contract held on file:

- a client/counsellor agreement which is signed and kept with the initial file card
- a record of contact and payments
- statistical information forms
- CORE 34 questionnaire(s)
- a client closure/feedback form when the sessions are completed.

4.6 **Release of Notes to a Third Party – see also Information Sharing 3.**

MCS is registered with the British Association for Counselling and Psychotherapy. As a service we provide low-cost professional psychological support for the financially disadvantaged, and treat people with a wide range of personal issues. Staff are not medically trained and are not in the position to make medical diagnoses. Neither are they qualified to provide professional assessment of an individual's specific abilities. Notes cannot therefore be used to prove that a client suffers with mental illness or is unable to fulfil specific roles such as parenting.

Clients may on occasion give permission for their notes to be released to a third party. It is not our practice to release notes without first discussing in detail with the client the purpose for which they may be used and the potential consequences. Decisions of this nature can be made during a period of trauma or under pressure and may not be in the client's best interests, even if they believe this to be the case.

4.7 **Reports**

Counsellors are sometimes asked to supply information or opinions to a third party which the client believes will assist them in some purpose external to the counselling sessions. As a general principal pressure to do so will be resisted and explored. It is not part of the counsellor's role to supply reports to any agency, even if that agency (such as a workplace or social services) is funding the counselling. Any requests of this nature need to be referred to the clinical director.

5. Related Documents and Sources of Information

- Privacy Policy (O-010)
- Suspected suicide or self-harm protocol (P-011)
- Note writing protocol (P-014)
- Court Action protocol (P-006)
- BACP Code of Ethics

Appendix (1): Maintaining Confidentiality when Working Remotely

Whilst much of this policy applies to working with clients over the phone or via a video conferencing platform as well as face-to-face, it is important to consider the following additional dimensions that may assist to maintain confidentiality.

A.1 Contract

Before starting therapy sessions remotely counsellors will discuss with clients the limitations of confidentiality as stated in the client/counsellor agreement for remote working.

A.2 Technology

Alongside considering what the client feels comfortable to use, we advise counsellors to only use an audio-visual platform that is encrypted and one which doesn't allow for the platform owners to record or harvest users' material. For this reason, MCS does not recommend Skype.

A.3 Paperwork

Remote versions of all our forms are available. If working remotely from home, paperwork concerning the sessions will be held there in secure storage. Copies are sent to the office for the main client file. Where confidential information is concerned this will be via the encrypted platform Protonmail. Any electronic record kept must be secured with a password.

A.4 Counselling Environment

In relation to working remotely counsellors need to be confident of the relevant procedures, be informed and prepared to discuss issues of data privacy in relation to the clients' circumstances and vulnerabilities in supervision. In addition, they will:

- check that the client can be in a private space for confidentiality purposes
- if there is anyone else in the house, check that the client will not be disturbed unless in an emergency
- where young children are present, check that there is someone else to supervise them during the session.

If the home environment is not conducive to confidentiality, occasionally a client may decide to take their session via the phone in a more private space. Although this may be preferable to cancelling the session, risk needs to be evaluated: for example, it may not be appropriate for a depressed and impulsive client to have their session in their car. Counsellors must ensure that their own situation is equally protected.

A.5 Recording

Counsellors have responsibility to manage their own 'digital footprint' and that of the clinical work. Counsellors may discuss the issue of recording sessions with their clients.

- 5.1 MCS does not recommend the recording of sessions but there may be circumstances in which a trainee may ask permission from their client to do so. In the same way as written material it is important that the client understands how the recording will be used and that it will be destroyed as soon as its purpose is completed. Written permission needs to be obtained.
- 5.2 If a client wishes to record one of their sessions the request will be considered in the light of the intended purpose. It will be useful to explore what having a recording will mean to the client and ensure that an agreement is reached which is satisfactory to both parties. The issue needs to be discussed in supervision.