



MARCHES COUNSELLING SERVICE:

Court Action

Includes guidance on:

- Considerations that need to be made at relevant stages for clients who are involved in court proceedings
- Guidance on procedures to safeguard the confidentiality of client disclosures in the context of the therapeutic relationship
- Issues related to recorded information about clients and access to therapy notes

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- Note Writing & the Law (2014, BAAT policy)

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1. Introduction

This protocol provides guidance on processes & procedures that should be followed when undertaking therapeutic work or counselling with clients who are involved in court proceedings. This protocol should be read alongside the policy on “Clients in the Criminal Justice System” (C-003)

2. Procedure at Referral

- 2.1 The administrator asks any prospective client if they are involved, or expecting to become involved, in any legal or court proceedings.
- 2.2 If they reply in the affirmative then they should be told that before going any further we need to clarify that as an organisation we are not in a position to write reports on our work with clients, nor are our counsellors qualified to provide psychiatric reports, for which they would need to contact a psychiatrist or chartered psychologist who specialises in this area.
- 2.3 The administrator should indicate where there are certain legal issues involved & we have a duty of care to others which means that we may not be able to maintain complete confidentiality (See Confidentiality Policy, C-002 & Policy C-003)

- 2.4 The administrator should not ask for details of the situation the client finds themselves in, but that it might be helpful to know at what stage in the legal procedure the client is (eg. being investigated, been charged, waiting court appearance etc.)
- 2.5 It should also be made clear that an assessment appointment will determine how appropriate counselling may be at the current time.

3 Procedure at Assessment

- 3.1 The assessor must initially clearly state the circumstances upon which we may not be able to maintain confidentiality. It should also be noted that although we record the minimum information necessary about clients and make every effort to avoid providing information to a third party, we can have notes subpoenaed.
- 3.2 In the context of the above (3.1) the client should be given the opportunity to close the assessment at this point, in which instance we will refund part of the assessment fee and record that it was decided that this was not an appropriate time to offer counselling.
- 3.3 If the client decides to continue with the assessment then the assessor should establish as far as possible what the client wants from counselling, how realistic they are being in the circumstances, and what their motivation for coming might be. The latter may be mixed, but a client primarily seeking to prove to others by attending counselling that they are in fact a person of good character, or are sorry for what has taken place, is unlikely to engage usefully in the therapeutic process.
- 3.4 A primary consideration should be how appropriate counselling might be at the present time and what it could be expected to achieve.

4 Process if legal proceedings emerge during an ongoing counseling relationship

- 4.1 If a counsellor becomes aware that their client has become involved in legal proceedings not previously known they should ascertain what the nature of the situation is from the clients perspective & discuss in supervision what impact it may have on the counselling process.
- 4.2 It should be emphasised that we are not a crisis service & it may be necessary to signpost the client to other specialist or support agencies or networks.
- 4.3 If it appears that there may be the possibility of the client's counselling being used in court proceedings, the client should be advised how information which they believe to be supportive of their position may be used against them. They should be informed that even if they have given their permission for their notes to be read, we will not release information, except in response to very specific questions which can be substantiated as important to the case.

- 4.4 Our duty of care will be to act in what we believe to be the best interests of the client, unless other legal requirements supersede these.

5 Relevant MCS documents & other sources of information

- Clients in the Criminal Justice System (C-003)
- Clinical management - staff responsibilities & duties (P-015)
- Note writing & the law protocol (P-014)
- Confidentiality Policy (C-002)
- Vulnerable Adult & Child Safeguarding Policy (C-001)