Good Practice in Action 039
Commonly Asked Questions
Resource for the counselling professions

Making the contract within the counselling professions
Making the contract within the counselling professions
Contents

Context 4
Using commonly asked questions resources 4
Introduction 5
1 Case study 6
Conclusion 12
Table 1 Ethical Framework for the Counselling Professions Principles 13
Table 2 Ethical Framework for the Counselling Professions Personal Moral Qualities (PMQ’s) 14
About the author 15
References and further reading 15
Good Practice in Action | 039 Commonly Asked Questions Resource

Making the contract within the counselling professions

Context

Using commonly asked questions resources

Introduction

1 Case study

Conclusion

Table 1 Ethical Framework for the Counselling Professions Principles

Table 2 Ethical Framework for the Counselling Professions Personal Moral Qualities (PMQ’s)

About the author

References and further reading

This document is one of a suite of resources prepared by BACP to enable members to engage with the BACP Ethical Framework for the Counselling Professions www.bacp.co.uk/ethics/EFfCP.php in respect of making the contract in the context of the counselling professions.

Using commonly asked question resources

BACP members have a contractual commitment to work in accordance with the current Ethical Framework for Good Practice in Counselling and Psychotherapy (being replaced by the Ethical Framework for the Counselling Professions that will come into effect on 1 July 2016). The Commonly Asked Question resources are not contractually binding on members, but are intended to support practitioners by providing general information on principles and policy applicable at the time of publication, in the context of the core ethical principles, values and personal moral qualities of the BACP.

Specific issues in practice will vary depending on clients, particular models of working, the context of the work and the kind of therapeutic intervention provided. As specific issues arising from work with clients are often complex, BACP always recommends discussion of practice dilemmas with a supervisor and/or consulting a suitably qualified and experienced legal or other relevant practitioner.

In these resources, the word ‘therapist’ is used to mean specifically counsellors and psychotherapists and ‘therapy’ to mean specifically counselling and psychotherapy. The terms ‘practitioner’ and ‘counselling related services’ are used generically in a wider sense, to include the practice of counselling, psychotherapy, coaching and pastoral care.
Making the contract within the counselling professions

Introduction

Making a contract can be a thorny issue for many practitioners. We don’t want to put off people by laying down too many rules, yet the client has a right to know what the conditions of counselling are. The Ethical Framework for the Counselling Professions commits members to showing respect by: ‘agreeing with clients on how we will work together’ (Commitment 3c) and also by working with ‘clients on the basis of their informed consent and agreement’ (Good Practice Point 27). Poor information often may lead to misunderstandings later on and, sometimes, to complaints being made against the counsellor. Clear contract-making may help alleviate some potential sources of grievances.

“the client has a right to know what the conditions of counselling are”

In the body of this good practice resource, you will find some commonly asked questions about making contracts, and some possible answers. It is written as an imaginary conversation. Neither the list of questions nor the answers are intended to be exhaustive: inevitably there will be unanswered questions. Indeed, part of the purpose of the resource is to encourage you to think of other questions, and so to be more prepared when your clients ask them. Therefore it is laid out in the form of a case study:
Making the contract within the counselling professions

1 Case Study

A newly accredited counsellor (Andy) wants to move away from the agency where he has been working and set up in private practice, working with adults online as well as face-to-face. In order to implement best practice Andy discusses the issues with supervisor Morgan. This case study takes the form of dialogue between the Andy and Morgan as they work through the issues involved in setting up in private practice.

Andy: I know I have to use a contract, but nobody has really told me what a contract is. Can you help?

Morgan: That’s an excellent question. Most practitioners know that they have to use contracts, but not exactly what that is, or what it means.

In fact, a contract is a legally binding document that sets out an offer (of therapy), which is accepted (by the client) for what is known as ‘mutual consideration’. This means that there is an advantage for both parties, which might be making life changes for the client and some kind of advantage for the practitioner. This may be money or it may be collecting hours for coursework, or towards accreditation, or the fact that going to a place of work during the week offers something that the practitioner considers valuable. This does not need to be explicitly stated in the contract but both parties need to be satisfied with the arrangement. If you would like to read more on the details of contract law in relation to counselling and psychotherapy, do read Mitchels and Bond (2010) chapter 4.

Andy: Thank you. That’s really helpful. But could you explain why the contract is so important in counselling?

Morgan: Contracting is important because the client has a right to know what they can expect from therapy. Learning about their expectations and spelling out what it is expected from them helps minimise any false notions or misunderstandings on either side. It also gives the client an informed choice when deciding whether or not to work with a particular practitioner. Making these issues clear demonstrates respect and a wish to work in a mutually agreed way. Providing a contract empowers the client in ways that reinforce the ethical principles of trustworthiness and autonomy and our commitment to build appropriate relationships with clients.

The Ethical Framework for the Counselling Professions states that:

We will give careful consideration to how we reach agreement with clients and contract with them about the terms on which our services will be provided…

(Good Practice Point 32)

Andy: And now, what needs to go into the contract?

Morgan: The contract in counselling usually refers to the initial agreement between the client and counsellor, which sets out some of the rights and responsibilities of both parties. It has two distinct parts: the business part, which sets outs the ground rules or framework for the work, and the therapeutic side, which sets out what the Ethical Framework for the Counselling Professions describes as the ‘client’s expressed needs and choices’ (Good Practice Point 32a). Both parts need to be given careful thought as they form the basis of ethical and legal commitments between practitioner and client.
Making the contract within the counselling professions

The Ethical Framework also tells us that we need to ensure that we are:

‘Building an appropriate relationship’ and that ‘we will give careful consideration to how we reach agreement with clients and contract with them about the terms on which our services will be provided. Attention will be given to:

a) reaching an agreement or contract that respects each client’s expressed needs and choices

b) communicating terms and conditions of the agreement or contract in ways easily understood by the client and appropriate to their context,

c) stating any reasonably foreseeable limitations to a client’s confidentiality or privacy providing the client with a record or easy access to a record of what has been agreed

d) keeping a record of what has been agreed and of any changes or clarifications when they occur (Good Practice Point 32)

By signing the contract, the counsellor agrees that they are competent to meet the client’s goals (more about this later) and the client agrees to the conditions laid down. In essence, the contract lays down the rights and responsibilities of both parties.

Andy: I think I’ve understood that: So there are two distinct parts of the contract that I will need to consider. Let’s talk about the business side first. What needs to go into that part?

Morgan: In the business side of the contract, you should put:

a) The limits of confidentiality. This is particularly important. Confidentiality is rarely, if ever, absolute, and this needs to be made clear to the client very early on. There are usually three reasons to override confidentiality; first, to prevent harm to self or others; second, the need to discuss client work with your supervisor; and third, if you’re working in a team, confidentiality may be to the team rather than to the individual practitioner. It is also helpful to remind clients that nothing sent electronically (mobile, email, or other devices) can be guaranteed to be entirely secure. Remember though that confidentiality is a one way street, in that the client can talk to anyone they want to about their own therapy, and blog or discuss on social media sites (SMS), or Google the practitioner, but the practitioner cannot normally do these things without the client’s clear permission. This relates to the Ethical Principles of Trustworthiness and Autonomy. It is therefore worth considering a caveat on your contract to say that you will not accept friends’ invitations on to SMS. (See the Ethical Framework for the Counselling Professions Good Practice Point 33c, Good Practice in Action 040 Commonly Asked Questions about Social Media, and GPG 047 Ethical Framework for the Counselling Professions Supplementary Guidance: Working Online for more information. You can find these at: www.bacp.co.uk/ethics/newGPG.php)

b) The amount of time allowed for sessions and whether this is fixed or variable.

c) Whether sessions are open ended, or have a minimum or maximum number. When you worked in an agency, they had a fixed number of sessions, and that was stated early on. In private practice you will have to decide how you want to work, but you need to make that clear.

d) Fees level where appropriate. Think about what you wish to charge per hour and whether that will be the same fee for couples, or for students, for example.
Making the contract within the counselling professions

e) What, if any, contact is allowed between sessions. Normally this would be restricted to short messages regarding changing of times of sessions, but may need to include how contact can be made and a limit on the amount of time allowed for between sessions contact before a charge may be made. This is especially important as we have all become used to an instant response to our queries and clients may expect that from you if you do not clearly state your availability.

f) Sanctions, if any, that will be applied for non-attendance or cancellations.

g) The name and contact details of the practitioner’s professional body.

Some organisations, for example, may run a system whereby a client who does not attend for two consecutive sessions (with or without a reason) is automatically taken off the list and would then return to the waiting list. Practitioners in private practice may charge for missed sessions, or for sessions that are cancelled without a stated period of notice. Best practice is to have a written rule that all clients are aware of and that works for the practitioner. (e.g. if missed sessions are not to be charged for, you the practitioner need to be happy to live with this otherwise dissatisfaction is likely to seep into client work. This is in line with the ethical principles of justice (making sure that all clients are treated in the same manner) and self-respect (practitioner self-care). For more information here see the Ethical Framework for the Counselling Professions Commitment 5 and Table 2.

Generally it is a good idea to ask for some personal information such as any medication the client uses, and their GP surgery details. When the practitioner asks for personal information, the client has a right to know why this information is needed, and under what circumstances it may be used. The Data Protection Act 1998 sets out the legal requirements for anyone who processes data about people in the UK. Practitioners themselves therefore need to be clear about why they are asking these questions. You can find more information about the Data Protection Act, and whether you have to register with the Information Commissioners Office at https://ico.org.uk/for-organisations/register/self-assessment/. The main implications (other than registering with the ICO) for the counselling professions include:

- the rights of data subjects to access any electronic records held about them – see https://ico.org.uk/for-the-public/personal-information/
- the necessity of obtaining any client’s explicit consent to keeping counselling or closely related records as these will typically contain ‘sensitive personal data’ – see https://ico.org.uk/for-organisations/guide-to-data-protection/conditions-for-processing/
- any records should be adequate, relevant and not excessive; accurate, and where necessary kept up to date; and, not kept for any longer than necessary (i.e. consistent with the client’s consent and the purpose for which clients agreed to the records being kept)
- the privacy and confidentiality of any records ought to be protected by adequate physical and electronic security measures – see https://ico.org.uk/for-organisations/it-security-top-tips/

Andy: That’s quite a list. I’m not sure how I will get through it all in a way that the client will understand. Can I just talk this through, or should I be giving a written contract as well?
Making the contract within the counselling professions

Morgan: It will probably take less time than you think, but it is best practice to give the client a written contract that they sign and refer to later. One reason for this is that many clients are understandably nervous in the first session. However clearly the practitioner explains their working frame, it is entirely possible that the client will forget crucial details. Giving written details allows clients to have a document to refer to later if they need to. As an example, it is very common for clients to forget if they have been told that they will be charged for a missed session, so being able to refer them to a signed document can make the difference. It is important that the contract is written in such a way that the above points ‘are easily understandable by the client and appropriate to their context’ (Ethical Framework for the Counselling Professions Good Practice Point 32b).

Therefore best practice is to give written details outlining your terms and conditions to all clients as early as possible, either in the first session or any pre-therapy information. Ethical Framework for the Counselling Professions Good Practice Point 27) states that we will: ‘work with clients on the basis of their informed consent and agreement’. While in law (see Mitchels and Bond 2010, chapter 4) a verbal contract carries the same weight as a written contract, best practice is to make sure that all parties have a written agreement laying out rights and responsibilities. This gives you both a document to return to if you need to. This is in line with the ethical principle of autonomy (see Table 1).

Andy: Are you saying that I have to do this with all clients?

Morgan: Yes. The Ethical Framework for the Counselling Professions says practitioners need to consider how to come to an agreement with their clients about how they will work together. There are other more or less formal methods of contracting but I am recommending an approach that is widely used across the counselling professions. If you change what was agreed and contracted at the start of the work with the client, you can either issue a new contract, add a dated and signed statement of the change to the original contract or record specific changes in your notes – especially if these are minor changes. Remember any change to a contract needs to be agreed by both the practitioner and the client. Good practice in contracting is relevant to the principle of justice, which asks us to pay attention to treating all clients fairly (see Table 1).

Andy: But if I do all this at the beginning, won’t it stop the stop the client and me from ‘going with the flow’?

Morgan: This is a valid point and some practitioners would rather allow clients to begin discussing their issues from the moment they walk through the door. One way of dealing with this issue is to send a copy of the contract with any pre-therapy information, and ask clients to read it before the first session.
Making the contract within the counselling professions

Context
Using commonly asked questions resources
Introduction
1 Case study
Conclusion
Table 1 Ethical Framework for the Counselling Professions Principles
Table 2 Ethical Framework for the Counselling Professions Personal Moral Qualities (PMQ’s)
About the author
References and further reading

Andy: As you know, I am intending to work online as well as face-to-face. Is there anything I need to do differently there?

Morgan: The online contract remains much the same as face-to-face with some small changes. For example, you will need to think about a payment system; what you will do if the technology crashes; and also, and perhaps most important, be aware of local laws governing the therapy (for example, if the client is a resident of the US it may be illegal to work with them without being licensed by the particular state). See Good Practice in Action 047 Working Online at: www.bacp.co.uk/ethics/newGPG.php for more details.

Of course, each client is an individual, with differing needs. However, the basic rules of cost, timing, and confidentiality must apply to all your clients, whether you see them face-to-face, or via electronic means, which could include audio, video, or messaging.

Andy: I have been wondering about payment: I feel very uncomfortable asking for money, especially with people who tell me about their financial difficulties or have missed a session.

Morgan: In the UK, where we are used to help being free at the point of service, asking for money can feel very uncomfortable. However, you do need to make a living, and you do need to make a rule that is applicable to all your clients (in line with the ethical principle of justice) but also fair to you (ethical principle of self-respect). See the Ethical Framework for the Counselling Professions (Ethics Point 5) where all of the ethical principles are set out.

Andy: You’ve given me a lot to think about, particularly with regard to charging for caring. But in the meantime, what should go into the therapeutic contract?

Morgan: This will depend on the practitioner’s preference. Different modalities will have different ways of setting out contracts. For example, if you work in a time-limited way, you will probably want to make a very specific contract, and one with behavioural goals that are achievable within the time you have together, or, for longer term work, it could be a contract that included an end, or review dates, but not specific behavioural goals. However you choose to manage it, remember it is vital. It is the part of the work when you and your client discuss an agreed way of working, and it is the start of your therapeutic relationship.
Making the contract within the counselling professions

Andy: That sounds quite interesting. Can you give me an example of a specific contract for working in a time-limited way?

Morgan: Specific contracts are usually about a concrete behavioural change. For instance, if your client is dealing with bereavement, a contract that by the end of six weeks s/he will feel better is not realistic. Realistic changes (which are the client’s responsibility to suggest) may include: return to work, talk to three friends, cook two meals in week, and eat them, keep contact with a local bereavement group… the list is endless. Each of these examples could be presented as a goal or as an aim of the work together rather than a definite outcome. Avoid promising outcomes that you are uncertain about achieving or that are not within your power or responsibility to achieve. However goals are achieved, the important point is that you are making a contract in which any agreed goals that are significant to either the client or the practitioner are clearly stated and that these are consistent with the level of practitioner competence. See the Ethical Framework for the Counselling Professions which says that we need to give attention to:

a) reaching an agreement or contract that respects each client’s expressed needs and choices

b) communicating terms and conditions of the agreement or contract in ways easily understood by the client and appropriate to their context

c) stating any reasonably foreseeable limitations to a client’s confidentiality or privacy

d) providing the client with a record or easy access to a record of what has been agreed

e) keeping a record of what has been agreed and of any changes or clarifications when they occur (Good Practice Point 32a-e)

Andy: But I don’t want my clients to feel they have to set goals if they don’t want to. Why can’t I just go with whatever the client brings up?

Morgan: In my experience it is incredibly helpful for both the client and practitioner to have some idea of where they are headed. It gives a focus for reviewing your work, and in short-term work keeps you on track. It is essential that you have some idea of your clients’ agenda, as you need to be clear that you are working within your own level of competence (otherwise you may well be in breach of the ethical principle of beneficence, or actively doing good).
Conclusion

Every practitioner working within private practice will have developed their own individual way of working; each one therefore will want to create their own individual contract and set different boundaries in order to maintain the therapeutic framework. Nevertheless, practitioners with clearly expressed boundaries are less open to manipulation, either conscious or unconscious, and more able to enter into a working alliance that is free from psychological game playing.

However thorough your contract-making, there will inevitably come a time when you are presented with a new dilemma. The six ethical principles, together with the Personal Moral Qualities (PMQ), give a framework that may be helpful when thinking about problems that have arisen in the counselling relationship. Tables 1 and 2 below give a quick guide as to how both the ethical principles and the PMQ’s fit into contract-making and how they might be used to assess dilemmas.

BACP will be producing further Good Practice in Action Resources in respect of making the contract which when available will be downloadable at: http://www.bacp.co.uk/ethics/newGPG.php
Making the contract within the counselling professions

Table 1 Ethical Framework for the Counselling Professions Principles

<table>
<thead>
<tr>
<th>Principle</th>
<th>Ethical Issue</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Trustworthiness</strong></td>
<td>Have I been clear about my limitations? Example: if you agree to out-of-session contact be clear about the limits you are happy with.</td>
</tr>
<tr>
<td>‘honouring the trust placed in the practitioner’</td>
<td></td>
</tr>
<tr>
<td><strong>Autonomy</strong></td>
<td>Have I given clients all the information they may need to decide whether or not to work with me? Example: are my areas of competence and/or fees clearly set out?</td>
</tr>
<tr>
<td>‘Respect for the client’s right to be self-governing’</td>
<td></td>
</tr>
<tr>
<td><strong>Beneficence</strong></td>
<td>Am I sure that I can actively help this person or do I need more information first? Example: if I work in a short-term modality can I be sure that this person will benefit from short-term work?</td>
</tr>
<tr>
<td>‘a commitment to promoting the client’s wellbeing’</td>
<td></td>
</tr>
<tr>
<td><strong>Non-maleficence</strong></td>
<td>Am I clear about what emotional abuse might entail? Example: finding myself involved in long written or verbal conversations that have not been contracted for.</td>
</tr>
<tr>
<td>‘a commitment to avoiding harm to the client’</td>
<td></td>
</tr>
<tr>
<td><strong>Justice</strong></td>
<td>Am I being fair to all clients? Example: Do I apply any did-not-attend rules to all clients whatever my personal sympathies?</td>
</tr>
<tr>
<td>‘the fair and impartial treatment of all clients and the provision of adequate services’</td>
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<tr>
<td><strong>Self-respect</strong></td>
<td>Do I take adequate care of myself? Example: am I charging a fee that is fair to me as well as my clients?</td>
</tr>
<tr>
<td>‘fostering the practitioner’s self-knowledge, integrity and care for self,’</td>
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Making the contract within the counselling professions

### Table 2 Ethical Framework for the Counselling Professions Principles

<table>
<thead>
<tr>
<th>Personal Moral Qualities (PMQs)</th>
<th>Ethical Issue in making the contract</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Care:</strong> ‘benevolent, responsible and competent attentiveness to someone’s needs, wellbeing and personal agency’</td>
<td>What strategies do I have in place to make sure that the client completely understands the contract?</td>
</tr>
<tr>
<td><strong>Diligence:</strong> ‘the conscious deployment of skills and knowledge needed to achieve a beneficial outcome’</td>
<td>Am I clear about the limits of my competence?</td>
</tr>
<tr>
<td><strong>Courage:</strong> ‘the courage to act in spite of known fears, risks and uncertainty’</td>
<td>Will I be able to ask for payment for missed sessions even when I am anxious that it might alienate the client?</td>
</tr>
<tr>
<td><strong>Empathy:</strong> ‘the ability to communicate understanding of another person’s experience from that person’s perspective’</td>
<td>Is my contract written in language that is easily understood?</td>
</tr>
<tr>
<td><strong>Humility:</strong> ‘the ability to assess accurately and acknowledge one’s own strengths and weaknesses’</td>
<td>Have I asked a trusted professional to read my contract and feed back any perceived issues</td>
</tr>
<tr>
<td><strong>Identity:</strong> ‘sense of self in relationship to others that forms the basis of responsibility, resilience and motivation’</td>
<td>Does my contract give a clear sense of who I am and what the boundaries of this relationship will be?</td>
</tr>
<tr>
<td><strong>Integrity:</strong> ‘commitment to being moral in dealings with others, including personal straightforwardness, honesty and coherence’</td>
<td>Is my contract fair?</td>
</tr>
<tr>
<td><strong>Resilience:</strong> ‘the capacity to work with the client’s concerns without being personally diminished’</td>
<td>What have I said about out of session contact? Have I been clear about my limits?</td>
</tr>
<tr>
<td><strong>Respect:</strong> ‘showing appropriate esteem for people and their understanding of themselves’</td>
<td>Is my contract written in clear and respectful language?</td>
</tr>
<tr>
<td><strong>Sincerity:</strong> ‘a personal commitment to consistency between what is professed and what is done.’</td>
<td>Do I believe in what I have said?</td>
</tr>
<tr>
<td><strong>Wisdom:</strong> ‘possession of sound judgement that informs practice’</td>
<td>Has my client verbally and in writing agreed these terms?</td>
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</tbody>
</table>
About the author

Content for this resource has been authored by Heather Dale who is a Senior Accredited and Registered practitioner. She has worked in private practice and in the educational sector in Yorkshire for 30 years. She currently works part-time in private practice and part-time as a senior lecturer in counselling at the University of Huddersfield. She chairs Professional Conduct (Complaints) Panels, is a past chair (and current member) of AGM business sub-committee, and is a Fellow of BACP.

References and further reading

References


Additional reading


