The Psychological Society of Ireland

Cumann Síceolaithe Éireann

PSI Guidelines

Confidentiality and Record Keeping in Practice

PSI Guidelines Confidentiality and Record Keeping

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Acknowledgements

As Chair of the Working Group on Confidentiality and Record Keeping, I wish to express my sincere appreciation to the Group members for their time, energy and ideas which were so essential to the development of these Guidelines. In particular I would like to acknowledge Dr. Katie Baird who was instrumental in establishing the Working Group and ensuring that its work was completed.

I would also like to thank all the PSI members, other individuals and groups who made submissions to the Working Group during the consultation process. These contributions formed an important part of the development of the Guidelines.

Confidentiality is fundamental to the work of psychologists, and record keeping issues impact on most psychologists in practice. It is the hope of the Working Group that these Guidelines will serve to support, guide and enhance the work of psychologists in Ireland.

Fiona Ward
Chair, Working Group Confidentiality and Record Keeping, 2011

Preamble

It is recognised that psychologists work in a variety of settings with different client groups and perform a variety of roles, such as researchers, trainers, therapists, consultants, clinicians, supervisors, members of Multi-Disciplinary Teams (MDTs), etc. These Guidelines are intended to encompass the work of psychologists in these varying roles and settings. Principles of confidentiality apply equally to psychologists and the practice of psychology regardless of the setting or working with individuals or groups. It is further acknowledged that psychologists often have multiple responsibilities (e.g. , when acting as supervisors or trainers or when working with children) and remain aware of special considerations, such as power differentials and competing obligations that may be encountered.

Careful consideration and deliberation with respect to confidentiality and record keeping are inherent to all of the above roles and responsibilities. In all roles, due consideration is given to the importance of protecting the public and promoting good practice. This may be even more important when working with trainees/supervisees with respect to confidentiality and record keeping.

The first section of these Guidelines will address confidentiality and the second will address record keeping. There is an overlap between these two areas and good practice in both requires prioritising the best interests and well being of the recipient or participant in psychological practice(s).

As in all professional activities, the PSI Code of Professional Ethics (2008) should form the basis for decision making with respect to confidentiality and record keeping.

Fundamental Assumptions

The PSI recognises that psychologists are guided in their work by the PSI Code of Professional Ethics (2008) which is based on four overall principles:

1. Respect for rights and dignity of the person;
2. Competence;
3. Responsibility;
4. Integrity.

In addition to the fundamental nature of these four principles, it is assumed that psychologists work from the following set of key principles:

- Confidentiality is fundamental to the work of psychologists and their relationships with their clients/ research participants;
- Psychologists protect and promote client confidentiality within the ethical and legal limitations that exist;
- Clients' and research participants' rights to privacy are respected and remain paramount at all times;
- Psychologists maintain a respect for their clients' autonomy and balance this with the duty of care that is central to a professional relationship;
- Psychologists are cognisant of the privileged relationships they hold with the people with whom they work;
- Psychologists expect diversity among clients and research participants and are sensitive to the unique needs and contexts of people's lives;
- In all professional activities, psychologists strive to ensure the safety and well being of those with whom they work.

Contents

1 Background and Development of the Guidelines

The Working Group on Confidentiality and Record Keeping in Practice was formed in December 2009 following requests from PSI members for assistance and information in relation to questions regarding confidentiality and record keeping; recognition of the need for guidelines and standards to promote good practice, particularly when psychologists are faced with the possibility of subpoena or other form of legal discovery/disclosure order; and to support psychological practice in line with the PSI Strategic Plan 2010 – 2013.

The terms of reference for the Working Group were to:

1. Develop guidelines for practitioners and recommend a policy on confidentiality and record keeping to PSI Council;
2. Consult with members and relevant others as appropriate to facilitate the development of same;
3. Refer to relevant literature and statutes in order to provide an evidence base for the development of the guidelines and policy;
4. Disseminate information regarding guidelines and policy in written and / or verbal format to PSI members.

1.1 Membership of the Working Group

Membership of the Working Group included psychologists working in both private and public sectors, from a variety of backgrounds as well as external experts.

Ms. Fiona Ward, Chair, Director of Counselling, HSE Dublin North East

Dr. Katie Baird, Director of Professional Development, PSI

Ms. Anne Marie Regan, Psychologist in Private Practice

Dr. Mary Creaner, External Member

Dr. Ursula Kilkelly, External Member

Dr. Juliana Macleod, Representative from HPSI

Ms. Maeve Lewis, External Member

1.2 Consultation Process with Members and Interested Stakeholders

The Working Group undertook a comprehensive consultation process with key stakeholders which included:

- Seeking the views of PSI members through an invitation issued in the Irish Psychologist (March 2010);
- Inviting key stakeholders to make submissions;
- Consultation with PSI Divisions and Special Interest Groups;
- Workshop at 2010 PSI Annual Conference.

Details of the consultation process and submissions received are outlined in Appendix I

1.3 Literature Review

As part of its terms of reference, the Working Group were requested to refer to relevant literature and statutes in order to provide an evidence base for the Guidelines. This work included a review of all major English language guidelines on confidentiality and record keeping (APA, 2007; APS, 2004; BPS DCP, 2008; BPS DCoP, 2002; CPA, 2001). In addition, a targeted literature review by each member of the Working Group on key area(s) of special interest was undertaken including: children and young people; research; supervision; psychotherapy with adults; training; working in rural settings. The Working Group identified three key messages arising from the literature review:

- Consent as an evolving concept (Pomerantz, 2005);
- "Goodness of fit" model of consent (Fisher, 2002);
- Importance of contracting with clients/participants.

The Working Group further noted that in some key areas there remains in the literature a lack of consensus. Appendix II details additional resources identified by the Working Group which were referred to in the course of the development of the Guidelines and which may be of benefit to members.

2 Purpose and Scope of the Guidelines

These Guidelines should be read in conjunction with the PSI Code of Professional Ethics (2008), relevant legal instruments and other policy statements. The Guidelines are intended to provide broad guidance for psychologists working in a range of settings who are confronted with complex issues related to confidentiality and record keeping as well as potential conflicts between professional guidelines, ethical standards, legal and regulatory requirements and the practices /rules of any organisation in which psychologists work. These Guidelines may be used in the process of resolving ethical dilemmas in conjunction with the ethical decision making model contained within the PSI Code of Professional Ethics (2008).

These Guidelines are not intended to replace sound professional judgement in line with professional standards, nor are they intended to be used as a substitute for ethical approval, supervisory consultation or legal advice. This document may be used to complement consultation with peers and supervisors regarding confidentiality issues.

These Guidelines are intended to facilitate a high level of professional conduct. As guidelines rather than standards, they are not intended to be compulsory or exhaustive (American Psychological Association, 2002).

The purpose of this document is to:

- Guide psychologists in their practice;
- Facilitate decision making when faced with potentially conflicting interests;
- Empower psychologists to make sound ethical decisions.

2.1 Who are these Guidelines for?

These Guidelines apply to all psychologists who are members of the PSI and who work in the areas of public and private service provision (including assessment and intervention), education, training, supervision, forensic settings, research, consultation and all other professional areas in which psychologists work.

3 Confidentiality and Consent

> ***Confidentiality:*** *the word confidentiality has its origins in Latin with 'fidere' referring to trust or 'put ones' faith in', thus confidentiality can be taken to mean 'to strongly trust someone'(Bond and Mitchels 2009). In a professional relationship this is taken to mean that information that would have a cost in terms of impacting another's privacy is protected.*

Freely given, informed consent is the cornerstone of working with people whether they are clients, patients, research participants or other recipients of psychological services. In order to provide consent an individual must have the capacity to understand and make a choice. Psychologists have a responsibility to ensure consent is specific and informed (Donnelly, 2002), valid and freely given. Psychologists understand informed consent to be an evolving process (Pomerantz, 2005) that begins at first contact and is revisited as necessary with due consideration to developmental processes.

Psychologists have a duty of care to assess their clients' abilities to understand information and make decisions in their own best interests. When clients present with a temporary or permanent impairment of ability to give

informed consent and another person has been nominated to act on their behalf, psychologists consider, among other ethical and policy statements, organisational expectations in the management of confidentiality and seek to obtain consent from the relevant nominated person.

Psychologists working with vulnerable persons in practice and research settings have a responsibility to ensure that the rights of those persons are protected and that informed consent results from developmentally appropriate conversations with clients, participants and carers.

3.1 Obtaining Consent

It is recommended that psychologists:

3.1.1 Obtain written, signed consent before providing services or releasing information;

3.1.2 Ensure, in the process of obtaining informed consent, that at least the following points are understood: purpose and nature of the activity; mutual responsibilities; likely benefits and risks; alternatives; the likely consequences of non-action; the option to refuse or withdraw at any time without prejudice; the time period during which the consent applies; and how to rescind consent if desired (PSI, 2008, p. 7);

3.1.3 When there is a question about the capacity of an individual to give informed consent, consider using a 'goodness-of-fit' model of the informed consent process (Fisher 2002; Fisher, Cea, Davidson,& Fried 2006), which involves designing the informed consent process to fit each client's cognitive strengths, vulnerabilities, decision making capacities and styles;

3.1.4 When working in forensic settings, understand that the degree and limits of confidentiality will vary and must be clarified and negotiated for the task at hand (European Federation of Psychologists' Associations, 2001);

3.1.5 Seek appropriate witnesses for verbal consent when written consent is not possible and ensure that witnesses are aware of the boundaries of confidentiality;

3.1.6 When discussing disclosure of information with clients, ensure clients are fully informed about what information may be disclosed, to whom, for what purpose, and identify if or how a client may act to stop the disclosure when it is known that information is going to be shared with a third party, for example health insurers, Courts, etc;

3.1.7 Are cognisant of both trainee and client rights with respect to confidentiality when involved in the training of future psychologists;

3.1.8 Remain cognisant that their responsibility to maintain confidentiality continues after the death of a client.

3.2 Consent with Children and Young People

3.2.1 Whenever possible, obtain informed consent/assent when working with children and young people and ensure children and young people's rights to participation in their own healthcare, to therapy, to confidentiality and to dignity are protected (Helseth & Aschild, 2004).

3.2.2 Obtain the written consent of both parents of a child or young person when appropriate and possible; however, a child's well-being is of paramount importance in instances when one or both parents do not consent (Guardianship of Infants Act 1964).

3.2.3 Carefully document all attempts to communicate with and obtain consent from a parent or parents.

3.2.4 Carefully apply the ethical decision making model contained in the PSI Code of Professional Ethics (2008) when proceeding with service provision in the absence of consent from both parents.

3.3 Consent and Research

It is also recommended that when conducting research, psychologists:

3.3.1 Obtain consent as a rule; however, anonymised existing data may be used in some situations after careful consideration of ethical issues, without obtaining consent (Data Protection Commissioner, 2007);

3.3.2 Consider the ethical principles related to consent and confidentiality throughout the research process in addition to considering confidentiality and consent when seeking ethical approval;

3.3.3 Ensure confidentiality or anonymity of research participants at all stages of the therapeutic or research process;

3.3.4 Ensure that identities are carefully disguised and obtain appropriate consent when publishing research or case studies concerning clients;

3.3.5 Ensure that dissemination of findings does not result in identification of participants with careful consideration given to small scale research projects and/or qualitative projects with small participant pools where identification of participants may be a particular issue;

3.3.6 Consider offering a seven day "cooling off" period after obtaining consent and before beginning data collection, especially when doing research with service users and / or involving sensitive topics.

3.4 Ensuring Confidentiality

It is further recommended that psychologists:

3.4.1 Agree with clients their preferred means of being contacted in order to ensure their confidentiality is maintained (e.g., texting, writing letters, telephoning);

3.4.2 Inform clients when engaged in supervision;

3.4.3 Consider the appropriateness of continuing contact with a client or participant when contacts outside the professional relationship occur; for example when you find you have a mutual friend or unexpectedly encounter a client or participant in a social setting;

3.4.4 Whenever possible avoid acting as both treatment provider and assessor, especially for a third party, in order to avoid conflicts with respect to disclosure of information;

3.4.5 Ensure that the setting for sessions or data collection is appropriately private and when working in private practice, ensure that office and support facilities (e.g., phone) are confidential;

3.4.6 In those situations where individual therapy or interpersonal groupwork is a course requirement maintain clear boundaries between those providing these experiences and those delivering the course;

3.4.7 Ensure the confidentiality and anonymity of any client or participant used in a case example for education or training purposes.

3.5 Confidentiality, Information Sharing and Disclosure

3.5.1 Limitations of Confidentiality

3.5.1.1 As stated in the list of key principles, psychologists protect and promote confidentiality; however, there are situations when confidentiality cannot be guaranteed. These include:

- When there is a known or suspected risk to, or potential concern about, a child or children;
- When there is a known or suspected risk of harm to one's client;
- When there is a known or suspected risk of harm to some other individual(s).

3.5.1.2 There are additional situations where psychologists may need to share personal information. These include:

- When a psychologist works as part of a shared care/Multi-Disciplinary Team (MDT);
- When a psychologist receives supervision regarding a client/patient ;
- When a transfer or referral has been agreed with the client and with the client's permission;
- When a report is requested by third parties;
- When there is a legal obligation to disclose information.

It is important to have clear and detailed conversations informing clients about the limitations of confidentiality at the outset of the working relationship (See Appendix III). The use of written contracts, when appropriate, is recommended in order to be sure clients are fully informed about the limitations of confidentiality. The above situations call for careful decision making that involves consideration of the PSI Code of Professional Ethics (2008) and relevant documents, including the guidelines set out below.

3.5.2 Disclosure with Consent

When faced with a dilemma about release of information, it is recommended that psychologists:

3.5.2.1 Obtain the client's consent for a proposed action; or

3.5.2.2 Inform the client of a planned course of action when a client refuses consent and the psychologist assesses that a risk exists and disclosure is necessary;

3.5.2.3 Disclose without consent only when an immediate risk or threat of harm is identified, when there is an overriding public interest which justifies such a disclosure or when the protection of a child warrants disclosure. Such disclosures should be necessary and proportionate (McDonald, 2009);

3.5.2.4 Respect the views, well being and best interests of clients in making the decision to disclose confidential information.

3.5.3 Disclosure without Consent

When considering the need to disclose confidential information without consent, it is recommended that psychologists:

3.5.3.1 Seek consultation with peers/supervisors and/or legal advice when faced with an instruction by a court to release information or other circumstance in which disclosure without consent may be necessary;

3.5.3.2 Keep clear and accurate records of their consultations and considerations in the process of their decision making;

3.5.3.3 Document the decision making process regarding a decision to disclose confidential information when a psychologist determines that it is not possible or not appropriate to inform a client and/or obtain consent prior to the disclosure;

3.5.3.4 Carefully consider the need to take further action to protect the client's welfare or the welfare of an identified person or child;

3.5.3.5 Limit any information that is disclosed, after careful consideration, to those to whom it is essential and to that information which is required;

3.5.3.6 Consider carefully who should be informed about concerns and who can best support the client;

3.5.3.7 If including a support person at a session, obtain client consent prior to doing this;

3.5.3.8 Inform the client(s) of the disclosure and provide copies of relevant correspondence, when appropriate;

3.5.3.9 When disclosing to another professional, be informed as to the confidentiality guidelines of the other professionals involved in the care of the client and be aware of any potential conflicts.

While the sections above highlight some circumstances under which confidentiality is or might be limited, these guidelines are in no way intended to undermine the importance of confidentiality as an ethical principle.

4 Record Keeping

> ***Record:*** *"Any memorandum, book , plan, map, drawing, diagram, pictorial or graphic work or other document, any photography, film or recording (whether of sound or images or both), any form in which data within the meaning of the data protection act 1988 are held, any other form (including machine-readable form) or thing in which information is held or stored manually, mechanically or electronically and anything that is a part of or a copy, in any form of the foregoing or is a combination of tow or more of the foregoing" (Freedom of Information Act, 1997).*

As stated in the Preamble, the following guidelines are intended for psychologists working in a variety of settings and roles. Each guideline is therefore applicable to psychologists who work delivering psychological services, conducting research, providing supervision, training future psychologists or in other settings.

Psychologists are responsible for keeping accurate and confidential records. Records include any information that identifies a client or research participant or provides information about a client's(s') contact with a psychologist (APS, 2004). Records may be held in written, electronic or other multimedia formats. Records are maintained for a variety of purposes, including to document and review delivery of psychological services.

The guidelines which follow are intended to apply to all forms of record keeping, whether it is paper-based, electronic, or a combination of both.

4.1 General Guidelines on the Management of Records

Appropriate record keeping involves informing clients about record keeping practices as well as the creation, storage, security and retention of records. Psychologists keep up to date with current legal and ethical requirements as well as organisational obligations with respect to record keeping. Psychologists should also ensure that their practice is in line with current data protection legislation, including registration with the Data Protection Commissioner if required. Psychologists are reminded that there are limitations to the confidentiality of records and that all records may be subject to disclosure, for example in the event of court order or subpoena.

It is recommended that psychologists make every effort to maintain accurate current and complete records of psychological services that contain sufficient detail to permit:

- Delivery of psychological services;
- Clinical audit, data analysis or other research;
- Continuity in the routine delivery of psychological services;
- Continuity of care in the event that another psychologist takes over that responsibility due to death, disability, resignation or retirement.

It is further recommended that psychologists:

4.1.1 Inform clients about requirements to maintain records;

4.1.2 Discuss the necessity of record keeping with clients and when clients do not wish records to be kept, explain the reasons for record keeping and obtain consent for a mutually acceptable form of record keeping;

4.1.3 Ensure that clients are fully informed about the policies governing management of records, including how to access their records;

4.1.4 Consider, at the outset of a professional relationship, the provision of a written statement outlining the limitations of confidentiality of records;

4.1.5 Ensure that appropriate information is provided to children and young people about access to their records, including the information that records may be accessed by their parents / carers;

4.1.6 Keep records in accordance with the requirements of Data Protection and other legislation, and in a manner that ensures respect for clients' autonomy and dignity;

4.1.7 Protect the confidentiality of records and take reasonable steps to establish and maintain the confidentiality of information arising from delivery of psychological services, or the services provided by others working under their direct supervision, including trainees;

4.1.8 Make reasonable efforts to protect against the misuse of records;

4.1.9 Maintain the confidentiality of client details, case notes, reports and any other records after the death of a client.

When creating records, it is recommended that psychologists:

4.1.10 Use organisational protocols regarding the structure, content and format of records;

4.1.11 Consider developing a record keeping protocol if one is not in place;

4.1.12 Maintain records in a legible and intelligible format and use only commonly accepted abbreviations;

4.1.13 Write client notes or data summaries from the perspective that they may be read by the client or research participant or another party;

4.1.14 Ensure information is concise, relevant and objective and ensure that records are dated and signed;

4.1.15 Clearly identify when recording hypotheses, professional opinions or conclusions;

4.1.16 Ensure that records are completed contemporaneously and that any subsequent changes to the record are signed and dated.

Psychologists may maintain separate file or records for sensitive information such as raw test data and materials, third party information, clients' written work and psychotherapy process notes, when appropriate. However, psychologists are aware that all of these can be subpoenaed as part of the record.

4.2 Electronic and Multimedia Records

It is acknowledged that records may be maintained in a variety of media, so long as their utility, confidentiality security and durability can be ensured. The use of electronic records follows the same guiding principles as those for written records [see 4.1].

In addition, it is recommended that psychologists:

4.2.1 Inform themselves of the issues associated with the use of electronic methods and media and seek appropriate training, consultation and support when required;

4.2.2 Create a built in audit trail to enable tracking of access to electronic databases as well as electronic records;

4.2.3 Ensure that no identifying information is revealed when using online test administration and scoring systems, and consider the use of a coding or case identification system;

4.2.4 Obtain prior written informed consent and clarify issues related to confidentiality, ownership, copying, security and destruction at the outset when making video or audio recordings of sessions or observations (BPS DCoP 2002);

4.2.5 Ensure that audio/video recordings which form part of the clinical record are maintained and destroyed appropriately, in line with these Guidelines;

4.2.6 Ensure that audio and video recordings of sessions and supervision sessions are erased as soon as they have served their purpose and, at the latest, at discharge unless the client has given consent for materials to be used for research or training purposes at a later date (BPS DCP, 2008).

4.3 Storage and Security

It is recommended that psychologists:

4.3.1 Take appropriate measures to ensure that records are kept in a secure location and protected from damage;

4.3.2 Maintain all records in a safe and secure manner and manage access to records appropriately;

4.3.3 Are aware of security practices when working in organisations and inform the appropriate person in the organisation when security or confidentiality of records is a concern;

4.3.4 Ensure electronic records are maintained securely, and that appropriate safeguards are in place to stop such records from being amended retrospectively or accessed inappropriately;

4.3.5 Save each version of reports with the date of production if modifying reports electronically;

4.3.6 Avoid sending sensitive or confidential client information by fax or email as neither are confidential means of sending information. (When it is deemed necessary to send confidential information by email, it is recommended that psychologists encrypt or password protect the information, limit it to the minimal amount necessary and document the decision making that resulted in this action.);

4.3.7 Ensure no identifying client information is provided when using online testing services;

4.3.8 Ensure adequate mechanisms (i.e., password and encryption) are in place to guard the security of computer based records;

4.3.9 Take adequate measures to ensure records are not lost or stolen, for example during removal or transfer of records.

4.4 Retention, Disposal, Access and Release of Records

It is recommended that psychologists:

4.4.1 Maintain records resulting from contact with clients, trainees or research participants in a confidential manner only for as long as required;

4.4.2 Retain records in line with relevant legislation and guidance issued by their employing organisation;

4.4.3 Understand that varying periods for retention of records are recommended depending on the nature of the records held and/or age of client;

4.4.4 Retain adult client records or research data for a period of seven years (APA, 2007; APS, 2004) in the absence of any other guidance, unless it is likely that the records could be needed for litigation purposes;

4.4.5 Retain records in perpetuity in cases involving child protection concerns or otherwise falling under the Child Care Act 1991;

4.4.6 Retain records of work with children for a minimum of seven years post majority unless there are reasons to retain the record for longer (i.e. potential for litigation);

4.4.7 Have in place written policies and procedures to ensure the confidential and appropriate destruction and disposal of records once the retention period expires;

4.4.8 Ensure clients are informed regarding policy on retention of records, time periods for keeping records and processes relating to destruction and disposal of records when retention periods expire;

4.4.9 Make provision for the appropriate storage, retention and disposal of records in the event that the psychologist becomes incapacitated or dies.

4.5 Destruction, Theft and Loss of Records

It is recommended that psychologists:

4.5.1 Destroy records that have been retained for the required period in a secure and confidential manner;

4.5.2 Consider the possible impact on affected clients and respond appropriately to clients' needs when records are lost or stolen;

4.5.3 Follow procedures as outlined by the Data Protection Commissioner (2010) if records are lost, stolen or destroyed in a manner that compromises security, including notifying the person(s) whose records have been lost or stolen and, where relevant, the Data Protection Commissioner;

4.5.4 Notify An Garda Siochána if appropriate;

4.5.5 Carefully document actions and decisions taken in the event of loss or theft of confidential information.

4.6 Access

It is recommended that psychologists:

4.6.1 Facilitate access to records when clients request this in line with data protection legislation;

4.6.2 Provide information to third parties when such information is requested by clients once written consent has been obtained and there has been an opportunity to discuss the implications for client confidentiality of this course of action;

4.6.3 Are aware of potential conflicts between employer procedures regarding access to records and clients' rights;

4.6.4 Develop a policy governing access to records that ensures clients are adequately supported when reviewing their records;

4.6.5 Note any client requests for alterations or corrections to their records;

4.6.6 Note, sign and date any inaccuracies that clients find in their records;

4.6.7 When professional judgement indicates that it would be inappropriate to amend the record, and the client remains dissatisfied with this, inform the client that he or she may take his or her request to the Data Protection Commissioner;

4.6.8 Ensure that research participants have access to data maintained about them and to results/findings of assessment and research.

4.7 Shared Files and Multiple Records

Psychologists who work in settings where files are shared or reports are co-authored among members of Multi-Disciplinary Teams (MDTs) may have special responsibilities to maintain sensitive confidential information.

It is recommended that psychologists:

4.7.1 Inform clients of the limitations on the confidentiality of the record when files are shared;

4.7.2 Consider recording limited information in shared files and keeping separate (secure and confidential) files where more complete information is recorded, such as raw test data or session notes;

4.7.3 Clearly note in the main file that another separate file is maintained, providing details of how to access this file;

4.7.4 Offer clients choices, when possible, as to whether their psychology records are held on the shared file or in a separate psychology file;

4.7.5 Carefully consider clients' requests that confidential information about their treatment not be entered into a shared file;

4.7.6 Consider keeping separate records for children's/young persons' individual work and for sessions with parent(s)/carer(s), family sessions or groupwork in order to protect confidentiality and allow ease of access to records;

4.7.7 Are aware that, when keeping separate records on a client (i.e., process vs. case notes), all notes identifiably belonging to a client are part of the record;

4.7.8 Ensure financial records are accurate, up to date and anonymised to protect client confidentiality in the event of audit;

4.7.9 Consider holding written fee policies and agreements as part of financial records.

5 Applying These Guidelines

These Guidelines are intended to support ethical practice with respect to record keeping and also to further promote the rights of clients, research participants, and others with whom psychologists work.

It is important for psychologists to consider the Guidelines in light of the particular context(s) in which they work. The application of the Guidelines may vary from one setting to another. It is the responsibility of each psychologist to determine how to integrate the Guidelines into existing practice. It is recommended that psychologists develop their own locally specific protocols, where appropriate, to address record keeping and confidentiality. These Guidelines will be reviewed and updated periodically but this does not override the ethical responsibility of every psychologist to maintain professional competence.

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Apendices

Appendix I

Consultation and Submissions to the PSI Working Group on Confidentiality

The Working Group made an effort to seek consultation from the community of stakeholders and from the PSI members. Information about the consultation process is presented below.

External Consultation

Twenty-nine external agencies were invited to make submissions to the PSI. Invitation letters specified why the particular agency had been approached and asked that submissions focus on issues relevant to confidentiality and record keeping in order to assist the PSI in the development of a policy statement and guidelines.

Submissions were received from:

- Acquired Brain Injury Ireland (ABI);
- Barnardos;
- Children's Rights Alliance;
- Health Research Board;
- Irish Association of Counselling and Psychotherapy;
- Mental Health Commission;
- National Counselling Service (Maire Magennis);
- Shine.

Internal Consultation

An advert was printed in the March 2010 Irish Psychologist inviting members of the PSI to make submissions to the Working Group. The aims of the Group were described. A submission was received from Saoirse Kenny.

All the PSI Divisions and Special Interest Groups were invited to comment on a draft of the Guidelines. The Working Group received comments from:

- Division of Educational Psychology;
- Division of Forensic Psychology;
- Division of Health Psychology;
- Autistic Spectrum Disorder Special Interest Group;
- Death, Dying and Bereavement Special Interest Group;
- Sexual Diversity and Gender Issues Special Interest Group;

In addition, a workshop was delivered at the 2010 PSI Annual Conference. Attendees of the workshop had the opportunity to use the draft Guidelines to respond to vignettes. Members of the Working Group received verbal feedback from workshop attendees and several attendees gave written comments to the Working Group.

A copy of the draft Guidelines was circulated to the PSI Council and several Council Members gave feedback using a structured feedback form.

The Working Group would like to thank all the PSI members and external stakeholders who provided submissions and / or feedback. Your involvement was an important part of the development of the PSI Guidelines on Confidentiality and Record Keeping.

Appendix II

Additional Resources

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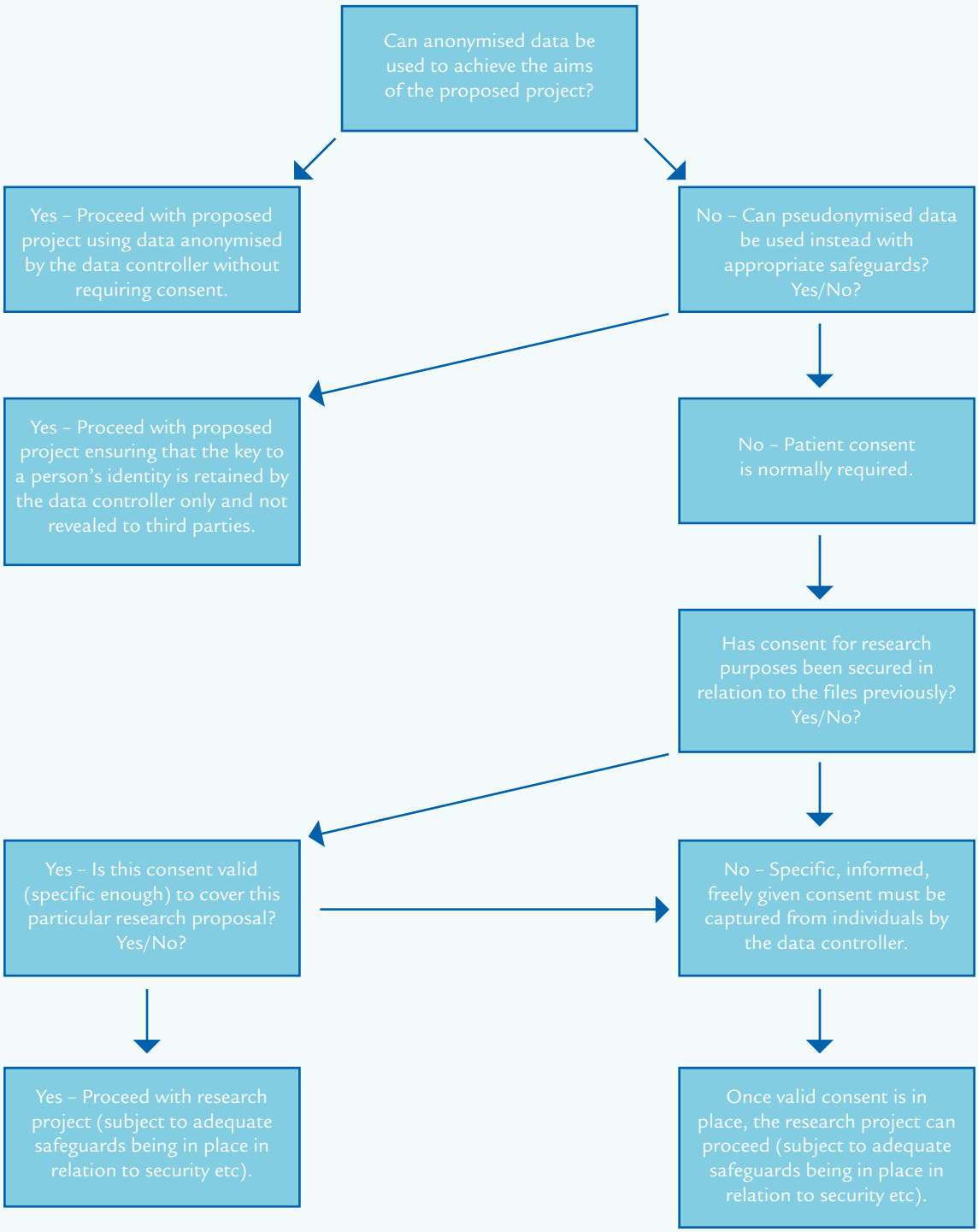

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Appendix III

Protecting Confidentiality Rights
Ethical Practice Model

I. Prepare

A. Understand Clients' Rights and Your Ethical Responsibilities in Behalf of Those Rights
B. Learn the Laws that Can Affect Your Ability to Protect Confidential Information
C. Clarify Your Personal Ethical Position About Confidentiality and its Legal Limits
D. Decide When/How You Will Limit Confidentiality Voluntarily
E. Develop Plan for Ethical Response to Laws That Require You To Disclose "Involuntarily"
F. Choose Reliable Ethics Consultants and Legal Consultants and Use as Needed
G. Devise Informed Consent Forms that Reflect Your Real Intentions
H. Prepare to Discuss Confidentiality and Its Limits in Understandable Language
I. Conduct Confidentiality Training for Employees, Supervisees, Interns, Etc.

II. Tell Clients the Truth "Up Front" (Inform Their Consent)

A. Inform Prospective Clients About the Limits You Intend to Impose on Confidentiality
B. Explain Any Roles or Potential Conflicts of Interest That Might Affect Confidentiality
C. Obtain Informed Client's Consent to Accept Limits as a Condition of Receiving Services
D. Reopen the Conversation If/When Patient's Circumstances (Or Your Intentions) Change

III. Obtain Informed Consent to Disclose Voluntarily

A. Respect the Rule: Disclose Without Client Consent Only if Legally Unavoidable
B. Inform Client Adequately About Content and Implications of Potential Disclosures
C. Obtain and Document the Client's Consent Before Disclosing

IV. Respond Ethically to Legally-Imposed Disclosures

A. Notify Client Of Pending Legal Requirement for a Disclosure Without Client's Consent
B. Respond According to Plan (from Step 1,E above)
    1. Laws requiring psychologists to initiate disclosures (e.g., reporting laws)
    2. Laws giving others access to information without client consent
    3. Exceptions to psychologist-client privilege in court cases
    4. Laws allowing others to redisclose information that psychologists disclose
C. Limit Disclosure of Confidential Information to the Extent Legally Possible

V. Avoid the "Avoidable" Breaches of Confidentiality

A. Avoid Making Unethical Exceptions to the Confidentiality Rule
B. Establish and Maintain Protective Policies and Procedures; Train Non-Clinical Staff
C. Monitor Note Taking and Record Keeping Practices
D. Avoid Dual Roles that Create Conflicts of Interest in Courtroom and Elsewhere
E. Anticipate Legal Demands; Empower Clients to Act Protectively in Their Own Behalf
F. Protect Client Identity in Presentations, Research, Consultations
G. Prepare a Professional Will to Protect Client Confidentiality In Event of Illness or Death

VI. Talk About Confidentiality

A. Model Ethical Practices; Confront Others' Unethical Practices
B. Provide Peer Consultation About Confidentiality Ethics
C. Teach Ethical Practices to Students, Supervisees, Employees, Agency
D. Educate Attorneys, Judges, Consumers and the Public

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