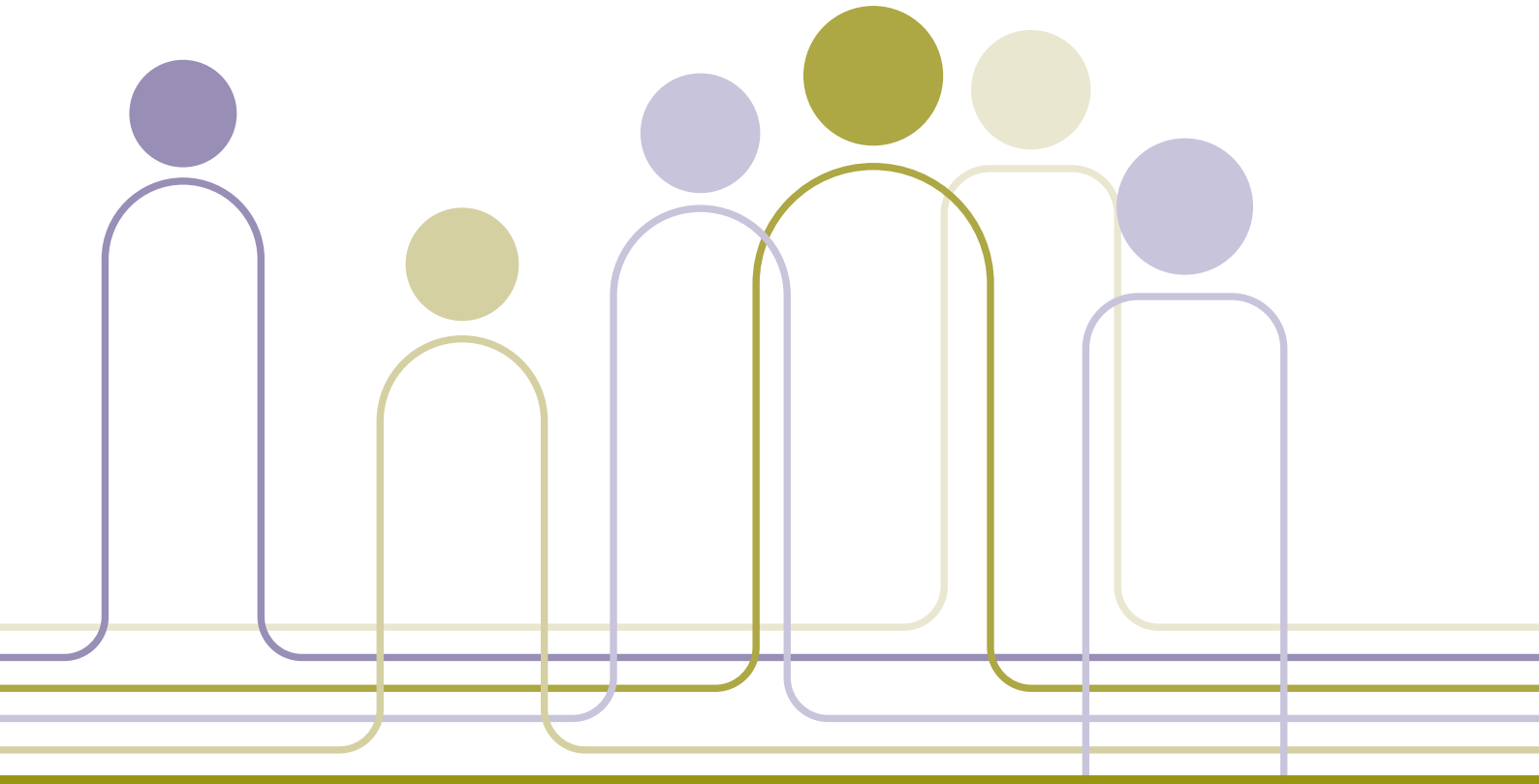
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002.1

Confidentiality and record keeping within the counselling professions



Fact sheet

Ethics in Practice

Ethics in Practice 002.1
Fact Sheet

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T: 01455 883300 **E:** bacp@bacp.co.uk **www.bacp.co.uk**

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Using Fact Sheet resources

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1 Introduction

Confidentiality and record keeping are not just administrative duties but form part of our relational commitment to clients. They are deeply connected to issues of trust, safety, power and professional integrity, and should be considered as part of an ongoing, collaborative engagement with our clients and essential in supporting the therapeutic relationship (*Ethical Framework* 2026).

What is confidentiality?

Confidentiality is described by Reeves and Bond as providing 'the conditions essential to counselling that enable clients to talk freely' (2021, p.161). It is part of our role to respect our clients' rights to privacy and 'keep information shared confidential' (Core Responsibility 3.1.a). This is fundamental in developing trust in the therapeutic alliance – helping clients to feel safe, respected and involved in the process. For all clients, but particularly those who have experienced marginalisation or a loss of control in their lives, knowing that their story will be held confidentially affirms that they have control over their own information (Ethical Principles; Core Responsibility 3.1).

What is record keeping?

In a counselling context, a record is any form of document that we hold about a client (Bond and Mitchels, 2015). This includes clinical notes, personal process notes, and supervision notes, but also administrative records such as diary entries, invoicing, emails, texts and answer machine messages. These records may also include documents in alternative languages e.g. braille, languages other than English, and expressive artforms including client artwork and poetry. For more information on what constitutes a record, see EiP 002 *Records and record keeping in the counselling professions* and further resources on the BACP website.

What this resource covers

This resource will look at how a thorough understanding of confidentiality and record keeping can support the relational and ethical commitments of our work. It will address the practical considerations that will enable practitioners to uphold these standards throughout their client work – from first contact to endings.

It will also consider some of the complexities that may arise, including when we may be permitted or legally obliged to share information and how to manage data breaches. It will then reflect on some of these issues through case studies and provide prompts to reflect on your own practice.

2 Ethical responsibilities in confidentiality and record keeping

The *Ethical Framework* makes it clear that confidentiality is not only a legal responsibility, but also a key ethical principle underpinning all therapeutic services (Ethical Principles). It is not a static concept, but something that requires thoughtful, flexible engagement as circumstances change.

This means as practitioners we must hold client information with the utmost care, and only share it with their explicit consent, or when there is a legal duty to do so (Ethical Principles, Core Responsibility 3.1). As such our responsibility for confidentiality starts from our first contact with the client.

Effective record keeping is essential in order to ensure that our work is reflective, transparent, accountable and of a high ethical standard (Core Responsibility 3.2). The *Ethical Framework* outlines our responsibility to ensure that records are accurate, relevant and stored securely (Core Responsibility 3.2). We must also recognise the ethical complexities involved in creating, storing and sharing records; particularly the balance between respecting autonomy and fulfilling our duty to protect against harm.

As practitioners, we must 'understand and comply with all data protection responsibilities in our country of practice' and inform clients of this (Core Responsibility 3.1). In the UK this relates to the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR). For more information see:

www.gov.uk/data-protection,
ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources.

For further resources on some of the other areas covered in this Fact Sheet, please see BACP Legal Resources:

014: *Managing confidentiality within the counselling professions*

031: *Safeguarding children and young people within the counselling professions in England and Wales*

069: *Sharing records with clients, legal professionals and the courts in the context of the counselling professions*

071: *Ownership and storage of client notes and records in the context of the counselling professions*

105: *The United Kingdom General Data Protection Regulation (UK-GDPR) – amendments, legal principles and practice notes for the counselling professions.*

3 Practical elements of confidentiality in record keeping

3.1 First contact

The way we approach confidentiality and record keeping from the first contact we have with clients can help set the tone for a therapeutic relationship that feels safe and respectful. It is therefore important to consider how you will store and manage data from people who make enquiries but have not yet signed a contract.

One way to manage this could be to include some brief information in your reply about how you will manage their data. For example, 'I keep a record of initial enquiries for one month in case you decide to proceed. If you would prefer me not to retain this information, please let me know.'

If those who have enquired decide not to proceed, you do not have a good reason to retain their data, and they must be deleted.

For those who decide to work with you, you are then responsible for storing their data securely and informing them about how you approach confidentiality through your contract and privacy notice.

3.2 Contracting and client information

The *Ethical Framework* states that we must collaborate with clients 'in making decisions about how we will work together' (Core Responsibility 1.1). Contracting can provide an opportunity to create a strong relational foundation for therapeutic work.

Rather than simply presenting clients with a document, we can use the opportunity to answer questions, clarify concerns and ensure they feel respected and informed. Some parts of our contract may be non-negotiable, for example safeguarding obligations, and some may be more flexible, for example agreeing what a client would like to happen if there is a chance encounter outside sessions. Providing clients with a record of our working agreement means they can revisit this information whenever they need to (Core Responsibility 1.2).

Your contract should make clients aware, in language that is appropriate for their age and level of understanding, what confidentiality is and what it means in the context of the therapeutic relationship.

It should also explain the circumstances under which you would have to break confidentiality, for example to report serious crime or safeguarding concerns (Core Responsibility 3.3).

You will also need to state who else might have access to personally identifiable information besides you. This is usually limited to a small number of trusted professionals and will likely include your clinical supervisor and the executor of your clinical will (Core Responsibility 3.1.a, 4.3). For more information on clinical wills, see Section 3.6 of this Fact Sheet and the Ethics in Practice resources available on the BACP website.

You will need to have either a privacy section in your contract or a separate privacy policy, which explains in simple terms how you will use, store and protect clients' data, and what rights they have in relation to their information (Core Responsibility 3.1.b). Reasonable adjustments should be made whenever possible to ensure clients are able to read and understand this information, for example if they speak a language other than English (Core Responsibility 1.1).

In your privacy notice, clients should be made aware that they have the right:

- to be informed of what information you will collect on them and how long you will hold it for
- to see those data on request and to rectify any inaccurate or incomplete personal information
- to withdraw consent to you using their personal data
- to request their personal information be erased.

(UK GDPR, 2018; Core Responsibility 3.1).

Under Article 17 of the UK GDPR, clients have the right to request that their personal information be erased. However, there are instances where you are legally or professionally required to retain information, for example for insurance purposes, or in case of complaints or legal proceedings. If you decide to keep information despite an erasure request, you must be able to explain why you have made that decision and ensure that this possibility was made clear to your clients in your privacy notice (Core Responsibilities 3.2, 3.1).

For more detail on what to include in a privacy notice, see the Information Commissioner's Office.

3.3 Clinical and process notes

Clinical notes are the records practitioners keep on their sessions with clients. Approaches to how these are written vary according to context and personal preference, but they should reflect the Ethical Principles and always be accurate, respectful and proportionate (Ethical Principles; Core Responsibility 4.4). Keeping notes factual, simple and free of any personal reflections or assumptions helps to protect the therapeutic relationship and ensures that clients would feel respected if they read them (Core Responsibility 3.2).

At the same time, it is also important to be aware that notes will never be completely neutral. The language we use, the context we bring and the decisions we make about what is emphasised and what is left out all shape how clients are understood and represented. Practitioners should be mindful of the responsibilities inherent in writing a narrative of the work (Ethical Principles: Anti-oppression, Fairness).

Process notes are reflective notes that some practitioners keep to support their own thinking about sessions, which may include their reactions to and feelings about the work.

However, you should be aware that if these notes contain any identifiable client information, or if the client could be identified by combining them with another document, then they are considered client records and fall under the same access rights as client notes (Bond, 2015; Core Responsibility 3.2). Reflective notes that contain no identifiable information about the client are not classified as client records.

All client notes should be pseudonymised and stored securely. This means that they are kept separately from any identifiable information such as contact details, or any other information that could lead to the client being identified when paired together. However you store your notes – whether you use a locked filing cabinet, local computer files or cloud storage – you should consider the implications for keeping them secure (Core Responsibility 3.2).

For further information on this, see Legal Resource 014 *Managing confidentiality within the counselling professions* and resources on the BACP website.

3.4 Administrative records

The *Ethical Framework* reminds us that confidentiality extends beyond clinical notes and includes 'all communications, notes and other information held relating to clients or service users working with us...' (Core Responsibility 3.2). This means that administrative records also need to be handled with care.

Whether your client schedule is kept on paper or online (for example using the integrated calendars in Outlook or Zoom), you must ensure that all entries are pseudonymised.

If you are a sole trader, you should consider how you might anonymise your income and invoicing records while still meeting accounting requirements. You may want to think about how your services are described on your invoices, and if you are able to offer clients any flexibility around this. Disclosures of client information for the purpose of taxation (for example if you are asked to provide HMRC with bank statements which include client names) are a legal obligation and the tax authorities receiving this information are also bound by strict confidentiality (see HMRC 2018 Privacy Notice How we use particularly sensitive personal information).

You should also consider how your communications with clients are stored. For example, do you have a separate work email account and phone? It is your responsibility to protect clients' messages from being accessed by others, and to ensure they are only retained for as long as needed.

Any other information relating to your clients, including assessments and letters to and from other professionals, all need to be stored securely, anonymised wherever possible and kept separately from their notes.

3.5 Clinical wills

Part of our responsibility to clients includes preparing for unplanned endings, so that they can be adequately supported in the event of unexpected death or injury that prevents us from continuing their care (Core Responsibility 4.5). A clinical will names a trusted colleague or supervisor as the 'executor' – someone who will manage communications and arrangements on your behalf. This person will be bound by the confidentiality agreed between you and your client (Core Responsibilities 4.5, 3.1).

Useful information for your chosen executor includes clear instructions about how to access client records and contact information. They will need to be able to both contact your clients and, in the event of your death, delete your clinical notes. You could also consider what you would like to be communicated to clients, and whether onward referrals should be offered.

You should consider how your executor will gain access to any keys or passwords necessary to access this information, and how you can communicate this securely. For example, if your client information is held on a cloud storage system, your instructions to the executor could be sent via encrypted email and any passwords needed to access records could be sent separately, for example by text message.

Again, you must make any arrangements about this explicit in your contract so that clients are aware that this information could be shared and can decline if they wish to do so (Ethical Principles: Transparency, Core Responsibility 1.2, 3.1).

3.6 Endings

GDPR legislation does not set specific time limits for how long you retain client records but requires that you only keep information for as long as is necessary and for the reason you originally collected it. It is useful to note that BACP allows clients three years after therapy has ended to raise a complaint (BACP, 2026b), so this could be used as a minimum timeframe for keeping records. Individual insurance companies may also have stipulations around how long they expect practitioners to retain notes. This should be balanced with the idea that 'sensitive information should be destroyed when its usefulness has expired' (Bond, 2015).

Correspondence and administrative records that are not relevant to clients raising a complaint or returning to therapy should be deleted immediately after the work has ended.

4 Managing risks and ethical challenges

4.1 Sharing client information

You should ensure that clients understand from the beginning that your work together will be discussed in supervision in order to support safe, reflective practice.

Within supervision, confidentiality should be protected by using first names or client codes only. Separate, explicit consent must be gained before making or sharing any audio or video recordings of sessions, or when considering client work for a case study, for example for students writing essays.

Any other practitioner involvement – such as working with an interpreter, attending multi-disciplinary meetings or sharing information with other professionals – requires explicit, informed consent from the client. They should know what will be shared, with whom and why (Core Responsibility 3.1).

Clients have the right to see any information you hold on them through a subject access request (UK GDPR Article 15). This includes clinical notes, administrative records, and correspondence. For guidance on responding to access requests see the ICO's website.

There may be times when our legal and ethical duties to protect against harm outweigh the responsibility to uphold confidentiality.

It is important to understand the circumstances under which this may happen and what steps to take (Core Responsibility 2.4, Legal Resource 014: *Managing confidentiality within the counselling professions*). For example, you can decline a request from the police or CPS to access a client's notes if you do not believe it is reasonable or necessary, but you must comply with a court order, or when someone with statutory authority requests it (Boughton, 2026; Bond and Mitchels, 2015). Even in such situations, you must balance your responsibility to disclose with transparency, respect and compassion towards your clients (Ethical Principles). Where possible, talking honestly with the client about what needs to be shared and why can help maintain trust and minimise harm to the therapeutic relationship.

4.2 Digital systems and data security

Whilst absolute security in the digital world is not possible, there are things we can do to significantly reduce risk and protect clients' records from unauthorised access (Core Responsibility 2.1). If you store client information locally on your computer, you need to ensure that it is password protected as a minimum. You also need to ensure that it is backed up to protect against loss, as this can in some circumstances be categorised as a data breach (See Legal Resource 105: *the United Kingdom Data Protection Regulation (UK GDPR) – amendments, legal principles and practice notes for the counselling professions*). If you back it up on a removable drive, this needs to be password protected and stored securely.

If you use cloud storage to store any form of client information, you should again ensure that it is password protected and that the information is anonymised. You should understand how and where the data are stored, and how secure the platform you are using is. The *Ethical Framework* says clients must be made aware if their information is stored on 'digital storage systems, platforms or tools that may monitor or collect data' (Core Responsibility 3.1).

If you use AI in your work, you must ensure that you are competent to use it – that you understand how it works, who owns the data and where they are stored. Your clients must also be aware that you are using AI and have consented to you doing so (Core Responsibility 2.1). If you use AI tools to support clinical thinking it is important to verify all content for accuracy, and to be aware of the primary sources of information that have been drawn on.

If you are in private practice, you should have a separate email account for your work which should ideally be encrypted (Core Responsibility 1.3). If you read emails on your computer, you should have a password or PIN to open the computer. If you have them on your phone, the phone should be lockable and the app should also be secured by a PIN.

For online work, you should do your best to ensure that digital meeting spaces are private and free from intrusion (Core Responsibility 2.1). For example, if you use Zoom for meetings use a waiting room, a password, enable end-to-end encryption and lock the room once the session has started.

Where records are held on a shared computer, consideration needs to be given to ensure that 'they can only be accessed by trained staff contracted to maintain client confidentiality' (Core Responsibility 3.2).

4.3 Confidentiality with children and young people

Confidentiality relating to the records of children and young people presents unique challenges due to issues of safeguarding and evolving autonomy (Core Responsibilities 3.3, 2.4).

You should ensure that the contract you create with the child is age-appropriate and that they understand the concepts and implications as far as is possible for their developmental level. If they are very young, for example, you may use art and images to represent these ideas and can give the adult with parental responsibility a more detailed, written contract.

Children have the same rights to confidentiality as adults, so parents do not automatically have access to their notes. Decisions about allowing access to them therefore need to be made on the basis of the best interests of the child (Millward, 2025; UK GDPR). Similarly, other considerations around confidentiality should take into account the child's age and capacity, your legal obligations and a balance between the child's autonomy and your responsibility to safeguard them (EF Sect A: When collaboration might not be possible; Core Responsibility, 3.3, Ethical Principle: Best interest).

For more information, see Legal Resource 031: *Safeguarding children and young people within the counselling professions in England and Wales*, and the ICO's website.

4.4 Working across different contexts

For the practitioner who needs to physically take client records with them to different locations, a 'split system of record keeping' is recommended (Bond 2015; Core Responsibility 2.1). Contact details should be kept separate from session notes so that in the event of loss or damage outside the practitioner's control, the session notes cannot be linked to a client (Core Responsibility 3.2).

Working in different contexts can be confusing as there are likely to be different expectations around record keeping and confidentiality. It is therefore important that practitioners ensure they find a way of keeping these systems separate and clear to avoid confusion.

4.5 Unintentional breaches

Practitioners have an ethical duty to be honest with clients about anything that has gone wrong, including with record keeping and confidentiality (Core Responsibility 2.2).

If any unintentional disclosure occurs, it is important that you are able to manage it quickly, transparently, and professionally. The ICO's self-assessment tool is a useful way to understand what actions you might need to take.

When a data breach could result in risk to a person's rights and freedoms, you must alert the ICO within 72 hours of becoming aware (Core Responsibility 3.1). If no notification is needed, you should record the incident, its impact and any corrective actions taken (Core Responsibility 3.2). If new information emerges that changes the circumstances of the breach, you should reassess the risk and decide whether it then needs to be reported.

As mentioned previously, it is useful to be aware that loss or damage to records, even when the information can't be recovered, can in some circumstances be regarded as a data breach (Core Responsibilities 3.2, 2.1).

The ICO has a helpline which can be reached on 0303 123 1113 to discuss any concerns you may have about a potential breach and help you assess and manage its impact.

5 Application to practice

The following section is aimed at translating the theory covered in this resource into practice with a short case study. It also gives you the opportunity to think about your own therapeutic practice by offering questions for you to reflect on.

5.1 Case study 1: Rosie

Rosie is a counsellor in private practice who works with clients both online and in person. Recent financial pressure has led her to take on more clients than she would normally see, and to help her manage the increased demand of her workload she has started using several digital tools including an AI transcription service to write session notes, work emails on her phone so that she can stay on top of new enquiries and WhatsApp to send appointment reminders. Clients are stored on her phone under first names only. She writes appointments by hand on a week-by-week calendar she keeps on her desk, using first names only. Her notes are stored locally on password protected documents on her computer, as she feels this is safer than using cloud storage.

Since first setting up in private practice, Rosie has been registered with the ICO. As there is no change in her note-keeping practice, Rosie has not updated her privacy notice to reflect the recent changes in the way she works and assumes that as clients are receiving WhatsApp appointment reminder messages from her, they are happy with its use.

While she is out meeting a friend in a cafe, Rosie's work phone is stolen from the table she is sitting at. As she was recently looking at it, the phone is unlocked when it is taken. Rosie informs the police of the theft but is unsure what to do regarding her clients. When she gets home that evening, she changes the password to her work email and decides to ask for further advice in supervision, which is scheduled for later that month.

5.1.1 What's my view and questions for reflection

- Rosie's workload and financial pressure led to changes in how she managed records, some of which clients were not aware of and others were ones they had not explicitly consented to. How could she have integrated these changes more carefully into her practice? In what ways do you or could you involve clients in decisions about how their data are stored and used?

- Rosie decided to wait to discuss the theft of client information in supervision later that month, during which time her clients' information could have been accessed by a third party without their awareness. What should influence a decision about whether to wait or seek support sooner? Are you aware of how to assess a data breach and what to do when one occurs?

- Rosie saves her clinical notes onto a local drive on her laptop. Although they are less vulnerable to third-party attacks than they would be if they were stored on a cloud, she would lose all her client notes if her computer was damaged or the drive became corrupted. What could she do to keep her records more securely? Are there any other ways in which she could improve how she stores client information? What are the vulnerabilities in your own record keeping and what actions can you take to guard against this?

5.2 Case study 2: Jamal

Jamal works as a psychotherapist in two different settings: a therapy service based at a sixth form college where he is employed, and a private practice where he sees young people in a self-employed capacity. He keeps separate records for each setting. One of his private clients, Tasha (aged 18), is also a student at the college he works at, although he does not see her through the college service.

Tasha's family background means she has found it hard to build trust and has often expressed this by being rejecting or defensive in their sessions. Jamal uses his clinical notes to explore his feelings about this, as well as his thoughts about how her family dynamics may be affecting their work together.

Recently they seem to have made progress, and Tasha is showing signs of feeling safer in the sessions. One week, she discloses that she has been self-harming. Jamal assesses the risk and documents this in his private practice clinical notes. A week later, Tasha's mother contacts him and asks to see her daughter's notes.

She insists that the fact that she is paying for the sessions means that she should have access to them. Around the same time, the college's safeguarding lead asks Jamal if he has any information about Tasha as they have concerns about her wellbeing. Tasha is aware that her mother has been in touch and, worried about what might be disclosed, asks to see the notes herself. Jamal's supervisor for his private work is away on leave, and Jamal is left feeling overwhelmed and unsure what to do.

5.2.1 What's my view and questions for reflection

- Jamal is navigating three different requests for information (mother, college, Tasha) while trying to protect the trust he has built with his client. What are his responsibilities and obligations? How could he have navigated this differently at the beginning of the work so that there was more clarity for everyone around confidentiality and information sharing?

- Jamal used his clinical notes to explore his own feelings about his sessions with Tasha and her family dynamics. He knows that some of his personal reflections will be difficult for her to read and are likely to damage the trust that they have been building. What could he do next? What could he have done to have avoided this situation? Is there anything about the way that you write your clinical notes that it would be helpful to review?

- Managing confidentiality, especially in complex situations, can be stressful and difficult. What other sources of guidance might be available to Jamal in the absence of his supervisor? What other supports, both practical and emotional, do you have when facing challenging or complex decisions in your work?

About the author

Ali Harper is a registered and Accredited member of BACP. She lives in south Devon, where she works in private practice with adults and young people and provides tutoring for trainee counsellors and psychotherapists. She writes both for work and for pleasure.

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