

STATEMENT ON CONFIDENTIALITY

The constituent members of the British Psychoanalytic Council (BPC) attach the highest importance to the maintenance of confidentiality in the communications between patients and their psychoanalyst or psychoanalytic psychotherapist and also in the privacy of any written notes.

The need for confidentiality in psychoanalytic work is akin to, but goes well beyond the need for medical confidentiality generally and beyond that required by psychiatrists, psychologists, psychotherapists and others who treat emotional and behavioural disturbance. The ethical codes of each of the professional groups contain statements about confidentiality relevant to their practice and some professional organisations provide guidelines for their members to follow. Central to the psychoanalytic approach is the exploration of interpersonal processes with attention to underlying unconscious activity. Very strict confidentiality is an essential prerequisite for the focus on and the use of this material. The disclosure of such material to third parties can be acutely damaging to the process and should be resisted in nearly all circumstances.

PSYCHOANALYTIC CONFIDENTIALITY

It is recognised that confidentiality in psychotherapeutic work has a particular clinical importance. The decision of the United States Supreme Court in *Jaffe v. Redmond* 518 U.S. 1 (1996) that ruled against the disclosure of a psychotherapist's notes, is a case in point. The court there noted that treatment by a physician for physical ailments can often proceed successfully on the basis of a physical examination based on objective information supplied by the patient, and the results of diagnostic tests, but that effective psychotherapy, by contrast, depends upon an atmosphere of confidence in which the patient trusts the psychotherapist's commitment and capacity to protect their frank and complete disclosure of facts, emotions, memories and fears.

Psychoanalytic psychotherapy is based on theories about the ways in which conscious thought and behaviour is influenced by unconscious mental activity; this activity often producing symptoms and difficulties. The psychoanalytic psychotherapist tries to bring these unconscious elements into conscious awareness. This is no easy task; it involves uncovering aspects of patients and their experience, about which they would prefer to remain ignorant and which, when conscious, may cause them great pain, shame or guilt. Patients, even while wishing to uncover unknown or forgotten aspects of themselves, often go to some lengths to prevent their discovery. To understand the patient and the way *his mind works, the psychoanalytic psychotherapist takes an interest in the patients' dreams and fantasies and will ask the patient to say whatever comes into his mind, to free associate; this encourages uncensored irrational thought. Free associations, fantasies and dreams can not be thought of as hidden versions of objective truth and it is only after careful consideration, and particularly after taking into account the patient's relationship to the psychotherapist, that communications can be understood. Psychoanalytic psychotherapy provokes strong feelings in patients towards the

whole process and towards their analyst or therapist; the patient's communications and behaviour have to be understood within the context of this relationship.

In this kind of psychotherapy patients are invited, not just to be themselves and to reveal intimate secrets, but at times to reveal their worst. This activity can only occur in a situation in which the patient trusts there to be a high degree of neutrality and confidentiality; any breach of confidentiality would be acutely damaging to the essential relationship between the patient and the psychoanalytic psychotherapist and a violation of the patient's innermost thoughts, feelings, fantasies and dreams.

The purpose of psychoanalytic psychotherapy is to help patients recognise and take responsibility for their ways of thinking, feeling and behaving, including previously unrecognised, unacknowledged aspects of their personalities. The use of information gained from a patient in psychoanalytic psychotherapy for any purpose other than for the psychotherapy undermines this entire endeavour, which is to help the patient to take responsibility for himself and not to take over responsibility from the patient.

As part of the secure boundary of psychoanalytic work, a minimum number of people should have knowledge of a patient's identity. A qualification to the above is when, because of the degree of illness of the patient (e.g. risk of suicide or breakdown requiring hospitalisation), the practitioner makes the clinical judgement that a third party such as a psychiatrist should be involved **with the agreement of the patient**. The information shared with this third party is limited to the absolute minimum necessary for the patient's safety.

In exceptional situations disclosure of confidential information, even without the patient's permission, may be considered. BPC members have a duty to consider disclosure in situations of threat to the life of the patient or another person. They are advised in such situations to discuss the situation with a colleague or a member of the Ethics Committee. Decisions about disclosure are based on the clinical judgement of the practitioner in consultation with relevant colleagues.

Even when the patient gives permission for release of confidential material, disclosure should be resisted. Given the nature of the analyst patient relationship, patients may give 'consent' for confused or mixed motives.

NOTES AND RECORDS

It is the responsibility of BPC members to keep strict standards of confidentiality on all written records/notes about a patient, and vigorously to resist identifiable disclosure of this material against his clinical judgement, including after the cessation of the treatment, or the death of the patient (or the psychoanalyst/psychotherapist).

Records

This is a set of basic data on each patient the contents of which will range from the minimum data of name, address and contact number, to the inclusion of the name of the G.P. and/ or the referrer. In the case of patients with conditions requiring some contact with other professionals, periodic summaries (if written) and relevant correspondence would usually be included. A copy of the basic minimum data must be held by a colleague for use in emergency situations such as the death or incapacity of the practitioner; and if it is deemed in the patient's urgent interest, for communication with a third party in other very limited circumstances.

Notes

This covers material that does not identify the patient. It may function as an aide memoire, but it is mostly used to further the analytic process by helping the practitioner to clarify his thoughts,

both by self-supervision and by discussion with professional colleagues in which the patient is totally anonymised. **This material is never intended to be used for communication about an identified patient to a third party.** Such material also has a broader research, educational and communicative value for the profession, in that it may at times form the basis of (again totally anonymous) clinical papers or reports.

Such notes do not constitute part of the permanent record of the patient and should be destroyed once they have served the purpose for which they were made.

IN CONCLUSION

Assured and predictable neutrality and confidentiality are absolutely central to psychoanalytic psychotherapy and psychoanalysis without which the existence of these as available treatments is seriously compromised for all patients; and some practitioners would say that it is impossible to practice.

REFERENCES

Jaffe v. Redmond (1996) Supreme Court Decision 518 U.S. 1

Registrants must be aware that the guidelines above represent the current considered view of the Ethics Committee of the BPC and the constituent institutions who contribute to it and encompass legal opinions the Committee has sought on these matters. There are however divergent opinions on some of these issues. Until these have been tested in a court of law and definitive rulings handed down, these must remain as guidelines to good practice. Definitive rulings on these issues are not currently in existence.

July 2005