



The
British
Psychological
Society

Professional Practice Board

Generic Professional Practice Guidelines

The aim of this document is

- *to define good psychological practice for all psychologists;*
- *to strengthen the identity of psychologists;*
- *to benefit the public;*
- *to benefit members; and*
- *to provide guidance on legal and regulatory issues.*



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Preface

The Society's Professional Practice Board has developed these generic professional practice guidelines with the following objectives:

- to define good psychological practice for all psychologists;
- to strengthen the identity of psychologists;
- for the public benefit;
- for the benefit of members; and
- for the provision of guidance on legal and regulatory issues.

The professional practice of applied psychologists is underpinned by four key ethical values – Respect, Competence, Responsibility and Integrity – and five core competences:

- Assessment
- Formulation
- Intervention or implementation
- Evaluation and research
- Communication.

1. Assessment

Assessment of psychological processes and behaviour is derived from the theory and practice of both academic and applied psychology. It is different from other activities such as diagnosis and includes both assessing change and stability and comparison with others. Assessment procedures include:

- the development and use of psychometric tests in best-practice ways;
- the application of systematic observation and measurement of behaviour in a range of contexts and settings;
- devising structured assessment strategies for individual clients, teams and organizations; and
- the use of a range of interview processes with clients, carers and other professionals.

Results of these assessments are integrated within the context of the historical, dynamic and developmental processes that will have shaped an individual, family, group or organisation as well as future aspirations or needs. Applied psychologists have the ability to assess the suitability of different measurement procedures depending on the purpose for which the assessment is needed, as well as being competent to devise and use context-specific procedures.

2. Formulation

Formulation is the summation and integration of the knowledge that is acquired by this assessment process, which may involve a number of different procedures. This will draw on psychological theory and research to provide a framework for describing a client's problem or needs. Because of their particular training in the relationship of theory to practice, applied psychologists will be able to draw on a number of models to meet needs or support decision-making. This process provides the foundation from which actions derive.

What makes this activity unique to applied psychologists is the knowledge base and information on which they draw. The ability to access, review, critically evaluate, analyse and synthesise data and knowledge from a psychological perspective is one that is distinct to psychologists, both academic and applied.

3. Intervention or implementation

Intervention, if appropriate, is based on formulation. This may involve the use of psychological models or approaches to facilitate change, or solution of a problem or improvement of the quality of relationships. Other kinds of intervention may include training or coaching of others (such as professional staff, managers, relatives and carers), the provision of psychological knowledge through teaching or the development of skills through supervision and consultation. All these interventions, or implementation of solutions, are tests of the provisional hypotheses contained in the formulation and are subject to iterate modification in the light of experience and new data.

4. Evaluation and research

Evaluation is, therefore, a critical and integral part of the applied psychologist's work. All activities and interventions need to be evaluated both during their implementation and afterwards. For example assessment of the stability and security of change, whether needs are met appropriately or decision-making is supported adequately may be examined.

Research includes the ongoing evaluation of assessment, formulation, intervention or implementation in relation to specific services provided. It also includes the development and testing of psychological theory explorations of psychological processes and outcomes (basic research), the development and evaluation of specific psychological interventions (primary research), and the consolidation and evaluation of primary research (secondary research).

5. Communication

Communication skills are integral to all aspects of an applied psychologist's role. Effective communication skills are routinely essential in relation to all aspects of work with others. Communication skills include communication with individuals, groups or organisations, all forms of electronic and verbal communication, and the dissemination of research findings.

Summary

Applied psychologists help others through the unique application of research-based psychological knowledge and skills in a structured process. This process includes assessment (the identification and analysis of needs and problems of individuals, groups and organisations), formulation of solutions, intervention or implementation, followed by the evaluation of outcomes. Clear and effective communication skills are integral to all of these.

These professional practice guidelines were produced by a working group drawn from a wide range of Divisions and Special Groups in the Society. (See below for details of the membership of the working group.)

They represent agreed guidelines for practice that are shared by applied psychologists across the different areas in which they work.

They give detailed guidance for practice which is consistent with the *Code of Ethics and Conduct* of the Society (BPS, 2006b), and they are subordinate to this Code. Professional practice should also operate within the constraints of current legislation and national policy. These will be reviewed regularly, within a maximum period of five years.

The guidelines have been designed for broad application across by the full range of applied psychology. However, it is recognised that applied psychologists may require more detailed guidance for some particular roles and responsibilities or for particular situations in which they work. More specific guidelines should be consistent with these generic guidelines and, in turn, the *Code of Ethics and Conduct*.

Membership of Working Group	
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1. Contracting

Principles

In establishing contracts with others, psychologists should consider that a potential client has a paramount right to be given accurate, relevant and appropriate information about the practitioner's level of competence, experience and status, and they should refrain from offering services or techniques which fail to meet appropriate high professional standards.

Psychologists should exercise scientific caution and have regard for the limits of present knowledge in the application and reporting of their services. Exaggeration, sensationalism and superficiality should be avoided.

Psychologists should obtain valid consent prior to undertaking any assessment or intervention. Where clients lack capacity to give valid consent, decisions need to be made regarding their best interests. (See Section 2: Valid Consent for more detailed guidance.)

The following information should be given to clients during the process of undertaking any psychological activity, being mindful of diversity including gender, social, ethnic and cultural, age and ability:

- The role and function of the psychologist.
- The practitioner's qualifications, areas of expertise and relevant limitations.
- The extent of the practitioner's power and responsibilities.
- The nature of psychological activities involved, the reasons for undertaking them and information about the likely outcome.
- The use of any video, audio-tape or one-way viewing screens or mechanical or electronic recording.
- The nature and location of any records kept and the client's rights of access, as well as those of any other party.
- Confidentiality and any limits on this.
- The client's right to withdraw from involvement at any stage.

In establishing contracts practitioners should take responsibility for making clear and explicit contracts which inform clients of any financial liabilities before they are incurred. Clients should be informed concerning issues of confidentiality, including those related to record keeping, as well as those of supervision, research and continuing professional development, during the contracting process.

Terms of engagement

In some circumstances it would be wise for psychologists to provide clients with terms of engagement in order to clarify the relationship and to provide safeguards for both parties to the ensuing contractual relationship, for example in providing psychological work for legal firms and other organisations. This document might, where appropriate, include definitions and outline procedures for the supply of services, their duration, for the payment of fees and of VAT where appropriate. The psychologist's duties and issues of availability, confidentiality, intellectual property rights, termination of the contract and actions in the event of any dispute may also be usefully outlined. Any specific limitation, e.g. assessments not accepted or types of activity not undertaken, should be specified at the outset by the psychologist. Appendix 1 provides an example of a Terms of Engagement contract.

2. Valid consent

Principles

The concept of valid consent relates to the client's right to choose whether to receive psychological services or to take part in research, and to make this choice on the basis of the best information available. The following principles apply to both applied and research practice, whether the psychologist works in the public sector or in private practice.

As a matter of fundamental practice psychologists should always ensure that they have sought and received the consent of those they work with, given of their own free will, without undue influence in accordance with the *Code of Ethics and Conduct* of the Society (BPS, 2006b). Where clients are detained under mental health legislation treatment will be provided in accordance with legal requirements and relevant local and national policy guidelines.

It is assumed that adults aged 18 or over should be able to give consent on the basis of sufficient information unless proven otherwise. While the general principles apply in all instances, there are specific issues relating to obtaining valid consent in children and in adults whose ability to make a valid decision is considered to be diminished (Mental Capacity Act 2005). This may be due to generalised learning disabilities, or to a mental disorder, which means any disorder or disability of mind caused, for example, by conditions such as psychosis or significant brain injury.

Some interventions cannot be carried out, even if they are considered to be in the best interests of the client, unless consent is given. The psychologist should always consult local and national policy and guidance to keep abreast of what these interventions are.

Psychologists should only attempt to intervene against the express wish of a client after careful consideration. In all cases the rights of the recipients must be recognised and upheld.

The process of obtaining consent

Timing

Psychologists should obtain the valid consent of the client in an appropriate manner prior to undertaking any assessment, intervention or research activities. It should be noted that it is not always the case that the individual, family or organisation the psychologist works with is the 'client' in this respect. For example, when a psychologist is instructed by the Court, it is the Court that should be informed and whose authority should be sought for the work undertaken. However, in all circumstances, common sense and ethical practice should apply when considering the approach to gaining valid consent from those with whom the psychologist is working.

In advance of any psychological activity, the client should be made aware of the availability of services, the existence of any waiting lists for intervention and the likely time of the first appointment (see Section 1: Contracting for further information). Should there be any significant change in the nature or purpose of the assessment or intervention, the issue of consent should be revisited.

Psychologists should take care to obtain the consent of the client. When the client is deemed incapable of giving valid consent, for example, children and those adults lacking capacity, consent should be obtained from those with the appropriate legal authority, where such exists, before communicating the results of an assessment or intervention with family members, carers, organisational management or other agencies. (See Mental Capacity Act 2005.)

If it is deemed necessary to move from individual contact to include others this should only be done with the client's prior consent.

Essential steps

Obtaining valid consent involves a process which is dynamic and is relevant to the specific assessment, intervention or decision being made at that time.

When there are changes in the intervention or when the psychologist has reason to consider the client may no longer consent, consent should be reviewed.

Psychologists should ensure that their clients are enabled to play an active role in this process. Clients should be encouraged to ask questions whenever they are in doubt.

Psychologists may be asked to provide consultancy or advice to colleagues about an identified client, without that person's knowledge or when the client has indicated that they do not want to have direct contact with the psychologist. In these circumstances, the psychologist will need to consider their potential involvement and the need for consent. If the psychologist is in doubt about how to proceed they should consult the *Code of Ethics and Conduct* of the Society (BPS, 2006b).

Provision of information

In order to ensure that the client has all the information necessary to make a valid decision whether to take part or not in a psychological activity they must be provided with relevant information listed below in a format that is designed to meet their specific needs, taking account of any sensory, cognitive or communication difficulties they might have, their language and culture.

The psychologist should provide information about the following:

- What the psychological activity involves, as far as this is consistent with the model of interaction, e.g. there will be limits in the use of some non-directive therapies and psychometric assessments.
- The role and function, areas of expertise and qualifications of the psychologist, refraining from laying claim to affiliations or skills that they do not possess
- The benefits of this activity, either directly to the client in the case of assessment or intervention, or indirectly in the case of systemic intervention, or to potential theoretical advances in the case of research.
- Any alternative assessment or treatment options and their known availability.

When asking clients to engage in research of any kind, the psychologist must provide an information sheet approved by the relevant Ethics Committee, encourage the client to ask additional questions and ensure the client is fully aware that refusal will not

affect other aspects of provision, for example if the research is in a clinical setting it will not impact upon provision of treatment.

The client should be made aware of foreseeable risks and how minor or serious they may be, for example the potential to feel worse at stages during therapeutic interventions.

Express consent must be sought in advance for the use of video, audiotape or one-way screens with a clear explanation of the purpose of these (See Section 5: Access to Records and Record Keeping).

The psychologist should inform the prospective client of what might be the consequences of not consenting to engagement in the proposed psychological activity.

The prospective clients should also be made aware that they can withdraw their consent from assessment, treatment or intervention at any stage. They should be informed of any likely consequences of such withdrawal.

Psychologists have an obligation to ensure that prospective clients are informed of the extent and limitations of confidentiality (see Section 3: Confidentiality) with respect to anticipated services, the purposes of any assessment, of the nature of the procedures to be employed or the intended uses of any product of their services.

The psychologist should ask the prospective client whom they would wish to be informed of their assessment or treatment, if anyone; the information they are willing to share where communication is essential, for example to the referring agent or organisation, management or Court, and wherever appropriate, including in the law, the client should have copies of reports or letters or be given feedback so that they are kept fully informed.

A psychologist in preparing a report, who draws upon the work of other professionals should seek their consent, where possible and if not already in disclosed records, to include that material and should acknowledge its source in the report.

If a report is requested drawing upon previous or concurrent investigations of a client, in other contexts for example NHS records in the preparation of a report for the court, the client's consent, or relevant authority's consent for that information to be used should be sought, for information to be used.

The psychologist must make persons they are working with aware of the extent of the commitment to the party who has engaged the psychologist, for example where serving as an expert witness in the legal arena, the psychologist's overriding duty is to the Court or when working for employers or potential employers in the occupational field.

Factors influencing valid consent

Issues of power and control

Psychologists should take into account any power imbalances which may reduce the voluntary nature of valid consent, considering their own role in the process and those of others for example managers, staff, family and carers. For example, in the clinical setting the impact of such imbalances are likely to be greatest where people are subject to compulsory compliance with assessments or treatments which may extend from the in-patient psychiatric or legal facilities to the community setting; it may also be particularly important when working with children and families or when a client is detained for compulsory treatment, or when their placement in the community is dependent on their compliance with treatment, including psychological therapies.

Empowering a client to make their own choice, independently of persuasive others, may often be the most ethical course of action.

The emotional state of client and psychologist

Psychologists should be aware that a client's desire for help, and the immediate impact of the psychologist's supportive listening, may affect the client's ability to make informed choices about the help they wish to receive.

They should also be aware that their own desires to help a client may bias their presentation of information, such as the probability of successful outcomes.

The nature of therapeutic interventions

For some approaches intervention follows an evolving path, unique to each client and his or her life circumstances, which cannot be precisely predicted in advance. Clients should be made aware of this uncertainty and predictions should be made on the best judgments.

It is recognised that it is sometimes unrealistic and undesirable to provide detailed information on all aspects of psychological intervention, and consent should be obtained to a general strategy rather than specific procedures.

Special areas for consideration

When a client may be unable to make decisions

For example in the clinical or educational setting the client's competence to give valid consent may be restricted by a learning disability or by disorder or disability of mind caused by physical disorder such as severe brain injury or mental disorder, such as psychotic illness or depression. Dependency on drugs and alcohol is not in itself considered to be cause to doubt someone's capacity although people with dependency may have a disorder or disability of mind as a consequence of their addiction.

In all such instances psychologists should ensure that clients are enabled and encouraged to take for themselves those decisions which they are able to take. It will often be necessary to make a judgment about a client's ability to give valid consent. This should include:

- An assessment of the client's ability to understand the information relevant to the decision.
- The foreseeable consequences of making or not making this decision.

- The ability to retain this information (using memory aids if necessary, allowing sufficient time to deliberate upon it, to weigh this information in mind and to come to a decision which can be communicated before an intervention or assessment can be initiated).
- The information must be presented in a manner appropriate to the client's circumstances and needs, using appropriate language, visual aids or any other means.
- The fact that a person is able to retain the information relevant to a decision for a short period only does not prevent them from being regarded as able to make the decision.

(See The Mental Capacity Act (2005) + Assessment of Capacity in Adults BPS (2006) + Protection of Vulnerable Adults (POVA) scheme + No secrets: guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse.

If a client is deemed not capable of providing valid consent, it should be obtained from the person seen as having the legal authority, where such exists, to give it on the client's behalf.

Interventions based on such decisions should only proceed when they are deemed to be in the best interests of the client. They should be as limited as possible and they should be focused on the client's best interests and where appropriate be consistent with the client's known goals.

It is good practice to give full information to clients even when they are not deemed able to give valid consent.

Adequate safeguards must be taken to prevent exploitation, neglect and physical, sexual or psychological abuse.

If a client is deemed not to have the capacity to consent and withholds their consent, the assessment or intervention cannot go ahead unless there are exceptional circumstances, for example when there are issues of safety for the client or others, or the client's state of mind is so disturbed that they cannot appreciate the need for or nature of the intervention. In all cases the psychologist must seek the consent of the person who has the legal authority to give this consent, and act within the legal framework and seek advice from the relevant senior clinicians.

The psychologist must, so far as reasonably practicable, permit and encourage the client to participate, or to improve their clients' ability to participate, as fully as possible in any act done for the client and in any decision affecting them.

Children

Between the ages of 16 to 18 young people are able to give consent independently of those with parental responsibility. But, if consent is refused and the psychological work is considered to be in the young person's best interests, those with parental responsibility should be consulted.

Where the person is under the age of 16, consent should be obtained from someone with parental responsibility, or the person who is appointed with equivalent authority under the provision of a care order.

Until the age of 18 if the client refuses consent, but those who have parental responsibility do consent, the views of the latter will hold or in very complex or serious cases the Court will decide.

Psychologists must include children's feelings and wishes in any decision making (see The Children Act, 1989). If children are of sufficient understanding to make informed choices, it is best practice for psychologists to obtain their valid consent prior to undertaking any psychological activity, irrespective of the child's age.

There are some circumstances in which a young person seeks help directly without parental consent. As a child becomes increasingly independent with age, parental authority diminishes correspondingly. It is lawful, therefore, for a psychologist to see young people under the age of 16 without parental consent provided that the psychologist is satisfied that the young person has sufficient understanding (awareness and state of mind) to make an informed decision. However, in such instances, the psychologist should always encourage the young person to discuss the matter with those with parental responsibility before any active involvement takes place, unless to do so would put the child or young person at risk of harm.

If children and young people refuse to consent, or withdraw it during intervention, their decision may be overruled by those with parental responsibility who can give consent to an intervention that is deemed to be in the child's best interest. However, it is likely to be problematic to impose an intervention on a child, and the psychologist should explore ways in which those with parental responsibility may influence their child to accept an intervention.

In the clinical context if those with parental responsibility refuse consent or are unable to give consent, thus depriving their child of therapeutic help to which the child consents, and the child's problems are judged to be sufficiently serious to impair his or her well-being and development, psychologists should consider action through the appropriate legislation.

If a psychologist becomes concerned that a child or young person is experiencing actual harm within his or her family, they must make a judgment about the degree of risk to the child's general safety and protection. It is the duty of the professional to act (see BPS, 2007, Child Protection Portfolio). They should contact the local authority for advice and notification under such circumstances, whether or not parents give consent (see Section 3: Confidentiality). It is important to bear in mind that significant harm refers to physical, sexual and emotional abuse.

There are a number of situations for children under 16 years old, where the psychologist may not be working directly with a young person but is advising other professionals, for example, educational psychologists working with teachers. In these circumstances, the psychologist should establish that valid consent has been obtained from those with parental responsibility.

For detailed guidance regarding valid consent and children in the clinical context please refer to DCP, 2006.

Research

Psychologists should follow local guidelines of the organisation within which their research is being conducted and must have obtained appropriate ethical approval.

Those who engage in research should never give the impression that the research will be of direct individual benefit to a participant. They should not provide a professional opinion or intervention (see BPS, 2006).

Taking account of their obligations under the law, the psychologist should hold the interests and welfare of those in receipt of their services to be paramount at all times and ensure that the interests of participants in research are safeguarded.

People who lack capacity may only take part in research to explore the causes and consequences of mental incapacity and to develop effective treatment for these conditions. Such research must include rigorous protocols to protect incapacitated adults from being exploited or harmed (see Mental Capacity Act 2005).

Some research may involve children or adults only indirectly as individuals (for example, classroom observation, or analysis of anonymous written records). In such cases, psychologists may consider that consent is not necessary. In these instances, they should consider carefully whether their research or its outcomes might have direct effects on participants at an individual level.

3. Confidentiality

Principles

Clients are entitled to expect that the information they give to psychologists about themselves and others will remain confidential. Psychologists have a duty not to disclose such information except as discussed below and to bring their confidentiality practice to the attention of their clients, employers, managers and any other professionals involved.

Psychologists have a duty to inform involved parties of their confidentiality standards and practice at the point of first contact. Clients should be informed of the limits of confidentiality where information about them may be shared and be given the opportunity to state any objection to this.

If disclosure of information is deemed necessary psychologists have a duty to try to obtain specific valid consent from their clients, making the consequences of disclosure as clear and unbiased as possible. There are a number of circumstances where this might not apply: for example where the health, safety or welfare of the client or someone else would otherwise be put at serious risk. If confidentiality is broken without consent, the client should be told what has been said and to whom, unless such disclosure exposes the client and others to serious harm.

During training, all documents should not identify individuals to which they relate; tutors and supervisors should communicate this. This includes published reports, case studies prepared for trainee assessments and any articles or publications.

Express consent should be obtained by psychologists before audio or video recording their interactions with them or the consent of a guardian or carer in cases where the client is unable to provide written consent. If material is to be used for purposes other than client care (including teaching, research), the client should be informed of the purposes of the recording. It should be made clear to clients how the material will be used and to whom it will be disclosed, for example, trainee students, other researchers, and supervisors.

Psychologist and client should come to an agreement about how long recorded material should be kept. The general principle is that recordings will be kept for as long as the purpose is fulfilled for which the client has given consent and no longer. The security of the material must be maintained, and it must be destroyed at the agreed time limit if no longer used.

Valid consent is required before client material in an identifiable format may be published in case studies, presentations or other research reports.

When working in teams, psychologists must formulate agreed procedures for their working together and inform themselves of the confidentiality practices of other team members. They must decide what information is appropriate to share with team members to enable the team to perform its duties, and make clear that such information is given in professional confidence.

Psychologists have a duty to be aware of the content of any other relevant guidelines and of any other policy guidelines which set out local expectations.

If psychologists wish to use reports on clients which have been compiled by other professionals, they should only do so with the consent of those professionals and only use the reports in the context for which the report was specifically provided.

Clinical and other audit must ensure that data is anonymous, and that individual clients are not identifiable to any third parties. If this cannot be ensured it is necessary to obtain specific valid consent for the use of client data.

Risk assessment

Psychologists who are faced with the difficult decision as to whether to disclose information without a client's consent must weigh carefully the arguments for and against disclosure. The responsibility for this decision lies with the individual psychologist although they may seek advice and guidance from appropriate sources.

Disclosure in relation to case management

When the client is below the legal age of consent, psychologists normally communicate appropriate relevant information to the legal guardian or parent. A child also has a right to expect that information given in confidence will not be released to others without their consent. Issues of safety must always override those of confidentiality however.

When a client is judged as incapable of giving valid consent, psychologists must exercise caution, and take care to satisfy themselves that any disclosure of information is in the client's best interests.

Disclosure in the public interest

Circumstances may emerge where clients may present a risk to others or to themselves, or be at risk from those whom they wish to protect. It is then necessary to discuss the importance of disclosure and to encourage it, for example to partners of HIV positive clients, and to employers if a client's mental health status presents a risk to others via driving, handling machinery or interaction in a working situation, for example, flight deck crew. In exceptional circumstances, disclosure without consent, or against the client's expressed wish may be necessary in situations in which failure to disclose appropriate information would expose the client, or someone else, to a risk of serious harm (including physical or sexual abuse) or death.

Abuse of children

Psychologists may become aware of a risk, or have actual evidence of ongoing abusive practices, either through their work with children or via work with adults as survivors or perpetrators. The situation may well involve a conflict of interests between the needs of clients and the needs of others. For psychologists working with children and families, the requirements of the Children Act 1989 and the associated guidance 'Working Together' direct their prime responsibility towards the interests of children. Balance of risk situations may prevail, where the needs of children and the risk they are exposed to may not be clear-cut, as in a sport-coaching situation. The balance needs to be assessed to guide decision making (See BPS. 2007, Child Protection Portfolio).

Psychologists may be asked to disclose information to a local authority investigating children at risk under the Children Act 1989. Psychologists should comply with such requests, although they are not obliged to assist where to do so 'would be unreasonable in all the circumstances of the case'.

Psychologists have a duty to assess the balance of risk to the best of their ability in all such circumstances, to gain knowledge and advice from other professionals and psychologists, and to be able to justify their decisions. Should current abuse of children be indicated, the balance will shift in the direction of disclosure and the psychologist should inform the appropriate authorities as quickly as possible.

Disclosure in connection with judicial proceedings

Unless a client has given valid consent, psychologists should not disclose confidential information outside of the parties already agreed by the Court unless a Court order has been made, and not simply in response to requests from third parties within the legal system (see BPS, 2007 & in press).

Disclosure to clients' employers, insurance companies and others

Psychologists have a duty to ensure, at first contact, that clients understand the purpose of any assessment undertaken at the request of employers, DVLA or insurance companies and of the psychologist's obligation to disclose the results of that assessment and any limitations to this. In the case of assessment for fitness to work or to drive, they should obtain the client's written consent.

With regard to occupational testing, psychologists should abide by the Society's, *Code of Good Practice for Psychological Testing* (BPS, 2002). Test results should not be kept longer than necessary for the purpose of the exercise for which they were collected.

Disclosure after a client's death

A client's death does not remove the necessity for confidentiality.

4. Access to records and record-keeping

Principles

Psychologists should follow local and national guidance and statutory responsibilities regarding the retention of records.

They need to take care when making and/or keeping records to include only such information as is required for the purpose of their professional involvement with the subject(s) of their records and to exclude superfluous information.

Psychologists must bear in mind the potential impact of the information in their records on all who may have access to such records, for example, the client, other professionals, managers, authorised carers, etc. Where possible, distinction should be made between fact, observation and opinion and judgemental comments should be avoided.

Psychologists should make, keep and disclose information in records only in accordance with national policy and legislation, the policies and procedures of the organisation(s) they are employed by/working in collaboration with, and the Society's *Code of Ethics and Conduct*. Psychologists have a duty to bring to the attention of any organisation they are working with should they be asked to keep or disclose information in records in any way which breaches the Society's *Code of Ethics and Conduct* together with the Statement on the Conduct of Psychologists providing Expert Psychometric Evidence to Courts and lawyers.

This guidance applies to all record keeping on clients, their relatives, carers and/or associates, and their organisations, regardless of the media in which information is held, e.g. written notes and reports, audio and video recordings, paper and electronic records, etc.

Psychologists working with clients who are the subject of court proceedings may need to be careful to ensure that they keep all records which may be of relevance to the court process until it is clear that the court has reached a final conclusion, including any appeal that may have been heard. The disclosure of such records is ultimately a matter for the court and guidance on the matter of the disclosure of such records is given in the *Statement on the Conduct of Psychologists providing Expert Psychometric Evidence to Courts and Lawyers*.

The purpose of records

The purpose of records made, kept or accessed by psychologists is to support their professional work with clients who may be individuals, related others, groups or organisations, in carrying out the core components of their role in part of all of the following:

- assessment;
- formulation;
- intervention/implementation;
- evaluation and research; and
- communication.

In most cases, records made, kept or accessed by psychologists are held to support the best quality of service for the client (individual, group or organisation). In exceptional cases information in such records may be required for other purposes, for example, public protection. Information in the records kept by psychologists may be required where the person being seen by that psychologist is involved in court proceedings. In that case the purpose of the records is to support the conclusions reached in any assessment or course of therapy which form the basis of a report to the court. Further, such records may be needed by the court or by the legal representatives of any interested party and should be in such a form as to be able to assist in clarification of the issues in the case.

In order to fulfil the above purpose records made, kept or accessed by psychologists should be:

- systematic and appropriately detailed;
- in clear language/format;
- accurate;
- up to date; and
- relevant to professional work.

Shared records

In some organisations in which psychologists work (for example, health, education, social services) single, multi-professional client based, records are held. Such records are designed as shared documents (paper or electronic) the function of which is primarily to facilitate inter-professional communication to ensure the safe and effective delivery of high quality services. Records may also be shared where the psychologist is instructed to prepare a report for use in court. In this case the records may be shared with only a limited number of persons and the permission of the court should be sought via the instructing solicitor in the case if records are to be shared with anyone not a party to the proceedings. In family cases, any disclosure of material to third parties without the permission of the court is likely to be a contempt of court. As to sharing with legal representatives and the court see the *Statement on the Conduct of Psychologists Providing Expert Psychometric Evidence to Courts and Lawyers* (BPS, in press).

If they exist such records may be shared between organisations/agencies to facilitate care and/or exceptionally, to safeguard the client or others, including the general public. (See Sections 4 and 6 Confidentiality and Multi-Disciplinary Teams.)

Psychologists should include in the shared record all information about their work with service users and related others which is required to ensure appropriate multi-professional care and to safeguard the client and relevant others, including the general public.

Working notes

Psychologists may wish to keep separate notes and other records, including raw data from psychometric assessment, to aid their work but which are not intended for sharing with others or to be part of the permanent shared record. How such records are made, stored, shared and/or disposed of will depend on their nature and purpose and the reasons why they are held separately. For example, when the notes are taken for the purpose of preparing a legal report, such notes may be required by the court and it is advised that these are kept until the conclusion of the legal proceedings.

Other examples include detailed process notes used for reflection and supervision in psychotherapy and audio or video recordings used for supervision, teaching or research. These should be kept confidentially, used in accordance with the consent of the client(s) and destroyed when they have been used for that purpose. (See Section 2 and 3: Valid Consent and Confidentiality.)

Psychologists (and psychology departments) using process notes in their work should consider carefully which approach best meets the needs of their client in their organisations. Where confidential information is given by clients which they do not consent to be disclosed to others, this should be taken seriously and considered carefully. The psychologist must consider whether withholding such information would adversely affect the ability of the service to offer appropriate and safe care. Psychologists must also consider whether keeping such information confidential to themselves and the client alone may place the client or others at potential risk of harm. (See Section 3: Confidentiality.)

Assessment materials

Psychologists should be mindful at all times of the confidential nature of assessment materials. Many assessment measures are invalidated by prior knowledge of their specific content and objectives. Psychologists who use these materials are required to respect their confidentiality and to avoid their release into the public domain (unless this is explicitly allowed in the nature of the instrument and by the test publisher). Psychologists should, therefore, take reasonable steps to prevent misuse of test data and materials by others. Misuse includes release of such data and materials to unqualified individuals, which may result in harm to the client.

For these reasons, psychologists should not include raw data from psychometric assessment in the shared part of records, as this would mean allowing detailed information on the content and nature of tests to be released to non-psychologists, who may not have the training or expertise to be able to interpret the information they contain. The results of psychometric assessment should be incorporated into reports which explain their context and appropriate interpretation and which are included in the shared institutional record.

Such psychometric test data should be kept in areas of records with controlled access. The use of 'sealed envelopes' is recommended both for paper and electronic records. (See: Connecting for Health: Information Security Management website and Department of Health Records Management NHS Code of Practice 2006) This information should only be released to those with legitimate authority and who are qualified to use and interpret them.

Keeping records secure and access to records

Psychologists are responsible for holding their records secure to ensure the confidentiality of the information contained within them and to control access to them.

Clients have a legal right to access records concerning them. Additionally it is good practice for clients to be given appropriate feedback on their content and this is a right enshrined in policy and legislation (for example, Data Protection Act 1998). Sharing records with clients supports the collaborative approach of psychologists and enables

clients to have full and effective involvement. Client access to records will be restricted to information about themselves and not third parties. Restrictions will also apply when disclosure would place the clients or others at risk of serious harm. Restrictions on disclosure should be negotiated at the onset of engagement with the clients and their consent obtained to non-disclosure.

Where shared records are held, other professionals involved with the clients will have access to such records. This should be explained to the clients at the onset of engagement with them, and their consent obtained to this sharing of information.

In situations where only individual psychologist records are held, it may be useful for such records to be accessed by psychologists or other appropriately qualified professionals who have professional involvement with the client at a later date. Such disclosure should be with the client's (and previous psychologist's, wherever possible) consent.

In some cases, authorised persons may have access to clients' records in the absence of their consent being given. This includes when the client is deemed incapable of giving such consent e.g. children and those lacking capacity (see Mental Capacity Act Draft Code of Practice, 2006). In such cases, those with parental responsibility for children and those authorised by the Court in the case of adults lacking capacity, may have access to the client's records if this is considered by the psychologist to be in the client's best interests.

In exceptional cases, access to records may be ordered by legal authorities, or allowed by the psychologist without the service user's consent, when failure to do so would place the client or others at serious risk of harm. Examples here would include the risk of homicide or suicide or serious abuse of children, vulnerable adults or the general public.

If the psychologist is asked to disclose information from their records by a legal authority when they consider this is not in the best interests of their clients they should present their arguments against disclosure to the legal authority. However, if a court subsequently issues an order to disclose the information the psychologist is obliged to do so.

Psychologist-held records should be held securely for as long as they are required for the purpose of psychological work. If their records are from a wider organisation, the maintenance of these records are determined by the organisations legal and professional rules. Psychologists must follow national, local policy and legal requirements regarding the retaining or disposal of records after the psychologist's work is concluded. Information used, for example for for audit purposes, should be anonymised and not held in any way which is personally identifiable. (See Sections 2 and 3: Valid Consent and Confidentiality.)

5. Supervision

Principles

Supervision is an activity in which one or more psychologists, whether a trainee or those having more experience, discuss issues concerning their work both for purposes of reflection and to have that work considered by one or more other professionals. This will include situations where psychologists are actively involved in transmitting skills and expertise to others, such as in training.

For some psychologists, especially those working in therapeutic settings, supervision is an *essential* component of the psychologist's continuing development. Where psychologists are seeking to undertake Continuing Professional Development (CPD) and are developing new skills, they should pursue specialised training and supervision by another professional having experience in the appropriate area of working. Psychologists are often called upon to supervise non-psychologists, in which case these guidelines would also apply.

All aspects of practice should be accessible to discussion in supervision including research activity, administrative and managerial work, service developments, team working, teaching and the process of supervising others. Thus the focus of supervision may change as the supervisee's experience grows and is developed through CPD.

The two broad purposes of supervision are to maintain the quality of a psychologist's performance and to extend the individual practitioner's range of skills, mostly by means of reflection, learning and psychological support. These aims include maintenance of good practice in relation to clients, to other professionals and service delivery, to professional and personal development, and in relation to meeting any relevant organisational objectives. It is critical to the process to understand that supervision is not a substitute for psychotherapy and nor is it a form of, or substitute for, line management or appropriate training.

The forms of supervision may include discussion on the basis of a one-to-one, facilitated group with lead supervisor or peer (individual or group) setting, and may also involve direct observation, or a combination of some of these. Individual psychologists may wish to try different approaches at different stages of their careers.

The nature of the supervisory relationship

Supervision requires a relationship of mutual trust, respect and integrity which models best practice and sensitivity to the learning needs of the supervisee. It should be flexible and appropriate to the different roles and purposes, domains and disciplines in which practitioners work.

Equality of respect does not remove the supervisor's responsibility for taking the lead and giving the supervisory process a sense of direction, but sets the framework in which supervision is conducted. It also recognises the responsibility of the supervisee for the achievement of successful supervision.

The characteristics of supervision and consultative support

Although the exact nature of the supervision will vary from individual to individual and over different work contexts, where it is conducted the process should:

- Be based upon shared and explicit models of supervision, and bounded by a regular, formal and explicit arrangement which is mutually negotiated. Roles and responsibilities between all parties should be clarified, as well as the limits of confidentiality, and any payments involved.
- Have a clearly defined contract which is confidential and proportional to the volume of work and the experience of the supervisee. The supervisee's rights and responsibilities in relation to the supervisor should be similarly negotiated and defined. When a more detailed, co-constructed, rigorous contract is established, and renegotiated where necessary, the quality of the relationship is enhanced, and both supervisor and supervisee report increased satisfaction with outcomes.
- Hold regular reviews of supervisory arrangements.
- Maintain copies of all supervisory contracts and any updates, record the date and duration of each session, maintain an agreed supervision logbook and enter notes on the content of each session including decisions reached and agreed actions, and record in writing all regular reviews of supervision. Where a risk or ethical issue requiring a course of action arises, it is likely that the supervisor would expect the supervisee to record appropriate details in any client records.
- Have a frequency which is proportional to the amount and nature of work, although a minimum of 1.5 hours per month is considered appropriate for a psychologist regularly engaged in psychotherapeutic or counselling work, increasing proportionally with extent of caseload.
- Be clearly distinguished and kept separate, wherever possible, from any line-management or other responsibilities, duties or tasks.
- Avoid other personal or dual relationships between supervisor and supervisee which could affect the integrity and objectivity of the relationship involved. Sexual relations between supervisor and supervisee are not permitted.
- Enable the relationship between supervisor and supervisee to be characterised by mutual respect for competence and differing values, non-exploitation and good modelling.
- Enable supervisees to consult with supervisors whenever a conflict of interest, question of ethical priority or a legal issue arises.
- When the client is considered a risk, the responsibility to another person or the public at large may be paramount. Responsibilities to others, such as managers, colleagues and trainers, should also be considered in any decision process

- Ensure that the expressed agreement of the supervisee and of a client is obtained where the supervision incorporates the use of video, audiotapes or one-way screens. (See Sections 2, 3 and 4: Valid consent, Confidentiality and Record-keeping.) This agreement should be recorded and preferably written rather than verbal and should relate to the fact of the recording, its subsequent use and arrangements for erasing it. Issues of ownership, copying, security of recordings etc should be discussed and clarified at the outset. Where one-way screens or recording techniques are being used, there is the same need for reassurance that the observer(s) are equally committed to respect for confidentiality as the supervisor. Any signed written consent should be stored separately from the recording in order to preserve confidentiality.
- Ensure that the contract of supervision is reviewed and evaluated in a systematic manner, on a regular basis, together with the outcomes of the process.

Roles, responsibilities and competence

Psychologists undertaking supervision should ensure that they are sufficiently experienced, competent and appropriately trained to provide supervision, thereby being open and honest about their qualifications and level of competence and the services offered.

Where there is serious or continual disagreement about a supervisee's work, both parties need to take whatever action is appropriate in their professional context, consulting other experienced professionals as necessary.

Whilst supervisors may not have such an obvious appraisal role with a qualified practitioner as they do with a trainee, they do still have professional obligations concerning professional standards, ethical practice and 'fitness to practise' issues. If supervisors have any concerns regarding performance in these areas, they have a duty to discuss these with their supervisee and, if necessary, make a report to the appropriate manager.

Those working alone, or in the absence of service-based supervision, should seek supervision from appropriately qualified and experienced personnel if appropriate.

More experienced psychologists may also have a requirement for regular supervision at the appropriate level for their experience and responsibilities. It is recommended that this be obtained from a senior colleague, if necessary from outside their professional specialty or organisation, to maintain and develop advanced level skills and experience.

Confidentiality

Psychologists may have multiple responsibilities regarding confidentiality when acting as a supervisor. These include:

- Responsibility to the supervisee to keep supervision sessions confidential.
- A responsibility to those clients discussed to keep their details confidential.
- A responsibility to an organisation or regulatory body of which the supervisee is a member to break confidentiality if the supervisee is acting unethically so as to prevent harm to the client.

There are legal constraints which may arise; for example, in relation to Data Protection and to legal proceedings which may call for all notes. Both supervisors and supervisees are advised to seek out authoritative sources of information on legal issues, as they might arise in pursuing specialised practice.

Where the supervisor believes the supervisee is inappropriately placing the client at risk of harm they must act to prevent this. The supervisor should use professional judgement in assessing whether it is necessary to breach confidentiality for the purpose of resolving any immediate crisis relating to a client and/or ensuring whether the supervisee is competent to practise. The supervisee should also be informed, except where the circumstances of the case render it unsafe or inappropriate to do so, of any plans to communicate concerns to a third party and given reasons why this course of action is being followed. Reference to the Society's *Code of Ethics and Conduct*, (BPS, 2006b), is required. Where time constraints allow, it is recommended that discussion of any decision should take place with an experienced Chartered Psychologist before action is taken. (See Section 3: Confidentiality.)

Supervision of trainees

Many psychologists will be actively involved in transmitting skills and expertise to others. This includes providing training and supervision to both trainees and assistant psychologists and to members of other professions. There may also be situations in which this is provided to carers, voluntary organisations and other non-psychologists. In all cases tutors, teachers and supervisors should conform to professional procedures and guidelines.

Supervisors and tutors must ensure that their trainees are aware of relevant professional practice guidelines and of the importance of observing these in their practice. Any teaching or coaching should ensure that they address the range of ethical issues involved and indicate the recommendations contained within the guidelines.

When acting as tutors, teachers and supervisors, psychologists should be aware of the importance of boundary and power issues within supervisory and teaching relationships. Dual personal and supervisory/teaching relationships should be avoided, so that any potential abuse of power is minimised and the teaching role is not compromised. Should such a relationship exist, the psychologist concerned should withdraw from any professional responsibility towards the trainee. Supervisors or teachers must not exploit the trainee's vulnerability in being dependent upon reports of competence, or the relationship of trust, for improper personal or financial gain.

The syllabus of any teaching for trainees should include teaching which addresses the relevant range of ethical issues and good practice recommendations. Supervisors should take every opportunity to relate ethical guidance to trainees.

Trainers and supervisors should not enter into therapeutic contracts with current and former trainees and supervisees.

When acting as a supervisor you must carry out your duties in a professional and ethical manner. You are responsible for your professional practice, including any advice and guidance you give to supervisees, any failure to act or negligence, and any tasks you ask a supervisee to undertake.

Both trainees and supervisors/teachers should be free to pursue their professional and academic activities without any form of overt or covert harassment, including sexual harassment. Supervisors have a duty to maintain the workplace is free from such harassment and intimidation and should endeavour to ensure that satisfactory procedures for complaint are available. Any form of sexual advance or request for sexual favours by supervisors, trainers or teachers is unacceptable. Trainees should be informed that agreed procedures for complaint exist and be made aware of local procedures.

Trainees should be informed that as trainees they are individually responsible for their conduct with clients and the extent to which responsibility for work is shared with the supervisor.

It is the responsibility of the supervisor to establish and maintain appropriate boundaries. They should ensure that trainees inform clients of their training status and that they will be discussing information about them with the supervisor in confidence and that information about them may be used anonymously for examination purposes.

They should ensure that the trainee's work does not exceed their competence, whilst enabling new learning to take place at an appropriate pace. If the needs of a client exceed the competence of a trainee, the supervisor must consider whether to work with the client themselves or to refer elsewhere, and any such decision will need to be balanced with other factors such as the consequences of terminating the relationship.

The accurate monitoring of competence needs to include some level of observation, either by direct or indirect means. Strategies should be developed to facilitate the constructive use of observation.

When using case material in training sessions, care should be taken to adhere to the principles of confidentiality and trainees must ensure that client personal details are anonymised. Course organisers must ensure that all case studies are held in a secure place.

When writing client details for their case studies, trainees should be informed not to include information that would enable their clients to be identified by those reading their studies. Client names should be altered or not used and the names of all other professionals involved should also be removed, as well as any indication of the location.

Supervisors and trainees should respect each other's perspectives, especially where these involve differences of opinion and professional practice. Trainees should be guided by the supervisor's advice, and supervisors should respect the right of trainees to develop an individual orientation to their work. Trainees have the right to refuse to undertake certain actions on ethical or other legitimate grounds. In the case of disagreement the supervisor may need to direct the action that needs to be taken for client welfare, or ensure that another does so, for example the manager.

Where the needs of supervision exceed their abilities, supervisors should arrange for additional supervision by another practitioner.

Supervisors should make assessment of trainees' competence which are not influenced by personal differences, including those relating to gender, race or culture.

Constructive, accurate and impartial feedback should be provided on performance which takes account of the possible distress which feedback may cause. Difficulties should be dealt with as they arise on a basis of sensitivity and objectivity.

Both supervisors and trainees should recognise the importance of personal development and its relationship to professional development.

6. Working with other professionals including in multi-agency settings

Principles

In order to fully meet the complex needs of clients, psychologists will often be required to work collaboratively with other professionals from their own or other agencies.

Such collaborative working will be for the benefit of clients and / or the promotion of the safety and protection of the public or the benefit of the organisation and is required by national policy and legislation in a number of areas where psychologists work. Such services could include education or other services for children and young people, multi-agency public protection panels and community based services for people with mental health problems or learning disabilities.

Inter-professional and inter-agency collaboration enables psychologists to recognise and work with diversity and inclusion.

Engaging in partnerships drawing on a wide range of services and agencies enables psychologists to address identified community issues with the optimum use of resources.

Practice when working in multi-professional teams or multi-agency contexts

Psychologists should work together with colleagues to develop a shared view of the aims and objectives of work at all levels. They should respect the professional standing and views of other colleagues and commit themselves to joint working.

Psychologists should make it clear to other professional colleagues what can be expected of them in collaborative work. When establishing arrangements for joint working they should make clear the conditions of the association, the work that will be done and the point at which the work will be terminated. (See Section 2: Contracting and appendix 1.)

They should ensure that there are explicit agreements about information sharing and confidentiality and its limits, and that these are adhered to not only by themselves but also by all parties. (See Sections 2 and 3: Valid consent and Confidentiality.)

Within the boundaries of the agreed limits on information sharing and confidentiality, psychologists should practise and encourage in others full and open communication with colleagues / agencies to support effective collaboration.

Psychologists should demonstrate their commitment to involving clients in multi-agency work, finding ways to engage them and retaining the central principle of better outcomes for clients as the rationale for multi-professional and multi-agency work, as long as this is consistent with public safety.

Psychologists should be sensitive to the effects of clients' receiving contradictory advice from different professionals or agencies and should work towards a co-ordinated view wherever possible.

Practice aims and objectives for psychologists working in multi-professional and multi-agency contexts

Psychologists contribute to and benefit from consultation, support and training to increase understanding of the needs of clients.

Psychologists work to foster a greater sense of coherence between professionals and / or agencies with regard to clients' needs and ways of intervening effectively. Psychologists contribute to the development of integrated, comprehensive plans of direct and indirect work with clients, related others and communities.

Practice in situations where conflict arises

When working in multi-professional or multi-agency contexts psychologists may find themselves in conflict with the approaches to work taken by other individual colleagues or by the multi-professional team or agency.

Psychologists should bring to the awareness of the multi-professional team or agency any difficulty in the group working together which may impact on the psychologist's ability to function effectively and ethically in their role. Such issues have to be addressed (guided by the Society's *Code of Ethics and Conduct* (BPS, 2006b), national and local policy and current legislation) before proceeding with multi-professional / multi-agency collaboration or continuing if it has already begun.

The psychologist may also have cause for concern about the ability of the team to provide for the needs of the client owing to interpersonal difficulties between members of the multi-agency or multi-disciplinary team that might have an indirect impact on the client.

As far as possible, psychologists should seek to resolve any conflict with or between multi-professional colleagues by clear communication, relevant evidence and collaboratively working through the issues in reasoned argument within the context of respectful relationships with colleagues.

If the situation remains unresolved for any reason, for example because it is judged not to be an issue for active management, the psychologist must make a judgement about whether their involvement in the team is helpful to the client or the working of the team. If not, the psychologist should consult with an appropriate colleague about whether they should disengage from that team.

A psychologist may also experience concerns about the competence or ethical practice of individual colleagues involved in joint working. These concerns may relate to the competence of the colleague to carry out a particular intervention, the appropriateness of an intervention for a particular client or problem, the use of a particular intervention or the nature of the relationship between a colleague and his or her client (e.g. potential abuses of power).

The psychologist should first approach the colleague in confidence, if it is appropriate with relevant information, in a manner that is collegiate and helpful. If misgivings continue the psychologist should, without malice or breaching confidentiality consult with an appropriate colleague to share concerns and to seek advice. In doing so they

should adhere to the guidance received and where appropriate keep a written record of the meetings and steps taken to resolve any difficulties.

If they conclude that misconduct has occurred, psychologists should bring the matter to the attention of those charged with the responsibility to investigate such concerns.

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APPENDIX 1

Example Terms of Engagement

It is agreed that:

Definitions and Interpretation

- 1.1 In this agreement the following words have the following meanings:
- 1.1.1 'Appointer' means the solicitors, insurer, insurance company, government department, local authority, firm, company, partnership or any other person who instructs the psychologist.
 - 1.1.2 'Commencement Date: means the date of this agreement (as set out above).
 - 1.1.3 'Client' means the individual person(s), firm, company, government department, public body on whose behalf the Appointer has engaged the psychologist.
 - 1.1.4 'Disbursements' means all reasonable and appropriate costs and out-of-pocket expenses incurred by the Psychologist in providing the Services including (but without limitation) travel, refreshments, hotel accommodation, photography, video recordings, printing and duplicating.
 - 1.1.5 'Engagement Terms and Conditions' means the contractual terms and conditions which the psychologist shall use when being engaged by the Appointer.
 - 1.1.6 'Psychologist Fees' means (in absence of written agreement to the contrary) the reasonable charges of the psychologist for the Services based on the expert hourly rate set out in the schedule and any other fees to which the psychologist is entitled.
 - 1.1.7 'Psychologist Services' means the services to be provided by the psychologist to an Appointer set out in the schedule.
 - 1.1.8 'Hourly Rate' means the amount the psychologists shall be entitled to charge the Appointer for their services for each hour where they are engaged in any way in relation to the Matter/Case. Where the psychologist is engaged for less than a full hour they shall be entitled to charge for such time on a pro-rata basis based on the relevant portion of such hour.
 - 1.1.9 'Matter/Case' means the specific matter or case (as applicable) for which the psychologist is to be engaged by the Appointer.

- 1.1.10 'Report' shall mean a written professional report provided by the psychologist for an Appointer which the psychologist is instructed to produce by the Appointer for use by the Appointer in relation to the matter/case.
- 1.1.11 'Working Day' means a day (other than a Saturday, Sunday, statutory, bank or public holiday or a day on which the psychologist has specified that they will be on holiday).
- 1.1.12 'Required Services' means the Services as set out in the written instructions from the Appointer to the psychologist.

- 1.2 The headings in this agreement are for convenience only and shall not affect its interpretation.
- 1.3 References to clauses and schedules are references to clauses and schedules in this agreement unless otherwise stated.
- 1.4 Words importing the singular number only shall include the plural number and vice versa; words importing a specific gender only shall include all genders, and words importing persons shall include corporations.

1. Supply of Services

- 2.1 The parties acknowledge that any and all expert services provided to Appointers are intended for use solely by the Appointer and/or the client.

2. Duration

- 3.1 This agreement shall commence on the commencement date and, unless sooner terminated, continued for the period set out in the schedule.

3. Fees/Invoice Procedure

- 4.1 The Appointer shall be responsible to the Psychologist for payment of the psychologist fees and disbursements, whether or not the Appointer had been placed in funds by the client (or, in the legal aid cases, by the Legal Aid Board).
- 4.2 Where any matter/case is referred to taxation or assessment by the Legal Aid Board the liability of the Appointer to pay the psychologist's fees and disbursements shall not be reduced unless a court or Legal Aid Board has provided detailed specific guidance that such fees and disbursements were not reasonable. The psychologist shall not suffer loss and have their Fees reduced or pro rated down where a general reduction in costs to a particular matter/case is imposed by a court or Legal Aid Board.
- 4.3 The psychologist shall raise an invoice in their name to the Appointer for their fees and disbursements and any other fee, cost expense or debt due to the psychologist on completion of the required services.

- 4.4 The psychologist should ensure that details of payment required are specified in the agreement. Invoices should be submitted immediately after the completion of services.
- 4.5 Where the Psychologist has provided expert services in a matter/case which is/was subject to Legal Aid:
- 4.5.1 The psychologist shall be notified in the Legal Aid Board has refused to provide funding for a matter/case. This does not remove the onus of payment from the Appointer for work completed.

5. VAT

- 5.1 All sums payable under the agreement unless otherwise stated should be exclusive of VAT and other duties or taxes.
- 5.2 Any VAT or other duties or taxes payable in respect of such sums shall be payable in addition to such sums at the prevailing rate from time to time.

6. The Psychologist's Duties

- 6.1 When providing professional services, the psychologist will ensure that they are engaged using the Engagement Terms and Conditions and shall not amend or allow others to amend such Engagement Terms and Conditions unless there is mutual agreement.
- 6.2 The psychologist shall at all times maintain adequate professional indemnity insurance.

7. Hours and Availability

- 7.1 During the period of agreement and psychologist shall, unless prevented by ill health, devote to the provision of the professional services such part of the Psychologist's working time attention and abilities as may be reasonably necessary for proper fulfilment of such services.
- 7.2 The psychologist may in his absolute discretion employ or retain assistants for the performance of the Services. In such circumstances, the Psychologist will use all reasonable endeavours to ensure that the assistants are suitably competent or experienced to perform the Services.

8. Non-Exclusive Arrangements

- 8.1 This agreement shall not prevent the psychologist from obtaining work or providing services to any person, organisation or body outside the scope of this agreement.

9. Confidentiality

- 9.1 Any documentation disclosed by each party to the other during the period of this agreement (including, without limitation, confidential information) shall be regarded as between the parties as the property of the disclosing party and shall be used solely and exclusively for the purposes of this agreement and for no other purpose whatsoever.

- 9.2 Neither party shall disclose any such confidential information to any third party other than employees, agents or assistants duly appointed in accordance with this agreement for the proper performance of their duties.

10. Intellectual Property

- 10.1 Any and all intellectual property rights that may arise by virtue of provision of psychological services during the period of this agreement shall belong exclusively to the psychologist.

11. Termination

- 11.1 Either party may, without prejudice to any rights or remedies which it may have against the other party forthwith terminate this agreement if:
- 11.1.1 the other party shall be in breach of any material provision of this agreement and such party has failed to remedy that breach (if capable of remedy) within 30 days after receiving written notice of such breach;
 - 11.1.2 a resolution for voluntary winding up is passed as for dissolution, or upon the presentation of a petition for an administration order, or winding-up and in the case of an individual on the presentation of bankruptcy petition or if the individual enters into any formal or informal agreement with his creditors (including an individual voluntary arrangement);
 - 11.1.3 the other party is unable to pay its debts as and when they fall due or enters into any arrangement for the benefit of or composition with its creditors; or
 - 11.1.4 the other party ceases or threatens to cease to carry on its business or a substantial part of its business.

12. Consequences of Termination

- 12.1 On the expiry or earlier termination of this agreement, such expiry or termination shall be without prejudice to any of the parties' rights which may have already accrued.
- 12.2 All rights and obligations of the parties on termination or expiry shall cease forthwith except where it is expressly stated otherwise in this agreement.
- 12.3 Upon expiration or earlier termination of this agreement:
- 12.3.1 each party shall promptly return to the other all tangible information (confidential or otherwise) provided to it under this agreement and all copies of such information.
- 12.4 Notwithstanding expiry or earlier termination of this agreement this clause 12 and clause 9 shall remain in full force and effect.

13. Status of the Psychologist

- 13.1 Nothing in this agreement shall be construed as creating a partnership or joint venture between any or all of the parties.

14. Supersedes Prior Agreements

- 14.1 This agreement supersedes any prior agreement between the parties whether written or oral and any such prior agreements are cancelled as at the commencement date but without prejudice to any rights which have already accrued to either of the parties.

15. Whole Agreement

- 15.1 Each party acknowledges that this agreement and the conditions which form part of it contain the whole agreement between the parties and that it does not rely upon any non-fraudulent oral or written representations made to it by the other or its employees or agents and that it has made its own independent investigations into all matters relevant to it.

16. Notices

- 16.1 Any notices, correspondence or invoices required to be served on or delivered to either parties shall be sent by pre-paid first class post or delivered personally to the address of the relevant party shown at the head of this agreement or sent by facsimile transmission and shall:

16.1.1 in the case of posting be deemed to have been received by the address two Working Days after the date of posting; and

16.1.2 in the case of facsimile and personal delivery shall be deemed received on the next Working Day after delivery or transmission respectively.

17. Waiver

- 17.1 The failure by either party to enforce at any time or for any period any one or more of the terms or conditions of this agreement shall not be a waiver of them or of the right to subsequently enforce any term or condition of this agreement.

18. Variation

- 18.1 This agreement may not be varied except in writing signed for and on behalf of each party.

19. Severance

- 19.1 If any provision of this agreement is held by a Court or other competent authority to be invalid or unenforceable in whole or in part, this agreement shall continue to be valid as to its other provisions and the remainder of the affected provisions.

20. Counterparts

- 20.1 This agreement may be executed in any number of counterparts each of which when executed and delivered shall be an original, but all the counterparts shall constitute one and the same document.

21. Disputed Fees

- 21.1 In the event of a dispute over any sums or fees payable under this agreement such sums that are not in dispute shall be payable when due, irrespective of any counter-claim that may be alleged.

22. Law and Jurisdiction

22.1 This agreement shall be governed by and constructed in accordance with English law and the parties agree to submit to the non-exclusive jurisdiction of the English courts.

Signed:

Date:

Useful websites and further information

The NHS Confidentiality Code of Practice

<http://www.dh.gov.uk/assetRoot/04/06/92/54/04069254.pdf>

Guidance on how confidentiality, data protection and human rights legislation impact on the use and sharing of patient information.

Public sector data sharing

www.dca.gov.uk/foi/sharing/

Guidance on administrative law, regulatory 'gateways'; perhaps the clearest description of the legal framework available.

Working Together to Safeguard Vulnerable Children

www.everychildmatters.gov.uk

Guidance produced by the Department for Education and Skills that concentrates on the issues around sharing information to support the care of children, with a multi-agency focus. Resource materials can also be obtained from these web pages.

Data Protection Act 1998: Legal Guidance

<http://www.ico.gov.uk/>

Guidance produced by the Information Commissioner to explain how this fairly complex piece of legislation should be interpreted.

Guidance on good practice in information security

<http://www.connectingforhealth.nhs.uk/systemsandservices/infogov/codes/securitycode.pdf>

NHS Connecting for Health produces good practice guidelines on technical information security as well as the new controls that are being introduced in support of the NHS Care Records Service.

NHS Records Management Code of Practice & Roadmap

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4131747

2006 guidance that replaces the previous records management circular, including records management principles, retention schedules and a legal compendium. The Road Map that accompanies the Code of Practice is an evolving body of guidance and best practice materials on specific aspects of records management and information quality.

Good Practice Guidelines for General Practice Electronic Records v3.1 (2005)

<http://www.dh.gov.uk/PublicationsAndStatisticsPublications/PublicationsPolicyAndGuidance>

Useful compendium of materials associated with paperless practice.

The Children Act 1989

http://www.opsi.gov.uk/acts/acts1989/Ukpga_19890041_en_1.htm

The Care Standards Act 2000 (Extension of Protection of Vulnerable Adults Scheme) Regulations 2004

<http://www.opsi.gov.uk/si/si2004/20042070.htm>

University of Manchester (2006) Avoidable Deaths

A five-year report of the National Confidential Inquiry into suicide and homicide by people with mental illness. The full report is available at:

<http://www.medicine.manchester.ac.uk/suicideprevention/nci>

Cook, M. & Cripps, B. (2005). *Psychological assessment in the workplace – A manager’s guide*. Chapter 16: Professional issues. John Wiley & Sons.

A useful, well-written guide to the array of tools available to a manager.

<http://www.personneltoday.com/Articles/2005/11/15/32578/psychological-assessment-in-the-workplace-a-managers.html>

Psychological Testing Centre (2007). *General Information Pack: Certificate of Competence in Occupational Testing (Level A)*. Leicester: British Psychological Society.

[http://www.psychtesting.org.uk/download\\$.cfm?file_uuid=924278B8-1143-DFD0-7E35-91426D239F8A&siteName=ptc](http://www.psychtesting.org.uk/download$.cfm?file_uuid=924278B8-1143-DFD0-7E35-91426D239F8A&siteName=ptc)

Relevant legislation

Scottish legislation

Adoption and Children (Scotland) Act 2007

Adult Support and Protection (Scotland) Act 2007

Criminal Proceedings etc. (Reform) (Scotland) Act 2007

Custodial Sentences and Weapons (Scotland) Act 2007

Protection of Vulnerable Groups (Scotland) Act 2007

Family Law (Scotland) Act 2006

Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005

Smoking, Health and Social Care (Scotland) Act 2005

Vulnerable Witnesses (Scotland) Act 2004

Mental Health (Care and Treatment) (Scotland) Act 2003

Protection of Children (Scotland) Act 2003

Freedom of Information (Scotland) Act 2002

Regulation of Care (Scotland) Act 2001

Protection from Abuse (Scotland) Act 2001

Adults with Incapacity (Scotland) Act 2000

Mental Health (Public Safety and Appeals) (Scotland) Act 1999

Wales

The Mental Capacity Act 2005

Under the Mental Health Act 2007, there is a series of clauses which serve to amend the Mental Capacity Act 2005 in relation to people who are deprived of their liberty (DoLs). DoLs are for England and Wales; however, the DoLs procedures which are set out in the regulations are devolved. DoLs is still in a draft stage and under consultation.

The Care Standards Act 2000 (Extension of Protection of Vulnerable Adults Scheme) Regulations 2004

Northern Ireland

Children Act 1989 – NI has a Criminal Justice Children's Order 1998