

# Contracting

## Getting Things Right from the Start

Whether we are working with clients for therapeutic or for coaching purposes, it is important to be clear about what is and what is not part of the relationship we are building. *Andy Coote* takes a look at contracting with clients for informed consent.



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**Y**ou, as therapist or coach ‘know’ the process and what might happen during it. Your client probably does not, so we need to set clear expectations and give good information about the process and what outcomes may – and may not – be expected. A contract will also define the roles, activities and duties – including confidentiality – of each party to it and ensure that any problems can be properly handled.

In this article, I will be focusing on the best practice in contracting with clients and the elements such a contract might contain. There will also be links to a number of resources where relevant information and guidance can be found. This should not be considered legal advice. If in doubt, seek appropriate advice before contract.

As providers of Professional Indemnity insurance to our marketplace, Towergate Insurance are as aware as anyone of the things that can potentially go wrong, ‘more and more “Particulars of Claim” in civil actions against therapists outline the claimant’s understanding of the original contract – usually differing considerably from the therapist’s understanding.’ They, along with British Association for Counselling and Psychotherapy (BACP) and British Psychological Society (BPS), recommend that a contract should be in writing and signed by both parties. Whilst a verbal contract is acceptable in law, it can be open to interpretation and the fallibility of memory. BACP also counsels against using ‘implicit consent’, suggesting that

explicit consent is much more reliable and putting things in writing provides that.

Discussion of the contract and its signing should take place prior to any client work. It can be reopened and renegotiated if something significant changes or the client moves on to a different basis for relationship. If a client is reluctant to enter into a contract, it may be prudent to consider declining to treat or coach that client.

Again according to Towergate, as service providers we should be aiming to achieve informed consent. Informed consent means that the ground rules and procedures of the therapy or process as well as its potential risks and benefits should be given to the client at the start in writing. This should include roles and responsibilities, information about sessions, confidentiality, discussions with third parties and the use of ‘case’ material for training or research purposes, including the recording of sessions.

Let me expand on some of those areas.

### Ground rules and procedures

It is not usually possible to be specific at the outset of a relationship exactly how things will develop, so a good outline of the principles that underpin the approaches you may use will be needed here. Explanation of specific interventions can be given at the time they are used.

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### Potential risks and benefits

It is important that clients understand that they are part of a process in which they are expected to participate actively and to do so with openness and candour. In doing so they may find that they experience feelings and thoughts that will take them beyond their comfort zone. This zone of change can result in emotional change, too. Anger, tears, sadness, guilt, anxiety and fear may all come up during the process (coaching as well as therapeutic). In such circumstances, trust in you as the service provider is essential. Outlining the risks at the outset will help to develop that trust.

When it comes to benefits, be realistic about what benefits can be achieved and emphasise the partnership working needed to achieve them. Making unrealistic claims will affect the trust relationship and may, in some circumstances, be illegal.

### Session related information

Here you can set out your approach to appointments, their duration, payment (including at session or in advance), cancellation periods and any late cancellation penalties. If you specify a number of sessions that are necessary to achieve a specific outcome, it can become part of the contract that those sessions take place.

### Confidentiality

We've already talked about a trust relationship and confidentiality is key to that. Your client is likely to discuss very private matters with you (even when working content-free), so keeping those discussions confidential is essential.

There may be cases where your client will want records to be made available to another party and that should be done only to the extent they agree and with agreement in writing. In couples work, both parties will need to agree to such a release of information.

If you work with clients under the age of 18, their parents may have the right to see the records of their children, usually with the child's consent. BACP puts it in this way, 'Working with children and young people requires careful consideration of issues concerning their capacity to give consent to receiving any service independently of someone with parental responsibilities and the management of confidences disclosed by clients.' There are issues that may arise where parents are separated and request information from you. *The Guardian* (\*) highlighted such cases in relation to GP records in January this year. If in doubt, as to how to work with minors, either refer them to others or seek qualified advice.

Other cases where confidentiality may be waived include threats or behaviour giving reasonable grounds that a client may seek to harm themselves or a third party, if the sessions are being conducted on referral from a legal agency or if a court orders that records are to be produced.

It should be made clear that you may discuss a case with



another therapist for the purposes of supervision, referral or guidance as to how to develop treatment.

### Case material and the use of any form of recording

If you intend to record sessions on video or audio, or use them as Case Studies in writing, it is good practice to seek the client's consent and to share with them the circumstances in which the recordings/transcripts can be used. Recordings can be used by the client to learn from the session, by the therapist to review and plan a further session and for supervision purposes. If such recordings are intended for use in more public ways, then explicit consent will be required, usually after seeing the final cut of the finished product. Clients may impose conditions, such as anonymity, on such consent.

### Keeping and sharing of records

Clients have a right to know that you are taking care of their records to prevent them from being disclosed or otherwise accessed without authority. You may also agree circumstances in which they are able to access their own records.

### The client's right to withdraw from involvement at any stage

Some processes and treatments are progressive and may pose risks if ended without completing the course. If this is true for your treatments, the client should be made aware of the risks of withdrawing early from the process and offered sufficient intervention to ensure that they can disengage without significant risk of harm.

Contracting is only a small part of the engagement process. Most of the above can be adequately covered by a standard template which can be changed to meet the specifics of the practitioner and the client where they are materially different.

A number of templates are available from bodies such as Towergate, BACP and BPS, as well as ANLP. There are other contracts visible online. A word of caution here. Just as this article does not pretend to be legal advice, the templates are not warranted to be fully compliant with your own legal requirements. For that reason, we strongly advise taking competent legal advice before taking a contract into use.

The most important thing, though, is that a contract, in writing, is the best possible way to ensure that your relationships work well and that when they don't you are able to deal with any issues effectively. ■

### REFERENCE

(\*) [www.theguardian.com/society/2013/jan/04/gps-pressure-parents-childrens-records](http://www.theguardian.com/society/2013/jan/04/gps-pressure-parents-childrens-records).

### WEBSITES

ANLP: [www.anlp.org/anlp-business-templates](http://www.anlp.org/anlp-business-templates).  
Towergate: [www.towergateprofessionalrisks.co.uk/tips-and-advice/establishing-a-client-contract.aspx](http://www.towergateprofessionalrisks.co.uk/tips-and-advice/establishing-a-client-contract.aspx).  
BACP: [www.bacp.co.uk/ethical\\_framework/good\\_standard.php](http://www.bacp.co.uk/ethical_framework/good_standard.php).  
BPS: [www.bps.org.uk/what-we-do/ethics-standards/ethics-standards](http://www.bps.org.uk/what-we-do/ethics-standards/ethics-standards).