

Record keeping within organisational settings in the counselling professions

**Good Practice in Action 068
Fact Sheet**

Updated November 2023

Copyright information

Good Practice in Action 068 Fact Sheet: *Record keeping within organisational settings in the counselling professions* is published by the British Association for Counselling and Psychotherapy, BACP House, 15 St John's Business Park, Lutterworth, Leicestershire, LE17 4HB.

t: 01455 883300 **e:** bacp@bacp.co.uk **www.bacp.co.uk**

BACP is the largest professional organisation for counselling and psychotherapy in the UK, is a company limited by guarantee 2175320 in England and Wales, and a registered charity, 298361.

Copyright © 2016–2023 British Association for Counselling and Psychotherapy.

BACP and the BACP logo are registered trade marks of BACP.

Permission is granted to reproduce for personal and educational use only. Commercial copying, hiring and lending are prohibited.

Design by Steers McGillan Eves.

Contents

Context	4
Purpose	4
Using Fact Sheet resources	4
1 Introduction	5
2 What do we mean by a record keeping ‘policy’?	6
3 Considerations in forming a record keeping policy	7
4 What should the policy contain?	8
5 Accountability and responsibility for record keeping	9
a) Making, accessing and keeping records	11
b) Sharing records outside of the organisation	11
c) Destroying records	12
d) Reviewing your policy	13
6 Duty of candour for an organisation	13
7 Issues specific to counsellor training organisations	14
Summary	14
About the author	15
References and further reading	15

Context

This resource is one of a suite prepared by BACP to enable members to engage with BACP's *Ethical Framework for the Counselling Professions* in respect of confidentiality and record keeping.

Purpose

The purpose of this resource is to provide information for therapists and counselling service providers in respect of facts about what is meant by records and record keeping.

Using Fact Sheet resources

The membership agreement with BACP establishes a contractual commitment by members to abide by the *Ethical Framework for the Counselling Professions*, which includes a responsibility for members to keep the skills and knowledge relevant to their work up to date.

The BACP Good Practice in Action resources are solely intended to support good practice by offering general information on specific topics based on legal principles and policy applicable at the time of writing. They are intended for information purposes only and are not a substitute for professional advice. BACP and the author accept no responsibility for and accept no liability as a result of any person acting or refraining from acting on the basis of the resources.

Practice issues and dilemmas are often complex, and may vary depending on clients, particular models of working, the context of the work and the therapeutic interventions provided. We therefore strongly recommend consulting your supervisor, and also, wherever necessary, a suitably qualified practitioner or lawyer. Some professional insurers will provide legal advice as part of their service.

BACP and the author make no representation or warranty as to the completeness or accuracy of the information contained in the resources.

References in this resource were up to date at the time of writing but there may be changes in particular to the law, government departments, government policies and guidance, websites and web addresses. Organisations and agencies may also change their practice or policies, so please be alert for any changes that may affect your therapy practice.

In this resource, the word 'therapist' is used to mean specifically counsellors and psychotherapists and 'therapy' to mean specifically counselling and psychotherapy.

The terms 'practitioner' and 'counselling related services' are used generically in a wider sense, to include the practice of counselling, psychotherapy, coaching and pastoral care.

1 Introduction

Record keeping is widely accepted as an ethical requirement for good practice. *The Ethical Framework for the Counselling Professions* makes it a commitment for members to 'work to professional standards' (Commitment 2) stating that members '...must be competent to deliver the services being offered to at least fundamental professional standards or better' (Good Practice, Point 13). Organised record keeping is part of achieving this competency, and it is considered good practice to 'keep accurate records that are adequate, relevant and limited to what is necessary for the type of service being provided' and 'comply with the applicable data protection requirements' (Good Practice, Point 15).

In *Standards and Ethics for Counselling in Action*, 5th edition, Andrew Reeves and Tim Bond talk of the need for counsellors to be professional and credible, and while '*There is no consensus among counsellors in the UK on this issue but the expectation that counsellors should keep records has grown.*' (p235). It is reasonable to conclude that an organisation also has a responsibility to develop and uphold record keeping policy and practices for their employees, associates, affiliates, students or volunteers.

This Good Practice in Action (GPiA) resource is primarily for practitioners, supervisors and managers who are offering counselling services in organisational settings, working within a 'service'.

It looks at key considerations in forming a record keeping policy, maintaining, reviewing and updating it regardless of the context in which they are working. A 'service' could be, for example, an agency, charity, university or employee assistance provider (EAP). The service may be an organisational member of BACP or have achieved BACP accreditation standards, or maybe you are setting up a new service.

A service, or organisation as it is referred to in this fact sheet, may also have specific criteria for record keeping through membership of an organisation such as the Employee Assistance Professionals Association (EAPA). Whilst the practitioner working within a setting such as this may find useful information in this resource, it should be noted that it does not include the requirements of other organisations, and you should refer to these organisations for further information where appropriate.

2 What do we mean by a record keeping ‘policy’?

It is perhaps sensible for an organisation to have a simple policy statement that is clear and communicable to the manager, practitioner and supervisor, (see point 6 for further information) and all of those needing to access or review counselling records. Organised record keeping can demonstrate a practitioner’s commitment to working with integrity, ‘working ethically and with careful consideration of how we fulfil our legal obligations’ (*Ethical Framework*, Commitment 5). The statement should reflect a focus on ethical and legal requirements as well as the needs of the organisation, its context and setting.

3 Considerations in forming a record keeping policy

In forming a record keeping policy, the organisation may wish to first establish what is meant by records within their organisation, i.e. for what purpose records are kept.

See GPiA 066 *What do we mean by records and record keeping within the counselling professions?* for more information.

It may also be helpful for an organisation to identify early on who within the organisation needs to complete, hold and/or view records, for what purpose and on what level i.e. establish responsibility and accountability.

The following provides examples of how this could be collated across an organisation by different staff and with different objectives:

A **manager** within an organisation may be required to produce reports for Directors, Trustees and for matters such as fund-raising applications. In these cases, records may need to be made and held in order to demonstrate the functionality and outputs of the organisation, often over an extended period of time, two to three years for example.

For a **practitioner**, the form that the record keeping takes may depend on the context in which the practitioner is working. In forming the record keeping policy for a practitioner, the organisation should be aware of the commitment by the practitioner to: 'making clients our primary concern while we are working with them' (*Ethical Framework*, Commitment 1a) and that the fundamental values of the organisation include 'protecting the safety of clients and ensuring the integrity of practitioner-client relationships'. (*Ethical Framework*, Values)

For a practitioner working as part of an **affiliate or EAP network** the ways of working may be different again and more prescriptive. The policy may form part of an employment contract between an EAP provider and an EAP affiliate.

The EAP would be advised to make their requirements on record keeping clear to all affiliates, and guidance is given on this by EAPA in their Code of Ethics when they state, 'members should recognise the needs of all stakeholders in an organisation but retain focus on the client' (EAPA, 2014, page 1).

The same could be said for a **supervisor** working within an organisation.

They may be required to produce 'reports' that validate their work, or that meet the requirements of the organisation should it be, for example, an organisational member of BACP. In all cases the organisation should bear in mind when forming its requirement of supervisors that:

Good supervision is much more than case management. It includes working in depth on the relationship between practitioner and client in order to achieve desired outcomes and positive effects. This requires adequate levels of privacy, safety and containment for the supervisee to undertake this work. Therefore, a substantial part or all of supervision needs to be independent of line management.
(*Ethical Framework*, Good Practice, point 61.)

The organisation may find it helpful to refer to GPiA 071 'ownership and storage of records in the context of the counselling professions'. This resource gives help on understanding 'the legal principles relevant to ownership of records, distinguishing between the ownership of the record itself and ownership of the content of the record'.

It is important that the organisation is both clear and consistent in the record keeping procedures of how they gather, maintain, and review records, who has access to them, and ultimately how, and when they destroy records.

4 What should the policy contain?

It is useful for an organisation to have a simple policy statement that is clear and communicable to the manager, practitioner and supervisor as described in section 2.

The organisation may wish to include a statement that records are collated, stored, accessed and shared on a 'need-to-know' basis. See the ICO website for more information about what this may mean for an organisation at: <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources> and for INDIVIDUALS at: <https://ico.org.uk/for-the-public/your-right-to-limit-how-organisations-use-your-data>.

In practice this means that only those who need to know what is in the data, know it at the time they need to know it, and nothing more.

The policy would need to consider the context in which the practitioner, supervisor or manager is working, and specifically the duty of a practitioner, regardless of context and setting, to protect the confidentiality of clients by 'actively protecting information about clients from unauthorised access or disclosure' (*Ethical Framework*, Good Practice, point 55a).

The policy should consider if records may need to be removed from the building, or if they may form part of presentations and/or fundraising applications that the organisation then has no control over. Further guidance on this can be found in GPiA 067 *Practical aspects of record keeping within the counselling professions*, while up-to-date data protection guidance can be found at the Information Commissioner's Office website at: <https://ico.org.uk/for-organisations>.

Having a simple policy statement has additional benefits. In *Standards and Ethics for Counselling in Action*, 5th edition, Andrew Reeves and Tim Bond (2021) remind us that '*Counsellors who have not clarified the status of their employer's access to records in advance of counselling, and are working without a corresponding agreement with their clients about access, are likely to find themselves in a difficult situation. The employer's and client's rights may be in conflict and both may hold the counsellor accountable.*' (p241). The *Ethical Framework* commits the practitioner to 'communicating terms and conditions of the agreement or contract in ways easily understood by the client and appropriate to their context' (Good Practice, point 31b).

A simple policy statement means that the record keeping policy of the organisation can be easily incorporated into the counselling agreement with the client, and into any terms and conditions of working with an employer.

5 Accountability and responsibility for record keeping

It could be helpful for an organisation to develop an audit trail similar to that shown in Appendix 1, which is appropriate to their organisation.

In Appendix 1, a table is drawn with columns for the following across the vertical: practitioner, manager, supervisor, and other and the list of questions below are the horizontal axis. The table is used by the organisation, a tick, or cross, or number could be allocated to the relevant person i.e., the practitioner, the manager, the supervisor or other for each question.

As part of the General Data Protection Regulation of 2018 (GDPR) and where sensitive personal client data are kept and stored electronically, no matter what the format, (as examples: on computers, laptops, mobile phones, discs, tapes, or any other forms of recordings etc.), registration as a 'data controller' is required (see: <https://ico.org.uk/for-organisations/register/self-assessment>).

The questions below include identification of the data controller:

Figure 1: Accountability/responsibility matrix

	Practitioner	Manager	Supervisor	Other
Making and accessing records Who needs to make client contact notes? Who needs to make client process notes? Who needs to access client contact notes? Who needs to access client process notes? Who decides how client contact notes are made? Who decides how client process notes are made?				
Keeping records Who is responsible for records' storage? Who needs to transport records off site?				
Sharing records outside the organisation Who needs to share records outside the organisation?				
Destroying records Who is responsible for secure destruction of records after period of retention has passed?				
Policy review Who has overall responsibility for record keeping in the organisation that meet practical, ethical and legal requirements? Who will review the policy and when?				

a) Making, accessing and keeping records

The organisation may wish to develop a standard format or a proforma for client contact notes. This is particularly helpful when the contact notes are being taken by someone other than the practitioner. More information on contact notes and process notes can be found in GPiA 067 *Practical aspects of record keeping within the counselling professions*.

Increasingly records are kept on computer. In this case, records can be protected by passwords, or encrypted, which in turn controls different levels of access. No system of password protection is 'foolproof', and the organisation should ensure that they comply with current data protection requirements for paper and computer-based records, and with the requirements of the Information Commissioner's Office for computerised records. GDPR is ongoing, and data controllers and service providers should check the ICO website <https://ico.org.uk> at regular intervals for updates.

If the organisation, or its employees, need to transport records 'off site', a split system of record keeping is recommended. Contact details are kept apart from process notes so that in the event of loss or malicious damage outside the record carrier's control the process notes cannot be linked to identifiable people, or vice versa.

More information about the legal requirements in respect of record keeping can be found within Legal Resources GPiA 069 *Sharing records with clients or other professionals*, GPiA 071 *Ownership of records*, GPiA 014 *Managing confidentiality*, GPiA 128 *Working with the Crown Prosecution Service Pre-trial Therapy Guidance with adult and child witnesses in criminal courts in England and Wales*.

b) Sharing records outside the organisation

The organisation may wish to make a referral of a client to another agency or organisation.

It should be noted that the sharing of records should only be done with the client's consent. If the organisation has a requirement to share records of any type this should be explored with the client at the onset through the agreement or terms and conditions. (See *Ethical Framework*, Good Practice, point 31c.) In most cases the client has the right to see their own notes and the organisation should keep this in mind when establishing its record keeping protocols.

The organisation may also receive requests for records from external bodies such as employers, the police, or for use in court. These can raise complex areas. More information can be found in Reeves and Bond *Standards and Ethics for Counselling in Action*, 5th edition (Chapter 15). If the organisation thinks this is a likely or frequent occurrence within its setting then this should be included in the audit trail, or the Accountability and Responsibility Table included in Appendix 1.

When setting up its record keeping policy, an organisation could also refer to GPiA 069 Legal Resource: *Sharing records with clients, legal professionals, courts and other professionals*.

c) Destroying records

The period of time for which records are retained before destruction will vary between organisations. There will be a number of factors influencing this, for example:

- is the client likely to return, and within what time frame? May it be useful to retain records to facilitate the work on the client's return?
- might records be relevant to present or future legal proceedings? If so, the time limits for legal proceedings and complaints' procedures may be relevant. More information can be found within the Good Practice in Action Legal Resources.
- what is appropriate to the organisation and the service they offer – for example, organisations working with children or young people in schools or Child and Adolescent Mental Health Services (CAMHS) may require specific policies on record retention. (See Good Practice in Action 046 Commonly Asked Questions: *Working with children and young people in the counselling professions*.)

One principle that could be useful to an organisation is that 'sensitive information should be destroyed when its usefulness has expired' (Reeves and Bond, 2021, p251). In all cases, the client should be aware of the amount of time for which records are usually kept and agree to this at the beginning of therapy, forming part of the contract (a copy of this contract also forms part of the client records).

The organisation must ensure that once a decision has been made to destroy all client records (both contact records, process notes, notes from supervision and other matter arising from the work – for example drawings) that they are destroyed in a non-recoverable format. For paper-based records this could include shredding or burning.

For digital records, it is not sufficient to simply use the 'delete' button on a computer, tablet or mobile telephone. Professional advice should be sought from IT specialist services on how this can be appropriately managed in respect of the kind of files held. There are various commercial 'file shredding tools' that can be downloaded. See also Good Practice in Action 047 *Working online* for more general information about online working.

d) Reviewing your policy

The organisation should review and audit the record keeping policy, and its efficacy on a regular basis. The organisation will want to ensure that the policy reflects its needs.

Furthermore, the *Ethical Framework* makes it a requirement of the practitioner within an organisation to keep abreast of legislation that affects the profession and relevant to their work when it says that members need to work to professional standards and to 'keep up to date with the law, regulations and any other requirements, including guidance from this Association' (Good Practice, point 14f).

By reviewing the record keeping policy, in light of legal regulations and ethical requirements, the organisation will be better placed to identify supervisory or CPD needs for their practitioners, supervisors and managers.

6 Duty of candour for an organisation

It is stated earlier in this resource that:

'It is important that the organisation is both clear and consistent in the record keeping procedures of how they gather, maintain, and review records, who has access to them, and ultimately how, and when they destroy records.' (See section 3.)

The organisation is responsible, and accountable, for ensuring that the ethical duties of accountability and candour are applied throughout its work. It needs to be willing to listen to concerns and be open and honest about the processes and outcomes, and be proactive to inform and protect clients where there are failings.

The 'organised' organisation may wish to build accountability and candour into its review process, in line with the *Ethical Framework* which states, 'we will monitor how clients experience our work together and the effects of the work with them in ways appropriate to the type of service being offered' (Good Practice, point 54).

Mirroring this need for candour, organisations who are also members of UK EAPA, need to note that within this organisation's ethical code it affirms that '*the result of any research that has professional value will not be withheld, including results that reflect unfavourably on ...services*' (EAPA, 2014 Clause 5.5, p4).

7 Issues specific to counsellor training organisations

The *Ethical Framework* places a requirement on trainers to 'have the skills, attitudes and knowledge required to be competent teachers and facilitators of learning for what is being provided' (Good Practice, point 74). Reeves and Bond also note that the 'process of writing records involves counsellors in organising their thoughts and feelings' and 'reflect systematically on what has occurred and plan for future sessions' (Reeves and Bond 2021, p235).

Training organisations need therefore to provide and model the 'high levels of good practice in their work, particularly with regard to expected levels of competence and professionalism' (*Ethical Framework Good Practice*, point 79).

Record keeping and confidentiality within record keeping have not always formed part of counsellor training programmes, leaving the practitioner at risk of poor ethical practice.

Counsellor training organisations should refer to Good Practice in Action resources relevant to confidentiality and record keeping filling any perceived gap in training programmes and trainer skills, attitudes and knowledge in respect of record keeping in the counselling professions.

Summary

There are many ethical, legal and practical reasons why an organisation should apply a robust record keeping policy or procedure, and these have been explored in this resource, and within other Good Practice in Action resources, which can be downloaded at: www.bacp.co.uk/events-and-resources/ethics-and-standards/good-practice-in-action

In addition to ethical and legal requirements, there are other benefits and reasons why an organisation should have a record keeping policy. In *Standards and Ethics for Counselling in Action*, 5th edition, Andrew Reeves and Tim Bond say:

'From a client's perspective they would be best advised to see a well-organised counsellor, because not only will they have the benefits of that level of organisation, they will also have the additional protection of access to the counsellor's records should it be desired under the data protection law.' Reeves and Bond, 2021, p242).

as counsellors seek to be professional and credible with other professional services they need to develop record-keeping practices that ...meet the public expectations of any professional for quality of service and accountability (Reeves and Bond 2021, p236).

By developing and implementing a record keeping policy, reviewing its efficacy and updating it in line with organisational, ethical and legal requirements, the organisation can demonstrate its own commitment to good practice, to working ethically and safely and as an 'organised organisation'.

About the author

Judith Gentry is a freelance author based in North Devon. She coaches and advises small businesses and sole traders in start-up and growth. Her earlier career was in retail and retail consultancy before discovering the world of counselling and psychotherapy. She holds a Bachelor of Science degree with First Class Honours in Reflective Therapeutic Practice. She was a founding member of the BACP Coaching Division in 2010, and has been a Chair of Trustees of the Burton Art Gallery and Museum in Bideford, North Devon.

About the reviewer:

Steve Rattray is a senior accredited counsellor and senior accredited supervisor of individuals

References and further reading

BACP (2018) *Ethical Framework for the Counselling Professions*. Lutterworth: BACP. www.bacp.co.uk/events-and-resources/ethics-and-standards/ethical-framework-for-the-counselling-professions

Good Practice in Action resources: www.bacp.co.uk/events-and-resources/ethics-and-standards/good-practice-in-action

Information Commissioner's Office: www.ico.org.uk

Reeves, A & Bond, T (2021) *Standards and Ethics for Counselling in Action – 5th Edition* London: Sage.

UK EAPA Code of Ethics July 2014 www.eapa.org.uk/wp-content/uploads/2014/09/UK-EAPA-Code-of-Ethics-2014.pdf