

COSCA Certificate in Counselling Skills: Module 1 Unit 9

Ethical dilemmas

- Which elements of the COSCA code apply here?
 - How might you handle the situation?
- a) A young man comes to you for guidance. During the first session you realise he is the son of one of your friends.
 - b) You have been working for a few weeks with Lee who is feeling very isolated and depressed after his girlfriend ditched him for Wesley. On this occasion he seems quite cheerful and asks you for your assurance that you will not tell anyone what he is about to say. You are so pleased he is feeling better that you agree without really thinking and he tells you to the last detail his plans to tamper with Wesley's car and cause a crash.
 - c) Hazel sees you occasionally at the centre where you work and she is interested in agreeing to a more predictable contract to explore her various difficulties. In the second session she starts to tell you about her secret drinking. Your mother, however, was also a secret drinker who eventually died a few years ago from a complicated alcohol-related disease and you know that the whole area is very painful for you.
 - d) You have been seeing Heather regularly. You have built up a good relationship with her using your counselling skills. You usually spend a little time with her listening to her troubles, doubts and anxieties. On this occasion she tells you she has been having awful nightmares and has started remembering times in her childhood when her uncle had sex with her.
 - e) You've been working with a client for six weeks and although you think you know what the problem is, you don't feel you are making much progress. In fact you are beginning to feel awkward when this client arrives each week.
 - f) Your client Jane has just started a new job. Two years ago, while Jane was still at school, she admitted several thefts of small amounts of money. She still doesn't know why she did it (although her parents were going through a divorce at the time). She never spent the money and gave it all back. Now thirty pounds has gone missing from the place where she works and the manager who knows her history suspects her. She was in great distress while telling you this and you are convinced that she's being truthful in saying that it wasn't her. She wants you to talk to her manager and save her job.
 - g) You work as a teacher and have just two hours each week on your timetable for counselling. One of the students, Daz, comes to you looking rather worried and asks to talk to you about the coming exams. You are already counselling three other students and, knowing that exam anxiety can be linked with other issues. You are worried about the time this may take.
 - h) Falah has been coming to see you in the agency for counselling for young people. Today she comes in and asks if you can lend her some money.

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Issues to Consider in Contract Making

- Confidentiality
- Time Boundaries
- Frequency of appointments
- Length of availability – unforeseen things can happen
- Cancellation arrangements
- Name and address of GP
- Place
- Payment
- Phone calls – is it OK to phone them?
- Alcohol and drugs
- Counsellors supervision arrangements
- Data protection permission
- What will happen if they DNA – will you phone / write?
- How long will you wait if they are late
- Who will phone them if you are ill / suddenly unable to work
- Opportunities for reviewing the work / relationship
- Endings / referral

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Is murder covered under confidentiality?

There are defensible breaches of confidence as the legal obligation to maintain confidentiality is not founded on protecting the interests of an individual merely because that individual considers that interest to be important.

It has been established that a legal defence to breach of confidentiality will be granted by judges where the balance of public interests is in favour of disclosure.

A breach of confidence is defensible when:

- a. The client has consented to disclosure
- b. The confidences disclosed are already public knowledge
- c. The disclosure was made in the public interest
- d. Crime
- e. Counselling supervision, training and research
- f. Suicidal clients

The question asked is whether it is defensible to disclose information about a client who has committed murder and that this information is not already in the public domain.

This would come under the above heading of crime. A practitioner cannot be legally bound to confidentiality about a crime.

Courts have treated confidentiality about crime as an aspect of the public interest defence and have concluded that it is defensible to breach confidence, in good faith, in order to assist the prevention or detection of a crime.

Good faith requires honesty and reasonable grounds for suspecting or knowing about a crime. However, there is no general duty to report crime except in specific circumstances e.g. Prevention of Terrorism Act (2000), The Children Acts, The Road Traffic Act (1988).

There is no general obligation to answer police questions about a client. A polite refusal on the grounds of confidentiality is sufficient if this is considered appropriate. However, there are statutory exceptions to this which over-ride confidentiality e.g. court orders. Giving misleading information or lying is likely to constitute an offence.

(The above relies on information extracted from '*Confidentiality: Counselling, Psychotherapy and the Law in Scotland*' by Tim Bond, Roisin A. Higgins and Alan Jamieson, BACP, 2001)

Brian Magee, Chief Executive COSCA, November 2005