

THERAPISTS' NOTES & RECORD KEEPING

DATA PROTECTION LAW

Therapists are expected to hold their notes and records in accordance with Data Protection law, which allows clients access both to computerised records and personal data, and to manual notes and records held in relevant filing systems (see **Client Access to Notes and Records**).

Neither the Data Protection Act nor the Courts are concerned about the intended *purpose* of the therapeutic record. They do not distinguish between "objective" notes that you might keep for Wellspring, eg on attendance, or in EAP intake and closure forms, and "process notes" you might keep for purposes of personal and professional development, training and supervision.

Data Protection law is concerned with the *status and structure* of the therapeutic record. If it is a computerised or structured manual file, clients are entitled to request access to it. A structured manual file is one held in a relevant filing system, ie organised in such a way that information relating to individuals is readily accessible. (Information held in unsorted files which do not provide ready access to individual data is not regarded as structured).

Data Protection principles of good practice include requiring data to be

- Adequate, relevant and not excessive
- Accurate and up to date
- Kept for no longer than necessary, for the purpose specified
- Secure from the point of collection through to disposal

APPROPRIATE TIME LIMITS FOR THE RETENTION OF RECORDS

These might reflect the time limits for the use of therapeutic records in responding to a complaint against a therapist under BACP procedures

(three years), or the normal time limit for action by the client for negligence (six years).

SECURITY

Paper Records: These should be kept in locked cabinets, be filed anonymously and contain no direct reference to clients' names.

Computer Records: It is wise to password-protect your computer and protect against loss by keeping backups (in locked storage) and protecting against computer viruses.

It is the responsibility of individual therapists to ensure that notes held by them cannot be accessed by unauthorised persons. You should remember that confidential material left lying in the Wellspring office, or information on an unattended computer, may be seen by those not entitled to do so.

DISPOSAL OF RECORDS

Paper Notes and Records: You are recommended to shred these when they are no longer required. Wellspring's shredder may be used to dispose of manual files.

Computer Records: When you delete computer files you should ensure that they have left the system by emptying the recycle bin.

CLINICAL EXECUTOR

In the event of a therapist's death it is important that confidential records are safely destroyed.

Wellspring requires therapists to appoint an executor who will undertake responsibility for destroying any remaining notes or records relating to Wellspring clients. The executor would preferably be a colleague (rather than a family member) who could also inform clients of their therapist's death.

Recommended reading:

Peter Jenkins & Isobel Palmer (2000). "Record Keeping and the Data Protection Act, 1998" BAC Information Sheet 15.