

Privacy, intake and consent in private practice

Good practice and examples

"PACFA is committed to sustaining and advancing best practice in the clinical practice of counselling and psychotherapy" (PACFA *Code of Ethics* 2017, p.8) and promotes professionalism and a commitment to quality of service. This resource focuses on key documentation needed by PACFA registrants working in or contemplating working in private practice.

In our daily lives we are careful about the safety of our property. We lock our cars to protect them from the risk of being damaged or stolen and use biometrics to protect our phones. Similarly in private practice, practitioners need to be alert to ensuring the safety of their practice both for themselves and for their clients.

Safety is achieved in so far as is possible, by practitioners meeting their legal obligations, by being committed to ethical behaviour and by being mindful of high-risk pressure points in their interacting with clients importantly around client expectations of the therapy service. Having documentation that is carefully considered and which clearly describes these aspects indicates intentionality and provides a reference point and a 'paper trail'.

For its private practitioners PACFA urges a disciplined approach in ensuring that their practice portfolio includes "appropriate client engagement protocols and documentation to meet legal requirements and to support a risk-managed approach to their practice" (McBride & Tunnecliffe 2002, p. 8).

Four documents are described in this Good Practice Guideline to support private practitioners in this endeavour:

- › **privacy policy**, which clarifies for a client the practitioner's legal obligation and commitment to the protection of their personal information,
- › **intake form**, which provides a transparent and consistent mechanism for the practitioner to gather personal and identifying information about a new client and assures the client regarding the practitioner's commitment to the confidential protection of this information,
- › **informed consent form**, which details for the client the nature and terms of the relationship with the practitioner prior to the commencement of therapy, and
- › **consent for information release/exchange form**, which ensures that the client is actively informed and engaged in any disclosure by the practitioner of their personal information that is not legally mandated.

In addition to the description of these four documents, samples have been provided to be customised to your own practice. The samples contain basic content for working with adults. Their application with a specific client may need to be tailored as appropriate while maintaining the integrity of the content; for example, for a person who struggles with literacy.

The sample documents are not intended to be exhaustive yet will provide guidance in supporting you to meet your legal and ethical obligations when working independently as a counsellor, psychotherapist, or Indigenous healing practitioner.

Privacy policy

Privacy in Australia is regulated by the *Privacy Act 1988* (Cth) and the Australian Privacy Principles.

If you are a private practitioner or share in a business partnership, the *Privacy Act 1988* (Cth) stipulates that you must have a written privacy policy.

As health service providers (defined in the Act as a person who provides services in relation to physical, emotional, psychological and mental health) and irrespective of financial turnover, PACFA registrants are obliged to have a written privacy policy that outlines our commitment to protecting [personal information](#) collected as part of our work (whether the information is publicly available or not), and its storage, use and disclosure.

The Australian Government provides helpful information for practitioners on [privacy policies and personal information](#).

At the same time the Government provides a complaints process for clients regarding a private practitioner's privacy policy (or its absence) or a perceived breach of the policy. Clients are advised to contact the [Office of the Australian Information Commissioner \(OAIC\)](#).

When preparing a privacy policy, it is important to understand what constitutes *personal information*. The following descriptor of personal information is drawn from the [OAIC](#) website:

Personal information

Personal information is any information about an individual that can be used to identify them directly or indirectly. This includes information such as their name, address, phone number, email address, and date of birth.

Sensitive information is a type of personal information which includes details, for example, about a person's racial or ethnic origins, political or religious beliefs, sexual orientation, health or genetic information, family court orders or criminal record.

If your private practice has its own website, then elements of your privacy policy are dependent upon the website builder used (e.g. WordPress) and the information your website gathers (e.g. an online booking system). In such cases, privacy information from those sources (e.g. in which country is your online booking system hosted) needs to be obtained for inclusion in your policy. This information can be published as a specific website privacy policy or incorporated into a single practice policy. Due to the specifics of individual websites and website providers, the sample below does not reference website content which you will need to address separately.

Your privacy policy needs to include content regarding the disclosure of personal information to third parties. As some requirements relating to this topic are determined by state legislation, it is important that you are familiar with the legal requirements for your jurisdiction. If you are working across states, territories or internationally, it is also necessary that you are familiar with the legal requirements for your client's jurisdiction.

The following privacy policy is provided as an example of good practice for PACFA registrants to utilise and customise. Be sure to add your own letterhead details. You will need to adjust or expand the document as necessary to suit the requirements of your own practice.

Your letterhead with logo and contact details

Privacy policy

This policy outlines the ways in which XX handles the personal information of our clients. We take privacy seriously and are committed to complying with the *Australian Privacy Principles in the Privacy Act 1988 (Cth)*.

Personal information

Personal information is any information about an individual that can be used to identify them directly or indirectly, such as name, address, phone number, email address, and date of birth.

Sensitive information is a type of personal information which includes details, for example, about a person's racial or ethnic origins, political or religious beliefs, sexual orientation, health or genetic information, family court orders or criminal record. The breach of sensitive information is likely to leave people open to discrimination or embarrassment.

Why we collect personal information

The sharing of personal information by a client to XX assists us to assess and support the client in processing their identified concerns. Personal information is retained to enable us to provide a relevant and informed service. Within our practice and due to our duty of care a client cannot be anonymous. A client may request to use a pseudonym, but a name as listed on ID's is required.

How we collect personal information

We collect personal information through a variety of means, including:

- the information you verbally share with us
- written communication received from you via email, SMS or letter
- our online booking system
- our intake form
- social media
- the guardian of those under 18 years of age
- a referral from your GP or another treating practitioner or service.

Our storage of personal information

To protect the personal information we hold from misuse or loss we store it in several ways, all of which are secure and can only be accessed by approved individuals. The method of storage varies between types of information and includes both hard copies and digital versions (either on a secure server or offline).

We do not retain any credit card or banking details once processing the payment is finalised. We also try not to retain unnecessary information, disposing of it securely from time to time depending on the type of information it is and our legal obligations.

If we become aware of a security breach we will promptly investigate and, where appropriate, take remedial action and notify the individual affected in accordance with the Privacy Act.

Privacy policy (cont.)

Disclosure of your personal information

We will not disclose personal information about you to third parties without your consent, except when the disclosure is required by law.

It is unlikely that we will disclose any information to a recipient outside of Australia.

Accessing your personal information

You may request access to personal information we hold about you. We may ask you to specify what information you require and may charge a fee where we provide access.

We deal with all requests for access to personal information as required by the Privacy Act. We may refuse to provide access if the Privacy Act allows us to do so.

Integrity of your personal information

We try to ensure that the personal information we collect is accurate and up to date. You may request an update or correction to personal information we hold about you and we will deal with all such requests as required by the Privacy Act.

Complaints

If you think your personal information has not been handled in line with the Privacy Act, please contact us in the first instance. We will investigate your complaint and try to promptly resolve your complaint directly with you.

If you are not satisfied with the outcome, then you may make a complaint to the Office of the Australian Information Commissioner (OAIC). For information about how to make such a complaint, please refer to the OAIC website <http://www.oaic.gov.au/>

Changes to this privacy policy

We may make changes to this privacy policy from time to time and in such cases we will notify clients by email or on our website.

Contact us

If you have any questions relating to privacy matters, please contact us by email at XX.

Intake form

An intake form solicits basic information to facilitate your work with a client and is necessary to enable you to fulfill your duty of care to the client.

As an intake form is usually completed by a client prior to the first appointment, it is important to phrase questions to convey an inclusive and safe environment. It is also appropriate to avoid questions that could be considered by the client as being intrusive. Such questions are best kept within the therapy process and may form part of the initial assessment process.

It is usual for an intake form to contain:

- › basic demographic information including name, contact details and date of birth
- › relevant medical and mental health information
- › background information (emergency contact information, accessibility needs)
- › brief descriptor of reason for seeking therapy.

It may contain:

- › source of locating the therapist, e.g. personal recommendation, website
- › name of person responsible for payment of the account
- › private health insurance cover.

Whether or not your intake form solicits more or less information, the minimum information sought must provide you with sufficient information to fulfill your duty of care to the client (for example should your client be a risk to themselves or another).

It is necessary to assure the potential client that all information provided in an intake form is private and will be handled in accordance with legal requirements. It should contain a statement similar to the following:

Please be assured that your privacy with regard to the use and storage of this information will be respected in line with our Privacy Policy and the National Privacy Principles stated in the Privacy Act 1988 (Cth).

It is recommended that an intake form:

- › be kept to one page to avoid client overwhelm, and
- › that its ease of completion is facilitated by check boxes.

Your letterhead with logo and contact details

Intake form

Thank you for choosing our practice to seek support. We value and prioritise creating an inclusive and safe environment for all individuals. To better serve you, please provide us with the following information.

Personal details

Name:	Pronouns:
Name on ID (if different):	Birth date:
Email address:	Mobile phone:
Home address and postcode:	Your preferred means of contact (e.g. SMS/email/post):

Living situation

With whom are you now living? Please list names, ages and relationship:

Medical and mental health information

Please list any physical health issues that you consider relevant to our working together:

--

Please list any diagnosed mental health conditions:

--

Do you consider these diagnosed health conditions to be accurate?

--

Do you have any accessibility requirements or preferences?

--

If you have a GP, please provide their name:

The name of their medical clinic:

--	--

Their contact details:

Emergency Contact(s): *Please provide name(s), contact details and relationship to you*

Intake form (cont.)

Engaging in therapy

Have you previously consulted with: *Tick what applies*

☐ a counsellor ☐ a psychotherapist ☐ a psychologist ☐ a psychiatrist

What was helpful or unhelpful during those consultations?

What prompted you to make this appointment?

Are you likely to want to discuss spiritual issues?

☐ Yes ☐ No ☐ Unsure

If yes, briefly explain:

What do I need to know about you to best support you?

If not you, please advise the name and contact details of the person or organisation responsible for payment:

Signed:

Date:

Thank you for completing this form. Please be assured that your privacy with regard to the use and storage of this information will be respected in line with our Privacy Policy and the Australian Privacy Principles stated in the *Privacy Act 1988* (Cth).

Informed consent

An informed consent document provides potential and new clients with all relevant information to enable them to make an informed decision about contracting with you or your business for counselling, psychotherapy or indigenous healing.

PACFA requires that practitioners obtain informed consent to provide therapy with a client. The Code of Ethics recommends that this consent be explicit as implicit consent increases the risk of client misunderstandings of what the client has or has not consented to (*PACFA Code of Ethics* 2017, p.10). This is particularly important because breaches of informed consent and confidentiality account for a significant proportion of client complaints (Lamont-Mills & Moses 2018, p.4).

Whilst an informed consent is a comprehensive document it is important that it is written in simple English and is structured to provide a sense of your professionalism and commitment to quality.

It is advisable to forward the proforma to a new client along with a confirmation of the initial appointment so that there is time for them to digest the information and be well-informed before the commencement of sessions.

A signed informed consent form, however, does not necessarily mean that a client has fully understood what can be quite complex information, presented at a time when they may be experiencing high levels of distress (*ibid*). It is good practice, indeed necessary practice for the practitioner to take the time during the first session to engage clients in an explanatory conversation of what is being consented to. This ensures both client understanding and that their consent has been voluntarily given.

As your informed consent needs to include content regarding confidentiality and the disclosure of information to third parties, it is important that you are familiar with the legal requirements for your state or territory. If you are providing telehealth to interstate or international clients, then familiarity with the legislature relevant to their location is also necessary.

Your informed consent form is a living document. It will grow and change as your experience, training, and practice changes, and therefore an annual review is recommended.

Common elements in an informed consent across professions include a descriptor of the service, a statement that there can be no guarantees of outcome, and a statement about the risks associated with involvement.

Australian authors McBride & Tunnecliffe (2002)¹ recommend four key components for an informed consent document:

1. important facts about therapy and the therapy process,
2. important facts about the therapist,
3. terms and conditions upon which the therapy service is provided, and
4. acceptance by the client.

1. At the time of writing, Nigel McBride was a senior lawyer specialising in the provision of legal advice regarding risk management and compliance issues to health service providers, and Michael Tunnecliffe was a psychologist known for his work in crisis intervention.

Building on their recommendations, the sample informed consent form provided as a guide for PACFA registrants addresses the following:

1. Important facts about therapy and the therapy process

- › what is 'therapy'?
- › objectives of therapy
- › can the benefits of therapy be 'guaranteed'?
- › the risks that can be associated with going through the therapy process
- › how to maximise the therapy process

2. Important facts about the therapist

- › qualifications and expertise
- › methodology and approach – theoretical foundation
- › professional associations and the Codes of Ethics which inform our practice

3. Some practicalities

- › hours of practice
- › session frequency
- › in person or telehealth
- › fees: private health insurance rebates, missed appointments and cancellations
- › in an emergency
- › privacy and confidentiality
- › records and their duration kept
- › therapist's supervision

4. Acceptance by the client

- › voluntary engagement in therapy and termination can occur at any stage.

As an informed consent document is specific to the therapist and their practice there may be additional information that you wish to include such as a positioning statement, and referral or report writing information.

The following sample, written from a counselling perspective, is provided to assist you as a PACFA registrant to develop an informed consent form that is relevant to your specific practice context. The terms "counsellor/counselling" in this example can be replaced with "psychotherapist/psychotherapy" or "Indigenous healing practitioner/practices" as is appropriate.

Your letterhead with logo and contact details

It is important that you are as fully informed as possible about counselling and the counselling process prior to commencing therapy with me. For this reason, please read the following carefully and do not hesitate to ask any questions.

Informed consent Agreement for counselling services

Some important facts about counselling

Professional counselling is a safe and confidential collaboration between qualified counsellors and clients to promote mental health and well-being, enhance self-understanding, and resolve concerns. Clients are active participants at every stage of the counselling process. (*PACFA Scope of Practice for Registered Counsellors 2018, p.2*).

People seek counselling for a wide variety of reasons. I look forward to exploring your reasons for making your appointment with me and to navigating the counselling journey together.

We are all unique human beings with our own history, perceptions, and expectations, and as a result the outcomes of counselling can vary widely. This means as your counsellor I cannot promise any particular outcome from the counselling process, but I can assure you that I am committed to best practice with you in resolving your concerns.

It's the very nature of counselling that these processes may deal with issues and aspects of your life that might spark or be a catalyst for triggering a wide range of feelings and reactions. It is important therefore to keep me informed of any such experiences should they arise, in order to ensure my support.

To help you get the best out of the counselling process, the following guidelines are useful:

- > aim to attend every scheduled session
- > be prepared to share your thoughts and feelings openly with me
- > complete any out-of-session tasks we agree to
- > when unsure, ask for clarification about any of the counselling activities being undertaken, and discuss any doubts or concerns you have with me.

My professional background and counselling approach

Having completed a master's degree in counselling I hold national registration as a Registered Clinical Counsellor with the Psychotherapy and Counselling Federation of Australia (PACFA) and am listed on the Australian Register of Counsellors and Psychotherapists (ARCAP). Being a PACFA member I am subject to a wide range of professional and ethical requirements, and practice within the framework of the [PACFA Code of Ethics](#) and my State Government's Code of Conduct for unregistered health professionals.

Informed consent (cont.)

I consider that the relationship established between the client and myself is central to the counselling process. I seek to provide an atmosphere that is respectful and non-judgemental in which each person can feel that their experience is understood and valued. I utilise an integrated and trauma informed approach to my counselling and draw on a range of theory to understand how to facilitate processes of change and growth including theory that addresses human development, personality and character, patterns of attachment, and contemporary psychodynamic theory.

Some practicalities

Hours of practice

My consulting hours are from 9:00 am to 5:00 pm weekdays. There is a limited after-hours service on Tuesday and Thursday evenings between 5:00 pm and 8:00 pm for which appointments may be made.

Session frequency

A typical counselling session is 60 minutes in length. Whilst the frequency of sessions depends on the client and the nature of the concern, I do recommend an initial commitment to five appointments preferably on a weekly or fortnightly basis.

Scheduled sessions

Sessions are offered in person or via telehealth. Sessions via phone or video conferencing are provided on the basis that we both:

- › ensure that we have a confidential and uninterrupted space; this may or may not involve using a headset,
- › will not record sessions, and
- › as far as we are able, will aim to have reliable connectivity.

Please advise me not less than 24 hours in advance if you cannot attend an appointment. Failure to do so will incur a 50% charge.

Fees

The hourly charge for counselling sessions with individuals is \$XX and with couples is \$XX and is payable at the time of the appointment via cash or credit card. Please discuss with me if you require an alternative payment option. Fees are currently claimable by those with relevant private health insurance policies including ahm, Bupa, HCF, Medibank, and Police or Emergency Services Health.

In an emergency

As I do not provide a crisis service, if there is an emergency please contact:

- › your doctor, or the emergency section of your local hospital
- › Lifeline on 13 11 14, or the Mental Health Triage Service on 13 14 65.

Informed consent (cont.)

Privacy

Australian Government Privacy Legislation applies to personal information collected about an individual that could be used to identify them directly or indirectly. Please find attached my privacy policy which forms part of this agreement.

Confidentiality

Your right to privacy encompasses confidentiality. Information discussed during our sessions is confidential and may not be shared with anyone without your written permission except when I am legally obliged:

- › to report a serious and imminent threat to the life, health or property of yourself or another
- › to report any abuse or neglect experienced by a young person under the age of 18 years, and/or
- › to release client records when required by court order.

Confidential written records are maintained to reflect the issues and goals identified in counselling sessions and are kept securely for seven years.

My supervision

I have an ethical responsibility to reflect on my counselling practice. As part of this professional reflection, I may discuss my work with you with my clinical supervisor. In such situations, content presented is de-identified.

Acceptance by the client

I have read and understand this information, clarified my concerns, and agree to undertake counselling with XX. I understand that I can conclude my sessions at any time.

Client's name:

Client's signature:

Date:

Counsellor's name:

Counsellor's signature:

Date:

Consent for information release/exchange

There are occasions within the therapy process when disclosure that is not legally mandated might be raised or considered.

- › This may occur at the request of the therapist who might want to consult with the client's GP or a service provider.
- › It might result from the client seeking a letter of support for a service
- › It might result as a request from a third party, such as a lawyer

Whilst this Guideline does not address report writing for lawyers, it is important to be aware that PACFA registrants have no legal obligation to provide a report requested by a lawyer, and in fact doing so may not be beneficial to the client.

Although some practitioners include a generic release clause within their informed consent agreement, it is recommended that written consent to the release or exchange of client information is sought from the client, situation by situation.

As the client consent is situation specific, it is best practice to prepare a one-off written release agreement that details the who, why, when and what of the information release.

- › It is necessary to include a statement that states that the client can withdraw or alter their consent at any time.
- › It is important to always include a sunset clause which addresses the expiry of the consent. This may be a specific date, or a general statement such as 'consent is valid until the current need for communication is complete'.

By way of example, the sample consent form below is written from a counselling perspective but can be readily adjusted for use by psychotherapists and Indigenous healing practitioners.

Your letterhead with logo and contact details

Consent for information release/exchange

To assist the counselling process I, XXXXXXXX give my consent for my counsellor, XXXXX to communicate with my GP XXXXXXXX of XXXX medical practice.

Whilst I understand that I may withdraw or alter this permission at any time, consent is given for three months from the signed date below.

Client's name:

Client's signature:

Date:

Counsellor's name:

Counsellor's signature:

Date:

References

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Disclaimer

PACFA aims to ensure that information published is current and accurate at the time of publication. Changes after publication may affect the accuracy of this information. The information provided in this Guideline does not replace members obtaining appropriate professional and/or legal advice.

This Good Practice Guideline has been prepared by Dr Pamela Brear, Chair of the Professional Standards Committee with the support of committee members Dr Gill McCulloch, Kelly Pritchard, and Rina van Schalkwyk.

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For further information, please email admin@pacfa.org.au

Proposals for amendments or additions to this document should be sent to the Head of Practice.