



Australian Counselling Association Inc

**ACA  
COMBINED  
ETHICS  
COMPLAINTS POLICY  
& PROCEDURES**

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Australian Counselling Association Pty Ltd - ABN 500 855 35 628

# COMPLAINTS POLICY And PROCEDURAL GUIDELINES

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# INDEX TO POLICY & PROCEDURAL GUIDELINES

*INDEX*

ii

<b>1.</b>	<b>INTRODUCTION</b>		<b>01</b>
	1.1 Aim		01
	1.2 Bringing a Complaint		01
	1.3 Complaints against Non-members		01
	1.4 Procedure		01
	1.5 Procedural Requirements		01
	1.6 Timescale		01
	1.7 Record Keeping		01
	1.8 Administration		01
	1.9 Expenses		01
	1.10 Preparatory Consultations		02
	1.11 Dual Accountability		02
<b>2.</b>	<b>MAKING A COMPLAINT</b>		<b>02</b>
	2.1 The Complaint		02
	2.2 Acceptance of a Complaint		02
<b>3.</b>	<b>THE COMPLAINTS TRIBUNAL</b>		<b>03</b>
	3.1 Composition of the Tribunal	03	
	3.2 Conduct	03	
	3.3 Evidence	03	
	3.4 Suspension of Rights of Membership		03
	3.5 Lapsed Membership	04	
<b>4.</b>	<b>THE FORMAL COMPLAINT – PROCEDURAL GUIDELINES</b>		<b>04</b>
	4.1 Initial Notification	04	
	4.2 Information Required from the Complainant		04
	4.3 Notification to Respondent		05
	4.4 Response to Formal Complaint	05	
	4.5 Brief of the Adjudication Meeting		06
	4.6 The Adjudication Meeting		06
	4.7 Declaration of Interest		06
	4.8 Conduct of the Meeting		06
	4.9 The Adjudication	06	
	4.10 Notification of Findings		06
	4.11 Venue		07
<b>5.</b>	<b>SANCTIONS</b>		<b>07</b>
	5.1 Lifting of Sanctions	08	
	5.2 Failure to Comply with Sanctions		08
<b>6.</b>	<b>CRITERIA FOR APPEAL</b>		<b>08</b>
	6.1 Appeals to President of The Association		08
	6.2 Criteria for Appeal	08	
	6.3 Action to be taken if Criteria are Satisfied	08	
	6.4 Failure to Satisfy Criteria		08
	6.5 Decision to be Final	09	
<b>7.</b>	<b>APPEAL – PROCEDURAL GUIDELINES</b>		<b>09</b>
	7.1 Timeframe		09
	7.2 Criteria	09	
	7.3 Composition of the Appeal Panel		09
	7.4 Brief of the Appeal Panel		09
	7.5 Decision of the Appeal Panel	09	
	7.6 Notification of Decision		09
	7.7 Publication		09
<b>8.</b>	<b>PUBLICATION</b>		<b>09</b>
	8.1 Right to Publish		09
	8.2 Place of Publication	10	
	8.3 Termination of Membership to be Published		10
<b>9.</b>	<b>LEGAL ACTIONS RELATED TO COMPLAINTS</b>		<b>10</b>
	9.1 Requirement re Legal Action	10	
	9.2 If Legal Action is Undertaken During Complaint Procedure		10
	9.3 If Stay of Action is Required	10	
	9.4 Continuation of Complaint after Legal Action		10
	9.5 Account Taken of Result of Legal Action	10	

<b>10.</b>	<b>APPENDICES – DRAFT LETTERS</b>	<b>11</b>
10.1	APPENDIX A LETTERS OF NOTIFICATION RE NON-CONTINUANCE	11
10.2	APPENDIX B LETTER OF SUSPENSION OF MEMBERSHIP	13
10.3	APPENDIX C LETTER OF RELEASE OF INFORMATION	14
10.4	APPENDIX D LETTER OF NOTIFICATION OF COMPLAINT	15
10.5	APPENDIX E LETTERS OF NOTIFICATION OF FINDINGS	18

## **1. INTRODUCTION**

### **1.1 Aim**

The aim of this procedure is to afford protection to both the public and counsellors, and also to protect the name of the profession of counselling as conducted by both individuals and organisational members of the Association.

**1.1a** In accord with this aim it is possible for the Association to act in the absence of a complaint in cases where it is deemed that not to act would be prejudicial to the good name and standing of the Association and/or the profession as a whole.

### **1.2 Bringing a Complaint**

A complaint can be brought either by a member of the public seeking or using a service provided by a member of the Association, or by a member of the Association themselves.

### **1.3 Complaints against Non-members**

The Association cannot deal with complaints against individuals or organisations who are not members of the Association.

### **1.4 Procedure**

In outline the complaints procedure provides that:

On receipt of a complaint a decision will be made EITHER:

- a) to accept the complaint for further investigation and possibly adjudication
- OR
- b) to reject the complaint.

### **1.5 Procedural Requirements**

The procedure requires that ideally a complaint should be correctly formulated (see **Section 2**) and that enough information is available for a decision to be made as to whether the complaint should go forward to be adjudicated or not. In cases where the information is considered insufficient for adjudication of the complaint, the Chair of the Complaints Tribunal may gain further information and then decide if the complaint should go forward for adjudication. The facts discovered at the preliminary investigation stage will inform the decision on whether the complaint should be accepted for adjudication or not.

### **1.6 Timescale**

A complaint can be lodged without time limitation in regard to the occurrence of the event(s) which form(s) the substance of that complaint.

### **1.7 Record Keeping**

All documentary records of complaints will be kept for a period of 7 years from the finalisation of the Complaints Procedure.

### **1.8 Administration**

The Administration of the Complaints Procedure will follow the protocols laid down from time to time by the Complaints Tribunal of the Association and these will be administered by a member of the Complaints Tribunal or designated Head Office staff.

### **1.9 Expenses**

The Association is not responsible for travel or any other expenses incurred either by the Complainant or the Respondent in connection with any stage of the complaint.

### **1.10 Preparatory Consultations**

Before making the complaint, the Complainant is advised to attempt to resolve the issue with the Individual or Organisational Respondent. The Complainant may contact the ACA for guidance on how to go about this. An attempt should be made to use available informal channels or, in the case of organisational members, appropriate internal channels. Any person considering making a complaint may have preliminary discussions concerning the proper formulation of the complaint (see **Section 2**) and the implementation of the Complaints Procedure with the Chair of the Complaints Tribunal who can be contacted through the Head Office of the Association.

### **1.11 Dual Accountability**

The Complaints Tribunal may decide to stay a complaint if they become aware that another organisation is involved in a similar process arising out of the same substantive matters. Once the other organisation has finalised their procedure the Complaints Tribunal will proceed with the Complaints Procedure. The Complaints Tribunal may take into account the other organisations findings.

## **2. *PROCESSING A COMPLAINT***

### **2.1 The Complaint**

The complaint must satisfy the following conditions:

- a) the allegation is about a breach of a specific clause of the Code of Ethics or Membership guidelines as set out in the ACA Code of Conduct.
- b) the complaint is brought either by a member of the public seeking or using a service provided by a member OR by a current member of the Association against another member of the Association. In cases involving minors parent(s) or Guardians may act on their behalf.
- c) attempts to resolve the matter between the two parties are shown to have been made, or if not, an explanation of why not is provided.
- d) legal proceedings have not been issued or pending regarding matters forming the subject matter of the complaint.
- e) the written and signed complaint is received by the Chair of the Complaints Tribunal.
- f) The Complaints Tribunal will decide whether to accept or reject the complaint in line with the criteria a-e of this section.

### **2.2 Acceptance of a Complaint**

- a) Once the complaint is accepted the Complaints Tribunal will be asked by the Chair of the Complaints Tribunal to start the formal Complaints Procedure.
- b) If the Complaints Tribunal rejects the complaint (in accord with “f” above), the Complaints Procedure will forthwith be terminated and the Complainant and the Respondent accordingly notified. Draft letters for this notification are to be found in **Appendix A**. In the event that the complaint is rejected the Complaints Tribunal still reserve the right to send the Respondent a letter of advice regarding the content of the complaint.

### ***3. THE COMPLAINTS TRIBUNAL***

#### **3.1 Composition of the Tribunal**

Upon receipt of a complaint the Chair of the Complaints Tribunal will appoint no less than three members, one of which can be the Chair of the Complaints Tribunal to preside over the complaint. The members can be permanent members of the Complaints Tribunal or Co-opted onto the tribunal for the term of the complaint. This is to enable the tribunal to access expert skills in the area specific to the complaint. If the Chair of the Complaints Tribunal is not able to preside over the complaint then a senior member of the Tribunal will be appointed to head the complaints procedure.

#### **3.2 Conduct**

Persons taking part in the Complaints Procedure are required to act in a manner that preserves confidentiality and avoids prejudicing the procedure's outcome or exercising an improper influence upon it. Any breach of this may result in the procedure being halted or terminated at any stage by the Chair of the Complaints Tribunal.

#### **3.3 Evidence**

All evidence received in the initial complaint and the Respondent's response to that complaint will be open and available to all parties directly involved in the complaint. Though the complainant will have a chance to submit a written reply to the Respondent's response to their complaint, this reply will not be made available to the respondent. It is hoped that this will help to redress some of the imbalance caused by the nature of the client/practitioner relationship. The Association will be responsible for this distribution of material. A person who is not a party to the complaint or a member of the Complaints Tribunal shall not be entitled to copies of any documentation that comes into the possession of the Association as a result of the complaint. All evidence provided to the Association may be subpoenaed by a Court of Law.

#### **3.4 Suspension of Rights of Membership**

The Chair of the Complaints Tribunal can, after consultation with the President of the Association, pending the completion of the adjudication, suspend the Respondent's rights of membership of the Association when the majority of the Complaints Tribunal feel the complaint is of sufficient seriousness or because EITHER:

- i. Physical or emotional harm has been caused

AND/OR

- ii. The exploitation of a member of the public is involved

AND/OR

- iii. where the complaint is of such a kind that it could result in the expulsion of the individual or organisational member from the Association if the complaint is upheld.

In addition to or instead of the aforementioned the following rights of membership can be suspended with immediate effect:

- a) promotion in publications of the Association
- b) the occupancy of a role within any structures or affiliated groups of the Association

- c) the right to put oneself forward for election to the Management Committee, the Chair of a Committee or any committee position
- d) voting rights
- e) any professional status conferred by virtue of membership such as Accreditation, Registration and Certification

The President of the Association will notify the Respondent of the suspension of membership or of the suspension of any rights of membership. (See **Appendix B** for draft letter.)

No liability for any loss suffered will attach to the Association for the suspension of membership or rights of membership where a complaint is not upheld.

### **3.5 Lapsed Membership**

Failure to renew membership by a Respondent during the course of a complaint shall not normally terminate the Complaints Procedure, which will continue to its conclusion.

## ***4. THE FORMAL COMPLAINT - PROCEDURAL GUIDELINES***

### **4.1 Initial Notification**

If the Tribunal accepts a complaint then the complainant is to be sent a letter (for draft see **Appendix C**) asking for permission for a copy of the complaint to be sent to the respondent (see section 4.2). If this permission is not forthcoming the complaints procedure is halted in accord with the principles laid down in section 3.3 and the complainant notified of same.

Upon receipt of the above permission the respondent will be notified in writing that a complaint against them has been received (see **Appendix D** for a draft letter) and a copy of the letter of release sent by the complainant. As per section 4.3 they will also be advised of where to find a copy of the latest version of the code of conduct and a copy of the complaints and appeals procedure. The Respondent will also receive notification of those matters in the complaint of principle concern to the complaints tribunal. This notification will include a list of what sections of the code they are considered to be in violation of and an invitation to respond to the Tribunal's concerns. This initial notification shall take place before any publication re the complaint occurs in the Association's Journal.

As soon as these notifications are received ***NEITHER PARTY SHOULD CONTACT OR ATTEMPT TO CONTACT THE OTHER.***

If the complaint is rejected at any time during this process the Complaints Tribunal reserve the right to send the Respondent a letter of advice regarding the content of the complaint.

### **4.2 Information Required from the Complainant**

Once the complaint has been accepted the Complainant is notified of receipt of complaint and informed that in order for the complaint to proceed that they must agree in writing that;

- a) all information presented by them will be passed on to the Respondent.
- b) they give the Respondent authorisation to release, to the Complaints Tribunal, confidential information relevant to the complaint.

AND

- c) that they are not, at this stage, intending legal action against the member and if they decide to take independent legal action they will notify the Association of their intention to pursue legal matters.

If no confirmation is received from the Complainant within 21 working days then the complaint is rejected (in accord with the principles laid down in section 3.3) and the Respondent and the Complainant are notified of the decision.

#### 4.3 Notification of Respondent

Upon receipt of notification from the complainant regarding information being passed on to the Respondent, release of case notes and assurance that they are not at this time pursuing independent legal action, copies of the complaint will be forwarded to:

- ❖ the individual or Organisational Respondent.

and notification of the complaint (but not its substance) will be passed on to:

- ❖ an Organisational Member of the Association of which the Individual respondent is a member or is known to be currently working for (if applicable).

The Respondent will also receive notification of those matters in the complaint of principle concern to the complaints tribunal. This notification will include a list of what sections of the code they are considered to be in violation of. The latest version of the code of conduct and a copy of the complaint guidelines and appeals procedure is available at the ACA website [www.theaca.net.au](http://www.theaca.net.au) and this will be pointed out to the respondent at this time.

#### 4.4 Responding to a Formal Complaint

The Respondent will be invited to submit a written response to the formal complaint, based on the list of concerns and code breaches already sent to them, to the Complaints Tribunal to be received by the Association within 14 working days. This Response should include supporting documentation, evidence, or comments from those in a position to have observed the counsellor in a counselling context. In this regard, comments from a supervisor may also be helpful. ***IT SHOULD BE NOTED THAT THIS MAY BE THE COUNSELLOR'S ONLY CHANCE TO RESPOND TO THE COMPLAINT.***

4.4.1 If a response is not received within 14 days then the complaint will be upheld and sanctions imposed and the complaint published in the Association's Journal.

4.4.2 If a response is received then this response is forwarded to the Complainant for comment. If a Complainant wants to respond then response must be received by the Association within 7 working days.

4.4.3 The Tribunal ***MAY***, (though this is not usual) at their discretion, seek to clarify points already presented, or, ask for more information from either party via letter, phone interview or face to face interview. ***Please Note*** that, should the Tribunal choose to do this, then both parties will be given the opportunity to provide additional information regarding that particular aspect of the complaint, and both will be interviewed via the same media.

#### **4.5 Brief of Adjudication Meeting**

The brief of the Adjudication Meeting is to examine complaint(s) in a formal manner, decide on their validity and recommend sanctions as appropriate. Where there are several complaints against the same member they may be heard separately or at the same Adjudication Meeting at the discretion of the Chair of the Complaints Tribunal. The Tribunal has the right to examine and take into account any former, or pending, complaints against the Respondent.

#### **4.6 The Adjudication Meeting**

The Complaints Tribunal will meet to adjudicate the complaint. The composition of the Complaints Tribunal will have regard to the aims of the Complaints Procedure, and the requirement on members of the Tribunal to be impartial. It will also have regard to the Association's equal opportunity policies and to the need for expertise required by the substance of the complaint.

#### **4.7 Declaration of Interest**

Members of the Complaints Tribunal have a duty to declare any interest that may be considered to compromise their impartiality. The views of the Complainant and the Respondent will be taken into consideration when deciding whether the impartiality of any member of the Complaints Tribunal might be so compromised as to require that they be replaced.

#### **4.8 Conduct of Meeting**

The Chair of the Adjudication Meeting (either the Chair of the Complaints Tribunal or the senior member presiding over the complaint) is responsible for ensuring that the Adjudication meeting is conducted in a manner that shows due regard to the gravity of the situation and to consideration of confidentiality.

#### **4.9 The Adjudication**

The Complaints Tribunal will decide whether the complaint is proved or not proved and may make recommendations on sanctions to be imposed. The Complaints Tribunal will, within 14 working days, produce a report outlining the complaint, the Tribunal findings and the sanctions to be imposed, which will be presented to the President of the Association to be applied in accordance with **Section 5** of this document.

#### **4.10 Notification of Findings**

- a) Within 14 working days, the Complaints Tribunal will produce a report outlining the complaint, the Tribunal findings and the sanctions to be imposed, if for some reason this becomes impossible both parties and the President of the Association shall be notified.
- b) The Chair of the Complaints Tribunal will notify the decision of the Complaints Tribunal to the President of the Association.
- c) The Respondent will be notified of the sanctions imposed by the President of the Association (see draft letter **Appendix E**).
- d) The decision to uphold the complaint will be published, detailing the clauses held to have been breached and the expiry date of the sanctions that have been imposed, in the Association's Journal or elsewhere should this be deemed appropriate. Any sanctions imposed will be published in the Association's Journal. The publication of the decision and sanctions will be made only after the necessary time for notification of appeal has elapsed. (See **Section 6**) or, if appealed, the result of the appeal has been finalised.

- e) The Chair of the Complaints Tribunal will also notify any Complainant(s) of the decision and where applicable the sanctions imposed (see draft letter **Appendix E**).
- f) In a case where the individual Respondent is a member of or is known to be currently working for an Organisational Member of the Association, the Organisational Member will be informed of the outcome of the Complaints Procedure.

#### 4.11 Venue

Adjudication Meetings will be held at a location deemed appropriate by the Chair of the Complaints Tribunal or the senior member presiding over the complaint. The venue selected for an Adjudication meeting will provide a secure and confidential environment.

## 5. SANCTIONS

Any of the following sanctions, or others deemed appropriate by the complaints tribunal, may be imposed. The compliance/non-compliance of these sanctions is to be supervised by the Chair of the Complaints Tribunal.

### (I) A PROBATIONARY PERIOD FROM 1 – 5 YEARS WITH:

- a) a requirement to demonstrate (by, but not limited to; reflective paper/fully referenced paper/course completion) specified change/improvement by a specific date
- b) provision for a reporting supervisor, acceptable to the Association, but chosen by the member, to monitor the member's work
  - 1) Where a supervisor is a requirement, the qualifications and experience of the nominated supervisor must be submitted to the Complaints Tribunal for approval.
  - 2) Upon acceptance as a supervisor the Respondent should forward the supervisor a copy of the Tribunal's findings which will outline and list the relevant concerns that need to be addressed in the supervisor's reports.
  - 3) The supervisor shall be notified by the respondent of the time frame in which reports are to be submitted.
  - 4) All correspondence is to be forwarded to the Australian Counselling Association marked: Attention Chair of the Complaints Tribunal, Australian Counselling Association, PO Box 88, Grange, Queensland 4051.
  - 5) It is the responsibility of the member NOT of the Complaints Tribunal to ensure that reports are submitted within the allocated time frame.
  - 6) Upon receipt of a supervisor's report the Chair of the Complaints Tribunal is to call a meeting of the Tribunal within 14 working days.
- c) Suspension of any professional status conferred by virtue of membership, such as Accreditation, Recognition (including the Registry and Referral Database), and rights of membership for the specified period following the fulfilment of conditions specified by the Association. ***In cases of suspension from the register or deregistration it is the responsibility of the counsellor to notify any providers with whom they are registered and their insurance company of this fact.***

**(II) AN EDUCATIVE PROBATIONARY PERIOD FROM 1 – 18 MONTHS WITH:**

- a) a requirement to demonstrate (by but not limited to; reflective paper/fully referenced paper/course completion) specified change/improvement by a specific date
- b) provision for a reporting supervisor, acceptable to the Association, but chosen by the member, to monitor the member's work
  - a. Where a supervisor is a requirement, the qualifications and experience of the nominated supervisor must be submitted to the Complaints Tribunal for approval.
  - b. Upon acceptance as a supervisor the Respondent should forward the supervisor a copy of the Tribunal's findings which will outline and list the relevant concerns that need to be addressed in the supervisor's reports.
  - c. The supervisor shall be notified by the respondent of the time frame in which reports are to be submitted.
  - d. All correspondence is to be forwarded to the Australian Counselling Association marked: Attention Chair of the Complaints Tribunal, Australian Counselling Association, PO Box 88, Grange, Queensland 4051.
  - e. It is the responsibility of the member NOT of the Complaints Tribunal to ensure that reports are submitted within the allocated time frame.
  - f. Upon receipt of a supervisor's report the Chair of the Complaints Tribunal is to call a meeting of the Tribunal within 14 working days.

**(III) EXCLUSION FROM THE ASSOCIATION WITH:**

- a) termination of any professional status or membership
- b) a directive to cease counselling/training/supervision or other counselling related activities under the auspices of ACA for a specific period or indefinitely
- c) other such sanctions as may from time to time be deemed appropriate to the particular circumstances of a case.

**5.1 Failure to Comply with Sanctions**

Failure to comply with sanctions will result with the Chair of the Complaints Tribunal writing to the President of the Association with information and recommendations as to whether or not membership should be terminated. The President of the Association will notify the member of their decision, which may in turn be published in the Association's Journal.

## **6. CRITERIA FOR APPEAL AND ACTIONS TO BE TAKEN**

### **6.1 Appeals to go to the President of the Association**

The President of the Association will receive all Appeals. All Appeals must be accompanied by any supporting documentation.

### **6.2 Criteria for Appeal**

The President of the Association, or their delegate, who may take advice from the Association's Solicitor, will consider the appeal. In deciding whether an Appeal shall proceed or not the President of the Association, or their delegate, is empowered to investigate and interview witnesses in relation to any possible breach of the following criteria:

1. There has been a material breach of procedure laid down in the Association's Protocols and Procedures.
2. There has been intimidation of any party involved in the Complaints Procedure.
3. There is a bias by any person involved in the Complaints Procedure in a 'judiciary' capacity.
4. There has been failure to disclose a relationship between the investigator or a member of the adjudication panel and a person involved in the Complaints Procedure.
5. In cases where the Complaints Tribunal has decided upon de-registration the respondent may ask for the case to be reconsidered by the Appeals Tribunal.

### **6.3 Action to be Taken if Criteria Satisfied**

If the Appeal satisfies any of the criteria, the Appeal Procedure set out in **Section 7** hereof shall take effect.

### **6.4 Failure to Satisfy Criteria**

If an Appeal does not satisfy any of the criteria the person lodging the Appeal will be notified by the President of the Association of the fact.

### **6.5 Decision to be Final**

The decision of the President of the Association, or their delegate, shall be final as to whether any of the criteria are met.

## **7. APPEALS - PROCEDURAL GUIDELINES**

### **7.1 Timeframe**

The Respondent may appeal the decision and/or the sanction(s) by writing to the Clerk of the Complaints Procedure within 14 working days of the notification of the sanctions (except in cases of de-registration where the Chair of the Complaints Tribunal is to be notified of a desire to appeal within 7 working days).

### **7.2 Criteria**

The criteria for making an Appeal and for determining whether those criteria are satisfied will be made under the provisions of **Section 6.2** hereto. Only if the criteria are satisfied shall the remainder of the procedure take effect, as set out in this section.

### **7.3 Composition of the Appeal Panel**

The President of the Association, or his delegate, will appoint up to three people not previously involved in the case (though there is provision to second extra members for their expertise), to decide the appeal (the Appeal Panel). The Chair of the panel should be at minimum an ACA level three qualified counsellor. In cases where the appeal has been made by a member of the public, one member must be from outside the counselling profession.

#### **7.4 Brief of the Appeal Panel**

The Appeal Panel will review the evidence on which the decision was made, its decision and the sanctions imposed. The Appeal Panel can, at its discretion, interview the Respondent and the Complainant. Please note that NO new or additional information will be sought at this stage – only points of clarification – and both parties must be interviewed via the same media means.

#### **7.5 Decision of the Appeal Panel**

The Appeal Panel will report its decision to the President of the Association, or his delegate, who will implement its decision which will be final.

#### **7.6 Notification of Decision**

The decision of the Appeal Panel will be notified to the appellant parties in writing, and also to the Complaints Tribunal within 7 working days. No reasons shall be required to be appended to that decision.

#### **7.7 Publication**

Where the appeal is not allowed the original decisions of the Tribunal and the sanctions imposed by the President of the Association and the date of their effect will be published in the Association's Journal or elsewhere in accord with section 4.10.

### ***8. Publication***

#### **8.1 Right to Publish**

The Association reserves the right to publish such details of complaints as it considers appropriate. Normally details shall include the members name, date of effect of probation/termination and articles of the code under which membership has been placed under probation/terminated.

#### **8.2 Place of Publication**

Any notification that the Association, under these procedures, is entitled to publish in its Journal may, at its discretion, be published elsewhere by the Association. An example might be:

“xyz has received a probationary period from the Complaints Tribunal for breaches of the code of ethics. This period of probation, which includes suspension of membership rights, will finish on \_\_/\_\_/\_\_ if all sanctions have been complied with.”

Or

“xyz has received an educative probationary period from the Complaints Tribunal for breaches of the code of ethics. This period of probation, which **DOES NOT** include the suspension of membership rights, will finish on \_\_/\_\_/\_\_ if all sanctions have been complied with.”

#### **8.3 Termination of Membership to be Published**

The Termination of membership under the Complaints Procedure will be reported in the Association's Journal and/or elsewhere in accord with 8.2. An example might be:

“xyz has been de-registered from the ACA by the Complaints Tribunal for the following breach/s of the code of ethics Section \_\_\_\_\_. This de-registration is permanent and commenced as of \_\_/\_\_/\_\_”

## ***9. LEGAL ACTION RELATED TO COMPLAINTS***

### **9.1 Requirements Re Legal Action**

Complainants and Members Complained Against are required to notify the Tribunal if they learn of any type of legal action (civil or criminal) being filed related to the complaint.

### **9.2 If Legal Action is Undertaken During Complaint Procedure**

In the event any type of legal action is filed regarding an accepted complaint, all actions related to the complaint will be stayed until the legal action has been concluded. The Tribunal will consult with legal counsel concerning whether the processing of the complaint will be stayed if the legal action does not involve the same complainant and the same facts complained of.

### **9.3 If Stay of Action is Required**

If actions on a complaint are stayed, the Complainant and Respondent will be notified.

### **9.4 Continuation of Complaint After Legal Action**

The actions on a complaint may be continued after legal action has been concluded. In this case the Complainant and Respondent will be notified.

### **9.5 Account to be Taken of Result of Legal Action**

The Complaints Tribunal has the right to take into account the results of the legal action.

**APPENDIX A**      **LETTER TO COMPLAINANTS REGARDING NON-CONTINUANCE**

Date

Dear Name,

Re: Complaint brought against XXX.

I am writing to inform you that after serious consideration the ACA complaints tribunal has found that it cannot proceed with the complaint that you have lodged with us.

Although the matter you have raised with us is of concern Section XXXXX of our Complaints Procedure, which reads as follows:

XX  
XX  
XX

means that the complaints procedure can go no further.

[The following is an optional paragraph depending on the complaint, for complaints may be rejected due to lack of substance.]

However we will be contacting XXXXXXXX to advise them that a complaint has been made (though no names will be given) and the nature of the complaint (ie what guidelines may have been breached) and ask them to consider their methodology, policies and procedures in this regard and the possibility that some adjustment may be needed.

Should you have any further questions please feel free to contact me.  
Chair of the Complaints Committee  
P.O. Box 88  
Grange Qld 4051

All correspondence should be marked "Private and Confidential".

Yours faithfully,

XYZ  
Chair, Australian Counselling Association Complaints Tribunal.

Chair of the ACA Complaints Tribunal  
P.O. Box 88  
Grange Qld 4051  
Date XXXXXX

Dear XXXXXXXXX

Re: Complaint brought against you.

I am writing to inform you that a letter of complaint has been received against you. However, after serious consideration the ACA complaints tribunal has found that it cannot proceed with the complaint that has been lodged with us.

Although the matter that has been raised with us is of concern, Section XXXXX of our Complaints Procedure, which read as follows:

XX  
XX  
XX

means that the complaints procedure can go no further.

Although this complaint may proceed no further we would like to advise you that the complaint dealt with a breach of the ACA Code of Ethics section(s) as follows:

XX  
XX  
XX

we would therefore ask you to examine your methodology, policies and procedures in this regard and the possibility that some adjustment may be needed.

Should you have any further questions please feel free to contact me.

Chair of the Complaints Committee  
P.O.Box 88  
Grange Qld 4051

All correspondence should be marked "Private and Confidential".

Yours faithfully,

XXXXXXXX  
Chair, Australian Counselling Association Complaints Tribunal.

**APPENDIX B LETTER TO MEMBER RE SUSPENSION OF MEMBERSHIP RIGHTS**

Date

Dear Name,

Re: Complaint brought against you.

I wish to advise you that because of the serious nature of the complaint against you concerning the following section(s) of the ACA Code of Conduct:

XX  
XX

the Complaints Tribunal has decided to suspend your membership in accord with the following section of the ACA Complaints procedure:

**3.5 Suspension of Rights of Membership**

The Chair of the Complaints Tribunal can, after consultation with the President of the Association, pending the completion of the adjudication, suspend the Respondent’s rights of membership of the Association when the majority of the Complaints Tribunal feel the complaint is of sufficient seriousness or because EITHER:

- i. Physical or emotional harm has been caused

AND/OR

- ii. The exploitation of a member of the public is involved

AND/OR

- iii. Where the complaint is of such a kind that it could result in the expulsion of the individual or organisational member from the Association if the complaint is upheld.

In addition to or instead of the aforementioned the following rights of membership can be suspended with immediate effect:

- a) promotion in publications of the Association
- b) the occupancy of a role within any structures or affiliated groups of the Association
- c) the right to put oneself forward for election to the Management Committee, the Chair of a Committee or any committee position
- d) voting rights
- e) any professional status conferred by virtue of membership such as Accreditation, Registration and Certification

No liability for any loss suffered will attach to the Association for the suspension of membership or rights of membership where a complaint is not upheld.

This suspension is immediate and shall apply until the completion of the complaints procedure.

Should you have any further questions please feel free to contact me.

Chair of the Complaints Committee  
P.O. Box 88  
Grange Qld 4051

All correspondence should be marked “Private and Confidential”.

Yours faithfully,

XYZ  
Chair, Australian Counselling Association Complaints Tribunal.

**APPENDIX C LETTER OF RELEASE OF INFORMATION TO BE SIGNED & RETURNED**

Date

Dear Name,

Re: Complaint.

In accord with the ACA Complaints Procedure sections 3.3 and 4.1 I hereby request that you sign the following and return it to:

Chair of the Complaints Committee  
P.O. Box 88  
Grange Qld 4051

**Please Note:** All correspondence should be marked “Private and Confidential”.

**CLIENT AUTHORISATION**

I, \_\_\_\_\_ hereby give my consent for my  
Counsellor: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_ Postcode: \_\_\_\_\_

Telephone No: \_\_\_\_\_ E-mail: \_\_\_\_\_

to discuss and/or provide specific session information to ACA Complaints Tribunal to assist them in the investigation of my complaint.

I also provide authority to the ACA Complaints Tribunal to pass on any information I give to them to the respondent.

This authority is valid from the date of my signature.

All information given is to be treated as confidential.

Client's Name: \_\_\_\_\_

Client's Signature: \_\_\_\_\_ Date: / /

Yours faithfully,

XYZ  
Chair, Australian Counselling Association Complaints Tribunal.

## **APPENDIX D LETTER OF NOTIFICATION TO COMPLAINANT(S) RE COMPLAINT**

Date

Dear Name,

Re: Complaint brought against XXX.

I am writing to confirm receipt and acceptance of the above mentioned complaint brought against XXXXX, a member of the Australian Counselling Association and to inform you of the process for dealing with complaints.

All complaints brought against members of the Australian Counselling Association are dealt with by the Complaints Tribunal, a sub-committee of the ACA who purpose is specifically to deal with and respond to complaints brought against its members.

All members of the ACA are required to interact with their clients in an ethical and responsible way, as outlined in the ACA Code of Ethics and Practitioner Standards. The Complaints Tribunal is responsible for administering the Code of Ethics and Practitioner Standards.

The Complaints Tribunal acts to handle situations where the normal processes of mediation and conciliation have failed and to provide a forum where complaints brought against counsellors may be fairly defended and assessed. In processing complaints about alleged ethical misconduct, the Committee will compile an objective, factual account of the dispute in question and make the best possible recommendation for the resolution of the case. The Committee, in taking any action, shall do so only for cause, shall only take the degree of disciplinary action that is reasonable and shall utilise these procedures with objectivity and fairness.

Your complaint has been accepted the Complaints Tribunal and will be dealt with in accordance with procedural guidelines. In assessing the complaint the Tribunal members may ask you to clarify some points or provide further information prior to a final resolution of the case.

Your letter of Complaint will be forwarded to \_\_\_\_\_ (the respondent) for comment and they will be asked to respond. That response will then be sent to you for further comment should you so desire. Upon your response to (the respondent's) comments the Tribunal will be convened and sit on your case. The findings of the Tribunal will then be forwarded to both yourself and Respondent.

Thank you for communicating your concerns to the Association and we will keep you informed throughout the procedure.

Should you have any further questions please feel free to contact me.

Chair of the Complaints Committee  
P.O. Box 88  
Grange Qld 4051

All correspondence should be marked "Private and Confidential".

Yours faithfully,

XYZ

Chair, Australian Counselling Association Complaints Tribunal.



*chance you have to state your case to the Tribunal.* After The Tribunal has sat, its findings will then be forwarded to both yourself and Complainant.

Should you have any further questions please feel free to contact me.

Chair of the Complaints Committee  
P.O. Box 88  
Grange Qld 4051

***Please Note:*** All correspondence should be marked “**Private and Confidential**”.

Yours faithfully,

XYZ  
Chair, Australian Counselling Association Complaints Tribunal.

Date

Name

Dear XXX

Re: Finding Of Complaints Committee

The following is the finding of the ACA Complaints tribunal, which held a final meeting in relation to your case on [Date].

In accord with section 5 of the ACA Complaints procedure it has been determined that the following disciplinary actions be taken in regard to your case:

**Findings of the ACA Complaints Committee**

- 1) It was agreed by the committee that there were {insert #} main points of concern:

XX  
 XX  
 XX

- 2) The committee therefore has agreed implement the following sanctions:

Probationary membership for [insert timeframe] with the following conditions:

- a) Suspension of membership rights re-certification, membership of committees, use of the initials MACA or the word Clinical Member etc.
- b) Supervisor, acceptable to ACA, to send in quarterly reports looking at issues of concern to the committee, details supplied on acceptance of sanctions.
- c) If similar substantiated complaints are received during the [insert timeframe] probation membership will be terminated
- d) Letter of agreement to abide by these conditions, signed and witnessed by a JP to be sent to the Clerk of the Complaints Committee
- e) At the end of this period, notification of the successful completion of the probation will be published in the same manner in which the sanctions were published.

Although these are the findings of the Tribunal I would like to inform you of your rights in accordance with the ACA Disciplinary Policy and Procedures in relation to Appeals. The following are the relevant paragraphs on appeals from the policy and procedure document.

**6. CRITERIA FOR APPEAL**

**6.6 Appeals to go to the President of the Association**

The President of the Association will receive all Appeals. All Appeals must be accompanied by any supporting documentation.

**6.7 Criteria for Appeal**

The President of the Association, or their delegate, who may take advice from the Association’s Solicitor, will consider the appeal. In deciding whether an Appeal shall proceed or not the President of the Association, or their delegate, is empowered to investigate and interview witnesses in relation to any possible

breach of the following criteria:

1. There has been a material breach of procedure laid down in the Association's Protocols and Procedures.
2. There has been intimidation of any party involved in the Complaints Procedure.
3. There is a bias by any person involved in the Complaints Procedure in a 'judiciary' capacity.
4. There has been failure to disclose a relationship between the investigator or a member of the adjudication panel and a person involved in the Complaints Procedure.
5. In cases where the Complaints Tribunal has decided upon de-registration the respondent may ask for the case to be reconsidered by the Appeals Tribunal.

#### **6.8 Action to be Taken if Criteria Satisfied**

If the Appeal satisfies any of the criteria, the Appeal Procedure set out in **Section 7** hereof shall take effect.

#### **6.9 Failure to Satisfy Criteria**

If an Appeal does not satisfy any of the criteria the person lodging the Appeal will be notified by the President of the Association of the fact.

#### **6.10 Decision to be Final**

The decision of the President of the Association, or their delegate, shall be final as to whether any of the criteria are met.

### ***7. APPEALS PROCEDURE***

#### **7.8 Timeframe**

The Respondent may appeal the decision and/or the sanction(s) by writing to the Clerk of the Complaints Procedure within 14 working days of the notification of the sanctions.

#### **7.9 Criteria**

The criteria for making an Appeal and for determining whether those criteria are satisfied will be made under the provisions of **Section 6.2** hereto. Only if the criteria are satisfied shall the remainder of the procedure take effect, as set out in this section.

#### **7.10 Composition of the Appeal Panel**

The President of the Association, or his delegate, will appoint up to three people not previously involved in the case, to decide the appeal (the Appeal Panel). One member must be a member of the Management Committee of the Association and previously uninvolved in the complaint.

#### **7.11 Brief of the Appeal Panel**

The Appeal Panel will review the evidence on which the decision was made, its decision and the sanctions imposed. The Appeal Panel can, at its discretion, interview the Respondent and the Complainant. Please note that both parties must be given the opportunity to provide additional information and both must be interviewed via the same means.

#### **7.12 Decision of the Appeal Panel**

The Appeal Panel will report its decision to the President of the Association, or his delegate, who will implement its decision, which will be final.

#### **7.13 Notification of Decision**

The decision of the Appeal Panel will be notified to the appellant parties in writing, and also to the Complaints Tribunal within 7 working days. No reasons shall be required to be appended to that decision.

#### **7.14 Publication**

Where the appeal is not allowed the original decisions of the Committee and the sanctions imposed by the President of the Association will be published in the Association's Journal

Should you have any further questions please feel free to contact me.

Chair of the Complaints Committee  
P.O. Box 88  
Grange Qld 4051

***Please Note:*** All correspondence should be marked "Private and Confidential".

Yours faithfully,

XYZ

Chair, Australian Counselling Association Complaints Tribunal.

Date

Name

Dear XXX

**Re: Finding Of Complaints Committee**

The following is the finding of the ACA Complaints tribunal, which held a final meeting in relation to your case on [Date].

In accord with section 5 of the ACA Complaints procedure it has been determined that the following disciplinary actions be taken in regard to your case:

**Findings of the ACA Complaints Committee**

- 1) It was agreed by the committee that there were {insert #} main points of concern:

XX  
 XX  
 XX

- 2) The committee therefore has agreed to implementation of the following sanctions:

Probationary membership for [insert timeframe] with the following conditions:

- a) Suspension of membership rights re-certification, membership of committees, use of the initials MACA or the word Clinical Member etc.
- b) Supervisor, acceptable to ACA, to send in quarterly reports looking at issues of concern to the committee, details supplied on acceptance of sanctions.
- c) If similar substantiated complaints are received during the two probation membership will be terminated
- d) Letter of agreement to abide by these conditions, signed and witnessed by a JP to be sent to the Clerk of the Complaints Committee
- e) At the end of this period, notification of the successful completion of the probation will be published in the same manner in which the sanctions were published.

It should be noted that there is an avenue of appeal. This process, if instigated, would take a further 21 working days to complete. If the appeal is successful you will be notified and given reasons for the reversal of the decision. An unsuccessful appeal means that the decision and attendant sanctions will stand.

Should you have any further questions please feel free to contact me.

Chair of the Complaints Committee  
P.O. Box 88  
Grange Qld 4051

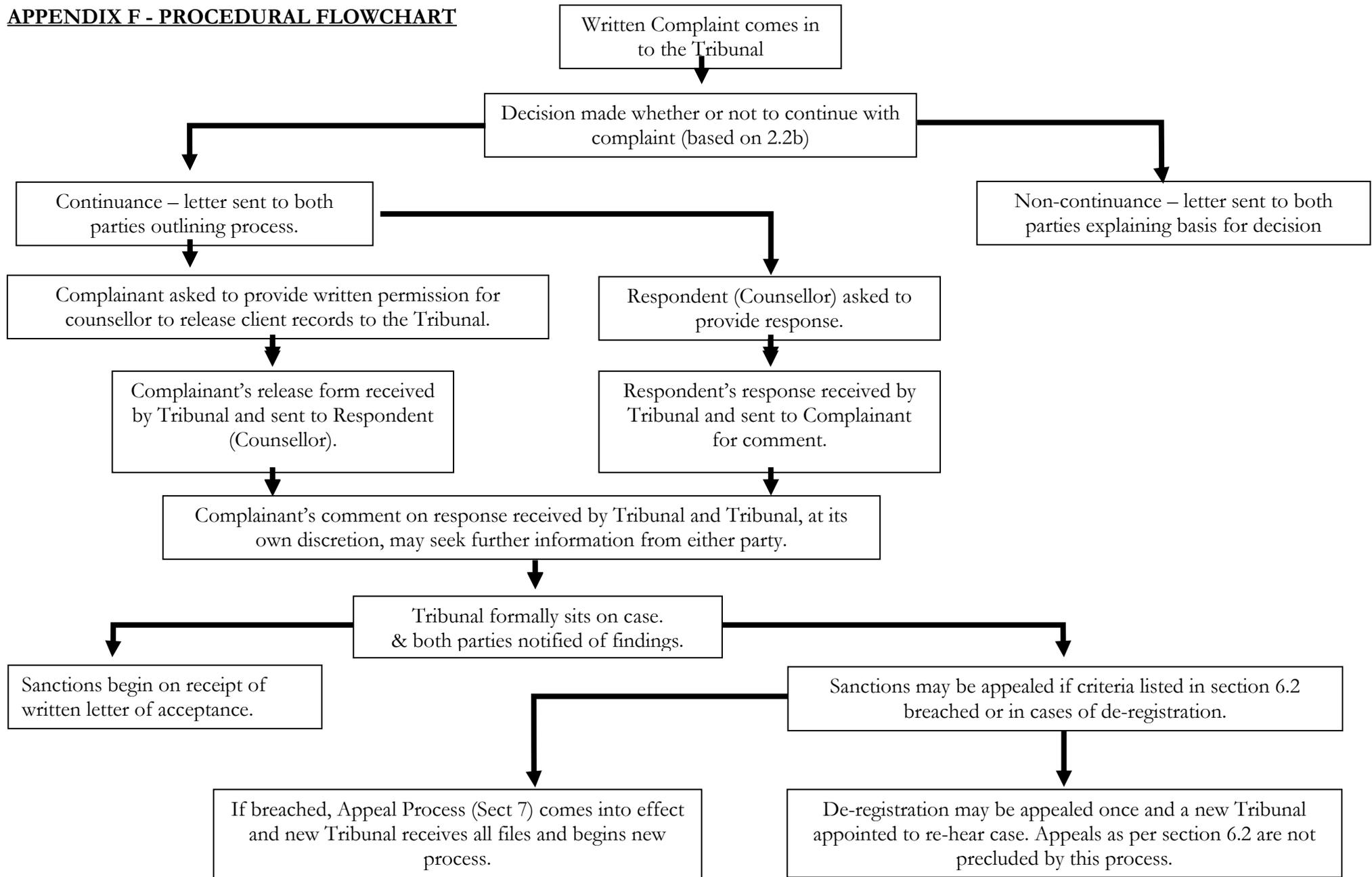
***Please Note:*** All correspondence should be marked “Private and Confidential”.

Yours faithfully,

XYZ

Chair, Australian Counselling Association Complaints Tribunal.

**APPENDIX F - PROCEDURAL FLOWCHART**





Australian Counselling Association Inc

# **Code Of Ethics & Practice**

...of *the* Association for  
Counsellors in Australia

## **1. Preamble**

- (a) The Australian Counselling Association ("the ACA") has been established to;
- i) To provide an industry based Association for persons engaged in counsellor education and practice.
  - ii) To monitor, maintain, set and improve professional standards in counsellor education and practice.
  - iii) To be a self-regulatory body to provide for registration of members and to provide a mechanism for dealing with complaints about members.
  - iv) To liaise with Government for the benefit of members and the public.
- (b) Membership of the ACA commits members to adhere to the ACA Code of Ethics and Practice. The Code of Ethics and Practice applies to counsellors work related activities. It includes the clinical or counselling practice as well as research, teaching, supervision of trainees and other activities that relate to the overall general training and employment of the counselling profession.
- (c) The Code of Ethics and Practice is intended to provide standards of profession conduct that can be applied by the ACA and by other bodies that choose to adopt them in Australia. Depending upon the circumstances compliance or non-compliance with the Code of Ethics and Practice may be admissible in some legal proceedings.

## **Code of Ethics**

- (a) The helping relationship constitutes the effective and appropriate use of helper's skills that are for the benefit and safety of the client in his or her circumstances. Therefore as members (regardless of level) of the Australian Counselling Association we will:
- i. Offer a non-judgmental professional service, free from discrimination, honouring the individuality of the client
  - ii. Establish the helping relationship in order to maintain the integrity and empowerment of the client without offering advice.
  - iii. Be committed to ongoing personal and professional development
  - iv. Ensure client understanding of the purpose, process and boundaries of the counselling relationship.
  - v. Offer a promise of confidentiality and explain the limits of duty of care.
  - vi. For the purpose of advocacy, receive written permission from the client before divulging any information or contacting other parties.
  - vii. Endeavour to make suitable referral where competent service cannot be provided.
  - viii. Undertake regular supervision and debriefing to develop skills, monitor performance and sustain professional accountability.
  - ix. Be responsive to the needs of peers and provide a supportive environment for their professional development
  - x. Not act as or practice legal counsel on behalf of or to a client when practicing as a counsellor or act as an agent for a client
  - xi. Not initiate, develop or pursue a relationship be it sexual or nonsexual with past or current clients, within 2 years of the last counselling session.
  - xii. Be responsible for your own updating and continued knowledge of theories, ethics and practices through journals, the association and other relevant bodies.
  - xiii. Be committed to the above code of ethics and recognise that procedures for withdrawal of membership will be implemented for breaches.

## **2. Code of Practice**

- (a) This Code applies those values and ethical principles outlined above to more specific situations which may arise in the practice of Counselling. Many clauses and/or sections of the Code are inter-

related and this should be kept in mind both when reading and applying the Code.

### **3.1 Issues of Responsibility**

- (a) Counsellors take responsibility for clinical/therapeutic decisions in their work with clients.
- (b) Counsellors also have responsibilities to associated parties, i.e. any individual or organisation other than the client/s with whom the Counsellor interacts in the course of rendering a counselling service, This is inclusive of but not limited to:
  - i. client's' relatives, friends, employees, employers, carers and guardians;
  - ii. other professionals or experts;
  - iii. representative from communities or organisations.

In reference to the Code of Ethics and Practice what applies to the client(s) also applies to associated parties.

- (c) The counsellor-client relationship is the foremost ethical concern. However, counselling does not exist in social isolation. Counsellors may need to consider other sources of ethical responsibility. The headings in this section are intended to draw attention to some of these.

### **3.2 Responsibility to the client**

- (a) Client Safety
  - i. Counsellors must take all reasonable steps to ensure that the client does not suffer physical, emotional or psychological harm during counselling sessions.
  - ii. Counsellors must not exploit their clients financially, sexually, emotionally, or in any other way. Suggesting or engaging in sexual activity with a client is unethical.
  - iii. Counsellors must provide privacy for counselling sessions. The sessions should not be overheard, recorded or observed by anyone other than the counsellor without informed consent from the client. Normally any recording would be discussed as part of the contract Care must be taken that sessions are not interrupted.
- (b) Client Self-determination
  - i. In counselling the balance of power is unequal and counsellors must take care not to abuse their power.
  - ii. Counsellors do not normally act on behalf of their clients. If they do, it will only be at the express written consent of their client, or else in exceptional circumstances.

- iii. Counsellors do not normally give advice.
- iv. Counsellors have a responsibility to establish with clients at the outset of counselling the existence of any other therapeutic or helping relationships in which the client is involved and to consider whether counselling is appropriate. Counsellors should gain the client's permission before conferring in any way with other professional workers.

(c) Breaks and Endings

- i. Counsellors work with clients to reach a recognised ending when clients have received the help they sought or when it is apparent that counselling is no longer helping or when clients wish to end.
- ii. External circumstances may lead to endings for other reasons which are not therapeutic. Counsellors must make arrangements for care to be taken of the immediate needs of clients in the event of any sudden and unforeseen endings by the counsellor or breaks to the counselling relationship.
- iii. Counsellors should take care to prepare their clients appropriately for any planned breaks from counselling. They should take any necessary steps to ensure the wellbeing of their clients during such breaks.

(d) Responsibility to other Counsellors

- i. Counsellors must not conduct themselves in their counselling-related activities in ways which undermine public confidence either in their role as a counsellor or in the work of other counsellors.
- ii. A counsellor who suspects misconduct by another counsellor which cannot be resolved or remedied after discussion with the counsellor concerned, should implement the Complaints Procedure, doing so without breaches of confidentiality other than those necessary for investigating the complaint

(e) Responsibility to Colleagues and Others

- i. Counsellors are accountable for their services to colleagues, employers and funding bodies as appropriate. At the same time they must respect the privacy, needs and autonomy of the client as well as the contract of confidentiality agreed with the client
- ii. No-one should be led to believe that a service is being offered by the counsellor that is not in fact being offered,

as this may deprive the client of the offer of such a service elsewhere.

- iii. Counsellors must play a demonstrable part in exploring and resolving conflicts of interest between themselves and their employers or agencies, especially where this affects the ethical delivery of counselling to clients.

(f) Responsibility to the Wider Community Law

- i. Counsellors must take all reasonable steps to be aware of current law as it applies to their counselling practice not only Federal Law but the particular laws of their State or Territory. This includes those legal rights that refer to client rights protected under laws and statutes of the Commonwealth, State or Territory in which the Counsellor provides counselling services.

(g) Resolving Conflicts Between Ethical Priorities

- i. Counsellors may find themselves caught between conflicting ethical principles, which could involve issues of public interest. In these circumstances, they are urged to consider the particular situation in which they find themselves and to discuss the situation with their counselling supervisor and/or other experienced counsellors. Even after conscientious consideration of the salient issues, some ethical dilemmas cannot be resolved easily or wholly satisfactorily. In all such cases careful and complete notes should be kept – especially in relation to what consultation has taken place and with whom.

### **3.3 Anti-Discriminatory Practice**

(a) Client Respect

- i. Counsellors work with clients in ways that affirm both the common humanity and the uniqueness of each individual. They must be sensitive to the cultural context and worldview of the client, for instance whether the individual, family or the community is taken as central.

(b) Client Autonomy

- i. Counsellors are responsible for working in ways that respect and promote the clients ability to make decisions in the light of his/her own beliefs, values and context.

(c) Counsellor Awareness

- i. Counsellors are responsible for ensuring that any problems

with mutual comprehension due to language, cultural differences or for any other reason are addressed at an early stage. The use of an interpreter needs to be carefully considered at the outset of counselling.

- ii. Counsellors have a responsibility to consider and address their own prejudices and stereotyping attitudes and behaviour and particularly to consider ways in which these may be affecting the counselling relationship and influencing their responses.

### **3.4 Confidentiality**

- (a) Confidentiality is a means of providing the client with safety and privacy and thus protects client autonomy. For this reason any limitation on the degree of confidentiality is likely to diminish the effectiveness of counselling.
- (b) The counselling contract will include any agreement about the level and limits of the confidentiality offered. This agreement can be reviewed and changed by negotiation between the counsellor and the client. Agreements about confidentiality continue after the client's death unless there are overriding legal or ethical considerations. In cases where the client's safety is in jeopardy any confidentially agreements that may interfere with this safety are to be considered void (see 3.6 'Exceptional circumstances').

### **3.5 Settings**

- (a) Counsellors must ensure that they have taken all reasonable steps to inform the client of any limitations to confidentiality that arise within the setting of the counselling work, e.g. updating doctors in primary care, team case discussions in agencies. These are made explicit through clear contracting.
- (b) Many settings place additional specific limitations on confidentiality. Counsellors considering working in these setting must think about the impact of such limitations on their practice and decide whether or not to work in such settings

### **3.6 Exceptional Circumstances**

- (a) Exceptional circumstances may arise which give the counsellor good grounds for believing that serious harm may occur to the client or to other people. In such circumstance the client's consent to change in the agreement about confidentiality should be sought whenever possible unless there are also good grounds for believing the client is no longer willing or able to take responsibility for his/her actions Normally, the decision to break confidentiality should be discussed with the client and should be made only after consultation with the counselling

supervisor or if he/she is not available, an experienced counsellor.

- (b) Any disclosure of confidential information should be restricted to relevant information, conveyed only to appropriate people and for appropriate reasons likely to alleviate the exceptional circumstances. The ethical considerations include achieving a balance between acting in the best interests of the client and the counsellor's responsibilities under the law and to the wider community.
- (c) While counsellors hold different views about grounds for breaking confidentiality, such as potential self-harm, suicide, and harm to others they must also consider those put forward in this Code, as they too should imbue their practice. These views should be communicated to both clients and significant others e.g. supervisor, agency, etc.

### **3.7 Management and Confidentiality**

- (a) Counsellors should ensure that records of the client's identity are kept separately from any case notes.
- (b) Arrangements must be made for the safe disposal of client records, especially in the event of the counsellor's incapacity or death.
- (c) Care must be taken to ensure that personally identifiable information is not transmitted through overlapping networks of confidential relationships.
- (d) When case material is used for case studies, reports or publications the clients informed consent must be obtained wherever possible and their identity must be effectively disguised.
- (e) Any discussion of their counselling work with other professionals should be purposeful and not trivialising.
- (f) Counsellors must pay particular attention to protecting the identity of clients.

### **3.8 Contracts**

- (a) Advertising and Public Statements
  - i. Counsellors who hold accredited qualifications and who are members of recognised bodies are encouraged to display and/or mention this fact.
  - ii. All advertising and public statements should be accurate in every particular.
  - iii. Counsellors should not display an affiliation with an organisation in a manner which falsely implies sponsorship or validation by that organisation.
- (b) Pre-Counselling Information

- i. Any publicity material and all written and oral information should reflect accurately the nature of the service on offer, and the relevant counselling training, qualifications and experience of the counsellor.
- ii. Counsellors should take all reasonable steps to honour undertakings made in their pre-counselling information.

(c) Contracting with Clients

- i. Counsellors are responsible for reaching agreement with their clients about the terms on which counselling is being offered, including availability, the degree of confidentiality offered, arrangements for the payment of any fees, cancelled appointments and other significant matters. The communication of essential terms and any negotiations should be concluded by having reached a clear agreement before the client incurs any commitment or liability of any kind.
- ii. The counsellor has a responsibility to ensure that the client is given a free choice whether or not to participate in counselling. Reasonable steps should be taken in the course of the counselling relationship to ensure that the client is given an opportunity to review the counselling.
- iii. Counsellors must avoid conflicts of interest wherever possible. Any conflicts of interest that do occur must be discussed in counselling supervision and where appropriate with the client and/or associated parties.
- iv. Records of appointments should be kept and clients should be made aware of this. If records of counselling sessions are kept, clients should also be made aware of this. At the clients request information should be given about access to these records, their availability to other people, and the degree of security with which they are kept
- v. Counsellors must be aware that computer-based records are subject to statutory regulations. It is the counsellor's responsibility to be aware of any changes the government may introduce in the regulations concerning the clients right of access to his/her records.
- vi. Counsellors are responsible for addressing any client dissatisfaction with counselling services received.

### **3.9 Boundaries**

(a) With Clients

- i. Counsellors are responsible for setting and monitoring boundaries throughout the counselling sessions and will make explicit to clients that counselling is a formal and

contracted relationship and nothing else.

- ii. The counselling relationship must not be concurrent with a supervisory, training or other form of relationship (sexual or non-sexual).

**(b) With Former Clients**

- i. Counsellors remain accountable for relationships with former clients and must exercise caution over entering into friendships, business relationships, training, supervising and other relationships. Any changes in relationships must be discussed in counselling supervision. The decision about any change(s) in relationships with former clients should take into account whether the issues and power dynamics presented during the counselling relationship have been resolved. Section 3.9 (b) ii below is also of relevance here.
- ii. Counsellors are prohibited from sexual activity with all current and former clients for a minimum of two years from cessation of counselling.

**Competence**

**(a) Counsellor Competence and Education**

- i. Counsellors must have achieved a level of competence before commencing counselling and must maintain continuing professional development as well as regular and ongoing supervision.
- ii. Counsellors must actively monitor their own competence through counselling supervision and be willing to consider any views expressed by their clients and by other counsellors.
- iii. Counsellors will monitor their functioning and will not counsel when their functioning is impaired by alcohol or drugs. In situations of personal or emotional difficulty, or illness, counsellors will monitor the point at which they are no longer competent to practice and take action accordingly.
- iv. Competence includes being able to recognise when it is appropriate to refer a client elsewhere.
- v. Counsellors should take reasonable steps to seek out peer supervision to evaluate their efficiency as counsellors on a regular basis as required by the ACA membership guidelines.
- vi. Counsellors must recognise the need for continuing education in their chosen profession to maintain a

professional level of awareness of current scientific and professional information and education in their particular fields of activity.

- vii. Counsellors should take steps to maintain and improve their level of competence through on-going professional development and to keep up to date with best practice.
- viii. Counsellors are responsible for ensuring that their relationships with clients are not unduly influenced by their own emotional needs.
- ix. Counsellors must have professional indemnity insurance and maintain adequate cover
- x. When uncertain as to whether a particular situation or course of action may be in violation of the Code of Ethics and Practice, counsellors must consult with their counselling supervisor and/or other practitioners.

### **3.10 The Counselling Environment**

There are two environmental factors to be considered:

- i. physical factors
- ii. emotional factors

because of this,

(a) ideally the counselling room should:

- i. be well lit and ventilated, and preferably have window(s) have a temperature that is set at a comfortable level for both counsellor and client.
- ii. have the exit easily accessible to the client should they choose to avail themselves of it
- iii. provide for confidentiality while allowing the client to feel safe
- iv. have within it a comfortable open space between the counsellor and the client, insofar as the work environment allows.

(b) In terms of ethics, a failure to provide such an environment could be seen as leading to a breach of:

3.2 (a) i “Counsellors must take all reasonable steps to ensure that the client does not suffer physical, emotional or psychological harm during counselling sessions.”

depending upon the effect of the counselling environment both physically and emotionally upon the client.

### **3.11 Committees**

- (a) All members of all committees (standing and ad hoc) established by the ACA to carry out its objectives must abide by the Code of Ethics and Practice.
- (b) While acting in accordance with this Code the Association shall

have absolute discretionary power to appoint such persons as it sees fit to serve upon these committees. In those cases where that person(s) is not a member of the Association they must agree, in writing, to abide by the Code for the duration of their secondment.

- (c) Such Committees may be established for purposes including but not limited to:
  - i. Education of Association members
  - ii. Education of the Public with regard to The Counselling Profession
  - iii. Review of the Codes, practices and procedures of the Association
  - iv. Lobbying of all levels of Government for the furthestmost of the Associations goals.
  - v. Resolving of disputes between counsellors
  - vi. Assessment, review, and co-ordination of course and program development

### **3.12 Equal Opportunities Policy Statement**

- (a) The Australian Counselling Association (ACA) is committed to promoting quality of Opportunity of access and participation for all its members in all of its structures and their workings. ACA has due regard for those groups of people with identifiable characteristics which can lead to visible and invisible barriers thus inhibiting their joining and full participation ACA. Barriers can include age, colour, creed, culture, disability, education, ethnicity, gender, information, knowledge, mobility, money, nationality, race, religion, sexual orientation, social class and status.
- (b) The work of ACA aims to reflect this commitment in all area including services to members, employer responsibilities, the recruitment of and working with volunteers, setting, assessing, monitoring and evaluating standards and the implementation of the complaints procedures. This is particularly important as ACA is the voice of Counselling in Australia.
- (c) ACA will promote and encourage commitment to Equality of opportunity by its members.

## **4. Application of the Code of Ethics and Practice**

- (a) This Code is deemed to apply to all members of the ACA regardless of Level, Modality, Environment, Employment or type of Counselling in which they are engaged including for example, but not exhaustively, such Counselling modes as:
  - i. Business
  - ii. Career

- iii. Couple
  - iv. Employment
  - v. Family
  - vi. Grief and Loss
  - vii. Group
  - viii. Individual
  - ix. School
  - x. University/College/TAFE
- (b) This Code is also deemed to include those members of the Association engaged in providing associated Counselling services. For example:
- i. Education and Training in Counselling and/or counselling related fields
  - ii. Executives of Member Associations
  - iii. Members of Committees (standing or *ad hoc*) of the ACA in the execution of their duties.
  - iv. Research
  - v. Supervision

## **5. Definitions**

- (a) *The Association* means the ACA
- (b) *Associated Party* refers to any individual or organisation other than the client/s with whom the Counsellor interacts in the course of rendering a counselling service, This is inclusive of but not limited to:
- i. client's' relatives, friends, employees, employers, carers and guardians;
  - ii. other professionals or experts;
  - iii. Representative(s) from communities or organisations.
- (c) *Client* means a party or parties to a counselling service involving counselling, supervising, teaching, research and professional practice in counselling. Clients may be individuals, couples, families, groups of people, organisations, communities, facilitators, sponsors or those commissioning or paying for professional activity.
- (d) *Code* refers to this Code of Ethics and Practice
- (e) *Counsellor* refers to anyone delivering what a reasonable person would assume to be a counselling service (see below)
- (f) *Counselling service* means any service provided by a counsellor to a client including but not limited to:
- i. Counselling activities
  - ii. Professional activities
  - iii. Professional practice
  - iv. Research practice
  - v. Supervision

vi. Teaching

- (g) *Guidelines* refer to these guidelines, any others issued by time to time by the ACA, the ACA Code of Conduct, and the ACA Complaints Policy and Procedural Guidelines
- (h) *Legal Rights* refer to those client rights protected under laws and statutes of the Commonwealth, State or Territory in which the Counsellor provides counselling services.
- (i) *Member(s)* means all those covered by the ACA Code of Conduct.
- (j) *Moral Rights* refer to the universal human rights as defined by the United Nations Universal Declaration of Human Rights that may or may not be protected by existing federal, State or Territory laws.
- (k) *Multiple relationships* occur when a counsellor, when providing a counselling service, also has been or is:
  - i. In a non-professional relationship (sexual or otherwise) with the same client
  - ii. In a different professional relationship with the same client
  - iii. In a non-professional relationship with an associated party
  - iv. A recipient of a service by the same client.
- (l) *Practice* refers to any act or omission by a Counsellor
  - i. That other may reasonably consider to be a counselling service
  - ii. Outside of that service that casts doubt upon their ability and competence to practice as counsellors
  - iii. Outside of their practice of counselling which harms public trust in the discipline or the profession of counselling
  - iv. In their capacity as members of the Association

*A Professional relationship* means the relationship between a counsellor and a client to whom he is delivering a counseling service

## **Suicidal Clients – ACA Guidelines**

### **1 Preamble**

- (a) *Clients\** with suicidal thoughts sometimes seek help; that help is sometimes sought from *Counsellors*. While, short of a 24/7 'suicide watch', it is not possible to stop the suicide of a determined client, it is possible to minimise the risk of such a tragic outcome.

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\* All words in italics are to be found in the definitions section of these guidelines.

- (b) Counsellors should be aware that these tragic consequences are threefold:
  - i. for the client
  - ii. for the client's family and friendship groups
  - iii. for the client's counsellor and any other allied health workers involved in the case\*\*.
- (c) The following *guidelines* (which are taken to include other relevant ACA documents such as the Code of Ethics and Practice etc.) are provided to highlight several principles that ACA registered counsellors and members need to make themselves aware of when dealing with clients in this risk group. They are not intended as a guide as to how to practice and nor should they be used or taken as such.
- (d) Counsellors should be aware of possible legal implications when working with all clients, but particularly, due to the emotional and wide ranging consequences, when working with those at risk of suicide. Counsellors, while part of a caring profession where the welfare of the client is considered the priority, need to be familiar with their obligations under the various State Health Rights Commissions and the ACA Code of Ethics and Practice and Complaint Procedural Guidelines.

## 2 **Referral, Experience, Training and Supervision**

- (a) While it is the client that chooses the counsellor, it is the counsellor (giving consideration to the needs of the client) that chooses whether or not the client's issues fall within the level of their competence [Code of Ethics and Practice Sect 2(a)vii]. As a general rule ACA would recommend only Level 3 or 4 Counsellors should deal with this risk group and then never in isolation. The general principle in these cases is threefold: recognise, assess and refer. Referral should not be seen as abandonment of the client and work with the client should not of necessity cease, rather therapy should continue in liaison with an appropriately qualified health care professional.
- (b) Counsellors should not only familiarise themselves with the appropriate standards, knowledge and skills but continue to update those standards, knowledge and skills through relevant on-going professional development.
- (c) Counsellors need to familiarise themselves of Federal, State and Territory legislation that relate to suicide. This includes, but is not limited to, those regarding the issue of 'assisted suicide'.
- (d) Counsellors need to be aware of the potential for ethical conflict when working in this area, for example, client autonomy versus the possible need to intervene despite the client's wishes. Apart from, but including, ethical considerations, the legal and moral rights of the client must always be taken into account. In all client work supervision is desirable but in the case of working with suicidal clients it is essential and may need to be undertaken more frequently than is normal practice.

## 3 **Reference to the ACA Code of Conduct**

- (a) The entire ACA Code of Conduct applies to all counsellor/client interactions but in the case of clients in this client group the following sections of the Code are of particular, though not exhaustive, relevance:
  - i. *Code of Ethics*
    - Sect 2 (a) vii  
*Endeavour to make suitable referral where competent service cannot be provided.*
    - Sect 2 (a) xii  
*Be responsible for your own updating and continued knowledge of theories, ethics and*

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\*\* Points 1.2 i and 1.2 ii are referred to as '*Associated Parties*'

*practices through journals, the association and other relevant bodies.*

ii. *Code of Practice*

Section 3.1

**3.13 Issues of Responsibility**

- (a) *Counsellors take responsibility for clinical/therapeutic decisions in their work with clients.*
- (b) *Counsellors also have responsibilities to associated parties, i.e. any individual or organisation other than the client/s with whom the Counsellor interacts in the course of rendering a counselling service, This is inclusive of but not limited to:*
  - i. *client's' relatives, friends, employees, employers, carers and guardians;*
  - ii. *other professionals or experts;*
  - iii. *representative from communities or organisations.*
  - iv. *In reference to the Code of Ethics and Practice what applies to the client(s) also applies to associated parties.*
- (c) *The counsellor-client relationship is the foremost ethical concern. However, counselling does not exist in social isolation. Counsellors may need to consider other sources of ethical responsibility. The headings in this section are intended to draw attention to some of these.*

Section 3.2 (a), (b), (c), (f) and (g)

**3.14 Responsibility to the client**

(a) *Client Safety*

- i. *Counsellors must take all reasonable steps to ensure that the client does not suffer physical, emotional or psychological harm during counselling sessions.*
- ii. *Counsellors must not exploit their clients financially, sexually, emotionally, or in any other way. Suggesting or engaging in sexual activity with a client is unethical.*
- iii.
- iv. *Counsellors must provide privacy for counselling sessions. The sessions should not be overheard, recorded or observed by anyone other than the counsellor without informed consent from the client. Normally any recording would be discussed as part of the contract Care must be taken that sessions are not interrupted.*

(b) *Client Self-determination*

- i. *In counselling the balance of power is unequal and counsellors must take care not to abuse their power.*
- ii. *Counsellors do not normally act on behalf of their clients. If they do, it will only be at the express written consent of their client, or else in exceptional circumstances.*
- iii. *Counsellors do not normally give advice.*
- iv. *Counsellors have a responsibility to establish with clients at the outset of counselling the existence of any other therapeutic or helping relationships in which the client is involved and to consider whether counselling is*

- appropriate. Counsellors should gain the client's permission before conferring in any way with other professional workers.
- (c) *Breaks and Endings*
- i. Counsellors work with clients to reach a recognised ending when clients have received the help they sought or when it is apparent that counselling is no longer helping or when clients wish to end.
  - ii. External circumstances may lead to endings for other reasons which are not therapeutic. Counsellors must make arrangements for care to be taken of the immediate needs of clients in the event of any sudden and unforeseen endings by the counsellor or breaks to the counselling relationship.
  - iii. Counsellors should take care to prepare their clients appropriately for any planned breaks from counselling. They should take any necessary steps to ensure the wellbeing of their clients during such breaks.
- (f) *Responsibility to the Wider Community Law*
- i. Counsellors must take all reasonable steps to be aware of current law as it applies to their counselling practice not only Federal Law but the particular laws of their State or Territory.  
This includes those legal rights that refer to client rights protected under laws and statutes of the Commonwealth, State or Territory in which the Counsellor provides counselling services.
- (g) *Resolving Conflicts Between Ethical Priorities*
- i. Counsellors may find themselves caught between conflicting ethical principles, which could involve issues of public interest. In these circumstances, they are urged to consider the particular situation in which they find themselves and to discuss the situation with their counselling supervisor and/or other experienced counsellors. Even after conscientious consideration of the salient issues, some ethical dilemmas cannot be resolved easily or wholly satisfactorily. In all such cases careful and complete notes should be kept – especially in relation to what consultation has taken place and with whom.

Section 3.4 (a) and (b)

### **3.4 Confidentiality**

- (a) *Confidentiality is a means of providing the client with safety and privacy and thus protects client autonomy. For this reason any limitation on the degree of confidentiality is likely to diminish the effectiveness of counselling.*
- (b) *The counselling contract will include any agreement about the level and limits of the confidentiality offered. This agreement can be reviewed and changed by negotiation between the counsellor and the client. Agreements about confidentiality continue after the client's death unless there are overriding legal or ethical considerations. In cases*

where the client's safety is in jeopardy any confidentiality agreements that may interfere with this safety are to be considered void (see 3.6 'Exceptional circumstances').

Section 3.6 (a), (b) and (c)

### **3.6 Exceptional Circumstances**

- (a) *Exceptional circumstances may arise which give the counsellor good grounds for believing that serious harm may occur to the client or to other people. In such circumstance the client's consent to change in the agreement about confidentiality should be sought whenever possible unless there are also good grounds for believing the client is no longer willing or able to take responsibility for his/her actions. Normally, the decision to break confidentiality should be discussed with the client and should be made only after consultation with the counselling supervisor or if he/she is not available, an experienced counsellor.*
- (b) *Any disclosure of confidential information should be restricted to relevant information, conveyed only to appropriate people and for appropriate reasons likely to alleviate the exceptional circumstances. The ethical considerations include achieving a balance between acting in the best interests of the client and the counsellor's responsibilities under the law and to the wider community.*
- (c) *While counsellors hold different views about grounds for breaking confidentiality, such as potential self-harm, suicide, and harm to others they must also consider those put forward in this Code, as they too should imbue their practice. These views should be communicated to both clients and significant others e.g. supervisor, agency, etc.*

Section 3.10 (a) i – x

### **3.10 Competence**

- (a) *Counsellor Competence and Education*
  - xi. **Counsellors must have achieved a level of competence before commencing counselling and must maintain continuing professional development as well as regular and ongoing supervision.**
  - xii. **Counsellors must actively monitor their own competence through counselling supervision and be willing to consider any views expressed by their clients and by other counsellors.**
  - xiii. **Counsellors will monitor their functioning and will not counsel when their functioning is impaired by alcohol or drugs. In situations of personal or emotional difficulty, or illness, counsellors will monitor the point at which they are no longer competent to practice and take action accordingly.**
  - xiv. **Competence includes being able to recognise when it is appropriate to refer a**

- client elsewhere.
- xv. Counsellors should take reasonable steps to seek out peer supervision to evaluate their efficiency as counsellors on a regular basis as required by the ACA membership guidelines.
  - xvi. Counsellors must recognise the need for continuing education in their chosen profession to maintain a professional level of awareness of current scientific and professional information and education in their particular fields of activity.
  - xvii. Counsellors should take steps to maintain and improve their level of competence through on-going professional development and to keep up to date with best practice.
  - xviii. Counsellors are responsible for ensuring that their relationships with clients are not unduly influenced by their own emotional needs.
  - xix. Counsellors must have professional indemnity insurance and maintain adequate cover
  - xx. When uncertain as to whether a particular situation or course of action may be in violation of the Code of Ethics and Practice, counsellors must consult with their counselling supervisor and/or other practitioners.