



NHS Wales Video Consulting Service



Legal advice for 3rd party disclosure in groups

Group work brings many clear benefits in healthcare not least of which is the support of a group of others who share the same conditions or issues as ourselves. We must however be sensitive to the risks involved.

One of the main risks of anyone running a group is that of 3rd party unconsented disclosure or breach of confidentiality. This would be where one party discloses information to another party who then discloses that information to another person or persons without the consent of the first party.

This must be recognised as a risk of any group situation.

It can take the form of two different types.

1. The patient shares confidential information with the health care practitioner (HCP). The HCP then discloses that information to another person (including sharing on social media) without the patient's explicit consent for this to happen.
2. The patient discloses information in a group setting and another group member (patient) discloses this information to another person (including sharing on social media) without the original patient's explicit consent for this to happen.

How should we protect ourselves?

1. In the first instance most HCP's should be trained and fully aware of the consequences of this. However there may be instances where sharing of information is required as part of the consultation. This can be done when the patients has explicitly consented to information being shared, for example a video group clinic. The information being shared should be agreed upfront and the client made aware of the risks and benefits of this, consent can be withdrawn at any point and this should be respected. A record of this consent should be retained by the HCP. Alternatively where a clear and present danger to that person or another person exists and has been revealed to the HCP and the information needs to be shared to safeguard them. Then this can be allowable. All health boards have clear policies on this and these should be followed in this situation.
2. In the second instance where another client shares the information, the HCP hasn't actually breached any confidential information. However it could be argued that any patient revealing their own personal information wasn't aware that other people may reveal it. Likewise the other patient or client who breached the information could argue that they weren't made aware that they are not allowed to share information received about others publicly. In this instance we should protect ourselves with a confidentiality agreement which all clients and guests attending the session must actively state they agree to. It should state that all information shared is given voluntarily and freely and that any information received about others cannot be shared with any other person including publishing on any social media platform and that recording of the meeting, including audio, video and photography cannot take place. The HCP should retain these agreements for the records. These agreements could take the form of paper agreements which need to be signed and returned. Electronic documents which the clients need to tick box and return or any indication in the meeting chat they have read or heard and understood the agreement and consent to it.
Good Practice suggests this should also be reiterated at the start of the meeting.