

Guidance regarding Instructions to Professional Trustees

Introduction

1. The BPC's Code of Ethics requires Registrants to nominate two colleagues to hold a list of the Registrant's patients and supervisees so that the latter may be contacted in the event of the Registrant's inability to work or death. These two colleagues are generally referred to as the Registrant's Clinical Trustees or Professional Executors. For the purposes of this document, they will be referred to as "Professional Trustees".
2. When a Registrant dies or becomes unable to work, the emotional suffering experienced by their patients and the overall psychological impact can be extensive and protracted. The BPC recommends that Registrants undertake sufficient CPD in this area so that they have an informed understanding of the risk of harm to their patients if therapy stops on account of the Registrant's illness or death. One of the steps that can be taken in advance to reduce the degree of harm in that eventuality is the appointment of Professional Trustees and it is this step which is the subject-matter of this Guidance.
3. The BPC recognises that the task of Professional Trustees can be a substantial undertaking and that simply to provide Professional Trustees from time to time with a list of patients and supervisees will be insufficient to equip them to perform that undertaking. Frequently, there will be many practical and other questions which require attention, in the event of death or inability to work, and Professional Trustees will lack answers.
4. To assist Professional Trustees in the proper discharge of their duties, and in the interest of patients, this Guidance recommends that Registrants prepare a document which addresses, not only the provision of patient and supervisee lists to Professional Trustees, but all practical and other questions likely to arise in the event of a Registrant's death or inability to work.
5. The purpose of this Guidance is to provide a checklist of information that might be expected to be contained in this proposed document (referred to as "Instructions to Professional Trustees"). This Guidance also includes:
 - a. A draft 'Template of Instructions to Professional Trustees' (based on the checklist).
 - b. Three sample 'Access Documents' (see below) to be adapted and modified to suit the particular circumstances of each individual Registrant.

Checklist

1. **Identity of Professional Trustees:** Ordinarily, these should be BPC Registrants, but may be UKCP or BACP Registrants. They should not be retired. They should not be related to the Registrant.
2. **Identity of relative or friend with responsibility to communicate with Professional Trustees:** A named relative or friend should be advised of the identity of the Professional Trustees and their contact details and agree to contact them in the event of the Registrant's death or serious illness or other inability to work. To provide for the possibility that the Registrant and the relative/friend might both be involved in the same event causing death or serious injury or illness, a second named individual ought also to be provided with this information and agree to act as substitute if necessary.
3. **The Instructions to Professional Trustees and Access Document should specify the Identity and contact details of:**
 - (1) both Professional Trustees;
 - (2) the relative(s) and/or friend(s) referred to in 2 above;
 - (3) the Registrant's supervisor(s);
 - (4) the Registrant's clinical practice manager(s) (if applicable);
 - (5) the Head of Counselling (or equivalent) in the counselling (or psychotherapy) service where the Registrant works (if applicable);
 - (6) the training institution(s) where the Registrant has training responsibilities and the relevant training director(s) (if applicable);
 - (7) the Registrant's insurer and insurance policy reference number.
4. **Patient List:** This should be dated. It should specify for each patient their name; all contact details available (residential address, telephone number, email); session details (day of the week and time, practice location, whether conducted face-to-face, by telephone or video platform, level of frequency, duration of work to date); any concerns regarding risk or safeguarding including any contact with mental health or social care services; and the identity and contact details of any relevant psychiatric or other mental health professional.
5. **Supervisee List:** This should be dated and specify for each supervisee their name; all contact details available (residential address, telephone number, email); and session details (day of the week and time, whether conducted face-to-face, by telephone or video platform).
6. **Past Patients:** If the Registrant wishes past patients to be informed of their death, the Registrant should identify those past patients in their patient list and provide names, contact details and duration of work.
7. **Updating the Patient List and Supervisee List:** Updated versions should be provided to Professional Trustees at least once every 6 months (unless the relevant list is unchanged after 6 months).
8. **Maintaining Active Lists:** It will be especially helpful to Professional Trustees and considered best practice for the Registrant to maintain an Active Patient List and an Active Supervisee List which accurately reflect up-to-the-minute the Registrant's

current practice. The purpose of these “active” lists is to allow Professional Trustees to access up-to-date information about the Registrant’s patients and supervisees.

9. **Confidentiality:** The Patient list and Supervisee list should be provided to Professional Trustees in a manner which protects the confidentiality of their content. Professional Trustees should take all necessary steps to protect the confidentiality of the lists.
10. **Duties of Professional Trustees in event of death or inability to work:** They should contact patients and supervisees and advise them accordingly. They should offer to meet with them (if appropriate) or to contact them in due course for a second conversation to arrange to meet (if appropriate). If asked to assist in finding another therapist or supervisor, they should offer such help as is appropriate in the circumstances. They should also contact any psychiatrist(s) or other mental health professional, or social care worker(s) identified in the Patient List.
11. **Duties of Professional Trustees in event of death in particular:** They should advise the Registrant’s MI, insurer, supervisor(s), any clinical practice manager(s), any Head of Counselling (in any counselling or psychotherapy service where the Registrant works), and any identified training director, of the Registrant’s death. If requested to do so by the Registrant, they should advise patients, past patients and supervisees of the cause of death and/or any funeral arrangements and/or any memorial event.
12. **Clinical notes and records including any information capable of identifying patients or supervisees:** If paper documents, these should be clearly categorised and described and instructions for their safe disposal should be specified. Their location and how to obtain access to them should be specified in an Access Document. If computerised or kept on any hand-held device (e.g. mobile telephone) or in a remote database, this should be specified, together with instructions for their secure destruction, and how to obtain access to them should also be specified in the Access Document.
13. **Professional Trustees’ expenses:** If the Registrant and Professional Trustees so wish and so agree, the Instructions to Professional Trustees may provide for these to be charged and billed upon the Registrant’s recovery from illness or other incapacity and/or to be paid from the proceeds of the Registrant’s estate on the Registrant’s death.
14. **Commercial matters:** The Instructions to Professional Trustees should specify that they are not responsible for collecting unpaid fees, arranging payment of sums owing to the Registrant’s therapist, supervisor(s) or practice manager(s) or to anyone else, or any other business-related matters relating to the temporary or permanent closure of the Registrant’s practice.

[TEMPLATE] INSTRUCTIONS TO PROFESSIONAL TRUSTEES

1. These Instructions to Professional Trustees record the agreement between us for the appointment of [insert details including name, telephone numbers and email address] to act as my first Professional Trustee, together with [insert details including name, telephone numbers and email address] as second Professional Trustee, of my psychotherapy practice and my supervisory practice.
2. The ethical background to these Instructions to Professional Trustees is my recognition of my responsibility to seek to reduce the risk of harm to my patients in the event of becoming unable to communicate directly with them, in particular, as a result of incapacity or serious illness or death affecting myself or close family members.
3. **Patient List, Supervisee List and Access Document**

I attach to these Instructions to Professional Trustees the following:

- (1) a dated list (**'the Patient List'**) identifying:
 - (a) my current patients, including their contact details, the day(s) and time(s) of their sessions and the duration of the work to date, details of the practice location where we meet and whether we work face-to-face or on the telephone or by video-link, levels of frequency, any concerns regarding risk or safeguarding including any contact with mental health or social care services; and the identity and contact details of any relevant psychiatric or other mental health professional;
 - (b) any past patients to be contacted in the event of my death, including their contact details and the duration of the work;
 - (c) the identity and contact details of my supervisor(s) and clinical practice manager(s) for all patients and all relevant practice locations;
- (2) a list (**'the Supervisee List'**) identifying my current supervisees, including their contact details, the day(s) and time(s) of supervision and details of the practice location where we meet;
- (3) a document (**'the Access Document'**) specifying in detail how (in the event of incapacity, serious illness or death) my Professional Trustees might verify the completeness and accuracy of the Patient List and Supervisee List and access communications from patients and supervisees, including:
 - (a) Where up-to-date patient and supervisee details are kept (whether in hard-copy, on a computer's hard drive or other local storage device, or in a remote database) and/or any relevant computer or encryption or device passwords;
 - (b) How those up-to-date details might be accessed, including at least 2 people within my family or professional or friendship network to contact to obtain access to any physical location where they might be stored and/or the location of any keys to relevant premises and/or any relevant computer or encryption or device passwords;

- (c) Instructions to enable my Professional Trustees to access voicemail messages left by patients or supervisees on my landline and/or mobile telephone and emails from patients or supervisees to my email address.

4. My undertakings:

I undertake:

- (1) To provide a copy of these Instructions to Professional Trustees and Access Document (excluding my Patient List and Supervisee List) to the person/people within my family or professional or friendship network referred to in 3 above;
- (2) To request the person/people identified in 3 above to notify my Professional Trustees as a matter of urgency in the event of my incapacity, serious illness or death and to assist them to obtain any information they need;
- (3) Every 6 months to update and provide to my Professional Trustees an updated version of my Patient List, Supervisee List and Access Document UNLESS at the end of any 6-month period either the Patient List or Supervisee List or the Access Document provided 6 months previously does not require to be updated, in which case I will notify my Professional Trustees of this fact;
- (4) To maintain an Active Patient List and an Active Supervisee List which accurately reflect my current practice and can be referred to for the up-to-date information referred to in 3 above.

5. Professional Trustees' undertakings:

- (1) To collaborate with each other in order to discharge the responsibilities described below;
- (2) To keep secure and confidential the Patient List, Supervisee List and Access Document and to destroy them securely when no longer needed;
- (3) Upon being notified of my serious incapacitating illness or death, promptly to notify my unavailability to: (a) my patients; (b) my supervisees; (c) my supervisor(s); (d) any psychiatrist(s) or other mental health professional or social care worker(s) identified in my Patient List; (e) any clinical practice managers identified in my Patient List; (f) the Head of Counselling [insert details] in the counselling service where I work [insert details]; (g) the training institution(s) [insert details] where I have training responsibilities and their training director(s) [insert details]; and (h) [insert details] for whom I have agreed to act as their Professional Trustee.
- (4) Regarding my patients specifically:
 - (a) To liaise with my supervisor regarding how best to support and communicate with each of them in the events which have happened.
 - (b) To exercise their own clinical judgment in liaison with my supervisor regarding the content of their communications with my patients having regard to my wishes expressed below:

- (i) In the case of serious illness, to provide basic information regarding that illness (e.g., “they have had to stop working because they are very ill”.
 - (ii) In the case of death, to provide basic information regarding the cause of death.
 - (iii) To keep confidential my home address, any relevant hospital address, and the existence and identity of family members.
 - (iv) To advise, if the question is asked, that any funeral service or memorial service will/will not be private.
 - (v) In the event of death or serious illness of a family member affecting my Fitness to Practise, to advise my patients and supervisees that I am “unable to work owing to a family situation” and offer to update them with a further telephone call in due course, such weekly update (by telephone or letter or email) to be repeated for as long as may be necessary in the circumstances.
- (c) To provide my patients with their contact details; to invite my patients to meet with them; if they are undecided about that, to offer to telephone again or text or email in due course, that invitation to be repeated for as long as appropriate in the circumstances.
- (d) Whether at a later meeting or during a later telephone conversation or email exchange, to invite my patients to consider their future in light of my unavailability and help them to consider the possibility of a referral to another psychoanalytic or psychodynamic psychotherapist, making them aware of BPC’s online register of therapists and, if requested and practicable, making a referral to a named psychoanalytic or psychodynamic psychotherapist.
- (5) In the case of death or serious incapacity to arrange the confidential disposal and destruction of the papers referred to in (6)(a)-(d) below, after allowing reasonable time to respond appropriately to requests from my patients regarding such papers and after permitting my accountants [insert details] and the executors of my will [insert details] to have such access as may be necessary for the purposes of finalising my financial affairs.
- (6) My papers and items referred to in (5) are:
- (a) Professional notebooks and professional address books and all patient and supervisee lists.
 - (b) Patient process notes and supervision notes.
 - (c) Notes and other resources compiled in the course of training and for the purposes of CPD.
 - (d) Invoices, payment receipts, records of expenses (including invoices for therapy and supervision), sets of accounts and other accounting or financial documents.
- (7) After allowing reasonable time to respond appropriately to requests from my patients and supervisees regarding such information to arrange the confidential destruction of all information relating to my patients and my supervisees kept on

my mobile telephone or computer's hard drive or other local storage device, or in a remote database.

- (8) In the event of my death specifically, as soon as practicable to notify my insurers (insert details) and my member organisation [insert details] and BPC [and UKCP and BACP] of my death and ask them to remove my details from their membership lists and registers as soon as possible.
6. My Professional Trustees will be paid for their time discharging their duties under these Instructions to Professional Trustees at their usual hourly rate on provision of an itemised invoice (either to me on my recovery from illness or to the executors of my will).
7. My Professional Trustees are not responsible for collecting unpaid fees, arranging payment of sums owing to my therapist, supervisor(s) or practice manager(s) or to anyone else, or for any other commercial matters relating to the temporary or permanent closure of my practice.

SIGNED

Registrant

Dated

SIGNED

Professional Trustee (1)

Dated

Professional Trustee (2)

Dated

Sample Access Document A

I use a separate mobile phone solely for my clinical work (1234567890). The code to access this phone is 012345. My patients are identified in the contacts list in this phone using numbers to designate their initials. The numbers relate to the sequence of letters as they appear in the alphabet (e.g. the initials CF would appear as 3-6).

I update my calendar in my phone at the beginning of each week. That calendar is therefore the most up to date record of my patient list. In effect, it is my Active Patient List. There may be patients I see fortnightly or whom I have arranged to see some months in advance, so it is necessary to check the appointments in the calendar, not just for the week, but for some months going forward. You also have my Patient List provided to you every six months. Provided you have access to my practice mobile phone that – together with my Patient List - should be sufficient to enable my patients to be contacted in the first instance.

I carry my practice mobile phone with me at all times, so please ask [AB] or [CD] to give it to you. I can confirm that they have been informed about the existence of the phone and that you should have it if you ask for it.

I keep very limited patient notes. They are paper notes. I keep no patient notes on my computer or phone. In order to access those paper notes, you will need to obtain keys to the office [insert address] where I practise. Please ask [AB] or [CD] for them. There are 2 sets of keys - one always in the briefcase I use for my work and a spare set in the key box in the hall in my home. The sets of keys are identifiable because they each have a key fob – one yellow and one green - to gain entry to the building where my office is located and 2 keys to open the office front door. The paper notes (labelled with the relevant numbers to designate the initials of my patients) are on a shelf on your left in the first hall cupboard on your left as you enter the office. That shelf also has some of my supervision notes in a notebook so labelled, together with 2 further notebooks. One contains dates of sessions for each patient identified by their initials, and the other contains the patient record for each patient (at the back) and fee records (at the front) and a list of patients addresses and telephone numbers (last page).

The rest of the cupboard houses materials from my various trainings, CPD, and my own notes, essays and other writings. In the consulting room itself are my books and bookshelves and a long narrow table with two drawers. The drawers need to be checked for paper invoices not yet sent to patients so that they can be provided to the executors of my will and for any rough notes referring to my clinical work so they can be destroyed.

Sample Access Document B

1. Computer

The laptop is to be found in my consulting room. Access to the room may be arranged by contacting AB on telephone number 12345 678 901. The password to my laptop is ABCDE12345. Papers relating to patients are to be found in folders marked 123 and 4.

2. Mobile telephone

No patient details are retained on my mobile telephone.

3. Landline

The message on my practice number (0000 000 0000) may be accessed by contacting AB at point 1, above.

4. Contact list for patients, supervisees, tutees and other organisations which should be contacted

This list is at the front of the top drawer of the two drawer filing cabinet in my consulting room. Access to this room and to the keys to the cabinet may be arranged with AB at 1, above. The list shows the days and times of clinical, supervisory and tutorial appointments.

5. Patient and supervisee records

These paper records are to be found behind the contact list, above, in the top drawer of the filing cabinet in my consulting room. These records are patient identifiable and contain factual data only.

6. Clinical notes on patients and supervisees

These paper notes are not patient identifiable and contain some process notes, my rough ideas, musings, aide memoire to self and other jottings.

7. Financial records

On-line working replaced paper fee notices. On-line notices, by email, are to be found in the inbox of my laptop. My notices to patients are intentionally ambiguous and do not relate to the nature of the professional service provided. Paper records, listing payments from patients using initials only, are to be found in the top drawer of the filing cabinet behind the contact list.

8. Professional books and other general papers

These are to be found on the bookshelves and cupboards in the hall outside my consulting room at my practice base. Access to these is via AB at 1, above.

Sample Access Document C

Patient List

This is an encrypted document held on OneDrive*. The link is xxxxxxxxxxxxxx. The password** is xxxxxxxxxxxxxx. This is updated whenever there is a change to my practice and is therefore the most up-to-date list. An encrypted list is sent twice a year – at the Christmas Break and at the Summer Break – by encrypted email to my Clinical Trustees.

Clinical Email

I use Protonmail as my secure email provider for any contacts with patients. An automated reply should be set-up in the first instance asking patients to contact you. The log-in page is here: www.protonmail.com . The password is: xxxxxxxxxxxx.

Answerphone messages

I use a separate landline solely for my clinical work (xxx xxxx xxxx). The code to access this phone externally is xxxxx; messages can be listened to remotely and the answerphone message can be changed as needed. My patients are identified in the contacts list in this phone using first names.

Paper records

I keep a diary with patients 'appointment times using their initials. I have a record of current patients 'invoices and payments, alphabetised using their initials, in an A5 filofax on my desk. Previous patients 'accounts are in the bottom drawer of my filing cabinet in a clearly marked folder.

*Online data: I'm aware that the move out of the EU's coverage of GDPR means that data needs to be stored in the UK in the absence of agreements covering the same legal standards (though I am also looking at Switzerland).

**2-factor authentication for passwords may become a problem, depending on what token needs to be used (ie physical possession of my mobile phone or an authenticator key).