

# Working within the law

We are ethically required to abide by the law in the day-to-day conduct of our therapy business, but what does that actually mean? **Barbara Mitchels** and **Tim Bond** have written a new book on the subject

**W**e have been listening carefully to the concerns of therapists expressed during our series of workshops around the country over the past few years, and we realise that practitioners not only vary widely in their roles and fields of therapy practice, but that many of the issues and concerns involve the impact of law and ethics on therapy in each practitioner's specific context of practice.

No matter what our field of therapy might be, we meet with legal issues all the time. We all have to work within the law, but so many statutes and regulations now apply to our work in the therapy room, and outside it, that it is difficult to know what the relevant law is. Did you know, for example, how and when the Official Secrets Act might influence our practice? *The Ethical Framework* (BACP 2010) states that we should abide by the law in our day-to-day conduct of the therapy business, but what does this actually mean? All of us need to take care with our advertising, making sure we do not fall foul of trade descriptions law, and we need to know our rights and responsibilities either as employers or as employees, and to ensure that practice is compliant with ethical and legal requirements in anti-discriminatory practice, health and safety at work, etc.

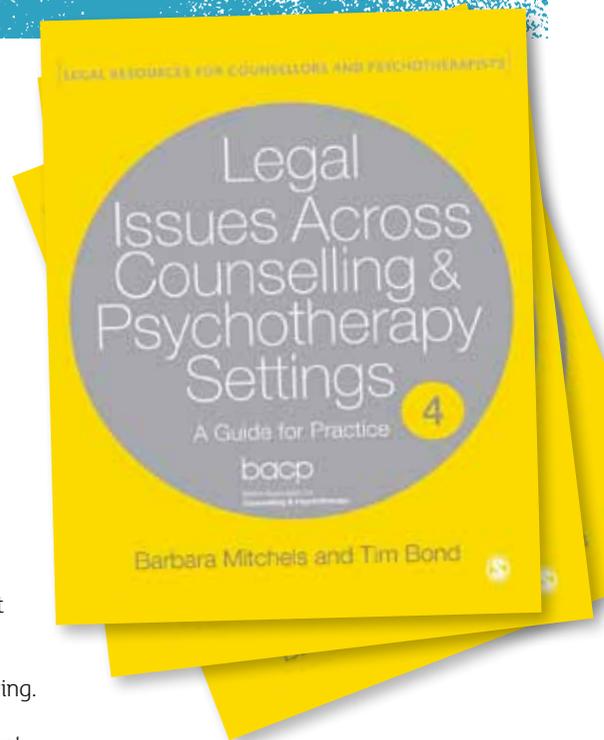
We have looked at practice issues in specific contexts; for example, contracting for our services in the context of the typical agency policies used in hospitals, medical practices, prison services, police, Home Office and other government institutions. Working in adult social care produces practice and legal issues, not only for client protection, but for access to records, appropriate use of our time and energy, referral procedures and post-referral therapeutic work. Working in

adoption support, fostering and social care for children may include, for example, involvement in active child protection, court cases and an awareness of family issues, records and team-working with necessary information sharing.

Some therapists working in employee assistance programmes (EAPs), or in government or organisational settings are blissfully unaware of the potential conflicts of interest that may come up in the workplace as a result of employment contracts and policies that bind them, but the bliss might be short-lived when problems occur. Therapists working in the field of education at any level may become involved with the interface between teaching and curriculum needs and the potentially different needs of a child's therapy. The responsibilities of a school may include a duty of care to a student that has to be balanced against the therapist's duty of care to a child client, and dual roles may present conflicts of interest. Provision of the best possible therapeutic service in a busy school may prove to be difficult and demanding, with unexpected changes to arrangements, curriculum, teaching rooms, times, facilities, etc.

In spiritual and pastoral counselling, where does the duty of confidentiality lie in the eyes of the law, and is this compatible with the seal of the confessional and/or with a particular church or religious organisation's policies and procedures? Should a spiritual leader or elder be an active counsellor or psychotherapist in their own parish or practise in their local area as part of their role of spiritual responsibility? The problems of potential conflict and dual roles in this situation may present ethical and legal dilemmas.

Our fourth book in the BACP Legal Resources for Counsellors and Psychotherapists series provides what we hope is a useful guide to legal and practice issues which are relevant to a variety of practice contexts. We use examples from practice and we have included some of the practitioners' questions asked in our workshops to bring knotty problems alive. We have also included a glossary, tables and flowcharts as well as an index of useful resources for therapists and their clients. The book is also intended to be helpful to students to introduce



some of the issues they may encounter in practice across contexts.

So, we hope that *Legal Issues Across Counselling and Psychotherapy Settings: A Guide for Practice* will help practice managers, counsellors, psychotherapists, students and trainees to recognise, understand and address some of the legal issues that may arise in their own chosen areas of practice, and to find any additional helpful resources that they might need. ■

**Tim Bond** and **Barbara Mitchels** are both Fellows of BACP and have written widely on topics relevant to law, therapy and ethical professional practice. *Legal Issues Across Counselling and Psychotherapy Settings: A Guide for Practice* is published by Sage (2011) and available to order from the BACP bookshop at [www.bacp.co.uk/shop](http://www.bacp.co.uk/shop) or by phone on 01455 883300. As a special launch offer, BACP members can purchase the book for £18 – 10 per cent off the usual member price. Offer ends 31 December 2011.



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