



WHEN CLIENT RELATIONSHIPS TURN SOUR

It's often a commonly held view that 'talking therapists' do not have claims for compensation made against them by their clients – their experience and knowledge somehow gives them immunity from a complaint being made against them. But claims are on the increase. Towergate Professional Risks has seen a worrying increase in the range and volume of complaints being made against its clients, and in the last four year alone has handled claims settlements totaling some £2.76m.

This article has been contributed by a client of Towergate Professional Risks. Hopefully, it will help to raise awareness amongst talking therapists that, in spite of their confidence in their own skill and understanding of their profession, complaints can still arise from what appear to be the most harmless of circumstances.

Though anonymous, it gives real details of the claim, how it came about and more importantly what lessons were learned - which might help fellow professionals avoid similar claims being made against them in the future.

Background

I am an integrative psychotherapist who has been practicing for over twenty years. I take seriously the need for regular and varied supervision and am committed to continuing personal and professional development. I have always had professional indemnity insurance. This is a requirement of my professional organisation and I wrote the cheque somewhat grudgingly each September as I could not imagine circumstances in which I would need to pay even half as much as the minimum option of £1m to a client.

My client and I

Five years ago a client with whom I had been working between two and three times a week for nearly four years, made a complaint to the Ethics Committee of one of the organisations with which I am registered.

The complaint was 11 pages long and cited 17 points of the Code of Ethics that I had allegedly transgressed. An investigating panel decided to refer two of the points to an adjudication panel. The panel was convened, the date set and I felt confident that I would be able to address their concerns and that all would be well. A week before the hearing my former client withdrew her complaint. She submitted an elaborated, 56-page version of the first complaint six months later but it was not taken up by the organisation. Undeterred she took it to another organisation that also rejected it. Six months later I entered into a lengthy correspondence with the Information Commissioner who wrote to me asking for my notes. I took the view, supported by my insurer's legal helpline, that my notes were not medical records but, rather, were written for or after discussion with a third party, my supervisor(s). The Information Commissioner agreed that I was not required to release these notes to my former client who then attempted to get the health authority who took over paying for the treatment after the first 18 months to investigate me for fraud. Even though I felt as though I was being somehow stalked I did not anticipate that five years later I would be sitting in a court room waiting for my former client to be called to the witness box.



How did this happen?

How this all came about is not simple to explain. I realise now that my former client fits the profile of the sort of client who is more likely than others to leave the therapy and attack it from the outside rather than stay to work through the negative transference that will inevitably develop. A year into the work she came back after a break and told me that she had been sexually abused and was going to make her abuser pay. I wish now that I had taken that opportunity to make an onward referral but, rather naively, I did not understand the risk that this was someone who could someday turn her desire for revenge against myself.

In the US, Harris (1995) found a direct correlation between the number of civil actions taken out against practitioners of the talking therapies and the increase in the activities of victim support agencies. In the UK clients who want to complain against a practitioner are referred as a matter of course to such a support agency who, in turn, refer them to a firm of solicitors.

One of my colleagues, a psychotherapist who is also a psychiatrist, was willing to act as an expert witness and to write a report based solely on the client's - or I should say - the claimant's point of view. This is why I needed £1m-worth of insurance. By the time this civil action against me got to the mediation stage there were six lawyers present at the proceedings - two from my side, three from the complainant's side and the mediator. My presence was not really necessary. A settlement was discussed and costs were mooted. The other side anticipated that their costs would amount to upwards of 750,000 before trial. Add that to the cost of the excellent legal team provided by my insurer and the claimant's claim for damages and I began to worry that the £1m of cover, which I previously thought was too high, might not be high enough. In the end it didn't come to that.

Part of my learning from this experience is the increasing need to become familiar with the psychopathology of potential complainers and to make careful and ongoing contracting a focus of the work. Keeping a version of session and supervision notes that you would feel comfortable showing to your client is essential; my notes were in the end submitted as 'evidence' and the experience of having them interpreted and used against me by the claimant's expert was very, very difficult.

How I was affected

The emotional cost of the last five years has been high. My client could be said to have had a diagnosis of Complex PTSD and I certainly have experienced at times severe symptoms of vicarious traumatisation. I felt persecuted and stalked. The substance of the civil action called into question aspects of my practice that were not seen as questionable by my professional organisation. As much as I wanted to be able to defend myself I soon realised that this whole wretched business was more about my former client's sense of entitlement and desire to make me pay than it was about what I did or did not do.

Having investigated the facts, my insurers saw the claim as spurious and they were incredibly supportive. Prior to that my main support was from a few cherished colleagues and my insurer's legal helpline

Ruptured therapeutic relationships do not belong in court but, increasingly, they are being taken into the legal arena. As long as this continues to be the case I believe there is a need across disciplines to address other possibilities for conflict resolution and not leave it to the law. I believe that the process of seeking 'justice' was damaging to my former client and I very much wish there had been other options available to us both.

Towergate Professional Risks has been providing professional liability insurance to talking therapists for 20 years, and can be contacted on 0113 391 9525, or via www.towergateprofessionalrisks.co.uk