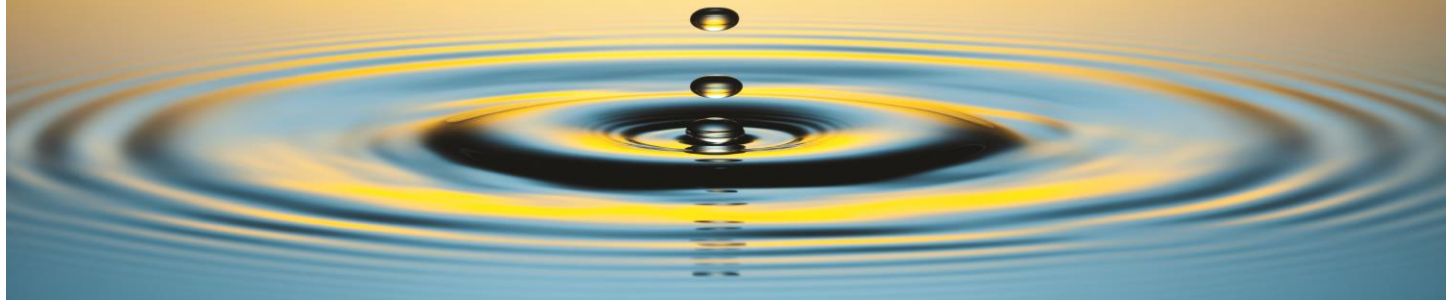


Newfoundland & Labrador Association of

**Social Workers**

**Practice Matters**



*Practice Matters was created as an educational resource for social workers in Newfoundland and Labrador. It is intended that this resource will generate ethical dialogue and enhance critical thinking on issues that impact social work practice. Practice Matters is provided for general information.*

## **Resolving Conflicts of Interest through Informed Consent**

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The May 2016 edition of Practice Matters explored the use of informed consent in social work practice, and the October 2015 edition focused on conflicts of interest. This edition of Practice Matters will address more specifically how conflicts of interest can be mitigated through informed consent.

Social workers grapple with ethical dilemmas on a daily basis. Many of these dilemmas pertain to conflicts of interest. According to Reamer (2009) “conflicts of interest occur when a social worker’s services to or relationship with a client is compromised, or might be compromised, because of decisions in relation to another client, a colleague, herself or himself, or some other third party” (p.41). Conflicts of interest may be expected or unexpected, real or perceived.

As noted in the CASW Code of Ethics (2005) “social workers are educated to exercise judgement in the face of complex and competing interests and claims. Ethical decision-making in a given situation will involve the informed judgement of the individual social worker” (p. 3). Social workers have many tools and resources to inform their decision making and navigate conflicts of interest including the CASW Code of Ethics (2005), CASW Guidelines for Ethical Practice (2005), NLASW Ethical Decision-Making Resource Guide (2015), NLASW standards and best practice guidelines and relevant social work literature. Informed consent, an ethical principle in social work, can prevent

and/or resolve ethical issues pertaining to conflicts of interest in practice. Consider the following case scenarios.

## Case Scenarios

### Scenario 1

Karen, RSW has been providing therapy for a client with depression. During a recent session, the client revealed that she has been having marital problems with her husband of 5 years. Based on the information provided, Karen is certain that her client's husband is a friend of hers from high school whom she dated briefly. While she no longer has any contact with her former classmate, Karen wonders if she should disclose this past relationship to her client.

This case scenario raises ethical considerations pertaining to conflicts of interest. While this conflict was unforeseen, it would be helpful for Karen to consider the context of her former relationship with her client's husband and whether this could have an impact on the therapeutic relationship. Karen also needs to decide whether to disclose this former relationship to her client. Reflecting on the following ethical values and principles would be helpful:

#### Value 1: Respect for the Inherent Dignity and Worth of Persons

- Social workers uphold each person's right to self-determination consistent with that person's capacity and with the rights of others.
- Social workers respect the client's right to make choices based on voluntary informed consent.

#### Value 4: Integrity in Professional Practice

- Social workers demonstrate and promote the qualities of honesty, reliability, impartiality and diligence in their professional practice.
- Social workers value openness and transparency in professional practice and avoid relationships where their integrity or impartiality may be compromised, ensuring that should a conflict of interest be unavoidable, the nature of the conflict is fully disclosed.

Karen might also want to reflect on the following questions:

- 1) What are the risks/benefits of not disclosing this past relationship to the client?
- 2) Are there any factors that outweigh disclosure at this point?
- 3) Whose interests are being met by disclosing or not disclosing?
- 4) Is there a potential for the client's husband to be involved in any of the therapy sessions?

- 5) What if the client finds out about this past relationship through her spouse? How might this impact on the therapeutic relationship?
- 6) Could Karen remain objective and unbiased given her previous relationship with her client's spouse?

After considering the questions and evaluating that based on her knowledge of the situation that disclosure would not likely result in harm, Karen decided to disclose. This disclosure would be part of the on-going informed consent process. In keeping with the client's right to self-determination, the client can then decide whether she wants to continue in the therapeutic relationship or be referred elsewhere, how much information she chooses to share about her husband in therapy, and how she might want her husband involved in her therapy. This will also build trust in the therapeutic relationship regardless of the client's decision to continue in therapy with Karen or be referred to another social worker.

## Scenario 2

Samantha and Tom are going through a bitter divorce and child custody dispute. They had been engaged in couples counselling with Cara, RSW, for a number of months. During that time, Samantha had disclosed violence by Tom in the relationship. After several months, the couple decided to separate and felt that counselling was no longer needed. Samantha recently reached out to Cara again for individual counselling. She noted that she trying to work through the abuse she endured living with Tom and really trusts Cara and her level of professionalism and expertise. Cara wonders if she should see Samantha for individual counselling.

This scenario raises some interesting questions for consideration:

1. Was the issue of individual counselling covered through informed consent as part of the initial therapeutic relationship with Samantha and Tom? Is this something that Cara should revisit as part of the initial contract?
2. What are some of the risks and potential outcomes of accepting Samantha's request for counselling?
3. Does it make a difference that the couple are going through litigation and a child custody dispute?
4. Could accepting Samantha's request for individual counselling place Cara in a potential conflict of interest?
5. How might Tom perceive the situation if Cara were to see Samantha for individual counselling?

6. How might Cara deal with the possibility of being subpoenaed to testify in court on Samantha's behalf? What are some of the risks/consequences?
7. What other options exist? Is a referral to another social worker an option?

In addition to reflecting on these questions, and seeking consultation, Cara may find it helpful to reflect on the following values from the CASW Code of Ethics (2005):

Value 4: Integrity in Professional Practice

- Social workers demonstrate and promote the qualities of honesty, reliability, impartiality and diligence in their professional practice.
- Social workers value openness and transparency in professional practice and avoid relationships where their integrity or impartiality may be compromised.

The CASW Guidelines for Ethical Practice (2005) also provides some guidance:

- Social workers inform clients when a real or potential conflict of interest arises, and take reasonable steps to resolve the issue in a manner that makes the client's interests primary.
- Social workers who anticipate a conflict of interest among the individuals receiving services, or who anticipate having to perform a difficult role, clarify with clients their role and responsibilities (For example when a social worker is asked to testify in a child custody dispute or divorce proceedings involving clients.)

Cara examined the initial contract and individual counselling had not been discussed. After thoughtful reflection and examination of the ethical considerations, Samantha spoke to Cara about her concerns. Samantha consented to be referred to another social worker for individual counselling. Cara was able to ethically resolve this dilemma, while maintaining the best interests of her former clients. Going forward, Cara decided to raise the issue of individual counselling at the beginning of her sessions with couples as part of the informed consent process.

Scenario 3

Jennifer, RSW works in the area of mental health. Katherine is a 19 year old client with a history of trauma and self-cutting. Jennifer recently found out that Katherine is a friend of a friend on Facebook. Jennifer read an online post that Katherine had written about a recent break-up. Katherine posted that she is going through a really difficult time and that her world is "falling apart". Katherine has not talked

about this relationship in therapy and Jennifer is worried about Katherine. Jennifer wonders what she should do.

This case scenario raises some interesting considerations. While Jennifer is not a friend of Katherine's on Facebook, there is a social connection. Jennifer is now privy to information about Katherine that has not been disclosed in the professional relationship. The following are some questions that Jennifer might find helpful to consider:

- 1) Does this have implications for Katherine's right to privacy?
- 2) How should Jennifer deal with information learned about Katherine through social media that has not been disclosed in their counselling sessions?
- 3) Could this place Jennifer in a conflict of interest (real or perceived)?
- 4) What impact might this have on the therapeutic relationship? Could it impact Jennifer's assessment and decision-making?
- 5) Does Jennifer have an ethical responsibility to disclose this social connection to Katherine?

In resolving this dilemma in practice, it would be helpful for Jennifer to reflect on the Code of Ethics and the following values:

Value 1: Respect for the Inherent Dignity and Worth of Persons

- This value highlights the respect that social workers have for the client's right to make choices based on voluntary, informed consent.

Value 2: Integrity in Professional Practice

- This value speaks to the ethical responsibility social workers have in establishing appropriate professional boundaries in practice.

Value 5: Confidentiality in Professional Practice

- This value highlights the importance of confidentiality in the social worker-client relationship.

After thoughtful reflection, Jennifer felt she could resolve this issue ethically and competently through the informed consent process. Jennifer decided that on their next scheduled visit, she would disclose this social connection, identify a plan for addressing this issue, and discuss the clinical relevance of the information that the client disclosed in a Facebook post. This is in keeping with the following ethical principles:

- Social workers demonstrate and promote the qualities of honesty, reliability, impartiality and diligence in their professional practice.
- Social workers limit their involvement in the personal affairs of clients to matters related to service being provided.
- Social workers value openness and transparency in professional practice and avoid relationships where their integrity or impartiality may be compromised, ensuring that should a conflict of interest be unavoidable, the nature of the conflict is fully disclosed.

Jennifer might also want to reflect on her own social media policy and that of her organization (if applicable). If social media has not been discussed as part of the on-going informed consent process, this might be helpful to consider going forward. In developing or reviewing a social media policy, Jennifer may want to examine the NLASW *Standards for Technology Use in Social Work Practice* (2012), the CASW document *Social Media Use and Social Work Practice* (2014) and the *Model Regulatory Standards for Technology and Social Work Practice* (2015) produced by the Association of Social Work Boards.

### Documentation

As outlined in the NLASW Standards for Social Work Recording (2014), it is important that “social workers document informed consent in the client record at the beginning of the social work relationship, and throughout the duration of the relationship as necessary” (p.6). This documentation should also include steps taken to resolve conflicts of interest in practice as part of the on-going informed consent process.

### Conclusion

Informed consent is integral to the social worker-client relationship. Engaging clients in a thorough informed consent process is an ethical and legal responsibility for all social workers. Informed consent is also an important element in one’s ethical decision-making process when dealing with conflicts of interest in practice. It is through the informed consent process that actual or potential conflicts of interest can be resolved in an ethical manner that maintains the best interests of clients.

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