

BASIC COUNSELLING SKILLS FOR LEGAL PROFESSIONALS

Submitted by the Child Witness Institute

KEY CONCEPTS	
Counselling	Empathy
Debriefing	Rapport

INTRODUCTION

Although legal professionals are not counsellors and not responsible for counselling, they do, however, often have to work with victims who are extremely emotional and overwhelmed. A basic knowledge of counselling skills will enable them to respond more effectively to victims. They will be able to use some of the techniques to assist victims, where necessary, in the course of their interviews, or even afterwards for debriefing.

Counselling is generally understood to be a process in which a counsellor listens and helps the client to find ways to deal with emotional issues. Counselling, therefore, includes:

- a relationship built on empathy, acceptance and trust
- a focus on the client's feelings, thoughts and actions
- the act of empowering clients to see things more clearly so that they can cope with their lives by exploring options, making decisions and taking responsibility for those decisions.

Counselling is not:

- giving advice
- making judgments
- trying to sort out the client's problems
- getting emotionally involved with the client
- viewing the client's problem from your own perspective, based on your own value system.

COUNSELLING

Counselling is about feelings. Counsellors are people who assist others to verbalise, understand and accept their own feelings. This process is important because it helps people to solve their own problems so that they feel less anxious, are able to understand what they are feeling and make appropriate decisions. Counselling is not about giving advice. The purpose is to get the individual to identify their options and make decisions. This is very relevant in the forensic context, where victims struggle with issues relating to testifying in the presence of the accused or having to share intimate details.

What are the aims of counselling?

As can be deduced from the definition, counselling has the following aims:

- to empower the person to cope with particular issues in their life
- to explore options and help the client make their own choices and decisions
- to get the client to take responsibility for their decisions.

What are the tools of the counsellor?

Counsellors create a space where clients have an opportunity to recognise and understand their feelings and thoughts by being able to talk about them. In order for the counsellor to achieve this, they use the following methods:

- empathy
- active listening
- reflecting feelings
- asking questions
- affirming and accepting.

What is a counselling relationship?

It refers to the interaction between the counsellor and the client, which is professional in nature, but which is also characterised by warmth, empathy and authenticity, and where the counsellor uses their professional training and personal insights to problems revealed by the client. The relationship is important because it provides the client with an opportunity to explore their own experiences through their relationship with the counsellor.

EMPATHY

A key element of counselling is empathy. This is also an important skill for anyone who has to work with vulnerable witnesses in quite traumatic situations. Empathy is the ability to understand and share the feelings of others. The following are some examples of what empathy means:

- putting yourself in the shoes of another
- trying to find out how another feels
- respectfully stepping into the life of another person
- entering the private world of another person
- feeling what another is feeling
- seeing the world from the perspective of another.

The actions identified above all form part of those necessary for the development of rapport, which is an essential element of the interview process.

The following requirements are necessary for empathy:

- open-mindedness – the counsellor has to set aside their own beliefs, values and attitudes in order to consider those of the other person
- imagination – the counsellor must be able to picture the client's background, thoughts and feelings

- commitment – a dedication to trying to understand the client
- knowing and accepting themselves – being able to understand themselves helps the counsellor to develop empathy for others

Empathy is most difficult when one has to empathise with those who are different from us.

Difference between empathy and sympathy

Often the terms empathy and sympathy are used interchangeably, but these are two very different concepts. There are many ways of explaining the difference between these two concepts, but, in essence, sympathy involves understanding from one's own perspective, while empathy involves putting one's self in the shoes of the other and understanding why they have those feelings. Empathy is experiencing the feelings of the other while sympathy is understanding the feelings of the other. Sympathy is the observation and acceptance of what another is going through ("I understand what you are feeling"). Sympathy is akin to "feeling sorry" for someone, so there is a natural detachment from the situation. Feeling empathy is a broader, more intense emotional reaction because it involves taking on the feelings of the other person.

Counselling is actively listening, asking questions and coming up with solutions, which is why empathy is so important for a counsellor. Empathy allows the counsellor to also understand the thoughts and perspectives of the client, not simply their feelings.

BASIC COUNSELLING SKILLS

In order to be a successful counsellor, there are certain basic skills that an individual needs in order to achieve this. These skills include:

Listening

There is more to listening than simply not talking. Listening involves more than one sense. One listens not only with one's ears, but also by observing with one's eyes and saying certain things. A lot of information can be obtained from a client by simply observing their body language. It is important to face the client and to indicate that the client has the counsellor's full, undivided attention. This includes nods, eye contact, facial expressions, not being distracted, mirroring body postures and language and leaning forward to show interest. This would include minimal verbal responses, like "Mmmm" or "Uh huh," which indicate the counsellor is listening and is interested and which encourage the client to continue talking. Most communication takes place non-verbally. Listening is not just about hearing the words, but listening to how the words are said, the tone used, the facial expression and other little nuances.

These techniques are extremely useful for conducting interviews and accessing information from witnesses.

Empathy

As discussed above, empathy is an essential skill for a counsellor and enables the counsellor to perceive the experience of another and then communicate that perception back to the individual to clarify. In this context, empathy involves:

- paying attention verbally and non-verbally in a supportive way
- paraphrasing what the client has communicated
- reflecting the client's feelings and implicit message.

Reflection refers to the process of experiencing what the client is communicating and then reflecting that feeling back to them so that they can acknowledge it. This must be done very carefully, because an incorrect reflection would obviously be counter-productive.

Authenticity or genuineness

Authenticity is the ability to be one's true self. Therapists who are genuine are open, honest, and sincere. They are involved in the counselling relationship and not simply mirrors, sounding boards, or blank screens. They are real people without facades, not fake or insincere. They do not think and feel one thing but say something different. Many clients have been lied to, abused, mistreated and are seeking a trusting, reliable therapeutic relationship in which to heal. Many clients come into therapy to process and treat interpersonal difficulties and injustices. This is why being authentic has value.

Unconditional positive regard

This conveys a number of messages to the client and is an expression of caring and acceptance. It is shown by the warmth that the counsellor conveys and the non-judgmental (non-critical) verbal and non-verbal reactions of the counsellor.

Concreteness

This refers to the ability of the counsellor to focus on facts and feelings which are relevant and to avoid those which are simply tangents or generalizations. This includes the following:

- assisting the client to identify and work on a particular problem from a number that have been presented
- reminding the client of the task and leading them back to the task at hand
- using questions and suggestions that help the client to clarify their facts and feelings

Counsellor self-disclosure

This is where the counsellor shares personal feelings or experiences to the client. The general rule is not to self-disclose unless there is a pressing clinical need to do so which cannot be met in any other way. Any experiences shared should be relevant and intended to help the client.

Interpretation

This is the ability to provide a new meaning or explanation for behaviours, thoughts or feelings so that the client can see problems in a new way. Interpretations help clients make connections between seemingly isolated events, point out patterns or themes and provide a new framework for understanding.

Providing information

The counsellor must supply data, facts, resources and answers to questions that the client may have.

PHASES OF COUNSELLING SESSION

There are 5 main stages or phases in the process of a counselling session:

1. Trust building
2. Establishing the relationship
3. Exploration
4. Resolution
5. Termination

Trust building and establishing the relationship

This is the foundation for counselling and is vital at the beginning of the session. Counselling is a relationship and building trust is part of that relationship. The counselling environment should:

- be a warm and safe environment for counselling
- be quiet and private with no interruptions
- have chairs arranged to face each other and not too far apart.

The trust building stage will include:

- establishing the relationship, which involves greeting the client and providing an explanation of what will take place
- explain the concept of confidentiality and where this will have to be broken i.e. where the client is a danger to themselves or another
- showing empathy from the beginning will assist with rapport
- getting the client to talk about why they are there

Getting the client to express their feelings and problems will begin in this phase and continue into the next one.

Exploration

This session is about understanding the problem, and focuses on the expression and exploration of the pain or the problem that the client is presenting. This forms the longest phase of the counselling session and is where the counsellor will focus most of their time. The client is given an opportunity to talk about their thoughts and feelings around the problems they are experiencing. After the client has expressed their thoughts and feelings, the counsellor will begin to help by defining the problem. This will require asking questions and making some reflective and interpretative statements. The counsellor may also begin to use information sharing and problem-solving techniques towards the end of this phase.

Resolution

Towards the end of the counselling session, the counsellor will move into the resolution phase. It is important that the counselling process generate a focus or plan for future action. This does not have to be elaborate or detailed, but can sometimes simply offer a change in perspective or a choice to accept the situation. The decision-making must come from the client – the counsellor can help the client, but it is the client who must make the decision.

Termination

At the end of the session, the counsellor summarises what was discussed in the session, including the focus and any decisions or plans that were made. Emphasise the focus and highlight any referrals that were provided. Future counselling sessions will be discussed at this point.

WHAT TO AVOID IN COUNSELLING

The following is a summary of the behaviour and comments that should be avoided in a counselling session:

- exclamations of surprise or horror
- expressions of over-concern
- moralistic judgments or preaching
- being punitive
- criticizing the client
- making false promises
- threats
- bringing up your own problems and concerns.
- showing impatience
- any political or religious discussions
- arguing
- ridiculing or belittling
- blaming another person
- trying to make deep interpretations of the client's problem
- probing difficult or emotional material when the client is unwilling
- unnecessary reassurance
- giving advice
- labelling.

DEBRIEFING

Although legal professionals will not be required to offer counselling sessions as such to witnesses, they can use all the above information in all their interactions with the witness, adapting the techniques so that they offer greater support to the witness. However, they may sometimes find themselves in the situation where they may need to debrief witnesses and the above techniques can also be adapted to perform this function.

What is debriefing?

Psychological debriefing is a formal version of providing emotional and psychological support immediately after a traumatic event has taken place. It is an early intervention for traumatised people with the goal of preventing the development of post-traumatic stress disorder and other negative after-effects.

Debriefing can take a variety of different forms and can include information and advice (psycho-education), group work, concrete and direct help, psychological debriefing, crisis intervention, structured trauma counselling and brief psychotherapy. Debriefing is structured with the debriefer guiding the client through a series of stages, looking at the traumatic event from different perspectives. Most debriefing interventions involve a single session which might last between one and three hours and usually takes place within days of the event. It does not form part of ongoing therapy, although, where appropriate, follow-up sessions may be suggested.

The debriefing process is designed to enable the victim to re-experience the incident in a controlled and safe environment in order to make sense of and become reconciled to the traumatic incident.

What is the purpose of debriefing?

Debriefing provides the client with a safe space in which to process the emotions and distress they experience in the form of structured and rational discussions. The healing effects of debriefing include:

- it provides hope by enabling the client to realise that their feelings are normal and temporary and that, given time, they will become their old selves (or as close to as possible)
- it normalizes the feelings – it is normal for people to be distressed and upset after testifying
- it provides an opportunity to ventilate and air frustration and anger
- it allows the client to reflect on the impact of the testifying
- it offers a form of closure to the court process
- it provides information and referral, which will improve the healing process.

Why debriefing?

A common feeling after a traumatic event is the sense of loss of control. Something has happened over which the victim has had no control. Debriefing can give back some form of control to the victim. This is achieved by enabling them to integrate, at a cognitive and emotional level, their personal experiences caused by the trauma. Debriefing is a way of allowing the victim to gain mastery over the traumatic experience by redefining the experience and its consequences. Through this process the traumatic process is brought to a conclusion.

Debriefing is different from counselling. It is not counselling and nor is it a substitute for counselling. It uses the basic communication skills used in counselling and the basic structure of a counselling session, but is very different in terms of aim, content and style.