

Think twice about confidentiality...

by **Bernie Moran**



Introduction

This article will discuss the premise that “Employee Assistance Service (EAS) is a confidential and independent support” and conclude that it “should never involve a third party without the consent of the client except in the cases listed in the Civil Service Employee Assistance Service (CSEAS) Code of Ethics”.

“Third Parties will not be involved without the prior knowledge and consent of the client except:

—In life-threatening situations.

—Where the EAO becomes aware of a breach of criminal law

—In serious situations where the concealment of information would compromise the EAO”

(<http://www.cseas.gov.ie/publications/annual-reports> 2006)

The article plan is to provide background and context to the argument and general information on critical thinking.

The triangle of user, provider and sponsor can be fraught with problems and may need to be clarified in any occupation. This is particularly important in EAS as the service is likely to be dealing with people at their most vulnerable.

The Civil Service Employee Assistance Service (CSEAS), set up over 30 years ago to provide support for serving and retired civil servants, makes the promise that: “The Employee Assistance Service (EAS) is an independent, confidential support service” yet some appear to query the independence and confidentiality.

The Civil Service operates within a hierarchical grade structure. The capable officer of any rank may be successful because of their attention to detail. That trait of perfectionism could also lead to stress. The human body’s response to stress shows no regard for grade. This can add to the need to reassure the stressed client that they are safe and their secrets will not be retold for any reason in the workplace. Trust is crucial when individuals are expected to be open about sensitive issues and areas of their lives where they feel inadequate. Building a rapport with an individual requires a level of engagement and ease based on trust.

Vulnerability and Confidentiality

Support services by their nature attract the most vulnerable at their most anxious. The human body can elicit the fight or flight response and cause an individual to act out of character in the face of threat. (Bergin 1994) Understanding the rationale behind actions that appear irrational is crucial to the “diagnosis” of the problem.

Dewey (Bradshaw 1993) defined critical thinking as the “active, persistent, and careful consideration of a belief or supposed form of knowledge in the light of the grounds which support it and the further conclusion to which it extends.” The aim, as with Socrates in earlier times, was to tease out the subject from everyone’s point of view. One way then to view critical thinking may be to look at its opposite, the uncritical acceptance of an accepted wisdom. Those who swallow whole a viewpoint without looking for grounds or evidence can be manipulated. The critical

thinker is more likely to think like Robert F Kennedy when he paraphrased a quote by George Bernard Shaw, “there are those who look at things the way they are and ask why? I dream of things that never were and ask why not? Robert Kennedy also highlighted the role of bias in an argument in a lesser known quote: “My views on birth control are somewhat distorted by the fact that I am the seventh of nine children”

A story’s truth, validity and argument can be subject to emotional slanting and may be heightened by severe stress. Anthropologists have studied “magical thinking” (Didion 2006), the ability or necessity for an individual or community from any culture to resort to magical thinking when overwhelmed by a feeling of powerlessness. Magically hoping that the alleged abuser will change or the cause of stress will disappear is common in cases reported worldwide as facts are interpreted for a more bearable ending.

Enhancing the reputation and use of the EAS is a positive trigger to critically thinking about the factors that deter potential users. The motivations, goals and ambitions of all involved should be investigated to determine the meaning and significance each applies to the same events. Particular attention must be paid to the subtle ways that significance and meaning are important in a work based service. Part of the mistrust may be based on a fallacy. Those who think management cannot be trusted may be unwilling to trust EAS because they see it as part of management. In that case improved awareness of the independence of the role of the service may build trust without having to directly highlight the fallacy. Highlighting such a fallacy could reinforce the view that management can’t be trusted especially by those with an anti establishment bias.

The Pretoria report (Minisi 2005) quoted one staff member as saying: “Most of my colleagues do not have trust in the EAP because they think some of its members might know their bosses and might tell them what they said at EAP.” The critical thinker could check the meaning of the words and the source of the concern. Is the word “most” used when there is really a concern about one? Should that one be investigated? Do the words “they think” confirm that perception is as important as fact? Does this comment highlight the need for the relationship between colleagues and bosses to be improved? What is their experience of authority figures? Is the EAP office near the boss and is that perceived as a statement of power? Does EAP know who their client is, colleague or boss? These are

just some of the possibilities to consider when critically analysing a subject.

There are a number of ways confidentiality can be compromised. The EAP, by requesting to view an employee’s file, has already alerted the Human Resource department that the individual is a client of the Service. That could be enough to deter a stressed person from seeking much needed intervention. Someone directed by their boss to attend the service may see it as part of a disciplinary system even if the referral was merely a well intentioned prompt. There are times when a client will be unwilling to avail of the EAS because their judgement is impaired by mental health problems, misuse of alcohol or drugs or emotional distress. These situations must be judged on a case by case basis to ensure they are not coerced into using the service.

The EAP must also be willing to question their own motivation. Subtle help is unlikely if the main aim of the intervention is to enhance the reputation of the EAP. It is difficult for the client to be heard if the EAP is listening in order to confirm the view based on the managers briefing. Mentally editing remarks or distorting meanings to accommodate the organisation is a breach of professional code and damages the service. Silence and active listening are important tools in EAS but such inaction can be difficult for managers to understand or justify. Allowing people the time and space to reach their own conclusions is crucial to empowerment but difficult where tangible results are sought by any third party.

Carl Rogers (NUI 2003) emphasized the need for safety by providing a certain type of relationship so that the other person discovers their own capacity for growth. Non directive help may not be possible if the employer is insisting on performance related results. There is also the risk that all involved are conscious of and performing to informal unspoken influences and pressures. Such unobservable and immeasurable facts form a large part of any support service. Many people tailor what they say, intentionally or not, depending on the audience. The EAP does not necessarily need to know if the client’s account of events is true. They may just need to know if the client believes it to be true so that the perspective can be challenged if inappropriate in the workplace.

Other less aggressive forms of coercion can also influence actions. In 1934, an entry in the records of the Public Services Friendly Society (2007), reported a

payment made to “keep the boy in an orphanage to complete his secondary education, after which he will go to a seminary where the expenses of his further education will be taken over”. That young orphan may one day question why he followed a prescribed path and how family poverty caused others to map out his fate. Meddling in other people’s lives is likely to get an immediate or delayed negative response, no matter how well intentioned. In the words of Dewey :” To accept someone else’s values and to act on them out of blind obedience, guilt laden duty and fear of punishment hardly constitutes a freely chosen act”

Be(a)ware of the “good citizen”

Those in distress can not be expected to request confidentiality. Traditionally the priest, doctor and teacher were high profile individuals in rural Ireland. Top dogs in any population can be privy to information because of their profile. The journalist Vincent Brown met with ridicule when he asked the then Minister of Finance, Charles J Haughey, to explain the source of his considerable wealth. Both men learned, the hard way, what it is to be in or out with popular opinion. Truth seems to matter little when the tide turns. The McCann family found the press reflected public opinion or possibly created it when it turned on them. Pity and sympathy on the loss of their missing daughter turned to hate when they became suspects. The McCann’s story shows how trends in public opinion can change the interpretation of facts. Too little emotion on their part, once judged courageous, was suddenly viewed as uncaring. Group think and group dynamics can sway otherwise thinking individuals in the heat of controversial and emotional issues.

The media may fulfil the roles of information giver, representative and watchdog. Seymour Hersh filled all three roles in his award winning book: “chain of command”. His critical thinking on Vietnam had put him in a position to report the unthinkable. American soldiers had massacred large numbers in Vietnam and had even stopped for a lunch break. “Ordinary” Americans were also stunned to read his reports on torture in the in Abu Ghraib prison. How then are human beings rational and do they act on beliefs constraints and preferences? There are two aspects to rational action (NUI 2007 p233) it is (1) goal directed and (2) the goal is to enhance the welfare of the agent. War changes the goal in otherwise caring people.

A third party “got the nod” in the Sophia McColgan case (McKay 1998). Many were aware of Sophia’s story yet she (the underdog) was trapped by their (good citizens) inaction. This and similar breaches of confidentiality empower the abuser at the expense of the underdog. People prey on the weaknesses of others. That is the unfortunate reality that creates the need for all forms of regulation. Motivation and justification are often skewed by impulsive needs. The pedophile will often tell themselves and others that the child is in love with them and create a romantic story to justify their actions.

Other breaches are just gossip to impress. Some, in my experience, will spurt confidential information with the enthusiasm of breaking news, as if the central character is not entitled to respect. Those with novel stories are at particular risk. The story teller may be driven by anything from insecurity to a superiority complex. The reasons why the teller feels entitled to tell deserves another article!

Context- Premise or Promise?

“Brains are not computers, they don’t process “information” in the limited technical sense that computers do instead they support the existence of a person in a world of meaning and value”.

(www.raymond tallis.com)

Context plays a vital role. Patricia Casey (Psychiatrist. Irish Independent 5th November 2007) writes that “The greatest challenge is likely to be the context in which speeches are made, since rhetoric will alter to suit the situation. Off the cuff remarks can help identify the true views of a politician”

Language can be used to persuade rather than to inform. The terms, independent and confidential, are often taken for granted until a particular incident or breach of confidentiality is to be investigated.

Disagreements can be factual, interpretive, verbal or evaluative. The use of reason by all parties or by a third party is often required to respectfully sort the differences of belief or opinion by providing facts or negotiating alternative viewpoints. Could a premise be mistaken for a promise or visa versa and who gets to decide?

Timing-Dosage-Tact

Proximity, (Gladwell 2000) can be a motivating factor if timely intervention is to be sourced. The critical thinker would question the words timely and intervention and ask by whose standard they were timely. Intervention can be perceived as interference if there is not complete buy

in by the parties involved. Vulnerable people may be already consumed with self doubt? Analysing and evaluating current beliefs and practices must be balanced with the need for fragile people to be able to remain hopeful and safe. Clarification of definition, meaning and the feelings behind them must be under constant review to understand the motivations of all involved. Rational behaviour can appear irrational to the ill informed onlooker. The critical thinker looks at the beliefs, constraints and preferences from everyone's point and under all circumstances. Women's aid website is useful in highlighting the need for secrecy rather than confidentiality where physical violence and murder are a real possibility and where the client's choices are limited by circumstances beyond their control. The report by Dr Carol Coulter about the Irish Court Services drew attention to two major problems in Ireland. (courts.ie) One was the rate of domestic abuse and the other was the failure of the court services to protect those involved. Delays and other failures were thought to cause people to suffer in silence rather than seek support.

Evidence would suggest that the advisor needs to be well informed and well placed and the individual ready to receive help, without conditions set by a sponsoring employer, as the individual may have many other variables to consider. The analogy that it is tempting to finish a child's homework can be used to support the conclusion that it can be tempting to solve an adult's problems. The support provider is trained to know that both actions are effective in the short term but unhelpful in the long term as they can undermine the confidence of the individual involved.

Conclusion- Unconditional Positive Regard

The article concludes that it is crucial in some and preferable in all cases that confidential and independent support should never involve a third party without the consent of the client except in the cases listed in the CSEAS Code of Ethics. Strict rules must be in place where the user is a member of a vulnerable group or any individual at their most vulnerable. Exceptions may need to be made where the judgement of an individual client is for any reason impaired and where the training and the expertise of the EAP is required to maintain the safety of others. Respect for the vulnerable client must be the priority for the EAP. Unconditional positive regard and committed interest in the client forms the basis of the interaction between the EAP and the user of the service regardless of the nature of the case.

The other purpose of this article was to provide an understanding of critical thinking by presenting arguments, viewing them from every angle and providing grounds or evidence for each viewpoint. Every effort was made to consider the subject using the open minded method described by Francis Bacon:

“Critical thinking is a] desire to seek, patience to doubt, fondness to meditate, slowness to assert, readiness to consider, carefulness to dispose and set in order; and hatred for every kind of imposture.”



Bernie Moran doesn't treat clients as equals. They are equal. No treatment required. Calling them clients appears unnecessary where a first name can be used. Those who need a more formal label to create a greater distance are, in her view, in the wrong job. She was born and reared in rural Ireland where active citizenship was part of everyday life rather than an optional extra. An interest in people and equality led to work in Canada with Native American teenagers. She was a founder member of the Huntington's Disease Association of Ireland and part of an international network of similar lay groups. She left the 'charity industry' as it became too distant from its role of empowering the disadvantaged and moved to representing them often without their knowledge and directed by commercial needs. She works in Ireland as an Employee Assistance Provider.

REFERENCES

- Bergin, E (1994) *Stress and how to deal with it*. SDB Media Ireland
 Bradshaw, J (1993) *The family* Health Communications Florida USA
 Didion, J 2006 *The year of magical thinking*. Harper London
 Gladwell, M (2000) *Tipping point* Abacus London
 Hersh, S (2004) *Chain of Command* Harper Collins UK
 McKay, S. (1998) *Sophia's Story* Gill and McMillan Dublin
 Mnisi, M *Evaluation of EAP Pretoria* UPETD Pretoria
 Moffitt, M (2007) *A servant to the service 1927-2007* PSFS Dublin.
 NUI Galway 2003 *Individual Help* BA Educ. and training OLC NUI Galway
 NUI Galway 2007 *Critical Thinking* BA Educ. and training OLC NUI Galway
 www.courts.ie Dr Carol Coulter's report on Domestic Violence in Ireland.
 www.criticalthinking.org Francis Bacon Quote
 http://www.cseas.gov.ie/publications/annual-reports
 Annual report of the Employee Assistance Service
 http://www.cbsnews.com/stories/2004/09/13/earlyshow/leisure/books/main643225.shtml Seymour Hersh Chain of command.
 www.raymondallis.com Raymond Tallis, GP, Professor of gerontology, poet and playwright.
 www.womensaid.ie
 http://upetd.up.ac.za/this Pretoria report by Mnisi

This article originally appeared in *Éisteach*, journal of The Irish Association for Counselling and Psychotherapy, in December 2010