

Why Bother with Ethics?

'To err is human.'

—Alexander Pope



CHAPTER OBJECTIVES

- To introduce the reader to what is expected of a psychologist with regard to the Australian Psychological Society's (APS) Code of Ethics
- To provide insight into the general perception of psychologists in the media and how the public perceive the psychologist
- To understand the necessity of a professional body having a code of ethics

KEY TERMS

APS Code of Ethics

Beneficence (benefit)

Confidentiality

Decision assistance model

Ethics

Non-maleficence

Practitioner

Introduction

So, why do we bother with **ethics**? The notion of acceptable or good human conduct has been around as long as we have, and the great Greek philosophers such as Plato spent much time pondering how humans ought to behave in situations that require moral consideration. Plato supposed that humans could not be trusted to act ethically if they thought they could get away with it, which is emphasised in his story of the Ring of Gyges (Plato 1955). We do not have the space to delve much into the basis of philosophical ethics; suffice it to say that over a long time it has generally been agreed that we need to create ethical codes in order to dictate how we ought to act in any given situation. This is the basis of the Australian Psychological Society's 2007 Code of Ethics (hereafter referred to as 'the Code') and any other profession's ethical code, such as that of medics and the influence that Hippocrates still has over that particular profession.

Ethics: The study of moral principles that govern or should govern behaviour. At an individual level, it relates to a person's principles, possibly unformulated, that underlie his or her conduct.

The statement that 'to err is human' by Alexander Pope seems to neatly sum up the reason a Code of Ethics is required in any profession but especially in that of psychology. People make mistakes, and those working in the fast-paced world of providing psychology services are no exception. For reasons of client and practitioner safety, some uniformity is required as to what constitutes good practice. When this is provided, the client has an understanding of what appropriate practice is, and the **practitioner** is able to base her interventions on the minimum standards set out by fellow practitioners. An understanding of what one ought to do when various circumstances arise (obscure or otherwise) should be gained through an ethical code. For the purposes of this book we will be considering how best to interpret and understand the Code, which is also included in a convenient annotated form as the appendices to this book.

Practitioner: A person who practises in his or her respective fields. A psychologist who practises psychology would be regarded as a practitioner.

This book is split into 12 chapters and will provide you with a discussion of the various aspects of the Code. As psychologists, we all must abide by the Code in order to gain and maintain our registration, so knowledge of the Code is a fundamental aspect of professional development and practice. Each chapter will cover individual topics and the learning will mainly take place through interpretation of the Code through case studies.

General perception of psychologists

Psychology as a profession can be regarded in many different ways. Some may regard it as being intriguing and sexy, and we are sure that many of you are hoping that Ryan Gosling gets a psychologist's movie role pretty soon. Others may see the psychologist as a dark, secretive person who has just as many problems as his clients. Young (2012) indicates that the portrayal of the psychologist in the media has not put the profession in a good light, especially from an ethical standpoint. Young suggests that before 1950 psychologists and psychiatrists were portrayed as ridiculous, silly characters, such as in the eponymous Dr Dippy's Asylum, while from the 1950s onward there has been an increase in scepticism about the discipline

of psychology, meaning that many characterisations are negative. However, one thing you can rely on with psych-type characters is that they will be interesting—usually flawed but definitely worth knowing. After all, many people want to be psychologists (like most of you), so clearly the negative stereotypes do not put too many people off the profession.

Since changing his title from lecturer in psychology to lecturer in education, Chris Boyle noticed an interesting shift in people's perceptions of him. In the case of the former, people were interested in the job, asking the usual question 'can you read my mind?', promptly answered with 'only if you are open to it'. In contrast, when Chris changed roles for a while and asked what he taught in his role as 'lecturer in education' he was often met with stony silence. Suddenly nobody was interested. Being associated with psychology in some form makes most people notice you. That carries some responsibility to ensure that the 'movie psychologist' in its negative guise is not portrayed in real-life psychology, which you will soon be involved in, if you are not already. Chris has now changed back to 'lecturer in psychology' so that people will be interested in talking to him again. Nicholas, on the other hand, is a big, bearded psychologist—the most socially isolated type of psychologist; people are scared of him on many levels.

Pirkis and associates (2006) found that the common portrayal of mental illness on TV and cinema is generally negative. This is similar for psychologists and psychiatrists, where there are myriad jokes about 'the couch' and 'your childhood'. And, of course, it would suggest something if I didn't mention 'my mother'!

According to Schneider (1987), since 1906 there have been three categories of psychologists in the movies. First was Dr Dippy, generally a bizarre or zany professional portrayed as having more problems than his patients. Second, there was Dr Evil, the sort of person who would gain control over the client and get them to do 'bad things'—maybe through hypnosis; Hanibal Lecter from *Silence of the Lambs* would fit into this category and probably you would not want him as your psychiatrist. Third, Schneider suggests Dr Wonderful, who is 'especially skillful at improvisation, comes up with the appropriate, if often unorthodox, maneuver or interpretation at just the right time' (p. 997). Others have suggested another couple of new titles that have evolved such as that of Dr Linecross and Dr Rigid (reported in Sleek 1998), but we will let you figure those ones out yourself.

In 2005 a study quantitatively reported on how movies made in the USA portrayed the psychologist/psychiatrist/counsellor/therapist type of role. Gharaibeh's (2005) main findings from his analysis of 106 movies with 120 therapists were as follows:

- 71.2% of the therapists were males;
- 50.8% were middle aged (regardless of sex);
- 44.9% of roles included at least one ethical violation;
- 47.5% were portrayed as clinically incompetent;
- 23.7% of therapists violated sexual boundaries; and
- 30.5% violate other ethical boundaries. (p. 317)

When you consider these findings it is a wonder that anyone would voluntarily speak with a psychologist. However, and on a positive note, Gharaibeh states that 'one bright point in the stereotyped depictions of the psychiatrist/therapist is that they appeared as friendly 63.6% of the time' (p. 318). A friend in need is a psychologist indeed!

We have understood from this section that psychologists can be portrayed quite negatively in the media, and this seems quite pronounced in some movies where a wayward psychologist clearly makes a good character. The many positives of the services provided by

Confidentiality: In a therapeutic relationship between psychologist and client, certain details are protected and should remain confidential between the parties.

psychologists are not reported in the media, mostly for reasons of **confidentiality**, as is the case for other professions which receive a negative media portrayal, for example social workers. Strict ethical codes exist in our profession to prevent many of the breaches that are perceived to occur quite often. We should remember that in Australia the instances of psychologists breaching the Code and going before the Psychology Board of Australia (PsyBA) are very rare.

The APS Code of Ethics¹

For psychologists to practise in Australia, they must be registered with the national regulatory body, the Australian Health Practitioners Regulation Agency (AHPRA), which has adopted the

APS Code of Ethics: The overarching document that puts forward the minimum acceptable ethical standards for psychological practice. It provides guidance for psychologists and demonstrates to the public the required standards that psychologists should adhere to.

APS Code of Ethics. The general purpose of any professional ethical code is to offer a uniform guide to good practice, which covers appropriate conduct in various general situations. It aims to outline what a practitioner should endeavour to do in any given situation; it is aspirational but not fixed and must be interpreted depending on the particular event or situation faced by the practitioner. No ethical code can ever be expected to cover all eventualities or apply to all situations, and in the case of the APS it is also designed to be the minimum standard required from practitioners (Allan 2011). The Code is split into three sections, which cover the three general principles of Respect, Propriety and Integrity.

General Principle A: Respect for the rights and dignity of people and peoples (APS 2007, p. 11)

- Psychologists regard people as intrinsically valuable and respect their rights, including the right to autonomy and justice. Psychologists engage in conduct that promotes equity and the protection of people's human rights, legal rights, and moral rights. They respect the dignity of all people and peoples.

General Principle B: Propriety (APS 2007, p. 18)

- Psychologists ensure that they are competent to deliver their psychological services. They provide psychological services to benefit, not to harm. Psychologists seek to protect the interests of the people and peoples with whom they work. The welfare of clients and the public, and the standing of the profession, take precedence over a psychologist's self-interest.

General Principle C: Integrity (APS 2007, p. 23)

- Psychologists recognise that their knowledge of the discipline of psychology, their professional standing, and the information they gather place them in a position of power and trust. They exercise their power appropriately and honour this position

¹ This section uses material from Boyle 2014.

of trust. Psychologists keep faith with the nature and intentions of their professional relationships. They act with probity and honesty in their conduct.

The Code expects psychologists to behave in such a way that there is both **beneficence** (benefit) and **non-maleficence** (no harm) for the client. It is the optimum position where psychologists aspire to practise with the best of intentions. The Code assists in providing benchmarks and a guide to what is regarded as good practice. Of course, it should not be used as a guide that includes all that should or should not be done. Fronek and colleagues (2009, p. 18) state this well when they suggest that ‘codes [that] provide a framework for discipline specific practice...do not necessarily provide clear cut answers with consistency within and across disciplines’. The Code promotes a general consensus within the profession of what is considered appropriate behaviour in professional situations. It would be folly, in a professional setting, to expect a ‘list’ of what is good practice—no list of eventualities could be expected to cover the myriad scenarios that our profession can throw up.

Complementing the Code, psychologists also have Ethical Guidelines, which are intended to supplement and clarify the more technical legal language that is used in the Code. The APS Guidelines (APS 2012)² have 23 separate sections, listed by their separate titles in the reference lists for the various chapters, such as:

- Guidelines on confidentiality
- Guidelines on the prohibition of sexual relationships with clients
- Guidelines on supervision.

This is more in line with providing a guide through foreseeable ethical difficulties so that the practitioner is able to be proactive in avoiding issues that may become ethically problematic. As with any ethical standards and codes of conduct for professionals, it seems that the question of whether you acted ethically or not may only arise if a complaint or challenge is made against your professional practice. At that point you must be able to show that you have behaved within the stipulated and accepted protocols of that registered profession. Contemporary society can be somewhat litigious, so bearing in mind that your practice can be challenged legally and/or professionally should ensure that practitioners take cognisance of their respective ethical codes and guidelines.

The chances are, of course, that you will never have to justify your psychological approach to an ethics board, but if you are challenged you must be able to demonstrate that you have followed the general principles set out in the Code. It goes without saying that in order to avert any difficulties you should be working with clients while being aware that your practice could be called into question at any point. Your good practice should be appropriately documented so that a third party could also interpret it in this way.

Beneficence: The default ethical position for practising psychologists is that whatever treatment and/or service is offered, the client should receive some benefit from that interaction.

Non-maleficence: One of the cornerstones of good ethical practice, in that whatever the intervention or service offered, no harm should come to the client.

² Even though this is the latest published set of guidelines, the APS will also publish updated versions of individual sections of the guidelines, without necessarily updating the ‘paper’ copy.

Ethics, the law and morality

This section will briefly consider the three areas of proper conduct that permeate our personal and professional life. A wise professor once told me that in professional psychology it is not worth trying to pull apart the differences between morals and ethics—I was advised to leave that to the philosophers. This is probably good advice and I will partially adhere to it because at the level of aspiring or practising psychologists the differences are subtle and in some ways pedantic for our purposes. In saying that, there are definitions that would acceptably represent the differences between ethics, the law and morality.

According to Corey and colleagues (2011, p. 12), 'morality is concerned with perspectives of right and proper conduct and involves an evaluation of actions on the basis of some broader cultural context or religious standard'. We can see from this definition that there is a separation from the professional context and that it concerns a person's own beliefs and values; that is, how they tend to act based on their internal code of conduct or morality-influenced belief system. It could be argued that we all have access to this and that we all exert it, but it is clear that there are societal and personal differences in what constitutes a personal belief system.

In the case of the law, this is the method by which we are statutorily obligated to behave, and it is founded on a basic standard. If one does not adhere to this (usually reasonably clear) standard the state can intervene to ensure that the basic standards of behaviour or conduct are maintained for the good of society at large.

Ethics, certainly in a professional context, differs from law and morality in that it is a set of standards enforced by a professional body (whether they be representing psychologists, teachers, or real estate agents). In essence an ethical code is created to ensure, as far as reasonably possible, that there is a high standard of conduct upheld by the practitioner, which would reflect well on the profession as a whole. The other side is to ensure that members of the public, who are not expected to be qualified in the profession, are able to access the standards to which the psychologist should be adhering. While a lay person may not be aware of the intricacies of a particular therapy or other aspect of a psychologist's work, they may be reassured that there is a procedure in place to ensure that these ethical standards are 'policed' if a complaint is made.

Of course, there are situations in which overlap occurs between ethical, moral and legal standards, and we will briefly discuss some examples here. But these are just a selection of the possibilities and should be used only as a guide to potential issues.

Immorality v unethical scenario: *A client you are working with has difficulties in being able to pay your fees but you still charge.* While there may well be moral issues about whether charging fees to a client who has less means to pay could be regarded as immoral, there is nothing in the Code to suggest that it is unethical practice. It should also be noted that in the *Guidelines Regarding Financial Dealing and Fair Trading*, 'psychologists are reminded that in situations where one of their clients has unpaid accounts, their ethical obligations to the client remain unchanged' (APS 2008, p. 35).

Illegal v moral scenario: *You refuse to provide confidential client information to a court, after being subpoenaed to do so, because you feel that the client disclosed certain personal information thinking that this would remain confidential between you and him.* This is a breach of the law and the consequences can be severe, but from a moral point of view this approach may be acceptable since the client's best interests are central to your decision. However, the Code requires reputable behaviour and not adhering to the law could, in strict circumstances, result in a breach. Standard B.12.d of the Code states that to be considered competent we should comply with the law. Also, under standard C.1.2 reputable behaviour is required: 'psychologists avoid engaging in disreputable conduct that reflects negatively on the profession or discipline of psychology'. In the profession of journalism a refusal to provide the source of information is regarded as being very ethical (some would say brave), even if it results in legal sanctions being taken against that journalist.

Legal v unethical scenario: *As a psychologist you decide to embark on a sexual relationship with your 30-year-old client while you are still providing a therapeutic service.* This is clearly unethical practice which, one would envisage, should carry a severe sanction by the ethical board. In the Code under 'Non-Exploitation' (C.4) and in standard C.4.3.a, 'psychologists do not engage in sexual activity with a *client* or anybody closely related to one of their *clients*'. In Australia there is nothing illegal about this scenario, although in some states in the USA it *is* illegal (for specific details see Koocher & Keith-Spiegel 2008). There are also obligations to the psychologist under mandatory notifications, which will be discussed in more detail in Chapter 12.

The important thing to remember with all such scenarios is that these circumstances can occur, in various guises and using a **decision assistance model**, to ensure a robust ethical standpoint. The Decision Assistance Model for Australian Psychologists is the focus of Chapter 2. In the following section we highlight a case study that describes a scenario where ethics and the law overlap.

Decision assistance model:

A model whose purpose is to help a psychologist systematically consider all aspects of an issue before deciding on an outcome which is both ethical and focused on client welfare.

An ethical code in practice

In several professions, ethical codes in various levels of detail have been around for many years. As mentioned earlier, it would not be possible to create a list of how to act in any given situation, so we try to act in an ethical manner according to the Code's general principles. The fictitious scenario of Dr Bright gives a situation where the law and ethics collide, but keep in mind the term 'non-maleficence', which means that the psychologist should not do anything that would harm the client. This case study and the subsequent discussion of the real-life Tarasoff case gives an insight into what is involved in trying to protect the public, the client, and of course, you as the psychologist.



CASE STUDY 1.1

Dr Anna Bright worked as a psychologist on the campus of East Melbourne New University. Dr Bright had just started providing psychological services to Francis, a young male medical student, when she became alarmed at the suggested threats of physical violence that he made against a female student at the university. He seemed to be very clear about the harm he intended to cause to this student. Even though Francis had not named the other student, she was clearly identifiable because he had given details about where she lived, what course she studied, and that they had got to know each other. In further discussion, Dr Bright ascertained that the female student had spurned his romantic advances, which had been the reason for Francis's anger. Dr Bright decided that it was necessary to break confidentiality and duly informed the supervising psychiatrist, Dr Smooth, of her concerns. Dr Smooth agreed with Dr Bright and the campus police were informed and detained Francis.

Afterwards the police interviewed Francis and decided that there was no serious threat and released him. Two months later he murdered the female student about which the original threats were made.

The points to consider from this case are whether there were grounds to breach confidentiality and whether the psychologist, in trying to protect the third party from harm, did enough.

The Tarasoff case and the implications for breaching confidentiality

As you will notice throughout this book, we use case studies to illustrate ethical dilemmas and how the Code can be applied to these cases. Some of these case studies are based on actual events, while others were a convenient excuse for us to practise our creative writing skills. Whether they are the latter or the former they will be directly relevant to the topic in hand. Case Study 1.1 is not as clear-cut as it seems and, as you will soon discover when we look at professional ethics, not all events can be clearly assigned to the 'right' or 'wrong' category. Considering the case it would seem, *prima facie*, that Dr Bright had taken reasonable precautions and acted ethically in breaching the agreement of confidentiality between client and psychologist. Since the student did end up being murdered, could Dr Bright have done anything more than speak to her supervisor and inform the police?

First of all, let us consider Ethical Principle A, Respect for the rights and dignity of people and peoples, and standard A.5 on confidentiality from the Code, which would refer to this situation.

APS Code A.5.2

A.5.2. *Psychologists* disclose confidential information obtained in the course of their provision of *psychological services* only under one or more of the following circumstances:

- a) With the consent of the relevant *client* or a person with legal authority to act on behalf of the client;
 - b) Where there is a legal obligation to do so;
 - c) If there is an immediate and specified risk of harm to an identifiable person or persons that can be averted only by disclosing information; or
 - d) When consulting colleagues, or in the course of supervision or professional training, provided the *psychologist*:
 - (i) Conceals the identity of *clients* and *associated parties* involved; or
 - (ii) Obtains the *client's* consent, and gives prior notice to the recipients of the information that they are required to preserve the client's privacy, and obtains an undertaking from the recipients of the information that they will preserve the *client's* privacy.
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The scenario in Case Study 1.1 was based on an infamous case which actually took place in California (*Tarasoff v. Regents of the University of California, 1976*) where student Prosenjit Poddar murdered fellow student Tatiana Tarasoff in 1969. This has become one of the most notorious cases regarding the duty to disclose information to a third party. We will not go into the *Tarasoff* case in depth but good summaries are contained in Corey and colleagues (2011) and Fisher (2013). The following paragraphs are a summary based on the official court documents and various reports of those findings.

Poddar had been receiving help from the campus psychologist when, in (what turned out to be) his final session, he disclosed that he wanted to kill another student on the campus. The student was not named but was clearly identifiable as Tatiana Tarasoff. The case psychologist had enough concern to report it to his supervisor and both agreed that Poddar should be forcibly detained and evaluated because of his wayward state of mind. Because of their concerns the police were informed and they subsequently arrested and detained Poddar. The police later released him because they did not believe he was a threat to anyone in the community, and specifically not to Tarasoff.

The court papers (*Tarasoff v. Regents of the University of California, 1976*) report that only two months later Poddar carried out his threat and killed Tarasoff. From an ethical point of view one would think that the psychologist would be vindicated and exonerated from any blame as he had attempted to warn the appropriate authorities and received advice from a more senior supervisor. This case has become a popular discussion topic in university ethics classes around the world. The Tarasoff family successfully sued the university and ultimately the psychologist for damages because of the perceived negligence with regard to their duty of care to the students. The salient point was that nobody warned Tatiana Tarasoff about the threats made against her life; nobody had informed her that precautions were necessary.

If we return to the scenario in Case Study 1.1, Dr Anna Bright would have followed the Code, which specifically lists 'If there is an immediate and specified risk of harm to an identifiable person or persons that can be averted only by disclosing information'. What did Dr Bright or the psychologist in the *Tarasoff* case do 'wrong'? We would argue that there was not much that they did wrong if you consider the Code and the actions of the psychologist and supervisor. The salient point is that the professionals in either case did not warn the third party about the potential danger, which was clearly regarded as serious. From an ethical point of view you should be aware that merely passing on information to an appropriate other professional (e.g. police or social services) does not necessarily mean that you have completed your duties, although this has not been tested in the Australian legal system. It may be more diligent to remain as the chief professional responsible for ensuring the information is eventually passed on to the third party whom you believed was originally in danger. Of course these situations are not common, but cognisance must be taken of any preventable dangers that you come across in your practice. Chapter 3 on confidentiality deals in more detail with keeping and releasing information. Chapter 8 covers, in some detail, the issue of clients who pose a threat to others.

CHAPTER SUMMARY

This chapter has given a general introduction to the APS Code of Ethics and highlighted the three main General Principles: (a) Respect for the rights and dignity of people and peoples, (b) Propriety, and (c) Integrity. We have given some scenarios of where some aspects of the law, of morals, and of ethics can become fuzzy. These examples should not be regarded as finite or definite. As you will discover as you go through this book, many aspects of the Code discuss particular behaviours but they will not cover all possible events, nor should this be expected. The following chapters are designed to help you decide, when you are faced with a scenario, what would be an ethically acceptable response. As a psychologist you will be expected to use the Code, exercise your professional judgment, and seek advice from your supervisor in order to interpret situations appropriately. In Chapter 2, an ethical decision-making model is presented and discussed in some detail. This model was designed to provide a more robust method of understanding the potential scenario and acting in an appropriate and ethical way.

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