

Guidelines on the proscription of sexual relationships with clients

The *Code of Ethics* (1997) of the Australian Psychological Society includes Sections that specify restrictions on the types of non-professional relationships that psychologists may have with current and former clients. In drawing up these Guidelines, it was noted that psychiatrists in Australia are prohibited from having sexual relations with any clients, regardless of time elapsed since termination of the professional relationship. These Guidelines, developed for psychologists, proscribe sexual relations with current and former clients but take into account the diverse nature of professional relationships that psychologists may have with clients, and the broad definition of client provided in the *Code of Ethics* (the *Code*).

Two Clauses of Section B 'Relationships with Clients' are pertinent:

B7: Psychologists must avoid dual relationships that could impair their professional judgement or increase the risk of exploitation. Examples of such dual relationships include, but are not limited to, provision of psychological services to employees, students, supervisees, close friends or relatives.

B8: Psychologists must not exploit their professional relationships with clients sexually or otherwise.

In the case of sexual relationships, the restriction on psychologists engaging in sexual relationships with clients (Clause B8, and see below Clauses B9 to B12) is part of the broader restriction on psychologists engaging in dual relationships with clients (B7). There are also relevant specific issues related to psychologist-client physical contact (see *Guidelines relating to procedures/assessments that involve psychologist-client physical contact*) and broader issues related to boundaries in professional relationships (see *Guidelines on managing professional boundaries and multiple relationships*).

Sexual relationships are not just relationships involving sexual intercourse but are construed more broadly.

The restrictions on sexual relationships with current and former clients (as defined below) are set out in the *Code*, Section B 'Relationships with Clients':

B9: Sexual relationships between psychologists and current clients must not occur. When a therapeutic procedure entails some level of physical intimacy with a client, informed written consent must be obtained from the client or the client's legal guardian prior to the introduction of that procedure.

B10: No psychologist may engage in a sexual relationship with a former client when less than two years have expired since the ending or termination of the professional relationship.

B11: In circumstances where more than two years have elapsed since the ending or termination of the professional relationship between psychologist and former client, in determining whether a sexual relationship between psychologist and former client is unethical, the following matters will be taken into consideration:

- a) the length of the professional relationship;*
- b) the nature of the professional relationship;*
- c) the client's mental state at the time he or she commenced the sexual relationship with the psychologist;*
- d) the circumstances in which the professional relationship ended or was terminated;*
- e) the duration of time that has expired since the ending of the professional relationship.*

Additionally, any other salient matters may be taken into consideration when evaluating the conduct of a psychologist who has engaged in a sexual relationship with a former client.

B12: Where it has been established that a sexual relationship existed between a psychologist and a former client after the expiry of 24 months from the ending or termination of professional relationship, the onus shall be on the psychologist to establish that the client was not vulnerable to exploitation as a consequence of the prior professional relationship.

A psychologist who is found to have engaged in a sexual relationship with a client or former client may be liable for a range of sanctions including expulsion from the Society. Psychologists should also note that Psychologists Registration Boards in Australia have de-registered psychologists for engaging in sexual relations with clients, and malpractice litigation has successfully occurred against mental health professionals who have engaged in similar behaviour.

Rationale for the prohibition

The prohibition on psychologists engaging in sexual relations with current or former clients is based on five factors:

1. Clients may be vulnerable to exploitation in the context of the therapeutic, teaching, consulting and supervisory relationship. Hence, particular safeguards - such as the prohibition on sexual relationships - are required to protect clients.
2. Clients who engage in sexual relationships with therapists are frequently adversely affected by the experience.
3. The personal involvement of psychologists with clients impairs the provision of professional services to the client.
4. Sexual relationships with clients are not a legitimate part of therapy and can never constitute an appropriate therapeutic intervention or any other service. Hence, there can never be a legitimate professional reason for sexual involvement with a client.
5. Relations with former clients may be exploitative given the previous power differential inherent in the professional relationship of psychologist and client.

Clients sometimes develop intense feelings of affection for their psychologist and vice versa and these feelings may or may not be welcomed by the other party. This phenomenon is described within the psychoanalytic framework by the concepts of transference and counter transference. There are many psychologists who would acknowledge the existence of the phenomenon without accepting this explanation of its underpinnings. However, it is the responsibility of the psychologist as the professional to recognise the boundaries. Recognising the possible existence of intense emotions between clients and psychologists is essential if proper management of the relationship is to be maintained.

Common questions answered

1. Who is the client?

The *Code of Ethics* defines 'client' as the recipient of psychological services. The term may subsume patients, students, research participants, supervisees, other direct recipients, other professionals, referral agencies or organisations. Psychologists should be mindful that the person they see in their consulting room or office may not be the only party with whom they have a relationship and to whom they have responsibilities.

2. Does the prohibition apply to all clients?

Some have argued that the prohibition on psychologists engaging in sexual relationships with clients really only has merit and application for clients who have been in long-term therapy or counselling, where intimate issues have been canvassed and a strong relationship developed between the client and psychologist. However, it is the view of the Australian Psychological Society that psychologists must not engage in sexual relationships with any of their clients, irrespective of the duration and intensity of the professional relationship.

3. What is a professional relationship?

While the *Code of Ethics* provides a definition of 'client', a professional relationship exists when there is a contract to provide a psychological service. In the case of an individual person, the contract is with that person; in the case of an organisation, then the individual may or may not be the direct client. That is, the nature of the professional relationship with an individual within an organisation may be neither contractual nor direct. Thus, any subsequent sexual relationship may or may not be proscribed. However, the onus still rests with the psychologist to demonstrate that the nature of the professional relationship that exists or existed is not compromised.

4. Former clients

Psychologists are absolutely prohibited from engaging in sexual relationships with current clients. In relation to former clients, psychologists are prohibited from engaging in sexual relationships for a period of two years after the professional relationship ends or is terminated. Note that any psychologist who engages in a sexual relationship with a former client after the expiry of this time may be judged to have behaved unethically if such action exploited the former client. Clauses B11 and B12 of the *Code*, reproduced above, elaborate on this issue.

5. Does ending the professional relationship escape the prohibition?

Not necessarily. As previously noted, the prohibition on psychologists engaging in sexual relations with clients applies to

former clients for at least two years after the professional relationship has ended or been terminated. After this period of time, the onus would be on the psychologist to demonstrate that his/her conduct was not exploitative of a former client.

6. Sexual relationships are dual or multiple relationships

The prohibition on psychologists engaging in sexual relationships with clients is part of a broader prohibition on psychologists' exploitation of their professional relationships with clients and of a restriction on psychologists engaging in dual or multiple relationships with clients where professional judgement could be impaired.

References

Australian Psychological Society (1997). *Code of Ethics*. Melbourne.

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