

Public consultation

June 2023

Consultation on a code of conduct for psychologists

The Psychology Board of Australia (the Board) is releasing this public consultation paper for feedback on a draft code of conduct for psychologists.

Providing feedback

You can provide brief feedback by completing the [online submission form](#).

Alternatively, if you wish to provide detailed feedback, please complete the submission template at **Attachment F** and email us at psychconsultation@ahpra.gov.au.

The forms are based on the 'Questions for consideration' that are listed on Page 10 of this consultation paper. You will need to provide your feedback to us by close of business **Monday 14 August 2023**.

Publication of submissions

We publish the submissions received during consultation at our discretion. We generally publish submissions on our websites to encourage discussion and inform the community and stakeholders. Please advise us if you do not want your submission published.

We will not place on our websites, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the subject of the consultation. Before publication, we may remove personally identifying information from submissions, including contact details.

We can accept submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include personal experiences or other sensitive information. Any request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act 1982* (Cth), which has provisions designed to protect personal information and information given in confidence. Please let us know if you do not want us to publish your submission or want us to treat all, or part of it, as confidential.

Published submissions will include the names of the individuals and/or the organisations that made the submission unless confidentiality is requested.

Next steps

After public consultation closes, we will review and consider all feedback from this consultation before making decisions about the proposed code of conduct, supporting resources and any plans for implementation.

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Consultation paper

Overview

1. The Psychology Board of Australia (the Board) is one of 15 national health practitioner boards established under the National Registration and Accreditation Scheme ([the National Scheme](#)). All national health practitioner boards must set national standards of practice for the registration of individual health practitioners.
2. We work in partnership with the [Australian Health Practitioner Regulation Agency](#) (Ahpra) to regulate psychologists for the protection of public health and safety. As part of our regulatory functions, we ensure that only psychologists meeting minimum standards are registered.
3. We regularly review our standards, codes and guidelines to make sure they remain relevant, contemporary and effective. Since the start of the National Scheme in 2010, the Board has endorsed the Australian Psychological Society *Code of ethics* (the APS code) as its regulatory code of conduct for all registered psychologists in Australia.
4. In 2019, we decided to begin work on developing a Board-authored code of conduct. This paper sets out the reasons we are proposing a change to our regulatory code of conduct and how you can provide your feedback on our draft code. We are committed to engaging with psychologists, members of the public and our stakeholders to inform our final decision.

Background

What is a regulatory code?

5. A regulatory code specifies the standards of professional conduct the Board expects from registered psychologists. The standards set by a code of conduct represent the core requirements of safe and effective professional practice.
6. Where there are concerns about a psychologist practising the profession, the code of conduct is used to evaluate whether they have practised below the standard expected and if any regulatory action is necessary to protect the public from harm.
7. A code of conduct is also an important document for members of the public to help them understand what behaviours they can expect from a psychologist and identify when they are not receiving safe and effective psychological services according to professional standards.
8. A fundamental purpose of a code of conduct is to provide guidance to registered psychologists. It is important that the profession has a clear understanding of the Board's expectations of professional conduct so that individual psychologists are supported to engage in safe and effective practice. It can enhance the culture of professionalism by setting consistent and evidence-based standards for use in the education, training and supervision of developing psychologists. In the context of continuing professional development and peer consultation, the code of conduct is a useful resource to guide discussions about ethics and exercising professional judgement.

The Board's current code

9. At the start of the National Scheme, the Board decided to endorse the APS code (2007) as the code of conduct and ethics for the profession. We were mindful of the significant changes for the profession moving from state-based to national regulation under the National Scheme. The APS code was well-known and understood within the profession, as it had been embedded in psychological practice in Australia for decades. To reduce the disruption to psychologists who were transitioning to the National Scheme, we decided that adopting the APS code would be fit for purpose.
10. Three years into the transition, the Board carried out a review of its code of conduct in 2013. We considered the option of implementing the shared *Code of conduct* (the shared code) used by most other regulated professions in the National Scheme, but found our initial rationale for continued endorsement of

the APS code was still appropriate at the time. Our proposal in 2013 indicated that, in line with our initial intention in 2010, we would consider developing our own code of conduct in a future review.

11. In 2018, we started our scheduled review of the code of conduct for the profession and whether the Board should continue endorsing the APS code (2007).
12. To ensure that we were able to fulfil our obligations and core regulatory functions under the National Law, we had to acknowledge that we did not hold ultimate decision-making authority on the content of the APS *Code of ethics*.¹ The proposal to develop a Board-authored code of conduct for the profession would help us to improve governance and accountability in setting professional standards.
13. After exploring the feasibility and scoping of works involved in developing our own code, we decided it was the right time to begin work on a [Board-authored code of conduct](#).

Recent developments in regulation

14. There have been several important regulatory changes which the Board will need to take into account in this review of the code.
15. In October 2022, the *Health Practitioner Regulation National Law Amendment and Other Legislation Amendment Act 2022* enshrined cultural safety for Aboriginal and Torres Strait Islander Peoples by introducing a new objective and guiding principle to the National Law. The Aboriginal and Torres Strait Islander Health Strategy Group (the strategy group) is driving a large [program of work](#) across the National Scheme, including a key commitment to ensure a culturally safe health workforce is supported by nationally consistent standards, codes and guidelines across all professions in the National Scheme.
16. The Board is now the only profession in the National Scheme that does not explicitly address the health and safety of Aboriginal and Torres Strait Islander Peoples in its code. As a result, we are not currently meeting the commitments we made when endorsing this program of work and it is critical that we progress this review in a timely manner.
17. Secondly, we are currently developing revised general registration competencies as part of our education training reform program. The revised competencies will be foundational to safe and effective psychological practice. The review of the code will need to ensure these two important documents reinforce each other in terms of content and implementation.
18. Thirdly, the shared code, which is used by most other professions in the National Scheme had been reviewed, revised and implemented in June 2022. The development of the shared code (2022) was informed by extensive research, international benchmarking, wide-ranging consultation and user-testing. As there are shared principles for professional conduct with other health practitioners in the National Scheme, this review would benefit from the detailed research and evidence-based recommendations advanced by the shared code. You can read the [public consultation on the review of the shared Code of conduct](#) for further details on its development.

Development of our code of conduct

Research and discovery

19. Our project started with a research phase, where we reviewed multiple and wide-ranging resources to inform development of our code of conduct, including:
 - tribunal/court outcomes
 - coronial recommendations
 - Ahpra regulatory data

¹ The Health Practitioner Regulation National Law, as in force in each state and territory (the National Law).

- published literature, and
 - the codes of conduct of other professions and jurisdictions.
20. Our collaboration with other valuable stakeholders in the National Scheme meant that we remained well informed about developments in health practitioner regulation. We identified gaps in the current code that would leave the profession behind, as other stakeholders adapted to changes in the law, public expectations and emerging regulatory risks.
 21. In reviewing the principles and evidence that underpinned the development of the shared code, we preferred the structure of clear standard statements followed by practical guidance on how to engage in effective practice.
 22. The Board formed an expert advisory group (the expert group) to provide profession-specific and technical advice on the development of the code. We appointed individuals with regulatory, legal and ethics experience, and ensured that the group included expertise in psychological practice with Aboriginal and Torres Strait Islander clients and communities.

Drafting and refining the proposed code of conduct

23. We decided to use the shared code as starting point for development of our draft code of conduct (the draft code) and at the same time, were mindful to tailor the content to reflect the unique profession-specific context of psychological practice. Our draft code needed to be appropriate for all psychologists practising in a wide range of settings, including direct and indirect client care, management, administration, accreditation, policy, regulation, research and teaching, and across a diversity of contexts in public and private sectors.
24. The expert group carried out in-depth analyses, discussed various formulations of draft provisions and incorporated feedback from stakeholders. The group also considered the best approach to addressing the recent developments in health practitioner regulation.
25. There was a particular focus on tailoring the draft code to be relevant across the diversity of psychological practice settings. **Attachment C** provides some examples and explanations of modifications to provisions of the shared code to demonstrate our approach to drafting.
26. We completed a mapping exercise which compared the APS code (2007) to our draft code. Each standard from the APS code was linked, where possible, to relevant sub-sections of the proposed draft code. A mapping table at **Attachment D** demonstrates the alignment between both codes on the standards of professional conduct.²
27. Ultimately, our proposed code of conduct maintains the current standards of practice that registered psychologists and the public are familiar with. It does not add new regulatory requirements, nor would it require psychologists to change their approach to complying with acceptable standards of professional conduct. It does, however, set out the core requirements for safe and effective psychological services clearly and specifically.

Regulatory user-testing

28. To find out whether the draft code will be fit for its regulatory purpose, we conducted comprehensive user-testing by substituting it in place of the APS code in about 40 test cases across both registration and notification (complaints) decisions. Regulatory staff from Ahpra and co-regulatory authorities, decision-

² Please note that the mapping table is not intended to be an exhaustive list of every sub-section in the draft Psychology Board code that may be relevant to a standard from the APS code, rather it is a guide to show how the two codes relate to each other.

making entities such as delegate bodies of the Board and co-regulatory authorities participated in the testing.³

29. Overall, there was very close regulatory alignment between the draft code and the APS code. The user-testing did not show any areas where they did not support action where a regulatory risk had been previously identified using the APS code.
30. User-testing outcomes reinforced that the Board's draft code was not setting higher or lower standards for practice, but instead was making the standards clearer to interpret and apply to decision-making. Users reported that it was easier to match concerns about psychological practice to the draft code and provided clear explanations for whether or not regulatory action was taken.

Preliminary consultation

31. We conducted our preliminary consultation on the proposed draft code in August 2022 with a targeted group of key stakeholders including regulatory stakeholders, professional associations, Aboriginal and Torres Strait Islander organisations, consumer advisory groups and profession-specific stakeholders.
32. The expert group considered this valuable feedback and provided the Board with recommendations on incorporating relevant changes to the draft code.
33. The draft Psychology Board of Australia code of conduct is found at **Attachment E** of this paper for your review and feedback.

Key updates addressed by the proposed code of conduct

Changes to language and structure

34. While our draft code and the APS code both describe standards of professional practice, they approach this differently. The APS code is based around general high-level principles, which are complemented by ethical guidelines. Our draft code takes a regulatory approach and organises each section around the expectations on professional conduct and behaviours which apply to every practice setting for individual psychologists.
35. Although the draft code is longer, as it describes behaviours that are required or prohibited in practice, the content is reorganised to follow a logical sequence and reduce duplication. This drafting approach aligns with the shared code to achieve greater consistency in public protection and draws on the best available evidence for development of a regulatory code of conduct.

Emphasis on cultural safety

36. The Board has committed to embedding cultural safety in the health system, in line with our new obligations to Aboriginal and Torres Strait Islander Peoples under the National Law. To fulfil our statutory duty, we are taking steps to ensure that all of our regulatory instruments are consistent with the National Scheme strategy to highlight cultural safety and respect as a prerequisite for the Australian health workforce.
37. Our draft code adopts the agreed definition of [cultural safety](#) and standards for health equity and elimination of racism for Aboriginal and Torres Strait Islander Peoples that is consistent with other health practitioner boards in the National Scheme. The provisions about Aboriginal and Torres Strait Islander health and cultural safety speaks to existing professional standards for psychologists to respect the rights and dignity of people.

³ A co-regulatory jurisdiction does not participate in the health, performance and conduct process provided by the National Law, but is involved in other parts of the National Scheme. New South Wales and Queensland are co-regulatory jurisdictions. Examples of co-regulatory authorities include the Psychology Council of New South Wales, the Health Professional Councils Authority and the Office of the Health Ombudsman (Queensland).

38. Consistent with other health practitioner boards in the National Scheme, our proposed code includes the expanded guidance on Aboriginal and Torres Strait Islander health and cultural safety. The proposed changes include more information about our expectations on respect for diverse cultures, beliefs, gender identities, sexualities and experiences of people and adopt practices that respect diversity, avoid bias, discrimination and racism.
39. Further, we also recognise the cultural and linguistic diversity in Australia through the provisions on respectful and culturally safe practice for all communities.

Professional boundaries provisions

40. The most noticeable difference in our draft code is the absence of what is commonly known as the ‘two-year rule’, addressed by Standard C.4.3 of the APS code on sexual activity with former clients.
41. The draft code proposes to remove this time-dependent prohibition on sexual relationships with former clients. Psychologists have a continuing obligation to maintain professional boundaries even after the professional relationship has ended. Depending on the extent of the professional relationship and the vulnerability of the client, a power imbalance may be enduring even two years after the professional relationship has ended.
42. The challenge with the two-year rule is the interpretation that sexual boundary violations occurring two years and one day after the end of a professional relationship is permitted. In consultation with our expert group, our view is that the existing period for the prohibition is an arbitrary measure.
43. We drafted the provisions to be consistent with contemporary treatment of professional boundaries matters by tribunals and courts, focusing on the core factors that amplify the power imbalance between the parties leading to risk of exploitation. Specifically, that the extent of the relationship and vulnerability of the client are most relevant, not the time since the professional relationship ended.
44. The following table compares the sexual boundaries provisions of both codes.

APS Code of ethics (2007) Standard C.4.3	Draft Psychology Board of Australia code of conduct Sub-section 4.8
(a) do not engage in sexual activity with a client or anybody who is closely related to one of their clients	(g) never establish or pursue a sexual, exploitative and other personal (including financial and commercial) or otherwise inappropriate relationship with a client or an associated party Note: Both codes establish the same requirements here.
(b) do not engage in sexual activity with a former client, or anybody who is closely related to one of their former clients, within two years after terminating the professional relationship with the former client	(h) recognise that sexual and other personal (including financial and commercial) relationships with people who have previously been your clients are mostly inappropriate, depending on factors including the extent of the professional relationship and the vulnerability of the client (i) recognise that sexual and other personal (including financial and commercial) relationships with associated parties are mostly inappropriate, depending on factors including the extent of the professional relationship and the vulnerability of such people

	<p>Note: The Board's draft code describes such relationships as mostly inappropriate. It does not use a timeframe like the APS 'two years' and notes the extent of the professional relationship and vulnerability of the client are significant.</p>
<p>(c) who wish to engage in sexual activity with former clients after a period of two years from the termination of the service, first explore with a senior psychologist the possibility that the former client may be vulnerable and at risk of exploitation, and encourage the former client to seek independent counselling on the matter; and</p>	<p>Not applicable in the Board's draft code.</p> <p>Note: The Board's draft code doesn't use the 'two years' rule or a similar concept. However, the concept of vulnerability of the client and risk of exploitation is common to both codes.</p>

Options

Option one – Status quo

45. Option one proposes to continue endorsing the APS code as the Board's regulatory code, which has been in effect since 2010. The APS code is well integrated into psychological practice and maintaining the status quo would mean that stakeholders would not be required to transition to a new code of conduct.
46. The familiarity of the APS code also extends the profession's understanding of ethics through use of longstanding conventions and discussions about peer expectations for conduct. It is widely used as an educative resource for university programs, continuing professional development courses, training programs, policies and procedures, peer supervision, guidance on ethical practice and professional advice.
47. Whilst the APS code has been working satisfactorily as a regulatory instrument, there are several developments in health practitioner regulation that drives the need for change. Maintaining the current code would result in a missed opportunity to fully realise the benefits of option two and risk the code of conduct becoming less contemporary, effective and relevant to the practice of psychology in Australia. Further, if the Board does not author its code of conduct, we may be unable to meet our obligations to ensure appropriate governance and accountability, such as conduct regular reviews and engage in wide-ranging consultation.

Option two – Updating the Board's code of conduct

48. Option two proposes to adopt our draft code, as outlined in the draft Psychology Board of Australia code of conduct, as the regulatory code for the profession. The draft code seeks to incorporate any necessary changes due to the developments in health practitioner regulation and allows alignment of relevant professional standards to the approach of other National Boards.
49. This option would provide necessary updates to the Board's regulatory code of conduct to achieve:
 - clear standards of safe and effective practice for psychologists, without imposing additional regulatory requirements or higher standards of practice
 - improved patient safety for Aboriginal and Torres Strait Islander Peoples and priority groups within the community
 - greater consistency within the National Scheme through alignment with the shared code
 - parity with other regulatory and policy changes in the National Scheme and the practice of psychology
 - enhanced public confidence in protection of the public and regulatory efficiency, and
 - timely response to changing community needs.

Preferred option

50. We prefer option two.

51. If you would like further information about our preferred option, we have included our assessment against procedures for development of codes and principles for best practice regulation at **Appendix A**.

Estimated impacts of the proposed code of conduct

52. There would be a period of change for all stakeholders to transition to the Psychology Board of Australia code of conduct. Some transition activities for stakeholders that follow updates to regulation include:

- regulators embedding the code into their processes and training for staff
- decision-making bodies familiarising themselves with the code
- professional associations developing advice and resources for their members
- psychologists familiarising themselves with the code
- higher education providers updating curriculum related to the code, and
- service providers and employers updating internal policies and procedures.

53. All registered psychologists will need to familiarise themselves with a new code and engage with other colleagues, supervisors, professional associations and peers to share learnings in preparation for the transition. Although the key updates to the code of conduct do not introduce a change in standards, there are differences to language, structure and format that would require a period of orientation. Individual psychologists will need be confident they can comply with the requirements for safe and effective practice.

54. Other stakeholders, such as higher education providers and employers will need to become familiar with the new code and take steps to update any study programs and policies. Professional associations will also have a role in providing continuing professional development courses, guidance and advisory services to their members on professional standards and will need to plan for this transition. We anticipate this transition cost to be one-off and offset by the improved usability of the new code.

55. One of our objectives is to implement a code of conduct that will be accessible by clients and the public, especially Aboriginal and Torres Strait Islander Peoples and priority groups within the community. After a period of orientation to a new code, the similarities between the shared code and our draft code should improve usability and understanding of appropriate standards of conduct for psychologists. This would lead to better health literacy in the community, trust and confidence in the profession, and public safety.

56. We are gathering feedback about the proposed changes to inform our review and decision on the proposal. Any unintended consequences raised during consultation will be considered and we will take steps to mitigate any potential negative impacts for psychologists, our stakeholders and the public, particularly Aboriginal and Torres Strait Islander Peoples and priority groups in the community.

57. We are committed to a scheduled review of our code of conduct and will continue to monitor any unintended impacts that may arise as a result of the proposed changes. The Patient and Consumer Health and Safety Impact Statement at **Appendix B** has more information about the Board's assessment of the potential consequences of implementing the proposed code.

Timing and transition

58. We are proposing a transition period of 12 months to support the profession, stakeholders and the public to become familiar with using the new code before it comes into effect.

59. If the proposal is approved, our implementation plan is supported by an advanced publication of the new code, development of any necessary resources and a robust communications strategy to support those affected by the proposed update to the code of conduct. The APS code will continue to be used to manage regulatory concerns about registered psychologists until our proposed code of conduct comes into effect.

60. Any feedback you provide on transition and implementation will be considered and used to refine our approach to implementation.

Questions for consideration

61. We are seeking your feedback about our proposal to update the Code of conduct that applies to all psychologists registered in Australia. There are 13 specific questions we would like you to address below.

All questions are optional and you are welcome to respond to any that you find relevant, or that you have a view on.

General questions
1. Do you support the Board's preferred option to implement a regulatory code of conduct?
2. Do you agree with the Board's approach to develop the draft Psychology Board of Australia code of conduct based on the shared Code of conduct ?
3. Do you support the Board's proposal to adopt the draft Psychology Board of Australia code of conduct as the regulatory code for the psychology profession?
Content of the draft Psychology Board code
4. Does the draft Psychology Board of Australia code of conduct set the minimum standards expected of psychologists by their professional peers and the public?
5. Are there any specific areas of psychological practice that are not adequately addressed in the draft Psychology Board of Australia code of conduct ?
6. Are there any sections of the draft Psychology Board of Australia code of conduct that would be unworkable for your organisation and/or stakeholders?
7. Is the language and structure of the draft Psychology Board of Australia code of conduct helpful, clear and relevant?
Community impact
8. Would implementation of the draft Psychology Board of Australia code of conduct result in negative or unintended effects for Aboriginal and Torres Strait Islander Peoples? If so, please describe them.
9. Would implementation of the draft Psychology Board of Australia code of conduct result in negative or unintended effects for diverse groups or other vulnerable members of community? If so, please describe them.
10. Would implementation of the draft Psychology Board of Australia code of conduct result in any adverse cost implications or impacts for health practitioners, higher education providers, employers, clients/consumers, governments or other stakeholders? If so, please describe them.
Transition and implementation
The Board is proposing to publish an advance copy of the draft Psychology Board of Australia code of conduct 12 months before it would come into effect.
11. Do you agree with the proposed transition timeframe?
12. Would there be any implementation issues for your organisation and/or stakeholders that the Board should be aware of?
General feedback
13. Do you have any other feedback or comments about the draft Psychology Board of Australia code of conduct ?

Relevant sections of the National Law

62. Relevant sections of the National Law for this consultation include section 3 (Objectives and guiding principles) and sections 39–40 (Codes and guidelines).

Appendices (within this document)

- A: Statement of assessment
- B: Patient and Consumer Health and Safety Impact Statement

Attachments (separate to this document)

- C: Modifications to the 2022 shared Code of conduct
- D: Mapping table — APS code (2007) and draft Psychology Board of Australia code
- E: Draft Psychology Board of Australia code of conduct
- F: Submission template

Appendix A: Statement of assessment – Board’s statement of assessment against Ahpra’s Procedures for the development of registration standards, codes and guidelines, and principles for best practice regulation

June 2023

Proposed implementation of the draft Psychology Board of Australia code of conduct

The Australian Health Practitioner Regulation Agency (Ahpra) has [Procedures for the development of registration standards, codes and guidelines](#). These procedures have been developed by Ahpra in accordance with section 25 of the Health Practitioner Regulation National Law, as in force in each state and territory (the National Law), which requires Ahpra to establish procedures for the purpose of ensuring that the National Registration and Accreditation Scheme (the National Scheme) operates in accordance with good regulatory practice.

Below is the Board’s assessment of the proposal to implement the draft Psychology Board of Australia code of conduct against the three elements outlined in the Ahpra procedures.

1. The proposal takes into account the National Scheme’s objectives and guiding principles set out in section 3 of the National Law

National Board’s assessment

The Board considers that the proposed implementation of the draft Psychology Board of Australia code of conduct meets the objectives and guiding principles of the National Law.

The proposal considers the National Scheme’s key objective of protecting the public by setting out the core standards of conduct for registered psychologists.

In line with the [National Scheme’s Aboriginal and Torres Strait Islander Health and Cultural Safety Strategy 2020-25](#) (the health strategy) the draft Psychology Board of Australia code of conduct sets minimum standards for culturally safe and respectful practice to ensure patient safety for Aboriginal and Torres Strait Islander Peoples in Australia’s health system. The definitions and requirements for culturally safe practice in the draft Psychology Board of Australia code of conduct are consistent with those used in the 2022 shared *Code of conduct* as required by the health strategy.

The draft Psychology Board of Australia code of conduct will support the National Scheme to operate in a transparent, accountable, efficient, effective and fair way. The draft Psychology Board of Australia code of conduct is based on the 2022 shared *Code of conduct* which promotes consistency between health professions. Consistency in regulatory approaches across the professions can facilitate patient and practitioner understanding, support inter-professional practice, and contribute to safety and quality of healthcare.

2. The consultation requirements of the National Law are met

National Board’s assessment

The National Law requires wide-ranging consultation on proposed codes and guidelines. The National Law also requires National Boards to consult each other on matters of shared interest. The Board is ensuring that there is wide-ranging consultation about the draft Psychology Board of Australia code of conduct in accordance with the *Consultation process of National Boards* available on the [Ahpra website](#).

The Board is ensuring that there is public exposure to the proposal and the opportunity for public comment via an eight-week public consultation. This includes publishing a consultation paper on the Board’s website and informing health practitioners and the community via the Board’s electronic newsletter and

meetings with key stakeholders. The Board will consider the feedback it receives when finalising its position on the draft Psychology Board of Australia code of conduct.

3. The proposal considers the following principles for best practice regulation

National Board's assessment

In developing the draft Psychology Board of Australia code of conduct, the Board has considered principles for best practice regulation.

The Board has taken care not to propose unnecessary regulatory burdens that would create unjustified costs for the profession or the community.

The Board makes the following assessment specific to each of the principles expressed in the Ahpra procedures.

A. Whether the proposal is the best option for achieving the proposal's stated purpose and protection of the public

National Board's assessment

The purpose in developing its own code of conduct is to ensure that the code is an effective regulatory document that clearly and specifically sets out the minimum enforceable standards of conduct for registered psychologists. The code should be relevant, contemporary and based on best-available evidence. The Board considers that this proposal is the best option for achieving the stated purpose.

Implementing the draft Psychology Board of Australia code of conduct would:

- set minimum standards of conduct when working with diverse groups, providing safe and effective care with vulnerable members of the community, and for culturally safe practice with Aboriginal and Torres Strait Islander Peoples
- protect the public by ensuring the code is an effective regulatory tool. An effective regulatory code of conduct is specific and clear. It supports the Board to take regulatory action to protect the public from harm when a psychologist departs from the standards in the code
- make the Board's minimum expected standards clear for psychologists, employers, training providers, and the public. This helps the Board regulate in a transparent, effective and fair way
- promote consistency between health professions by using the 2022 shared *Code of conduct* as its basis. The shared *Code of conduct* is used by 12 health professions in the National Scheme, and
- promote regulatory efficiency through alignment with other health professions. Consistency in regulatory approaches across the professions can facilitate patient and practitioner understanding, support inter-professional practice, and contribute to safety and quality of healthcare.

B. Whether the proposal results in an unnecessary restriction of competition among health practitioners

National Board's assessment

The proposal is unlikely to restrict competition as the Psychology Board of Australia code of conduct would apply to all psychologists holding general registration, and all provisional psychologists as they train to apply for general registration. As the standards for professional conduct remain the same, there are no new requirements or restrictions to create any barriers to entry into the profession, nor to maintain registration.

The Board does not expect that this proposal will affect the levels of competition among health practitioners registered by the 15 National Boards in the National Scheme. Codes of conduct are used across all the health professions to take regulatory action to protect the public when a health practitioner departs from the standards in the relevant code.

C. Whether the proposal results in an unnecessary restriction of consumer choice

National Board's assessment

The Board considers that implementation of the draft Psychology Board of Australia code of conduct would not result in any unnecessary restrictions of consumer choice as the competencies would apply to all psychologists holding registration.

The proposal may improve consumers' understanding of the standards of practice they can expect from registered psychologists.

D. Whether the overall costs of the proposal to members of the public and/or registrants and/or governments are reasonable in relation to the benefits to be achieved

National Board's assessment

The Board has considered the overall costs of implementing the draft Psychology Board of Australia code of conduct to members of the public, health practitioners and governments, and concluded that the likely costs are minimal.

Implementing the draft Psychology Board of Australia code of conduct would not introduce a new regulatory requirement or change the amount of regulation for the psychology profession. The draft code sets a minimum standard of conduct which is closely aligned with the principles of the current code used by the profession. The draft code would not hold psychologists to higher or lower standards than they are now.

The Board believes that implementation of the draft Psychology Board of Australia code of conduct will promote the health and cultural safety of Aboriginal and Torres Strait Islander Peoples and other priority groups within the community. These benefits are likely to significantly outweigh any costs, which would probably be modest in comparison. There are no costs to the public from the proposed changes.

If implemented, the draft Psychology Board of Australia code of conduct would provide psychologists with clear and specific minimum standards of professional conduct. This benefit outweighs any minimal costs related to psychologists and other stakeholders needing to become familiar with a new code of conduct.

E. Whether the proposal's requirements are clearly stated using plain language to reduce uncertainty, enable the public to understand the requirements, and enable understanding and compliance by registrants

National Board's assessment

The Board is committed to a plain English approach that will help psychologists and the public understand the minimum standards expected of psychologists.

The Board has avoided using professional jargon in the draft Psychology Board of Australia code of conduct to promote ease of understanding and has included a preamble and definitions to make the code easier to understand.

F. Whether the National Boards have procedures in place to ensure the proposed registration standard, code or guideline remains relevant and effective over time

National Board's assessment

The Board would review the Psychology Board of Australia code of conduct at least every five years, including an assessment against the objectives and guiding principles in the National Law and the principles for best practice regulation.

The Board could review the Psychology Board of Australia Code of conduct, in response to any issues which arise, or new evidence which emerges to ensure its continued relevance and regulatory effectiveness.

Appendix B: National Board's Patient and Consumer Health and Safety Impact Statement

June 2023

Statement purpose

The National Board's Patient and Consumer Health and Safety Impact Statement (the statement) explains the potential consequences of a proposed registration standard, code or guideline on the health and safety of the public, vulnerable members of the community and Aboriginal and Torres Strait Islander Peoples.⁴

The four key components considered in the statement are:

1. The potential impact of the proposed implementation of the draft Psychology Board code of conduct for psychologists on the health and safety of patients and consumers, particularly vulnerable members of the community, including approaches to mitigate any potential negative or unintended effects.
2. The potential impact of the proposed implementation of the draft Psychology Board code of conduct for psychologists on the health and safety of Aboriginal and Torres Strait Islander Peoples including approaches to mitigate any potential negative or unintended effects.
3. Engagement with patients and consumers, particularly vulnerable members of the community about the proposal.
4. Engagement with Aboriginal and Torres Strait Islander Peoples about the proposal.

The National Board's Patient and Consumer Health and Safety Impact Statement aligns with the National Scheme's [Aboriginal and Torres Strait Islander Cultural Health and Safety Strategy 2020-2025](#), the [NRAS Strategy 2020-25](#) and reflects key aspects of the revised consultation process in the [Ahpra Procedures for developing registration standards, codes and guidelines and accreditation standards](#).

Below is our initial assessment of the potential impact of the proposed implementation of the draft Psychology Board code of conduct for psychologists on the health and safety of patients and consumers, particularly vulnerable members of the community, and Aboriginal and Torres Strait Islander Peoples. This assessment will be updated after consultation feedback.

<p>1. How will this proposal impact on patient and consumer health and safety, particularly vulnerable members of the community? Will the impact be different for vulnerable members compared to the general public?</p>

The Board has carefully considered the impacts the proposed implementation of the draft Psychology Board of Australia code of conduct could have on patients' and consumers' health and safety, particularly on vulnerable members of the community in order to propose a preferred option for consultation.

A primary goal of the Board's proposal is to update the code of conduct for psychologists so that it is relevant, contemporary and based on best-available evidence. It is expected that implementation of the draft code would have a positive impact on patient and consumer health and safety.

⁴ This statement has been developed by Ahpra and the National Boards in accordance with section 25(c) and 35(c) of the Health Practitioner Regulation National Law, as in force in each state and territory (the National Law). Section 25(c) requires Ahpra to establish procedures for ensuring that the National Registration and Accreditation Scheme (the National Scheme) operates in accordance with good regulatory practice. Section 35(c) assigns the National Boards functions to develop or approve standards, codes and guidelines for the health profession including the development of registration standards for approval by the Health Council and that provide guidance to health practitioners registered in the profession. Section 40 of the National Law requires National Boards to ensure that there is wide-ranging consultation during the development of a registration standard, code, or guideline.

The draft Psychology Board of Australia code of conduct is based on the 2022 shared *Code of conduct* used by 12 National Boards. The shared code was first developed in preparation for the National Scheme in 2010 and is established as an effective regulatory instrument. The most recent review made a number of small but important changes. The following content adopted from the shared code is expected to benefit both the public and other priority groups within the community:

- **Inclusion of content on Aboriginal and Torres Strait Islander health and cultural safety**

Content on Aboriginal and Torres Strait Islander health and cultural safety using the definition of cultural safety agreed for use within the National Registration and Accreditation Scheme is included in the draft Psychology Board of Australia code of conduct.

- **Content is based on advice from the Aboriginal and Torres Strait Islander Health Strategy Group**

The Aboriginal and Torres Strait Islander Health Strategy Group provided advice on the cultural safety content. The group consists of Aboriginal and Torres Strait Islander health sector leaders and representatives.

- **Bullying and harassment**

A review of the shared code identified bullying and harassment as an important issue that must be addressed in the workplace.

A section on bullying and harassment is included to provide clarity about responsibilities in relation to bullying and harassment and the importance of addressing the issue in the workplace and to clarify the role of the Board/Ahpra.

- **Risk management and clinical governance**

During a review of the shared code, key stakeholders, practitioner focus groups and Ahpra's operational staff identified a need for additional clarification about practitioners' responsibilities in relation to clinical governance.

- **Business practices that are inconsistent with the code**

National Boards and focus groups with practitioners identified a need for guidance for practitioners who are employers about performance targets and/or business practices that are inconsistent with the code.

The draft Psychology Board of Australia code of conduct is based on best-available evidence, best practice approaches for national and international regulation of psychologists, and advice from Ahpra's operational staff.

Our engagement through consultation will help us to better understand possible outcomes and meet our responsibilities to protect patient safety and healthcare quality.

2. How will consultation engage with patients and consumers, particularly vulnerable members of the community?

In line with National Scheme [consultation processes](#), the Board has engaged with patient and consumer bodies, the Consumer Advisory Council, Aboriginal and Torres Strait Islander Peoples, peak bodies and other relevant organisations to get input and views from patients and consumers and other priority groups within the community. The Board will continue its focused engagement activities during the public consultation.

3. What might be the unintended impacts for patients and consumers, particularly vulnerable members of the community? How will these be addressed?

The Board has carefully considered the unintended impacts of the proposed implementation of the draft Psychology Board of Australia code of conduct. Our ongoing consultation with relevant organisations and vulnerable members of the community will help us to identify other potential impacts. We will take into consideration any feedback and implement necessary measures to address any unintended impacts for patients and consumers that may be raised during consultation, particularly for priority groups within the community.

4. How will this proposal impact on Aboriginal and Torres Strait Islander Peoples? How will the impact be different for Aboriginal and Torres Strait Islander Peoples compared to non-Aboriginal and Torres Strait Islander Peoples?

The Board has carefully considered any potential impact of the proposed implementation of the draft Psychology Board of Australia code of conduct on Aboriginal and Torres Strait Islander Peoples and acknowledge possible differences compared to non-Aboriginal and Torres Strait Islander Peoples.

The draft code would set the minimum enforceable standards of conduct for psychologists in Australia. All psychologists, including Aboriginal and Torres Strait Islander psychologists and non-Aboriginal and Torres Strait Islander psychologists would be required to practise in accordance with the code.

The section on Aboriginal and Torres Strait Islander health and safety in the draft code sets out the minimum expected standards of culturally safe and respectful practice with Aboriginal and Torres Strait Islander clients.

It is expected that proposed provisions will have a positive impact on Aboriginal and Torres Strait Islander client and consumer health and safety by setting clear standards, with practical guidance on effective practice that is culturally safe and respectful.

The Board believes that the preferred option outlined in this consultation paper will promote health and cultural safety for Aboriginal and Torres Strait Islander Peoples without creating disproportionate burden on registered practitioners.

Further engagement through consultation will identify other potential impacts of the proposed changes and help us to meet our responsibilities to protect patient safety and healthcare quality for Aboriginal and Torres Strait Islander Peoples.

5. How will consultation about this proposal engage Aboriginal and Torres Strait Islander Peoples?

The National Boards have committed to the National Scheme's [Aboriginal and Torres Strait Islander Cultural Health and Safety Strategy 2020-2025](#) which focuses on achieving patient safety for Aboriginal and Torres Strait Islander Peoples as the norm, and the inextricably linked elements of clinical and [cultural safety](#).

The draft code is based on the 2022 shared *Code of conduct* used by 12 National Boards. The content on Aboriginal and Torres Strait Islander health and cultural safety uses the definition of cultural safety agreed for use within the National Registration and Accreditation Scheme. The Aboriginal and Torres Strait Islander Health Strategy Group provided advice on the cultural safety content of the 2022 shared code. The group consists of Aboriginal and Torres Strait Islander health sector leaders and representatives.

The expert advisory group engaged by the Board to develop the draft code included eminent individual Aboriginal and Torres Strait Islander psychologists to provide relevant advice about Aboriginal and Torres Strait Islander health and cultural safety.

We are continuing to engage with Aboriginal and Torres Strait Islander organisations and stakeholders throughout this consultation process.

6. What might be the unintended impacts for Aboriginal and Torres Strait Islander Peoples? How will these be addressed?

The draft Psychology Board of Australia code of conduct has aligned its provisions on cultural safety with the shared *Code of conduct* (2022), which underwent extensive consultation with the Aboriginal and Torres Strait Islander Health Strategy Group to consider unintended impacts.

The Board has also taken advice from its expert working group as noted above (Q5) and carefully considered any unintended impacts from the draft code on Aboriginal and Torres Strait Islander Peoples.

Continuing to engage with relevant peak bodies and Aboriginal and Torres Strait Islander Peoples will help us to identify any other unintended impacts. We will consider and take actions to address any other

unintended impacts for Aboriginal and Torres Strait Islander Peoples that may be raised during consultation.

7 How will the impact of this proposal be actively monitored and evaluated?

Part of the Board's work in keeping the public safe is ensuring that all standards, codes and guidelines are regularly reviewed. Good regulatory practice includes being responsive to changing community needs by carrying out wide-ranging consultation. If implemented, the Board will monitor and regularly review the Psychology Board of Australia code of conduct to check it is working as intended. As a Board-authored regulatory code, it could ensure appropriate governance, including that the review process is consistent with the guiding principles of the National Law.