Attachment F

Psychology Board
Ahpra

Public consultation: A code of conduct for psychologists

The Psychology Board of Australia (the Board) is 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.

Please email your submission to: psychconsultation@ahpra.gov.au

The submission deadline is close of business, **Monday 14 August 2023**

General questions

1. Do you support the Board's preferred option to implement a regulatory code of conduct?

Your answer:

AAPi is concerned about some of the content in the draft, and we suggest significant changes are made before we can provide our support of the new code of conduct. We agree with its development in principle, but we cannot support the draft code its current format unless significant changes are implemented. As a peak body for psychologists in Australia, it was disappointing to not be consulted in depth during the formation of the draft code. The code of conduct should be co-developed with a diverse range of psychologists, then further consultation undertaken.

AAPi's position is that if the draft code is not changed significantly, the existing Code of Ethics should continue to be used as the Board's regulatory code.

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*?

Your answer:

Psychology is very different to the disciplines covered under the other National Boards. While the starting point of the joint codes is a practical approach to developing the code, care must be taken to consider the code from the perspective of psychologists working outside of health settings and to amend the code as appropriate to ensure relevance to all areas of psychological practice.

Psychological practice is so broad in nature that aligning with other professions runs the risk of not acknowledging the special role that psychology has across the whole of the human experience, including the communities and organisations that can be the focus of psychology.

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?

Your answer:

Not in its current state. The code of conduct should not be adopted without significant amendments and further sector co-development and consultation.

Prior to future implementation, resources will need to be developed and extensive education and training to support psychologists. AAPi is willing and able to assist with this, however we would recommend that all resources are freely available to all psychologists in Australia.

Ethical decision making is extremely complex by nature, requiring the weighing up of many diverse factors, some of which are more predominant than others. Decision trees, training and educational resources will need to be formulated as well as specific targeted support to supervisors who will need to assist all future psychologists to adopt this new approach to practice as a psychologist.

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?

Your answer:

Some sections of the draft code detail an appropriate standard expected of psychologists. However, some sections are inappropriate and require amendment. Overall, the draft code is far too long and requires significant interpretation with the practicalities under dispute between psychologists who have reviewed the draft.

Care should also be taken to consider the code from the perspective of psychologists in many different settings including those working outside of health settings, and rural and remote psychologists, and amendments made to the code as appropriate. The information in the code draft states that particular care was taken to incorporate feedback about the code being relevant across the diversity of psychological practice settings, but this has not been taken far enough and needs further work.

The code's wording is very prescriptive and inflexible and does not consider complex situations that psychologists navigate when they practice.

AAPi has received a significant volume of member concerns that the draft is written in a way that would make everyday life difficult to navigate for psychologists who live in small communities where their clients are also involved in essential local businesses, community groups and schools.

If this draft code is accepted without amendments, psychologists in rural communities would be very restricted in how they could engage in their community, leaving them isolated and unsupported. They may even be prevented from accessing services in their community due to financial and commercial relationships. It is unrealistic to implement a very prescriptive code that does not take into account the real-life situations that psychologists navigate every day.

5. Are there any specific areas of psychological practice that are not adequately addressed in the draft Psychology Board of Australia code of conduct?

Your answer:

We have heard extensively that the draft code is problematic from an organisational psychology perspective and for psychologists not working in health or clinical settings, and should be amended to use more inclusive language, particularly the practice definition.

The draft does not include information about how the code of conduct may need to be used flexibly in small communities such as rural and remote practices or with cultural groups.

The draft code also does not address the real safety risks that some psychologists need to navigate when providing psychological practice. The draft code appears to weigh client rights as the only consideration where the evidence from police reports, at risk registers and coronial enquiries makes it clear that some psychologists are at risk from their clients, and need to take steps to protect themselves and their families when a threat is made clear. The reaction of many of our members is that they consider that their rights are impinged on by the draft code and that it would no longer feel safe to practice psychology in Australia if the code is adopted.

It is important to include the need to raise concerns with psychologists (where possible) before lodging a complaint. This assists in resolving disputes early and ideally reduces trivial complaints being formally lodged with the regulators. This is in the current code of ethics and appears to be missing from the draft code.

The different working environments of school psychologists who have state by state differentials regarding mandatory reporting, organisational psychologists, offender rehabilitation psychologists, sports psychologists whose approach is to consider a "team" rather than individuals, and community psychologists, need to be addressed and have not been adequately in this draft code.

Psychologists who work in private enterprise for-profit organisations as well as in disability and rehabilitation focussed organisations, where power imbalance exists already and exceeding work limit capacities to meet KPIs and profit from funding is common practice, is mentioned in this code but there are no guidelines of how to address this when psychologists may already be disadvantaged.

Psychologists who work in child protection under the directive of non-clinical management and do not necessarily provide therapeutic services are not addressed adequately by this code either.

AAPi recommends co-creation with a diverse pool of psychologists and further consultation to improve the draft 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?

Your answer:

Yes.

There would be some significant implications for organisational psychologists and psychologists working in domains outside of health contexts.

The practice definition should be updated and changed *"Practice means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a practitioner in their regulated health profession. For the purposes of this code, practice is not restricted to the provision of direct clinical care. It also includes using professional knowledge in a direct non-clinical relationship with patients, working in management, administration, education, research, advisory, regulatory or policy development roles and any other roles that have an impact on safe, effective delivery of health services in the health profession."*

This definition explicitly excludes organisational psychologists and psychologists working in organisational psychology domains outside of health settings. It seems to have been changed from the previous definition used that was less health specific "Practice means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a psychologist in their profession. For the purposes of this registration standard, practice is not restricted to the provision of direct clinical care. It also includes using professional knowledge in a direct nonclinical relationship with clients, working in management, administration, education, research, advisory,

regulatory or policy development roles, and any other roles that impact on safe, effective delivery of services in the profession."

We have concerns for Aboriginal and Torres Strait Islander psychologists and for other diverse groups, including those who are culturally or linguistically diverse. These psychologists are often sought because they understand and are part of the communities they serve and are trusted because of this understanding. This would be relevant to LGBTIQ+ communities and neurodivergent (Autistic) communities which are considered cultural groups in their own right and need to be culturally safe for the community members and the workers who engage with them.

Wording of the code is very prescriptive and inflexible and does not take into account complex situations that psychologists navigate when they practice. It also is written in a way that would make everyday life difficult to navigate for psychologists who live in smaller communities where their clients are involved in essential local business, sporting, religious or community groups.

If the draft code was implemented without necessary amendments, it would mean that psychologists in rural communities would be very restricted in the way they could engage in their community, leaving them very isolated and unsupported. They may even be prevented from accessing services in their community due to financial and commercial relationships. It is unrealistic to implement a code that is very prescriptive and does not consider the real-life situations that psychologists navigate every day.

The draft code also does not address the real safety risks that psychologists need to navigate when providing psychological practice. The draft code appears to weigh client rights as the only consideration where the evidence from police reports, at risk registers and coronial enquiries makes it clear that there are times where psychologists are at risk from their clients and need to take steps to protect themselves and their families when a threat is made clear. Code 9.1c is directly at odds with Code 1.3 and this needs to be addressed.

Clause 1.1b puts a great deal of pressure on psychologists to act outside of their role with clients. It is generally not the responsibility of psychologists to coordinate care or ensure continuity of care. There is a significant workforce shortage of psychologists in Australia and at times it is impossible to arrange alternate care for clients if a psychologist cannot continue to work with a client.

Code 3.3i may impact on the ability for psychologists to engage in peer supervision and consultation about their clients, even when the client is de-identified, as is the current practice.

Code 4.7 puts an unreasonable expectation on the practice of psychologists to be able to source alternate care for clients when a. that might not be possible; b. waitlists would mean that they would have to continue to provide services for a lengthy amount of time; c. the client may not agree with referral choices; d. client may refuse to be on-referred; e. client may not consent for their details to be shared with another provider; f. this may not be safe for the psychologist; g. this may put the psychologists health and well-being at risk; and h. prior arrangements for care after a psychologists death, absence, or incapacity may not have capacity at the time they are required. It is important to define what "reasonable plans" means in real terms.

Code 4.7 also impacts on services provided that are court mandated. There is not the ability to cease providing services if the client is not benefitting unless the court says this is possible and risk to the public is taken into account.

Section 5.4b and c are unreasonable and would not be possible in the reality of private practice. Other professions do not have this requirement. Care is handed over and responsibility ends.

4.8f is questioned as many cultural groups require a psychologist to be personally identified as a member of the cultural group, before safe care can be provided. Many minority groups will be disadvantaged if they cannot verify that a psychologist is safe and knows intimately about their cultural identity. Psychologists are people and members of many cultural groups and there is no evidence that the provision of appropriate levels of self-disclosure is harmful, in fact it can serve to

support the development of a therapeutic relationship. What is harmful is when the degree of information that is shared is vast, and therapy becomes focussed on sharing by the psychologist. It is this type of disclosure that is inappropriate and should be identified by the code. AAPi recommends this clause is amended to add this quantification.

4.8g and h are impossible to avoid in rural and remote regions of Australia. This needs to be further considered and addressed in the code.

4.10 is administratively difficult. If a psychologist advertises that they provide couples or family therapy and clients engage with the psychologist to provide that, it seems superfluous to require the psychologist to document why they have decided to provide that therapy, and why it is appropriate.

5.3d is unworkable and unrealistic in its current format. Is it referring to when it is perpetrated by someone in your organisation, or just someone in the general public? There is no clear direction about who it should be reported to, and there is some confusion about the scope of this section.

6.3b is unworkable and lacks specificity so that psychologists would understand their obligations.

8.4 seeks to police the behaviour and conduct of psychologists in their own personal time. This is inappropriate. Psychologists are people first and foremost and should be allowed to make choices about their personal conduct outside of their work role that are authentic to them as a person. Where their conduct or opinion is relevant to their role as a psychologist this is understandable, however where it is not connected to their professional role, interference from the psychology board and regulation of their behaviour is potentially a breach of their human rights.

7. Is the language and structure of the draft Psychology Board of Australia code of conduct helpful, clear and relevant?

Your answer:

There are a several areas where the language of the code can be improved. The language is very health specific and is not easily interpreted outside of clinical or health practice settings. The language of the code also gives the impression that psychologists are not able to honour their identity as community members or have a life outside the bounds of psychological practice.

While the code states on page 5 “It is not intended as a mechanism to address: b. employment issues e.g., workplace or industrial disputes, which do not raise broader public safety concerns.” This statement may unduly impact the work of organisational psychologists and psychologists working in non-health settings. Many ethical issues arise in workplace settings and the code can be a useful resource to clarify psychologists’ ethical obligations, which are not always aligned with the interests of employers. This statement also conflicts with 4.3 b “be aware that psychologists have a responsibility to help clients address inequities and that increased advocacy may be necessary to ensure just access to psychological services”, and 8.12 g “avoid performance targets, quotas and business practices that are inconsistent with your obligations under this code. Where psychologists identify such a conflict, they should seek a constructive resolution that is consistent with this code.”

Under professional values and qualities e. “Psychologists are expected to engage in regular self-reflection and peer consultation on whether they are practising safely and effectively, on their relationships with patients and colleagues, and on their own health and wellbeing.” The term client should be used in this sentence instead of patient. Client is defined and may include organisations.

Under professional values and qualities h. “Psychologists should be committed to safety and quality in healthcare.” Psychologists don’t all work in healthcare settings. This should be amended to ‘Psychologists should be committed to safety and quality in the provision of psychological services.”

Under 1.2 e. “communicate effectively with clients to ensure they have enough information to make an informed decision about their current and future care”. Not all psychologists work in healthcare settings. A suggested amendment is ‘communicate effectively with clients and consumers to ensure they have enough information to make informed decisions’.

Under 1.3 e. “If a client poses a risk to safety, they should not be denied access to services if reasonable steps can be taken to ensure safety”. This should be amended to health and safety, as there are risks in seeing clients that can impact mental as well as physical health e.g. “If a client poses a risk to health and safety, they should not be denied access to services if reasonable steps can be taken to ensure health and safety”. It should be clarified that there is not an expectation for psychologists to continue to provide services to a client who is a significant risk to them, and that organisations have a responsibility to protect the health and safety of those who work with them, and that if a client is posing a risk and they have a responsibility for workplace health and safety that clients can be denied services. The inclusion of 1.3e needs to be considered carefully as there is evidence that psychologists can be at risk from their clients and need to be able to protect themselves.

Principle 3, should be amended from “… assumptions and beliefs influence their interactions with people and families, the community and colleagues.” to ‘… assumptions and beliefs influence their interactions with clients.’ Recognising that clients can also be organisations or external parties.

3.2 a. “communicate, respectfully, compassionately and honestly with clients, their nominated partner, substitute decision-maker, carers, family and friends.” This is very clinical in focus and does not apply to organisational psychologists or psychologists working in non-clinical settings. Consider revising to “communicate, respectfully, empathically and honestly with clients and relevant others.”

3.2 d. “take all practical steps to meet the specific language, cultural, and communication needs of clients and their families, including by using translating and interpreting services where necessary, and being aware of how these needs affect understanding.” Consider revising to “take all practical steps to meet the specific language, cultural, and communication needs of clients and relevant others, including by using translating and interpreting services where necessary, and being aware of how these needs affect understanding.”

4.1 a. “be respectful, compassionate and honest”, we suggest amending to “be respectful, empathic and honest”. Empathy and compassion have subtle different meanings. Empathy is likely more appropriate in an organisational context.

4.1 d. “recognise that there is a power imbalance in the psychologist–client relationship, and do not exploit clients physically, emotionally, sexually or financially”. We suggest amending and including the word ‘often’ as in “recognise that there is often a power imbalance in the psychologist–client relationship, and do not exploit clients physically, emotionally, sexually or financially.” There is less of a power imbalance when clients are organisations, e.g., psychologists working as external consultants to a business. Context is important.

4.2 j. “obtain financial consent by discussing fees in a manner appropriate to the professional relationship and addressing the costs of all required services and get general agreement about the level of treatment to be provided, preferably before the service starts”. We suggest this could be amended to “obtain financial consent by discussing fees in a manner appropriate to the professional relationship and addressing the costs of all required services and get general agreement about the intervention to be provided, preferably before the service starts.” This would make it more applicable to psychologists working in non-clinical settings.

8.13 c. “do not influence clients to provide benefits such as making donations or provision of services to other people or organisations.” This might not be practical for psychologists working in consulting roles.

Under principle 9, “work-related psychological risk factors” should be included in the definitions section, including examples to provide clarity (e.g., high job demands, poor support, violence and aggression, etc).

Under 9.2 b “Guidelines: Mandatory notifications about registered health psychologists” should be “Guidelines: Mandatory notifications about registered health practitioners”.

10.3 “Provisional psychologists and registrars are learning how best to care for clients.” This might be changed to ‘how best to work with clients’. This may not be appropriate for provisional psychologists working in organisational and business contexts. This can also be applied to 10.3 d. and could be written as ‘what the scope of their role is in working with clients’.

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.

Your answer:

It is uncertain what the full impact of the draft code would have, and we suggest further consulting and co-design with Aboriginal and Torres Strait Islander Peoples with a particular emphasis on psychologists who work within Aboriginal and Torres Strait Islander Communities. We have concerns that Aboriginal and Torres Strait Islander identifying psychologists who work in the communities they come from would be significantly restricted in the ways that they could engage in their communities. This could cause displacement and significant distress both to the community and the psychologist if they are not free to engage in their communities in the way they always have, as a valuable member as well as supporter.

Members of AAPi, who are Aboriginal and Torres Strait Islander Peoples, have provided the following feedback.

Trust and connection are important. This comes with time and respectful gradual collaboration to build trust. Without ongoing connection, approachability and engagement, indigenous communities would feel disrespected, shunned, and weary of feeling heard or accepted. The principle of finding healing within Indigenous communities is to develop trust and be welcomed into the yarning circle to form enriched bonds of understanding and promote shared knowledge, and build on relationships in a respectful and meaningful way. The entire principle of narrative therapy is to allow for an open space to talk about healing historical pain – this code negates understanding that this is something that needs to occur naturally and not within the parameters of controlled sessions. If a code of conduct intends to impose a stance that psychologists must abide by such restrictive practices, this will form an even greater divide. Specifically, from the draft: To ensure culturally safe and respectful practice, you must: 1. acknowledge colonisation and systemic racism, social, cultural, behavioural and economic factors which impact individual and community health Surely this is not stating acknowledge this to the client? This could be re-traumatising to speak to this – unless this is meaning 'have your own awareness of acknowledging…'?

The community want us to be visible and part of the community, to present a sense of equality and engagement. If the person they seek therapy with is not connecting with them, speaking with them if they see them or accepting their welcome to events or functions which is embodying the whole concept of community, it will damage the relationship and culturally appropriate care. Separating ourselves from the community is elitist and presents as a power differential, and would result in therapeutic rupture.

9. Would endorsement of the draft Psychology Board of Australia code of conduct result in negative or unintended effects for other diverse groups or vulnerable members of the community? If so, please describe them.

Your answer:

We have the same concerns as outlined above for Aboriginal and Torres Strait Islander psychologists for all other diverse groups, including those who are culturally or linguistically diverse. These psychologists are often sought because they understand and are part of the communities they serve, and are trusted because of this understanding. This would also be relevant to LGBTIQ+ communities and neurodivergent (i.e., Autistic) communities, which are cultural groups in their own right and need to be culturally safe for the community members and the workers who engage with them.

There may also be implications for organisational psychologists and psychologists working in organisational psychology domains. The code is very health specific and may not be easily interpreted and applied to organisational psychology contexts. These psychologists also have a different relationship with the individual members of the organisations as their work is very different and does not have an individual focus.

Code 1.3b would have unintended consequences when client behaviour needs to be changed due to its impact on the safety and well-being of others. Many psychologists work in corrective services and offender treatment services where the premise is that client behaviour has contributed to their situation (they have committed sexual offences toward children or are a perpetrator of family violence for example). Without being able to work through behavioural analysis and identify treatment needs, the client would remain a significant risk to the community. This is also relevant for psychologists who work in the provision of Positive Behaviour Support Plans. Behaviour is analysed and plans put into place to interrupt behaviours of concern such as violence. The use of the terms "not prejudice the care of a client" need to be explained in full to determine what impact this clause will have on the work of psychologists.

Clause 1.3e will have unintended consequences for the safety and well-being of psychologists. It does not address the safety risks that some psychologists need to navigate when providing psychological practice. The code appears to weigh client rights as the only consideration where the evidence from police reports, at risk registers and coronial enquiries makes it clear that at times psychologists can be risk from their clients and need to take steps to protect themselves and their families when a threat is made clear.

Clause 3.3i, 4.2 and some other sections of the code require explicit written consent. This may not be possible due to disability, lack of technology literacy of some clients who are not able to use face to face services, or have other impairments that mean they cannot provide written consent. Making written consent a requirement will impact the ability to provide care to these individuals and is ableist. Explicit verbal consent that is documented by the psychologist should be sufficient in some circumstances.

Provisional psychologists are often subject to terms described in 8.12g when they work in organisations and are significantly more vulnerable to exploitation by employers due to the power differential. More needs to be done to support provisional psychologists to deal with situations where these terms are applied to their employment so they can be empowered to resolve these situations. Engagement with employers of provisional psychologists when provisional psychologists lodge supervised practice plans may be an appropriate way to deal with this and ensure provisional psychologists are not exploited.

10. Would endorsement of the draft Psychology Board of Australia code of conduct result in any adverse cost implications for health practitioners, higher education providers, employers, clients/consumers, governments or other stakeholders? If so, please describe them.

Your answer:

Yes. Most stakeholders including psychologists, peak bodies, higher education providers and employers will be adversely financially impacted as policies, resources, training and education will need to be developed in-line with a new code of conduct, and psychologists will need to invest significant time in learning the specifics of a new code.

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?

Your answer:

Yes, publication of an advanced copy 12 months before coming into effect is likely sufficient. However, we would like to emphasise that we do not support the draft code of conduct as it is currently written. We recommend extensive co-creation with a diverse range of psychologists and peak bodies, then further consultation.

12. Would there be any implementation issues for your organisation and/or stakeholders that the Board should be aware of?

Your answer:

Yes, there will be extensive implementation issues to consider. AAPi, as a peak body for psychologists with over a quarter of all registered psychologists as members, will need to develop/redevelop many resources, undertake extensive training of our professional advisory team, and create training and education for members. This will take time and resources.

The board-approved supervisor training will need to be updated to align with the new code and training updates provided to all existing supervisors.

General feedback

13. Do you have any other feedback or comments about the draft Psychology Board of Australia code of conduct?

Your answer:

The code is very long and detailed, yet also relies on interpretation in key areas. We would recommend co-creation and further consultation with broader and diverse groups of psychologists to develop a simplified code that is more representative, practical, and inclusive.

The new code should be easily interpreted to apply in various psychology contexts in both health and non-health related roles. The definition of practice should be amended to use more inclusive language and recognise psychologists working in non-health organisational settings, e.g., business consulting. Minor changes to the language of the code can make a big difference.

We urge the Psychology Board to carefully consider the feedback that has been provided in our submission and other submissions.