

Workbook 11

Ethical Issues in counselling

Introduction

Ethics are guidelines that are based on the basic principles of the counsellor/practitioner code of ethics.

Corey (1996) briefly outlines five principles in which therapeutic boundaries are based upon:

- > **Beneficence:** a counsellor must accept responsibility for promoting what is good for the client with the expectation that the client will benefit from the counselling sessions.
- > **Nonmaleficence:** "doing no harm". The counsellor must avoid at all times, (even inadvertently) any activities or situations with the client that could cause a conflict of interest.
- > **Autonomy:** the counsellor's ethical responsibility to encourage client independent thinking and decision-making, and to deter all forms of client dependency.
- > **Justice:** the counsellor's commitment to provide an equal and fair service to all clients regardless of age, gender, race, ethnicity, culture, disability and socio-economic status.
- > **Fidelity:** being honest with clients and faithfully honouring the counsellor's commitment to the client's progress.

The confusion caused by boundaries is best described by Corey (1996) as a continuum, ranging from disengagement (rigid, inflexible boundaries/guidelines) to enmeshment (flexibility to the point of diffusement) with a large grey area in between that is notoriously ambiguous and dependent upon the therapist, the situation and the client's changing needs and circumstances.

However, the therapist does not want to empathise with the client to the extent that they hug the client upon meeting them or rant and rave with their client in a mutual expression of anger. Nor would the therapist pop in to visit at the client's home on their own way home from the office. This is the behaviour of a friend, not a therapist. Hence, boundary violation has occurred.

Ambiguous boundaries often arise in the therapeutic relationship, but strict responsibilities do apply to the counsellor in relation to their duty to inform clients of the limitations on client confidentiality. Such information forms a large part of informed consent and informed consent is a fundamental client right.

Contracting a Client

- A contract: deals with individual rights and responsibilities.
- A covenant: addresses commitment to a relationship.

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A framework for a contract

- The duration and frequency of sessions
- The keeping and cancelling of sessions
- The use of phone calls or contact outside appointment times
- Client's access to records
- Payment procedures
- Expected outcomes
- Treatment strategies
- Qualifications of counsellor
- Code of Ethics
- Informed consent
 - The client must have the capacity to make a rational decision, he/she must be able to comprehend the information and consent must be voluntary.

- Confidentiality and waving issues. Exceptions to maintaining confidentiality:
 - A belief that physical harm is likely
 - Legitimate concern for public danger
 - Under certain circumstances reports may need to be given to employers
 - Evidence in court cases
 - Illegal action
 - Mental health issues

Keeping of Records

- Confidentiality extends to records. Counsellors have an ethical duty to secure their records in a safe place with restricted access. Additional security measures which some take include:
 - The use of codes, numbers, fictitious names to keep notes from identifying the client.
 - A split records system, i.e. one system of cards with names and addresses a second system with clinical information and coding system which cross references both.
- Personal journal
- You should only record your observations e.g. “the client stated” my ‘observations are’, you never name a third person in your notes. Keep your comments general as you can without making a diagnosis.

Client Notes

- Counselling contract
- Written and signed consent to all treatment
- Written and signed consent to all passing of confidential information
- All appointments including non-attendance by client
- Treatment contracts [if used]
- Consultations with anyone else about the client
- Copies of any correspondence from the client or relating to work with the client.

Clinic Notes

- Presented issues and stated outcomes
- Themes generated each session
- Action plans and outcomes
- Significant interventions and rationale

Personal Document/Journal

- Sensitive material for clinical supervision.

Protection of People who Report

- When people do report under the “Child Protection Act” their identity is protected.
- For those who identify themselves under the provisions of the Act, they:
 - Have no liability for defamation;
 - They cannot be sued for malicious prosecution; and
 - They cannot be held for a breach of professional etiquette or ethics.
- They can however, be called to witness or supply information. Their testimony based on evidence and observations.
- Written records can be submitted, as long as they have not been tampered with.
- Counsellors need to be aware of the principle of not contaminating the evidence.
- When a counsellor fails to report a client’s intention to act or a client’s prior criminal acts divulged in counseling sessions, essentially they are breaking the law. When this is the case, their insurance provider does not cover them for protection against claims.

Reasons why Confidentiality may be Broken

- Child abuse
- Children under the age of consent
- Clients, who may be physically dangerous to self and others
- Clients who are involved in a lawsuit involving their mental state health
- Clients who face possibility of involuntary hospitalisation
- Clients who are being forced to undergo medical or psychological treatment
- Clients in group therapy
- In counselling supervision

Recommended information to be kept on records

- Written and signed consents and contracts relating to all treatments
- Written and signed consents to release confidential information
- A record of client's attendance and non-attendance of counselling sessions
- An updated record of content for each session with the client
- An updated record of counsellor's reasoning which explains decisions for significant interventions and general strategies.
- Consultation with other practitioners about the client.
- Copies of correspondence and other documentations related to the client
- Copies of any instructions given to the client and a record of subsequent action or failure to act.

A model for ethical decision making

Stage 1. Creating ethical sensitivity

- Identify ethical issues arising from counselling work
- Read ethical codes and related literature
- Explore value issues arising from counseling work
- Clarify and confront one's own values

Stage 2. Formulating a moral course of action

- Identify the problem or dilemma
- Gather as much information as possible about the situation
- Clarify whether the problem is legal, ethical or professional
- Look at the problem from many different perspectives as possible
- Involve your client in the process
- Identify the potential issues involved
- What are the critical issues?
- What is the worst possible outcome?
- What would happen if nothing is done?
- Evaluate the rights, responsibilities and welfare of all those who are affected by the situation.
- Identify completing moral principles [autonomy, nonmaleficence, beneficence, justice, fidelity and veracity]

- Review the relevant ethical codes
- Consider whether the principles of the organisation for which you work can provide a solution
- Are your values or ethics consistent or in conflict with the relevant codes?
- Know the applicable laws and regulations
- Acquaint yourself with the up-to-date federal and state laws that apply to the ethical dilemma
- Make sure you know the current rules and regulations of the organization where you work
- Obtain consultation
- Bring the situation to supervision
- Consult with colleagues to obtain different perspectives on the problem

- Take to a lawyer [if appropriate]
- Consider possible and probable courses of action
- Brainstorm [without evaluating] possible course of action
- Discuss options with your client
- Enumerate the consequences of the various decisions
- Think about the implications of each course of action for the client, for others who are related to the client and for you as the counsellor
- Consider using the six fundamental principles
- Discuss with your client the consequences for him or her
- Decide on what appears to be the best course of action
- Consider all the information you have from various sources
- Could you recommend this action to other counsellors in similar circumstances?
- Can I defend this behaviour if it were made public?

Stage 3. Implementing an ethical decision

- What steps need to be taken to implement the decision?
- What people are involved and who needs to be told what?
- What restraints are there not to implement the ethical decision [e.g. politics of the situation, protection of the client, rationalisation etc.]?
- What support is needed [by the counsellor, by the client, by others] to implement and to live with the results?

Stage 4. Living with ambiguities of an ethical decision

- Find ways to deal with the anxiety attending the final decision
- Let go of the situation and the dilemma
- Accept the limitations involved
- Formulate learning from the experiences
- Use personal and professional support to live with the consequences of the decision.

The formal ending of the client-worker relationship usually falls into two categories: **planned** or **unplanned**.

1. Unplanned terminations

Either client or worker may initiate unplanned terminations.

Client-initiated terminations may occur as a result of:

The client dropping out of treatment, an adverse event that has rendered the client unavailable for service, or the client behaving in a manner that is incompatible with service requirements and is thus withdrawn from the program.

Client-initiated terminations can leave both worker and client with residual feelings of rejection, relief, anger and/or shame due to lack of opportunity for discussion and defusing.

Unplanned worker-initiated terminations can occur as a result of: An adverse event that has rendered the worker unavailable for service, The worker being dismissed, or The worker being laid-off or transferred.

Similar emotional reactions to those that may occur from client-initiated unplanned endings can also occur in response to worker-initiated endings, particularly if the ending is immediate. Some worker-initiated endings, however, whilst unplanned, can accommodate a final session for discussion and handover and this, of course, is best practice.

2. Planned terminations

Planned terminations can occur with two outcomes:
The unsuccessful achievement of service goals and
The successful achievement of service goals.

Planned terminations with unsuccessful outcomes

Planned terminations with unsuccessful outcomes may occur when:

The worker or client is dissatisfied with the helping relationship,

The client is not progressing, despite continual attempts,

The worker is not competent in addressing the specific needs of the client or,

The client does not comply with the requirements of intervention.

Hepworth, Rooney, Rooney, Strom-Gottfried & Larsen (2006) suggest that in situations such as these, the worker should discuss with their client (1) what factors prevented a more favourable result from being achieved and (2) the client's feelings about seeking help in the future.

Such discussion needs to occur in an environment where the client feels safe and does not feel judged. Additionally, the worker needs to ensure that they do not respond in defence of themselves or the service. This will only serve to distance the client and may initiate a missed opportunity for genuine feedback.

Planned terminations with successful outcomes

The aim of case management and other collaborative practice endeavours' is to achieve the goals established with the client in the planning and contracting stage. The achievement of such goals, may not signal that the client won't need the support of the worker in the future, but it does demonstrate that at this time the client can function sufficiently on his or her own.

It may therefore be beneficial in situations of planned terminations (with successful outcomes) that client and worker together discuss contingencies should future assistance be required. Additionally, successful outcomes may mark the client's readiness for further growth and development, thus a referral to an appropriate service that would foster such development may be appropriate.