Ethical guidelines for working with young people

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1. Introduction

1.1. These Guidelines have been developed to address the complex ethical issues that arise when providing psychological services to young people. The context and nature of a psychological service, and how it may impact on young people, their family and others are vital considerations in the provision of such psychological services.

1.2. These Guidelines are to be read in conjunction with the APS Code of Ethics (2007) and other Guidelines, particularly the Ethical guidelines on confidentiality (2015).

1.3. Psychologists provide psychological services to young people across a broad range of psychological practice which may include:

- school academic/educational and learning issues;
- child and adolescent mental health;
- trauma informed psychological services;
- child abuse and neglect, including those in out-of-home care;
- neurodevelopmental and other developmental conditions and disorders;
- families involved in Family Law proceedings; and
- young offenders, some of whom may be under supervision or court orders.

1.4. When working with young people psychologists frequently operate within complex family and carer systems, and complex legal frameworks. Psychologists establish who has legal responsibility for the young person, which includes guardianship, adoption, parental responsibility, shared parental responsibility and being in ‘loco parentis’. In the absence of any court orders to the contrary, both parents are presumed to have responsibility (whether parents are separated, divorced, or together). The term, ‘parental responsibility’, is different from the term, ‘shared (or equal shared) parenting responsibility’, which can only be granted by an order of the court pursuant to the Family Law Act (1975). Psychologists also establish the identity of any significant others for the young person who is receiving the psychological service. They understand that young people may be members of extended family structures. For indigenous young people and those from culturally diverse backgrounds there may be culturally complex family and kinship systems.

1.5. Psychologists address consent issues and limits to confidentiality with all parties involved in the provision of psychological services to the young person, and clarify with all parties, including the young person, who is making decisions on their behalf and any potential circumstances that may affect this agreed decision-making process. Refer to section 5.2.

Refer to the Code, General Principle A – Respect for the rights and dignity of people and peoples.

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

1.6. As part of their usual practice when working with young people, psychologists respect the child-parent relationship. Psychologists also remain aware of the possibilities of conflicting views between the parents and the young person about the young person’s developing right to autonomy, and about the potential for parents to harm or neglect their children. In balancing these concerns, psychologists consider the wellbeing of the young person as paramount.

1.7. When providing a psychological service to young people whose parents are separated or divorced, psychologists are aware of the potential for increased complexity of the circumstances in which the psychological service is sought. Some separating couples experience high levels of conflict, consequently psychologists are particularly mindful of the need for safety for their clients, relevant others and themselves.

Refer to APS Position Statement: Child wellbeing after parental separation (2018),
2. Terms used in these Guidelines

2.1. Young person
For the purposes of these Guidelines the terms “young person” or “young people” mean a child or children and adolescent or adolescents under the age of 18 years.

2.2. Capacity to give informed consent
In Australia young people are considered capable of giving informed consent when they “achieve a sufficient understanding and intelligence to enable him or her to understand fully what is proposed”. The legal precedent in Australia was stated by the High Court in Re: Marion (1992). Psychologists understand that the young person’s capacity to give informed consent may vary according to the context or situation. As part of the process of assessing the young person’s capacity to make an informed choice and obtaining informed consent, a psychologist determines whether the young person can understand the:
- nature of the proposed psychological service;
- benefits and risks of the proposed psychological service;
- consequences of receiving or not receiving the proposed psychological service;
- nature of consent and what it means to give and withdraw consent; and
- limits to confidentiality.

2.3. Parental responsibility
2.3.1. Parental responsibility for a child may be limited or diminished by a parenting order of the court. There are some circumstances when the court makes a parenting order that specifies decision-making capacity to one parent. State and Territory Children’s Courts may use terms such as Guardianship and Custody, and other courts and tribunals may also use the term ‘primary carer’.

2.3.2. Parental responsibilities include decisions about major long-term issues and day-to-day issues. Major long-term issues are about the care, welfare and development of the young person, and as defined in Section 4 (1) of the Family Law Act (1975), include the following:
- the young person’s education (both current and future);
- the young person’s religious and cultural upbringing;
- the young person’s health (which would encompass the provision of psychological services to a young person);
- the young person’s name; and
- changes to the young person’s living arrangements that make it significantly more difficult for the young person to spend time with a parent.

2.3.3. Where there are no court orders to the contrary regarding parental responsibilities, each of the parents has parental responsibility for a young person. Parents may seek to exercise this responsibility independently or together.

2.4. Accompanying parent
The parent (or parents) with legal responsibility for their child who contracts or engages a psychologist to provide a psychological service for a young person is referred to in these Guidelines as the ‘accompanying parent’.

2.5. Non-accompanying parent
For the purposes of these Guidelines, when only one parent (the accompanying parent) contracts or engages a psychological service for a young person and there is a parent who has not been involved in the arrangement of the psychological service for the young person, the latter parent is referred to as the ‘non-accompanying parent’.

2.6. Family Court
The term, ‘Family Court’, refers to the Family Court of Australia, the Federal Circuit Court of Australia and/or the Family Court of Western Australia.
3. Workplace settings and applicable laws

Refer to the Code, standard B.1. Competence.

B.1.2. Psychologists only provide psychological services within the boundaries of their professional competence. This includes, but is not restricted to:

... (d) complying with the law of the jurisdiction in which they provide psychological services; ...

3.1. Psychologists are aware that they may be required by their relevant state or territory laws to obtain a Working with Children check (or equivalent) if their work is deemed to be with young people, or is related to young people. For a detailed summary of the requirements for each state and territory which includes specific legislation, requirements, application details and fees, refer to the Psychologists and Working with Children checks on the APS website at: https://www.psychology.org.au/for-members/resource-finder/resources/Business-admin-legal/Psychologists-working-with-children-checks The relevant Acts are:

• Care and Protection of Children Act 2007 (NT);
• Child Protection (Working with Children) Act 2012 (NSW);
• Children and Young People Safety Act 2017 (SA);
• Registration to Work with Vulnerable People Act 2013 (Tas);
• Working with Children (Criminal Record Checking) Act 2004 (WA);
• Working with Children (Risk Management and Screening) Act 2000 (Qld);
• Working with Children Act 2005 (Vic); and
• Working with Vulnerable People (Background Checking) Act 2011 (ACT).

3.2. Psychologists are aware that the Privacy Act (1988) applies to all private health service providers in Australia. Some public sector health service providers are subject to state and territory legislation, and are not covered by the Privacy Act. Consequently, psychologists employed in the public sector who work with young people consult relevant organisational guidelines and standards regarding the applicability of relevant state and territory health and privacy laws, and organisational policies. Refer to Section 3.3 and Appendix 1.

3.3. Psychologists are aware of relevant privacy and health records laws that affect parents’ legal capacity to access their child’s health records, regardless of which parent(s) engaged the psychological service. Psychologists’ responses will depend on any relevant court orders, the capacity of the young person to give informed consent, and whether any exceptions apply under the relevant law, which includes the Privacy Act (1988) (Cth), Health Records Act (2001) (Vic), Health Records and Information Privacy Act (2002) (NSW), and Health Records (Privacy and Access) Act (1997) (ACT).

4. Family Court

4.1. Psychologists who provide psychological services to young people whose parents are involved in Family Law proceedings are aware of the professional competency required to practise in this area as well as the necessary knowledge of the legal aspects.

4.2. Psychologists understand that any assessment, opinion, recommendation, or report that they provide is based on the data and evidence collected, and is relevant only for those individuals they have directly assessed (Family Court of Australia, Federal Circuit Court of Australia, Family Court of Western Australia, 2015).

4.3. Psychologists understand that if the Family Court has made an order allocating parental responsibility between two or more people, including an order for equal shared parental responsibility, then the major decisions for the long-term care and welfare of children must be made jointly, unless the Court otherwise provides.

4.4. Psychologists understand that parents who have a Shared Parenting Order which requires them to make decisions about a major long-term issue for their child have a responsibility to make those decisions together. While it is not the psychologist’s responsibility to establish whether the parents have made the decision together about the young person receiving psychological services (see Section 65DAC (4) of the Family Law Act (1975)), psychologists discuss any parental decision-making obligations with the accompanying parent, and with both parents wherever possible.
5. Informed consent

Refer to the Code, standard A.3. Informed consent.

A.3.1. Psychologists fully inform clients regarding the psychological services they intend to provide, unless an explicit exception has been agreed upon in advance, or it is not reasonably possible to obtain informed consent.

A.3.2. Psychologists provide information using plain language.

A.3.3. Psychologists ensure consent is informed by:
(a) explaining the nature and purpose of the procedures they intend using;
(b) clarifying the reasonably foreseeable risks, adverse effects, and possible disadvantages of the procedures they intend using;
(c) explaining how information will be collected and recorded;
(d) explaining how, where, and for how long, information will be stored, and who will have access to the stored information;
(e) advising clients that they may participate, may decline to participate, or may withdraw from methods or procedures proposed to them;
(f) explaining to clients what the reasonably foreseeable consequences would be if they decline to participate or withdraw from the proposed procedures;
(g) clarifying the frequency, expected duration, financial and administrative basis of any psychological services that will be provided;
(h) explaining confidentiality and limits to confidentiality (see standard A.5.);
(i) making clear, where necessary, the conditions under which the psychological services may be terminated; and
(j) providing any other relevant information.

5.1. At the outset of the psychological service, psychologists discuss and clarify with the young person and the accompanying parent(s) issues of consent, confidentiality and disclosure.

5.2. When providing a psychological service to a young person, psychologists assess the capacity of the young person to provide informed consent (see Section 2.2.), and obtain and document such informed consent. Psychologists are aware that a young person’s capacity to provide consent may change over time and context, and that capacity is reviewed and documented accordingly.

5.4. When psychologists are contracted or engaged to provide a psychological service to a young person, the consent and involvement of both parents is desirable, although not legally required (unless explicitly ordered by the court). Psychologists are aware that there are situations where combined consent is not possible, nor appropriate.

5.5. Psychologists understand that in the absence of any court orders to the contrary regarding parental responsibilities, both parents are presumed to have responsibility (whether parents are married, de facto partners, separated or divorced), and parents may exercise this responsibility independently or together. Where there are step-parents involved, psychologists clarify who has legal responsibility for the young person.

5.6. In the absence of any court orders to the contrary, psychologists may assume that the accompanying parent has the legal responsibility necessary to engage psychological services on behalf of the young person when that young person does not have the capacity to give informed consent.

5.7. When psychologists are contracted or engaged to provide a psychological service to a young person, psychologists enquire and continue to enquire whether there are any relevant current or pending court proceedings including, but not limited to:
• the Family Court;
• Children’s or Youth Courts;
• whether a family violence order applies to the young person or a member of the young person’s family; and
• whether there are any allegations of abuse towards the young person by a parent, or any allegations of family violence.

5.8. Psychologists understand that if the psychological service that they propose to provide to the young person is constrained by court orders, they seek a copy of any relevant court orders and subsequent amendments, or family violence orders, which may affect parental responsibilities. Where necessary, they also seek legal and professional advice.
5.9. When psychologists are aware that there are existing court orders which effectively state that the accompanying parent has sole parental responsibility for the young person, then the consent of that parent is sufficient to proceed with the psychological service, assuming the young person does not have the capacity to give informed consent. See Sections 7.6. and 7.7.

5.10. Psychologists are aware of the possibility of differing expectations and conflicting views held by those involved when a young person is referred for psychological services. Psychologists consider the complexity of the circumstances in which psychological services are sought and how those circumstances may impact on the young person. Psychologists ensure that all parties to the psychological service are aware of their respective roles, and their relationships with other parties associated with the psychological service. Furthermore, psychologists consider their own role responsibilities and clearly communicate these to all clients. Factors to be clarified may include:
- objectives of the psychological service;
- each party’s level of participation in the psychological service;
- disclosure and ownership of files, including level of access to client information;
- mandatory reporting requirements where relevant;
- receipt of psychological reports; and
- payment for the psychological services.

5.11. Psychologists providing psychological services to young people who are referred by courts, schools, hospitals, agencies, or other organisations inform the young person from the outset about how the young person’s personal information may be used and disclosed to others. Where psychologists’ conditions of employment require disclosure of client information, at the outset they clarify these matters with the young person and the accompanying parent, if applicable.

Refer to Ethical guidelines for psychological services involving multiple clients (2014); Ethical guidelines for psychological practice in forensic contexts (2013); and Ethical guidelines on confidentiality (2015).

5.12. Psychologists understand that psychological services such as assessment, treatment, and writing reports for court-related purposes are each distinct services. Psychologists obtain informed consent for each of these services.

6. Confidentiality (incorporating access and disclosure)

Refer to the Code, standard A.5. Confidentiality.

A.5.1. Psychologists safeguard the confidentiality of information obtained during their provision of psychological services. Considering their legal and organisational requirements, psychologists:

(a) make provisions for maintaining confidentiality in the collection, recording, accessing, storage, dissemination, and disposal of information; and

(b) take reasonable steps to protect the confidentiality of information after they leave a specific work setting, or cease to provide psychological services.

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

(a) with the consent of the relevant client or a person with legal authority to act on behalf of the client;
(b) where there is a legal obligation to do so;
(c) if there is an immediate and specified risk of harm to an identifiable person or persons that can be averted only by disclosing information; or
(d) when consulting colleagues, or in the course of supervision or professional training, provided the psychologist:
   (i) conceals the identity of clients and associated parties involved; or
   (ii) obtains the client’s consent, and gives prior notice to the recipients of the information that they are required to preserve the client’s privacy, and obtains an undertaking from the recipients of the information that they will preserve the client’s privacy.

Refer to Ethical guidelines on confidentiality (2015).

6.1. Limits to confidentiality

6.1.1. Prior to any decision being made to consent to the psychological service, psychologists inform the young person and the accompanying parent about the legal and other limits to confidentiality. Matters to be considered by psychologists when discussing the limits to confidentiality include:
- the context within which the psychological service is provided;
- the type of work setting and source of referral;
- the nature of the psychological service offered or proposed (e.g., assessment, counselling);
- psychologists’ employment obligations or contractual obligations; and
- any legal and other limits to confidentiality, such as:
  - if there is a risk of harm to an identifiable person or persons that can be averted only by disclosing information;
  - a legal obligation to provide the information, which might include a parent’s legal capacity to seek access to a young person’s health records, dependent on relevant state, territory and federal privacy and health records laws (refer to Section 3.3) and whether an exception applies;
  - responding to a subpoena; and
  - Family Court and any other court orders.

6.1.2. In those circumstances where failure to disclose a young person’s information may result in a risk of harm to the young person or to others, psychologists may disclose information necessary to avert that risk of harm.

Refer to Ethical guidelines relating to clients at risk of suicide (2014); and Ethical guidelines for working with clients when there is a risk of serious harm to others (2013).

6.1.3. Psychologists are aware of, and comply with, any legal requirements to report child abuse and neglect. These requirements differ across each state and territory of Australia. Psychologists communicate these legal requirements clearly and in language that can be understood by the young person and the accompanying parent(s).

Refer to Ethical guidelines for reporting child abuse and neglect, and criminal activity (2010).

6.1.4. Psychologists are aware that a young person who is assessed as not capable of giving informed consent is still entitled to be informed of the limits to confidentiality. Psychologists use language that the young person can understand as determined by the young person’s age, maturity and capacity, and the context and purpose of the psychological service to be provided.

6.2. Access to a young person’s personal information

6.2.1. Psychologists are aware that Australian privacy and health records legislation allow for access to an individual’s health records by that individual, or in the case of a young person, by a parent when the young person is not of sufficient maturity to consent (refer to Appendix I).

6.2.2. Psychologists understand that if there are no parenting or other court orders in place which affect the provision of psychological services to the young person, both parents will generally retain parental responsibility as a matter of law, and therefore have a right of access to their child’s file, subject to any relevant legislative exceptions. (Refer to Section 3.3).

6.2.3. Psychologists understand the principle that a parent is not entitled to access their child’s personal information if the young person is of sufficient maturity and developmental capacity to understand the nature of the request to access their personal record and the nature of the record, and
i) does not provide consent for disclosure of their personal information to one or both parents; or
ii) withdraws consent.

6.2.4. Psychologists are aware that parents may not access their child’s information if court orders specify that condition.

6.2.5. Psychologists who consult with young people attending with a parent, discuss at the earliest opportunity in the provision of the psychological service the legal framework for each parent to access the young person’s personal information. Psychologists understand that this discussion is particularly important where parents have separated or divorced, or are in the process of separating or divorcing. Psychologists document these discussions on the young person’s file. The applicability of privacy and health records laws depend on the sector the psychologist works in. If a parent’s request to access the young person’s personal record has a legal basis, each parent has a right of access to the file in a manner stipulated by the relevant legislation (refer to Section 3.3.) subject to:
- any court order to the contrary;
- the capacity of the young person to give informed consent; and
- whether any legislative exceptions apply to access to the personal information under the relevant privacy or health records laws.
6.3. Disclosure of a young person’s personal information

6.3.1. When making a judgement about whether to disclose a young person’s information, psychologists consider and balance the young person’s wellbeing, the young person’s wishes, and the relevant state and territory privacy and health records laws that govern disclosure of personal information.

6.3.2. At the outset of the psychological service, psychologists clarify with the young person and the accompanying parent what information, if any, and under what circumstances, may be disclosed by the psychologist to:
   a) the accompanying parent;
   b) the non-accompanying parent; and
   c) any third parties.

6.3.3. Psychologists are aware that when a young person has the capacity to give informed consent, the young person’s consent is required for any disclosure of the young person’s information by the psychologist to the accompanying parent, the non-accompanying parent (if any) and to third parties. Psychologists maintain the young person’s confidentiality, and limit any disclosure in accordance with the express wishes of the young person, unless there is clear risk of harm to the young person or to others.

6.3.4. If a psychologist considers that a young person lacks the capacity to give informed consent, then a parent’s consent is required for any disclosure of the young person’s information by the psychologist, unless there is clear risk of harm to the young person or to others, or is legally required.

6.3.5. If a third party (e.g., school, court, government agency, funding body, or insurance company) arranges for a parent to seek a psychological service for the young person, and then requests a report based upon the psychological service provided to the young person, the psychologist ensures that the accompanying parent and young person, where applicable, are aware of the nature, purpose and consequence of the proposed report being sought, and obtain written consent before proceeding. Points covered would include, but are not limited to:
   • the purpose of the service;
   • the reasonably anticipated use that will be made of the report and/or information collected or disclosed; and
   • the legal and other limits to confidentiality.

Refer to Ethical guidelines for psychological services involving multiple clients (2014).

7. Authority to contract and engage psychological services

7.1. Psychologists understand that a young person who has the capacity to give informed consent may engage psychological services for himself or herself, subject to the young person’s capacity to pay the fees of the psychological service in those circumstances where fees are charged. Depending on the circumstances of the case, and if appropriate and safe to do so, psychologists encourage the young person to discuss the matter with his or her parent. The young person decides who may or may not receive any of their confidential information (including the young person’s parents). Psychologists respect the young person’s wishes regarding confidentiality, and do not divulge any confidential information contrary to the young person’s wishes, except as specified in Section 6.1. – Limits to confidentiality.

7.2. Psychologists are aware that when a young person is capable of giving informed consent and has an accompanying parent, psychologists may only provide the psychological service with the consent of the young person, unless the psychologist provides a psychological service in an emergency.

7.3. Psychologists understand that a young person with an intellectual disability may also be capable of giving informed consent to engage psychological services. Psychologists conduct an assessment of such a young person in accordance with Section 2.2. Similar to young people without an intellectual disability, there is no specified age at which a young person with an intellectual disability may be found to be capable of giving informed consent. Psychologists document their decision-making process.

7.4. If a client’s parent challenges a psychologist’s judgement that the young person has the capacity to give informed consent, the psychologist explains the rationale in reaching his or her decision by describing how the young person meets the criteria outlined in Section 2.2. Psychologists document the interaction with the parent.
Refer to the Code, standard A.3. Informed Consent.

A.3.6. Psychologists who work with clients whose capacity to give consent is, or may be, impaired or limited, obtain the consent of people with legal authority to act on behalf of the client, and attempt to obtain the client’s consent as far as practically possible.

A.3.7. Psychologists who work with clients whose consent is not required by law still comply, as far as practically possible, with the processes described in A.3.1., A.3.2., and A.3.3.

7.5. If a psychologist makes a judgement that a young person lacks the capacity to give informed consent to a psychological service, then only the accompanying parent’s consent is required, unless there are court orders to the contrary, or the psychologist provides a psychological service in an emergency.

Refer to Ethical guidelines for working with clients with an intellectual disability (2016).

7.6. Unless Section 7.7. applies, if the adult who is seeking to contract or engage a psychological service does not have legal responsibility for the young person, and the young person does not have the capacity to provide informed consent, psychologists do not provide a psychological service until a person with the appropriate legal responsibility for the young person provides consent.

7.7. Psychologists are aware that exceptions to Section 7.6. occur when the psychological service is sought or is provided in an emergency or exceptional circumstance where the immediate provision of a psychological service to the young person is necessary to protect the young person’s wellbeing. The psychologist is responsible for obtaining written consent from the young person’s parent or person with legal responsibility as soon as practicable thereafter, and prior to providing any further psychological services.

8. Competence

Refer to the Code, standard B.1. Competence

B.1.1. Psychologists bring and maintain appropriate skills and learning to their areas of professional practice.

B.1.2. Psychologists only provide psychological services within the boundaries of their professional competence. This includes, but is not restricted to:
(a) working within the limits of their education, training, supervised experience and appropriate professional experience;
(b) basing their service on the established knowledge of the profession of psychology;
(d) complying with the law of the jurisdiction in which they provide psychological services; and

8.1. Psychologists who provide psychological services to young people work within the boundaries of their training, experience and competence. When working with young people represents a variation from their usual practice, psychologists seek appropriate training and/or supervision and consultation with an experienced psychologist, and where necessary they refer the young person to a practitioner with the requisite experience.

8.2. Psychologists who provide psychological services to young people maintain knowledge about developments in relevant research, relevant legislation, and professional practice in child and adolescent psychology and related mental health issues that are focussed on a young person’s developmental stage and maturational progress (Sburlati et al., 2011).

8.3. Where family violence and/or child abuse or neglect is identified as an issue in the referral, or where it arises during the provision of psychological services, psychologists consider the risk to the young person and take the necessary steps to reduce the risk of harm.

Refer to Ethical guidelines for reporting abuse, neglect and criminal activity (2010).

8.4. Psychologists who work with young people are aware of the risk factors for youth self-harm and suicide. They maintain knowledge about suicide prevention and relevant interventions. Psychologists understand that young people can also present a risk of harm to others.
Refer to *Ethical guidelines relating to clients at risk of suicide* (2014); and *Ethical guidelines for working with clients when there is a risk of serious harm to others* (2013).

8.5. If there is disagreement between the parents about the provision of *psychological services* to a young person and no court orders apply, psychologists make a professional judgement about whether to provide that *psychological service*. In making that decision, psychologists consider the wellbeing of the young person as paramount, but also consider and balance other relevant information, including the capacity of the young person to consent to the service. *Psychologists* may need to monitor, evaluate and document their decision to provide a *psychological service*.

8.6. When providing *psychological services* to young people, psychologists are aware of, and sensitive to, the developmental challenges that young people may face as they navigate emotional, interpersonal and behavioural processes during childhood and adolescence. Psychologists understand the nature of child and adolescent development, and are sensitive to a young person’s need to cope with problems that may be specific to their developmental stage (Carr, 2015).

Refer to the *Ethical guidelines for psychological practice with men and boys* (2017); *Ethical guidelines for psychological practice with women and girls* (2012); and *Ethical guidelines for psychological practice with gay, lesbian, and bisexual clients* (2010).

8.7. When providing *psychological services* to young people, psychologists are aware of, and sensitive to the individual challenges that young people may face due to their cultural and/or social context, including issues such as, racism, prejudice, discrimination, and bullying.

8.8. Psychologists are aware of the profound power imbalance when working with young people, and accordingly maintain their professional boundaries when working with this vulnerable *client* group.

9. Contracting arrangements

9.1. When psychologists are contracted or engaged to provide a *psychological service* for a young person, psychologists have a responsibility to identify clearly the purpose of the service being sought, the nature of the service they will provide and whether the young person will be seen by the *psychologist* on his or her own or with the accompanying parent, and any potential involvement with each parent. Psychologists clarify those matters with the young person and accompanying parent before providing, and where relevant during, a *psychological service*.

9.2. Psychologists are aware of the risks that may apply to a young person who is taken by a parent to many different psychologists. Prior to providing a *psychological service*, psychologists clarify whether the young person has consulted other psychologists, and if so, the circumstances under which the services were provided. Psychologists then make a professional judgement about what is in the best interests of the young person’s wellbeing.

9.3. If the circumstances upon which a *psychological service* is to be provided for a young person change, then psychologists review the contractual arrangements in place for the provision of those services with the accompanying parent and where relevant, the young person who has the capacity to give informed consent.

10. Financial arrangements

Refer to the Code, standard C.6. Financial arrangements.

**C.6.1. Psychologists are honest in their financial dealings**

**C.6.2. Psychologists make proper financial arrangements with clients and, where relevant, third party payers.** They:

(a) make advance financial arrangements that safeguard the best interests of, and are clearly understood by, all parties to the *psychological service*; and

(b) avoid financial arrangements which may adversely influence the *psychological services* provided, whether at the time of provision of those services or subsequently.
C.6.3. Psychologists do not receive any remuneration, or give any remuneration for referring clients to, or accepting referrals from, other professionals for professional services.

10.1. When payment is required for a psychological service and a young person who has the capacity to give informed consent seeks to engage psychological services without the consent of his or her parent, psychologists ensure that the young person is fully informed about the cost of the service and timelines for payments, and establish the young person’s capacity to pay.

Refer to Ethical guidelines regarding financial dealings and fair trading (2012).

Refer to the Code, standard B.11. Termination of psychological services.

B.11.4. Psychologists make reasonable arrangements for the continuity of service provision for clients whose financial position does not allow them to continue with the psychological service.

10.2. When an accompanying parent terminates a psychological service by ceasing payment, the psychologist is not obliged to continue providing the psychological service to the young person. Where relevant, psychologists take reasonable steps to arrange for the continuity of service provision by another service provider.

11. Record keeping

Refer to the Code, standard B.2. Record keeping.

B.2.1. Psychologists make and keep adequate records.

B.2.2. Psychologists keep records for a minimum of seven years since last client contact unless legal or their organisational requirements specify otherwise.

B.2.3. In the case of records collected while the client was less than 18 years old, psychologists retain the records at least until the client attains the age of 25 years.

B.2.4. Psychologists, with consideration of the legislation and organisational rules to which they are subject, do not refuse any reasonable request from clients, or former clients, to amend inaccurate information for which they have professional responsibility.

Psychologists keep client records for individual sessions with the young person distinct from any records where the family is or was the client, and distinct from any records of separate consultations where one or both of the young person’s parents is or was the client.

Refer to Ethical guidelines on record keeping (2011).

12. Research contexts

Refer to the Code, standard A.3. Informed Consent.

A.3.6. Psychologists who work with clients whose capacity to give consent is, or may be, impaired or limited, obtain the consent of people with legal authority to act on behalf of the client, and attempt to obtain the client’s consent as far as practically possible.

A.3.7. Psychologists who work with clients whose consent is not required by law still comply, as far as practically possible, with the processes described in A.3.1., A.3.2., and A.3.3.

Refer to the Code, standard B.14. Research.

B.14.1. Psychologists comply with codes, statements, guidelines and other directives developed either jointly or independently by the National Health and Medical Research Council (NHMRC), the Australian Research Council, or Universities Australia regarding research with humans and animals applicable at the time psychologists conduct their research.
12.1. The National Health and Medical Research Council (NHMRC) National Statement on Ethical Conduct in Human Research (2007) and Human Research Ethics Handbook (2001) address the special issues affecting research with young people, especially consent processes, the risks and benefits of the research, and considering participants’ best interests. Psychologists are aware of the research review and approval processes within their organisation. If working in a context without research approval processes, psychologists seek a relationship with an institution that has a research ethics review process.

12.2. Where psychologists are conducting research with young people, they are aware of the requirements of the organisation or setting within which the research is being conducted, such as schools or hospitals. Usually these requirements will indicate what procedures are to be followed in relation to parental consent.

13. Summary

Psychologists who provide psychological services to young people regard the wellbeing of the young person as paramount. Working with young people can be complex. In providing psychological services to young people, psychologists consider many issues, which include, but are not limited to:

- the legislation applicable to their work;
- the policies of the organisation in which they work;
- assessing the young person’s capacity to provide informed consent;
- clarifying and identifying the level of involvement of each parent;
- clarifying the respective roles of all parties to the psychological service;
- any Family Court orders that may apply;
- clarifying whether the young person is to be seen on his or her own, or in conjunction with the accompanying parent and/or the non-accompanying parent;
- clarifying the limits to confidentiality;
- establishing what information a parent may have a legal right to access in relation to the young person, regardless of whether they are accompanying the young person; and
- clarifying under what circumstances client information may be disclosed and to whom.

Psychologists review their practice procedures for working with young people, clarify consent issues at the outset of providing a psychological service, and further clarify issues of consent if the contract for the psychological service changes.

14. References

Australian Psychological Society. (2013). Ethical guidelines for working with clients when there is a risk of serious harm to others. Melbourne: Author.
15. Appendix I

Relevant legislation relating to access to personal information

Commonwealth – Privacy Act 1988
The Privacy Act is not specific about access by parents but individuals are entitled to access their personal information. The legislation defines a ‘responsible person’ as a parent. So, a parent, as a person responsible for the individual, (that is the young person) could access health information on their behalf.

Victoria – Health Records Act 2001
Access to health records can be exercised by an authorised representative of the individual, where the individual is incapable of making the request or exercising the right to access. Authorised representative, in relation to the individual as defined in section 85 (6) and includes ‘a parent of the individual, if the individual is a child’.

No specific age is set by the legislation, but section 85 (3) outlines when an individual is incapable of giving consent to access health information:

‘... an individual is incapable of giving consent, making the request or exercising the right of access if he or she is incapable by reason of age, injury, disease, senility, illness, disability, physical impairment or mental disorder of—

a) understanding the general nature and effect of giving the consent, making the request or exercising the right of access (as the case requires); or

b) communicating the consent or refusal of consent, making the request or personally exercising the right of access (as the case requires) – despite the provision of reasonable assistance by another person’.
Australian Capital Territory – Health Records (Privacy and Access) Act 1997
No specific age is set by the legislation, but the right of access to a health record conferred by section 10 (1) is exercisable—
a) for a consumer who is a child—on behalf of the child by the person with parental responsibility for the child; and
b) for a consumer who is a young person—
   (i) if the young person has sufficient maturity and developmental capacity to understand the nature of the young person’s request to access a health record and the nature of the record—by the young person personally; or
   (ii) in any other case—on behalf of the young person by the person with parental responsibility for the young person.

New South Wales – Health Records and Information Privacy Act 2002
“Parental responsibility”, in relation to a child, means all the duties, powers, responsibility and authority which, by law, parents have in relation to their children.

“Child” means an individual under 18 years of age.

If a child is not capable of consenting to treatment, either parent can access information about their child’s treatment and their file under section 7.

If a child is capable of consenting to treatment, section 7 provides that their parent may not access the child’s information or file without the child’s express authority.

An individual is incapable of doing an act authorised, permitted or required by this Act if the individual is incapable (despite the provision of reasonable assistance by another person) by reason of age, injury, illness, physical or mental impairment of:
(a) understanding the general nature and effect of the act, or
(b) communicating the individual’s intentions with respect to the act.

16. Appendix II

Relevant extracts from the Family Law Act (1975)

Parental Responsibility
Under Section 61B of the Family Law Act (1975), parental responsibility is defined as “all the duties, powers, responsibilities and authority which by law, parents have in relation to children”.

Section 61C of the Family Law Act (1975) states that “each of the parents of a child who is not 18 has parental responsibility of a child”.

(Note: A Court Order may confirm, change, limit or extinguish a person’s parental responsibility)

Presumption of equal shared parental responsibility when making parenting orders
Under section 61DA there is a presumption of equal shared parental responsibility when the court makes parenting orders.

(1) When making a parenting order in relation to a child, the court must apply a presumption that it is in the best interests of the child for the child’s parents to have equal shared parental responsibility for the child.

Note: The presumption provided for in this subsection is a presumption that relates solely to the allocation of parental responsibility for a child as defined in section 61B. It does not provide for a presumption about the amount of time the child spends with each of the parents (this issue is dealt with in section 65DAA).

(2) The presumption does not apply if there are reasonable grounds to believe that a parent of the child (or a person who lives with a parent of the child) has engaged in:
   (a) abuse of the child or another child who, at the time, was a member of the parent’s family (or that other person’s family); or
   (b) family violence.
(3) When the court is making an interim order, the presumption applies unless the court considers that it would not be appropriate in the circumstances for the presumption to be applied when making that order.

(4) The presumption may be rebutted by evidence that satisfies the court that it would not be in the best interests of the child for the child’s parents to have equal shared parental responsibility for the child.

Section 4 – Definition of “Major long-term issue”
A “major long-term issue” in relation to a young person means issues about the care, welfare and development of the young person of a long-term nature and includes (but is not limited to) issues of that nature about:
(a) the young person’s education (both current and future);
(b) the young person’s religious and cultural upbringing;
(c) the young person’s health;
(d) the young person’s name; and
(e) changes to the young person’s living arrangements that make it significantly more difficult for the young person to spend time with a parent.

Effect of parenting order that provides for shared parental responsibility
Section 65DAC of the Family Law Act (1975) refers to parenting orders providing for shared parental responsibility which involves making a decision about a major long-term issue in relation to the young person. The section says that the effect of a parenting order that provides for shared parental responsibility (between two or more persons) is that where the exercise of that parental responsibility involves making a decision about a major long-term issue in relation to the child, that the order is taken to require the decision to be made jointly by those persons. This means that the people subject to the shared parenting order are required to make such decisions together.

The parenting order is taken to require each of those persons:
(a) to consult the other person in relation to the decision to be made about that issue; and
(b) to make a genuine effort to come to a joint decision about that issue.

However, Section 65DAC (4) states that, “To avoid doubt, this section does not require any other person to establish, before acting on a decision about the child communicated by one of those persons [parents], that the decision has been made jointly.” In effect, this means that parents, who are subject to a shared parenting order, making a decision about a major long-term issue about a child, must do so jointly, but a psychologist is not required to establish whether that decision has been made jointly.

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