

Australian Psychoanalytical Society Incorporated

Code of Ethics and Professional Standards for Psychoanalysts

(31st August 2023)

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PART 1 - ETHICS AND PROFESSIONAL STANDARDS FOR PSYCHOANALYSTS

Division 1 – Preliminary

1. Authorising Provision of Constitution

This Code is made under clause 52 (2) of the Australian Psychoanalytical Society Incorporated (APAS) Constitution (October 2023).

Division 2 – Ethical Principles

2. Preamble

1. Throughout his writings, Freud speaks of the extent to which the technical imperatives that arise from an understanding of the transference coincide with and support a commitment to certain ethical imperatives. Particularly by virtue of the psychoanalysts' understanding of the transference and countertransference, they are both technically and ethically obliged not to derive any personal advantage from it, nor must they exploit these feelings in any way. Freud writes that this involves a profound respect for the patient's individuality and separateness: the patient must not be thought the analyst's personal property; analysts do not decide the fate for the patient; analysts do not force their ideals upon the patient; it is not the analysts' job to re-mould the patient in accordance with any personal ideals; it is the analysts' job to seek to arouse in the patient their own powers of initiative. Accordingly, analysts are ethically obliged to be mindful of the forces in their own minds – their unconscious impulses and longings - which seek to pull them away from their analytic obligations (Freud, 'Lines of Advance in Psycho-analytic Therapy'. 1919 (1918). S.E. Vol 17).
2. This Code which sets minimum ethical and professional standards applies to members and candidates in training of the Australian Psychoanalytical Society.
3. The Code applies to a member or candidate working with patients and supervisees in any clinical setting and with individuals in any organisational setting.
4. It is noted that members and candidates in training are bound by obligations in legislation that govern their respective disciplines.
5. It is noted that members and candidates in training are required to be compliant with International Psychoanalytic Association's ethical code.
6. The Code itself and its implementation is required to be compliant with that of the International Psychoanalytic Association.
7. Ethical Principles underpinning this Code include a. professional competence based on ongoing professional development; b. recognition that ill health and personal problems can impair the performance of professional responsibilities; c. respect and care for patients and their families, candidates in training and colleagues; d. confidentiality in relation to patient communication and qualified confidentiality in relation to candidates in training; e. avoidance of exploitation; and f. personal integrity.

Division 3 – Ethical Responsibilities

3. Responsibilities to the Patient

1. Psychoanalysts must always act in a way they reasonably believe to be in the best interests of their patients.
2. Patients must always be treated with respect.
3. Psychoanalysts are responsible for setting and maintaining professional boundaries within the psychoanalytic relationship.
4. The psychoanalyst of a minor patient must seek to preserve the patient's confidentiality, while keeping parents or guardians informed of the course of treatment in ways appropriate to the age and stage of development of the patient and the clinical situation.
5. Psychoanalysts must not wilfully use deceit, threats, verbal cruelty or undue influence for personal gratification or gain.
6. Psychoanalysts must not exploit patients, past or present, in a financial, sexual, emotional or any other way.
7. Psychoanalysts must not accept or offer payments for referrals, or engage in any financial transactions, apart from negotiating the ordinary fee charged for analysis.
8. Sexual relations between the psychoanalyst and the patient can never be acceptable, both during the treatment and afterwards. This includes any form of physical contact, whether initiated by the patient or the psychoanalyst, which has as its purpose some form of sexual gratification, or which may be reasonably construed as having that purpose.
9. During the period of treatment, psychoanalysts must not propose or enter any form of sexual relationship with any member of the patient's family or significant other.
10. Restraint must be exercised regarding all social contact with the patient during and after treatment.
11. A psychoanalyst must, with regard to patient confidentiality, make provision for each patient to be informed (including options for continuing treatment) in the event of the psychoanalyst's death or unavailability.
12. Psychoanalysts must demonstrate they are fit to practise. The minimum standards for fitness to practise are:
 - a. Conduct: psychoanalysts and candidates in training must ensure their conduct is within the bounds considered acceptable and worthy of membership of the profession
 - b. Performance: psychoanalysts and candidates in training must demonstrate a performance standard consistent with professionally accepted standards
 - c. Health / Disability: psychoanalysts and candidates in training must demonstrate awareness of their own health condition or disability and ensure any health condition or disability does not provide unacceptable additional risk to themselves or others
 - d. Compliance: psychoanalysts and candidates in training must be compliant with the relevant rules, regulations, and standards for practicing as a member of The Society
13. Psychoanalysts must have professional indemnity insurance.
14. Confidentiality
 - a. Psychoanalysts must treat as confidential all information and records, whether in written or any other form, obtained or kept in the course of their work with patients.

- b. All records should be kept in a secure location.
- c. Psychoanalysts are obliged to be aware of all state and federal privacy regulations regarding the keeping of notes and records.
- d. Patients must not be observed by anyone other than their psychoanalyst without having given informed consent. This applies both to direct observation and to any form of audio or visual transmission or recording.
- e. Psychoanalysts and candidates are responsible for protecting the patient's rights of confidentiality in the training context by ensuring that shared information is disguised appropriately.
- f. Psychoanalysts and candidates must not present in peer group discussions patients who are members and candidates of The Society or their families or are patients in related mental health fields who may be known to the group and/or who may in due course apply to train with the Society.
- g. Exceptional circumstances may arise that give the psychoanalyst good grounds for believing that the patient will cause serious physical harm to others or themselves. In such circumstances, the breaking of confidentiality may be required, preferably with the patient's permission, or after consultation with other professionals.
- h. Any necessary breaking of confidentiality should be minimised, both by restricting the information conveyed to that which is pertinent to the immediate situation, and by limiting it to those persons who can provide the help required by the patient.
- i. Agreements about confidentiality continue after the patient's death unless there are overriding legal considerations.
- j. Special care is required when using specific psychoanalytic situations for reports and publication. The author must have the patient's informed consent should there be any possibility of identification of the patient.
- k. Special care is also required with the use of 'new technologies' such as e-mail contact, online consultations etc., whether for patient contact, supervision, or communication between Committee members, or for communication with the Society Committee and the membership.

15. Agreements Regarding Treatment

- a. Psychoanalysts are responsible for clearly communicating the terms on which analysis is being offered.
- b. Treatment plans, including suggestions regarding other treatment possibilities as appropriate, will be made jointly with the patient.
- c. When a patient is incapable of giving informed consent, the psychoanalyst must obtain consent from a legally authorised person.
- d. It is recommended that candidates in-training inform psychoanalytic training patients (control cases) and prospective psychoanalytic training patients that they are in training and supervised. Where the patient is a minor, the parent(s) or guardian(s) should also be informed. If asked, candidate -in-training should not deny that they are being supervised as a requirement of their training.
- e. Any publicity material and all written and oral information should reflect accurately the nature of the service offered, and the training, qualifications, and relevant experience of the psychoanalyst.
- f. Psychoanalysts must, on becoming aware of any conflict of interest that may arise in relation to a patient, take appropriate action, which may include referral.

4. Responsibilities of Training Analysts to the Society Executive Committee

The Australian Psychoanalytical Society is a non-reporting Society which means that Training Analysts analysing candidates in training are to maintain confidentiality as set out in the confidentiality section above except for 1. below.

1. Training Analysts are appointed by the Society Committee to work on their behalf in conducting training analyses and are obliged to inform the Branch Progress Sub-committee if the training analysis deviates from the minimum standards. This applies also applies to remote training analyses.
2. Training Analysts are responsible for monitoring their professional functioning and to participate in on-going professional development, including regular peer review of their clinical work.
3. Training Analysts are required to have fortnightly supervision of their first training analysis for a period of at least one year. The supervisor needs to be an overseas IPA member who is a Training Analyst of their Constituent Organisation. In some circumstances approval may be granted by the Executive Committee for a senior overseas IPA analyst who is not a training analyst to undertake supervision.

5. Responsibilities to Candidates

1. While bylaw 3 relates specifically to patients, psychoanalysts must also be aware they are always in a professional relationship with candidates and must therefore exercise restraint as detailed therein.
2. Candidate Progress Reports must be treated as confidential and only for use by the candidate, Progress Advisor, current supervisors, and members of their Branch Progress Sub – Committees.

6. Responsibilities to Supervisees

1. See responsibilities to patients.
2. See confidentiality section.

7. Professional Responsibilities

1. Psychoanalysts must be committed to continuous professional development and are expected to maintain and develop their competence throughout their professional lives.
2. Psychoanalysts are expected to have regular consultation with colleagues, and to use such consultation to develop psychoanalytic skills, monitor functioning and provide accountability for practice.
3. Psychoanalysts are expected to monitor their own personal functioning, and seek help, or refrain from conducting analysis, when their personal resources are sufficiently depleted to require this.
4. Psychoanalysts must not undertake analysis when their functioning is significantly impaired by personal or emotional difficulties, illness, alcohol, drugs, or any other cause.
5. Psychoanalysts should try to eliminate from their work the effects of biases based on age, disability, ethnicity, gender, race, religion, sexual orientation, or socioeconomic status.
6. All members and candidates must be compliant with the relevant rules, regulations and standards for practising as a member or candidate of the IPA and The Society including the need to comply with the Code and to co-operate with the work of the Ethics and Professional Standards Committee (EPSC).

8. Responsibilities to Other Psychoanalysts and the Society

1. Psychoanalysts must not conduct themselves in their psychoanalysis-related activities in ways that undermine public confidence in either their role as psychoanalysts or in the work of other psychoanalysts.
2. Psychoanalysts must not be careless or malicious as to whether they damage the reputation of any person or organisation including, but not limited to, other psychoanalysts, or knowingly interfere in peer review evaluations in the absence of compelling and extenuating circumstances.
3. A psychoanalyst must (subject to the requirements of professional confidentiality) be honest with patients and colleagues and must not mislead or engage in any act of fraud, deceit, or coercion.
4. Psychoanalysts must not solicit the patients of other psychoanalysts. They have an obligation not to impair the work of their colleagues. Nevertheless, psychoanalysts need to be aware of the patient's right to seek a second opinion.
5. Psychoanalysts are also expected, if they become aware of colleagues experiencing personal difficulties that potentially affect their health or practice, to offer support or consultation as appropriate.
6. Psychoanalysts who suspect misconduct by another psychoanalyst that cannot be resolved or remedied after discussion with the psychoanalyst concerned, or where no discussion is possible, should approach the EPSC,
7. Members should not disclose personal and private information of colleagues (that is, family problems or health issues)

9. Responsibilities to Other Professionals

1. In their relationships with other professionals, psychoanalysts must comply with the ethical principles and responsibilities in this Part (including those to patients and candidates) as appropriate in the circumstances of the relationship.

10. Responsibilities to the Wider Community

1. Psychoanalysts must take all reasonable steps to be aware of current legislation affecting their work.
2. Psychoanalysts must protect the public against incompetent and dishonourable practices and be prepared to challenge these practices.

PART 2

– OPERATION OF THE COMMITTEE OF ETHICS AND PROFESSIONAL STANDARDS AND APPLICATION OF THE CODE

Division 1 – Preliminary

11. Interpretation

In this Part:

1. “the Code” means the Code of Ethics and Professional Standards for Psychoanalysts.
2. “EPSC” means the Ethics and Professional Standards Committee; and
3. in the case of a complaint about the President, any reference in the following bylaws to the President is to be taken to be a reference to the Deputy President.

12. Authorising Provisions of Constitution

The bylaws in this Part are made under Division 2 of the APAS Constitution.

Division 2 – Ethics and Professional Standards Committee

13. Functions

1. The functions of the EPSC are:
 - a. to offer discussion and advice about matters of ethics and professional conduct to members, , The phrase “professional conduct” includes conduct that may affect patients, colleagues, the Society, the Branches or the Institutes, other professionals, members of the public, or the good name of psychoanalysis as a discipline.
 - b. to provide written opinions when requested by Office Bearers of the Society,
 - c. to periodically bring forward general ethical issues for consideration by membership and to present at annual society conference.
 - d. to receive and adjudicate upon complaints concerning the professional conduct of members.
 - e. To liaise with National Education and Training Committee (NEAT) and Branch programme chairs to ensure ethics seminars are included in the training programme
2. The EPSC is guided by the Code, which is the EPSC’s responsibility to keep under review.
3. Regarding maintenance and handling of all records:
 - a. The EPSC Secretary will keep hard copies of all Records and any material that may be helpful to later EPSCs and that may assist the future management of ethics matters in the

Society

- b. The EPSC Secretary will maintain all records of the Ethics Committee in securely locked storage. Records include minutes, correspondence, working papers, reports, reference material.
 - c. All records of the work of the EPSC will be kept via transmission from EPSC Secretary to the next EPSC Secretary. At the completion of their term of office the Ethics Secretary will transfer all records and materials to the incoming EPSC Secretary
 - d. Email and electronic record protocol
EPSC members, including any co-opted members appointed to a panel will destroy electronic records of all concluded matters, after ensuring that the Secretary has a complete set of records. At the end of their term of office, EPSC members will ensure removal from their computers of all electronic records of ethics matters, including minutes of meetings.
 - e. Printed materials protocol
EPSC members will destroy printed records of all concluded matters, after ensuring that the Secretary has a complete set of records. At the end of their term of office EPSC members, including any co-opted members appointed to work on behalf of the committee will destroy all printed copies of minutes and other records of the EPSC, after ensuring that the EPSC Secretary has a complete set of records.
4. The EPSC will maintain a manual of complaints investigations, removing all identifying data, detailing procedures, and outcome, and noting any areas of the Code which need clarification or review as a result. The manual is to be stored in a secure location and is for the use of the EPSC at its discretion – with due regard for conflicts of interest, confidentiality, and purpose.

14. Composition

1. The EPSC is a Standing Committee elected each year at the Annual General Meeting of the Society \consisting of three members who ordinarily have at least five years standing, long experience of psychoanalytical practice and of the Society.
2. When the EPSC has three members who meet the requirements in 14.1, one member who is less experienced may be elected.
3. No member who has been found guilty of a breach of the Code is eligible to be a member of the Committee.
4. Members of the Committee and of NEAT are not eligible to be members of the Committee.
5. At least one member of the EPSC must be a child and adolescent psychoanalyst when an investigation involves a child-related complaint. If no child and adolescent psychoanalyst is a member of EPSC, one can be co-opted by the EPSC for the purpose of a complaint involving a child.
6. The EPSC consists of:
 - a Chair,
 - b Secretary elected from the membership of EPSC
 - c. two ordinary members elected annually at the AGM of the Society
 - d. at the discretion of the EPSC, one appropriately qualified expert adviser or consultant may be co-opted, and
 - e. at the discretion of the EPSC other members may be invited to join the EPSC to assist its work.

7. The Chair is eligible for re-election annually for a maximum continuous period of four years, and the ordinary members are eligible for re-election annually for a maximum continuous period of four years.
8. No member whose term of office has ended can serve in any position on the EPSC for at least one year.
- 9.. In special circumstances, the EPSC is able to make use of previous EPSC members in a consultative capacity. consultants co-opted by the EPSC into this role are not members of the committee; do not determine decisions; and do not have the responsibilities of members in carrying out the work of the committee.

15. Relationship with the Society Office-Bearers

1. EPSC reports in confidence to the President (or the Deputy President if the President is the subject of the Complaint or has a conflict of interest) on accepted complaints for further action.
2. The President can approve expenditure by EPSC for legal and other costs up to \$5000.00
3. If an Enquiry incurs legal and other costs of more than \$5000 the President will be informed of the need for ongoing expenditure by Lawyers, nominated by our Insurer, to the degree to which this can be informed. The President will seek the approval of the Deputy President, Honorary Secretary, and Treasurer for any necessary expenditure as they carry director's duties and responsibilities. These office-bearers will be informed of the matter to the extent that they can give informed consent to approving the expenditure. If the Deputy President, Honorary Secretary or Treasurer are the subject of the Complaint or have a conflict of interest, their approval for expenditure will not be sought.

PART 3 - DEFINITIONS

16. Definitions

4. In the constitution and these Bylaws "Code of Ethics and Professional Standards for Psychoanalysts" means the Bylaws in this Part.
5. Unless the contrary intention appears:
 - (a) "psychoanalyst" includes any IPA member of the Society whether acting as a psychoanalyst or in any other capacity.
 - (b) "candidate" means a candidate in the training programme of the Society
 - (c) "this Code" means the Code of Ethics and Professional Standards for Psychoanalysts; and the Code of Ethics and Professional Standards for Psychoanalysts applies in all respects to all Society /IPA psychoanalysts and candidates in training.