

# **Appendix 1.**

## **CODE OF ETHICS**

### **GUIDELINES FOR WORKING PRACTICE**

#### *Preamble*

*(Revised June 2017)*

The provisions of this Code are intended for all members of ANZSJA and all trainees/candidates enrolled in the ANZSJA analytic training program. ANZSJA is an incorporated association with a registered office in Australia. All determinations will be dealt with according to Australian law. These provisions are referred to and form part of the ByLaws of ANZSJA. The term ‘member’ in this Code includes full member and students who are trainees/candidates of ANZSJA.

Members are expected to act with honesty and integrity in all their professional work. This Code of Ethics sets out the essential ethical imperative. All members of ANZSJA have a responsibility to be familiar with, and abide by this ANZSJA Code. It is expected that ANZSJA members shall follow the guidelines contained in this Code, not only in relation to analysands (including training patients) and to other members of the ANZSJA, but also in all their professional relationships, for example with colleagues in other professional bodies, with the guests of ANZSJA, with visitors to ANZSJA’s meetings, with applicants for training and with supervisees.

There are four sections in this document: 1) general guidelines, 2) what constitutes serious misconduct, 3) complaints and the complaints procedure and 4) appeals and appeals procedure.

## **1. Guidelines for Ethical Practice**

### **a) Responsibilities to Analysands (including training patients)**

A member of ANZSJA shall take due care to observe the following:

i) At the start of the analytic process/consultation, it is incumbent on the member (including supervisor) to state clearly to the analysand the terms and conditions of analytic practice or supervision contract, for example, times, frequency of sessions, arrangements about fees. All reasonable steps need to be taken to be aware of current legislation and regulations affecting their analytic work practices, for instance the relevant Australian and New Zealand privacy and health commission legislation. When setting fees, the member shall ensure that the fees are fair, reasonable and commensurate with the service provided and s/he shall give due regard to the analysand’s ability to pay. The practitioner shall ensure that these terms and conditions are maintained. Where it is necessary subsequently to alter the contract, clear explanations shall be given and the new arrangements agreed.

ii) A member shall refrain from claiming to possess qualifications, which s/he does not possess. Professional qualifications shall be disclosed if requested by the analysand. A member must restrict their practice within the limits of their own competence and seek professional consultation or supervision in any situation, which may reach this limit and refer analysands to others when this proves necessary or desirable.

iii) A member shall offer his/her professional services to, and recognise the dignity and integrity, of all analysands, without prejudice or discrimination on the base of race, colour, sex, sexual orientation, social class, age, disability, religion or political persuasion.

iv) A member shall terminate her/his services to analysands in a suitably professional manner. There may be a mutual decision that the service is no longer required or that the service is not in the analysand’s best interests. Where there is a concern about the mental health and welfare of the analysand, the member shall suggest reasonable alternatives for continuity of service provision.

v) During treatment, great restraint shall be exercised with regard to social contacts with an analysand. After termination, the member shall keep in mind the possible continuation of transference feelings and therefore use discretion in any close social contacts.

vi) Due care shall be taken to consider any possible contributing medical factors in an analysand's psychological circumstances. Where appropriate and in consultation with the analysand (see A (h) below), his/her general practitioner may need to be informed of the analytic work and may need to be consulted about possible medical implications.

vii) Contact with third parties e.g. relatives, friends, and medical advisers of the analysand shall occur only with the express knowledge and consent of the analysand. Exceptions may have to be made in certain circumstances, such as the analysis of children, or the extra-analytical management of an analysand who is a danger to self or others.

viii) Confidentiality, and the preservation of a patient's anonymity, is paramount. Care shall be taken to appropriately disguise all clinical material in the case of publication (or in the presentation of material at clinical seminars). If an analysand may recognise him or herself, a decision not to publish shall be made. Particular discretion shall be used in the special situations of personal consultations with colleagues. If an analysand specifically requests that his or her material shall not be published this must be respected. Wherever possible the actual consent of the analysand shall be sought. Exceptions may have to be made in certain circumstances, for example, where a lawsuit may be threatened and where the member or trainee/candidate is required to give details to his/her solicitors and/or professional insurers.

ix) A member shall not take advantage of the dependent nature of the analytic relationship, the age, educational or intellectual disadvantage or ill health of the analysand, nor exploit the analysand sexually, emotionally or in any other manner.

x) Sexual relations between the analysand and the analyst can never be acceptable. It constitutes unethical behaviour. This is not restricted to sexual intercourse and includes any form of physical contact, which has, or may be reasonably construed as having as its purpose, some form of sexual gratification, whether initiated by the analysand or the analyst. Terminating a therapeutic relationship in order to have a sexual relationship is also unethical.

xi) A member shall neither pay for nor receive a commission for the referral of potential analysands, nor engage in any financial transaction with individual analysands, apart from the ordinary fee charged for analytic sessions. Exceptions may arise in relation to trainees/candidates in the ANZSJA analytic training program where a fee may be charged for seminars, lectures or other teaching.

xii) Members shall refrain from engaging in multiple relationships that would impair their professional competence, objectivity, duty of care and effectiveness in the analytical work. They shall exclude themselves from multiple/dual relationships that could harm analysands or lead to their exploitation. Analysts shall inform analysands of the analytical services they offer and declare any vested interests that they have in the analytical service they deliver. Analysts who find themselves in the situation of multiple/dual relationships through their role as supervisors or tutors shall consult with a senior analyst to clarify best interests of those receiving the analytical service. When entering into multiple relationships for over-riding ethical reasons (e.g. because of organisational requirements), analysts adhere to the ethics of their professional relationship.

xiii) If in doubt about his/her ability to perform competently as a member, he/she is required to consult with an appropriate colleague to determine his/her competency to practise and/or to determine the need for further advice, treatment or supervision.

xiv) It is an obligatory requirement that all ANZSJA members maintain adequate Professional Indemnity Insurance or cover from a professional practice protection society that covers all analytical and psychological services that the particular practitioner offers in his/her professional practice, as a member of

ANZSJA or when enrolled in ANZSJA's analytic training programme.

xv) Members as part of a commitment to best ethical practice principles, shall seek ongoing supervision in the form of individual supervision, a supervision group facilitated by an experienced supervisor or in the case of experienced analysts, a peer supervision group. This shall complement ongoing continuing professional development as well as engaging with other appropriate educational activities according to an analyst's individual needs and professional requirements, which might include teaching and publishing papers in professional journals. Members shall be responsible for maintaining their professional competence.

xvi) For their part supervisors shall foster in their supervisees best practices that are built on principles, values and ethical issues particular to the practice of analytical psychology. Where possible, clinical supervisors shall receive some formal training/educational input in how to supervise other therapists. Supervisors shall be aware of multiple roles and reduce any conflicting role interests.

xvii) A member, including supervisor is responsible for developing in advance a plan for the care of his/her analysands and supervisees, in the event of the practitioner suddenly being unable to maintain his/her practice as in, for example, his/her incapacity, accident or unexpected death. It is recommended that two colleagues hold a list of their patients and supervisees in confidence and the names of these nominees are lodged with the Secretary of ANZSJA.

xviii) Members who plan and run a research programme shall acquire all the relevant ethics clearances with their university/research/health service organization. It is advisable that they then pass a copy of the research outline and clearances to the ANZSJA Ethics Committee for consideration and advice.

xix) Members who directly participate in programmes which potentially present an analytic process as entertainment (e.g. feature on-screen psychotherapy or analysis) shall be mindful that they are rendering public what is conventionally regarded as a confidential activity involving the participation of 'vulnerable' people. This places an ethical obligation on the analyst to give careful consideration to the fact and activity of any such participation. Should such a situation arise the member shall seek the advice and input of the ANZSJA Ethics Committee.

## **b) Relationship with colleagues and within the Profession**

This section is intended to guide members in their relationships with, and behaviour towards, colleagues. Members are inevitably seen as representatives of ANZSJA, of its culture and its values in ways that cannot be confined to professional settings. They should therefore refrain from conduct, which may bring ANZSJA into disrepute and damage its aims.

In making verbal or written public statements, a member shall make it clear whether s/he is speaking personally or as a representative of ANZSJA.

Personal or clinical material disclosed in meetings of ANZSJA, or of its committees, by practitioners, or by guests of, or visitors to, ANZSJA, shall be treated with strict confidentiality, except where express permission has been given to treat it otherwise.

In making a formal complaint persons shall be aware of the damage that can occur to a professional reputation.

a) A member shall:

- i) conduct his/her relationships with colleagues both within and outside ANZSJA with appropriate respect and courtesy, fairness and good faith; s/he shall not falsely or maliciously speak ill of a colleague or colleagues, in such a way as to damage their personal or professional reputation;
- ii) promote cooperation with colleagues to further professional interests and concerns;

- iii) respect professional confidences concerning the analysands of colleagues;
  - iv) seek to resolve conflicts with colleagues in the interests of analysands or in the interests of their professional integrity;
  - v) adhere to professional rather than commercial standards in making known the availability of their services;
  - vi) uphold and foster the value, integrity, knowledge and ethics of the profession.
- b) A member shall not defame, professionally or personally, a colleague or group of colleagues, to an analysand or to potential analysands, either privately or in public, or to members of the public in general.
- c) Unless there are reasonable and valid reasons, a member shall not supersede or takeover an analysand from another member if s/he is aware that such analysand is in active treatment with another member.
- d) The supervisor shall not take advantage of the greater authority implicit in this relationship.
- e) Elected office bearers and members of ANZSJA committees shall be committed to the principles of ethical best practice as they undertake their positions of leadership and management.
- (f) It is the responsibility of members to declare and take responsibility for conflicts of interest when advising or participating in ANZSJA committees or professional activities of ANZSJA or outside bodies and organisations. A conflict of interest may be potential, actual or perceived.
- g) A member shall not negatively expose colleagues on social media networks.

## **2. Serious Misconduct**

All members of ANZSJA shall be cognisant of the Rules and Bylaws of ANZSJA, which refer to expulsion and suspension from membership.

### **A breach of any of the following rules constitutes serious misconduct:**

- a) All members shall ensure that the stipulated terms and conditions of analytic procedures (see 1 (a): i-xix) above) are maintained. The refusal to cooperate with the Ethics Committee procedures and recommendations will constitute a violation of the Association's ethical guidelines.
- b) Financial dealings with analysands, supervisees or trainees/candidates shall always be restricted to matters concerning professional fees.
- c) A member shall take all reasonable steps to preserve confidentiality of information acquired through their practice and protect the privacy of individuals and organisations about which information is held. It shall be noted that the right to confidentiality may be passed to the relative of a deceased analysand. The right to confidentiality may come into question for example, as stated in 1(a):(vii) and 1(a):(viii) under these Guidelines; or if the member becomes aware of the commission of a crime; or if a Court orders the disclosure; or an analysand has given express consent.
- d) No member shall enter into a sexual relationship with any of his or her analysands, supervisees or trainees/candidates (see: 1(a) x).
- e) No member shall use physical violence or non-physical violence against an analysand. In exceptional circumstances however, it may be necessary for a member to physically restrain an analysand to prevent injury to self or other.
- f) No member shall attempt to carry out professional activities when no longer able to do so competently. S/he shall not offer treatment when s/he is a) under the influence of drink or drugs, or b) is liable, for reasons of physical or psychological illness, or ageing, to be incapable of exercising adequate skill and judgment.

Where a members judgment is believed to be impaired e.g. by reason of physical or mental illness, ageing or the influence of drugs or alcohol, the Ethics Committee meets as a Health Committee to which a medical practitioner is co-opted.

g) If a member has been convicted of a criminal offence or has civil proceedings commenced against him/her, or has proceedings commenced against him/her by other professional bodies, s/he shall inform the Convenor of the Ethics Committee of the proceedings, together with the relevant facts.

The above Code cannot be regarded as complete or exhaustive as it derives from problems known to have arisen in the past.

### **3. Complaints and Complaints Procedure**

Any person with an ethics concern, who is considering making a formal complaint against a member of ANZSJA, shall contact the Convenor of the Ethics Committee.

A complaint is a formal statement of dissatisfaction about a members conduct where there are concerns that the required standards of ethics have not been met. There is a request for action by the Ethics Committee. The procedure, which the Ethics Committee follows, shall be designed to give both the complainant and the respondent an opportunity to substantiate their positions. There are separate provisions in the Rules and Bylaws covering grievances, which are not ethical matters, but feelings of resentment over unfair treatment, a dispute or conflict. Failure to adhere to ANZSJA protocols governing the analytic training and/or the training contract, where parties have acted in good faith and ensured natural justice is applied to processes and procedures, does not in itself constitute an ethics violation.

It is the members responsibility to meet their obligations as members of other bodies who may be subject to other ethics codes and complaints processes.

The complaints procedure shall follow the steps outlined below, with the exception of complaints between colleagues, where ANZSJA members shall follow the process outlined in sub-section (g) below, before directing a complaint to the Convenor of the Ethics Committee.

Complaints from whatever source will not be accepted more than one year after the alleged event. Complaints from third parties will not normally be accepted.

In making a formal complaint a person should be aware of the damage that can occur to a professional reputation.

#### **Complaints Procedure**

The procedures set out below are designed to give both complainant and respondent every opportunity to respond to the issues raised.

a) An informal approach to the Convenor of the Ethics Committee may be made before making a formal complaint if the person considering making a complaint so wishes. In attempting to reach an informal resolution, where appropriate, an opportunity for discussion may be offered between complainant and a member of the Ethics Committee or its appointee.

b) Complaints shall be in writing, outlining the nature of the complaint, on the appropriate form provided by ANZSJA (see *Notification of Complaint form* attached) and shall be addressed to the Convenor of the Ethics Committee. Complaints that have been addressed to other Officers or to the Secretary shall be forwarded to the Convenor. The complainant shall at the outset give written permission for the person complained about to be notified and the respondent shall be required to provide all necessary information in order to respond to the complaint.

c) Upon receipt by the Convenor of the Ethics Committee of a formal written complaint, the complainant shall be acknowledged as soon as practicable and the Convenor of the Ethics Committee shall write to the person complained against-the respondent- with details of the substance of the complaint and invite them to respond in writing within a reasonable fixed period of time.

d) The Ethics Committee shall determine that the complaint, if proven to be true, would represent a violation of the ANZSJA Code of Ethics and could properly be adjudicated by the Committee according to these guidelines and procedures. The level of response may range from requiring no further action to informal mediation, conciliation or formal investigation. A matter could be heard under the grievance provisions of the Rules and Bylaws of ANZSJA.

e) A member/trainee/candidate is expected to cooperate constructively with any complaints procedure and/or recommendations.

f) The Ethics Committee may decide an alternative route for ‘consensual disposal’ of complaints, which do not constitute a serious breach of the Ethics Code. This route would involve the complaint being informally mediated or referred for conciliation. Both complainant and member are informed in writing of this decision and are given details of the process that will be undertaken. The particular form of any mediation process will be determined by the Convenor in consultation with the Ethics Committee. In any mediation meetings both complainant and member may have a support person present. The conduct of the meeting shall be at the discretion of the committee. While every effort will be made for such a meeting to be face to face, it may be necessary for the meeting to occur via a digital or telecommunications platform.

g) Where a member has reason to believe a colleague is acting contrary to the Code of Ethics, they shall follow the procedure set out below:

- i) They must first seek a meeting with that colleague to discuss the issue.
- ii) If such a private meeting is either not agreed to or not possible, the concerned colleague is encouraged to contact a senior colleague to facilitate such a discussion.
- iii) If that discussion fails to resolve the concern about the matter, the colleague shall contact the Convenor of the Ethics Committee in writing, outlining all the steps taken to resolve the matter.
- iv) The Convenor treats the complaint in the normal way to determine whether it is a receivable complaint.

h) All travel and other expenses incurred through the complaints process are the responsibility of the complainant and the member.

i) If the Convenor determines that the Ethics Committee shall formally investigate the complaint, both the complainant and member shall be informed in writing of this decision. If a complaint is proceeding to a formal investigation, the stages of the process to be followed are set out in sub clause (j) below.

j) The following guidelines for a hearing shall be followed wherever possible.

- i) Both parties will be given 30 days notice, with the possibility of an extension by the Convenor, to prepare for formal investigation by the Ethics Committee.
- ii) The Convenor shall appoint a Panel to investigate. The Panel shall be made up of members of the Ethics Committee, who shall not have been directly involved in the matter-giving rise to the investigation. Panel members are required to consider any factors that may influence their ability to be impartial. If it is necessary, the Convenor of the Ethics Committee can appoint a person who is not a member of the Ethics Committee, provided the President of ANZSJA approves this appointment. The Panel shall investigate and make recommendations to the Ethics Committee, which shall make the final determination in the case.
- iii) At any formal meeting of the Panel investigating the complaint, the member is able to have, at her/his own expense, a support person or a member of ANZSJA. The complainant is able to have, at her/his own expense, a support person.

iv) The meeting or investigation of a complaint may make use of a digital or telecommunications platform of communication.

k) Where the Ethics Committee determines that a member has committed a breach of the Code of Ethics, it may:

- i) request a verbal or written apology to the complainant;
- ii) give a written warning or written reprimand, which the Ethics Committee thinks is appropriate;
- iii) be required to undertake further analysis with a senior colleague or seek independent medical and/or psychological examination and treatment, approved by the Ethics Committee.
- iv) require the member to be supervised by a senior colleague, and this period of supervision to be approved by the Ethics Committee;
- v) if the member refuses to cooperate the matter may be referred to the Executive Council of ANZSJA;
- vi) recommend referral to the Executive Council for:
  - a) suspension from ANZSJA or the ANZSJA training programme.
  - b) expulsion from ANZSJA or the ANZSJA training programme.

The name/s of members who have been suspended or expelled shall be reported to the IAAP.

l) The outcome of the investigation process shall be communicated to both the complainant and the respondent, as soon as possible after the Ethics Committee's determination and recommended action. The Ethics Committee shall decide on the degree to which the findings may be disseminated more generally. The procedure to investigate a complaint shall normally take not more than nine months from the receipt of the written complaint.

m) All confidential information relating to the complaint and its determination will be archived as soon as practicable after the files closure by the Convenor of Ethics on behalf of ANZSJA. These records shall be kept for 7 years. Where the Convenor of the Ethics Committee ceases to be in the role, that person is required, as soon as practicable after their role ceases to deliver to the new Convenor of the Ethics Committee all the relevant confidential documents and records pertaining to the management of the association's code of ethics.

n) Following the determination of a complaints procedure, the Ethics Committee undertakes to make recommendations, where relevant, to the membership for changes to ANZSJA's structures, processes or procedures to ensure that problems of a similar nature do not arise.

#### **4. Appeals and Appeal Procedure**

a) If either party- person complained against or complainant- wishes to appeal against a decision or recommendation of the Ethics Committee, the party wishing to appeal must file written notice to the President of ANZSJA at the registered office of ANZSJA, within 14 days of receiving in writing the outcome of the investigation process. Appeals later than this period shall not be considered valid. Appellants will be asked to show good cause and submit arguments in support of the grounds and provide documents supporting the appeal.

b) Only one appeal shall be permitted.

c) The grounds under which an Appeal shall be considered are:

- i) there is evidence to suggest a major defect in the procedure, which brings into question the substantive validity of the Ethic Committee's action.
- ii) there is a significant new piece of evidence, which was not available at the time of the complaints investigation and this may have had a material effect on the finding and/or sanction.

d) The President upon receipt of the written appeal application may deal with the appeal or may appoint an

appeal committee to hear the appeal, ensuring the independence of process and fairness. If an appeal committee is appointed, it shall decide on its own procedures but normally it will rely on evidence at the time of the original investigation, plus documentation submitted with the appeal and a response to the appeal by the other party.

e) The President will decide whether or not to accept the grounds of appeal. A decision will be made in almost all cases on the basis of the relevant papers alone. In unusual circumstances the parties might be invited to present the grounds of the appeal. When the President is satisfied there is sufficient information upon which to make recommendations, the proceedings are ended. If the appeal was found to be valid, it shall be sent back to the Ethics Committee for reconsideration, unless it is determined that the Ethics Committee would be unable to fairly decide the case, in which case the President shall make recommendations. A brief report describing how the recommendation was reached shall be prepared and sent to the Executive Council of ANZSJA. The President or nominated member of Executive Council shall notify the parties of the decision.

### **Validity**

Upon approval at the ANZSJA Annual General Meeting, this Code of Ethics will come into effect immediately.

*Revised Melbourne: June 2017*