

Guide to the review: Key aspects of the consultation

June 2023

Consultation on a code of conduct for psychologists

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Background

1. About us

The Psychology Board of Australia (the Board) works in partnership with the Australian Health Practitioner Regulation Agency (Ahpra) to implement the [National Scheme](#), in accordance with the roles, powers and responsibilities that are set out in the [National Law](#). Our guiding principle is to protect the public and ensure that the public has access to safe and effective psychological services.

An important function of the Board is to develop and approve codes and guidelines for the regulation of psychologists in Australia. We are required to carry out wide-ranging consultation when we develop or update any of these documents.

We have published this *Guide to the review* in support of our consultation and engagement activities on our draft code of conduct (draft code) for psychologists.

2. About the consultation

Our review of the code of conduct that applies to all registered psychologists in Australia is now open for public consultation. We are seeking your feedback about our proposal to update the code, which is detailed in our [Public consultation paper](#).

To facilitate a robust discussion and engagement with our consultation, there are some focussed questions about our proposal and also a general invitation for feedback. You have the option of providing brief feedback by online survey, or detailed feedback by returning the completed submission form by email. Please note that, unless you tell us, we will publish your submission on our website in the interests of transparency and keeping the public informed on important policy discussions.

Your feedback is important to us and will inform the Board's decision on this important work.

3. What is a code of conduct and how do we use it?

A regulatory code of conduct describes standards of behaviour and practice that the Board expects from all psychologists registered to practise in Australia, regardless of whether the individual psychologist holds general registration, provisional registration, non-practising registration or has a practice endorsement.

We know that the majority of psychologists are behaving ethically and have qualities that reflect good character and professional judgement. The Board plays an important role in maintaining the standing of the psychology profession in our community as highly trusted providers of psychological services.

As is the case with all codes of conduct, the draft code will not and cannot cover every situation arising in practice that requires a decision from psychologists. The experience, professional judgement and insight of psychologists is a key part of resolving competing priorities, obligations and ethical considerations. The Board expects peers and experienced psychologists to support colleagues in meeting these standards of conduct in practice.

Below is a summary of how the code of conduct is used in various contexts:

Who uses the code?	How do they use the code?
The Board	<p>To set the standard reasonably expected of all registered psychologists in Australia. Where a psychologist has practised below the standard, the code is used to assess how far the conduct falls below expectations and whether any regulatory action is required to protect the public from harm.</p> <p>To inform the profession and public about the standard of behaviour and conduct that is required for psychologists.</p>

Psychologists	<p>To support and provide guidance to individual psychologists to engage in safe and effective practice.</p> <p>To guide discussions about ethics and exercising professional judgement, including engagement in peer consultation and continuing professional development (CPD).</p>
Public, clients, and consumers	<p>To improve their understanding of behaviours and professional standards they can expect from psychologists.</p> <p>To empower individuals to raise any concerns about the way an individual psychologist has practised the profession.</p>
Profession-specific stakeholders (professional associations, higher education providers)	<p>To set consistent and evidence-based standards for use in education, training, CPD courses and supervision of developing psychologists.</p> <p>To provide advice to psychologists and maintain a dialogue on appropriate behaviours and values in the practice of psychology.</p>

About our review and proposal

4. Why are we updating the code of conduct?

In line with good regulatory practice, we regularly review our standards, codes and guidelines to make sure they remain relevant, contemporary and effective. Although we decided to endorse the Australian Psychological Society *Code of ethics* (the APS code) (2007) since the start of the National Scheme in 2010, we have always intended to develop a [Board-authored regulatory code](#) for psychologists.

Our proposal to update the code is reflective of some key developments in health practitioner regulation, including:

- embedding cultural safety for Aboriginal and Torres Strait Islander Peoples in line with [changes to the National Law](#)
- complementing the proposed changes to the general registration competencies for psychologists, and
- incorporating relevant principles of the shared code of conduct that apply to most of the other health professions in the National Scheme.

As our regulatory role matures within the [National Scheme](#), it is appropriate that the regulator develops a code that is independent and keeps up with best-practice standards. The Board needs to have ultimate decision-making authority on its code so that it can be directly accountable and responsible for ensuring that psychology regulation is fit for purpose.

The Board acknowledges that the APS code has been well integrated into the practice of psychology in Australia. Although our preferred option proposes the Board to implement its own code of conduct, the thresholds for appropriate standards of conduct that psychologists are familiar with from the APS code are not changing. To track the similarities between the APS and draft codes, we have provided our mapping table at Attachment D of the public consultation paper to visualise the shared principles.

5. What are the main changes that we are proposing?

In developing our draft code, we researched national and international benchmarking models to inform our approach and enlisted experts in ethics, psychology and law to advise on our proposal. We also tested and refined our draft code with health practitioner regulators, and incorporated feedback from our stakeholders.

The key changes in our draft code are summarised as follows:

- setting clear, specific and practical standards of safe and effective practice for psychologists by using a behaviour-based framework
- improving patient safety for Aboriginal and Torres Strait Islander Peoples and priority groups within the community
- updating and clarifying the section on maintaining proper professional boundaries, and
- aligning the profession with recent developments in regulation.

Changes to language and structure

The Board's draft code is based on the shared *Code of conduct (2022)* ([the shared code](#)) that applies to most of the other health professions in the National Scheme. The development of the shared code demonstrated a robust and evidence-based model for writing a regulatory code of conduct that is accessible, inclusive and practical to apply.

There are different approaches to language and structure when writing codes of conduct. As a regulatory code is used by a variety of stakeholders, the draft code outlines the minimum standard of behaviour by describing what psychologists are expected *to do* rather than taking an aspirational approach that defines ethical principles to guide practice. The draft code should be read and applied as a whole, because several sections will be simultaneously relevant to support psychologists to practise according to expected standards.

The majority of the user-testing and stakeholder feedback on the language and structure of the draft code reinforced that it was clearer to interpret the expected standards and apply them to regulatory decision-making. This public consultation will be a valuable opportunity to gather more feedback about this aspect of our draft code.

Emphasis on cultural safety

The strategy to eliminate racism from the health system is aimed at helping to close the gap in health outcomes for Aboriginal and Torres Strait Islander Peoples.

To bring psychologists up-to-date with National Law amendments on culturally safe healthcare, the Board acknowledges the work of the Aboriginal and Torres Strait Islander Health Strategy Group and adopts the agreed definition of [cultural safety](#), in alignment with other health practitioner boards in the National Scheme.

Further, principle 3 focusses on priority groups in the community and highlights respectful and culturally safe practice in recognition of diversity in the Australian population.

These provisions are based on the shared code, which was developed through wide-ranging and rigorous consultation on the impact and potential consequences on the community, the profession and stakeholders. The draft code also reflects these changes so that it reinforces the proposed changes to the general registration competencies for psychologists.

Professional boundaries provisions

A notable change in the draft code is the Board's proposal to remove the 'two-year rule' described by the APS code. The rule prevents psychologists from any sexual activity with clients for a period of two years after they stop treatment. The same rule applies to people who are close to clients, such as family members, carers and partners.

Section 4.8 of the draft code still addresses this important principle by shifting the focus away from an arbitrary timeframe, to factors such as the extent of the professional relationship and the vulnerability of the client. This change aligns with tribunal and court findings, which also reflect that there are other types of relationships apart from sexual relationships that are inappropriate.

These relationships are mostly inappropriate, regardless of the time lapse, because the psychologist has a continuing duty to protect clients from harm.

Sections 1.2 and 7.2 of the draft code supports seeking objective advice from experienced colleagues if psychologists are unsure about their behaviour and conduct in a situation.

6. Guide to consultation questions

The questions in our consultation paper are focussed on the key aspects of our proposal.

To support discussion and engagement, we have outlined some guidance and explanatory notes on the consultation questions:

Consultation questions	Guide to questions
<ol style="list-style-type: none"> 1. Do you support the Board's preferred option to implement a regulatory code of conduct? 2. Do you agree with the Board's approach to develop the draft Psychology Board of Australia code of conduct based on the shared <i>Code of conduct</i>? 3. Do you support the Board's proposal to adopt the draft Psychology Board of Australia code of conduct as the regulatory code for the psychology profession? 	<p>General questions</p> <p>This section is about the Board's approach and preferred option to introduce a regulatory code of conduct. This will mean that the APS code, which has been in effect since the start of the National Scheme, would no longer be the document that sets professional standards of conduct for psychologists. Our decision to author the regulatory code for the psychologists was carefully considered. It is linked with our duty to ensure that we fulfil our obligations to consult widely and regularly review regulations.</p> <p>For further information before providing feedback, you can read about our process in the consultation paper and attend one of our webinars with the Board Chair.</p>
<ol style="list-style-type: none"> 4. Does the draft Psychology Board of Australia code of conduct set the minimum standards expected of psychologists by their professional peers and the public? 5. Are there any specific areas of psychological practice that are not adequately addressed in the draft Psychology Board of Australia code of conduct? 6. Are there any sections of the draft Psychology Board of Australia code of conduct that would be unworkable for your organisation and/or stakeholders? 7. Is the language and structure of the draft Psychology Board of Australia code of conduct helpful, clear and relevant? 	<p>Content of the draft Psychology Board code</p> <p>This series of questions relate to what we have written into our proposed regulatory code of conduct.</p> <p>You will find our draft code at Attachment E of the public consultation paper, which we encourage you to read and think about how you would apply the sections to personal and professional experiences. The code should be read as a whole and you will find that the sections interact and support one another.</p> <p>Parts of our draft code will have similar content with the shared code, so you can also find relevant resources for health practitioners and the public on the shared code webpage.</p>

<p>8. Would implementation of the draft Psychology Board of Australia code of conduct result in negative or unintended effects for Aboriginal and Torres Strait Islander Peoples? If so, please describe them.</p> <p>9. Would implementation of the draft Psychology Board of Australia code of conduct result in negative or unintended effects for diverse groups or other vulnerable members of community? If so, please describe them.</p> <p>10. Would implementation of the draft Psychology Board of Australia code of conduct result in any adverse cost implications or impacts for health practitioners, higher education providers, employers, clients/consumers, governments or other stakeholders? If so, please describe them.</p>	<p>Community impact</p> <p>We have already benefitted from the valuable insights collated by National Scheme stakeholders on our provisions about cultural safety for Aboriginal and Torres Strait Islander Peoples and priority groups in the community.</p> <p>We acknowledge that there may be changes in community views and further dialogue that will inform our work on the code of conduct.</p> <p>In particular, we would be interested in any information and feedback relevant to the delivery and access to psychological services if the draft code is approved.</p>
<p>The Board is proposing to publish an advance copy of the draft Psychology Board of Australia code of conduct 12 months before it would come into effect.</p> <p>11. Do you agree with the proposed transition time frame?</p> <p>12. Would there be any implementation issues for your organisation and/or stakeholders that the Board should be aware of?</p>	<p>Transition and implementation</p> <p>If approved, the Board will review and refine its transition and implementation plan to support those affected by the changes. We will develop supplementary resources and plan for further implementation activities to help with this period of change.</p> <p>Your feedback on how we can best manage operational changes and how the code may affect your situation will inform our plan.</p>
<p>13. Do you have any other feedback or comments about the draft Psychology Board of Australia code of conduct?</p>	<p>General feedback</p> <p>This is your opportunity to provide your views on any aspect of our review and proposal that you would like us to know when we are making our decision on the regulatory code of conduct that will apply to psychologists in Australia.</p>

7. Will there be a transition time?

Yes. If approved, the Board proposes to publish the code of conduct on our website at least 12 months before it comes into effect.

This transition time will support psychologists to become familiar with any changes to the code of conduct and assess whether they need to plan for any additional CPD or seek further information to make the transition. It also allows time for psychologists to start integrating the new code into their practice and engage in discussions with their professional networks about the changes.

If approved, stakeholders will need some time to note changes to the language and format of the updated code. Transition activities may include updating any educational programs, training and resources to reflect changes to the code of conduct that will come into effect.

The Board will take into account any feedback on managing a transition and develop resources to help with understanding the proposed changes.

How will the changes affect me?

8. Registered psychologists

If you are currently practising in accordance with the APS code, you do not need to change your behaviour and practice if the new code of conduct comes into effect. You will have to familiarise yourself with the changes to language and structure. The draft code has been designed to improve on usability through clear conduct statements followed by guidance on how to apply the standards to achieve safe and effective practice. It may be helpful to engage with other colleagues, supervisors, professional associations and peers to share learnings for a smooth transition.

What should I do if a new code of conduct comes into effect?

To assist with transitioning to a new code, psychologists should think about how they first approached integrating the current code into their practice. Some practical suggestions on how to apply the code of conduct include:

- Reading the code and familiarising yourself with the document as a whole.
- Focus peer consultation sessions on ethics and conduct scenarios using the code as a reference.
- Consider situations in practice that require guidance on conduct and review the code for sections that may apply.
- Talk to your supervisor, peers and employer/s on how to apply the standards.
- Engage with your professional association and resources on ethical and conduct standards.
- Engage with colleagues and workplace resources.

Can I still use the APS code to help me with questions of conduct and ethics?

Yes, there are other regulated health professions in the National Scheme (e.g. [Medicine](#) and [Pharmacy](#)) that have Board-authored codes of conduct that work side-by-side with ethical codes of professional associations.

As we have found through user-testing, there is good alignment of standards between the APS code and the draft code. The current ethical principles, guidelines and conventions around professional behaviour will continue to be a valuable resource in guiding practice. You may include additional resources to help you to consider what your peers and the community expect of your professional conduct.

We recognise the key role of professional associations in providing advisory services, supporting professional development activities and advancing the special interests of the profession. By comparison, the Board has obligations to independently assess any concerns raised about a psychologist's conduct on a case-by-case basis.

If the codes say different things, how do I know which code to follow?

Our testing of the draft code tells us that the conduct expected of psychologists is not changing. If there are inconsistent conduct requirements arising from changes to codes, the Board's code will be used to make decisions on regulatory matters. The profession can expect the Board to enforce its regulatory code of conduct in its public protection role when regulating individual psychologists.

We note that until the Board implements a new code of conduct, you will need to ensure that you comply with the APS code. The Board will publish an advanced copy of the approved code so that psychologists will have time to get familiar with the changes and look into the steps for transition.

We will make sure that we keep the profession up to date on our decision and support psychologists on making a successful transition if our proposal is approved.

Will I need to change the way I engage in peer consultation or supervision discussions about ethics and conduct?

Peer consultation and supervision on standards of conduct for practice will not change significantly because the thresholds for conduct are not changing. These will continue to be important professional development activities that will continue to shape how psychologists maintain safe and effective practice.

There is no replacement for the experience, professional judgement and insight of psychologists when developing their own professional framework for making robust and ethical decisions in the course of practice.

Psychologists should continue to feel empowered to support each other in exploring ethical and conduct concerns that arise. We would encourage psychologists to remain engaged in open and honest discussions and share learnings to build on how the code of conduct is applied in practice.

9. Members of the public, clients and consumers

Members of the public, clients and consumers have some advantage if they are already familiar with the shared code, as the draft code has a similar structure and is aligned in content. There are resources for the shared code that will be common and transferable to help with understanding and applying the Board's code of conduct if approved.

In particular, the draft code has updated provisions to address effective practice for psychologists providing care to Aboriginal and Torres Strait Islander Peoples and vulnerable members of our community.

We expect that the benefits to client and consumer safety will be improved after a period of orientation, as the language and structure is intended to clearly communicate the expected standards of practice for providers of psychological services. You can use the code to assess whether the conduct of a psychologist in an acceptable standard and feel empowered to raise any concerns if required.

We will make sure that we publicly update the community about our decision and develop supporting materials to make a successful transition if our proposal is approved. Any transition plans will be informed by the perspective of the public, clients and consumers as we collate feedback from this consultation.

10. Higher education providers, employers and professional associations

While we are not imposing additional regulatory requirements or higher standards of practice for psychologists, we know there will be a change impact for our stakeholders as the APS code has been the regulatory code since the start of the National Scheme. The Board will refine its implementation plan to develop any necessary resources and a robust communications strategy to support our stakeholders affected by any changes to the code of conduct.

Higher education providers

We acknowledge that introducing a new code of conduct will require an update to programs of study that lead to registration for psychologists. A change from the APS code means that teaching, research and academic teams will have to incorporate new references that underpin units of study involving ethics and conduct.

The Board is committed to implementing a code that is clear, practical and easy to apply. We anticipate that the changes will improve usability for staff and students, which will extend the profession's understanding of acceptable standards of conduct in practice.

Employers

Employers will need to become familiar with the new code to refresh any employment policies and references to standards of conduct for psychologists.

Our intention is to provide a 12 month transition period to allow the current workforce to adjust to the changes. In addition to an advanced publication of the code, we will also develop a set of resources to facilitate the code coming into effect.

The future workforce will be supported through the transition at the various stages of their development, including updates to programs of study, discussions with senior colleagues, connecting with professional associations and guidance from supervisors.

Professional associations

Professional associations will have a role in providing continuing professional development courses, publishing resources, and providing guidance and advisory services to their members on professional standards.

Any changes in our code will require professional associations to review their course materials, resources and guidance for their members. The profession will be looking for support and advice on the new code and any recommended transition activities.

As stakeholders with an integral relationship with members of the profession, the discussions and advice on appropriate conduct in psychology will be a valuable contribution to the outcome of this consultation.