



EFPA

**STANDING COMMITTEE
ON
ETHICS**

Convenor : GEOFF LINDSAY

**REPORT to the
GENERAL ASSEMBLY 2005 in GRANADA**

EFPA Standing Committee on Ethics Report to General Assembly, Granada 2005

Executive Summary

Period of the Standing Committee

The Standing Committee on Ethics was set up in 1995 following the Task Force on Ethics. It continues with programmes of work agreed by each General Assembly.

Scope of the work

The Standing Committee on Ethics (SCE) has completed the three tasks set following the General Assembly, Vienna 12-13 July 2003: completion of a Revised Meta-code of Ethics; further development and completion of Recommendations on Evaluative Procedures and Corrective Actions in Cases of Complaints about Unethical Conduct; and organized a very successful 2nd European Symposium on Professional Ethics, Prague 23-24 October 2004.

Recommendations

1. That this report of the Standing Committee on Ethics be *received*.
2. That the Revised Meta-code of Ethics be *approved*.
3. That the Recommendations on Evaluative Procedures and Corrective Actions in Cases of Complaints about Unethical Conduct be *approved*.

Presented by

Geoff Lindsay, Convener

Date

That this report of the Standing Committee on Ethics was the accepted position of EFPA at the General Assembly, Granada 9-10 July 2005.

Main work of the SCE 2003-5

The SCE has focused over the past two years on three major issues, each of which is described in this report. We have held a highly successful 2nd European Symposium on Professional Ethics, again in Prague, and have completed the two pieces of work set by the General Assembly.

In addition, we have carried out additional tasks (e.g. a survey of member associations on possible changes to the Meta-code of Ethics) and responded to a variety of enquiries over this period.

Minutes of all meetings have been sent to the Executive Committee, via our liaison An-Magritt Aanonson.

1. Revision of the Meta-code of Ethics

EFPA's Meta-code of Ethics was approved by the 1995 General Assembly and subsequently published by EFPA. This has proven to be a very useful document, both for associations with established codes of ethics and associations seeking to develop a code.

The Meta-code is somewhat unusual, but designed to meet the requirements of EFPA. Normally, an association's ethical code is written specifying the behaviour of the *psychologist*. The Meta-code, however, specifies requirements of the *association*. The reason is that it was decided in the early 1990s, when the Meta-code was developed, *not* to seek to produce a single ethical code for all psychologists within EFPA association. The reason was that this would be highly problematic as each association would need to vote acceptance and, even one association recommending one change would destroy universality. Instead, EFPA agreed on a Meta-code which specified what the association's code must address.

This approach has been very successful, judging from feedback. The Meta-code was found to be 'fit for purpose'. However, the SCE advised the 2003 General Assembly that it would be timely to reconsider the Meta-code for the 2005 General Assembly, ten years after its acceptance. This follows the approach of some associations (not only in EFPA) to review their ethical codes to ensure they are up to date.

The SCE decided upon a 'minimal change' approach. That is, changes would only be recommended when there was a good reason e.g. lack of clarity, error or new practice which was not covered. This was approved by the EC who were concerned that a well-established and successful code should not be unnecessarily amended.

Over the past two years the SCE has set about this task in three ways. Firstly, a survey was undertaken of all member associations seeking advice on, for example, possible changes. Secondly, the 2nd European Symposium of Professional Ethics (Prague, October 2004) was devoted mainly to considering this evidence, and seeking the views of a wide constituency. Thirdly, the SCE has considered the Meta-code in detail informed by these two sources of evidence and opinion, plus their own expertise.

As a result, a Revised Meta-code of Ethics is presented to the General Assembly for approval. It is, in fact, very similar to the original. We found that there was need for few changes to improve and bring the Meta-code up to date.

The Revised Meta-code is presented for approval.

2. Recommendations on Evaluative Procedure and Corrective Actions in Cases of Complaints about Unethical Conduct

This work was started in the last period and reported to the Vienna General Assembly (2003). At that time we noted the difficulties in this endeavour, in particular the tensions between trying to produce *general* guidance and *specific* examples.

The SCE has now resolved these difficulties. We have produced two separate documents, the first comprises the guidance to associations and has a similar approach to the Meta-code of Ethics being based on principles. The second document is a fuller statement of an *example* of how the procedures may be created in practice. This forms an *Appendix* to the main document. We hope associations will find the concrete examples useful in interpreting the Recommendations and in modifying or developing their own procedures.

3. 2nd European Symposium on Ethics: Prague 22-24 October 2004

The SCE organized the 1st European Symposium, in Prague, 28-30 March 2003. This was very successful and delegates requested a second symposium.

The SCE was delighted to have the 2nd Symposium also hosted by the Academy of Sciences, Prague. This focused mainly on the revision to the Meta-code of Ethics, but there was also some time for consideration of wide ethical issues.

The Symposium was another success, due not least to the support of the Academy and the hard work of our Czech member, Hana Junova, and her colleagues.

The delegates were keen for this to become a continuing event and so the SCE intends to organize a 3rd Symposium during the next period of its work (October/November 2006).

Future Work

The SCE has identified the following four major tasks for the next two year period.

- To develop a book of guidance based on the Revised Meta-code. The aim would be a publication in several languages which would be useful across Europe.
- To organize a 3rd European Symposium on Professional Ethics.
- To develop guidelines on the use of mediation in cases of minor complaints.
- To support member associations in the development of their own ethical codes and systems for dealing with complaints about members.

Conclusions

I would like to thank personally all my colleagues on the SCE who have made these past two years so productive. Our meetings are characterized by intense, but always good-humoured and expert debate on complex issues. I wish also to thank An-Magritt Aanonsen, EFPA Executive Committee for her support and engagement with the SCE, and to thank my secretary Mrs Jean McElroy without whom none of this would have been possible.

APPENDIX

Membership

The SCE has continued to benefit from a membership representing a wide range of countries. All members have substantial experience of ethics systems in their own countries. In addition to the benefits of long-standing members, the Committee has also welcomed new representatives from Austria, initially Gerda Mehta who was not able to attend beyond her first meeting, but was replaced by Wolf Dietrich Zuzan.

Unfortunately, owing to problems within the French association, our long-standing member Alain Letuvé was unable to attend any meetings. However, resolution of problems in Portugal enabled Victor Claudio to return to the SCE after a period of absence.

Geoff Lindsay, UK – Convener
 Casper Koene, Netherlands
 Haldor Øvereeide, Norway
 Polona Matjan, Poland
 Jurg Forster, Switzerland
 Victor Claudio, Portugal
 Hana Junova, Czech Republic
 [Alain Letuvé, France – unable to attend]
 Pierre Nederlandt, Belgium
 Vito Tummino, Italy
 Fredi Lang, Germany
 Gerda Mehta, Austria (May 04)
 Wolf Dietrich Zuzan, Austria (from Oct 04)
 An-Magritt Aanonsen, Executive Committee Liaison

Meetings

Berlin	1-2 November 2003
Naples	1-2 May 2004
Prague	22-24 October 2004
Zurich	5-6 March 2005

The Standing Committee on Ethics (SCE) has continued its practice of meeting in different countries. We are most grateful to the home associations in each case for their hospitality.

EUROPEAN FEDERATION OF PSYCHOLOGISTS ASSOCIATIONS

Meta-Code of Ethics

Accepted by General Assembly Athens, July 1995

1. Preamble

Psychologists develop a valid and reliable body of knowledge based on research and apply that knowledge to psychological processes and human behaviour in a variety of contexts. In doing so they perform many roles, within such fields as research, education, assessment, therapy, consultancy, and as expert witness to name a few.

They also strive to help the public in developing informed judgements and choices regarding human behaviour, and aspire to use their privileged knowledge to improve the condition of both the individual and society.

The European Federation of Psychologists Associations has a responsibility to ensure that the ethical codes of its member associations are in accord with the following fundamental principles which are intended to provide a general philosophy and guidance to cover all situations encountered by professional psychologists.

National Associations should require their members to continue to develop their awareness of ethical issues, and promote training to ensure this occurs. National Associations should provide consultation and support to members on ethical issues.

The EFPA provides the following guidance for the content of the Ethical Codes of its member Associations. An Association's ethical code should cover all aspects of the professional behaviour of its members. **The guidance on Content of Ethical Codes should be read in conjunction with the Ethical Principles.**

The Ethical Codes of member Associations should be based upon - and certainly not in conflict with - the Ethical Principles specified below.

National Associations should have procedures to investigate and decide upon complaints against members, **and mediation, corrective and disciplinary procedures to determine the action necessary taking into account the nature and seriousness of the complaint.**

2. Ethical Principles

2.1 Respect for a Person's Rights and Dignity

Psychologists accord appropriate respect to and promote the development of the fundamental rights, dignity and worth of all people. They respect the rights of individuals to privacy, confidentiality, self-determination and autonomy, consistent with the psychologist's other professional obligations and with the law.

2.2 Competence

Psychologists strive to ensure and maintain high standards of competence in their work. They recognise the boundaries of their particular competencies and the limitations of their expertise. They provide only those services and use only those techniques for which they are qualified by education, training or experience.

2.3 Responsibility

Psychologists are aware of the professional and scientific responsibilities to their clients, to the community, and to the society in which they work and live. Psychologists avoid doing harm and are responsible for their own actions, and assure themselves, as far as possible, that their services are not misused.

2.4 Integrity

Psychologists seek to promote integrity in the science, teaching and practice of psychology. In these activities psychologists are honest, fair and respectful of others. They attempt to clarify for relevant parties the roles they are performing and to function appropriately in accordance with those roles.

3. Content of Ethical Codes of Member Associations

In the following Meta-Code the term 'client' refers to any person, patients, persons in interdependence or organisations with whom psychologists have a professional relationship, including indirect relationships.

Professional psychologists' ethical codes must take the following into account:

- Psychologists' professional behaviour must be considered within a professional role, characterised by the professional relationship.
- Inequalities of knowledge and power always influence psychologists' professional relationships with clients and colleagues.
- The larger the inequality in the professional relationship and the greater the dependency of clients, the heavier is the responsibility of the professional psychologist.
- The responsibilities of psychologists must be considered within the context of the stage of the professional relationship.

Interdependence of the Four Principles

It should be recognised that there will always be strong interdependencies between the four main ethical principles with their specifications.

This means for psychologists that resolving an ethical question or dilemma will require reflection and often dialogue with clients and colleagues, weighing different ethical principles. Making decisions and taking actions **are** necessary even if there are still conflicting issues.

3.1 Respect for Person's Rights and Dignity

3.1.1 General Respect

- i) Awareness of and respect for the knowledge, insight, experience and areas of expertise of clients, relevant third parties, colleagues, students and the general public.

- ii) Awareness of individual, cultural and role differences including those due to disability, gender, sexual orientation, race, ethnicity, national origin, age, religion, language and socio-economic status.
- iii) Avoidance of practices which are the result of unfair bias and may lead to unjust discrimination.

3.1.2 Privacy and Confidentiality

- i) Restriction of seeking and giving out information to only that required for the professional purpose.
- ii) Adequate storage and handling of information and records, in any form, to ensure confidentiality, including taking reasonable safeguards to make data anonymous when appropriate, and restricting access to reports and records to those who have a legitimate need to know.
- iii) Obligation that clients and others that have a professional relationship are aware of the limitations under the law of the maintenance of confidentiality.
- iv) Obligation when the legal system requires disclosure to provide only that information relevant to the issue in question, and otherwise to maintain confidentiality.
- v) Recognition of the tension that can arise between confidentiality and the protection of a client or other significant third parties.
- vi) Recognition of the rights of clients to have access to records and reports about themselves, and to get necessary assistance and consultation, thus providing adequate and comprehensive information and serving their best interests **and that this right to appropriate information be extended to those engaged in other professional relationships e.g. research participants.**
- vii) Maintenance of records, and writing of reports, to enable access by a client which safeguards the confidentiality of information relating to others.

3.1.3 Informed Consent and Freedom of Consent

- i) Clarification and continued discussion of the professional actions, procedures and probable consequences of the psychologist's actions to ensure that a client provides informed consent before and during psychological intervention.
- ii) Clarification for clients of procedures on record-keeping and reporting.
- iii) Recognition that there may be more than one client, and that these may be first and second order clients having differing professional relationships with the psychologist, who consequently has a range of responsibilities.

3.1.4 Self-determination

- i) Maximisation of the autonomy of and self-determination by a client, including the general right to engage in, and to end the professional relationship with a

psychologist **while recognising the need to balance autonomy with dependency and collective actions.**

- ii) Specification of the limits of such self-determination taking into account such factors as the client's developmental age, mental health and restrictions set by the legal process.

3.2 Competence

3.2.1 Ethical Awareness

Obligation to have a good knowledge of ethics, including the Ethical Code, and the integration of ethical issues with professional practice.

3.2.2 Limits of Competence

Obligation to practise within the limits of competence derived from education, training and experience.

3.2.3 Limits of Procedures

- i) Obligation to be aware of the limits of procedures for particular tasks, and the limits of conclusions that can be derived in different circumstances and for different purposes.
- ii) Obligation to practise within, and to be aware of the psychological community's critical development of theories and methods.
- iii) **Obligation to balance the need for caution when using new methods with a recognition that new areas of practice and methods will continue to emerge and that this is a positive development.**

3.2.4 Continuing Development

Obligation to continue professional development.

3.2.5 Incapability

Obligation not to practise when ability or judgement is adversely affected, including temporary problems.

3.3 Responsibility

3.3.1 General Responsibility

- i) For the quality and consequences of the psychologist's professional actions.
- ii) **Not to bring the profession into disrepute**

3.3.2 Promotion of High Standards

Promotion and maintenance of high standards of scientific and professional activity, and requirement on psychologists to organise their activities in accord with the Ethical Code.

3.3.3 Avoidance of Harm

- i) Avoidance of the misuse of psychological knowledge or practice, and the minimisation of harm which is foreseeable and unavoidable.
- ii) **Recognition of the need for particular care to be taken when undertaking research or making professional judgements of persons who have not given consent.**

3.3.4 Continuity of Care

- i) Responsibility for the necessary continuity of professional care of clients, including collaboration with other professionals and appropriate action when a psychologist must suspend or terminate involvement.
- ii) Responsibility towards a client which exists after the formal termination of the professional relationship.

3.3.5 Extended Responsibility

Assumption of general responsibility for the scientific and professional activities, including ethical standards, of employees, assistants, supervisees and students.

3.3.6 Resolving Dilemmas

Recognition that ethical dilemmas occur and responsibility is placed upon the psychologist to clarify such dilemmas and consult colleagues and/or the national Association, and inform relevant others of the demands of the Ethical Code.

3.4 Integrity

3.4.1 Recognition of Professional Limitations

Obligation to be self-reflective and open about personal and professional limitations and a recommendation to seek professional advice and support in difficult situations.

3.4.2 Honesty and Accuracy

- i) Accuracy in representing relevant qualifications, education, experience, competence and affiliations.
- ii) Accuracy in representing information, and responsibility to acknowledge and not to suppress alternative hypotheses, evidence or explanations.
- iii) Honesty and accuracy with regard to any financial implications of the professional relationship.
- iv) Recognition of the need for accuracy and the limitations of conclusions and opinions expressed in professional reports and statements.

3.4.3 Straightforwardness and Openness

- i) General obligation to provide information and avoid deception in research and professional practice.

- ii) Obligation not to withhold information or to engage in temporary deception if there are alternative procedures available. If deception has occurred, there is an obligation to inform and re-establish trust.

3.4.4 *Conflict of Interests and Exploitation*

- i) Awareness of the problems which may result from dual relationships and an obligation to avoid such dual relationships which reduce the necessary professional distance or may lead to conflict of interests, or exploitation of a client.
- ii) Obligation not to exploit a professional relationship to further personal, religious, political or other ideological interests.
- iii) Awareness that conflict of interest and inequality of power in a relationship may **still** reside after the professional relationship is formally terminated, and that professional responsibilities may still apply.

3.4.5 *Actions of Colleagues*

Obligation to give a reasonable critique of the professional actions of colleagues, and to take action to inform colleagues and, if appropriate, the relevant professional associations and authorities, if there is a question of unethical action.

gas/GAL/EFPA/MetaCode – formatted for General Assembly Granada 19.5.05
12.4.05

APPENDIX

A model for evaluative procedures and disciplinary actions in case of complaints about unethical conduct

European Federation of Psychologists Associations Standing Committee on Ethics

Preamble

The European Federation of Psychologists Associations has approved Recommendations on Evaluative Procedures and Corrective Actions in Case of Complaints about Ethical Conduct. This document is published as an Appendix to the Recommendations, and provides a *model* for their implementation. As such, the *model* is more detailed and specific, and might prove useful to National Associations setting up or reviewing their procedures for evaluative and corrective actions regarding cases of alleged unethical conduct by members.

1. Introduction

- 1.1 The European Federation of Psychologists Associations (EFPA)¹ adopted its European Meta-code on Ethics at its General Assembly, Athens, July 1995, as guidance for the content of the Ethical Codes on its Member Associations. This should provide – in the common interest of clients, psychologists and the profession of psychology all over Europe – one ethical frame of reference for Psychological Associations to develop their ethical codes and to provide assistance in the evaluation of their members' conduct.
- 1.2 In accepting the Meta-code, the National Association ensures its national code is not in conflict with the Meta-code. As a result the ethical code of the Association will be based on the same principles and have content comparable to the ethical codes other EFPA Member Associations, all of which comply with the Meta-Code.
- 1.3 In accordance with the Meta-code, the National Association contributes in several ways to the appropriate ethical level of its members' professional conduct. One of these ways is by instituting evaluative and disciplinary procedures in case of complaints about alleged unethical conduct of its members.
- 1.4 Individual members are expected to comply with the National Association's code. Consequently the ethical behaviour of individual members of the Association will be evaluated against a framework which is common for all members of the National Association and for all EFPA Member Associations.
- 1.5 There are four main means whereby the National Association seeks to ensure its members act appropriately and ethically:
 - i) The formulation and publicising of the ethical code.
 - ii) The regulation of initial training
 - iii) Requirements for members to maintain and develop their ability to practise competently and ethically
 - iv) The provision of evaluative and disciplinary procedures in cases of complaint
- 1.6 The present model addresses the fourth of these functions, namely the responsibility of the National Association to have procedures for the evaluation of members' practice in cases where a complaint is made, and to have the disciplinary procedures which may follow therefrom.

¹ Previously the European Federation of Professional Psychologists Associations EFPPA

2. Need for evaluation of professional conduct

- 2.1 Psychologists may behave in ways, which are considered unethical and may be subject of complaint for several different reasons including:
- ignorance of the National Association's ethical code and/or other relevant ethical guidance;
 - carelessness in interpretation of the code during professional practice;
 - deliberate flaunting of the relevant code, whether for inappropriate personal benefit, or because of disagreeing with the code;
 - as a result of dilemmas arising in practice whereby ethical principles are in tension or even conflict;
 - as a result of reduced physical or mental competence.
- 2.2 Psychologists will inevitably meet situations in which professional ethical principles will be in conflict with one another or with the law. Then, it is impossible to act in accordance to all ethical principles equally. Thus psychologists are faced with ethical conflicts, which bring them into dilemmas concerning how to balance the relative significance of relevant ethical principles in the given situation.
- 2.3 Ethical conflicts not only may arise if professional ethical principles are incompatible with one another in a given context, but also if personal values or generic ethical principles would be violated by acting in accordance with specific principles of professional ethics. Although these cases could not strictly be seen as professional ethics dilemmas, they can still be powerful and may influence substantially the psychologist's ethical decision-making.
- 2.4 The aforementioned conflicts either may be overtly evident or more subtle. Hence, there is a risk that dilemmas in the latter cases may stay in the background and not be given necessary attention.
- 2.5 Therefore a reflective attitude to one's own professional acting and frequent reflection on the moral dimensions of the professional conduct are necessary conditions for the psychologist to be able of making balanced choices.
- 2.6 Notwithstanding education, training, consultation and reflective consideration, a particular professional conduct may be seen by others as unethical and consequently be the subject of a complaint.
- 2.7 Hence, there is a reason to investigate the alleged unethical conduct and to evaluate whether or not it may be seen as a well-considered choice in an ethical conflict – in which case the professional conduct taken as a whole may be ethical, even if single ethical principles have been violated.
- 2.8 The National Association should have procedures to investigate complaints against members and to evaluate the alleged unethical conduct, in order to protect the integrity and rights of clients, to safeguard and improve the ethical quality of psychology practice, and in accordance to the Preamble of the Meta-code.
- 2.9 There should be one procedure to evaluate alleged unethical conduct and to take necessary disciplinary action if the case is proven.
- 2.10 There should be a separate procedure in cases where the evaluation of a complaint indicates that the member's physical or mental state has impaired his/her competence to practise psychology.

3. Responsibility of the National Association and other Bodies

- 3.1 If there is a legal disciplinary system that regulates the profession of psychology or parts of it, and if in this system the evaluation of the psychologist's conduct is on the same level as or higher than that of the National Association, then it is appropriate for the Association to defer the disciplinary procedure until the legal system has completed its evaluation.

4. Evaluative process, disciplinary and corrective actions

- 4.1 The evaluative process is primarily intended to clarify if, in what respect and to what degree the alleged professional conduct is considered unethical.**
- 4.2 The process of evaluation is structured to allow decisions regarding whether the subject of a complaint is suffering from an impairment which limits his/her ability to practise appropriately.**
- 4.3 In such cases, where mental and/or physical condition is considered to be a significant factor, the National Association should have separate procedures to intervene which allows the Association to deal with the psychologist without the need necessarily to find the complaint proven (Fitness to Practise).**
- 4.4 The Fitness to Practise procedure may be invoked at the start or during the investigation.**
- 4.5 With respect to the evaluation of a psychologist's physical or mental condition the process is intended to clarify if, in what respect and to what degree the psychologist is unfit to practise.**
- 4.6 Based on investigation, the outcome of the evaluation may give the psychologist insight into what actually is seen as ethically inappropriate and consequently advice may be given how to improve future actions in the light of the ethical principles.**
- 4.7 Based on expert investigation, the outcome of the evaluation of the physical and mental state may confront the psychologist with his or her impairment and consequently advice may be given concerning cure or how otherwise to cope with the situation in a responsible way.**
- 4.8 Disciplinary or corrective actions are based upon appropriate investigation and evaluation.**
- 4.9 The National Association may choose whether their investigatory, evaluative, disciplinary and corrective procedures are combined or not.**

5. General principles, conditions and requirements of evaluation

- 5.1 Procedures for the investigation and evaluation of psychologists' professional conduct should be clear and fair, and should take into account all relevant aspects of the national situation.***
- 5.2 In order to have an open access to evaluative procedures, those who have a reasonable interest to do so are free to raise complaints or to present evidence of risk of incompetence resulting from physical or mental health issues.***
- 5.3 A complaint should not be pursued unless the complainant accepts that evidence necessary for the evaluation of the complaint will be required and therefore must be made available.***
- 5.4 The National Association should produce written guidance on the formulation of a complaint, information on the procedures to be followed and on possible outcomes.***

The Association should also answer queries and give advice on the process if required.

- 5.5** ***At the latest after its primary assessment in the investigatory phase, the client's complaint should be formulated in terms of alleged violations of ethical principles or their behavioural derivations, as described in the code of ethics and specific guidelines, in order to evaluate the professional conduct in the light of clear standards.***
- 5.6** ***If the initial investigatory phase indicates that the subject of the complaint has a physical or mental impairment which interferes with his/her ability to practise as a psychologist, this should be specified. This decision allows dealing with the psychologist under the corrective (Fitness to Practise) rather than disciplinary procedure.***
- 5.7** ***Evaluative procedures should ensure that parties are able to present their case in the best possible way. There should be a balance of power between parties as far as the conduct of the evaluation is concerned.***
- 5.8 Those who are assigned to carry out any evaluation, whether they are professional psychologists or not, should be independent and unbiased in their judgement.
- 5.9 Parties should have the possibility to have the evaluation reviewed. Consequently there should be an appeal or review procedure.

6. Frame of reference

- 6.1 Besides being the guidance for obtaining ethical professional practice, formulations of the national codes of ethics give the basis for evaluative procedures. Furthermore, guidelines and professional standards may give points of reference to evaluate the professional's conduct.
- 6.2 In accordance with the European Meta-Code, the National Association's ethical code enables:
- i) clients or others to formulate complaints about a psychologist's professional conduct in terms of violation of the code;
 - ii) psychologists to legitimate their professional conduct in terms of acting in accordance with the code;
 - iii) those, who are charged with the evaluation to evaluate a psychologist's professional conduct in terms of violation or non-violation of the code.
- 6.3 The National Association may initiate action even when no complaint is made by a member of the public if the Association has good reason to believe a member has acted unethically or is unfit to practise.

7. Bodies entrusted with investigation, evaluation, discipline and corrective action

- 7.1 The National Association should specify in its statutes and by-laws the procedures for and responsibilities of those charged with:
- i) the investigation and evaluation of alleged professional misconduct;
 - ii) the investigation and evaluation of the psychologist's physical and mental health state;
 - iii) decision-making on disciplinary and corrective actions;

iv) the review of evaluations and of decisions about disciplinary and corrective actions;

- 7.2 As the investigatory, evaluative and disciplinary and corrective procedures can be integrated or kept apart (see below) the National Association may choose to appoint only one body or more. This can be done on a permanent basis, i.e. appointed for a given term, or appointed ad hoc, according to clear criteria. Bodies may consist of just one person – e.g. in case of investigation – or more. Those entrusted with investigation, evaluation, disciplinary or corrective action in the first instance, should be excluded from undertaking a review or appeal.
- 7.3 Each body should have an independent position within the Association.
- 7.4 Non-psychologists may be involved in the evaluation and in decision-making on disciplinary actions and there are benefits to their inclusion, especially in increasing transparency and trust.
- 7.5 Appropriate familiarity with rules of legal case conduct is necessary, be it within the Body and its subgroups or provided from staff support.

8. Jurisdiction

- 8.1 In accordance with the EFPA Meta-code the National Association should take corrective or disciplinary actions if a formal evaluation of a member's professional conduct has shown it to be unethical. Hence, evaluation procedures and corrective or disciplinary actions should have a formal basis in the Association's statutes.
- 8.2. Insofar as national legislation on titles and licensing provides such procedures for all psychologists or for some specific kinds of psychologists, e.g. psychotherapists or psychologists in health care, the National Association's procedures should be appropriately attuned to the procedures of statutory disciplinary bodies outside the Association.
- 8.3 To ensure the effective functioning of the evaluative and disciplinary systems, psychologists should be obliged by the National Association's statutes to co-operate in procedures concerning complaints about professional conduct during their membership. The Association should regard its members' refusal to co-operate in evaluation procedures as an offence, and act accordingly.
- 8.4 The National Association should forbid by statutes its members terminating membership during a complaint procedure, to ensure the evaluation of their professional actions may occur with or without their co-operation.

9. Investigatory and evaluative system

- 9.1 The Association should have a permanent system to investigate and evaluate the complaint and the alleged professional misconduct. This can be done in different ways, be it one or two permanent systems or just a protocol ensuring an appropriate ad hoc nomination of investigators and evaluators.
- 9.2 A good knowledge of professional ethics as well as of professional practice is a prerequisite for those functioning in this system. In addition, in order to ensure a fair procedure, appropriate familiarity with rules of legal case conduct is necessary, be it within the system itself, from staff support or from external legal assessors.
- 9.3 The Association should have procedures which allow for a complaint to be investigated either as professional misconduct or fitness to practise.

10. Investigation of misconduct or fitness to practise

- 10.1 A complaint should be made in writing.
- 10.2 The National Association should decide whether the complaint is within its powers to investigate. If this is the case, the psychologist who is the subject of the complaint should be informed in good time and asked to respond.
- 10.3 The National Association should decide whether to dismiss the complaint, or proceed with an investigation. In the former case, the complainant will be informed of the decision, and the reason for dismissing the complaint.
- 10.4 If the complaint is not dismissed, it must be investigated, including the gathering of evidence from the complainant, psychologist and other relevant persons.
- 10.5 Having considered any observations that the subject of the allegation has made, and taken such additional steps as it considers necessary to decide whether further investigation is justified or necessary, the National Association should either appoint a Conduct Panel or a Fitness to Practise Panel to undertake further investigation of the allegation.
- 10.6 When the National Association decides that the complaint is about a member's professional conduct, it appoints a Conduct Panel to investigate the complaint.
- 10.7 When the National Association decides that the complaint is about a member's fitness to practise on grounds of ill health, it appoints a Fitness to Practise Panel.
- 10.8 A complaint should not be investigated by a Conduct Panel and a Fitness to Practise Panel at the same time.
- 10.9 Once the Conduct Panel has finished its investigation, the National Association should refer the complaint to a Fitness to Practise Panel if there is no evidence of professional misconduct but there is evidence of ill health.
- 10.10 Similarly, once the Fitness to Practise Panel has completed its investigation and reported, the National Association should refer the complaint to a Conduct Panel if there is no evidence of ill health but there is evidence of professional misconduct.
- 10.11 Panels should have the power to appoint advisers. A Fitness to Practise Panel should also have the power to seek specialist advice on a member's health.
- 10.12 The Panel should have the power to call for such further information it considers necessary to its investigation. It is the duty of every member of the National Association to provide such information.
- 10.13 The Panel should ensure that the member against whom the complaint has been made has the opportunity to make written representations.
- 10.14 The Panel should make its report to the National Association with a recommendation as to whether the allegation should be formally considered by either a Conduct or Fitness to Practise Committee.
- 10.15 If the Panel recommends, and the Association agrees, that there should be no further action, this will be communicated to the complainant together with an explanation.
- 10.16 In such circumstances the National Association also has the power to provide written guidance to the subject of the complaint and provide advice in relation to the Association's Ethical Code and/or with respect to their professional practice.

- 10.17 If the National Association decides that *prima facie* there is a case to answer, this will be referred to *either* a Conduct Tribunal *or* Fitness to Practise Tribunal as appropriate.

11. Evaluation of Professional Misconduct

- 11.1 Where the National Association decides there is a case of misconduct to be brought against a member, it should set up a Professional Conduct Tribunal.
- 11.2 The charge should be brought by the National Association and be specified with reference to the Association's Ethical Code.
- 11.3 The Tribunal hearing should be arranged in good time.
- 11.4 The Tribunal hearing may be held in public.
- 11.5 The National Association should have written procedures on the conduct of the Tribunal hearing specifying how it will proceed and the possible outcomes.
- 11.6 The National Association's case with full supporting evidence should be made available to the Tribunal members, and the member who is the subject of the charge and their representatives, if any.
- 11.7 The Tribunal hearing will ensure that the charge is put and may call witnesses, including expert witnesses. The member or their representative will have opportunity to cross examine the evidence.
- 11.8 After hearing the evidence and the member's comments, the Tribunal should determine which, if any, of the charges brought have been substantiated and decide the sanctions, if any, to apply. These will be announced to the hearing and presented in writing to the member within a specified period (e.g. one month).
- 11.9 The National Association should have a procedure to allow the member to appeal. This will be allowed only if new evidence is produced or if it is alleged the specified procedure was not followed.

12. Evaluation of Fitness to Practise

- 12.1 Where the Association decides that the member's fitness to practise is at issue, the charge should be heard by a Fitness to Practise Tribunal.
- 12.2 The charges should be set out as in 11.2 and the hearing should be arranged in good time.
- 12.3 The hearing should not normally be open to the public.
- 12.4 The Association should have written procedures on the conduct of the Tribunal hearing specifying how it will proceed and possible outcomes.
- 12.5 The Tribunal may call an expert witness to advise on the member's health.
- 12.6 The Tribunal is not required to find the charge proven as is the case with a charge of misconduct, but is required to determine whether the member is fit to practise as a psychologist.
- 12.7 The decision of the Tribunal should be announced at the hearing and presented in writing to the member within a specified period (e.g. one month).
- 12.8 The National Association should have an appeal procedure as specified in 11.9.

13 Disciplinary Action

- 13.1 The options available to the National Association will depend upon its legal status, including whether it acts as the licensing body and has the power to prevent a psychologist from practising.
- 13.2 The National Association should specify the range of actions a Conduct or Fitness to Practise Tribunal may take. These include, but are not limited to, disciplinary actions.
- 13.3 In particular, the National Association should include educative options, including Continuing Professional Development or supervision to help the member improve performance and avoid unethical conduct in the future.
- 13.4 Included in the National Association's powers of decision should be the following tariff of actions, which matches seriousness of violations of ethical standards, or of risk of incompetence.
- I) Complaint not upheld;
 - II) Complaint is proven:
 - i) No sanction
 - ii) Warning i.e. corrective advice;
 - ii) Reprimand;
 - iii) Period of supervision and/or additional training;
 - iv) Conditional suspension of membership;
 - v) Suspension of membership;
 - vi) Expulsion from membership.
 - III) Health condition based risk of incompetence: absent or very low;
 - IV) Health condition based risk of incompetence: present:
 - vii) Health measures
 - viii) Conditional suspension of membership;
 - ix) Suspension of membership;
 - x) Expulsion from membership.
- 13.5 Insofar as the National Association has formal power to suspend or to withdraw registrations or licences, the following sanctions are to be added:
- Suspension of professional registrations;
 - Suspension of professional licence;
 - Deletion from professional registrations;
 - Deprivation of professional licence.

14 Appeal

- 14.1 The Association should have written procedures for appeals, including the membership of an Appeal Committee.
- 14.2 Members of any Appeal Committee should be independent of the investigatory process and the Tribunal(s) which heard the case.

15. Records and Research Publicity

- 15.1. Confidentiality as well as record keeping with respect to the information gathered during the procedure should be laid down appropriately in regulations.
- 15.2. There should be a policy on the period for which records will be retained, and on the publication of the outcome of cases.
- 15.3. There should also be a policy on access to records for research purposes.

EFPA/SCE/final April 04

attachment

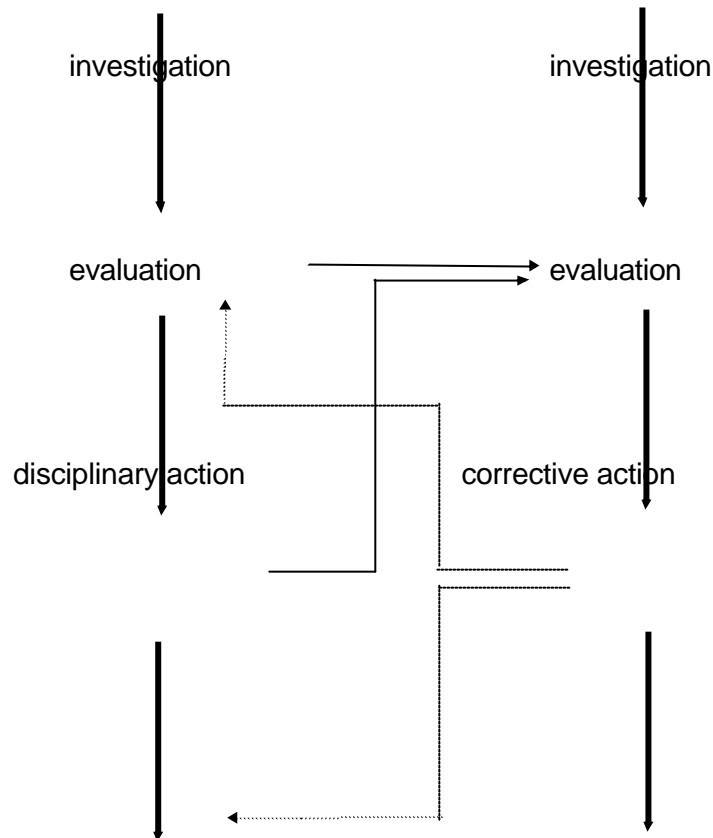
evaluative procedures: 'conduct route' and 'health route'

complaint about unethical conduct

evidence of health based risk of incompetence

'conduct route'

'health route'



EFPA/SCE/final May 2004, Naples

Recommendations on evaluative procedures and corrective actions in case of complaints about unethical conduct

1. Preamble

These recommendations on evaluative procedures and corrective actions in cases of complaints about unethical conduct build upon the EFPA Meta-code on Ethics approved by the EFPA General Assembly, Athens, July 1995. The Meta-code on Ethics provides guidance on the content of member Associations' on codes of ethics. The Meta-code, therefore supports Associations, and ultimately psychologists, by its guidance on ethical behaviour.

However, complaints of alleged unethical behaviour by psychologists may arise. Member Associations should have procedures for investigating and evaluating such complaints and deciding any action considered to be appropriate.

The term *disciplinary* refers to actions that involve sanctions including, but not limited to, a reprimand, suspension from a register or expulsion from the Association. The term *corrective actions* refers to actions designed to improve performance including, but not limited to, requirements for specific additional training or re-training and supervised practice. Both kinds of action are important but address different issues: punishment of the psychologist's past behaviour which was the subject of the complaint compared with improvement of future behaviour.

These guidelines have been produced as a comparable document to the Meta-code of Ethics. That is, the guidelines are for *Associations*. They respect different national contexts by focussing on principles and general procedures arising therefrom, rather than presenting a single, detailed system which all Member Associations would be required to follow. However, to provide assistance to Associations, an Appendix provides a more detailed and specific system which might be helpful as a model.

The nature of any Association's role in evaluative and correction actions will be affected by the presence or absence of a statutory body within the country and its statutory responsibilities for these matters.

2. Introduction

- 2.1 The European Federation of Psychologists Associations (EFPA)² adopted its European Meta-code on Ethics at its General Assembly, Athens, July 1995, as guidance for the content of the Ethical Codes on its Member Associations. This should provide – in the common interest of clients, psychologists and the profession of psychology all over Europe – one ethical frame of reference for Psychological Associations to develop their ethical codes and to provide assistance in the evaluation of their members' conduct.
- 2.2 In accepting the Meta-code, EFPA Member Associations ensure the national codes are not in conflict with the Meta-code. As a result the ethical code of each member Association will be based on the same principles and have comparable content.
- 2.3 According to the Meta-code, Member Associations can contribute in several ways to the appropriate ethical level of their members' professional conduct. One of these ways is by instituting evaluative and disciplinary procedures in case of complaints about alleged unethical conduct of their members.
- 2.4 Individual members are expected to comply with their Association's code. Consequently the ethical behaviour of individual members of any EFPA Member Association can be evaluated against a common framework.

² Previously the European Federation of Professional Psychologists Associations EFPPA

- 2.5 There are four main means whereby Member Associations may seek to ensure their members act appropriately and ethically:
- i) The formulation and publicising of the ethical code.
 - ii) The regulation of initial training
 - iii) Requirements for members to maintain and develop their ability to practise competently and ethically
 - iv) The provision of evaluative and disciplinary procedures in cases of complaint
- 2.6 The present guidance addresses the fourth of these functions, namely the responsibility of Member Associations to have procedures for the evaluation of members' practice in cases where a complaint is made, and to have the disciplinary procedures which may follow therefrom.

3. Need for evaluation of alleged unethical conduct

- 3.1 Psychologists may behave in ways which are considered unethical and may be subject of complaint for several different reasons including:
- ignorance of the national association's ethical code and/or other relevant ethical guidance;
 - carelessness in interpretation of the code during professional practice;
 - deliberate flaunting of the relevant code, whether for inappropriate personal benefit, or because of disagreeing with the code;
 - as a result of dilemmas arising in practice whereby ethical principles are in tension or even conflict;
 - as a result of reduced physical or mental competence.
- 3.2 Psychologists will inevitably meet situations in which professional ethical principles will be in conflict with one another or with the law. Then, it is impossible to act in accordance to all ethical principles equally. Thus psychologists are faced with ethical conflicts which bring them into dilemmas concerning how to balance the relative significance of relevant ethical principles in the given situation.
- 3.3 Ethical conflicts not only may arise if professional ethical principles are incompatible with one another in a given context, but also if personal values or generic ethical principles would be violated by acting in accordance with specific principles of professional ethics. Although these cases could not strictly be seen as professional ethics dilemmas, they can still be powerful and may influence substantially the psychologist's ethical decision-making.

4. Principles

4.1 Access to information

The psychologist should be informed of the details of the complaint and the possible violation of the ethical code.

Members of the public and psychologists should have easy access to information explaining the procedures concerning the making of a complaint; the process of evaluating the complaint and the psychologist's behaviour; and the decisions and range of sanctions that are available.

During any evaluation and disciplinary procedure, both psychologist and complainant should have easy and equal access to all information and evidence.

4.2 Equity

All aspects of the process of evaluation and discipline should be open, transparent, fair and equitable for any complainant or psychologist. Comparable cases should lead to similar outcomes in evaluation and in corrective actions.

4.3 Equal arms

A complaint should not be pursued unless the complainant accepts that evidence necessary for the evaluation of the complaint will be required and therefore must be made available.

4.4 Avoidance of trivial or inappropriate actions

There should be a facility to reject complaints that are not related to the ethical code, are trivial or are mischievous.

4.5 Expert evaluation

The evaluation of complaints about a psychologist's professional behaviour and its alleged contravention of the Association's ethical code will require experienced psychologists to contribute to the evaluation of the complaint.

Associations should incorporate into their evaluative procedures the possible use of psychologists expert in the domain of practice of which the complaint is made. Such experts should provide evaluations of the psychologist's behaviour about which a complaint has been made, and in particular should advise on the degree to which it is acceptable or not acceptable psychological practice.

4.6 Integrity

All who are involved in the evaluation and discipline procedures should act with integrity, honesty and fairness. They should not take on any role if there is conflict of interest. If a conflict of interest should occur during the process, then this should be brought to the attention of those with a need to know and the person concerned should withdraw from further involvement.

4.7 Confidentiality

Complaints and evidence should be treated as confidential during the process of investigation.

Where a complaint is dismissed or not upheld, the matter should remain confidential.

The psychologist who is the subject of a complaint may use information which is confidential for the purposes of defending him or herself, but must limit any release of such information with discretion and expressly for this purpose.

4.8 Public confidence

The Association's procedures should inspire public confidence. This will be achieved by the thoroughness and efficiency of the procedures, the integrity of all those concerned with operating the evaluative and disciplinary procedures, and necessary transparency in the procedures. All procedures should be carried out as quickly and expeditiously as possible.

Confidence may also be enhanced if a hearing (Tribunal) is held in public, and if the outcomes of evaluated complaints are published.

4.9 Involvement of non-psychologists (lay persons)

Public confidence may be enhanced if non-psychologists are involved in the judgement of the complaint and the decisions regarding whether the complaint should be dismissed or upheld, and in decisions regarding corrective action if a complaint is upheld.

4.10 Separation of investigation, evaluation and corrective procedures

Associations should determine whether and how the three stages of investigation, evaluation and disciplinary action should be related.

a) Investigation

There should be a stage of investigation. This will involve the gathering evidence from the complainant, the psychologist who is the subject of the complaint, and any other source which will provide assistance.

b) Evaluation

The evidence is assessed to reach an evaluation of whether the complaint, and the alleged infringement(s) of the Association's ethical code are upheld.

c) Actions

If a complaint is upheld, decisions are required regarding what, if any, action(s) should follow.

4.11 Disciplinary and corrective action

Disciplinary actions should take into account the nature of the infringement of the ethical code, including the degree of harm resulting from the unethical behaviour, together with information presented in mitigation. Even where disciplinary actions are determined, the need for corrective actions in addition (e.g. further education or supervision) should be considered.

Member Associations should develop and state publicly their tariff of sanctions.

4.12 Appeal

There should be an appeal procedure.

4.13 Monitoring

The investigation evaluation and disciplinary procedure should be monitored and considered by the appropriate body within the Association on a regular basis.

4.14 Publicity

Publication of the outcomes of evaluated complaints may be helpful in promoting the content of and the adherence to the ethical code. Statistics regarding investigations, evaluations, and corrective actions should be reported to the Association's members annually.

4.15 Interface between the Association and the State

Where another body has a legal responsibility for the regulation of psychologists, that body would normally be expected to hear complaints about unethical behaviour. The nature of such relationships differs across Europe from there being no statutory body, in which case the Association must take full responsibility for acting on complaints, to a statutory body with full powers to judge such complaints and make decision which are legally binding on the psychologist. Even in the latter case, the Association should maintain and promote its ethical code and ensure that the whole range of ethical questions is open to complaints and evaluation.

Irrespective of the particular legal circumstances in any country, the Association has a responsibility to ensure the public are aware of the system(s) for dealing with complaints.

4.16 Models of practice

The Appendix provides a more detailed exposition of the principles outlined in the main part of this Guidance. It sets out a model for a system of investigation, evaluation and discipline.

5 Misconduct resulting from ill health

Associations should have a separate procedure for evaluating complaints if the behaviour complained about is either alleged or found to be a function of a psychologist's ill health. This difference should apply also to the sanctions and other corrective actions that might follow the evaluation. The procedure should include the requirement for appropriate medical evidence on the psychologist's health.

EFPA/SCE/final-March05 v2 minor changes 19.5.05