Section three: Ethics and boundaries

Purpose

This section explores ethics and boundaries, with a focus on identifying and resolving ethical issues in a way that is consistent with both service requirements and professional codes of ethics. This section explores some of the ethical issues that could arise for workers when working with people who are mandated to attend treatment.

Objectives

By the end of the section you will be able to:

- describe the meaning of ethics and boundaries in relation to your work
- explore and resolve ethical and boundary issues utilising a method approved by your service, such as supervision or an ethical decision-making framework
- understand a range of cultural perspectives on ethics
- relate theory to practice through an exploration of typical ethical or boundary issues within your practice setting.

3.1 Professional codes of ethics

Codes of ethics provide structures by which ethical principles and core values for professional practice can be defined.

Mental health and addiction workers must often comply with a range of ethical codes and standards. For those registered with one or more professional body, compliance with all will be required. The bodies workers could be members of, or registered with, may include:

- Aotearoa New Zealand Social Work Association
- New Zealand Nurses Organisation
- Nursing Council of New Zealand
- Addiction Practitioners Association Aotearoa New Zealand
- New Zealand Association of Counsellors
- New Zealand Psychologists Board
- Occupational Therapy New Zealand
- Medical Council of New Zealand
- Royal Australian and New Zealand College of Psychiatrists.
Many health practitioner codes of practice have similar ethical requirements with three overarching core principles:

1. self-responsibility for our own ethical practice and on-going competence
2. primary responsibility to the people and the communities we work with
3. professional practice within organisations – implementing standards, management and accessing and participating in research and education.

### 3.2 Ethics and boundaries

Most professions have their own set of ethical guidelines specific to their practice and their place in society. There are ethical guidelines for most professions that provide a service that involves work with other people in which the professional is expected to be trustworthy and not abuse their power, e.g. doctors, nurses, social workers, lawyers, accountants, architects, fire and police officers and judges.

**Is there a difference between ethics and boundaries?**

In some codes of ethics, the differences between ethics and boundaries are spelled out very clearly and any behaviour contrary to those guidelines is considered an ethical violation. However some boundaries will be less clear.

Ethics provide us with specific guidelines that tell us exactly how to behave while boundaries are more general guidelines. Some boundaries will be based upon the expectations of our job, while others will be based upon our own personal values and beliefs.

Working with people from the justice system can be challenging with respect to ethics and boundaries for a number of reasons.

- It is likely some of the actions and choices made by the person will challenge the personal values, professional ethics and boundaries of the worker.
- The focus of treatment agencies is around personal empowerment, wellbeing and recovery, while the primary focus of the justice system is on keeping the community safe and the offender accountable.
- The principles of the codes of ethics that guide health workers can sometimes be in conflict with some of the expectations of the justice system, especially around issues such as privacy, autonomy and treatment goals.
- There is a possibility that the treatment goals listed in the special conditions for a person mandated to treatment by the justice system (e.g. abstaining from a substance or taking medication) may be in conflict with the treatment goals recommended by you as a worker (e.g. safer substance use or gambling strategies or CBT).

Read the scenarios below and consider what the dilemmas might be for you if you were working with each person. Consider how you might feel in this situation, what sorts of issues might come up for you, and how you might approach the situation.
Scenario 1
You are working with a single father, recently released from prison who is a disqualified driver. Yesterday when you were in town for a meeting you saw him getting into his car with his daughter (who is three years old) and drive off without placing his daughter in a car seat.
Do you bring this up in discussion with him?

Do you have any responsibility to inform his probation officer?

Scenario 2
You are working with a young woman recently released from prison. Her offending history is all related to drug offences. She appears to be doing really well, managing her life in general, but she tells you she has started smoking cannabis again. Given that she needs to remain drug free as part of her parole conditions and that cannabis is an illegal substance, what do you do?
Do you bring this up in discussion with her?

Do you have any responsibility to inform her probation officer?

Scenario 3
You are working with a person who tells you during a treatment session that they have committed a number of offences for which they haven't been charged.
The person is making good progress with their issues and tells you that they wanted to get this off their chest. They don't want the police to know but wanted to tell someone.
What do you do with the information you have been given?
Here are some things that may have come up for you in regard to these scenarios.

Within the boundaries of professional confidentiality what a person says and discloses normally remains within the workplace – unless there is an immediate safety issue at which time confidentiality may not apply. In other words, if either the person or other people are potentially at risk from their actions or intended actions then professionally we are required to take this information out of the session to ensure safety. Every person attending a service should be notified of this possibility at first contact. It is important to be open, up-front, and consistent discussing boundaries and limits of confidentiality at the very beginning of your working relationship and assuring people that you will discuss any issues with them before taking any action.

For example, the person in Scenario 3 said they just wanted to get it off their chest (a normal and helpful part of counselling) but they do not want authorities to know, and in effect are requesting your acceptance and silence on the matter. They do not want further punishment but do want wellbeing. You may be concerned that if you work with the person around further disclosure to others (a useful strategy) that they will lose confidence and trust in you as a worker, therefore putting the relationship at risk. Since they have been making good progress you may feel that bringing this issue up with them at this stage will undermine their recovery or put their continued treatment at risk. If no one is at risk, and depending on the seriousness of the offending, then it becomes purely an ethical issue.

**Ethical dilemmas**

Ethics are based on our values and ethical dilemmas occur when two values are competing with each other and we find it difficult to decide which one is more important to adhere to at that time.

When faced with ethical dilemmas, it is helpful to explore these issues with your professional supervisor and/or with experienced senior colleagues who can support you and assist you to work your way through the issues. It is important not to face these things in isolation; it is better to share these types of dilemmas with your professional support networks, to avoid feeling conflicted and powerless, and to avoid stress and burnout.

Remember, as a mental health and addiction worker, that when working with people we not only have to take into consideration what is right and fair in the situation for the person, we also have to act congruently with our own personal and professional values and ethics, and consider those other organisations we are accountable to, including wider family, whānau and the community.

Before moving on in this section and before looking below, think about how to actually define ethics and boundaries. What do these words actually mean? What cultural differences in how ethics and boundaries are viewed should we be aware of?

**In the space below, jot down some bullet points about how you understand, define or describe what is meant by ethics.**
Now, do the same for boundaries.

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Definitions of ethics

- A system of values, a set of rules or standards governing the conduct of the members of a profession
- The decisions, choices, and actions (behaviours) we make that reflect and enact our values
- The study of what we understand to be good and right behaviour and how people make those judgements
- A set of standards of conduct that guide decisions and actions based on duties derived from core values
- The discipline dealing with what is good and bad, and with moral duty and obligation
- A set of moral principles or values
- A theory or system of moral values and/or a guiding philosophy.

Definitions of boundaries

- Rules that define the limits of professional behaviour, and the limits of what is appropriate in professional relationships
- Limits which protect the space between the professional’s power and the person’s vulnerability
- The limits that allow for safe connections between individuals
- The ability to know where you end and where another person begins.

Professional boundaries are important because they define your limits and your responsibilities in regard to the people with whom you interact in the workplace.

Professional boundaries separate the therapeutic behaviour of the worker from any other behaviour which, well intentioned or not, could reduce the benefits of interventions and treatment for people, families, whānau and communities. Professional boundaries may be different for different professions. For example; peer support workers might be expected to share their story with the people they are working with, while for other professions this form of self-disclosure is not an expectation.
3.3 Cultural ethical perspectives

As mentioned earlier, there may be cultural differences in the way ethics and boundaries are viewed that we should be aware of. The concept of universality runs counter to the ideal of cultural diversity. A focus on universal principles may threaten fundamental freedoms with respect to cultural specifics. Universal perspectives on ethics can be seen as imposing standards from elsewhere.

3.3.1 Māori ethical perspectives

Smith (2001) and Hudson (2005) considered Māori ethical frameworks in relation to research work. This provides a useful starting point for mental health and addiction workers to begin considering ethical perspectives that are different across cultures, such as how the rights of the individual, a key feature of western ethics, are in direct conflict with Māori perspectives which value relationships and the collective or community.

While respect is a universal principle with no prescribed method of practice, there are some key Māori concepts that can act as a guide for workers. These have been derived from a range of ethical frameworks that have been developed specifically from a Māori perspective and that contain broadly similar values to inform practice and ethical processes.

Mātauranga Māori and tikanga Māori

Mātauranga Māori and tikanga Māori provide a framework to address ethical issues, either traditional or contemporary. Mātauranga Māori encompasses the indigenous knowledge and philosophies of Māori. Tikanga Māori reflects the cultural values and ethics of this group. As an indigenous form of ethics, tikanga Māori provides a culturally congruent framework for addressing ethical issues by aligning them with mātauranga Māori to situate the decision-making process within a Māori paradigm.

Whakawhanaunga

This concept refers to the building and maintaining of relationships. It can also be thought of as the process of establishing meaningful, reciprocal relationships establishing connectedness, engagement and commitment with other people.

Manaaki

This concept refers to being involved in activity that enhances the mana of others (te mana-a-kī). It promotes sharing, hosting and respect. This is one of the values that underpin a collaborative approach.

Aroha

Aroha is an empowering action that can manifest as compassion, healing, and respect. It can be passive or active and, depending on the context, may mean making tough decisions.

Mahaki

Mahaki relates to being humble, having humility, empathy and compassion. This is about finding ways to share knowledge, to be generous with knowledge without being a ‘show-off’ or being arrogant. Sharing knowledge is about empowering a process.

Mana

Mana is a term that relates to power, dignity and respect.

“Kaua e takahia te mana o te tangata.” – “Do not trample on the mana or dignity of a person.”
“Titiro, whakarongo... korero”

“To look and listen first, and then maybe start to speak”.

This value emphasises the importance of observing and listening in order to develop understandings and find a place from which to speak.

3.3.2 Pasifika perspectives on ethics

For Pasifika peoples the focus is also on the collective or community rather than the individual, with the resulting tension between western views on the rights of individuals vs. cultural perspectives that value the collective or communal rights.

Pasifika peoples would argue that communal rights should take precedence over individual rights.

3.3.3 Ethics in context

There are powerful links between culture and ethics. Ethics also have to be seen in a social context – what is right/wrong/fair/just are socially determined.

Ethics are fundamentally about action, not intentions, guidelines or sets of rules. It is not just about words, it is about doing the ethical thing. Again, the right and/or just action has a social context.

The following is a summary of the considerations outlined above. When considering ethical dilemmas in the context of the individual with respect to their culture, take into account:

- universality vs. cultural diversity
- individual vs. collective or community perspectives
- freedom of choice vs. collective responsibility
- sacred vs. open knowledge
- the role of Christian or other religious or spiritual values
- the place of tikanga in providing an ethical framework around values such as whakawhanaunga, manaakitanga, aroha, mahaki and mana
- the importance of understanding what is going on for the person before offering advice; e.g. titiro, whakarongo then maybe korero.

3.4 Responding to ethical statements

This exercise is designed to start you thinking about ethical issues and what it means to behave in a consistent, professional manner. We do not always know in advance when it will be necessary to make ethical decisions. However you can be sure that in your work with others you will be required to make ethical decisions. Below are a number of ethical dilemmas you might encounter as a mental health and addiction worker. Within a five-second period you need to make a decision about whether you agree or disagree with the statement, or whether you don’t know. Rather than a test, this exercise is designed to get you considering potential ethical dilemmas quickly.
Read the following statements and if you agree, tick the statement and if not, put an x beside it. If you are undecided, put a question mark beside it. These should each be responded to within five seconds. At the end check your responses and take some time to consider how you arrived at your decisions.

I can tell somebody if they ask me what I think about the police or the probation service.

I can lend money to someone who is in a group I am facilitating.

I can sell my second-hand car to a person using our service.

I can ask people to give me permission to use their information to teach my colleagues.

I can contact the police if I have concerns for the welfare of someone.

I can work with someone who is the partner of a friend.

Six months ago I ran a group and was attracted to someone who attended; it is now ok to have sex with him or her.

I can accept kai moana from someone using my service.

I can accept a gift of food from someone who is at risk of being discharged for failing to attend.

I can have a drink in the pub with someone I am working with who was referred from Corrections.

It’s okay to have a drink in the pub with someone I have been working with who is whānau.

I can swear with someone I am working with if they swear.

I can tell somebody some things about my life such as whether I have been in trouble with the law.

I can offer someone I am working with a hug if they are distressed.

I should always report the disclosure of any offending by a person referred by Corrections to their probation officer.

I can use the case notes of someone who used to be on my case load for a paper I am writing for university.

I can buy groceries for someone who I know is struggling to make ends meet.

If asked, I can tell someone I am working with that I smoked cannabis in the past.

These statements are all examples of situations where our professional boundaries could be challenged and we would be required to make an ethical decision or response.
Which situations in particular were challenging?


What issues has this raised?


What do you need to know more about?


What sort of framework or decision-making process did you use?


What personal, social and cultural aspects did you consider?

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Were these decisions based on what is best for the person, organisational requirements, community expectations, your own standards, or all of these?

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How many (if any) did you feel undecided about and how would you go about resolving these dilemmas if they did arise?

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Who could you discuss these dilemmas with?

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3.5 An ethical decision-making framework

It is likely that you discovered during the last exercise that it isn’t always straightforward making a decision about what is an ethical dilemma. There are a number of ways to identify and work through ethical dilemmas including: seeking advice from colleagues; taking the ethical or boundary issue to supervision; and/or referring to codes of ethics and using an ethical decision-making framework.

Consider your workplace and what methods are used in working through ethical and boundary issues.

Below is a step by step framework for an ethical decision-making process that may be useful.

Define
What is the ethical boundary or issue(s)? What are the key facts of the situation? Who is involved? What are their rights and duties and your rights and duties?

Explore
What ethical principles have a bearing on the situation? Which principle or principles should be given priority in making a decision? Who do you need to discuss this with before making a decision?

Options
What options are available to you in the situation? What alternative courses of action exist? What help, means and methods do you need to use?

Impact
Explore the impact of each option for the person, family and whānau, the community and yourself. Given each available option, what consequences are likely to follow from each course of action open to you? Which is the most ethical thing to do?

Decide
Having chosen the best available option, determine a specific action plan, set clear objectives and then act decisively and effectively.

In addition, three key steps are considered as fundamental to choosing alternative courses of action that reflect moral reasoning.

1. Separate questions of fact from questions of values.
2. Identify both the persons’ and the workers’ values systems.
3. Consider ethical principles and concepts.
There are times when it is not easy or it may not be helpful to make an immediate decision and you would like more time to think about the issues. Or you may wish to discuss it confidentially with your supervisor, manager, or senior colleagues. At these times it is best to be open with the person and say that you need more time to reflect on the situation, so that you can assist them in achieving the best and safest outcome, rather than making a hasty decision. It is also good to mention that clinical supervision (which maintains the person’s confidentiality under the Privacy Act) is a resource workers can use to discuss issues like this, so that you can act in the best interests of the people you work with to maintain safe practice. You can then arrange a further appointment to resolve the issues.

3.6 Exploring ethical dilemmas

You are now going to work through a number of scenarios with potential ethical dilemmas using the framework in the previous section as a guide.

In the first instance, for each case study, consider the following and write the answers on a separate piece of paper to help guide your thinking.

- What are the ethical issues?
- What ethical principles have a bearing on the situation?
- Who do you need to discuss this with?
- What options are available to you?
- What are some of the impacts relating to each of the options available to you?
- What is your decision and plan?

Take time to read through each scenario and answer the questions that follow.

1. How would you manage a situation where you believe a harm reduction approach, that is offering pragmatic advice about safer substance use which recognises that many people may not be willing or able to stop using substances, would be a more effective treatment goal than abstinence for someone the court has referred for treatment as a condition of their sentence? Their probation officer appears to expect them to give up substances completely, but you do not believe this is a realistic treatment goal for this person. What do you do?
2. John, who experiences episodes of bipolar disorder which can contribute to his offending, has been mandated to attend for assessment and treatment, but has rung to say sorry for not attending his second session. He has failed to attend this session on two other occasions in the last fortnight, and you find the reasons he has offered for not attending difficult to accept as being true. He has promised to attend the next session.

On the day before the session his probation officer rings to check that John is complying with his treatment programme. His probation officer has told you beforehand that John has previously been given a lot of chances and that he has taken advantage of programme providers in the past, and will not be allowed to do so again. John is personable, has a young family, and a new job. What do you do?

What are the ethical issues in these two situations?
3. How would you manage the issue of a person who had been referred by Justice disclosing information about an offence that they have recently committed or are planning to commit?
4. Judy is a 20-year-old woman referred by Justice for mandatory treatment who, you learn in initial sessions, has a history of being abused. She tells you she uses substances as a way to stop the nightmares and dull the memories of abuse, but also says she doesn't want anyone to know about the abuse because it was a close relative and no-one in her family knows.

In the third session Judy has turned up obviously stoned, and discloses that she was going well until she unexpectedly saw the family member who abused her at a family gathering. She says she panicked and bought some cannabis to switch off the horrible thoughts and memories that wouldn't go away. She promises it won't happen again, that she has turned up and wants to put it behind her. The protocol that was agreed on with her probation officer is that if she is using substances they are to be notified, as it is a condition of her sentence to be drug and alcohol free. You reschedule her session then consider what to do about notification.

What are the ethical issues in this situation?

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How would you respond?

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3.7 Ethical issues to consider when working with people mandated by the justice system

Several issues may appear to conflict with workers roles when working with people who have a history of offending. People who have a history of offending are often mandated to receive treatment and remain part of the justice system. Issues can arise when there is:

- the perception on the part of the person of their treatment as punishment
- prescribed treatment rather than person-centred treatment
- the issue of confidentiality and obligations to inform justice sector workers when breaches of mandated treatment goals occur.

**Mandated treatment vs. person-centred treatment**

Although there is a therapeutic issue to be addressed for people who have been mandated by Justice to attend treatment there are a number of potential ethical issues to consider in relation to codes of practice as well.

When people are mandated to attend treatment it is possible to perceive this as placing the person’s care as secondary to the safety and wellbeing of the community as the purpose of the care is to improve public safety and wellbeing, i.e. treatment contributing to reduction in reoffending.

The issue of compulsory treatment can be considered ethically sound where the goal of recovery is both a mental health and addiction and justice sector goal and if the person is treated with respect.

**Confidentiality vs. the expectation to inform a probation officer of any breaches**

An important principle for all health workers is to respect the confidentiality of people they are working with as long as their safety or the safety of others is not compromised by doing so. As a clinical issue, confidentiality is important when attempting to gain initial confidence, trust and engage with people, but absolute confidentiality can never be guaranteed. Professional codes of ethics and/or organisational policies generally require that practitioners are aware of relevant legislation and provide informed consent regarding confidentiality.

The Health Information Privacy Code 1994 defines the expectations and exceptions for workers to maintain confidentiality and under rule 11 (limits on disclosure of health information) a practitioner can breach confidentiality:

i. “to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution and punishment of offences; or

ii. for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation)."
The expectation of the Department of Corrections is that it is informed promptly when non-attendance occurs, and it seeks reports as to people's progress. Under s22C of the Health Act 1956 the Health Information Privacy Code 3 is relegated in favour of the Health Act which states:

“Any person (being an agency that provides services or arranges the provision of services) may disclose health information...

a. If that information...

i. is required by any person specified in subsection 2; and

ii. is required... for the purpose set out in that section...”

Specifically included in subsection 2 is being able to disclose health information to:

“Any probation officer within the meaning of the Corrections Act 2004, for the purpose of exercising or performing any of that person's powers, duties, or functions under that Act.”

Therefore it is possible to disclose health information without the consent of the person, but it is not compulsory to do so.

Part of the initial engagement with the person and their probation officer should include being clear about roles and responsibilities and agreement about the types of information that will be shared (purpose, parameters etc.) as well as establishing protocols for disclosure.

3.8 References


Notes page

What has been my key learning in relation to this module?

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What level of knowledge or skills about this section did I have before I read it?

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What gaps in my knowledge or practice have I identified?

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What do I plan to do from here to increase my level of skill or knowledge?
(supervision, support, cultural advice/support, further training).

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