



**Psychotherapy & Counselling
Federation of Australia**

**PACFA response to consultation:
Options for regulation of
unregistered health practitioners**

Australian Health Ministers' Advisory Council

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INTRODUCTION

PACFA represents a self-regulating profession in a similar way to the Australian Association of Social Workers. PACFA is a federation of thirty-four Member Associations which represent a range of modalities in Counselling and Psychotherapy. These modalities include:

- Body-oriented Psychotherapy
- Experiential Therapy
- Expressive Arts Therapies
- Family Relationship Therapies
- General Counselling and Psychotherapy
- Hypnotherapy
- Integrative Psychodynamic Psychotherapy
- Psychotherapy & Counselling Educators
- Psychoanalysis and Psychoanalytic Psychotherapy.

These include the following three groups of Unregistered Health Practitioners referred to in the Consultation paper (p. 5):

- Counsellors and Psychotherapists
- Hypnotherapists
- Music therapists, dance and drama therapists.

PACFA Member Associations also have members who are Registered Health Professionals or belong to AASW, due to the multidisciplinary nature of the field.

PACFA Self-regulatory Model for Psychotherapy and Counselling Professions in Australia

From its inception, PACFA has been involved in a consultative process with the field to set rigorous professional standards for training counsellors and psychotherapists, the ethical practice of practitioners, trainers and supervisors and governance of Member Associations.

Self regulation is the most appropriate model of regulation for the Counselling and Psychotherapy professions in Australia. Self-regulation generally involves the formation of a professional incorporated body or association with voluntary membership, supported by voluntary standards and codes of practice, and a recognised and accredited body of knowledge (Bensoussan & Myers, 1996, cited in Carlton, 2003). It is the recommended regulatory structure when the implications of non-compliance with its standards of practice by members of a profession are not catastrophic (Office of Regulatory Reform, 1995; cited in Carlton, 2003). The effectiveness of self-regulation relies on voluntary compliance by members of the group and works best when there are sufficient 'sanctions within the industry to require compliance' (Office of Regulatory Reform, cited in Carlton, 2003, p.27).

Some Counsellors and Psychotherapists are already registered as Psychiatrists, Psychologists, Doctors, Nurses, etc., and are therefore subject to statutory regulation. The majority of counselling and psychotherapy practitioners, however, are not subject to statutory registration requirements in

any state or territory and there are no legal barriers to entry to the profession, although membership of professional associations requires certain standards relating to training and levels of experience. The law does not restrict use of the titles 'Counsellor' and 'Psychotherapist', and practitioners using these titles have varied levels and types of training and expertise. The range of therapeutic activities incorporated within these practice definitions is broad, as illustrated by the profile of PACFA's Member Associations. In the wider field, the potential range of practice standards and level and quality of training is even greater (Schofield, 2008).

One of the main purposes of self-regulation is to provide greater protection for the public through professional consensus about required standards of training and practice. To achieve this aim, it is necessary that the self-regulation process encompasses the whole field, rather than having factions with considerable differences in structure, process and terminology, each making competing claims. Such a situation makes it much more difficult for the public to be able to make informed choices.

The establishment of PACFA has supported this aim of encompassing as much of the counselling and psychotherapy field as possible. The federation structure was adopted in 1998 as the preferred structure for self-regulation, following 3 years of consultation within the profession. The establishment of PACFA was a significant achievement that helped move the profession towards a more unified and accountable model of self-regulation while also supporting a healthy diversity of the different theoretical orientations in the profession. The diversity of modalities within PACFA provides many pathways to wellbeing for Australian consumers from diverse backgrounds.

In 2008, PACFA was commissioned by the Department of Human Services in Victoria to develop a best practice model for self-regulation of the Counselling and Psychotherapy profession in Australia. The Report, *Best Practice Self Regulation Model for Psychotherapy and Counselling in Australia* (Schofield, 2008) is a valuable resource with information on self-regulation of the profession in Australia and overseas, findings of consultation processes that were undertaken for the Report and an overview of the key elements of self-regulation such as training standards for Counsellors and Psychotherapists, ethics and complaint handling, professional development, registration requirements, and training and qualifications of supervisors. The Report supports the federated model for self-regulation of the Counselling and Psychotherapy profession, which is the model under which PACFA operates.

PACFA Register

PACFA maintains a Register for practitioners who are full members of Member Associations. PACFA's 1,800 Clinical and Provisional Registrants have a high level of training in Counselling and Psychotherapy. Clinical Registrants must have attained the Professional Training Standards of an undergraduate or postgraduate degree or equivalent in Counselling or Psychotherapy and 200 hours of client contact linked to 50 hours of supervision, and the equivalent of two years' full time practice (750 hours of client contact) linked to clinical supervision (75 hours) post training, and demonstrate they meet ongoing professional development requirements for renewal of Registration. Provisional Registrants must have attained the Professional Training Standards of an undergraduate or postgraduate degree or equivalent in Counselling or Psychotherapy and 200 hours of client contact linked to 50 hours of supervision.

A sub-category of the Register, Mental Health Practitioner, lists Registrants who have Medicare Provider numbers from other professional qualifications, or who demonstrate Mental Health Practitioner competencies. Many of PACFA's registrants are also qualified in related disciplines such as psychology, social work, occupational therapy, nursing, naturopathy, medicine and psychiatry. PACFA's Registrants are widely distributed and accessible throughout Australia in urban, regional, rural and remote areas.

Australian Register of Counsellors and Psychotherapists (ARCAP)

PACFA and the Australian Counsellors' Association (ACA) are collaborating to establish the Australian Register of Counsellors and Psychotherapists Pty Ltd (ARCAP). ARCAP is a National Register of Counsellors and Psychotherapists who meet professional training standards and standards for experience, clinical supervision and ongoing professional development. From mid 2011, practitioners listed on the PACFA and ACA Registers will be eligible to apply for registration and listing on the ARCAP Register as 'ARCAP Counsellor' and 'ARCAP Psychotherapist'.

PACFA's Ethics Policies and Guidelines

PACFA has developed the following policies, procedures and guidelines to ensure the ethical conduct of Counsellors and Psychotherapists and provide mechanisms for investigating complaints made by members of the public:

- PACFA Code of Good Governance for Member Associations
- PACFA Ethical Guidelines which set out the ethical principles for the practice of Counselling and Psychotherapy
- PACFA Code of Ethics which governs the practice of Counselling and Psychotherapy, supervision, training and research; it also provides a mechanism for complaints against PACFA Registrants and Members Associations
- PACFA Complaints, Conciliation and Appeals Procedure which contains the procedures to be followed for complaints against PACFA or Member Associations.

These policies and procedures set standards to protect members of the public accessing Counselling and Psychotherapy services, students in Counselling and Psychotherapy training, practitioners in supervision and research participants. Additionally, in NSW, as noted in the Consultation paper, the practice of Counsellors and Psychotherapists is regulated by the NSW Code of Conduct for Unregistered Health Practitioners. PACFA displays the link to the NSW Code of Conduct on our website.

Estimates of the number of Unregistered Health Practitioners practising Counselling and Psychotherapy

The Commonwealth Job Outlook website (DEEWR) identifies the number of people working as Counsellors in 2010 as 29,700. Because Counselling is a multi-disciplinary profession, this number will include both Registered Practitioners (Psychologists, Psychiatrists, Registered Mental Health Nurses) as well as Unregistered Practitioners from various professions (Counsellors, Psychotherapists, Social Workers, Occupational Therapists).

The Commonwealth does not currently track statistics for Psychotherapy on Job Outlook, however the Minister for Mental Health and Ageing, the Honourable Mark Butler, wrote to PACFA on 16th March 2011 that:

The Department of Education, Employment and Workplace Relations (DEEWR) ... is happy to take on the suggestion for psychotherapy to be included as an occupational category on both the Job Guide website and on the myfuture website.

RISKS

Risks associated with the provision of counselling and psychotherapy by unregistered Counsellors and Psychotherapists

The prevalence of risk has been reported to be the same for counselling and psychotherapy delivered by registered and unregistered health practitioners. Procci (2007) in the US estimates the risk of serious ethical breaches in psychotherapy is between 0.9 to 12%, with a mean of about 6%. An Australian survey of psychiatrists found that 7.6%, mostly male, reported erotic contact with patients during or after treatment ended (Leggatt, 1994).

While the types of risks for registered and unregistered practitioners are broadly similar, the reported incidence of complaints against unregistered practitioners in Australia is considerably lower. In NSW, 96.5% of complaints ($n = 2,170$) made to the NSW Health Care Complaints Commission for the period 2009-2010 were for Registered Health Practitioners. 0.4% ($n = 8$) were in relation to Counsellors and Psychotherapists, similar to the rate for Social Workers which was 0.4% ($n = 8$). Social Work is accepted as appropriately self-regulating based on the low risks associated with the profession and arguably, the counselling and psychotherapy profession is comparable to Social Work in this regard.

The largest category of risk PACFA has identified from ethical complaints arises where practitioners are in multiple roles, for example psychotherapist, trainer and supervisor. Incidents relating to the more serious ethical breaches such as sexual misconduct or practicing under the influence of alcohol or drugs were not common according to PACFA complaints data.

To what extent have the risks associated with these activities been realised in practice? What evidence is available on the nature, frequency and severity of risks?

The risks associated with counselling and psychotherapy are generally not realised in practice with a low incidence of complaints. Most complaints are not of a serious nature and the most common outcome from complaints is the recommendation to strengthen professional supervision of the practitioner concerned.

PACFA has collated complaints data for the five years between 2006 and 2011, including complaints against individual practitioners and against Member Associations. Data for 4 of the PACFA Member Associations was not available.

State	No of complaints To PACFA	No of complaints To MAs	Total
Australian Capital Territory	0	0	0
New South Wales	10	12	22
Northern Territory	0	0	0
Queensland	0	6	6
South Australia	0	0	0
Tasmania	0	0	0
Victoria	5	2	7
Western Australia	1	8	9
Unspecified	0	17	17
Total	16	45	61

Issue category	No of complaints To PACFA	No of complaints To MAs	Total
Breach of confidentiality	1	6	7
Sexual misconduct	0	5	5
Dual and multiple roles	4	7	11
Discrimination	1	2	3
Practicing under influence of Alcohol / Drugs	0	0	0
Other professional misconduct / breach of ethics	5	19	24
Unsatisfactory service or service outcome	1	2	3
Complaint processes	1	0	1
Fees/costs	0	2	2
MA functions/activities	3	2	5
Total	16	45	61

Complaint Outcomes	No of complaints To PACFA	No of complaints To MAs	Total
No case to answer	4	8	12
Withdrawn	1	11	12
Referred to another body	3	2	5
Resolution - Professional supervision required	1	7	8
Resolution – Membership & registration revoked	0	5	5
Resolution - MA suspended	3	0	2
Resolution - MA action required	4	3	7
Other	1	9	10
Total	16	45	61

Do you know of instances of harm or injury?

Instances of harm or injury are not common but the following examples illustrate the type of issues arising in the more serious complaints.

One complex case which PACFA investigated over a number of years involved a Member Association in NSW which provided Buddhist psychotherapy training. A number of students complained to the PACFA Ethics Committee about the training, including trainers' simultaneously providing supervision and therapy. Breaches of student confidentiality were alleged to have occurred in the training. The trainers were Registered Psychologists and the students were encouraged by PACFA to complain to the NSW Psychologists Registration Board. The ethics investigation by PACFA was delayed by the aggressive stance of the Member Association. The PACFA Council suspended the Member Association from membership of PACFA. The Member Association then withdrew from PACFA.

Another serious case involved a complaint made to a Member Association about a practitioner in dual roles as a trainer and therapist to the complainant. The complaint included allegations of professional misconduct during therapy where a disagreement about the responsiveness of the therapist escalated into physical violence by the therapist. This case resulted in expulsion from the Member Association.

A third case involved sexual misconduct, with the client complaining to the Member Association that there was an inappropriate sexual relationship with the therapist while the client was in therapy. The therapist's Member Association membership was terminated and he was removed from the PACFA Register. The therapist was required to wait 3 years before reapplying and upon reapplying he would need to demonstrate significant development and reflection in the area of professional practice, for example through education and supervision, to ensure the issues would not re-occur.

What factors exacerbate or ameliorate the risk that individuals will suffer harm as a result of the activities of unregistered health practitioners?

The literature on ethical breaches in counselling and psychotherapy is written from a variety of disciplinary perspectives. There is broad agreement on practitioner risk factors:

- Being male (Procci and Geffen, 2007)
- Practitioners' own life crises such as divorce
- Insufficient emotional support and/or practitioner burnout
- Working in isolation from peer or supervisor support
- Incompetent supervision
- Working beyond their level or area of competence e.g. working with couples without appropriate specialist training
- Practitioner suffers from physical or mental impairment
- Mental illness resulting in disinhibited sexual behaviours (Galletly, 2004; Norris et al., 2003; Procci, 2007)
- Working in rural and remote areas or with small communities (Lamb, 2004)
- Inadequate knowledge of or training in issues of culture or diversity.

Practitioners may also display certain personal behaviours that put clients at risk:

- Idealising a client as special
- An inability to set appropriate boundaries
- Predatory behaviours
- Denial about the possibility of boundary problems.

Factors which increase client vulnerability:

- Overdependence on the therapist
- Seeking therapy to find an intense relationship
- Previous traumatisation and consequent disruption to clients' self boundaries and self regulation
- The acceptance by childhood abuse victims of an abusive therapy relationship (Galletly, 2004; Norris et al., 2003; Procci, 2007).

An additional risk factor has also been identified where a health practitioner from another profession is deregistered. For example, when registered health professionals, such as Psychiatrists, Psychologists and Mental Health Nurses, are deregistered for serious ethical breaches, they are currently still able to practice in related fields such as Counselling and Psychotherapy. It is important that prohibition orders made by Health Complaint Entities in States and Territories include the provision not to practise as Counsellors and Psychotherapists.

PACFA contacted Health Complaint Entities through Australia to enquire about the possibility of strengthening prohibition orders to prevent deregistered practitioners in related fields practising as Counsellors and Psychotherapists. We received a favourable response from HCSCC South Australia.

Factors that ameliorate the risk of harm to individuals include:

- Appropriate training standards for practitioners including adequate training in ethical practice
- Membership of a relevant Professional Association
- Regular supervision that explores ethical practice
- Appropriate training standards for supervisors
- Negotiating transparently with clients about dual and multiple relationships in rural communities (Lewis, 2001)
- Practitioner awareness of implications of culture and diversity to client work
- Continuing Professional Development.

THE OBJECTIVES OF GOVERNMENT ACTION

What do you think should be the objectives of government action in this area?

Government action should aim to support the Counselling and Psychotherapy profession to effectively self-regulate. If statutory regulation is considered necessary, regulation should aim to provide a mechanism for dealing with the most serious cases of professional misconduct through Prohibition Orders.

OPTIONS

Do you think there is a case for further regulatory action by governments in this area?

Given the low risk relating to Counselling and Psychotherapy, the potential costs of regulation and the effectiveness of existing regulatory mechanisms and self-regulation, it is difficult to argue there is a need for further regulation by government. However, there is a need to build on existing self-regulation to ensure these more effectively manage risks to the community from unregistered health practitioners.

Option 1: No change

PACFA does not see any serious consequences to this option as relying on existing regulatory and non-regulatory mechanisms will maintain the status quo. An analysis of benefits and costs of this option indicates existing regulatory and non-regulatory mechanisms manage most risks appropriately.

Benefits

Self-regulation provides effective regulation for the profession through:

- Codes of Ethics of PACFA and its Member Associations
- Professional training standards and probity checking undertaken by PACFA and its Member Associations
- Australian Register of Counselling and Psychotherapy, ARCAP, currently under development (this includes the PACFA and ACA Registers and will be a single credentialing system for the profession)
- Emphasis on clinical supervision and professional development as key mechanisms for regulating the quality of counselling and psychotherapy services
- Appropriate complaints processes to deal with complaints against counsellors and psychotherapists who belong to PACFA Member Associations
- Self-regulation is provided at no cost to government or to the community

Self-regulation provides effective and appropriate complaints processes to deal with complaints against Counsellors and Psychotherapists:

- PACFA Code of Ethics, including complaints procedure for complaints against Registrants
- PACFA Complaints, Conciliation and Appeals Procedure, for complaints against PACFA and Member Associations
- Member Associations' complaint procedures
- Professional Conduct Panel made up of senior practitioners trained by the PACFA Ethics Committee to sit on ethics complaints committees
- Constitutionally, PACFA has the power to expel Member Associations that do not act in accordance with the constitution or who bring the profession into disrepute. Further changes to the PACFA constitution are proposed that would enable PACFA to expel Member Associations that fail to deal appropriately with complaints about repeat offenders. The proposed amendments will be voted on at the August AGM.

The NSW regulatory framework (a similar scheme may also be adopted in South Australia) provides a mechanism for investigation and prosecution (Offences and Prohibition Orders). In all other states and territories, Health Complaint Entities (HCEs) provide an adequate alternative to the NSW regulatory model:

- Complainants have the option of using self-regulatory complaints processes or complaining to the relevant HCE
- HCEs may seek to resolve the complaint, investigate the complaint or attempt formal conciliation. HCEs may refer the complaint to another entity (e.g. the Police).

Costs

- Self-regulation cannot reach those Counsellors and Psychotherapists who do not belong to a relevant Professional Association. Strengthening self-regulation would go some way toward addressing this concern.
- The most serious cases of misconduct and repeat offenders may not be effectively controlled without Prohibition Orders. However serious cases of misconduct by Counsellors and Psychotherapists are rare and can be dealt with by State and Territory Health Complaint Entities, and through criminal or civil proceedings.
- There is the possibility that the National Law could be amended to include Counselling and Psychotherapy as new professions in the national registration and accreditation scheme. This would not be supported by PACFA at the current time because of the work done by the profession to establish self-regulatory mechanisms. There are recent international examples of government plans to restrictively regulate counselling and psychotherapy in ways which would have removed consumer choice. The statutory regulation proposals in the UK provoked strong public protests and the government retreated from the proposed legislation as a result.

Reasons why this is not the preferred option

While PACFA does not see any serious consequences to maintaining the status quo because the risks associated with the profession are low, this option misses out on opportunities to improve self-regulation. There is a need to engage more Counsellors and Psychotherapists in Member Associations and increase PACFA Register numbers to ensure self-regulation has a wider reach within the profession. There is also a need to build greater awareness of professional standards for Counsellors and Psychotherapists within the wider community. Finally, under this option, there remains the possibility of Counselling and Psychotherapy being brought under the national registration and accreditation scheme, which is not supported by PACFA.

Option 2: A voluntary code of practice for unregistered health practitioners

Benefits

- This option builds on existing self-regulation of the Counselling and Psychotherapy profession.
- Self-regulation provides Codes of Ethics that are tailored to Counselling and Psychotherapy, providing detailed guidance on professional conduct for the profession and its diverse modalities. The voluntary code could be incorporated into existing Codes of Ethics of PACFA and of Member Associations. Adherence to the PACFA Code is already a condition of PACFA membership for Member Associations and for registration of practitioners.

- Statutory regulation may not be sufficiently subtle to regulate the practice of Counselling and Psychotherapy, which by definition involves complex relationships and emotion (McGivern et al., 2009, p. 9). This type of regulation is best provided through clinical supervision and through the profession's self-regulated complaints processes.
- PACFA and its Member Association could take a lead in educating members and enforcing standards. PACFA's capacity for effective self-regulation would greatly benefit from the support of government for these activities.
- This option would improve community awareness of acceptable and unacceptable professional conduct and expected training standards of practitioners. Again PACFA's contribution could be enhanced with the support of government.
- This option is more flexible and less costly than statutory regulation. PACFA does not anticipate significant costs to the profession to implement a voluntary code. Ideally, an increase in membership numbers would offset any implementation costs.

Costs

- There may be a lack of consensus trying to have a Code that is applicable to a wide variety of unregistered health professions. Even within the counselling and psychotherapy profession, there is a range of different ethical principles and challenges depending on the modality e.g. the body oriented therapists have ethical issues specific to their form of therapy. The voluntary code would therefore need to focus on principles and be linked with the various Codes of Practice for the different unregistered professions.

Reasons why this is PACFA's preferred option

- Risks to the public associated with counselling and psychotherapy are low.
- Self-regulation is already in place and operating effectively.
- There is the potential to increase membership of Member Associations if governments 'recognise' in some way those professions that adopt the voluntary code as a condition of membership. Recognition of the profession would be a significant incentive for counsellors and psychotherapists to join Member Associations, thereby bringing more practitioners within the self-regulation framework.
- The cost burden of a statutory code for government would be unnecessarily high. (See Option 3 costs below).
- Other regulatory mechanisms already in place are adequate to deal with the low number of serious complaints that may arise against counsellors and psychotherapists.

Option 3: A national statutory code of conduct for unregistered health practitioners

Benefits

A number of benefits of this option are identified in the Consultation paper, in particular national uniformity and the capacity to deal with serious offences through Prohibition Orders enforceable across jurisdictions. However, the costs of extending this form of regulation to all States and Territories would be prohibitively high.

Costs

- When serious cases of misconduct are amplified by the media, there is a tendency for these incidents to drive an escalation of regulation (McGivern et al., 2009). This is sometimes contrary to the level of risk actually associated with the profession.
- However, the cost burden of a Statutory Code for government would be unnecessarily high. While the costs of the regulation in NSW may not have been excessively high to date, the number of complaints is rising and there is potential for regulation to become costly. Given the limited number of serious complaints about Counsellors and Psychotherapists, this is not considered a necessary or proportionate cost.
- It is arguable that a Statutory Code such as that in NSW may not be sufficiently subtle to regulate the practice of psychotherapists and counsellors (see Option 2 benefits above).
- PACFA Member Associations have their own Codes of Ethics that are adapted to the needs of their Association and model of practice. This bottom up model of ethical development is more effective than a top down model which cannot be responsive to unique challenges for smaller groups within counselling and psychotherapy. There is the potential that statutory regulation would result in practitioners engaging less in the processes promoted through self-regulation.
- Most complaints relating to Counselling and Psychotherapy are of a minor nature (see PACFA complaints data) and these are currently addressed effectively through self-regulated complaints processes. Often complainants want acknowledgement of a mistake or an apology and to know that measures have been taken to prevent similar mistakes happening again (McGivern et al., 2009). These outcomes are more likely to be achieved through self-regulation than through Prohibition Orders, which would, in any event, only be made in the most serious cases.
- Given the limited number of serious complaints about Counsellors and Psychotherapists, a more proportionate response is needed. It is questionable whether complaints of a minor nature (which the vast majority of complaints are) should be dealt with by a statutory body, at public expense, when these can be dealt with effectively through self-regulation mechanisms.
- While some complaints may be valid, others may be vexatious or unfounded and Counsellors and Psychotherapists can be caught up in complex and stressful complaint processes, regardless of whether complaints are well-founded. Counsellors and Psychotherapists need to be better supported during investigations. A self-regulated profession is well-placed to ensure fair outcomes to complaints for clients, while also supporting Counsellors and Psychotherapists as appropriate (McGivern et al., 2009).
- Where registered health practitioners such as Psychologists, Psychiatrists and Mental Health Nurses become unregistered as a result of investigation of ethical breaches, they should not be able to practice in related professions such as Counselling and Psychotherapy where the same risk to the public exists. Prohibition Orders against de-registered practitioners should explicitly prohibit them from practicing as Counsellors and Psychotherapists.

Reasons why this is not the preferred option

This form of statutory regulation, which would be generic in nature, applying to a wide variety of different health practitioners, would not be tailored to the needs of the Counselling and Psychotherapy profession. Like Social Work, Counselling and Psychotherapy are well placed to have effective self-regulation which meets the needs both of the profession and of consumers accessing Counselling and Psychotherapy services. This would be supported by strengthening self-regulation as detailed in Option 2.

Extent to which national uniformity is desirable

Do you think there should be a nationally uniform code of conduct for unregistered health practitioners or are different codes in each State and Territory acceptable?

Although not PACFA's preferred option, if a statutory code is to be implemented, there are clear benefits to having a uniform National Code rather than separate codes in each State/Territory. A single National Code would be clearer from the perspective of consumers and it would be much easier for PACFA to support implementation of a single National Code. Enabling legislation should ensure that Prohibition Orders are enforceable across jurisdictions to prevent practitioners avoiding regulation by moving jurisdictions.

Should there be a nationally uniform or nationally consistent arrangements for investigating breaches of the code and issuing prohibition orders?

Although not PACFA's preferred option, if a national statutory code is to be implemented, there should be nationally consistent arrangements for investigating breaches and issuing Prohibition Orders through the State/Territory HCEs.

Should there be a centralised administrative body that administers the regulatory scheme, or should it be administered by each State or Territory government?

Although not PACFA's preferred option, if a national statutory code is to be implemented, Option 3A: State and Territory-based schemes would be preferred. Creating a single nationally administered scheme is likely to be prohibitively expensive and the same results should be achievable through existing HCEs in each State and Territory.

Content of a national code of conduct

What do you think should be included in a statutory Code of Conduct

PACFA's Code of Ethics was developed in consultation with a wide range of Member Associations in the profession and is therefore representative of the requirements of the profession. PACFA Member Associations also have their own Codes of Ethics that are adapted to the needs of their Association and practice modalities.

The broad principles set out in the NSW Code would be supported by PACFA. These principles could be incorporated into the PACFA Code of Ethics and the Codes of Ethics of the various Member Associations. Indeed, many of these principles are already contained in the PACFA Code of Ethics. For example:

- Clause 3. Health practitioners to provide services in a safe and ethical manner
- Clause 8. Health practitioners not to practice under the influence of alcohol or drugs
- Clause 10. Health practitioners not to financially exploit clients
- Clause 12. Health practitioners not to misinform their clients
- Clause 13. Health practitioners not to engage in sexual or improper personal relationship with client

If a Code similar to the NSW Code were adopted in all States and Territories, some elements of this Code are not relevant or are inappropriate for the Counselling and Psychotherapy profession. Other provisions in the NSW Code are not relevant to Counsellors and Psychotherapists, for example:

- Clause 4. Health practitioner diagnosed with infectious medical condition
- Clause 6. Health practitioners to adopt standards precautions for infection control
- Clause 18. Sale and supply of optical appliances

To avoid the disadvantages of a generic Code of Conduct which would not represent the requirements of a wide range of health practitioners and the wide range of practice modalities in the Counselling and Psychotherapy profession, the Code should set out high level principles and should be linked with the various Codes of Practice for the different unregistered professions.

Financing of the Scheme

How do you think a regulatory scheme to investigate and prosecute breaches of a national statutory code should be funded?

The only option is for this type of scheme to be government funded. By definition, a 'negative licensing' regulatory scheme does not involve mandatory registration so there would be no mechanism for passing on the costs of the scheme to practitioners. In any event, Counsellors and Psychotherapists are not highly paid and current fees to join professional associations are already at the high end of what practitioners are willing and able to pay.

ANY OTHER COMMENTS

Recommendations

1. PACFA sees no serious consequences to Option 1: No Change – rely on existing regulatory and non-regulatory mechanisms. However, PACFA's recommendation is Option 2: Strengthen self-regulation – A Voluntary Code of Practice, which provides greater opportunities to build on current self-regulation mechanisms.
2. Self-regulation provides effective complaints handling processes for the vast majority of complaints which are minor in nature. PACFA and its Member Association should continue to handle complaints using existing procedures.
3. The most effective preventative measure for serious boundary violations committed by Psychotherapists and Counsellors is not regulation but the availability of supervision and consultation, continuing ethics education and professional support structures. These are all central to current self-regulation practices for the Counselling and Psychotherapy profession.
4. Recognition from government is a crucial support for effective self-regulation. This recognition, as well as community education around expected professional standards for practitioners would go a long way towards engaging more practitioners in the self-regulation processes of PACFA and its Member Associations.
5. PACFA and its Member Associations could take a lead in educating members and enforcing standards. PACFA's capacity for effective self-regulation would greatly benefit from the support of government for these activities.
6. Although not PACFA's preferred option, if a statutory code is to be implemented, there are clear benefits to having a uniform National Code. There should be nationally consistent arrangements

for investigating breaches and issuing Prohibition Orders through the State/Territory HCEs.
Option 3A: State and Territory-based schemes is preferred as it would be more cost effective.

7. If a statutory Code of Conduct is introduced, this should not result in any financial costs to the Counselling and Psychotherapy profession or to individual practitioners.
8. Where registered health practitioners such as Psychologists, Psychiatrists and Mental Health Nurses become unregistered as a result of investigation of ethical breaches, Prohibition Orders should explicitly prohibit them from practicing as Counsellors and Psychotherapists.

APPENDICES

Appendix A: PACFA Code of Ethics

Appendix B: PACFA Ethical Guidelines

Appendix C: PACFA Complaints, Conciliation and Appeals Procedure

Appendix D: PACFA Complaint Form

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**Psychotherapy & Counselling
Federation of Australia**

Code of Ethics

The Ethical Framework for Best practice in Counselling and Psychotherapy

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1. Introduction

The Psychotherapy and Counselling Federation of Australia is a unique organisation in Australia. It is the one organisation that seeks to unite under its umbrella a diverse group of Member Associations (MAs) which have in common their contribution to the art and science of Counselling and psychotherapy, through their members delivering these services directly, or by their contribution to the development and furtherance of professional practice via supervision, training, research and other related clinical practice.

This document sets out the ethical framework for the clinical and management governance of member associations and for the professional practice of PACFA registrants. It unifies and replaces all the earlier Psychotherapy and Counselling Federation of Australia's (PACFA) codes for Member Associations, counsellors, psychotherapists, trainers and supervisors and is also applicable to Counselling research, the use of Counselling skills and the management of these services within organisations. It is intended to inform the practice of each Registrant and Member Association of the Psychotherapy and Counselling Federation of Australia. It is expected that Member Associations have ethical codes/guidelines of their own, and that these embrace the principles and procedures of the PACFA document.

In many instances, issues arise that can be viewed and/or challenged from both legal and ethical standpoints. Practitioners are required to view these guidelines in light of relevant state and federal legislation, and to seek competent, qualified advice as to which provisions may prevail in any given instance.

The British Association of Counselling and Psychotherapy (BACP) has given PACFA approval (2009) for using its code as a foundation for the development for the revised PACFA ethical guidelines.¹

2. Ethical Principles for Operation of Member Associations

PACFA is a federation of Member Associations. Thus it has a role in determining the principles of ethical organisational conduct. Although individuals are often responsible for action, organisations also have a role in fostering ethical practices and conduct through their structures, procedures, guidelines and regulation of members.

2.1 Values and Principles of PACFA Member Associations

Member Associations, through their structures, processes, leaders and mechanisms, demonstrate a culture in which the following values and principles can thrive:

¹ **Acknowledgement:**

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- A. Respect for the essential humanity, worth and dignity of all people;
- B. Honouring the trust placed in them by their members and protecting the integrity of that relationship;
- C. Recognition of and respect for the cultural, religious and sexual diversity among people and opposing discrimination, oppressive and other unjust behaviour; ensuring the responsibility of their members to familiarise themselves with the restrictions and demands of a particular client's cultural, sexual or religious background;
- D. Respecting the privacy of their members and preserving the confidentiality of information acquired in the course of their work;
- E. Protection of the rights of, and promotion of the responsibilities of their members.
- F. Competence and good governance;
- G. Abiding by the laws of the society in which they are constituted.

2.2 Ethical Responsibilities of Member Associations

2.2.1 Responsibilities to members

Member Associations, through their structures, processes, leaders and mechanisms, demonstrate a culture in which the following responsibilities are enacted:

- A. Member Associations take all reasonable steps to avoid harm to their members and actively protect the integrity of their relationship with their members.
- B. Member Associations set and maintain professional structures and boundaries within the organization.
- C. Member Associations faced with situations which exceed the boundary of their competence, experience or the internal resources available seek qualified professional advice or assistance. Member Associations who, through their small size or other limitations in personnel, cannot attend to all the requirements/processes in managing a professional organisation, will seek partnerships or co-opt specialised individuals to ensure compliance with core tasks of operation.
- D. Member Associations ensure that an effective complaints mechanism exists to attend to complaints against members or against the Association. "Members" are defined as those who were paid members at the time of the service provided and/or the complaint lodged.
- E. In the event of harm resulting from organizational management or processes, Member Associations take responsibility for acknowledgment and reparation/restitution.
- F. Member Associations ensure that their Members have Professional Indemnity Insurance as part of the process of protecting members from harm by allowing for restitution.
- G. Member Associations promote members' autonomy by informing them with regard to their membership process and encourage members to make responsible decisions on their own behalf.
- H. Member Associations have clear and transparent guidelines regarding conflicts of interest in relation to members. Any member in a hierarchical position such as trainer, supervisor, committee member and/or mentor will exclude themselves from other dual relationships in matters where the member could be disadvantaged or where objectivity cannot be provided. Such disadvantage could

include decisions about membership status, marking/assessing members' work, taking part in complaints processes against members, or promotion of members' work.

I. Member Associations have transparent processes for the election and departure of office bearers. Office bearers should be appropriately qualified to hold the positions of leadership and management.

J. Member Association's practices and processes provide due attention to the social context of their members and their connections to others who are also members of Member Association.

K. Members Associations will support members in their work, including professional development, best practice, research and other benchmarking standards of practice.

2.2.2 Exploitation

A. Member Associations will not develop and maintain a culture which exploits its members, past or present, in financial, sexual, emotional or any other way. Organisational processes including complaints mechanisms clearly reinforce that such practices are unacceptable.

B. Member Associations will not accept or offer payments for privileges, or engage in any financial transactions, which are unlawful or against the articles of the Association.

2.2.3 Confidentiality

A. Member Associations treat in confidence any personal information about members, whether obtained directly or indirectly. This applies to all verbal, written, recorded or computer stored material pertaining to the professional and membership context. All records, whether in written or any other form, need to be protected with the strictest of confidence.

B. Member Associations protect members' rights to privacy and confidentiality.

C. Exceptional circumstances may arise which give the Member Association reasonable grounds for believing that the member may cause serious physical or other harm to others or themselves. In such circumstances, the breaking of confidentiality may be required, preferably with the member's permission, or after consultation with an appropriately qualified person(s).

D. Any breaking of confidentiality should be minimized both by restricting the information conveyed to that which is pertinent to the immediate situation and by limiting it to those persons who can provide the help required by the member.

E. Member confidentiality continues after the member's death unless there are overriding legal considerations.

F. Special care is required when using specific situations for reports and publication. The author must have the member's informed consent should there be any possibility of identification of the member.

2.2.4 Contracts

A. Member Associations' activities are to be undertaken only with professional intent and not casually and/or in extra professional or personal relationships.

B. Contracts involving the members should be realistic and clear.

- C. When a member is incapable of giving informed consent, Member Associations obtain consent from a legally authorised person.
- D. Member Associations publish accurate information about the nature of the service offered, qualifications and experience of members.
- E. Member Associations communicate the terms on which membership is offered.
- F. Member Associations will disclose any conflict of interest which may arise in relation to a member and will seek assistance to resolve the situation.

2.2.5 Responsibility for Member Association Effectiveness and Functioning

- A. Member Associations have a responsibility to maintain their own effectiveness, and their ability to support and develop members in their professional work.
- B. Member Associations need to monitor their organizational functioning, and seek help or suspend services when their resources are sufficiently depleted to require this.
- C. Member Associations regularly evaluate their organizational skills, performance and provide accountability for organizational practice.
- D. Member Associations, through their office bearers, members and community contacts, have an obligation to keep abreast of the current legal, quality and compliance requirements in delivering and supporting professional services. They also have a role in leading excellence in education and development of members through reference to research and best practice and other benchmarking standards in service delivery.

2.2.6 Responsibilities to other Member Associations and the Professions of Counselling and Psychotherapy

- A. Member Associations do not conduct themselves in ways which undermine public confidence in their operation, the services of their members or the professions of Counselling and Psychotherapy as a whole. MAs do not undermine the work of other associations established to provide services to Counselling and Psychotherapy professionals.
- B. As members of PACFA, Member Associations are bound by the constitution and codified requirements enshrined in that membership. Member Associations are therefore aware that non-compliance with the PACFA Constitution may result in termination of their PACFA membership.
- C. Member Associations who suspect misconduct by another Member Association which cannot be resolved or remedied after discussion with the Member Association concerned, should approach the appropriate professional body in their field of work.
- D. Member Associations do not solicit the members of other Member Associations.
- E. Member Associations respect the right of members to belong to more than one professional association.

2.2.7 Responsibilities to the Wider Community

- A. Member Associations work within the law.
- B. Member Associations take all reasonable steps to be aware of current legislation and regulations affecting their profession, their members and their work practices.

C. Member Associations are committed to protecting the public against unlawful or unethical conduct by members.

D. Member Associations include a community representative in complaints, appeals and review processes wherever possible. Board membership is fostered to reflect its community and constituents.

2.3 Complaints and Appeals Framework

A. Each Member Association is responsible for receiving, investigating and hearing complaints regarding the conduct of its Members.

B. Each member association has a procedure to be followed in the event of a complaint of unethical conduct against a member.

C. Disciplinary procedures must include the possibility that a Member can be debarred from membership. This would automatically lead to the removal of the Member from any register for which approved organizational membership is required.

D. Each member association must have an appeals mechanism including a relevant person from outside the Counselling profession.

E. Notification of the suspension or expulsion of a member from the association must be given to all other associations on whose register the person is listed.

F. The role of the PACFA ethics committee in hearing complaints and/or appeals must be documented in the complaints and appeals procedures of the Member Association. PACFA may also have a role in assisting and supporting the process of resolution of complaints against practitioners who are Members of Member Associations.

G. The role of PACFA Ethics committee in an appeal is to establish that a just and procedurally correct investigation was made by the Member Association, that it was done in accordance with the Member Association's complaints and appeals process and carried out in an ethical manner.

H. PACFA Ethics committee does not accept appeals against the decision of Member Association determinations except where there are grounds for complaint against the member Association in the fairness and due process of the conduct of the complaint.

3. Ethics for Practitioners

In this statement the term 'practitioner' is used generically to refer to anyone with responsibility for the provision of Counselling or psychotherapy-related services. 'Practitioner' includes anyone undertaking the role(s) of counsellor, psychotherapist, trainer, educator, supervisor, researcher, provider of Counselling skills or manager of any of these services. The term 'client' is used as a generic term to refer to the recipient of any of these services. The client may be an individual, couple, family, group, organisation or other specifiable social unit. Alternative names may be substituted for 'practitioner' and 'client' in the practice setting, according to custom and context.

One of the characteristics of contemporary society is the coexistence of different approaches to ethics. This statement reflects this ethical diversity by considering:

- Values of counselling and psychotherapy

- Principles of counselling and psychotherapy
- Personal moral qualities of counsellors and psychotherapists

This selection of ways of expressing ethical commitments does not seek to invalidate other approaches. The presentation of different ways of conceiving ethics alongside each other in this statement is intended to draw attention to the limitations of relying too heavily on any single ethical approach. Ethical principles are well suited to examining the justification for particular decisions and actions. However, reliance on principles alone may detract from the importance of the practitioner's personal qualities and their ethical significance in the Counselling or therapeutic relationship. The provision of culturally sensitive and appropriate services is also a fundamental ethical concern. Cultural factors are often more easily understood and responded to in terms of values. Therefore, professional values are becoming an increasingly significant way of expressing ethical commitment.

3.1 Values of Counselling and Psychotherapy

The fundamental values of Counselling and Psychotherapy include a commitment to:

- Respecting human rights and dignity
- Ensuring the integrity of practitioner-client relationships
- Enhancing the quality of professional knowledge and its application
- Alleviating symptoms of personal distress and suffering
- Facilitating a sense of self that is meaningful to the person(s) concerned within their personal and cultural context
- Increasing personal effectiveness
- Enhancing the quality of relationships between people
- Appreciating the variety of human experience and culture
- Striving for the fair and adequate provision of Counselling and Psychotherapy services

Values inform principles. They represent an important way of expressing a general ethical commitment that becomes more precisely defined and action-orientated when expressed as a principle.

3.2 Ethical principles of Counselling and Psychotherapy

Principles direct attention to important ethical responsibilities. Each principle is described below and is followed by examples of best practice that have been developed in response to that principle.

Ethical decisions that are strongly supported by one or more of these principles without any contradiction from others may be regarded as reasonably well founded. However, practitioners will encounter circumstances in which it is impossible to reconcile all the applicable principles and choosing between principles may be required. A decision or course of action does not necessarily become unethical merely because it is contentious or other practitioners would have reached different conclusions in similar circumstances. A practitioner's obligation is to consider all the relevant circumstances with as much care as is reasonably possible and to be appropriately accountable for decisions made.

3.2.1 Fidelity: honouring the trust placed in the practitioner

Being trustworthy is regarded as fundamental to understanding and resolving ethical issues. Practitioners who adopt this principle: act in accordance with the trust placed in them; regard confidentiality as an obligation arising from the client's trust; restrict any disclosure of confidential information about clients to furthering the purposes for which it was originally disclosed.

3.2.2 Autonomy: respect for the client's right to be self-governing

This principle emphasises the importance of the client's commitment to participating in Counselling or psychotherapy, usually on a voluntary basis. Practitioners who respect their clients' autonomy: ensure accuracy in any advertising or information given in advance of services offered; seek freely given and adequately informed consent; engage in explicit contracting in advance of any commitment by the client; protect privacy; protect confidentiality; normally make any disclosures of confidential information conditional on the consent of the person concerned; and inform the client in advance of foreseeable conflicts of interest or as soon as possible after such conflicts become apparent. The principle of autonomy opposes the manipulation of clients against their will, even for beneficial social ends.

3.2.3 Beneficence: a commitment to promoting the client's well-being

The principle of beneficence means acting in the best interests of the client/s based on professional assessment. It directs attention to working strictly within one's limits of competence and providing services on the basis of adequate training or experience. Ensuring that the client's best interests are achieved requires systematic monitoring of practice and outcomes by the best available means. It is considered important that research and systematic reflection inform practice. There is an obligation to use regular and on-going supervision to enhance the quality of the services provided and to commit to updating practice by continuing professional development. An obligation to act in the best interests of a client may become paramount when working with clients whose capacity for autonomy is diminished because of immaturity, lack of understanding, extreme distress, serious disturbance or other significant personal constraints.

3.2.4 Non-maleficence: a commitment to avoiding harm to the client

Non-maleficence involves: avoiding sexual, financial, emotional or any other form of client exploitation; avoiding incompetence or malpractice; not providing services when unfit to do so due to illness, personal circumstances or intoxication. The practitioner has an ethical responsibility to strive to mitigate any harm caused to a client even when the harm is unavoidable or unintended. Holding appropriate insurance may assist in restitution. Practitioners have a personal responsibility to challenge, where appropriate, the incompetence or malpractice of others; and to contribute to any investigation and/or adjudication concerning professional practice which falls below that of a reasonably competent practitioner and/or risks bringing discredit upon the profession.

3.2.5 Justice: the fair and impartial treatment of all clients and the provision of adequate services

The principle of justice requires being just and fair to all clients and respecting their human rights and dignity. It directs attention to considering conscientiously any legal requirements and obligations, and remaining alert to potential conflicts between legal and ethical obligations. Justice in the distribution of services requires the ability to determine impartially the provision of services for clients and the allocation of services between clients. A commitment to fairness requires the

ability to appreciate differences between people and to be committed to equality of opportunity, and avoiding discrimination against people or groups contrary to their legitimate personal or social characteristics.

3.2.6 Self-respect: fostering the practitioner's self-knowledge and care for self

The principle of self-respect means that the practitioner appropriately applies all the above principles as entitlements for self. This includes seeking Counselling or therapy and other opportunities for personal development as required. There is an ethical responsibility to use supervision for appropriate personal and professional support and development, and to seek training and other opportunities for continuing professional development. Guarding against financial liabilities arising from work undertaken usually requires obtaining appropriate insurance. The principle of self-respect encourages active engagement in life-enhancing activities and relationships that are independent of relationships in Counselling or Psychotherapy.

3.3 Personal moral qualities

The practitioner's personal moral qualities are of the utmost importance to clients. Many of the personal qualities considered important in the provision of services have an ethical or moral component and are therefore considered as virtues or good personal qualities. These qualities are conveyed through the practitioner's clinical approach and practice. It is inappropriate to prescribe that all practitioners possess these qualities, since it is fundamental that these personal qualities are deeply rooted in the person concerned and developed out of personal commitment rather than the requirement of an external authority. However, it is the case that moral qualities and virtues, and their enactment through particular behaviours, can also be taught and should be part of training programs in the field.

Personal qualities to which counsellors and psychotherapists are strongly encouraged to aspire are evident in the enactment of the following behaviours/skills. They include:

- Empathy:** the ability to communicate understanding of another person's experience from that person's perspective.
- Sincerity:** a personal commitment to consistency between what is professed and what is done.
- Integrity:** commitment to being moral in dealings with others, personal straightforwardness, honesty and coherence.
- Authenticity:** the capacity to be true to self and relating truthfully to others.
- Resilience:** the capacity to work with the client's concerns without being personally diminished.
- Respect:** showing appropriate esteem to others and their understanding of themselves.
- Humility:** the ability to assess accurately and acknowledge one's own strengths and weaknesses.
- Competence:** the effective deployment of the skills and knowledge needed to do what is required.

Fairness: the consistent application of appropriate criteria to inform decisions and actions.

Wisdom: possession of sound judgement that informs practice.

Courage: the capacity to act in spite of known fears, risks and uncertainty.

3.4 Conclusion

The challenge of working ethically means that practitioners will inevitably encounter situations where there are competing obligations. In such situations it is tempting to retreat from all ethical analysis in order to escape a sense of what may appear to be unresolvable ethical tension. These ethics are intended to be of assistance in such circumstances by directing attention to the variety of ethical factors that may need to be taken into consideration and to alternative ways of approaching ethics that may prove more useful. No statement of ethics can totally alleviate the difficulty of making professional judgements in circumstances that may be constantly changing and full of uncertainties. By accepting this statement of ethics, Member Associations and Registrants of PACFA are committing themselves to engaging with the challenge of striving to be ethical, even when doing so involves making difficult decisions or acting courageously.

4. Guidance on Best practice for Practitioners

PACFA is committed to sustaining and advancing best practice. This guidance on the essential elements of best practice has been written to take into account the changing circumstances in which Counselling and Psychotherapy are now being delivered, in particular:

- changes in the range of issues and levels of need presented by clients
- the growth in levels of expertise available from practitioners with the expansion in the availability of training and consultative support/supervision
- the accumulated experience of PACFA and its member associations

The diversity of settings within which Counselling and Psychotherapy services are delivered has also been carefully considered. These services may be provided by the independent practitioner working alone, one or more practitioners working to provide a service within an agency or large organisation, specialists working in multidisciplinary teams, and by specialist teams of counsellors and psychotherapists. Most work is undertaken face to face but there are also a growing number of telephone and online services. Some practitioners are moving between these different settings and modes of delivery during the course of their work and are therefore required to consider what constitutes best practice in different settings. Practitioners considering moving into alternative modes of delivery, such as on-line or email Counselling, are advised to seek supervision and/or consultation about the implications. All practitioners encounter the challenge of responding to the diversity of their clients and finding ways of working effectively with them. This statement therefore responds to the complexity of delivering Counselling and Psychotherapy services in contemporary society by directing attention to essential issues that practitioners ought to consider and resolve in the specific circumstances of their work.

The crucial role supervision and training has in developing and maintaining counsellors and psychotherapists is emphasised within these ethical guidelines. How people formulate their

theoretical paradigm and their own best practice will be highly influenced by their role models. How organisations and senior individuals respond to competing imperatives to establish a rigorous training program that has credibility in the field while operating a viable business will continue to provide them all manner of ethical dilemmas. Many organisations are very small and specialised. This presents particular dilemmas for managing all the roles required of good governance.

The term 'practitioner' is used generically to refer to anyone with responsibility for the provision of Counselling or psychotherapy-related services. 'Practitioner' includes anyone undertaking the role(s) of counsellor, psychotherapist, trainer, educator, supervisor, researcher, provider of Counselling skills or manager of any of these services. The term 'client' is used as a generic term to refer to the recipient of any of these services. The client may be an individual, couple, family, group, organisation or other specifiable social unit. Alternative names may be substituted for 'practitioner' and 'client' in the practice setting as the terminology varies according to custom and context.

4.1 Providing a good standard of practice and care

All clients are entitled to good standards of practice and care from their practitioners in Counselling and psychotherapy. Good standards of practice and care require professional competence; good relationships with clients and colleagues; and commitment to and observance of professional ethics.

4.1.1 Good quality of practice and care

A. Good quality of practice and care requires competently delivered services that meet the client's needs by practitioners who are appropriately supported and accountable.

B. Practitioners should give careful consideration to the limitations of their training and experience and work within these limits, taking advantage of available professional support. If work with clients requires the provision of additional services operating in parallel with Counselling or psychotherapy, such services must be brought to the client's attention as part of duty of care, as their absence may constitute a failure in effective service.

C. Best practice involves clarifying and agreeing to the rights and responsibilities of both the practitioner and client at appropriate points in their working relationship.

D. Dual relationships arise when the practitioner has two or more kinds of relationship concurrently with a client, for example client and trainee, acquaintance and client, colleague and supervisee. The existence of a dual relationship with a client is seldom neutral and can have a powerful beneficial or detrimental impact that may not always be easily foreseeable. For these reasons practitioners are required to consider the implications of entering into dual relationships with clients, to avoid entering into relationships that are likely to be detrimental to clients. Where such a situation cannot be avoided it is advisable that therapists discuss the implications of this with their clients, and be readily accountable to clients and colleagues for any dual relationships that occur.

E. Practitioners are required to keep appropriate records of their work with clients. Records include client notes, emails, and transcripts of SMS communication. All records should be accurate, respectful of clients and colleagues and protected from unauthorised disclosure. Practitioners should take into account their responsibilities and their clients' rights under data protection legislation and any other legal requirements.

F. Clients are entitled to competently delivered services that are periodically reviewed by the practitioner. These reviews may be conducted, when appropriate, in consultation with clients, supervisors, managers or other practitioners with relevant expertise.

4.1.2 Maintaining competent practice

A. All counsellors, psychotherapists, trainers and supervisors are required to have regular and on-going formal supervision/consultative support for their work in accordance with professional requirements. Managers, researchers and providers of Counselling skills are strongly encouraged to review their need for professional and personal support and to obtain appropriate services for themselves.

B. Regularly monitoring and reviewing one's work is essential to maintaining best practice. It is important to be open to, and conscientious in considering, feedback from colleagues, appraisals and assessments. Responding constructively to feedback helps to advance practice.

C. A commitment to best practice requires practitioners to keep up to date with the latest knowledge and respond to changing circumstances. They should consider carefully their own need for continuing professional development and engage in appropriate educational activities in accordance with professional requirements.

D. Practitioners should be aware of and understand any legal requirements concerning their work, including mandatory reporting requirements, and consider these conscientiously and be legally accountable for their practice.

4.1.3 Keeping trust

A. The practice of Counselling and Psychotherapy depends on gaining and honouring the trust of clients. Keeping trust requires:

- attentiveness to the quality of listening and respect offered to clients
- culturally appropriate ways of communicating that are courteous and clear
- respect for privacy and dignity
- careful attention to client consent and confidentiality

B. Clients should be adequately informed about the nature of the services being offered.

Practitioners should obtain adequately informed consent from their clients and respect a client's right to choose whether to continue or withdraw.

C. Practitioners should ensure that services are normally delivered on the basis of the client's explicit consent. Reliance on implicit consent is more vulnerable to misunderstandings and is best avoided unless there are sound reasons for doing so. Overriding a client's known wishes or consent is a serious matter that requires commensurate justification. Practitioners should be prepared to be readily accountable to clients, colleagues and professional body if they override a client's known wishes.

D. Situations in which clients pose a risk of causing serious harm to themselves or others are particularly challenging for the practitioner. These are situations in which the practitioner should be alert to the possibility of conflicting responsibilities between those concerning their client, other people who may be significantly affected, and society generally. Resolving conflicting responsibilities may require due consideration of the context in which the service is being provided. Consultation with a supervisor or experienced practitioner is strongly recommended, whenever this would not

cause undue delay. In all cases, the aim should be to ensure for the client a good quality of care that is as respectful of the client's capacity for self-determination and their trust as circumstances permit.

E. Working with young people requires specific training, ethical awareness and competence. The practitioner is required to consider and assess the balance between young people's dependence on adults and carers and their progressive development towards acting independently. Working with children and young people requires careful consideration of issues concerning their capacity to give consent to receiving any service independently of someone with parental responsibilities and the management of confidences disclosed by clients.

F. Respecting client confidentiality is a fundamental requirement for keeping trust. The professional management of confidentiality concerns the protection of personally identifiable and sensitive information from unauthorised disclosure. Disclosure may be authorised by client consent or the law. Any disclosures should be undertaken in ways that best protect the client's trust. Practitioners should be willing to be accountable to their clients and to their profession for their management of confidentiality in general and particularly for any disclosures made without their client's consent.

G. Practitioners should normally be willing to respond to their client's requests for information about the way that they are working and any assessment that they may have made. This professional requirement does not apply if it is considered that imparting this information would be detrimental to the client or inconsistent with the counselling or psychotherapeutic approach previously agreed with the client. An example of this may include restrictions of information shared between parents and children. Clients may also have legal rights to information and this needs to be taken into account.

H. Practitioners must not abuse their client's trust in order to gain emotional, financial or any other kind of personal advantage. Practitioners should think carefully about, and exercise considerable caution before, entering into personal or business relationships with former clients and should expect to be professionally accountable if the relationship becomes detrimental to the client or the standing of the profession.

I. (a) Sexual relations with clients are prohibited both during therapy and for a period of at least two years post therapy. 'Sexual relations' includes intercourse and/or any other type of sexual activity or sexualised behaviour.

(b) Practitioners do not engage in sexual relations with former clients even after a two-year interval except in the most unusual circumstances.

Practitioners who engage in such activity after the two years following cessation or termination of therapy and of having no sexual contact with the former client bear the burden of demonstrating that there has been no exploitation, in light of all relevant factors, including:

- the amount of time that has passed since therapy terminated;
- the nature, duration, and intensity of the therapy;
- the circumstances of termination;
- the client's personal history;
- the client's current mental status;
- the likelihood of adverse impact on the client;
- any statements or actions made by the therapist during the course of therapy suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the client.

J. Practitioners should be aware of their personal values in relation to lifestyle, gender, age, disability, race, sexual orientation, beliefs or culture and be cognisant of the impact of these on the therapeutic process. If practitioners find themselves unavoidably and emotionally prejudiced towards a client they must refer the client on to another agency or practitioner.

K. Practitioners should be clear about any commitment to be available to clients and colleagues and honour these commitments.

4.1.4 Fitness to practice

Practitioners have a responsibility to monitor and maintain their fitness to practice at a level that enables them to provide an effective service. If their effectiveness becomes impaired for any reason, including health or personal circumstances, they should seek the advice of their supervisor, experienced colleagues or line manager and, if necessary, withdraw from practice until their fitness to practice returns. Suitable arrangements should be made for clients who are adversely affected.

4.1.5 If things go wrong with own clients

A. Practitioners should respond promptly and appropriately to any complaint received from their clients. An appropriate response in agency-based services would take account of any agency policy and procedures.

B. Practitioners should endeavour to remedy any harm they may have caused to their clients and to prevent any further harm. An apology may be the appropriate response.

C. Practitioners should discuss, with their supervisor, manager or other experienced practitioner(s), the circumstances in which they may have harmed a client in order to ensure that the appropriate steps have been taken to mitigate any harm and to prevent any repetition.

D. Practitioners are required to ensure that their work is adequately covered by insurance for professional indemnity and liability.

E. If practitioners consider that they have acted in accordance with best practice but their client is not satisfied that this is the case, they may wish to use independent dispute resolution, for example: seeking a second professional opinion, mediation, or conciliation where this is both appropriate and practical.

F. Clients should be informed about the existence of the Professional Conduct Procedure of the Member Association and PACFA, and any other applicable complaints or disciplinary procedures. If requested to do so, practitioners should inform their clients about how they may obtain further information concerning these procedures.

4.1.6 Responsibilities to all clients

A. Practitioners have a responsibility to protect clients when they have good reason for believing that other practitioners are placing them at risk of harm.

B. They should raise their concerns with the practitioner concerned in the first instance, unless it is inappropriate to do so. If the matter cannot be resolved, they should review the grounds for their concern and the evidence available to them and, when appropriate, raise their concerns with the practitioner's manager, agency or professional body.

C. If they are uncertain what to do, their concerns should be discussed with an experienced colleague, a supervisor or raised with PACFA.

D. All members of PACFA share a responsibility to take part in its professional conduct procedures whether as the person complained against or as the provider of relevant information.

4.2 Teaching and training

Registrants or Member Associations who provide training in the fields of Counselling and Psychotherapy and related services, are required to do so within the ethical guidelines of PACFA, the Society of Counselling and Psychotherapy Educators (SCAPE) and other relevant organisational guidelines appropriate to their training.

It is acknowledged that training institutions have a responsibility to foster an ethical culture through the development of structures, processes, contracts and procedures with staff and students that meet current educational and management standards in the field. The institution's responsibilities in delivering ethical training practices can be reviewed through the standards for Member Associations (section 2 in this Code) and PACFA's Code of Good Governance. Separation of business and academic roles in the institution's operations is advised in order to reduce conflicts of interests.

A. All practitioners are encouraged to share their professional knowledge and practice in order to benefit their clients and the public.

B. Practitioners who provide education and training should acquire the skills, attitudes and knowledge required to be competent teachers and facilitators of learning, and to undertake activities to maintain training competence.

C. Trainers shall ensure that the training programmes and the learning experiences offered are in accordance with the currently valid educational guidelines and those of other acknowledged associations.

D. Trainers and learning supervisors shall only offer courses and provide supervision or coaching in areas in which they have the requisite competence and experience.

E. It is acknowledged that dual relationships may be inevitable to some degree. However, the roles of trainer and therapist are seen as completely distinct and should be separated in absolute terms. Trainers who have other dual relationships with students shall, as far as possible, reduce conflicting role interests. In principle, these roles shall be distributed among different professionals. Different roles shall be separated in space and time. If, for any reason, the objectivity and capacity of the trainer to professionally evaluate is restricted, this must be declared and a resolution sought that protects the trainee's interests.

F. Trainers must not exploit trainees in financial, sexual, emotional, academic or any other ways.

G. Practitioners are required to be fair, accurate and honest in their assessments of their students.

H. Prior consent is required from clients if they are to be observed, recorded or if their personally identifiable disclosures are to be used for training purposes.

4.3 Supervision, consultation and clinical line management

Registrants and Member Association should consult with the PACFA Professional Standards documents and the guidelines of other relevant professional organisations in order to meet current practice responsibilities. This section of the Code is designed to attend to issues that may arise in a professional supervisory relationship which involves hierarchy and therefore issues of power. It is acknowledged that qualified and experienced practitioners may seek peer supervision rather than a more hierarchical supervision arrangement. Concerns that may arise within peer supervision arrangements are attended to under section 4.5.

The role of individual or group supervisor or consultant is considered to be of crucial importance in developing, maintaining and leading the professions. PACFA would see it as desirable that the role of supervisor be quite distinct from the role of line manager. Wherever dual relationships or responsibilities exist, these need to be transparently named and ethically managed.

In practice, the terms supervisor and consultant are often used interchangeably. In the supervision literature it is often conceptualised that trainees are *supervised* and experienced practitioners seek *consultation* on their work, signalling where the responsibility for the client work lies. Thus in this section all relevant terms are used.

The roles of supervisors, consultants, and clinical line managers include the following responsibilities:

- Monitoring the welfare of the supervisee
- Ensuring compliance with the relevant legal, ethical, and professional guidelines for professional practice
- Monitoring the contracted achievements and the professional development of the practitioner.

A. There is a general obligation for all counsellors, psychotherapists, supervisors and trainers to receive supervision/consultative support that is independent of any managerial relationships.

B. Supervision is considered a discrete professional activity within clinical practice and thus it is required that supervisors and consultants complete specialist training in the development of supervision competencies.

C. Supervisors and managers have a responsibility to maintain and enhance best practice by practitioners and to protect supervisees from poor practice. The evaluative aspects of supervision shall be contracted and transparent in any supervision arrangement.

D. Supervisors and consultants who advise their supervisees in more than one capacity (for example as trainer, individual coach or supervisor to a board) shall, as far as possible, reduce conflicting role interests. In principle, these roles shall be distributed among different professionals. If this is not possible, supervisors shall inform their supervisee what expectations and what responsibilities go with each role. Different roles shall be separated in space and time. Practitioners are responsible for clarifying who holds responsibility for the work with the supervisee.

E. Supervisors must not exploit supervisees in financial, sexual, emotional, academic or any other ways.

F. Supervisors shall have no sexual relationships with supervisees. They also avoid social contact with their supervisees if it could compromise the professional relationship. If, for any reason, the

objectivity and capacity of the supervisor, coach or consultant to professionally evaluate is restricted, the professional relationship must be terminated.

G. It is acknowledged that personal matters will arise during supervision, such as in the context of fitness to practice (see 4.1.4), regarding personal development or other advancements of their work. Supervisors shall not offer Counselling or Psychotherapy as substitute for or as a supplement to their work as supervisors.

4.4 Researching

Ethical principles for undertaking research should be informed by NHMRC ethical principles for human research (<http://www.nhmrc.gov.au/publications/synopses/e72syn.htm>); Federal Privacy Legislation; Research involving Indigenous people (http://www.nhmrc.gov.au/health_ethics/health/dilemmas.htm); principles of integrity in conducting and reporting on research (http://www.nhmrc.gov.au/publications/synopses/r39syn_summary.htm) and other relevant legislation and public guidelines. Even if research has been approved by another organisation, such as a University, PACFA will undertake its own ethics assessment process.

A. PACFA is committed to fostering research that will inform and develop practice. All practitioners are encouraged to support research undertaken on behalf of the profession and to participate actively in research work.

B. All research should be undertaken with rigorous attentiveness to the quality and integrity both of the research itself and of the dissemination of the results of the research.

C. The rights of all research participants should be carefully considered and protected. The minimum rights include the right to freely given and informed consent, and the right to withdraw at any point.

D. The research methods used should comply with the standards of best practice in Counselling and Psychotherapy and must not adversely affect clients. Dissemination of research must include strategies for disseminating results to participants, practitioners, the wider community and other researchers.

4.5 Working with Colleagues

The increasing availability of Counselling and Psychotherapy means that most practitioners have other practitioners working in their locality, or may be working closely with colleagues within specialised or multidisciplinary teams. The quality of the interactions between practitioners can enhance or undermine the claim that Counselling and Psychotherapy enables clients to increase their insight and expertise in personal relationships. This is particularly true for practitioners who work in agencies or teams.

4.5.1 Working in teams

A. Professional relationships should be conducted in a spirit of mutual respect. Practitioners should endeavour to attain good working relationships and systems of communication that enhance services to clients at all times.

B. Practitioners should treat all colleagues fairly and foster equal opportunity.

C. Practitioners should not allow their professional relationships with colleagues to be prejudiced by their own personal views about a colleague's lifestyle, gender, age, disability, race, sexual orientation, beliefs or culture. It is unacceptable and unethical to discriminate against colleagues on any of these grounds.

D. Practitioners must not undermine a colleague's relationships with clients by making unjustified or unsustainable comments.

E. All communications between colleagues about clients should be on a professional basis and thus purposeful, respectful and consistent with the management of confidences as declared to clients.

4.5.2 Awareness of context

The practitioner is responsible for learning about and taking account of the different protocols, conventions and customs that can pertain to different working contexts and cultures.

4.5.3 Making and receiving referrals

A. All routine referrals to colleagues and other services should be discussed with the client in advance and the client's consent obtained both to making the referral and also to disclosing information to accompany the referral. Reasonable care should be taken to ensure that:

- the recipient of the referral is able to provide the required service;
- any confidential information disclosed during the referral process will be adequately protected;
- the referral will be likely to benefit the client.

B. Prior to accepting a referral the practitioner should give careful consideration to:

- the appropriateness of the referral;
- the likelihood that the referral will be beneficial to the client;
- the adequacy of the client's consent for the referral.

If the referrer is professionally required to retain overall responsibility for the work with the client, it is considered to be professionally appropriate to provide the referrer with brief progress reports. Such reports should be made in consultation with clients and not normally against their explicit wishes.

4.6 Probity in professional practice

Ensuring the probity of practice is important both to those who are directly affected but also to the standing of the profession as a whole.

4.6.1 Providing clients with adequate information

A. Practitioners are responsible for clarifying the terms on which their services are being offered in advance of the client incurring any financial obligation or other reasonably foreseeable costs or liabilities.

B. All information about services should be honest, accurate, avoid unjustifiable claims, and be consistent with maintaining the good standing of the profession.

C. Particular care should be taken over the integrity of presenting qualifications, accreditation and professional standing.

4.6.2 Financial arrangements

Practitioners are required to be honest, straightforward and accountable in all financial matters concerning their clients and other professional relationships.

4.6.3 Conflicts of interest

Conflicts of interest are best avoided, provided they can be reasonably foreseen in the first instance and prevented from arising. In deciding how to respond to conflicts of interest, the protection of the client's interests and maintaining trust in the practitioner should be paramount.

4.7 Care of self as a practitioner

Attending to the practitioner's well-being is essential to sustaining best practice.

A. Practitioners have a responsibility to themselves to ensure that their work does not become detrimental to their health or well-being by ensuring that the way that they undertake their work is as safe as possible and that they seek appropriate professional support and services as the need arises.

B. Practitioners are entitled to be treated with proper consideration and respect that is consistent with this Guidance.

5. Professional Conduct Procedure

It is the responsibility of all Registrants, Member Association and Complainants to ensure that they fully understand the Professional Conduct Procedure. This procedure forms an essential part of PACFA's commitment to the protection of the public. Registrants and Member Associations are required to inform any client who indicates that they have a complaint or grievance about the existence of this procedure and any other complaints procedure applicable to the service provided.

5.1 Introduction

5.1.1 Aim

The aim of the Professional Conduct Procedure is to provide complainants with an open and transparent route of remedy where complaints are made against Registrants or Member Associations of PACFA. In processing such complaints, PACFA aims to protect members of the public, members of Member Associations, the name and reputation of PACFA and the professions of Counselling and Psychotherapy.

5.1.2 Bringing a complaint

A complaint can be brought by:

- anyone who has sought or received a service provided by a Registrant or Member Association of PACFA; or
- a current Registrant or Member Association
- anyone who has previously had a complaint heard by a Member Association and who is not satisfied that due process was followed and wants the decision appealed; or
- a person who has reason to ask PACFA to hear a complaint instead of lodging it with a Member Association, in which case the reasons for this application must be justified and clear; or
- a legal guardian or other appropriately authorised adult on behalf of a minor and/or an adult lacking legal capacity for services sought or received; or
- a third party who can demonstrate sufficient interest, or who speaks on behalf of another vulnerable person/people such as joint children, and who has been directly affected by the actions of the practitioner, and where there is corroborating evidence of unethical conduct as described under this Code.

5.1.3 Complaints against non-members

PACFA cannot deal with complaints against individuals or organisations that were not registrants/members of PACFA at the time of the alleged professional misconduct and/or are not current members of a Member Association or on the PACFA register.

5.1.4 Complaints against members

A complaint made against a Registrant or Member Association and brought within the timescale detailed below, may cover the entirety of the professional relationship in so far as the Registrant or Member Association concerned was a member of PACFA at the time of the alleged professional misconduct.

5.1.5 Records

All records will be kept for a period of seven years. PACFA reserves the right to reconsider complaints previously submitted when similar/other complaints subsequently arise that give good reason to suggest that the practitioner's continuing membership should be reviewed under Sections 9 and 10 of the Constitution.

Where the outcome of a complaint has resulted in termination of Registration or Member Associationship, all records will be kept unless and/or until such time as the person concerned has successfully re-applied for membership of PACFA. Such records will be considered in any re-application for membership of PACFA.

5.1.6 Administration

The administration of the Professional Conduct Procedure will follow the protocols laid down and as amended from time to time by PACFA. These will be administered by the Chair of Ethics.

There is benefit in furthering the research and governance aims of PACFA by carrying out audits and/or research into complaints. The data from complaints will be processed for the purposes of research and statistical analysis. Where this work is carried out, either by PACFA or a third party, under strict protocols of confidentiality, the confidentiality of the parties concerned will be

respected and any published research and/or analysis will not contain any personally identifiable information. All research is subject to ethics approval.

5.1.7 Expenses

PACFA is not responsible for travel or any other expenses (eg mediation or conciliation) incurred either by the Complainant or the Registrant or Member Association complained against or any support person/representative in connection with any stage of the complaint.

PACFA cannot order one party in a complaint to pay another party's costs.

5.1.8 Dual accountability

Complaints about Registrants or Member Associations can be lodged either with the relevant Association or with PACFA. Member Associations may also request that PACFA be involved or manage complaints they receive. This may be due to their own assessed inability to provide a just and fair hearing, to allocate available resources, or where particular expertise is not available.

PACFA may decide to hear a complaint against a Registrant when another organisation (such as The Psychologist's Registration Board, Australian Association of Social Workers) is involved in a similar process arising out of the same substantive matters. Where information is received for consideration under the Professional Conduct Procedure and where it is known that the member concerned is also a member of another professional body, PACFA reserves the right to formally notify any other organisation of the issues being considered.

PACFA will also hear matters that are the subject of a legal process, given that matters of ethics and law can focus on different aspects of and considerations in professional practice.

PACFA will not investigate matters that are substantially the same as a complaint before the Health Care Complaints Commission (HCCC). This would be considered replication of the complaints process. In some cases, PACFA will refer matters to the HCCC.

5.1.9 Resolution

Before submitting a complaint to PACFA, the Complainant is encouraged to attempt to resolve the issue with the Registrant or Member Association Complained Against and details of any attempt at resolution should be included with the complaint. If local resolution is not possible/feasible or is considered inappropriate in the particular circumstances of the case, the Complainant will be required to provide a written explanation as to why this is the case.

5.1.10 Complaints and findings

PACFA reserves the right to notify other professional bodies and/or agencies about complaints and to distribute any findings upheld against a member, where it considers it right and just to do so.

In relation to publishing findings, refer to clause 5.5.2, 5.5.3 and 5.8.

5.2 Making a Complaint

5.2.1 The complaint

The complaint must satisfy the following conditions:

A. The complaint must be in writing, addressed to the Chair, Ethics Committee and be made on the official PACFA complaints form. The Complainant must provide a detailed account of the practice giving rise to the complaint, together with details of dates when the event(s) occurred and all other supporting evidence. Depending on the nature and type of complaint, reference should be made to the standards of practice in force at the time, as outlined by either the PACFA Code of Ethics and/or the relevant MA Codes of Ethics and Practice as appropriate to the complaint. Reference may also be made to the PACFA ethical guidelines for researching Counselling and psychotherapy, SCAPE Training standards documents and other guidelines as appropriate.

B. The Registrant or Member Association Complained Against is named and is a current member of PACFA and/or was a member of PACFA at the time the alleged breach occurred.

C. It is in writing, dated, signed and received by the PACFA office.

A complaint not satisfying the above conditions will not be accepted or processed under these procedures.

5.2.2 Notification

The Member Association or Registrant Complained Against will be notified that a complaint has been received, given a copy of that complaint and details of the procedure to be followed including the Codes under which the complaint will be heard. The Member Association or Registrant Complained Against is not required to respond at this stage, but will be given an opportunity at a later stage if the complaint is accepted under the formal Professional Conduct Procedure (as set out in section 3).

5.2.3 Receipt of a complaint

The complaint will be submitted to the Ethics Committee whereupon it will decide:

A. whether to accept the complaint to be dealt with through the PACFA Complaints Process, refer it back for further information/clarification or reject it. The Ethics Committee has discretion to interview the Complainant and/or Registrant/ Association Member Complained Against if deemed appropriate;

B. if further information/clarification is requested, upon receipt of same, the complaint will be re-submitted to the Ethics Committee which will decide whether to accept it or reject it;

C. once the complaint is accepted, the Complainant and Registrant/Member Association Complained Against will be formally notified of this decision in writing. The Chair of Ethics or his/her delegate will then start the formal Professional Conduct Procedure (as set out in section 3);

D. if the complaint is not accepted by the Ethics Committee the Complainant and Member Complained Against will be formally notified of this decision in writing.

5.2.4 Appeal following decision of the Pre-Hearing Assessment Panel

The Complainant may appeal against the decision of the ethics committee. An appeal must be received by the Chair of Ethics within 14 days of notification of the Committee's decision. The Complainant can appeal on the following grounds:

- the decision was made against the weight of evidence;

- there is new evidence that was not available at the time of the initial assessment of the complaint (subject to the conditions laid down in the relevant protocol).

The intention to appeal must be accompanied by the evidence to support the submission.

The ground(s) of appeal, together with the original submissions and any new evidence considered by the ethics committee, will be considered by an independent Appeal Assessor. The Appeal Assessor's decision will be final.

5.3 The Formal Professional Conduct Procedure

5.3.1 Acceptance of complaint

The Complainant and Registrant/Member Association Complained Against will be notified in writing that the complaint will proceed to the Professional Conduct Panel.

5.3.2 Responding to a formal complaint

The Registrant/Member Association Complained Against will be notified of the acceptance of the complaint and will have 28 days to respond to it, having previously been supplied with a copy of the complaint. In particular circumstances, a case officer may be assigned to assist with this process. Such circumstances may relate to the type of complaint, the geography or resources of the MA involved.

The Registrant/Association Member Complained Against will also be furnished with any further information submitted by the Complainant and considered by the Ethics Committee/Professional Conduct Panel. Any response to the complaint must be forwarded to the Professional Conduct Panel.

5.3.3 Evidence

All evidence submitted for the purpose of the Professional Conduct Procedure, by either the Complainant or the Register/Member Association Complained Against, shall be available to the parties involved in the complaint. This includes a clear statement about the relevant Codes and specific clauses that will become the measure for the complaint, although in the initial scoping of the complaints process, this may not yet be an exhaustive list.

5.3.4 Conduct

It is the duty of the parties taking part in the Professional Conduct Procedure to comply with the implementation of the Professional Conduct Procedure. Such persons shall comply with the relevant protocols as laid down by the PACFA Code of Ethics. Any failure to comply may result in the termination of the Professional Conduct Procedure or withdrawal of membership under Clause 10 of the PACFA Constitution.

5.3.5 Lapsed/resigned membership

Failure to renew an application to the Register or Association membership by a Registrant/Association Member Complained Against during the course of a complaint will not normally terminate the Professional Conduct Procedure.

A Registrant's resignation from membership of the Association will not normally terminate nor invalidate the processing and/or hearing of a complaint by the PACFA.

Where a Register or Member Association resigns and the complaint is unable to be pursued due to the respondent's withdrawal from the process, the PACFA records will note the lack of closure in the matter of the complaint and that this will have to be satisfactorily resolved for successful re-application for membership of PACFA to occur.

5.4 The Professional Conduct Hearing

5.4.1 Venue

Professional Conduct Hearings will be held at a neutral venue, other than in exceptional circumstances. Given that PACFA is a national organisation and members of the Professional Conduct Panel may themselves reside in different states, it is expected that hearings and other meetings are likely to be carried out by teleconference or video conferencing. Any limitations caused by the use of such technology, including any bearing on a fair hearing, needs to be considered. In particular circumstances it may be that a case officer and even a separate complaints committee local to the matter may be assembled to act in de-facto of the Professional Conduct Panel. In such cases, the roles and terms of reference for this Panel should be made clear and in writing to all parties.

5.4.2 Professional Conduct Panel

The Professional Conduct Panel shall comprise a Chair and not less than three persons, one of whom is independent of the professions. The Panel may decide to invite other members relevant to individual matters for any given complaint hearing. Such members may include practitioners with specific expertise either within or outside the professions of Counselling and Psychotherapy.

5.4.3 Declaration of interest

Members of the Professional Conduct Panel have a duty to declare any interest which may be considered by the Head of Professional Conduct to affect their impartiality, or likely to be thought so to do.

5.4.4 Purpose

The purpose of the Professional Conduct Hearing is for the Professional Conduct Panel to examine all the written and oral evidence presented by both parties and decide whether the complaint is proven or not. If proven, the Panel will decide whether or not any sanction should be imposed.

5.4.5 Presence of a representative/support person

In some cases a hearing may occur, whereby individuals or associations attend to present their case. This could occur by teleconference, Skype, or involving a local committee established for this purpose. When appearing at the Professional Conduct Hearing, the Complainant and Registrant/Member Association Complained Against may each be accompanied by a representative who may support and/or speak on behalf of the party concerned. Such details of a

representative/support person must be received by the Head of Professional Conduct not less than 28 days prior to the date fixed for the Professional Conduct Hearing.

5.4.6 Written evidence

Written evidence and/or submissions and witness statements must be submitted in advance by the Complainant and the Registrant/ Member Association Complained Against. Such papers must be received by the Head of Professional Conduct not less than 28 days prior to the date fixed for the Professional Conduct Hearing. Such papers will be circulated to the Professional Conduct Panel, the Complainant and the Registrant/Member Association Complained Against, within a reasonable period prior to the Hearing. The Chair of the Professional Conduct Panel may take advice on these papers and/or procedural matters from the Head of Professional Conduct or such relevant person as may be deemed appropriate.

5.4.7 New evidence

The Chair of the Professional Conduct Panel will determine whether or not new evidence will be accepted on the day of the Hearing. The decision will be based on the conditions laid down in the relevant protocol. The Chair of the Professional Conduct Panel may take advice on such matters from the Head of Professional Conduct.

5.4.8 Attendance by Witnesses

The Professional Conduct Panel, Complainant and Registrant or Member Association Complained Against may call witnesses to attend the Hearing. A witness can only be called if the witness has supplied a written statement contained within the parties' submissions to the Professional Conduct Chair. Parties wishing to call witnesses must notify the Head of Professional Conduct of the names and details of such witnesses not less than 28 days prior to the date fixed for the Hearing. The Chair of the Panel will only permit the attendance of a witness if the Panel considers their written statement requires further clarification. The Chair of the Panel has discretion to refuse attendance by a witness if it is reasonably believed that such attendance is not relevant and/or will not add any weight to the issue(s) being considered. Attendance by a witness may occur via teleconference or Skype. Witnesses may be questioned by the Panel and by either party connected with the case.

5.4.9 Failure to attend the Professional Conduct Hearing

Where a Complainant or Registrant/ Member Association Complained Against fails or refuses to provide a response in the time periods without advisement, or to attend a Professional Conduct Hearing, the Chair of the Professional Conduct Panel has the power to decide to either:

- proceed with the Hearing in the absence of one or both of the parties; or
- adjourn the Hearing to a date not less than 28 days in advance; or
- terminate the proceedings; or
- refer the matter for consideration under the PACFA Constitution.

5.4.10 Notification of findings

The decision of the Professional Conduct Panel will be notified in writing to the parties within 28 days of the Professional Conduct Hearing.

5.5 Sanctions

5.5.1 The Professional Conduct Panel, having regard to the findings, may impose or recommend one or more of the sanctions detailed in this protocol (see section 6). This may occur in consultation with the Ethics Committee.

5.5.2 Lifting of sanction

The Professional Conduct Panel will decide if the requirements of the sanction have been fulfilled and thus, whether the sanction should be lifted.

The Registrant/ Member Association Complained Against will be notified in writing of any decision made. Where a sanction has been successfully complied with and, thus, lifted, a Sanction Compliance Notice will be published on the PACFA website and in its e-news.

5.5.3 Failure or refusal to comply with sanction

Failure or refusal to comply with a sanction may result in the Registrant's immediate removal from the PACFA Register or the Association's membership being terminated immediately. The Registrant or Member Association Complained Against will be notified of any such decision in writing. In such circumstances, a Withdrawal of Registration or Association Membership Notice will be published on PACFA's website and in its journal.

5.6 Formal Appeal Procedure

5.6.1 The Registrant or Member Association Complained Against may appeal on the ground(s) detailed in the Constitution. An appeal against the decision of the Professional Conduct Panel must be submitted in writing by the deadline given (see paragraph 5.6.6), be accompanied by any supporting documentation and submitted to the PACFA office.

5.6.2 The ground(s) for appeal will be considered by an independent Appeal Assessor who will decide whether the appeal should be accepted to go forward to an Appeal Hearing or not.

5.6.3 If leave to appeal is accepted under paragraph 5.6.2, a notice to that effect shall be given to the Head of Professional Conduct and the case will proceed to an Appeal Hearing, where the appeal will be considered by an independent Appeal Panel, as set out in Section 5.7. The Appellant and the Complainant will be notified of this decision and given details of the procedure to be followed.

5.6.4 If there is insufficient evidence to satisfy any of the ground(s) for appeal, the leave to appeal will be rejected. The Appellant and the Complainant will be notified in writing of this decision which will be final.

5.6.5 An appeal will be considered on any of the following ground(s):

- the facts were found against the weight of evidence;
- the sanction is disproportionate to the findings and decision of the Professional Conduct Panel and is unjust in the circumstances;
- there is evidence to suggest that a procedural impropriety may have had a material effect on the findings and decision of the Professional Conduct Panel;

- there is new evidence which was not available at the time of the Professional Conduct Hearing, subject to the conditions laid down in the relevant protocol.

5.6.6 Timescale for appeal

An appeal must be in writing, and must specify which ground(s) it is submitted under and be accompanied by any supporting documentation and served upon the Head of Professional Conduct within 28 days of notification of the findings and decision and/or sanction of the Professional Conduct Panel.

5.7 Appeal Hearing

5.7.1 Venue

Appeal hearings will be held at a neutral venue other than in exceptional circumstances. Given that PACFA is a national organisation and members of the Professional Conduct Committee may themselves reside in different states, it is expected that hearings and other meetings are likely to be carried out by teleconference or Skype. Any limitations caused by the use of such technology, including any bearing on a fair hearing, needs to be considered. In particular circumstances it may be that a case officer and even a separate complaints committee local to the matter may be assembled to act in de-facto of the Professional Conduct Committee. In such cases, the roles and terms of reference for this committee should be made clear and in writing to all parties.

5.7.2 Appeal Panel

The Head of Professional Conduct will appoint an independently constituted panel of not less than three persons, including lay representation, to decide the appeal.

5.7.3 Declaration of interest

Members of an appeal panel have a duty to declare any interest which may be considered by the Head of Professional Conduct to affect their impartiality, or likely to be thought so to do.

5.7.4 Purpose

The purpose of an appeal hearing is for an appeal panel to examine all the written and oral evidence presented by both parties to decide whether the appeal is upheld or not.

5.7.5 Format of the Appeal Hearing

The Appeal Hearing will be by way of a review of the Professional Conduct Panel's decision in light of the evidence put before it. The Appeal Panel will then consider the appeal documentation in its entirety, together with any verbal submissions and mitigating factors before reaching its decision.

5.7.6 Presence of a representative/support person

When appearing at the Appeal Hearing, both parties may be accompanied by a representative who may support and/or speak on behalf of the party concerned. Such details of a representative/support person must be received by the Head of Professional Conduct not less than 28 days prior to the date fixed for the Appeal Hearing.

5.7.7 Written evidence

Written evidence and/or submissions and witness statements must be submitted in advance by the Appellant and the Complainant. Such papers must be received by the Head of Professional Conduct not less than 28 days prior to the date fixed for the Appeal Hearing. Such papers will be circulated to the Appeal Panel, the Appellant and the Complainant, within a reasonable period prior to the Hearing. The Chair of the Appeal Panel may take advice on these papers and/or procedural matters from the Head of Professional Conduct, or such relevant person as may be deemed appropriate.

5.7.8 New evidence

The Chair of the Appeal Panel will determine whether or not new evidence will be accepted on the day of the Appeal Hearing. The decision will be based on the conditions laid down in the relevant protocol. The Chair of the Appeal Panel may take advice on such matters from the Head of Professional Conduct.

5.7.9 Attendance by witnesses

A witness can only be called if the witness has supplied a written statement contained within the parties' submissions to PACFA. Parties wishing to call witnesses must notify the Head of Professional Conduct of the names and details of such witnesses not less than 28 days prior to the date fixed for the Hearing. The Chair of the Appeal Panel will only permit the attendance of a witness if the Panel considers that their written statement requires further clarification. The Appeal Panel, Appellant and Complainant may call witnesses to attend the Hearing. Attendance by a witness may occur via teleconference or Skype. The Chair of the Appeal Panel has discretion to refuse attendance by a witness if it is reasonably believed that such attendance is not relevant and/or will not add any weight to the issue(s) being considered. Witnesses may be questioned by the Panel and by either party connected with the case.

5.7.10 Failure to attend the Appeal Hearing

Where an Appellant or Complainant fails or refuses to attend an Appeal Hearing, the Chair of the Appeal Panel has the power to decide to either:

- proceed with the Hearing in the absence of one or both of the parties; or
- adjourn the Hearing to a date not less 28 days in advance; or
- refer the matter for consideration under the Constitution.

5.7.11 Notification of decision

The decision of the Appeal Panel will be notified to the parties in writing and normally within 14 days of the Appeal Hearing.

Where an Appeal has not been successful, the decision of the Appeal Panel, including details of any sanction, incorporating any amendment(s) made by the Appeal Panel, will be published on the PACFA website and in e-news.

If the decision is that the Appellant's status on the register or Association Membership of PACFA should be withdrawn, the Head of Professional Conduct will communicate this decision to the Chair

of Ethics and the President of PACFA who, in turn, will formally notify the Appellant in writing and implement the Panel's decision, which will be final.

5.8 Publication

- 5.8.1 The decision of the Professional Conduct and/or Appeal Panel, together with details of any sanction, will be published on the PACFA website and in e-news in such detail as deemed appropriate to the findings and at its discretion.
- 5.8.2 The withdrawal of membership under the Professional Conduct Procedure will be published on the PACFA website, in e-news and elsewhere as it considers appropriate and just to do so, and in the interests of public protection.
- 5.8.3 Under these procedures, any notification that PACFA is entitled to publish on its website and in e-news may be published elsewhere by PACFA at its discretion and in the interests of public protection.

5.9 Effective Date

This Professional Conduct Procedure will apply to all complaints received by PACFA from August 29th 2010.

6. Heads of Complaint

The Professional Conduct Panel is responsible for determining whether the ground(s) of the complaint are upheld or not. If upheld, the Panel has to consider its decision and make a finding under one or more of the following heads of complaint. The decision about the head must ultimately rest upon consideration of all the circumstances in the case. The information that follows is intended to inform the choice between the three heads of complaint available to the Panel. These are:

- Professional Misconduct
- Professional Malpractice
- Bringing the Profession into Disrepute

6.1 Professional Misconduct

A finding of professional misconduct signifies that the practitioner has contravened the ethical and behavioural standards that should reasonably be expected of a member of this profession. Misconduct is defined as acting in contravention of the written and unwritten guidance of the profession.

A finding of serious professional misconduct is appropriate if the misconduct is of sufficient seriousness to merit a period of suspension of rights of membership and/or the withdrawal of membership of the Association.

6.2 Professional Malpractice

A finding of professional malpractice signifies that the service(s) for which the practitioner is responsible have fallen below the standards that would reasonably be expected of a practitioner exercising reasonable care and skill. Examples of malpractice include, but are not restricted to:

- Incompetence
- Negligence
- Recklessness
- The provision of inadequate professional services

A finding of serious professional malpractice is appropriate if the malpractice is of sufficient seriousness to merit a period of suspension of rights of membership and/or the withdrawal of membership of the Association.

6.3 Bringing the Profession into Disrepute

A finding of bringing the profession into disrepute signifies that the practitioner has acted in such an infamous or disgraceful way that the public's trust in the profession might reasonably be undermined, or might reasonably be undermined if they were accurately informed about all the circumstances of the case.

A finding under this head must amount to 'disgraceful conduct in a professional respect'. This involves consideration of three elements:

Conduct that is regarded as 'disgraceful' need not amount to moral turpitude or be restricted to acts of serious immorality.

The conduct must have had some connection with a professional role in order to be considered as failing 'in a professional respect'. It ought not to be concerned with matters that can reasonably be viewed as solely personal and private.

Conduct 'in a professional respect' is not confined to the pursuit of the profession in question.

What is not considered to be disgraceful to an ordinary person may be considered to be disgraceful to a professional person.

A finding of bringing the profession into disrepute will result in withdrawal of membership.

Note: The document supercedes previous documents PACFA Ethical Framework; PACFA Code of Ethics for Member Associations. This document should be read in conjunction with the PACFA Code of Good Governance 2005.



**Psychotherapy & Counselling
Federation of Australia**

PACFA ETHICAL GUIDELINES

AUGUST 2001

Preamble

The purpose of this code is to establish minimum standards of ethical practice for Psychotherapists and Counsellors for the information and protection of those using their services. It is expected that Professional Associations to which Psychotherapists and Counsellors belong will establish their own codes which should cover the standards below. All associations which are members of PACFA are obliged to inform the Federation of any alterations to their Codes of Ethics. Regardless of the wide range of approaches preferred by individual Psychotherapists and Counsellors, there are common ethical issues.

For the purpose of this statement, the term Counsellor is used to include Psychotherapist. The term Supervisor refers to professional Counselling supervision, rather than line management. The term Client refers to individuals, couples, families, groups, communities or supervisees, as applicable.

The guidelines are divided into two sections: Ethical Principles and Ethical Responsibilities.

Ethical Principles

- 1) Counsellors respect the essential humanity, worth and dignity of all people and promote this value in their work.
- 2) Counsellors recognise and respect diversity among people and oppose discrimination and oppressive behaviour.
- 3) Counsellors respect the privacy of their clients and preserve the confidentiality of information acquired in the course of their work.
- 4) Counsellors protect the rights of their clients including the right to informed consent.
- 5) Counsellors take steps to maintain and develop their competence throughout their professional lives.
- 6) Counsellors abide by the laws of the society in which they practice.

Ethical Responsibilities

Responsibilities to the client

1. (i) Counsellors take all reasonable steps to avoid harm to their clients as a result of the counselling process.
- (ii) Counsellors faced with situations which extend the boundary of their competence seek supervision and consider referral to other professionals.
- (iii) In the event of harm resulting from Counselling, Counsellors take responsibility for restitution. Professional indemnity should be considered in this context.
- (iv) Counsellors promote client autonomy and encourage clients to make responsible decisions on their own behalf.
- (v) Counsellors consider the social context of their clients and their connections to others.
- (vi) Counsellors are responsible for setting and maintaining professional boundaries within the Counselling relationship.
- (vii) Counsellors avoid any other relationship with their clients which is detrimental to the therapeutic process.
- (viii) If a relationship other than counselling is present, counsellors demonstrate careful consideration of ethical issues raised including power imbalance and confidentiality.

Exploitation

2. (i) Counsellors must not exploit clients, past or present, in financial, sexual, emotional or any other way.
- (ii) Counsellors will not accept or offer payments for referrals, or engage in any financial transactions, apart from negotiating the ordinary fee charged for Counselling.
- (iii) Sexual relations between the client and the Counsellor can never be acceptable and constitute unethical behaviour. This is not restricted to sexual intercourse and includes any form of physical contact, whether initiated by the client or the Counsellor, which has as its purpose some form of sexual gratification, or which may be reasonably construed as having that purpose.
- (iv) Counsellors should consider that the deeper the involvement with the client's emotional life during Counselling, the less likely is the possibility of a subsequent equal relationship following termination of therapy. Counsellors must seek professional supervision should any attempt to build a relationship with a former client be considered.

Confidentiality

3. (i) Counsellors treat with confidence any personal information about clients, whether obtained directly or by inference. This applies to all verbal, written, recorded or computer stored material pertaining to the therapeutic context. All records, whether in written or any other form, need to be protected with the strictest of confidence.

- (ii) Clients must not be observed by anyone other than their Counsellors without having given informed consent. This applies both to direct observation and to any form of audio or visual transmission or recording.
- (iii) Counsellors and Supervisors are responsible for protecting the client's rights of confidentiality in the supervisory context by ensuring that shared information is disguised appropriately.
- (iv) Exceptional circumstances may arise which give the Counsellor good grounds for believing that the client will cause serious physical harm to others or themselves. In such circumstances, the breaking of confidentiality may be required, preferably with the client's permission, or after consultation with a Counselling Supervisor.
- (v) Any breaking of confidentiality should be minimized both by restricting the information conveyed to that which is pertinent to the immediate situation and by limiting it to those persons who can provide the help required by the client.
- (vi) Agreements about confidentiality continue after the client's death unless there are overriding legal considerations.
- (vii) Special care is required when using specific Counselling situations for reports and publication. The author must have the client's informed consent should there be any possibility of identification of the client.

Contracts

- 4. (i) Counselling activities are to be undertaken only with professional intent and not casually and/or in extra professional relationships.
- (ii) Contracts involving the client should be realistic and clear.
- (iii) When a client is incapable of giving informed consent, Counsellors obtain consent from a legally authorised person.
- (iv) Any publicity material and all written and oral information should reflect accurately the nature of the service offered and the training, qualifications and relevant experience of the Counsellor.
- (v) Counsellors are responsible for communicating the terms on which Counselling is being offered.
- (vi) Counsellors will disclose any conflict of interest which may arise in relation to a client and will seek supervision to resolve appropriate action which may include referral.

Responsibilities to Self as Counsellor

- 5. (i) Counsellors have a responsibility to themselves to maintain their own effectiveness, resilience and ability to help clients. They monitor their own personal functioning, and seek help or refrain from Counselling when their personal resources are sufficiently depleted to require this.

- (ii) Counsellors do not counsel when their functioning is significantly impaired by personal or emotional difficulties, illness, alcohol, drugs or any other cause.
- (iii) Counsellors have regular suitable supervision and use such supervision to develop counselling skills, monitor performance and provide accountability for practice.

Responsibilities to other Counsellors

- 6. (i) Counsellors do not conduct themselves in their Counselling-related activities in ways which undermine public confidence in either their role as Counsellors or in the work of other counsellors.
- (ii) Counsellors are committed to the ethical code of their Professional Association which will include procedures to withdraw membership for unethical practice.
- (iii) Counsellors who suspect misconduct by another Counsellor which cannot be resolved or remedied after discussion with the Counsellor concerned, approach the appropriate professional body in their field of work.
- (iv) Counsellors do not solicit the clients of other Counsellors. They have an obligation not to impair the work of their colleagues. Nevertheless, Counsellors need to be aware of the client's right to seek a second opinion.

Responsibilities to the Wider Community

- 7. (i) Counsellors work within the law.
- (ii) Counsellors take all reasonable steps to be aware of current legislation affecting their work.
- (iii) Counsellors are committed to protect the public against incompetent and dishonourable practices and are prepared to challenge these practices.

Complaint Procedure

- 8. (i) Each member association must have a procedure to be followed in the event of a complaint of unethical conduct against a member.
- (ii) Disciplinary procedures must include the possibility that a Counsellor can be debarred from membership. This would automatically lead to removal from any Counselling register for which approved organisational membership is a requirement.
- (iii) Each member association must have an appeal mechanism including the involvement of a person outside the Counselling profession.
- (iv) Notification of the withdrawal of a member from an association following complaint must be given to all associations on whose register the person is listed.



**Psychotherapy & Counselling
Federation of Australia**

PACFA COMPLAINTS, CONCILIATION AND APPEALS PROCEDURE

August 2005

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1. The Role of the PACFA Ethics Committee

The role of the PACFA Ethics Committee is to:

- 1.1 receive and manage the resolution of complaints made against PACFA or a Member Association (MA);
- 1.2 make a ruling as to whether the complaint is within the jurisdiction of the PACFA Ethics Committee;

- 1.3 assist PACFA and MAs to maintain a high quality of service to their members and the community;
- 1.4 use information obtained and lessons learned to recommend improvements to services offered by PACFA and MAs.

2. What the Ethics Committee, Complaints Committee and Case Officer offer

The Ethics Committee, the Complaints Committee and the Case Officer offer a confidential process which includes:

- 2.1 listening to the details of the complaint;
- 2.2 clarification of the details of the complaint, the grounds of the complaint, the resolution principles, methods and process;
- 2.3 helping the complainant to take the complaint or concerns to PACFA or the professional association;
- 2.4 putting the complainant in touch with other people who can help if needed;
- 2.5 assessing and clarifying problems in the provision of services;
- 2.6 providing conciliation either formally or informally, between individuals and their professional association;
- 2.7 assisting in the resolution of complaints;
- 2.8 referring the complaint to a mediator, appeals committee or other bodies as appropriate, or further consideration and action if necessary.

3. Causes for Complaint

Complaints may be lodged when PACFA or the MA has:

- 3.1 failed to provide due care;
- 3.2 failed to provide enough information for the complainant to make an informed decision;
- 3.3 failed to work in a transparent manner;
- 3.4 denied rights as stated in their constitution;
- 3.5 denied respect, dignity or privacy to the complainant;
- 3.6 acted in a negligent or unprofessional manner;
- 3.7 failed to deliver the quality of service stated in the relevant constitution or By-Laws.

4. Who can make a complaint?

A complaint may be lodged by:

- 4.1 a person who is a current or former member of a MA;
- 4.2 a Member of the public directly affected by the actions of PACFA or a MA.

5. The preliminary steps in resolving issues and complaints

- 5.1 The first and most important step is for the complainant to approach the Executive and Management Committee of the Association, and discuss the issue. It is acknowledged that sometimes this is difficult and the Ethics Committee can assist with this;
- 5.2 If the discussion with the association is unsuccessful, a complaint may be brought against PACFA or the MA;
- 5.3 The PACFA Ethics Committee offers conciliation and mediation as a means to resolve issues and improve the services offered to members and the community.

6. The principal steps in the complaints and conciliation process

The principal steps in the complaints and conciliation process are:

- 6.1 the complainant contacts the PACFA office and the matter will be referred to the Ethics Committee;
- 6.2 The Ethics Committee will make a ruling as to whether the complaint is within the jurisdiction of the PACFA Ethics Committee.
- 6.3 If it is deemed to fall within PACFA's jurisdiction, the Ethics Committee will:
 - 6.3.1 appoint a Case Officer;
 - 6.3.2 appoint a Complaints Committee;
 - 6.3.3 inform the respondent that a complaint has been lodged;
 - 6.3.4 keep the respondent and complainant informed of the progress on the complaint.

7. The detailed steps in the complaints and conciliation process

- 7.1 The complaint should be submitted in writing, including any relevant documents
- 7.2 In a timely manner the respondent will be informed of the substance of the complaint, receive a copy of the complaint and conciliation process, and when deemed appropriate by the ethics committee, the respondent be requested to write a response to the complaint;
 - 7.2.1 If the complainant or the respondent needs assistance during the process an appropriate support person, other than the Case Officer, may be appointed by the PACFA Ethics Committee.

- 7.3 Within two weeks of receiving the written complaint, an impartial and appropriately qualified Case Officer will be appointed and both the respondent and complainant will be informed of the name of the case officer;
- 7.4 In a timely manner a Complaints Committee will be appointed by the PACFA Ethics Committee.

8. The role of the Case Officer

- 8.1 The Case Officer will meet with the respondent and complainant separately, collecting additional information, clarifying the issues and / or requesting submissions from whomever he/she deems appropriate;
- 8.2 The Case Officer will complete the collection of information and documentation regarding the complaint, including the context of the complaint, by the due date set by the Ethics Committee;
- 8.3 The Case Officer will submit all the material including a summary and recommendation to the Complaints Committee as to whether there is cause for a complaint and a case for the respondent to answer;
- 8.4 The Case Officer will make a recommendation to the complaints committee, as to the most appropriate process for the resolution of the complaint;
- 8.5 The Case Officer will have four weeks after the collection of relevant information and documentation to prepare the summary and recommendations to the Complaints Committee;
- 8.6 The Case Officer may request an extension of time from the Ethics Committee, on the basis that such extension of time will allow for fairer and more diligent conduct of his/her task.

9. The role of the Complaints Committee

- 9.1 The Complaints Committee will receive the recommendations of the Case Officer, fully review the documentation and summary of the complaint provided, and make a ruling as to whether:
 - 9.1.1 there is cause for complaint;
 - 9.1.2 whether there is or is not a case to be answered report their decision to the ethics committee
- 9.2 The chair of the Ethics Committee will inform complainant and respondent this decision, and this decision is final.
- 9.3 If the decision of the Complaints Committee is that there is cause for complaint and a case for the respondent to answer, the Complaints Committee, in a timely manner, will:

- 9.2.1 map out a course of action appropriate to the nature of the complaint,
 - 9.2.2 set dates for the appropriate meetings,
 - 9.2.3 arrange any additional submissions or further meetings,
 - 9.2.4 inform the complainant and the respondent of all relevant decisions and procedural details in a timely manner;
- 9.4 The course of action may include mediation and/or conciliation;
- 9.5 Mediations and Conciliations - The Complaints Committee where ever possible will use mediation and conciliation as part of the process to address and/or resolve the complaint.
- 9.6 If mediation is to be used as a course of action then a clear description of the process, the role, impartiality and independence of the mediator and a contingency plan will be developed and offered to the complainant and respondent. Both the complainant and respondent must be fully informed of the benefits and limitations of the process, and agree to the process in writing.
- 9.6.1 If mediation is chosen, this process must be kept separate and distinct from all other present and future processes used to address the complaint.
 - 9.6.2 If mediation is chosen, this process is not to be conducted concurrently with any other complaints process related to that complaint.
 - 9.6.3 If mediation is used and an outcome is achieved, the fact of the satisfactory outcome will be reported in writing to the Ethics Committee.
- 9.7 Other process to resolve the complaint - The Complaints Committee will inform the complainant and respondent in writing of:
- 9.7.1 The meetings format;
 - 9.7.2 The specific dates for meetings; and
 - 9.7.3 Approximate dates and time line for the process, final findings and determinations.
- 9.8 After the meetings and investigations have been conducted to the satisfaction of the Complaints Committee, a finding and determination will be made by the Complaints Committee and conveyed both verbally and in writing to the complainant and respondent, and in writing to the PACFA Ethics Committee;
- 9.8.1 The findings are the outcome and assessment made by the Complaints Committee, of the information collected, the submissions made to the committee and the investigations of the committee;
 - 9.8.2 The determinations are the consequent application of sanctions and recommendation for future changes and courses of action, that are both required and recommended to be taken by parties involved in the complaint;

- 9.8.3 The findings and determinations are very important to both the complainant and the respondent. Hence verbal and written delivery of the outcomes of the complaint process are intended as an opportunity for the complainant and the respondent, to separately use the time to ask questions and to hear the finding within the context of a discussion with the Complaints Committee;
- 9.8.4 If the finding(s) is that the complaint is upheld, sanctions will be applied to the respondent. This may involve a number of measures depending on the nature of the complaint;

10. Recording and monitoring the outcomes of the complaints and conciliation process

- 10.1 The outcome of the complaints process will be recorded with the PACFA Board and the MA Ethics Committee;
- 10.2 The outcome of the complaints process against a MA will be recorded in such a way as to protect the privacy of the respondent and complainant;
- 10.3 The outcome of the complaints process against a MA will be recorded in such a way as to allow for monitoring of the application of sanctions, if any to the appropriate party;
 - 10.3.1 The sanctions can range in severity and in detail of application. The sanctions will be directly related to the specifics of the complaint and the context of the complaint, but will also focus on:
 - 10.3.1.1 Ensuring the safety and well being of members of the community;
 - 10.3.1.2 Ensuring the future credibility of PACFA and the MA, where the severity of the complaint makes this an appropriate consideration;
 - 10.3.1.3 Ensuring that standards, quality and credibility of the professional practice of counselling and psychotherapy are maintained.

11. The Appeals Procedure

- 11.1 If the complainant or respondent do not accept the findings or the determinations and have reasonable grounds for appeal, either may take the matter to appeal;
- 11.2 All appeals need to be made in writing on the Appeal Form if possible. The grounds for appeal include;
 - 11.2.1 Key material was overlooked or not included in the report of the basis of the findings and determination that were made by the Complaints Committee;
 - 11.2.2 The Complaints Committee did not follow either the detail or the principle of the complaints procedure;

- 11.3 A clear statement of the grounds for appeal against a decision needs to be made including supporting information, submissions or other evidence, and submitted to the PACFA Ethics Committee within 28 days of the findings and determination being handed down;
- 11.4 If the PACFA Ethics Committee accepts or rejects an appeal, it must give reasons for the course of action and their decision is final;
- 11.5 If PACFA Ethics Committee finds that there are grounds for appeal, the PACFA Ethics Committee will:
 - 11.5.1 Appoint an Appeals Committee, consisting of three people. Two people shall be appropriately qualified senior members of the counselling profession and one person shall be appropriately qualified but not a counsellor. None of the members of the appeals committee will have a conflict of interest, nor a direct personal or professional relationship with either party involved in the appeal;
 - 11.5.2 Inform the parties in writing as to the findings and determinations of the impending appeal;
- 11.6 The procedure for the conduct of the appeal will be the same as that of the complaint, but with the addition of new and impartial committee members and include all the new material relevant to the complaint;
- 11.7 The procedure of handing down and informing of the findings and determinations of the appeals committee will be the same as the procedure for handing down the findings and deliberations of the Complaints Committee;
- 11.8 The finding and the determination of the appeals committee shall be final.



Psychotherapy & Counselling
Federation of Australia

PACFA Complaints information and form 2010

Before completing the form:

Confirm the person, association or agency you wish to complain about is associated with PACFA by telephoning 03 9486 3077.

The PACFA Complaint Form is designed to collect sufficient information for the PACFA Ethics Committee to assess the complaint as acceptable for investigation under the PACFA Code of Ethics and complaints process.

Completing the Form

- If you require extra space, please attach additional information separately.
- Attach any supporting documentation.
- Please provide details of the complaint including:
 - What happened?
 - Who was involved?
 - When did it happen?
 - Why it has caused you concern?
- It is important to include dates, times, places and people that are relevant to your complaint.

Once Completed

MAIL TO:

PACFA Complaints
290 Park Street
Fitzroy North VIC 3068 OR FAX: 039486 3933

Time for response

Acknowledgement of receipt of the complaint will be mailed to you within 10 days. Decision of the PACFA Ethics Committee as to the jurisdiction to investigate the complaint will be mailed to you within 14 days.

Questions

Questions and assistance completing this form are available by telephoning the Complaints administrator at the PACFA office on:

Ph: 03 9486 3077 OR Email: admin@pacfa.org.au



Psychotherapy & Counselling
Federation of Australia

PACFA COMPLAINT FORM 2010

Postal Address: 290 Park St, Fitzroy North, Vic 3068

Telephone: 03 9486 3077 Fax: 03 9486 3933

E-Mail: admin@pacfa.org.au

1. This Complaint is about:

- Individual therapist
- PACFA Member Association
- PACFA Accredited Course
- PACFA
- Supervisee or Supervision of Counselling or Psychotherapy
- Trainer of Counsellors or Psychotherapists

2. Details of person who has received the service:

Mr/Mrs/Ms/Miss/Dr/Other: _____ Surname: _____

First Name: _____

Street Address: _____

Suburb: _____ State: _____ Postcode: _____

Email: _____

Telephone (Mon-Fri 9am to 5pm) Mobile: _____

Home Phone: _____

Date of Birth ___/___/_____ Male or Female

Preferred Language: _____

Interpreter required: Yes No

3. Details of person who is making this complaint:

As above, I am making the complaint about the service I have received
OR

I am making this complaint on behalf of the person who received the service.

OR

I am making a complaint about the service received by another person which has impacted on me/other parties in relationship to the service recipient.

If so, please complete the following:

Mr/Mrs/Ms/Miss/Dr/Other: _____ Surname: _____

First Name: _____

Street Address: _____

Suburb: _____ State: _____ Postcode: _____

Email: _____

Telephone (Mon-Fri 9am to 5pm) Mobile: _____

Home Phone: _____

Date of Birth ___/___/_____ Male or Female

Preferred Language:

Interpreter required: Yes No

Relationship to person who received the service:

- Parent or guardian of a child under 18 years
- Legal guardian
- Relative (please state) _____
- Health professional
- Consumer advocate
- Member of the public
- Other _____

9. Consent and declaration

Please note: if PACFA deems this complaint to be of a significantly serious nature it will be forwarded to an appropriate external agency such as the Health Care Complaints Commission or the police.

Please complete only ONE of the following:

a. I am the person who received the service and am lodging this complaint:

Signed: _____ Date: ____/____/____

OR

b. I have the consent of the person who received this service to lodge this complaint as follows.

I _____ (person who received service) give permission to _____ (person making the complaint) to lodge this complaint on my behalf.

Signed: _____ ate: ____/____/____

OR

c. I do not have the permission of the person who received this service to lodge this complaint, however, I believe this complaint should be investigated because:

Signed: _____ Date: ____/____/____