Psychological Assessment in South Africa

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The etymological basis of the word *ethics* is the Greek word *ethos*, which, when it is translated into English, means a set of moral principles (Pharos, 2010). According to Leach and Oakland (2007), the first official document ever to express the need for imposing rules that would govern professional behaviour was the Code of Hammurabi (circa 1795–1750 BCE). Their research revealed that the Hippocratic Oath (circa 400 BCE) was the first known example of a professionally generated code of ethics. In 1958, the American Psychological Association (APA) established the first ethical code for psychologists (Leach & Oakland, 2007). Since then, many countries have developed ethical codes addressing issues associated with psychological practice and psychological assessment. South Africa is one of many countries that have produced an ethical code largely influenced by the 2002 APA code (Leach & Oakland, 2007). The South African code is published under the heading ‘Rules of Conduct Pertaining Specifically to Psychology’ by the Professional Board for Psychology, which falls under the auspices of the Health Professions Council of South Africa (HPCSA) (HPCSA, 2010a).

Louw (1997a) perceives the existence of a South African code as evidence of the intention of local psychologists to adhere to professional standards of practice. He notes that such a code is a defining characteristic of the discipline and serves as proof that psychology in South Africa deserves its scientific status. Since the Professional Board for Psychology falls under the auspices of the HPCSA, clients are legally protected against any possible harm and control is exerted over the conduct of assessment practitioners. Despite an ongoing debate over the feasibility of these institutions in South Africa (AfricaRights, 2007a; 2007b), it should be noted that international commentators advocate the existence of statutory control no matter what the type or form (Hall, Howerton & Bolin, 2005; ITC, 2001; Leach & Oakland, 2007).

In South Africa there are various forms of legislation that contribute to psychological assessment in some form. In addition to the Rules of Conduct Pertaining Specifically to Psychology, and the relevant legislation, one will note that the International Test Commission’s (ITC) International Guidelines for Test Use (Version 2000) (ITC, 2001) and the Code of Practice for Psychological and Other Similar Assessment in the Workplace, published by the Society for Industrial
and Organisational Psychology of South Africa (SIOPSA) in association with People Assessment in Industry (PAI) (SIOPSA, 2006), are the other two most often cited and used documents for understanding and discussing ethical issues relating to psychological assessment in South Africa. It is the author's contention that these separate documents need to be brought together in a single document, thus making the ethical code more accessible to students and professionals in the field.

Allan (2008) and Bricklin (2001) have noted, however, that being ethical does not only involve behaviour that constitutes avoiding harm, but also involves thorough knowledge of legislation pertaining to psychological assessment. Bricklin (2001, p.202) proposes that psychological assessment practitioners should develop an ‘ethical consciousness’. Such a consciousness would be evident amongst those practitioners who have a sufficient understanding of the relevant ethical codes and standards of conduct. In addition, such practitioners would display proper knowledge of the legislation pertaining to psychological assessment. To be ethical when doing psychological assessment thus means demonstrating a thorough understanding not only of the legislation governing assessment practices, but also of the relevant codes and standards of conduct. This chapter will demonstrate this approach, using the model in Figure 28.1, where it is proposed that a thorough understanding of ethical issues in South Africa involves the joint consideration of three areas – namely, a code of conduct, a specification of standard practices, and sufficient knowledge of legislation. Each of these is discussed hereunder.

**Figure 28.1** The three main components of an ethical code

![Figure 28.1](image-url)

**A code of conduct**

For the purposes of this chapter, conduct is defined as the behaviour practitioners display whilst doing psychological assessment. In order to establish a code of conduct that is representative of the field of psychology, a thematic analysis was conducted on the Ethical Principles of Psychologists and Code of Conduct of the APA (2002), the Professional Board for Psychology's Rules of Conduct (HPCSA, 2010a) and policy documents from the HPCSA (HPCSA, 2010c; 2010d). These documents were included in the analysis because all of them provide guidance.
on how practitioners should behave when conducting psychological assessment. The analysis revealed several dominant themes, related to the following topics:

- the boundaries of competence;
- avoiding harm;
- informed consent;
- confidentiality; and
- the fair use of assessment.

**Boundaries of competence**

In South Africa, the Health Professions Act No. 56 of 1974 specifies the boundaries of competence for those who conduct psychological assessment. According to this Act, two sorts of individuals are allowed to do psychological assessment. The first category is registered psychologists. The main impetus of the Act is the notion that registered psychologists are individuals who have undergone rigorous professional training that qualifies them to psychologically assess intellectual or cognitive ability or functioning, aptitude, interest, personality make-up or personality functioning (HPCSA, 2010a; 2010b; 2010c; 2010d). Having knowledge and understanding of only those instruments one is trained in directly impacts on the boundaries of competence. Psychologists are thus bound to make use only of those forms of assessment for which they have received appropriate training and in which they have gained sufficient experience (Louw, 1997b; Murphy & Davidshofer, 2005).

The second category of individuals who are allowed by the Health Professions Act to conduct psychological assessment includes psychometrists and professionals from other health professions, such as speech and occupational therapists (HPCSA, 2010b). At the time of writing this chapter, changes had been proposed to the Labour Relations Act No. 66 of 1995, amongst which was an amendment that only psychologists and psychometrists may administer and score psychological tests. This was highly contested and, at the time of writing, the legislation had not been passed.

There are a number of conditions that need to be met before individuals commence an assessment (HPCSA, 2010b):

- The measure must be categorised by the Psychometrics Committee of the Professional Board for Psychology as a measurement instrument that may be administered by a psychologist, psychometrist or other professional (but see the comment above about proposed changes to legislation).
- The assessment administrator must comply with the restrictions placed on him or her by his or her category of registration with the HPCSA. A psychometrist, for example, may administer, score and do a preliminary interpretation of assessment results but is not allowed to report on such results.
- The assessment administrator must seek the mentoring of a psychologist if specialist input is needed to enhance the assessment process and further understanding of the results it yielded.
- The assessment administrator must have received appropriate training, and achieved the minimum competencies required to use the assessment measure.
Based on the above, it thus appears that an ethical assessment practitioner would be someone who is aware of their level of competence and will not operate outside their professional limits. Such an individual would rely on his or her training and quality of experience to display ethical behaviour when conducting a psychological assessment. Acknowledging and adhering to these requirements is the first step in the development of an ethical consciousness.

**Avoiding harm**

Within the context of psychological assessment, avoiding harm implies that the practitioner will take reasonable steps to avoid or minimise any form of harm to individuals during the assessment process (APA, 2002; HPCSA, 2010a). One example of a situation where harm could occur as the result of psychological assessment is in the workplace. Here, the results of an assessment process often impact on the job aspirations of some individuals. Such results are used to determine, for example, which candidate is accepted for a position and who is rejected, who will be promoted and who not. The individual who was not selected for a highly sought-after position or promotion could deem the rejection a failure, and some harm has thus occurred. This form of harm could, however, be minimised by providing professional feedback to the unsuccessful applicant that would enable him or her not to internalise the failure but to consider other career opportunities.

Another way of avoiding harm is by being sensitive to any needs the individual undergoing the assessment, or other relevant parties (for example, parents of children), may have. In some instances, these needs might include basic physical and psychological needs. In other situations, it will be expected of the assessment practitioner to accommodate individuals with more specific needs. Examples of such needs are being visually impaired, physically disabled, hard of hearing, not speaking the same language as the assessment practitioner, having a different cultural background, being unfamiliar with psychological assessment, and so on.

The most important aspect of avoiding harm involves being sensitive to the information obtained during assessment procedures. Psychological assessment often gives practitioners an in-depth look into aspects of an individual’s life which are deemed private. Practitioners will gain insight into the personalities and lives of individuals, and must be sensitive yet professional when dealing with clients. When dealing with the latter, practitioners must display respect and unconditional acceptance (Allan, 2008; HPCSA, 2010a). Since it is one of the obligations of an ethical assessment practitioner to protect the individuals they are assessing, and because they find themselves in positions where they are privy to sensitive information, the aspects of informed consent and confidentiality become even more important in the ethical make-up and ultimately the ethical consciousness of the assessment practitioner.

**Informed consent**

Informed consent is the practice of obtaining, in writing, consent from an individual, the parent of a child or the legal guardian or representative of any person incapable of providing consent, to participate in psychological assessment. The consent form should contain the following information (HPCSA, 2010a):
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- all relevant details of the individual being assessed;
- the nature of the assessment procedure and a list of the assessment measures to be used; and
- any limits that might be imposed when conducting the assessment, such as the individual refusing to be assessed, limits to confidentiality, or any potential harmful effects inherent in the assessment procedure.

It is important to note that individuals have the right to ask questions about the assessment procedure before giving their consent. When an individual (or the representative of the individual) refuses to consent to participating in the assessment, he or she must be informed in a respectful and professional manner of the consequences of such a refusal (Foxcroft, Roodt & Abrahams, 2009; Moerdyk, 2009). Written consent is not necessary in some instances. These are (HPCSA, 2010a):
- when the assessment is a legal requirement (for example, during custody battles, the Family Advocate's office will require both parents to undergo psychological assessment);
- when informed consent is implied because the assessment is conducted as a routine activity (for example, when applying to become an airline pilot, psychological assessment will form part of the selection procedures); or
- if the purpose of the assessment is to evaluate an individual's ability to make decisions or to determine mental incapacity.

Although it is not a prerequisite to obtain informed consent from individuals with questionable capacity, or from individuals who have been instructed by a court to undergo psychological assessment, the practitioner displaying ethical behaviour will still inform the concerned individual about the nature and purpose of the proposed assessment. This must be done in a language that is reasonably comprehensible to the individual (HPCSA, 2010a).

In a multilingual society such as South Africa, assessment practitioners will sometimes need to acquire the services of an interpreter. In such instances, the individual who will undergo the assessment must consent to the use of the interpreter. The practitioner, however, will still be held responsible for the safekeeping of confidential information arising from the assessment. It is also the practitioner's ethical duty to note the use of an interpreter in any report written subsequent to the assessment, thus making others aware of the limitation that the use of an interpreter may have posed on the procedure (HPCSA, 2010a).

In addition to what is prescribed by the HPCSA on the issue, the author is of the opinion that an ethically conscious practitioner should employ an interpreter who is either registered in one of the categories acknowledged by the Professional Board for Psychology, or has intimate knowledge of the fields of psychology and psychological assessment. This will ensure that the interpreter will understand the importance of keeping obtained information confidential. Such an interpreter will also realise that he or she is under an ethical obligation to interpret exactly what has been said by the assessed individual. In the unlikely event that an assessment practitioner cannot find a suitable interpreter, it will
be his or her responsibility to train an individual in the matters of correct interpretation and confidentiality. It is also recommended that the assessment practitioner enter into a contractual agreement with any interpreter used, in order to ensure ethical conduct.

Records of informed consent, contractual agreements, the assessment process and the results it has yielded must be stored and maintained by the practitioner for a minimum period of five years (Allan, 2008). In doing so, the practitioner will not only comply with the legal requirements pertaining to record-keeping, but will also be able to facilitate any inquiry or subsequent professional interventions (HPCSA, 2010a).

**Confidentiality**

According to the Professional Board for Psychology's Rules of Conduct (HPCSA, 2010a) and the APA's Code of Ethics (2002), practitioners must safeguard all confidential information obtained during the course of psychological assessment procedures. This includes information obtained about the individual being assessed, such as biographical information, information obtained from significant others (for example, family, colleagues and peers) and the results of the assessment(s) conducted. Practitioners must, at the onset of the assessment process and before assent is obtained, discuss the issue of confidentiality with the individual or group of individuals who will be assessed. During this discussion, the practitioner must inform the person or group of persons involved of the measures that will be taken to guarantee confidentiality. Such a person or group of persons must also be informed of the limitations that exist with regard to confidentiality (Allan, 2008; APA, 2002; HPCSA, 2010a). One example of such a limitation is where an individual is legally incapable of making decisions on his or her own behalf (for example, a child, or a person suffering from severe brain damage). The parent(s), legal guardian or legal representative of such a person will then be informed about the outcome of the assessment process. Another example of a limitation on confidentiality is when an exceptional circumstance occurs. When the assessment practitioner learns that a client is abusing a child or poses a clear danger to other persons, he or she must inform the authorities (Allan, 2008). If practitioners are confronted with what they believe to be an exceptional circumstance, but doubt whether alerting the authorities would be the ethical thing to do, they should approach the Professional Board for Psychology or the HPCSA for legal guidance. Yet another example is an instance where the assessment practitioner is ordered by court or some other legal imperative to release the information (HPCSA, 2010a).

Apart from the limitations on confidentiality that exist, assessment practitioners may release confidential information when given the proper authorisation by a client, a parent of a minor, or the legal guardian or legal representative of an incapable person (HPCSA, 2010a). A practitioner needs to be aware of these issues relating to confidentiality, as this is the requirement of the HPCSA Code of Conduct. However the ethically conscious practitioner does not relate to this simply because it is stated in an official document, but rather because he or she feels the moral obligation to adopt the correct approach within the context.
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*Fair use of assessment*

Practitioners must ensure that they only use assessment procedures which are deemed appropriate for the aim of the assessment process (APA, 2002; Foxcroft et al., 2009; ITC, 2001; Kaplan & Saccuzzo, 2009). Neuropsychological assessment measures, for example, cannot be administered on a learner seeking assistance in making the correct subject choices. They may only be utilised if initial assessment procedures indicate neurological fallouts and further investigation is warranted. Practitioners should further make certain that they only make use of assessment measures that are valid and reliable (APA, 2002; Foxcroft et al., 2009; ITC, 2001; Moerdyk, 2009; SIOPSA, 2006). This implies that practitioners will be aware of the limitations of the measures and techniques they use as part of the assessment (Moerdyk, 2009).

An important point coinciding with this is that practitioners must know if the assessment measures and techniques they intend to use are appropriate for individuals from the target population being assessed (APA, 2002; Moerdyk, 2009). In a multicultural society such as South Africa, practitioners might sometimes find themselves in a position where they are dealing with individuals who have not been assessed before or who are illiterate. Assessing these individuals using psychological tests, for example, will constitute the unfair use of assessment. South African practitioners therefore need to be flexible in ensuring the ethical and fair use of assessment. This means that when practitioners find themselves in a situation dealing with individuals who are not familiar with assessment practices or who are illiterate, they should be able to replace one form of assessment with a suitable alternative. For example, a practitioner is approached by an individual who experiences some emotional problems. In order to get to know the person, the practitioner wants to learn more about the specific personality traits displayed by the individual. The individual, however, is illiterate and cannot complete any personality questionnaire. The practitioner then makes use of other forms of assessment, such as behavioural observations, clinical interviews and interviewing significant others (such as family, colleagues and elders) in the community to learn more about the personality of the client (Foxcroft, 2002).

The fair use of assessment forms the foundation of the ethical code of conduct that guides the work of psychological assessment practitioners. Even if a practitioner has been able to gain the trust of an individual, has obtained his or her informed consent and has professionally conducted the assessment, making use of techniques that are unfamiliar to the individual who is being assessed, or which are not appropriate for the purposes of the particular assessment process, will have a negative impact on the assessed person. This must be avoided at all costs, especially in South Africa where not all sectors of society are familiar with psychological assessment practices. Individuals who are assessed must experience the process as helpful, and must be guided to use the knowledge gained to their advantage. Such practices will help to ensure that psychological assessment will become known as a ‘helpful’ practice instead of becoming known as a ‘hurtful’ practice.
Standard practices

In the previous section, the behaviour that ethical assessment practitioners will display was discussed. As stated at the start of the chapter, however, these behaviours form only one part of the ethics involved in psychological assessment. The second part consists of specific standards that assessment practitioners should adhere to when conducting assessment. These standards will be discussed next.

Preparing for the assessment

Before the commencement of any assessment process, the practitioner needs to do the following (ITC, 2001; Moerdyk, 2009; SIOPSA, 2006):

- Ensure that, if psychological testing forms part of the process, all the materials as specified by the instructor’s manual are readily available. These materials must be in good condition and should contain no marks or notes which are not specified by the manual.
- Make certain that the assessment venue is well illuminated and ventilated, as well as free of any form of disturbances. If the venue is not located at the practitioner’s office, arrangements for a facility must be made well in advance. Assessment venues must be accessible and individuals being assessed should be informed beforehand of the location of the venue. When assessing large groups, the venue must be large enough to comfortably accommodate the group.
- Make sure that anyone assisting the practitioner is qualified and competent in the use of the assessment techniques employed.
- Make appropriate arrangements for assessing those with specific needs.
- Anticipate any problems that might occur and counteract them through thorough preparation. A simplistic example is to ensure that a pencil sharpener is at hand to sharpen pencils, when pencil-and-paper testing forms part of the assessment.
- Upon arrival of the individual(s) being assessed, remove any distractions such as cellular phones.

 Conducting the assessment

During the assessment, the practitioner must (Foxcroft et al., 2009; ITC, 2001; Moerdyk, 2009; SIOPSA, 2006):

- establish rapport and deal with any possible anxieties that are displayed;
- use a calm and clear tone of voice when providing instructions;
- if psychological tests are used, read instructions from the manual and make certain that the individual(s) being assessed understand(s) them;
- maintain the interest and cooperation of the individual(s);
- in instances where time restrictions are allocated to certain forms of the assessment procedure, adhere to these restrictions;
- observe and record all behaviour which will enhance understanding when the results are interpreted (examples of such behaviour are response times, continuous nervous or anxious fidgeting, non-committal responses, and so on);
- not leave the individual(s) being assessed unsupervised; and
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- make certain that when assessment materials such as psychological tests have been used, all such material is accounted for at the end of the assessment.

Securing the information
Once the assessment process has been completed, the practitioner must make sure that all information obtained and the assessment materials that were used (for example, psychological tests) are stored in a safe and secure place (Allan, 2008; ITC, 2001; Moerdyk, 2009; SIOPSA, 2006).

Analysing and interpreting the results
The following guidelines should be adhered to during the analysis and interpretation of assessment results, in order to ensure ethical practice:
- If, during the assessment process, any standardised procedures were used (for example, norm-based psychological tests or structured interviews), the practitioner should follow the prescribed rules for scoring as indicated in the manuals of such measures (ITC, 2001).
- Practitioners must ensure, when analysing results where some subjective interpretation of the information is needed (for example, scoring projective techniques, or unstructured or semi-structured interviews), that they have taken the necessary steps to limit the effects of their own bias. One possible way to deal with this is to submit the material to another qualified individual for scoring (Moerdyk, 2009). Inter-rater reliability is then established to determine the amount of bias that might have occurred.
- All the information obtained during the assessment process should be utilised when making a decision about the individual – whether it concerns appointing the person, institutionalising him or her, making a clinical diagnosis, and so on. It is recommended that the results of the various forms of assessment are correlated with one another to determine the accuracy of the practitioner’s judgement (ITC, 2001; Murphy & Davidshofer, 2005).
- Results must be interpreted within the context of the assessment process, and any problems that might have occurred during its duration (such as power failure, or an individual assessed not feeling well) should be taken into account (ITC, 2001).
- Cognisance must be taken of the limitations of the assessment measures or any other factors, such as cultural or language differences, that might affect the outcome of the assessment (ITC, 2001).
- Practitioners must consider the impact that prior experience of assessment processes or the assessment measures used could have on the current situation (ITC, 2001).

Reporting the results
When reporting the results of the assessment process, it is important for the practitioner to consider the following (ITC, 2001; Moerdyk, 2009; SIOPSA, 2006):
- Identify all stakeholders who may legitimately receive the results. If the assessment process was, for example, the consequence of the individual’s own request (for example, to assist with subject choices or career planning, or to
deal with emotional problems), a report of the results will be given directly to him or her. In other instances, such as the industrial and organisational context, the party who pays for the assessment process is the one who receives the report. It should be noted, however, that the individual being assessed in such an instance has the right to feedback, and arrangements should thus be made if he or she wants access to the information.

- Reports, whether in oral or written form, should be clear and easy to understand and thus must be free from technical jargon. Derogatory comments, negative labels or any other forms of language that could have a destructive impact on the individual must be avoided.

- Practitioners should report only those results that relate to the reasons for the use of the assessment, and must avoid overgeneralisation of results to other aspects of the individual’s life that were not dealt with during the assessment process.

- The individual assessed must be given an idea of how the results will impact on his or her future decision-making. Even in organisations and industries where assessment is used (for example, for selection purposes), the outcome (albeit negative) could advantage the individual if reported in a constructive manner. For example, John is a certified chartered accountant who applied for a position with an accounting firm that only deals with big conglomerates in the private sector. John did not get the position, because during the assessment it was discovered that he is not a team player. As a result of the assessment, John realises he will fare better in situations where he works on his own and deals with few individuals at a time. He now knows that he should rather seek employment with firms that deal with small and individually owned businesses. The assessment process has thus assisted John to get to know himself better and to make more informed decisions when looking for a job.

- Any report (oral or written) should contain a clear summary of the results and recommendations that the individual should consider when making any decisions. It is imperative that all forms of report always be presented in a constructive and supportive manner.

Knowledge of legislation

The third element necessary for inclusion in an ethical code is knowledge and understanding of all forms of legislation related to psychological assessment practices. This section will thus deal with the legislation, or acts of law, which assessment practitioners need to consider when conducting psychological assessment.

*The Health Professions Act (No. 56 of 1974)*

The Health Professions Act applies to all forms of psychological assessment. This Act was thoroughly discussed earlier in this chapter, in the section on ‘Boundaries of competence’, and will not be pursued further. Practitioners are urged, in the interests of developing an ethical consciousness, to obtain the entire Act from the HPCSA’s website and read through it.
The Bill of Rights as contained in the Constitution of the Republic of South Africa (Act No. 108 of 1996)

In addition to the Health Professions Act, assessment practitioners operating in the discipline of psychology need to avail themselves of the contents of the Constitution of the Republic of South Africa. The Constitution is the supreme law of the Republic and hence must be upheld by its citizenry (Mauer, 2000). The Constitution contains the Bill of Rights, which forms the cornerstone of the South African democracy. It protects the rights of people living in South Africa and affirms the democratic rights of human dignity, equality and freedom. Practitioners should pay special attention to Section 9 of the Bill (Mauer, 2000), which deals with Equality and Human Dignity, and states the following:

9.1 Everyone is equal before the law and has the right to equal protection and benefit of the law;
9.2 Equality includes the full and equal enjoyment of all rights and freedom. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken;
9.3 The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth;
9.4 No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3);
9.5 Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

The implication Section 9 holds for psychological assessment is clear: any individual being assessed must be respected and treated with dignity, irrespective of their background or biographical features. It is important to note that this section allows for ‘fair’ discrimination. Few assessment practitioners realise that when using appropriate assessment measures under the right circumstances, assessment presents them with the ideal tool to discriminate in a fair manner. Assessment, and especially the results it yields, helps practitioners to discern (‘discriminate’) who is the best candidate for the position, who has a personality disorder, which subjects would be most suitable for a Grade 10 learner to take, and so on.

Another subsection of the Bill of Rights which aptly applies to the context of psychological assessment is noted under Section 14(4) (Mauer, 2000). This particular subsection deals with the disclosure of information and states that:

Everyone has the right to privacy, which includes the right not to have:
14.4 the privacy of their communications infringed.

Section 14(4) reminds practitioners how important it is to abide by the rules of confidentiality. They should not, however, let Section 14(4) confuse them and remember that within the boundaries of psychological assessment, limits to confidentiality exist. These must be discussed and explained to the individual who is about to undergo psychological assessment.
The Children’s Act (No. 38 of 2005)

Conducting psychological assessment of children is complicated. First of all, children cannot provide consent to undergo psychological assessment; this consent must be obtained from parents or legal guardians (APA, 2002; HPCSA, 2010a). Secondly, not all forms of assessment may be used on children. Practitioners working with children should use assessment measures especially developed for them. In addition, specific attention needs to be focused on inherent factors at the time the child is assessed (APA, 2002; HPCSA, 2010a; Murphy & Davidshofer, 2005). Examples of such factors are age, grade level, level of emotional development and level of cognitive functioning. It is for these reasons that children are perceived as individuals with specific needs and, as was pointed out in the section above on ‘Avoiding harm’, practitioners should be attentive to these needs when conducting psychological assessment. It is also important to note that Section 10 of the Children’s Act specifies:

Every child that is of such age, maturity and stage of development as to be able to participate in any matter concerning that child has the right to participate in an appropriate way and views expressed by the child must be given due consideration.

Within the context of assessment, this means that practitioners should always have the child’s best interest at heart. If, for example, the practitioner does not deem a particular form of assessment to be in the child’s best interest but the parents insist that it must be done, the practitioner could refuse to conduct such an assessment based on what the Act specifies. It should further be noted that, according to the Act, children have the right to be informed about the purpose and nature of the assessment. Should the child have any questions or express concern with the assessment procedure, these issues need to be dealt with immediately in an appropriate way. Unfortunately the Act is vague on what practitioners should do in a situation where parents have given consent for a child to undergo psychological assessment but the child refuses to cooperate. Given the fact that the Act is still relatively new, no form of precedent has yet been established and practitioners need to urge the Professional Board for Psychology to provide guidance on this matter.

The Labour Relations Act (No. 66 of 1995)

The Labour Relations Act applies mainly to those practitioners who conduct psychological assessment in industrial and organisational settings. As is the case with all legislation introduced after 1994, the Constitution of the Republic of South Africa also forms the foundation of the Labour Relations Act (Juta, 2009a; Mauer, 2000). The main aim of this Act is to advance economic development, social justice and the democratisation of the workplace (Juta, 2009a; Mauer, 2000). The purpose of the Act is thus to ensure equality and human dignity in the workplace (Juta, 2009a). Although this Act is mostly associated with workplace assessment practices, it should rather be perceived by all psychological assessment practitioners as a reminder of how important legislation is in establishing an ethical code and, ultimately, an ethical consciousness.
With regard to workplace assessment practices, Section 16(5) of the Act provides rather specific guidelines on the disclosure of information obtained in the workplace (Juta, 2009a). According to Section 16(5):

An employer is not required to disclose information:

(a) that is legally privileged;
(b) that the employer cannot disclose without contravening a prohibition imposed on the employer by any law or order of any conduct;
(c) that is confidential and, if disclosed, may cause substantial harm to an employee or employer; or
(d) that is private personal information relating to an employee, unless that employee consents to the disclosure of that information.

This section of the Act thus coincides with what is dictated by the Ethical Principles of Psychologists and Code of Conduct of the APA (2002) and the Professional Board for Psychology’s Rules of Conduct Section 16(5) (HPCSA, 2010a) with regard to keeping information confidential. Although informed consent in general is deemed not necessary when it is implied (for example, for selection purposes), it seems that the Act requires that some form of consent be obtained when sensitive or personal information is dealt with in the industrial or organisational context. The implications of this for psychological assessment practices still need to be determined, since no other legal regulation or precedent relating to the issue has thus far been established.

The Employment Equity Act (No. 55 of 1998)
The purpose of the Employment Equity Act is to achieve equity in the workplace (Juta, 2009b). According to the Act, this is achieved by:

(a) Promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and
(b) Implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels in the workforce.

Chapter 2 of the Act deals with unfair discrimination (Mauer, 2000). According to Section 8 of this chapter, the use of psychological testing and other similar assessments of employees is prohibited unless the measure (Juta, 2009b; Mauer, 2000):

(a) Has been scientifically shown to be valid and reliable;
(b) Can be applied fairly to all employees; and
(c) Is not biased against any employee or group.

Section 8 provides assessment practitioners with specific guidelines on what is deemed the fair use of assessment in industrial and organisational contexts (Juta, 2009b; Mauer, 2000). Practitioners specialising in industrial and organisational assessment practices thus need to be aware of these specifications so as to ensure that no misconduct takes place when assessing individuals in the workplace.
Conclusion

In order to develop an ethical consciousness, psychological assessment practitioners need to be exposed to all documents pertaining to ethical issues in psychology and psychological assessment. Thus it makes sense to explore an ethical code in terms of three main areas of focus: namely, (1) a code of conduct; (2) adherence to standard practices when assessment is conducted; and (3) a thorough knowledge and understanding of legislation related to psychological assessment practices. This chapter has aimed to bring together this information in one discussion.

Practitioners should be forewarned that no one issue is ever more important than the others. Treating them unequally will have an adverse impact on the development of an ethical consciousness, which could result in the practitioner behaving unethically whilst doing psychological assessment. At this stage many people will start to wonder if it is possible to teach an ethical code to practitioners, so that they can develop an ethical consciousness. According to Velasquez, Andre, Shanks, Meyer and Meyer (1987), the answer is an unequivocal ‘yes’. These authors note that moral development is a continuous process which does not end at any specific stage of human development. This therefore implies that student practitioners can be trained in how to act ethically when performing psychological assessment. Practitioners who are already working in the field of psychological assessment will not have an excuse, either. Being ethical also means taking personal responsibility for what one is doing (Allan, 2008), and such individuals will therefore have to avail themselves of new and current trends in assessment practices. In the end, everyone will realise that continuous professional development is just another way of ensuring that one maintains an ethical consciousness.

References


