

## *Conflict of Interest*

### **What is a conflict of interest?**

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A conflict of interest occurs when a social worker's services to or relationship with a client is compromised, or might be compromised, because of decisions or actions in relation to another client, colleague, him or her self, or some other third party (Reamer, 1998).

Gifis (1991) describes a conflict of interest as a situation where regard for one duty leads to disregard of another (Gifis 1991, in Reamer, 1998, p45).

Potential or actual conflicts of interest are very complex situations for social workers, or for any professional for that matter. Conflicts of interest can occur in many different contexts. They may occur in the context of a social worker's relationships with a client/multiple clients in direct practice or could be in the context of a social worker working in management, supervision, policy, research or community development, to name a few.

When faced with a potential or actual conflict of interest, it is important that social workers consider, even if they feel that they can manage the potential conflict or feel that there are no significant issues, the perception that others (clients, colleagues, the community, employers etc.) may have when/if a conflict of interest comes to light. It is important, therefore, that social workers are proactive in discussing any potential/actual conflicts of interests with supervisors or employers so that all possible outcomes and interpretations of actions and situations can be explored. There have been instances where complaints have been made against social workers when they have failed to consider all possible outcomes and failed to consider how a seemingly innocent action could be perceived in quite the opposite way by another person.

Below are some examples of potential and actual conflicts of interest social workers may encounter in different contexts.

**I am a social worker in a government health organisation. The agency I work for provides time-limited episodes of therapy/counselling for people recovering from drug and alcohol addictions. It is typical, at the end of an episode of therapy, for counsellors to refer clients for ongoing therapy if we assess that there is a need. My husband has a private practice and is currently looking for new clients. Can I refer clients to his practice once they have completed their episode of counselling with my agency?**

The AASW *Code of Ethics* 2010 (Code) states:

*Social workers will remain aware of the potential for conflicts of interests which may affect their ability to exercise professional discretion and unbiased judgment. (5.1.7 a)*

It then states that the interests could be derived from any number of things. Three areas it does list which would be relevant to the above situation are interests derived from financial, business and familial factors. If this social worker was continually referring clients to her husband for ongoing therapy, it could be argued that her judgement and assessment of their needs is biased as her husband is looking for new clients for his business, from which she in turn could also be perceived to gain financially. For example, would she form the same assessment if she was referring clients to a private practitioner she had no personal connection to?

The social worker should consider issues around confidentiality, informed consent and client self-determination:

- Will she be tempted to ask her husband how a particular client is going?
- Will her husband voluntarily divulge information to her about her previous clients?
- What if one of her previous clients raises an issue with her husband about her previous involvement regardless of the nature of the issue?
- Will the client be informed that the private practitioner they have been referred to is the husband of their previous worker?
- Have they been given a choice about who they might like to see for ongoing therapy?

This situation is fraught with issues and is an example of a social worker actively engaging in a conflict of interest. One option would be to discuss with her organisation and negotiate that while she does not refer clients to her husband, other practitioners within her organisation may, but that she must refer onto other private practitioners offering drug and alcohol counselling and therapy. It would also be important that all practitioners at the agency provide clients with a selection of several names of suitably qualified private practitioners for clients to choose from.

**I am a social worker currently employed in a small community-based family support service. I have been asked by my manager to complete an evaluation project on family support services in the local area as a means of advocating for the continuation of funding to maintain programs and employment of staff that run them. There is a chance I could lose my job if this funding is not continued. Should I agree to complete the evaluation project?**

As above, the *Code* states that:

*Social workers will remain aware of the potential for conflicts of interest which may affect their ability to exercise professional discretion and unbiased judgement. (Section 5.1.7 a)*

It states that the interests could derive from ‘*professional or organisational factors*’. The social worker would need to take into account the possibility that the evaluation results and recommendations could be biased due to the fact that the social worker has a professional, personal and perhaps financial interest in the outcome being one which supports the need for continued/ongoing funding. The *Code* states that:

Where such a situation (conflict of interest) is foreseeable or occurs, social workers will declare their interest to the relevant parties and seek to negotiate a solution. (Section 5.1.7 c)

The *Code of Ethics* states further, in Section 5.5.2.3 (Publication and distribution of research findings):

*Social workers will accurately and fully disseminate research findings (5.5.2.3 a)*

and

*Social workers will disclose any financial or other support for the research accurately and acknowledge potential conflicts of interest. (5.5.2.3 f)*

It would therefore be important that the social worker raises this with their organisation highlighting their concerns that this situation could sway their professional judgement in analysing evaluation results. It may be that an independent person such as a ‘monitor’ is engaged in the evaluation project also, to monitor the evaluation activities and ensure that the project complies with international standards. Another option may be that the evaluation has inter-rater reliability as part of the design to ensure reliability and objectivity in the interpretation of results. It might also be that consideration is given to employing an external, objective person to conduct this research independently.

**I am a social worker and I have recently been referred a woman and her ex-partner, who are in the middle of a custody battle for their daughter through the family courts. I am to complete a court-ordered family assessment of both parties. Allegations of domestic violence have been made by the woman against her ex-partner, but her ex-partner denies there was violence in the relationship. I am worried that this will affect my judgement in my assessments. What should I do?**

The *Code* states that:

*Social workers who provide service to two or more people who have a relationship with each other will clarify with all parties the nature of professional obligations to those who are receiving services. (5.1.7 h)*

The *Code* also states that:

*Social workers will refuse to accept, or will refer, cases where it is not possible to manage conflicts of interest. (5.1.7 f)*

It would be important for the social worker to discuss with both parties that the assessment will be conducted by the same person. It would also be important for the social worker to be mindful of, once both parties are aware that the same person will be conducting the assessment of both of them, the potential for either party to attempt to influence the social worker to be dishonest, or less thorough in reporting the assessment of one party over the other in the assessment process. If the social worker is not mindful of this, he/she could unwittingly be led to form perceptions of either party that may be biased or inaccurate. Discussing this potential in supervision would be essential with the aim of developing strategies to address it.

It would also be advisable that the social worker engages in supervision around the issue of the domestic violence allegations to ensure that any subjective judgement or bias the social worker may have, both towards the man and the woman, are discussed, and strategies for dealing with this are explored.

It would also be advisable for the social worker to explore any pre-conceived notions/assumptions he/she might have about domestic violence within supervision or consultation. It would be important for the social worker to be aware that prior experiences with other clients and personal beliefs may interfere with the assessment remaining entirely objective.

**The new partner of a former partner of mine has come to see me for counselling. The client is not aware of my former relationship with their partner, which ended in a hostile manner. Do I need to disclose my former relationship with my client's current partner?**

The Code clearly states that 'social workers must be aware of the potential for conflicts of interest to affect their professional and unbiased judgment' (Section 5.1.7 a) and that 'clients' interests must remain a priority at all times' (Section 5.1.7 b). The Code goes on to say that 'social workers will declare their interest to the relevant parties and seek to negotiate a solution' (Section 5.1.7 b).

Such a scenario is problematic for many reasons. Some examples could be:

- The client could be seeking relationship counselling regarding their current partner or disclose details about their current partner.
- If the social worker does not tell the client, the client could discover details of the previous relationship with the social worker, which could lead to negative implications for the therapeutic/counselling relationship and could deem the social worker vulnerable to a complaint being made against them.
- The social worker may still be in contact with the ex-partner.
- The social worker may not be able to separate historical personal feelings from the maintenance of an unbiased, objective therapeutic relationship with the client.

The Code states that social workers will declare conflicts of interest to relevant parties. It is essential that the social worker consults with a supervisor first in order to discuss the conflict of interest and how the need for professional boundaries can be conveyed sensitively to the client. A conflict of interest such as this would require the social worker to re-refer the client to another social worker or counselling professional.

**I am a sole school counsellor and am currently working with a female student at a high school. This student has disclosed that she is very unhappy at home due to tension with other family members. This student's older brother has also been referred for counselling. Should I accept this referral?**

The Code of Ethics (2010) states:

*Social workers will be mindful that conflicts of interest can also arise in relation to involuntary clients, multiple clients and confidentiality issues. At all times, clients' interests remain a priority, with due consideration for the respective interests of others (5.1.7 b)*

and:

*Social workers who provide services to two or more people who have a relationship with each other (e.g. couples or family members), will clarify with all parties the nature of professional obligations to those who are receiving services. Social workers who anticipate a conflict of interest among the clients receiving services, or who anticipate having to perform in potentially conflicting roles (e.g. testifying in court proceedings), will clarify their role with the parties involved and take appropriate action to minimise any conflict of interest. (5.1.7 h)*

Many different issues could arise if the social worker were to accept the referral and provide counselling to the two related students, potentially unbeknown to each other. The social worker might consider the following as examples of issues that may arise:

- What would happen if I became confused and raised a personal subject that was discussed with one student thinking I had originally discussed it with the other student?
- What would happen if it came up in conversation informally with the brother and sister and they discovered that you were providing counselling to both of them and had issue with this?
- If you informed one or both of the clients of the conflict of interest, you would be essentially breaching the confidentiality of one/both of the clients.
- What if you were subpoenaed to court for one/both of the students and the relationships were thus discovered by the students and their family? Or, if you decided you needed to make a notification to the statutory child protection agency in relation to a disclosure from one of the students?
- Would you be able to remain objective if any tension arose within the family and one or both of the clients discussed this with you, thinking that they were speaking with an objective party?
- How would you deal with potential biases or judgements if one of the students disclosed negative information or behaviour about his/her brother/sister?

It would be advisable that the social worker, as the *Code* states, declares their interest to the relevant parties and seek to negotiate a solution. If already involved in a professional relationship when the conflict of interest arises (as this social worker is) the social worker will declare it and take appropriate action, such as consulting with a senior person such as the school principal or their supervisor and, where relevant, the students (5.1.7 c). In this instance, it may not be appropriate to discuss this with the students due to confidentiality issues.

Discussing this issue in depth in supervision and with the principal of the school would be strongly advisable. It might be that the school negotiates for another counsellor to accept a referral for the second client (even if it might fall outside of school policy). Section 5.1.7 f states that social workers will refuse to accept or will refer cases where it is not possible to manage conflicts of interest, which could be the case in this instance.

The *Code of Ethics* does acknowledge that in some instances it may be necessary for the social worker and the client/s to acknowledge and work with such conflicts within the situation. It would be imperative that a social worker engages in close supervision if this is the decided course of action and discusses issues such as confidentiality, privacy and biases and how these will be managed.

In a sole practitioner situation within a school setting, it would be important to clearly contract with all clients about the potential that you may provide services to other students including their siblings and friends, and that, due to confidentiality, this may occur without clients knowing if that has occurred, and who other clients are. This should be made explicit and contracted at the beginning of all new therapeutic relationships, including an explanation and reassurance of the boundaries of privacy and confidentiality for each client.

**I am a social worker and am the director of a child welfare fostering agency. The agency I direct received a report that a child placed with one of our foster families had allegedly been sexually abused by the foster father. This foster father was once a very close friend of mine. I would usually supervise investigations of this nature.**

The first issue to consider is that irrespective of the child's disclosure about alleged sexual abuse perpetrated by the social worker's friend, a conflict of interest already exists in that the director of the agency is close friends with one of the agency's foster carers. It would be expected that the social worker had already declared this conflict of interest with the agency and that steps had been taken to manage this by the social worker and the agency.

Following the disclosure from the child about the alleged sexual abuse, the already existing conflict of interest becomes more complex. It would be difficult for the social worker to be entirely objective in this situation if he or she were to supervise this investigation. It would be unethical that the alleged perpetrator is investigated by a, once, close friend of his, rather than a completely objective outsider.

The social worker, according to the *Code*, should declare this to his or her organisation (5.1.7 c) and perhaps look to a colleague (perhaps an assistant director) to step in and supervise/conduct the investigation. If this is not possible or there is no one internally that can do this, the agency may need to look externally and employ a consultant to supervise this investigation.

**I am currently providing counselling to a client. In the course of one of our discussions, I mentioned that I was looking to buy a new car and specified what type. The client responded by saying that he and his wife are currently looking to sell one of their family cars which is the same type I mentioned, and stated they could give me a good price on it. Should I consider their offer?**

The section of the *Code* which is most relevant to this example is section 5.1.7 d and 5.1.7 e, which refers to the giving and receiving of gifts. While this example does not specify an actual, tangible "gift", like a bunch of flowers, some chocolates or a book, for example, the "gift" could be the discount or the "good price" that the client has offered because he already had a relationship with the social worker.

The *Code of Ethics* (2010) states that:

*Social workers will consider ethical issues surrounding the giving and accepting of gifts in a professional context. When deciding whether or not to give, accept and declare gifts, social workers will consider the professional relationship, any relevant organisational policies, the value of the gift, any cultural issues and the motivation for giving, receiving or declining the gift (5.1.7 d)*

and:

*Social workers will not give or accept gifts which may impair professional judgement, affect the integrity or efficacy of the professional relationship or which are of substantial value. (5.1.7 e)*

The social worker, in this instance, should consider the professional relationship that he/she has with the client, and in accepting this “gift” of a “good deal”, what that means for the professional relationship, and whether this action blurs the boundaries between a strict social worker–client relationship, and a relationship not unlike that of a friendship.

The social worker should also consider the impact on the therapeutic relationship if the car was damaged or certain aspects of the car’s history were not disclosed to the social worker buying the vehicle.

The social worker should also consider whether the client’s wife is aware of his offer to sell the car for a ‘discounted price’ or to even sell it at all.

**I have been promoted to team leader within an organisation where my sister also works. There has recently been a team restructure and my sister is now in the team that I am to supervise. Is this ok?**

The *Code of Ethics* states that:

*Social workers will remain aware of the potential for conflicts of interest which may affect their ability to exercise professional discretion or unbiased judgement. These interests may derive from personal, emotional, conscientious, sexual, familial, social, cultural, religious, spiritual, financial, business, political, professional or organisational factors. (5.1.7 a)*

Based on this ethical principle, it may be difficult for the team leader to exercise unbiased judgement or exercise professional discretion in relation to her sister. The team leader would need to consider how conflicts between her and her sister would be handled as well as potential conflicts between her sister and other team members. The team leader would need to consider how she would manage a situation if a complaint was made about her sister’s practice.

Other issues to consider would be the perception that other staff members would have of this relationship. Even if it was not the case, would other staff members view the sister as receiving preferential treatment if she were, for example, to be promoted, to be allocated certain clients or to be granted funding to attend a professional development workshop? Conversely, the sister may perceive that she is receiving unfair treatment and that the team leader is overcompensating for the conflict of interest that exists.

Confidentiality may also be an issue to consider. Presumably, the team leader and sister would interact socially or with family members, and therefore both parties would need to be very aware about what was discussed with other family members. Other members of the team may also be less willing to discuss confidential matters with the team leader, through fear of this being shared with their colleague and sister of their supervisor.

It would be advisable that the team leader raise this conflict of interest with her organisation and the potential ethical issues that could arise for her, her sister and other employees. It might be that the team leader is moved to supervise another team or that the sister is moved to a different team.

Even without the direct supervisor/supervisee relationship, it is worth noting that other conflicts of interest

could arise in the course of both of the sister's employment within the same organisation.

It may also be useful to refer to the ethical guideline on Professional Boundaries and Dual Relationships which can be found on the AASW website: <https://www.aasw.asn.au/document/item/2354>

## References

Reamer, F. (1998). Ethical Standards in Social Work: A Critical Review of the NASW Code of Ethics, Washington: NASW Press.

If you have any further questions relating to mandatory reporting, contact the Ethics and Practice Standards Consultation Service on 03 9320 1044 or [ethicsconsult@asw.asn.au](mailto:ethicsconsult@asw.asn.au)