

Dealing with Ethical Dilemmas in Guidance Counselling

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Summary

This article offers a practical tool to support guidance counsellors in their responsibility to manage ethical aspects of their work. That tool consists of a procedure to formalise the making of ethical decisions. First, the nature of a profession and issues of statutory regulation are considered. Next, the nature of codes of ethics, and the desirability of a formal process for making ethical decisions, are discussed. The main body of the article consists of a worked example of ethical decision-making about a fictional case history.

Keywords

Guidance counsellor, professional ethics, decision-making

Introduction

Guidance counsellors, like all other professional helpers, find their work increasingly challenging: too many clients, not enough time, escalating institutional requirements, demands for accountability. Among other sources of stress are the complexity of the problems which clients bring, the ethical issues which they raise, and the need to exercise judgment wisely while engaging at a deeply human level.

The article discusses this context and argues that it is helpful to use a formal process for making decisions about ethical issues. The piece is intended for practitioners working in any sector of guidance counselling in the Republic of Ireland, but the illustrative vignette used is drawn from the second level school system.

Professions and Regulation

Among the defining characteristics of a profession (Schein, 1972) are service, expertise, affiliation, autonomy and judgment. Professions aspire to deliver an impartial *service* in response to client need. The service is based on specialised *expertise*. Practitioners *affiliate* to form professional bodies which determine admission and certification standards. Traditionally, professions have *autonomy*, in that members' conduct (including ethics) is not regulated by outsiders but internally - individually through personal integrity, and collectively through the professional body - and practitioners have wide latitude for exercising discretionary *judgment* (discussed below) as part of their service to clients.

In the longest established professions, such as medicine and law, regulation has been given an added external dimension through statutory (legal) force. Statutory regulation demands advanced training as a basis for professional membership, requires high standards of practice, conduct and continuing professional development (CPD), and provides a stringent disciplinary procedure for lapses. The effect of these requirements is to ensure best practice and protect both practitioners (from spurious litigation) and the public (from charlatanism), while also placing some limits on autonomy.

Newer helping professions, such as guidance counselling, do not enjoy statutory regulation, but still value expertise, and affiliate to establish entry and performance standards. In recent years a number of these professions have sought statutory regulation because it will enhance the delivery of their service. At the same time, governments and the public have become sceptical about the ability of professions, particularly those in helping areas, to police themselves, so an external pressure has developed to impose greater regulation, thus reducing professional autonomy to some extent.

An example of the limitation of autonomy is mandatory reporting of abuse. Professionals in Ireland are now legally required to report if a minor discloses abuse (Department of Justice and Equality, 2012; see also Department of Children and Youth Affairs, 2011). This requirement may seem to interfere with the professional's autonomy in deciding how best to serve the interests of individual clients. However, it is important to recognise that the law is a balancing act between different principles, in this case, the good of individuals versus the common good. The State has decided, and many professionals agree, that the common good is best served by mandatory reporting. The requirement can create ethical dilemmas for the practitioner, who may see it as having a negative impact on attempts to serve the best interests of individual clients.

The developments in regulation described above have led to the setting up of the Health and Social Care Professionals Council, CORU (Department of Health, 2005), which is proceeding to regulate twelve helping and health-related professions. There is provision for other groups to come under the aegis of CORU, and a number of psychotherapy and complementary therapy professions are currently seeking this status. At the time of writing, the Institute of Guidance Counsellors (IGC) is beginning to think about legal registration (IGC, 2013), but completion of the requirements takes a number of years.

As indicated above, legal registration protects professionals by helping to assure high standards of practice. Despite this protection, any professional can be sued for malpractice (commission of inappropriate acts) or negligence (omitting to perform appropriate acts). Those who have undergone appropriate training, are members of a professional body, and subscribe to a code of ethics, are likely to be more secure than unaffiliated practitioners, because they will be better informed about issues, more up to date with current developments through CPD, and their practice will be subject to greater scrutiny. They may occasionally make errors of judgment (which the law does not regard as culpable) but will be less likely to engage in malpractice or negligence.

Professional Ethics

The reasons why professional practitioners should behave ethically may be classified as personal, external and aspirational. *Personal reasons* are likely to be overlooked in high-flown discussions of ethics. However, each one of us has personal reactions to our own actions, and we usually prefer to feel positive, or at least not to feel guilty, about our behaviour. *External reasons*, as discussed above, are more compelling. As citizens, professionals should not infringe the criminal law. It is also prudent to avoid civil litigation and internal disciplinary enquiries.

Aspirational reasons represent the ideals of a profession. They may be summarised in six general principles (Meara et al., 1996, cf. Corey et al., 2011): *autonomy* (empowering others), *nonmaleficence*

(not doing harm); *beneficence* (doing good, being altruistic); *justice* (providing the same quality of service to everyone); *fidelity* (being trustworthy); and *veracity* (being truthful).

These aspirational principles are embodied and elaborated in various ways in different codes of professional ethics. The code most relevant for Irish guidance counsellors is that of the Institute of Guidance Counsellors (IGC, 2012). The Code's clauses are classified under four major headings: *Respect for the rights and dignity of the client* (including cultural values, consent and client autonomy), *Competence* (including self-care and supervision), *Responsibility* (including trustworthiness and management of ethical dilemmas), and *Integrity* (including honesty and straightforwardness). The Code's format is based on that of the Code of Professional Ethics of the Psychological Society of Ireland (PSI, 2011), which drew in its turn on the Canadian Code of Ethics for Psychologists (CPA, 1992; see also Swain, 2000).

Unfortunately, the fate of a code of ethics is often to lie on a bookshelf, more admired for its sonorous title and the design of its cover than for its contents (Booth, 1995). Booth points out that the Canadian Code was the first to prescribe a procedure that ensured the Code would be consulted. It did so by treating professional ethics as the exercise of ethical judgment through a formal decision-making process.

The Importance of Formal Decision-Making

The essence of professional practice is *judgment*, which should be discretionary and deliberative. For judgment to be *discretionary* (Goodson and Hargreaves, 1996, p. 20), professionals must be trusted as much as possible with sufficient latitude to make judicious decisions based on their impartial assessment of the client's situation. Professionals are not technicians who can work according to an established set of impersonal rules, but decision-makers who are often faced with complex human situations involving an ethical dimension. There are usually no ready-made solutions that ease the uncertainties surrounding the decision. Thus, professionals must resign themselves to a life of decision-making under circumstances of uncertainty (cf. MacGinitie, 1986, Mason, 1993).

Within any limits imposed by regulation, practitioners should continue to the greatest extent possible to exercise discretionary judgment. For the defence of discretionary judgment to be credible, the judgment must be seen to be sound. Soundness is likely to be enhanced by explicit training in decision-making, which should involve a focus on ethics. Guidance counsellors should be sensitised to ethical aspects of their work during initial training, and should be re-sensitised from time to time through in-service development activities.

As well as being discretionary, the judgment exercised by professionals should be *deliberative* – sufficiently reflective to take all relevant factors into account. When pressed for time, practitioners may make rushed judgments which ignore important aspects of the situation, particularly ethical ones. Deliberative judgment makes it more likely that all relevant factors will be taken into consideration.

Deliberation is facilitated by adoption of what the military calls a "standard operating procedure" (SOP). The Canadian Psychological Association (CPA, 1992) adopted an SOP for ethical decision-making in

1986. The same procedure is incorporated in the IGC's Code of Ethics (2012). The Code requires guidance counsellors to “use a systematic procedure for investigating ethical issues and resolving ethical dilemmas” (IGC, 2012, Clause 3.5.1), and recommends the procedure presented here.

The practitioner is asked to carry out seven sequential steps:

1. Define the issues and parties involved.
2. Consult relevant guidelines (e.g. the Code of Ethics, government guidelines, the law). Consulting with colleagues is also often appropriate.
3. Evaluate the rights, responsibilities and welfare of all affected parties.
4. Separate the creation of possible solutions (decisions) from a critical analysis of them. First, in *creative* mode, generate uncritically as many alternative decisions as possible.
5. Then and only then, in *critical* mode, carefully evaluate the likely outcome of each decision.
6. Choose what, in your professional judgment, is the best decision, implement it, and inform relevant parties.
7. Finally, take responsibility for the consequences of the decision.

While the procedure is well suited to dealing reactively with particular crisis situations, it is also helpful in routine planning (Booth, 1996) – for example, it may be useful in drawing up the Whole School Guidance Plan, particularly the development of aims and objectives and the selection of activities (NCGE, 2004). In both crisis and routine situations, it is prudent to keep a written summary of deliberations in following the seven steps, in case it later becomes necessary to justify the decisions made.

A Worked Example of Ethical Decision-Making

In order to make the procedure more concrete, it will be helpful to apply it to a fictional case history (inspired by O'Rourke, 2001).

Suppose that a school-based practitioner is providing guidance counselling to a seventeen-year-old girl, one of several Muslim students in the school. The student is aware that her female classmates are beginning to think about careers after school, and experiences a conflict between their aspirations and what her own culture expects of her. After several sessions, the girl's father writes to you to say that he will make any necessary decisions about his daughter's future, and wants you to stop seeing her.

It should be noted that, as with the predominantly Christian culture in Ireland, there are many sub-cultures of Islam. The case history implies a more authoritarian culture for instructional purposes.

1. Define the issues and parties involved

At least the following issues are relevant: (a) a clash of cultural values: individual autonomy vs. collective/family allegiance (Hofstede et al., 2010); (b) the father's authority; (c) the guidance counsellor's authority.

The PSI's Code of Professional Ethics offers a categorisation of affected parties, or stakeholders - i.e. those with an interest in the outcome of the decision-making (PSI, 2011, Appendix B). Stakeholders identifiable in the present case are: *Decision Maker*: the guidance counsellor; *Direct Beneficiary*: the student; *Extended Beneficiaries*: the student's father, and possibly also her mother, siblings, extended family and school peers; *Colleagues*: the student's class teachers, her year head, and members of the school's pastoral care team; *Employer*: the school board of management; *Manager*: the school principal; *Supervisor*: the guidance counsellor's supervisor; *Wider Profession*: the IGC, guidance counsellors in Ireland; *General Public*: Irish society in general. A further stakeholder not mentioned by the PSI may be called *Statutory Agency*: the Department of Education and Skills (DES).

2. Consult relevant guidelines

For present purposes, the analysis will be based on the IGC Code of Ethics (2012). The Code's Preamble provides relevant background:

Guidance counsellors work with clients, as individuals and in groups, to whom they supply professional services concerning educational, vocational and personal/social development. Guidance counsellors respect the dignity, integrity and welfare of their clients, work in ways which promote clients' control over their own lives, and respect clients' ability to make decisions and engage in personal change in the light of clients' own beliefs and values...

The work of the guidance counsellor involves a special relationship of trust. That trust is promoted by setting and monitoring appropriate boundaries in the relationship, and making this explicit to the client and relevant others. While the relationship with the client is the primary concern, it does not exist in a social vacuum. For this reason, guidance counsellors have sensible regard for the social context of their work, which includes the wider community, the law and professional colleagues.

The clauses most obviously relevant to the present issue are as follows:

1.1 General Respect

1.1.1 [Guidance counsellors] have sensible regard for clients' moral and cultural values, and do not allow their service to be diminished because of factors such as...religion...ethnicity...national origin...

1.1.2 [Guidance counsellors] seek as full and active participation as possible from others in decisions which affect them.

1.3 Informed Consent and Freedom of Consent

1.3.1 [Guidance counsellors] take all reasonable steps to ensure that clients give valid consent to proposed interventions (consent of parents/guardians may also be required if the client is a minor; established policy of the school/workplace may also be relevant).

1.3.2 [Guidance counsellors] safeguard the right of clients to withdraw consent after an intervention has begun.

2.3 Continuing Professional Development (CPD)

2.3.3 Seek support and/or supervision from colleagues when feeling stressed or vulnerable due to professional duties.

3. Evaluate the rights, responsibilities and welfare of all affected parties

The rights, responsibilities and welfare of the stakeholders can be evaluated as follows:

- *Decision Maker:* Guidance counsellors have a right to offer guidance services to students. They function to some extent *in loco parentis*, because parents, in sending their children to school, are thereby delegating their parental authority to school personnel. Guidance counsellors have a responsibility to work for the best interests of the client, but in this case, the ethical dilemma arises from different cultural perspectives on where the best interests of the client lie. The welfare of the guidance counsellor is not directly at stake, though self-esteem may be threatened.
- *Direct Beneficiary:* The student has a right to avail of the school guidance service, but being a minor she is subject to her parents' consent (Bunreacht na hÉireann, 1937, Article 42). The guidance counsellor sees her welfare in terms of autonomy as an individual, whereas the father is insisting on conformity to parental authority. The difference appears to arise from contrasting cultural frames of reference.
- *Extended Beneficiaries:* The student's parents have the right to be consulted and are ultimately responsible for decisions, including withdrawal of consent, concerning her (Bunreacht na hÉireann, 1937, Article 42). While the wife has the same guardianship rights as the husband in Irish culture (Department of Justice, 1964), it is not clear what her influence (or that of the extended family) is in the present case. Presumably any siblings, especially if female and younger, have an indirect interest in the guidance counsellor's decision. The outcome may affect relationships with the student's non-Muslim peers.
- *Colleagues and Manager:* The extent to which a parent is cooperating with school services is of concern to the principal, pastoral care team, year head and other class teachers, but there may be considerable variability in the extent to which staff in these roles communicate with each other. There are two possible models of confidentiality (Bond, 1992): in the differentiated model, practitioners keep information to themselves as much as possible; in the integrated model, confidential information is shared among members of a team. Guidance counsellors tend to operate the former model, but it will often be appropriate to share certain information with

colleagues and the principal. The present case raises issues which go beyond the details of discussions between the student and the guidance counsellor.

- *Employer:* The Board of Management, as the body responsible for the general management of the school, does not need to know about every issue involving a student, but will need to be informed if the issue has wider ramifications for school policy.
- *Statutory Agency:* The DES has statutory responsibility to ensure that minors receive an education, and that guidance counselling is available to them. It probably has no direct stake in the present case, but should be giving consideration to how schools can best deal with an increasingly multi-ethnic intake of students, and how the parents of these students can be included as partners in the educational process.
- *Supervisor:* It is considered essential that guidance counsellors should periodically review their work with a supervisor (IGC, 2002; IGC, 2012, Clauses 2.3.3 and 2.3.4); at the time of writing, the DES provides funding for group supervision. The function of the supervisor is to support supervisees in exploring reactions to working with clients. In the present case, a supervisor who has experience with multi-ethnic (particularly Muslim) clients may be in a better position to help.
- *Wider Profession:* Clearly, the profession will be unhappy with a rebuff from a parent, though such rebuffs may come the way of the guidance counsellor from time to time. The profession is unlikely to have any direct contribution to make to the present case. However, like the Statutory Agency, it should probably be looking at the wider issues raised for guidance counsellors by the increasing ethnic heterogeneity of the Irish population.
- *General Public:* Irish society clearly has an interest in how guidance counsellors carry out their role. Consensus is unlikely on how society should adapt to and behave towards minority cultures.

4. Generate uncritically as many alternative decisions as possible

This step is carried out in the spirit of Osborn's brainstorming (1953), which encourages suspension of the critical faculty at the stage where ideas are being generated. All ideas are listed, including ludicrous ones, and those which are an expression of prejudice or the "shadow" side of the personality (Jung, 1953):

- (a) Do away with all parents;
- (b) Send "them" back where "they" came from;
- (c) Continue to see the student clandestinely;
- (d) Write back to the father saying that sessions with the student will continue;
- (e) Abruptly discontinue with the student;

- (f) Have one final session to terminate with the student;
- (g) Make contact with the father and try to set up a face-to-face meeting;
- (h) Discuss the issue with the principal;
- (i) Consult the supervisor;
- (j) Make contact with the Muslim community, particularly its leadership;
- (k) Press for formulation/revision of school policy on supporting students and parents from minority ethnic backgrounds within the whole school plan;
- (l) Raise the issue with the IGC;
- (m) Raise the issue with the NCGE.
- (n) Raise the issue with the DES.

5. Carefully evaluate the likely outcome of each decision

Ideas (a) and (b) are responses from the shadow (Jung, 1953). It is important to acknowledge them, and equally important not to implement them. Supervision – decision (i) – may be appropriate on the issues which they raise.

Ideas (c) and (d) are an attempt to pursue the best interests of the student, and possibly also an expression of stubbornness and frustration/anger towards the father. However, they are unlikely to be wise courses of action. There is an ethical duty to promote client autonomy, but in the present case the best interests of the student must be seen in the wider context of family and cultural background. Is it really in the best interests of the student to put her at odds with her father? In any case, she is a minor, so the father's position is supported by the constitution ((Bunreacht na hÉireann, 1937, Article 42). Even if the student had attained her majority, and was therefore entitled to defy her father, the guidance counsellor should still bear the wider context in mind. The Teaching Council (2012) requires teachers to accommodate diversity (Clause 1.3) and work collaboratively with parents (Clauses 1.4, 3.6, 3.7 and 6.2).

Idea (e) is probably professionally inappropriate. Decision (f) is desirable, but might depend on other action.

Idea (g) makes a lot of sense. If the guidance counsellor can establish personal contact with the father, a relationship becomes possible in which they can explain their differing positions and come to greater mutual understanding. Of course, the father may refuse contact, and understanding is not guaranteed even if there is contact. If the guidance counsellor is female, this option may be less feasible.

Idea (h) is desirable in any case. Alerting the principal to issues which might have further ramifications is professionally responsible behaviour. The principal may have a useful alternative perspective, or relevant

contacts. The principal may also wish to bring the matter to the attention of the Board of Management as a once-off issue or as a basis for policy development. The guidance counsellor should emphasise the importance of appropriate confidentiality when communicating with third parties.

Idea (i) is also desirable – the support will be helpful, especially if the guidance counsellor finds the issue stressful; and discussion with the supervisor may generate other possibilities. As already indicated, the IGC strongly recommends supervision (IGC, 2002; IGC, 2012, Clauses 2.3.3 and 2.3.4), and the DES provides funding for this activity.

Ideas (j), (k), (l) (m) and (n) are unlikely to be immediately helpful, but may be useful in planning for the future.

6. Choose what, in your professional judgment, is the best decision, implement it, and inform relevant parties

The best decision appears to be a combination of (g) and (h) - establish direct contact with the father following consultation with the principal. Before implementing this decision, the guidance counsellor may wish to consult the student briefly, even though such consultation is contrary to the father's expressed wishes. If the student does not consent to the proposed action, the guidance counsellor will need to use the decision-making procedure further in order to decide on the ethical appropriateness of proceeding without consent.

Implementing Decision (i) is also prudent.

The issue certainly suggests action along the lines of decision (k), though this solution is for the longer term, and need not be concerned with the specifics of the present case. Similarly, decisions (l), (m) and (n) may be generally useful for the profession in the longer term. Decision (j) could be more specifically useful for the future, especially if there is an established Muslim community with an active social structure.

7. Take responsibility for the consequences of the decision

The consequences of the decision are not predictable. It may prove possible for the guidance counsellor to continue seeing the student following consultation with the father. However, the father may continue to be adamant, and the student may feel let down. Perhaps the guidance counsellor will need to spend time in supervision coming to terms with the outcome. It is possible that consequences in terms of policy development will be more positive.

Conclusion

Many professional dilemmas involve a clash between ethical principles. If we refer back to the sections of the IGC ethics code identified above, the guidance counsellor's ability to maintain trust (Preamble) and promote client autonomy (Clause 1.1.2) is limited by the need to have regard for the social context (Preamble and Clause 1.1.1).

On the issue of consent (Clauses 1.3.1, 1.3.2), the Code requires guidance counsellors to respect the client's right to give and withdraw consent, but also recognises parents' right to override the client's consent. The latter right again restricts the guidance counsellor's latitude for judgment and action. Given the constraints, the solution has to be the best compromise achievable in the situation.

Guidance counsellors are expected to seek support and/or supervision (Clause 2.3.3) when feeling stressed. The uncertainties surrounding their discretionary and deliberative decision-making are very likely to give rise to stress.

The approach presented here emphasises judgment, rather than blind adherence to rigid rules. Codes of ethics should be *yardsticks* (for approximate comparison), rather than (precise) *templates* (Geldart, 1992). Use of a formal decision-making procedure does not guarantee impeccable solutions - indeed, the reader may be able to offer a better solution than the one proposed here. However the procedure does help to ensure that systematic consideration has been given to relevant factors. The resultant decision should thus be of better quality, and one which can be justified if necessary.

Biography

Ronny Swain, PhD, directed the guidance training programme in UCC for eighteen years. A former Chair of the Board of Professional Conduct of the Psychological Society of Ireland, he has helped draw up codes of ethics for six professional helping organisations in Ireland. He is a Fellow of the Institute of Guidance Counsellors and the Psychological Society of Ireland.

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