Framing the Ethical Problem

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INTRODUCTION

Defining the “ethical problem” is often one of the most challenging aspects of ethical decision making; yet, it is the essential first step in addressing ethical issues in practice. When the ethical problem has been determined, the worker’s sigh of relief is often tempered by the additional challenges of determining what constitutes relevant information, and where and under what circumstances such information may be obtained. This chapter will address these complex issues and provide the reader with a consistent structure for defining an ethical dilemma and determining and gathering the information upon which a sound decision may be based.

DEFINING THE ETHICAL PROBLEM

Because social work ethical issues are usually embedded in complex personal or social issues, one of the most difficult tasks in ethical decision making is focusing on the problem that must be addressed. To do this, ethical discussions generally begin with a brief description of the setting, followed by a presentation of the case. There is often a substantial amount of information that has been gathered about the client, practice setting, policy, community, or other subject matter being considered. The worker’s first task is to sort through all the material until the “bare bones” of the ethical issue can be viewed clearly.

This often goes against social workers’ training and professional habits of thoroughness and responsibility and, at first, can be a painful exercise. Approaching from a broad person-in-environment framework, where the interplay of multiple elements forms the subject matter of the service, this shift is difficult, but necessary. If the worker is addressing the confidentiality issue described in example one of the Introduction, for example, the occupations of the parents, the relationship among family members, and the kind of school the child is attending, as well as her grades and school performance, her interests, and her after-school activities, are not necessarily part of the ethical “presenting problem.” That problem is more likely to involve the rights of minor children, the rights of parents, the worker’s professional obligations, the policies of the agency providing the service, and the worker’s service contract with parents and the child.

Clearly, there may be more than one ethical issue involved in a case. Each must be separated out and addressed individually. Attempting to address more than one issue at a time blurs the lines of process, confusing the issues and creating unclear and at times unreasonable conclusions. While it is important to recognize that there may be more than one issue, it is best to determine the central issue and to begin with that. In that process, the other issues
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may resolve themselves. If they continue as problems after the central issue has been resolved, they can be addressed separately.

Once an issue has been clearly identified, it should be phrased as an ethical dilemma for purposes of consideration and potential resolution. The word dilemma, of Greek origin, literally means two (di) horns (lemma). Each side, or each horn, of the dilemma is as important as the other—the horns are similar in size. If one horn were to be much larger than the other, it would not be a dilemma: The larger one would predominate. An ethical dilemma presents a choice that must be made between two mutually exclusive courses of action. These may be two goods, or benefits, or the avoidance of two harms. The choices that the worker, client, agency, or policymaker have to consider (the two sides of the dilemma) must be evenly balanced and of equal worth. If one side of the dilemma is more valuable, right, good, or desirable than the other side, then there is no dilemma, for the choice would obviously lean toward the more desirable side.

Dilemma formulations are always tied to the overall goals and objectives of the service to be provided, of the agency, or of the program, which must be identified first. Examples might be enhanced self-esteem, optimal opportunities for growth and development, maximization of mental and physical health, well-being of the client, optimal resource allocation, requirements of funding sources, and so on. Goals tend to be fairly general: that’s why dilemmas arise in determining the “best” way to meet them. For clarity, dilemmas take the form of __________ v. __________. Self-determination v. Worker’s Perception of Best Interest of Client, Confidentiality v. Duty to Warn, and Agency Policy v. Primacy of Client are examples of dilemma statements.

At times, it may appear that there are more than two sides to a dilemma. It will not be possible to work with the problem under those conditions, and further deliberation will enable the worker to restate the problem so that it is presented in an accessible form.

The sixth example given in the Introduction of the worker whose role is to provide psychosocial assessments in a medical setting, and who is unsure about what information should ethically be included can serve to illustrate some of the complexities of dilemma formulation. Certain kinds of information have been revealed to the worker in confidence. Should that confidence be violated? Under what circumstances? For example, should negative information that results from actions of the potential organ recipient be treated differently than negative information for which the client is not responsible? Mental retardation is not the “fault” of the client. Alcoholism may or may not be the client’s responsibility, while wife battering tends to be.

Should a certain standard of behavior be considered in determining eligibility for donor organs? Is it the worker’s obligation to share all available information or to respect the client’s right to privacy? How do HIPAA regulations, which provide federal protections for personal health information in order to maintain privacy and confidentiality, which also applies to social workers in healthcare contexts of practice. See www.hhs.gov/ocr/privacy/hipaa/

Critical Thinking

Practice Behavior Example: HIPAA, the Health Insurance Portability and Accountability Act, passed in 1996, provides federal protections for personal health information in order to maintain privacy and confidentiality, which also applies to social workers in healthcare contexts of practice. See www.hhs.gov/ocr/privacy/hipaa/

Critical Thinking Question: Client information revealed in social work contexts may be equally personal and private. Yet, there are no uniform regulations that protect such information. Should the profession address this issue?
Possible dilemma formulations might include the following:

- Primacy of Client Interests v. Obligation to Social Justice
- Distribution by Merit v. Distribution by Equal Share
- Privacy and Confidentiality v. Obligation to Colleagues
- Social Justice v. Adherence to HIPAA Laws
- Primacy of Client Interests v. Obligation to Practice Setting
- Distribution by Contribution to Society v. Distribution by Equal Share

It is easy to see where potential problems lie. Primacy of client interests appears in two formulations, with different balanced positions on the opposite side. The worker might be tempted to formulate the dilemma as Primacy of Client Interests v. Responsibility to Practice Setting or Responsibility to Social Justice. After all, both of these alternatives fit comfortably opposite Primacy of Client Interests.

Social Justice also appears twice: once in relation to the client’s interests and once in relation to the law. In formulating the dilemma as Social Justice v. Primacy of Client Interests or Adherence to HIPAA Laws, it is easy to assume that these are two completely separate issues and that a choice must be made between them. However, HIPAA is meant to protect the interests of each member of the society in terms of privacy and confidentiality—to protect the client’s interest through law. The way the dilemma is ultimately phrased if social justice is one of the “horns” of the dilemma will depend on the social worker’s own concept of what is most salient.

When considering which principles of distributive justice to use, similar problems could occur. Equal Share can form one side of the dilemma. However, one can state the dilemma as Equal Share v. Merit or Contribution to Society or Need or Individual Effort. Such a complex dilemma statement is impossible to address, for each of the four positions on the right side of the dilemma needs to be considered both separately from the others and against each of the others. The dilemma can be formulated in a resolvable way, however, by stating Allocation by Equal Share v. Allocation using Specific Criteria.

Once the problem has been stated as a dilemma, it is possible to undertake the next element in the decision-making process—the gathering of relevant information.

**GATHERING INFORMATION**

It is not possible to make a good ethical decision without some research, discussion, and exploration. The particulars of the case will determine the kind of information that will be needed. Information should be relevant to the dilemma as defined in the dilemma statement, and various sources of information, such as policy manuals, laws, interviews, book, and web research should be considered.

**Relevance of Information**

To consider relevance of information, let us return to the second case presented in the Introduction as an example of underlying ethical issues—that of the elderly gentleman who refuses to enter a nursing home. The central ethical
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dilemma may be stated thus: *Self-determination v. Worker’s Perception of Best Interest of Client.*

Information gathering related to this particular problem might include research about clients who remain at home in precarious conditions, exploration of resources or services available in the home for elderly clients, statistics on injuries to elderly clients who live alone and on nursing home admissions, laws about personal freedoms, research on adjustment of patients to nursing home settings, studies about life satisfaction at home and in an institutional setting, information about the client’s medical conditions and any limitations that these might cause, an exploration of the client’s family and support network, an examination of policies and relevant laws for residents of senior citizens’ housing, and so on.

It may be more difficult to find the necessary information for one side than for the other; however, obtaining balanced amounts of information will ensure the best possible deliberation.

In addition to the information gathered specific to the client’s situation, it is also helpful to explore the broader principles, rights, obligations, and needs that define the dilemma. In this instance, learning about self-determination—what it means, the conditions under which it may be limited, and the values and laws that support it—will help the worker gain a deeper level of understanding. The same process should be undertaken in exploring the client’s best interest. This might include professional obligations, an understanding of the pros and cons of paternalism, and the importance of addressing “point-of-view” issues in conceptualizing best interest, among others.

In the fourth example discussed in the Introduction that of the agency serving the HIV-positive Latino population, there are various dilemma statements possible, for there are a number of dilemmas present. One dilemma statement might be *Agency Mission v. Community Need.*

The specific issues and the dilemma statement, again, determine what information will be useful for resolving the dilemma. It might be helpful to:

1. Explore the agency’s mission statement.
2. Gain a historical perspective on the agency.
3. Understand the intent of the funding sources and the auspices that direct how the funds are used.
4. Discover the extent of HIV in the Latino population within the community.
5. Determine whether other resources exist within the community for addressing the problems of HIV clients.
6. Understand completely the unique resources provided by this particular agency.
7. Learn about individuals with HIV who are non-Latino and in need of services in the community.
8. Determine the extent to which Latinos utilize agencies.
9. Explore the reasons that services are requested at this particular agency (presenting problem).
10. Understand the cultural differences between Latinos and non-Latinos that impact on their utilization of the agency’s services.

In terms of broader concepts and principles, it might be helpful to learn about resource-allocation issues, advocacy and policy change processes, the
obligation of employees to agency mission and purpose, and the relationship between agency and community.

These examples illustrate how the problem definition, the dilemma statement, the setting, and the client or client population will determine the kind of information the worker will need.

Information that can be helpful is often accessible within the agency itself: Colleagues, supervisors, program directors, and agency administrators often have experience and insight to offer regarding the resolution of ethical dilemmas involving clients and policies of their agency. Agencies similar in purpose, population, or philosophical orientation can also provide a basis of comparison and another kind of experience. Government agencies that serve the population or address the problem can provide insight as well. The Office on Aging, for example, may have useful information to assist the worker addressing the dilemma of the elderly gentleman who is refusing nursing home placement.

An excellent source of information is research: research related to the problem, the population, the culture within which the problem has occurred, and approaches to the problem. Research can provide invaluable insights, avoid duplication of effort, and provide evidence-based information to guide the ethical decision-making process.

Sources of Information

It is important to consider the sources of information that will be utilized in making the ethical decision. Each source offers a different perspective and can broaden the worker’s understanding of the nature of the problem. After the problem has been defined, it is helpful to prepare a list of potential sources of information. Sources should be reliable, accessible to the worker, and relevant to the ethical problem statement. They may provide a personal perspective, concrete and specific information about the context, resources, and attitudes and opinions of those affected, theoretical information about concepts and principles, information about relevant laws and policies, and other kinds of information.

In the second case, of the elderly gentleman who refuses to enter a nursing home, some sources of information might include:

1. Client, family members, client’s support network.
2. Client records and charts from other agencies.
3. Research on attitudes of elderly persons toward NH care.
4. Research and statistics of elderly people in the community and in institutions.
5. Available community resources such as adult day care, senior centers, group homes, life care centers, and so on. Interviews with staff members where feasible and appropriate.
6. Applicable laws, and relevant agency policies and procedures.
7. Research on characteristics of successful NH placements.
8. Agency director.

It is essential to obtain informed consent from the client before interviewing family members or others, and before obtaining records from outside sources. Preferably, consent should be obtained in writing.
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10. Ethical theories and principles relevant to case, such as self-determination, client rights, responsibility to prevent injury, and so on.

11. NASW Code of Ethics.

An example of some of the potential sources of information for the fourth case, the agency serving Latino HIV clients might include:

1. Direct interviews with affected populations.
2. Agency client records and charts.
3. The agency’s policy manual and procedure manual, brochures, and other written material.
4. Grants, contracts, and information from funding sources.
5. Community surveys to determine ethnic and cultural characteristics of HIV population, and existing resources for HIV clients, such as agencies, hospitals, clinics, support groups, and other services, and the location of such services relative to the worker’s agency. A map of the community may be helpful in this regard.
6. Research regarding the community’s utilization of services for HIV.
7. General research regarding Latino populations and HIV.
8. Articles, books, or other resources on culturally appropriate decision-making frameworks for work with Latino clients.
10. Social workers at agency and other agencies serving this population.
11. NASW Code of Ethics.

With “facts” in hand, the ethical decision-making process focuses on the determination of an ethical theory that is relevant to the problem, consonant with laws and agency policies, and which offers a process that will be helpful to the specific problem under consideration.

CHAPTER SUMMARY

This chapter has introduced the first steps in the development of an ethical decision-making process. It has suggested that a process can be applied to a wide variety of context, issues, problems, and client populations, and that its consistent use is essential to professional practice.

Perhaps the most challenging step in the process is the first one: defining the ethical dilemma. The two sides of the dilemma must be about equal in value and importance: the choice between two goods, or the choice between the avoidance of two harms. It is necessary that there be only one statement on each side of the dilemma; having more than one obscures and confuses the decision-making process. Dilemma formulations should be phrased as __________ v. __________.

The manner in which the dilemma is phrased will serve as the guide to the next process: gathering information which is relevant and necessary to decision making, and identifying the potential sources of information. This information may include exploring the client’s beliefs and feelings about the problem, understanding agency policy and procedures, exploring community attitudes and resources for addressing the problem, consulting the NASW Code
Part One: The Structure of Ethical Decision Making

of Ethics, clarifying relevant laws, and studying and selecting an ethical theory framework and principles.

To begin the process of ethical decision making as described in this chapter, describe what is felt to be the essential ethical problem, or problems, and determine the most pressing issue to be addressed. List potential dilemma statements, using the __________ v. __________. Using both sides of the dilemma statement, develop a list of information that will be helpful in finding a resolution to the dilemma. The information should support both sides of the dilemma, and also provide general information about the problem, populations, context, and agency setting. In examining this list, determine appropriate sources that will be utilized to gather this information.

In the next chapter, ethical theories and principles that may be helpful in further framing and considering the ethical dilemma will be presented.
CHAPTER 1 PRACTICE TEST

The following questions will test your knowledge of the content found within this chapter. For questions 1-6, please select the phrase that best completes each sentence. Question 7 is a brief essay question. For additional assessment, including licensing-exam type questions on applying chapter content to practice behaviors, visit MySearchLab.

1. In formulating dilemma statements, the two sides of the dilemma should always:
   a. be about equal in importance and value
   b. be opposites
   c. have the prior agreement of the client
   d. be determined by agency policy

2. Ethical dilemma statements should be phrased:
   a. describing all of the ethical issues involved
   b. using the client’s wording and associations
   c. clearly and in broad ethical language
   d. related to agency policy

3. Dilemma statements should always encompass:
   a. the social worker’s values
   b. the agency’s values
   c. the objectives and goals of service
   d. community standards

4. In gathering sources of information, social workers should:
   a. focus on accessible and available information
   b. focus on the specifics of the client’s situation rather than general research on the issue
   c. try to obtain information that is balanced in support of both sides of the dilemma
   d. gather information focused on areas of interest to the client

5. Before beginning the information-gathering process, it is helpful to have all except:
   a. informed consent of clients and other involved parties
   b. a list of the possible information needed
   c. a good idea of how the dilemma will resolve
   d. access to current research

6. It is necessary to obtain the client’s consent before:
   a. researching the issue
   b. consulting agency policy
   c. reviewing the client’s record
   d. discussing the issue with the client’s family

7. The Introduction included this case description of the 5th example of an ethical issue: “A public foster care agency social worker finds his caseload nearly doubled as a result of recent across-the-board budget cuts to social services programs. He is required to be in contact with each client monthly and to visit each foster home at least once every 3 months. With his current caseload, this has become impossible.” Assuming his supervisor is unable to resolve the problem, develop an ethical dilemma statement that addresses this issue, and explain the reasons for your choices of terms.