

Global Ethics Day

16 October 2019

Sophiatown Community Psychological
Services

Legal Session

Interviewing Vulnerable
Witnesses: An Ethics
Minefield



What do we mean by “Ethics” in the legal field?

The tapestry of professional, personal and workplace ethics that we intuitively draw from everyday experience to guide our thinking and actions.

It is more than ensuring compliance. It is about making choices about how to manage matters, what is right or wrong, what is justifiable or questionable, the ethical consequences of our professional actions

Who is a vulnerable witness? And why?

A few examples:

- Victims of gender based violence
- Victims of any kind of violence
- Children
- Mentally challenged persons
- Physically disabled persons
- Previously traumatised persons
- Persons belonging to an ethnic/religious/cultural/political minority

What ethical values are we supposed to respect when we interview vulnerable witnesses?

- Doing no harm
- Duty of care
- Respect for dignity/human rights
- Equality/Fairness
- Sincerity/Frankness/Honesty
- Integrity
- Citizenship (mindfulness for rights and responsibilities deriving from belonging to the same community)

Where are we supposed to apply/enforce these principles?

- During the interview/s
- At Court
- In our office environment
- In our behaviour outside the office (privacy, confidentiality, non acceptance of gifts, invitations etc.)
- In collaborating with other professionals

Which values-duties-tasks of the lawyer can ethical values clash with? (Professional and personal)

- Pursuit of the truth
- Need for detail
- Economic use of the time/of other means
- Self care
- Employee: respect of rules
- Employer: care of the staff
- Disclosure/boundaries/confidentiality
- Religion/Sexual orientation/cultural etc.

HOW DO WE BALANCE THE TWO?

- Fairness
- Respect for dignity
- Do no harm (non re-traumatization etc.)
- Communication, explanation, clarity
(mediation?)
- Duty of care

- Restorative/reparative justice
- Retributive justice
- Interdisciplinary approach (e.g. psychosocial principles, support of other professionals)
- Ubuntu
- Cultural humility
- Therapeutic jurisprudence