

Towards the Statutory Regulation of Psychotherapy in the UK

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Summary

In this article, the aims are to provide a historical overview of the debate and the actions surrounding the statutory regulation of psychotherapy in the UK, in order to provide a contextual perspective of some of the other factors that are influencing the drive towards statutory regulation and to share with you the progress that the United Kingdom Council for Psychotherapy (UKCP) is making, including some of the future steps that it aims to take over the next 12 to 18 months.

Given the history and strength of psychotherapy as a practice in the UK, and also its relative independence from state funding, the basic goal has been away from the imposition of any particular “law” about psychotherapy, as has happened in some European countries, but more towards the statutory registration of ‘psychotherapist’ as a protected title, with a registering body with a government mandate or ‘charter’ to hold this function and to set appropriate standards and ethics. These chartered bodies either carry both a regulatory function and a service or support function for their members (like the British Psychological Society for psychologists), or this is split into two separate bodies, as for doctors in the General Medical Council (regulatory) and British Medical Association (service & professional association). This is how the various professions of doctors, dentists, veterinarians, psychiatrists and psychologists (amongst others) are currently regulated in the UK.

Historical Overview

The UK first began its forays into the statutory regulation of psychotherapy in 1971, with a semi-official parliamentary report, The Foster Report, recommending that psychotherapy, as a profession, should be regulated by the State. One of the motivations for this was the increasing popularity of Scientology: seen by many as a ‘sect’, that was passing itself off as a type of psychotherapy. This report was initiated by Lord Alderdice and debated for some considerable time. At that time it was identified that the prospect of bringing all the different

modalities together to enable a form of statutory regulation was almost impossible and he made a number of attempts to amend the proposed legislation in order to take into account the specific modality-based nature of psychotherapy. Eventually a Bill¹ was brought to the House of Lords, only to have it defeated at its third reading in 2001 (thirty years later).

Some of the complexities of the issues involved can be understood by the following quotations from the debate in the House of Lords (the language is unfortunately very formalised):

Lord Alderdice: *'One reason for the failure has been the diversity of therapeutic approaches that fall within the bailiwick of psychotherapy. During the past couple of years, much of my endeavour has been directed towards persuading the various psychotherapy organisations and representatives to accept a relatively limited but coherent list of modalities.'*

This point was picked up by Lord Hansard who reiterated the need for the profession to come together under the legal title of 'psychotherapist': *'Returning to the main burden of the amendment - the setting down of modalities - I emphasise that, despite the amendment, registration would not be by modality. The Bill gives legal protection to the title 'psychotherapist', and with the exception of those already registered with the GMC², would require those who wanted to use the title 'psychotherapist' to register with the General Psychotherapy Council. However, I repeat, as there has been some misunderstanding about it, that the indicative registration, as the Bill stands - I cannot say what may happen in the future - is not for the different modalities but for the title 'psychotherapist' itself.'*

This point was picked up by Lord Burlison who went on to highlight the European perspective on the difficulties of bringing together Freudian and Jungian analysts: *'I move away from the UK and look at the international scene for a moment. There are two international bodies: the International Psychoanalytical Association and the International Association for Analytical Psychology. To support my contention that these should be split in the UK, I quote the current International Journal of Psychoanalysis: "For the International Psychoanalytical Association: the term 'psychoanalysis' refers to a theory of personality structure and function and to a specific psychotherapeutic technique ... based on and derived from ... Sigmund Freud". That is not what the followers of Jung believe, and that is why they deserve and should have independent recognition. An interesting quote follows this, 'Given the huge differences in philosophy, education, training and therapy, surely what the followers of Jung and Freud have put asunder the noble Lord, Lord Alderdice, should not join together'.*

After the Bill had failed, the committee that had been working with Lord Alderdice was disbanded. This was a well-meaning attempt to impose legislation from above.

The UKCP

However, in the meantime, in the mid-1970's the Profession's Joint Working Party on the Statutory Registration of Psychotherapists was set up with Paul Sieghart as chair. This

¹ A 'Bill' is the fore-runner to an 'Act' of Parliament: an Act of Parliament creates a legal status.

² General Medical Council: the statutory professional body for doctors.

produced the Sieghart Report, which recommended going for ‘indicative registration’ and for a Psychotherapy Council to be set up. Indicative registration is less formalised than statutory registration, which protects the title. Throughout the 1980s there were increasing developments in this direction which led to a series of annual meetings called the Rugby Psychotherapy Conference. In 1989, this developed into a more formalised United Kingdom Standing Conference for Psychotherapy, attended by 120 delegates from 66 organisations. In 1990, the delegates voted to form a voluntary Register of Psychotherapists, and in 1991, it was decided to form professional training standards set at post-graduate level. In 1992-3, it became necessary to develop from being a ‘conference’ to becoming a ‘council’ and the United Kingdom Council for Psychotherapy was inaugurated in January 1993 and the National Register was first published that May.

The UKCP had brought together, in an umbrella body, most of the psychotherapy training organisations and modality-based professional associations in the UK and had facilitated these many different modalities coming together. Whilst initially the direction was for indicative registration, this coming together has also enabled a future form of statutory regulation to take place with several distinctly protected modality-based titles within the overarching title of Psychotherapist. The UKCP continues to do this and to refine and develop its own internal structures. It had also significantly – despite some quite serious factions and splits – managed to get about 6,000 acceptably ‘accredited’ psychotherapists from all these organisations to pay an annual registration fee and to go onto a voluntary register, which has now been in existence for about 15 years. These psychotherapists included modalities grouped with a Psychodynamic and Psychoanalytic section, a Humanistic & Integrative section, a Cognitive Behavioural section, a Family, Couples, Sexual & Systems section, an Experiential Constructivist section, a Hypno-psychotherapy section, and recently a Psychotherapeutic Counselling section. The UKCP Governing board also, significantly, included representatives from the Royal College of Psychiatry³ and the British Psychological Society⁴. There are about 75 Member Organisations in the UKCP and these collect the fees and submit their members’ names to the UKCP Register.

Whilst this ‘voluntary’ UKCP Register of Psychotherapists had no officially recognised standing, it was increasingly becoming an acceptable and known resource for the general public, published in both book form and publicly available via the UKCP website⁵. Newspaper articles and TV programmes began to refer people to it. Because of the existence of this register and the training standards and ethics that lay behind it, the UKCP has now established itself as a significant ‘player’ in the mental health field. In parallel, the European Association for Psychotherapy (EAP) had begun a similar process in Europe, trying to establish psychotherapy as a distinct and separate profession from psychology and psychiatry, adopting similar training standards and professional ethics, and building a Register on the basis of a European Certificate for Psychotherapy (ECP). These training standards for psychotherapy set accredited psychotherapists as having had a “post-graduate” 4-year specialist training, with appropriate ethical standards as well.

One of the main splits or difficulties that happened within the UKCP was with the psychoanalysts, who felt their training and practice was significantly different and distinct from other types of psychotherapy. They formed themselves into a separate body, the British

³ The statutory professional association and regulatory body for all British psychiatrists.

⁴ The statutory professional association and regulatory body for all British psychologists.

⁵ www.psychotherapy.co.uk

Psychoanalytical Council, in about 1995-6. A second split occurred when, despite initially very good relations with the British Association for Counselling (BAC), a very large, well-established and mature organisation with 20,000 members, in the mid-1990's the BAC changed its name (somewhat provocatively) to the British Association for Counselling and Psychotherapy (BACP), yet has persistently refused to distinguish the difference between its members practicing these two quite different professional practices. It might be worth noting that in the UK, counselling, as a professional qualification, is usually seen more at a diploma level, with 2-3 years training without prior relevant qualifications or experience, as well also being seen as a skill that can be more quickly learnt by other trained professionals, e.g. nurses. There are thus some parallels here with a view that exists in some European countries that psychotherapy is an activity that can be done (or only be done) by other professions, like psychologists and psychiatrists. These splits have significantly delayed the process of statutory registration as the UK government consistently wishes for, and insists upon, the whole profession to be regulated satisfactorily, rather than just some bits of it.

Contextual Perspective

External to psychotherapy, there have been a number of other recent influences on the regulation of health care in the UK. These mainly took the form of various semi-official reports. These are reports of the findings of (usually) a committee, or (occasionally) a judge; commissioned, set up, paid for by the government, and made public, and these often 'inform' the next piece of legislation. However the government is not bound to accept the findings of such a report but – since it is in the public knowledge and since they paid for it – these reports carry significant influence. The following recent reports have all influenced the way in which the regulation of a health care profession is seen, often because of the abuses have come to light that initiate the need for such a report, prior to any changes in the regulations. Anyway this is how the British parliamentary system works.

Bristol Royal Infirmary Report

The first of these reports was the Bristol Royal Infirmary report in 1997, which looked at the clinical care of children receiving complex cardiac surgery, and made recommendations on the regulation of individuals from point of entry into a profession, through to qualification and revalidation, ensuring processes to support improvements in a service to removal from the Register. This report identified 5 principles to good regulation: Proportionality, Accountability, Consistency, Transparency and Targeting.

The Shipman Enquiry

Shortly after the above reported, in 1998, Dr Harold Shipman was charged and found guilty of the murder of 15 of his patients (even though he may have murdered considerably more, perhaps more than 200) and a review was ordered of the regulatory processes within the General Medical Council (GMC). This review was commenced in 2001 and reported in 2004, with a response still being awaited from the Chief Medical Officer. The report made recommendations concerning the regulation of doctors, including several 'fitness to practice' procedures.

The Foster Review

Parallel to this report, a further review was undertaken by Sir Andrew Foster to look at the regulation of non-medical health care professions. At this point psychotherapy and counselling were brought back into the picture as two aspirant professions who could/should be brought under such statutory regulation, along with several others, like osteopaths, chiropodists, biomedical scientists, etc.

The Bichard Report

Within the education context, The Bichard Report was conducted following the Soham murders, where two young girls were murdered by a school employee who was known to the authorities in another part of the UK as being unsuitable for working with children. This resulted in the setting up of the Independent Barring Board. The IBB has the responsibility for moving through Parliament the Vulnerable Groups Bill. This Bill has three main aims:

- The creation of the Independent Barring Board
- Setting up of the Children's Barred List, covering a person who has not attained the age of 18 years
- Setting up of the Adult's Barred List, defined as any vulnerable adult over 18 who receives any form of health care, with health care being 'any treatment, therapy or palliative care of any description'

This Bill will mean that the keeper of the Register has a duty to provide IBB with information if provisions relating to adults or children's barring list should apply and the 'harm test' is satisfied. The Harm Test is that the person may: a) harm a child or vulnerable adult; b) cause a child or vulnerable adult to be harmed; c) put a child or vulnerable adult at risk of harm; d) attempt to harm a child or vulnerable adult, or e) incite another to harm a child or vulnerable adult

The Hampton Report

The Government has reacted to the increasing calls from each of these inquiries for tighter regulation of the various professions involved in health care by commissioning a report by Philip Hampton. This report was requested by the Chancellor of the Exchequer to review the regulatory inspection and enforcement '*with a view to reducing the administrative cost of regulation to the minimum consistent with maintaining the UK's excellent regulatory outcomes*'. This report made two observations about the 'burden of regulation' to businesses, and it commended a 'risk based' approach to regulation, i.e. that the level of regulatory oversight / intervention should be proportionate to the level of risk.

Each of the above Enquiries and Reports are likely to have a considerable impact on the regulatory picture in the UK, with psychotherapy being fitted into an ever-changing landscape of statutory regulation.

UKCP's progress towards statutory regulation

The UKCP has continued to make substantial progress since the Alderdice Bill was defeated in 2001, and has completed 3 major pieces of work in the last year.

1. Mapping the professions of psychotherapy and counselling

The first project was funded by the Department of Health (DoH) and run jointly with BACP (British Association for Counselling and Psychotherapy). This project resulted from the DoH recognising the work that UKCP had done in separating its 'service' function (a supportive professional association, which is what most professional psychotherapists want) from its 'regulatory' function (exercising good training standards, ethics, registration and control, which is wanted more by public and by government). Essentially, these two functions can sometimes be contradictory.

At the same time, the DoH proposed that the Health Professions Council (HPC) would be the preferred overall regulator for all professions supplementary to medicine. This was contrary

to the preference within the mental health professions' for something more like a Psychology and Mental Health Council, recognising the very special differences that professionals like psychotherapists have from (say) physiotherapists. This initial 'mapping' project had four distinct aims:

- To produce a map of existing training and qualifications in the fields of psychotherapy and counselling
- To map the standards on which these programmes of training and qualifications are based
- To produce a sample code of conduct and ethics based on existing codes and with regard to the HPC code of conduct, performance and ethics, for use by psychotherapy and counselling organisations currently without one
- To develop a toolkit covering competences and processes (setting up a register; setting standards of competences for the practice of a branch of psychotherapy or counselling; setting standards of training; devising training within a system externally verified and accredited; adopting a code of conduct and ethics; adopting a system of fitness to practise investigation and examination; devising requirements for continuing professional development including how this will be assessed). The toolkit should draw on the experiences of BACP and UKCP and should indicate where models and precedents already exist.

James Pollard, former Chair of UKCP, and Sally Aldridge, Head of Professional Standards, BACP coordinated this project. There was a limited time scale of 3 months to complete the project and a very minimal amount of financial resources to support the work. The work began with UKCP and BACP bringing together a liaison group of all regulatory bodies involved in the regulation of psychotherapy and counselling. This group became a consultation group and it is from these that the main findings of the report were substantiated.

The first two aims of the project of producing a map of training and qualifications, and mapping the standards upon which the trainings are based, demonstrated that there were an estimated minimum of 37,500 counsellors and psychotherapists working in the UK. Almost all respondents had completed a training course, with a total of 570 different training courses identified. In addition, most of the training courses are within the private sector and often have no external validation or quality assurance processes. Half of all training courses have no professional body recognition, and of all the respondents who reported they work with children, most are unlikely to have undertaken specific training in this area.

The third aspect of the project of producing a sample code of conduct and ethics found that 100% of organisations responding to the research already had complaints and conduct processes. Codes of conduct and ethics fulfilled or exceeded HPC requirements, however levels of lay representation and public accountability were low. The project also found that complaints heard by the HPC were substantively different to those received by the counselling and psychotherapy organisations. Most complaints in this latter field concern aspects of interpersonal relationships and the therapeutic process.

The review made a number of recommendations to the professions and the DoH:

- A deeper enquiry into the provision of training, its characteristics and the standards that are applied.
- Research into student satisfaction levels in relation to training.
- Further research into the distinctions within the field.

- Research into the possibilities and difficulties entailed in linking training standards with external assessment frameworks.
- Research into the training and practice of those working with children and adolescents.
- Consideration of the implications of forming counselling and psychotherapy as graduate or post-graduate professions.
- Consideration of the issue of a core curriculum for psychotherapy and counselling.
- Work to bring voluntary registers and fitness to practice procedures to acceptable levels.
- Establishment of a separate body to handle conduct processes for all, achieving desired and best practice separation.
- Further research into the scope of the professions beyond the framework of the professional associations.

2. Reorganisation of UKCP

The second project was internal to UKCP and was conducted during and immediately after the above project by James Pollard, former Chair. The aims of this second piece of work were to support UKCP in production of a strategy for reorganisation of UKCP to allow it to:

- Improve levels of co-operation between UKCP and other bodies in the field of psychotherapy and counselling
- Separate the regulatory functions that exist within the UKCP and its member organisations from the non-regulatory
- Addressing any anomalies in the way it is structured prior to handover of voluntary regulatory functions.

The first aspect of the work of improving levels of cooperation across the field recognised that the profession would need to have at least one established professional body which accounts for a significant proportion of that occupational group. Significant progress has been made in taking forward the debate about key issues, for example over the relationship between psychotherapy and counselling and the relationship between different elements of psychoanalysis and psychoanalytic psychotherapy. It is not suggested that these issues are resolved but frameworks for dialogue have been developed as a result of this process that will produce results, if they are utilised. This has inevitably brought out some underlying conflicts, which will have to be worked through, and it must be expected that this process will continue if the work is to be taken forward. More recently the Analytical Section and the Psychoanalytic and Psychodynamic Section of the UKCP have merged and aim to work together to represent their modality to enable registration of the title Psychoanalytic Psychotherapist.

The second aim of the project was to separate the regulatory functions from the non-regulatory. A proposal has now been approved in UKCP to set up ‘Colleges’ that will represent the major modalities of psychotherapy. This still has some way to go and it is hoped that each of the Colleges will play a considerable role in identifying the competencies that will be required for statutory regulation.

The third aim of the project was to address any anomalies in the structure of UKCP prior to statutory regulation. As a result of this UKCP approved the formation of Colleges at the 2006 AGM. Each of the Colleges is to be developed around the 5 major modalities, plus Child Psychotherapy. The six modalities (and we would hope the protected ‘titles’ that are set within the overarching title of Psychotherapist) are:

- Psychoanalytic Psychotherapy
- Cognitive Behavioural
- Humanistic and Integrative
- Hypno-psychotherapy
- Systemic Psychotherapy
- Child Psychotherapy

The report also made some strong recommendations for the development of psychotherapy as it moves towards statutory regulation. Significant concerns existed around the structures within the Government's preferred regulator – the Health Professions Council. The UKCP and the other mental health professions are continuing the dialogue with the HPC and at the time of writing this report are starting to see some flexibility within the system occurring, which will need to work effectively with the complexity of the profession of psychotherapy and the neighbouring professions of psychology, psychoanalysis and also of counselling. The DoH responded to both these reports in November 2005 and expressed some dissatisfaction that the reports were unable to provide the necessary information on identified roles, competencies and training.

3. Competency Frameworks

Following this meeting, a third piece of work was undertaken by UKCP that assessed our fitness for purpose for statutory regulation against nationally recognised competency frameworks. Competency frameworks for a profession or trade mean that, if, despite his certificates and length of training, (say) a plumber can only do this yet cannot fix that, that person cannot legitimately call themselves a plumber, and the only way to be able to call themselves a recognised plumber is to show that they can do this and that. 'Functional competencies' are becoming established as the main European measure of what constitutes a proper professional training. This new report showed that it was possible for UKCP to map generic competencies against the Government recognised competency frameworks, and that there are clear routes to both academic and vocational qualifications. So this report identified that UKCP's regulatory framework is continuing to develop properly and is essentially fit for a preliminary handover to a higher regulatory body, prior to state regulation.

UKCP is now at the point of moving forward on this to the next stage of the project. The main aspects of this will be to consider the different modalities within a competency framework for psychotherapy. To this end, three main professions would be held within a common umbrella body, each with a separate register: counselling, psychology and psychotherapy, with debates continuing on whether psychoanalysis should be similarly regulated. Within psychotherapy, of the wide number of different modalities, some formerly in various sections within the UKCP structure, many are now in the process of amalgamation into the 5 or 6 more autonomous 'colleges' that would carry a regulatory function more specific to the types of modalities (as mentioned above). In addition, the UKCP recognises that it will need to work closely with other professional bodies in the field to assess commonality of competencies and to agree, if not completely common standards, at least much more clearly where they differ.

Attempts had been made to do this task of establishing both common and separate functional competencies for the different modalities before, in the mid to late 1990's, but the exercise was not completed due to some of the disagreements and splits within the profession, so the process became delayed. Now it seems to be back on track, so to speak.

The Future

UKCP is continuing to move forward steadily with this work and in recent discussions with both DoH and HPC; it is becoming increasingly clear that each modality that wishes to register a specific title (like ‘psychoanalytic psychotherapist’, ‘cognitive behavioural psychotherapist’, ‘integrative psychotherapist’, or ‘counsellor’ will need to demonstrate substantial difference in competencies to enable this process. ‘Psychologists’ (as a separate title) are already involved in this process of consultation, though there are some confusions, for example with the recent creation of a Counselling Psychologist sub-title. ‘Psychiatrist’ is already a statutorily registered title.

It is anticipated that a generic title of ‘Psychotherapist’ will become legally registered. This will be achieved through the mapping of roles against competencies, and it is only at this point that the content of the trainings will be considered – to see if they adequately develop these competencies. Subsequent to this a series of titles may also be registered and are likely to reflect the major modalities already mentioned in this report.

UKCP will need to continue to develop our relationships across the field of psychotherapy and beyond. It continues to work closely with BACP and BPS (British Psychological Society) in responding to Government pressure to sit within the Health Professions Council, with these bodies arguing instead for either a separate Mental Health Council, or much stronger representation within a restructured HPC. UKCP has yet to share its standards with other agencies that also have an interest in ‘Psychotherapy’ as a title, and is beginning to do this work with the Association for Child Psychotherapists (ACP), and the British Psychoanalytic Council (BPC).

UKCP has continued its move towards developing an independent complaints and discipline organisation. A separate Company (ICO) has now been established and options to share the process with other stakeholders such as BABCP (British Association for Behavioural and Cognitive Psychotherapy) are being discussed. It now has a lay member of staff appointed as our Professional Conduct Officer and has a time-line process to move all Member Organisations over to the new ICO within the next 12 months. This means that all complaints will be heard centrally.

Conclusion

The Government is continuing to work towards a timescale of 2008 for the statutory regulation of psychotherapy. UKCP is committed to continuing its own internal development and liaison and partner working with other stakeholders, and to recognise that it needs to ensure that whatever processes it develops or enhances, that this moves them closer towards either statutory regulation or a very robust model of voluntary self regulation. Copies of the UKCP reports are available on the UKCP website www.psychotherapy.org.uk

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