

The sociology of regulation: the case of psychotherapy and counselling and the experience of the arts therapies

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This article draws on insights from the sociology of professions to explore the regulatory debate in the psychotherapy and counselling field contrasted with the regulation of arts therapists (art, drama and music therapists). A partial explanation is offered, illustrating the applicability of theory to these groups, but with adaptations to reflect the modern context in which professions and regulation now exist.

Keywords: psychotherapists and counsellors; arts therapists; regulation; process model

Introduction

The statutory regulation of psychotherapists and counsellors has been and continues to be a contentious subject. Regulation is a highly contested area within these groups which have been characterised by internal conflict. The last decade has seen renewed debate, with government policy proposing that psychotherapists and counsellors should be regulated by the Health and Care Professions Council (HCPC).¹ In response to this, the HCPC established a Professional Liaison Group (PLG) to investigate how that regulation might be implemented. This article will focus on some of the key issues that emerged during the two years or so of the PLG, up to the time of the incoming government's Command Paper entitled 'Enabling Excellence' (Department of Health, 2011) which moved government policy away from statutory regulation.

Compared with the debate in the psychotherapy and counselling field, the statutory regulation of arts therapists in the 1990s appears relatively straightforward. Ironically, these professions faced their biggest challenge in overcoming the Department of Health's initial opposition to their regulation. Despite some reservations about regulation, what appears to be a strongly rooted pragmatism in these professions enabled any discomfort to be put aside in a concerted and coordinated effort to achieve what was then termed 'state registration'.

In this article we ask the process sociologists' question: 'Why are things the way they are?' We draw on insights from the sociology of the professions in an attempt to give a partial explanation from our position of being intimately involved with regulation issues in each of these groups. In the following section we discuss some key theoretical perspectives drawn from the sociology of the professions. We then

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provide accounts of the experience of the arts therapies (with a focus on art therapy) and the more recent regulatory debate in the psychotherapy and counselling field. Lastly, we discuss the key themes that emerge, offering a perspective based on our experience and the relevant theory.

The sociology of the professions and regulation

A variety of critical and theoretical perspectives have been offered on the development of the professions and their position within society, which often conceive the professions or the process of 'professionalisation' in a more or less positive light. It is not our intent to offer an overview of all the literature in this area. Instead, we reflect one approach, drawing on the process model of sociology, in contrast to more functionalist approaches, and offering an analysis focused on the applicability of this perspective to the role of regulation in the sociology of the professions.

Bucher and Strauss (1961) conclude that traditional functionalist approaches view a profession as a 'relatively homogenous community whose members share values, definitions of role and interests', leaving little room for substantial conflict or variation (p. 325). They suggest instead an alternative process model which focuses on how difference, variation and conflict within a profession act as a driver for change. Heterogeneity is emphasised; instead of fixed and permanent, professions are 'loose amalgamations of segments' which are 'more or less held together under a common name for a period of time' (ibid., p. 326). These segments are undergoing continual change. Existing segments develop, join up with other segments, or split, and new segments are formed. So there is never a point at which a profession is a static thing.

This focus on what we might refer to as the 'internal process' of professions is elaborated further by other authors who offer perspectives on the relationship of professions to the external environment and how this can affect their claims to an area of practice that is distinctly their own and more or less demarcated from that of other groups. Neale (1994) concludes that professionalisation is an 'ongoing political process', noting the 'uneasy relationship' between the government and professions and concluding that '...the autonomy of a profession to control a particular technical field is constantly tested by the state' (p. 1). In a similar vein, Macdonald (1995, p. 7) argues that society 'is continuously engaged in defining and evaluating "professional traits", and for that matter, "professional power"'.

We might conclude that this has some currency, for example, in that levels of public scrutiny of professionals have changed over time and that the achievement of regulation is certainly not the end of this process. However, there is a sense in which, even within a process model emphasising continual change, regulation, or a lack of regulation, might be viewed as conferring and/or constraining professional status at important fixed points. In a 1992 House of Lords debate, Lord Benson advocated nine obligations for groups aspiring to regulation in order to demonstrate that their rules and standards were designed in the public's interest and not solely in that of the profession (Waller, 1998). These standards influenced the HCPC's 'aspirant groups' criteria (HCPC, 2002), which required groups aspiring to statutory regulation to demonstrate that they had a discrete area of activity, 'displaying some homogeneity', which was clearly distinguished from that of other groups and had existing systems in place to protect the public. In the Benson criteria, these are viewed as the hallmarks of a 'mature' profession, differentiating it from an occupation. This establishes the

notion of professional status conferred 'by the state', and carrying with it a set of expectations and duties for a professional group. This is rejected, at least in part, by Freidson (2001) who offers an account which allows professions more autonomy than is perhaps inferred here. He describes the wider duties of professions in defending the 'larger public good' – an integral part of the ideology of professionalism which, he argues, 'licenses' professions to be more than just 'passive servants of the state' (p. 217).

Larson (1977) in her seminal work on the sociology of professions coined the concept of the 'professional project' to describe the systematic attempt by occupations to translate their special knowledge and skills into social and economic rewards. Central to the professional project is the achievement of autonomy through a profession's relationship with the state and its influence of a 'sponsoring elite'. The ultimate goal is 'social closure'. This includes achieving 'market power' through the monopolisation of services and knowledge that are distinctly owned by the profession. It also involves striving for status and respectability, for example, through restriction of education and the development of norms and rules which govern members of the profession and differentiate them from other occupations and from members of the public.

In the light of our ensuing analysis, we might suggest a possible criticism of this model. A 'project' suggests a discrete set of activities with clear objectives in a pre-determined direction and infers a defined lifespan – for example, that the professional project ends with the achievement of regulation and that the profession (as a whole) are willing and active participants in this endeavour. Larson does acknowledge, however, that the goals and strategies pursued by a given group will not be entirely clear or deliberate for all members of a profession. Macdonald (1995) outlines other possible criticisms including an over-focus on the achievement of monopoly, and we certainly might question the possibility or desirability of a group ever achieving an absolute or enduring monopoly in any event. Abbott (1988) argues that a profession must first establish, and then defend, its 'jurisdiction' – the area or areas of activity that it controls. This observation is echoed by MacDonald (1995) who observes that Larson's professional project is but an 'ideal type' – it is never complete as professions will need to defend their 'territory' from competition and may also seek to enlarge their scope of activities (p. 33).

Our subsequent discussion will draw from both Bucher and Strauss's focus on conflict and the coherence inferred in Larson's professional project. Regulation will be viewed as one milestone in the process of the professions.

The experience of the arts therapies

'Arts therapists' is an umbrella term typically referring to art therapists, drama therapists and music therapists. All these professions are linked by the delivery of psychotherapy through an art form and new entrants are required to have completed previous study in art, music or drama prior to undertaking psychotherapy training.²

Art therapy finds its origins in World War II when artists and art teachers began to work in psychiatric hospitals (Waller, 1991). In keeping with the other arts therapies, art therapy was and remains committed to the socio-cultural model of mental illness in contrast to the so-called 'medical model', rejecting, for example, the use of images as diagnostic tools or as evidence of psychopathology. In 1963, the British Association of Art Therapists (BAAT) was formed with the clear objective to

promote the role of art therapy in managing mental health problems, developing further the activity within the National Health Service (NHS) and establishing clear standards and training for therapists. In 1969, training was established in the higher education sector, and over a number of years developed from a diploma qualification to a master's degree.

In 1981 a discrete career and salary structure for art therapists in the NHS was introduced under the Whitley Council and provided a platform for achieving similar status in other public services. The late 1980s saw the introduction of arrangements for freedom of movement of professionals within Europe, with the establishment of competent authorities who would decide on equivalence in qualifications among European professionals. Arts therapists were too small a group to take on this role, so agreed that this role should go to the Council for Professions Supplementary to Medicine (CPSM) and in the early 1990s the professional bodies began the process of exploring 'state registration' with the CPSM (Waller, 2004). The CPSM (the predecessor body to the HCPC) had been in operation since the 1960s. Registration with the CPSM was compulsory to work in the NHS and in other publicly funded sectors. To those involved, state registration seemed to be the logical next stage in the development of arts therapists. In part, these groups were driven by a desire to achieve recognition of the professions and to provide clarity about their activities, which were often misunderstood. These groups also considered that the risk to service users from untrained persons could be considerable and that the existing voluntary system was insufficient. Their only reservation was a concern about the name of the CPSM and in particular the inference of a medical orientation in its title and scope. However, this was considered a minor point compared to the benefits that were envisaged, and was partly assuaged by knowledge that the CPSM's legislation was due to be overhauled.

In discussion with the CPSM, it was clear that given the closely related activities of each group there would need to be agreement amongst all three arts therapies for state registration to proceed. A working party was set up to develop a petition, showing how Lord Benson's criteria were met. Once the CPSM had agreed the case for registration, the next task was to convince the Department of Health. The Department of Health was initially unconvinced of the need for regulation given the arrangements within the NHS where most arts therapists worked and had concerns about postgraduate level entry to the profession (even though this was not and is not funded by the NHS). Eventually, the case was won. In 1997 legislation was passed to bring arts therapies into registration and the arts therapists register opened in June 1999. In 2002, a new regulator, the Health and Care Professions Council, was formed. From July 2005, the titles 'art therapist', 'art psychotherapist', 'drama therapist' and 'music therapist' have been protected in law and only someone who has completed an approved training and who is registered with the HCPC can lawfully use one or more of these titles.

The case of psychotherapy and counselling

This article does not aim to provide a detailed account of the regulatory debate in the psychotherapy and counselling field. Instead we offer a summary of what we see as the key features of the most recent debate.

The debate about the regulation of psychotherapists and counsellors has a long history. More recently, in 2007 the government published a White Paper which said

that the regulation of psychotherapists and counsellors (and other groups including psychologists) was a priority for future regulation (Department of Health, 2007). The HCPC was the proposed regulator. A group of professional bodies, including the British Psychological Society, proposed an alternative 'Psychological Professions Council' but this was firmly rejected by the Department of Health who said that the proposal was 'flawed in its understanding of regulatory processes and based upon a misunderstanding of the requirements of statutory regulation' (Aldridge, 2009).

In December 2008, the HCPC's Professional Liaison Group (or PLG) met for the first time to begin to explore how psychotherapists and counsellors might be regulated. The group consisted of representatives of the main professional bodies in the field, HCPC Council members and other stakeholders, and met nine times up to February 2011. Two consultations were also held (HCPC, 2008, 2009a). The number of responses to the 2009 consultation on the PLG's recommendations – 1105, mainly from individual psychotherapists and counsellors and their representative organisations – is perhaps the best indication of the highly sensitive nature of regulatory issues in this field.

Mowbray (1995, cited in Postle, 2000) has argued that regulation is inappropriate for psychotherapy because of a lack of common agreement about the scope, values, goals and means of therapy; a lack of evidence that incompetence is harmful; and because regulation does not prevent harm from occurring. This reflects well some of the arguments made in the period before, during and after the lifetime of the PLG by those in the profession(s) who were opposed to regulation. Such arguments generally covered three areas: the premise for regulation including the evidence that it was necessary; the appropriateness of the HCPC as the proposed regulator; and the 'fit' between regulation 'by the state' and therapeutic practice.

In keeping with the arts therapies and their concerns about the CPSM, some feared that therapists would be expected to conform to the medical model of practice. These concerns were exacerbated by the Improving Access to Psychological Therapies (IAPT) programme and the development of National Occupational Standards (NOS) for psychological therapies by Skills for Health, initiatives which coincided with the PLG process and which some saw as promoting certain forms of therapy at the exclusion and to the detriment of other approaches to practice. The concern was that regulation was an attempt to cement these arrangements in statute. Indeed, the continued diversity of the field was a key imperative for many in the regulatory debate. For some, the premise of statutory regulation was itself antithetical to therapy – it represented state interference in the private space of the consulting room and a threat to the autonomy of practitioners which would adversely affect the therapeutic relationship.

We are aware that this all too brief summary risks focusing on dissenting voices and appearing to neglect the views of a wide range of stakeholders who were supportive of regulation, considering that it would enhance the protection of clients and ensure consistent standards. It also risks ignoring the general consensus reached by the PLG on issues such as the decision not to reflect modality distinctions in the proposed register, and, in our view, downplaying the substantial progress made by the PLG in providing a platform for constructive dialogue. However, regardless of support or otherwise for the premise of regulation, there were two interlinked areas of debate which were contentious and polarised from the outset of the process – firstly, whether psychotherapists and counsellors should be registered as one group, with common standards and interchangeable titles, or as distinct professions; and

secondly, the educational requirements that should be set for entry to the register. The arguments in this area were about whether there was a difference between the practice of psychotherapists and counsellors and of psychotherapy and counselling and, if so, whether this could be adequately described in standards. Although a unanimous consensus was not reached, a majority of the PLG supported a distinction. This was reflected in draft standards of proficiency which proposed a number of standards common to both psychotherapists and counsellors but with a distinction based on the need for psychotherapists to diagnose and work with 'severe mental health disorder' in contrast to counsellors who would need to be able to work with 'mild or moderate mental health problems' (HCPC, 2009a). This was the basis upon which a public consultation was held in late 2009. Seventy-eight per cent of respondents disagreed with the proposed distinction, with many arguing that any attempt to create such a difference was impossible and arbitrary (HCPC, 2009b).

A related issue was that of the entry requirements for registration. In the PLG the key area of debate was around the level that should be set for counsellors compared to psychotherapists and, indeed, whether there should be different levels. Counselling training is increasingly delivered in the higher education sector, but is also delivered by further education colleges. Psychotherapy training is delivered both in higher education and by private training institutions. In that debate there was a particular desire to ensure the diversity of entrants to counselling and the supply of practitioners in the voluntary sector. In the consultation responses, some questioned the very premise of setting a qualification-based requirement, arguing that academic attainment could not be equated with capability as a therapist. The 2009 consultation proposed a diploma level entry for counselling and a postgraduate level entry for psychotherapists, with 74% and 65% of respondents disagreeing with these recommendations respectively (HCPC 2009a, 2009b).

The PLG was reconvened in 2010 to enable further discussion to take place about these particular issues. A group of the professional bodies proposed an alternative model to reflect the different skills and competencies of counsellors qualified at diploma level, compared with those who undertook postgraduate level training and this was subsequently agreed in principle by a majority of the PLG. However, despite further work by the professional bodies in drafting standards, the issue of a distinction between psychotherapists and counsellors trained at postgraduate level was still one of considerable conflict and a topic on which the main professional bodies did not agree. In February 2011 the PLG had its last meeting. In that same month, the new government published its policy on regulation, setting out that statutory regulation would in the future only be considered in exceptional circumstances (Department of Health, 2011). Instead, a system of 'assured voluntary registration' was proposed in which the Council for Healthcare Regulatory Excellence (CHRE) would be involved in accrediting voluntary registers maintained by professional bodies.

Discussion

Bondi (2004) has positioned the regulation of psychotherapists and counsellors firmly within an ongoing process of professionalisation, describing initiatives by the counselling field itself (as represented by its representative organisations), to engage in a process of describing, standardising and codifying its activity through, for example, systems to accredit courses and register individuals. This suggests that

debates about regulation ‘from the outside’ need to be contextualised within the ongoing ‘internal process’ of professions. In our view the regulatory debate in the psychotherapy and counselling field and the experience of arts therapists indicates a process model of professions with the overlay of regulation as a potential (developmental) milestone, rather than as the only or end goal.

However, concepts derived from the theory and its application in practice such as ‘social closure’, ‘homogeneity’ and ‘maturity’ wrongly imply that regulation cannot accommodate the diversity that is so much a part of psychotherapy, counselling and the arts therapies. Here we find remnants of the functionalist model implicit in Lord Benson’s criteria – criteria based on a single-profession regulatory model and assuming a hierarchical profession overseen by a single governing body. On the question of diversity, arts therapists have not found that fears of absorption into a ‘medical model’ were founded. Indeed, being part of a multi-professional regulator, we argue, enables each profession to shape its own theories and practices and, perhaps more importantly, enables mythology and stereotyping about ‘the others’ to be challenged. The arts therapies’ seeming comfort with a multi-professional regulatory body might perhaps be accounted for by their training and practice within multi-disciplinary teams.

Market and competition issues also appear to be important to the contrasting experiences of these groups. Arts therapies have always sought to develop their services in the NHS and other public sector organisations, with a relatively small number of private practitioners. In contrast, psychotherapy and counselling has a large private sector, with some modality groups (such as cognitive behavioural therapists) more developed within the public sector than others. As we have noted, the PLG’s work took place alongside other initiatives which some saw as marginalising other forms of therapy. The concept of segmentation would see those modalities as ‘jockeying for position’ in a battle for prominence, in this case, motivated by a perceived threat that the standards or other arrangements for regulation would favour one segment over another. This is mirrored in those areas of conflict between the professional bodies during the PLG process, particularly the question of a distinction between psychotherapists and counsellors, with the positions adopted by each group necessarily reflecting the approaches of those organisations (for example their own entry requirements for voluntary registration).

The experience of the arts therapies is perhaps notable in that three professional bodies were compelled to join forces to achieve a common goal and have coalesced under an umbrella title closely related to that of just one of them (art therapy). Arts therapists have been regulated for more than a decade and given the considerable diversity in the initial arts degree, and within each profession, it is remarkable that there has been no major conflict. Perhaps the fact that each therapy is strongly rooted in its own arts-based practice and has its own autonomous professional body enables this more or less harmonious state of affairs to continue.

For the arts therapies, the professional project was wholly owned by the professions, at least as represented by the three professional bodies. Larson’s professional project, however, perhaps unhelpfully infers that groups are always the authors of their own destiny. Market power is achieved through the persuasion of the sponsoring elite (for example the arts therapists’ petition to the CPSM) but the group itself is the instigator of that process. We suggest that this is a question of emphasis in the model and one which is no longer congruent with present day regulatory thinking. This can be contrasted to psychotherapy and counselling where

the history is that initiatives to obtain regulation have, at least partly, been driven by external forces including government, parliamentarians and service user advocacy groups. Issues of ownership of the professional project could be observed in the unsuccessful development of proposals for an alternative regulatory regime prior to the commencement of the PLG and in the second phase of the PLG where the professional bodies became more active in attempting to 'own the problem' through suggesting an adapted regulatory model and in instigating further work to develop standards.

Perhaps these external pressures, at the level of both regulation and public sector service delivery, and a lack of perceived ownership of the project, help to explain the perception of regulation by some psychotherapists and counsellors as a threat to the diversity of practice. Regulatory policy in recent years indicates a shift in the dominant model, away from a focus on the claims of an individual group to be regulated, with all the associated inference of self-interest this entails, towards a focus on what is necessary to ensure the protection of clients. And what is necessary in this regard is likely to be the subject of continued debate.

Conclusions

The perspectives described in this article are necessarily derived from our involved standpoint and we are cognisant that other commentators may well reach a rather different view. Furthermore, our analysis is deliberately narrow in its focus, applying one critical and theoretical perspective to two case studies, and therefore one could argue that it is limited in its potential for wider generalisation.

Nonetheless, we consider that our analysis has revealed the many complexities in discourse about statutory regulation. To adopt the more functionalist aspects of the professional project and to ask a group aspiring to statutory regulation to demonstrate that it is homogenous, has reached maturity and seeks social closure is to infer a hierarchical, fossilised structure, out of keeping with the individualist, diverse and sometimes radical traditions of the psychological therapies. The fact that some groups (arts therapists, psychologists) have managed to negotiate these potential contradictions is possibly to do with their history of development largely within the public health and social services and their training within higher education institutions where such negotiations are a part of everyday life. This is, however, a critique of the theory and the historic language of its application, rather than to suggest that statutory regulation is inappropriate for these groups. The concepts described above are also very much inconsistent with the reality of regulation, as we see it, and particularly the multi-professional, non-hierarchical model of regulation operated by the HCPC.

During the PLG process, arguments about the importance of maintaining the diversity of psychotherapy and counselling were often made in terms which seemed to reflect the continuing pervasiveness of the functionalist model in how groups think about professions and professionalisation. It appeared all too easy for some in these professions to fall into the trap of a false assumption that regulated professions embrace or exhibit absolute homogeneity in contrast to the pluralism of the psychological therapies. The functionalist metaphor of 'maturity' embodied in the Benson criteria does, however, continue to hold in one important respect. A reasonable degree of consensus as to the scope of activities and entry requirements of a group is typically necessary to reach the milestone of regulation, and we might note

the continuing steps taken in this regard by individual professional associations in respect of their own segments of the psychotherapy and counselling profession(s).

The decision about the statutory regulation of any group ultimately lies with government. The recent change in government policy away from statutory regulation perhaps accords with Macdonald's adaptations of the professional project model which see the 'regulative bargain' as constantly conditioned by the prevailing political culture (Macdonald, 1995). In this bargain, statutory regulation confers benefits for the profession by protection of professional titles, enhanced status and increased recognition. In exchange for these benefits, there is a pledge that the profession must put protection of the public above narrow professional interests through adherence to agreed standards and increased accountability. Furthermore, the shift away from the instigation of the regulatory process by a group itself indicates a new paradigm in which the 'maturity' of a group, and the benefits it foresees in its own regulation, is very much a second order consideration to the primary objective of statutory regulation – public protection. This indicates that the place of regulation in the 'ideal type' of the professional project has changed.

The examples described in this article indicate the applicability of a process model of the sociology of the professions, but with adaptations to reflect the modern context in which the professions and regulation now exist. This article offers one perspective, a starting point that we hope might lead to further and wider reflection on these issues.

Notes

1. The Health Professions Council (HPC) was renamed the Health and Care Professions Council (HCPC) on 1st August 2012. The HCPC is referred to throughout this article.
2. Dance movement psychotherapists are also arts therapists but are currently unregulated and are therefore outside the use of the term in this article.

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