

The drive towards government regulation has nothing to do with public protection and everything to do with power, income and status

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• The onward march of regulation

- by
- Arthur Musgrave

- I am a BACP accredited counsellor and supervisor (individuals and groups) and I belong to a Full Member Group of the Independent Practitioners' Network. I am also a former member of both the BACP Management Committee and the Standards and Ethics Committee.

Enhancing public protection

Sally Aldridge¹ writes that BACP 'has always held a commitment to the principle of enhancing public protection'. When read alongside Alan Jamieson's letter to the Department of Health, referred to by Andy Rogers², it becomes obvious that BACP's position on statutory regulation can no longer be caricatured as a fundamentalist belief that brooks no contradiction, irrespective of evidence or argument. This clarity is welcome.

The next point in Sally's article, that 'statutory regulation through the protection of title and fitness-to-practice processes still appears to be the clearest way to achieve this', reads well – until we look further. More than a decade ago Richard Mowbray³ proposed we should pursue statutory regulation only if the advantages of doing so demonstrably outweighed the drawbacks. One way of thinking about the stalled discussions on statutory regulation is to wonder whether the confusion exists because we still know too little to be able to proceed. This was certainly the conclusion Professor Daniel Hogan⁴ reached in 1979 after undertaking the most extensive examination of the regulation of counselling and psychotherapy. He ended his study by laying down general guidelines and encouraging a flexible, undogmatic attitude of experimentation. His stance is very much proactive. In updates published in 1999⁵ and in 2003⁶, he applied his findings to the UK.

The next couple of paragraphs in Sally's article suggest that there will be regulation, whether or not it is a good idea, partly because NHS commissioners want a shortcut to deciding who to employ (though that seems to be a dereliction of the duty on employers to develop sound recruitment policies) and partly because practitioners want better access to power, status and money. Whatever else they are, these aren't obvious ways of 'enhancing public protection'.

Sally argues that members working as volunteers fear they will be prevented from working within a regulatory system. Dan Hogan puts it more strongly: minorities will be excluded as well as paraprofessionals⁴. It seems clear that regulation will reinforce and enhance the power of those who are already more privileged. As training requirements increase, access is harder for the less affluent, resulting in a reduction in the range of therapists. How can this be in the public interest? What percentage of the adult population is able to earn enough to support a family, pay a mortgage and diploma fees, as well as attend the course, study, do a placement, supervision and their own therapy?

Sally suggests there is 'a concern that regulation will limit the creative freedom of therapists in their work'. Put like this, it sounds as if creative freedom is an indulgence, but the concern is more fundamental. First, there is already evidence that students are keener to sign up for well-established courses, ones that are already accredited. It is therefore more difficult to introduce new trainings. There is a built-in bias towards reproducing the status quo in relation to training, with creativity and innovation being the inevitable casualties. Secondly, discussion amongst new practitioners about regulation is dominated by fear. Few students are willing to pursue outside supervision their reservations about the hurdles they have to jump. This fear is insidious: it undermines the emergence of a critically reflective attitude, so necessary to maturity as a professional.

Sally then suggests that buying therapy is no different from buying other services. The assumption seems to be that there is a defined body of knowledge that can be learned, without mastery of which a practitioner is 'unsafe'. But it may be more useful to view the various professions on a spectrum: at one end, verifiable knowledge that can be tested and without which people die (think of building bridges safely, mathematics and Newtonian mechanics); at the opposite end, therapy – alongside other activities that rely heavily on the quality of the interpersonal relationship, sometimes tellingly referred to as 'the art of the therapist'. In other words, in our field it may not be possible – or appropriate – to identify a sufficient and necessary body of knowledge that can be reliably and scientifically kite-marked. How many BACP members rely solely on BACP accreditation when choosing a therapist either for themselves or for someone they care about? Anecdotal evidence suggests that practitioners ask around carefully before deciding. If everyone is to be on an equal footing, something over and above mere kite-marking is essential.

Finally, Sally argues that, while kite-marking 'cannot ensure that practitioners will always provide a helpful and ethical relationship, it can ensure that clients will always have recourse to a complaints system should things go wrong'. Two points are pertinent. First, there is evidence that recourse to a complaints system is, for many people, a poor substitute for bad therapy, since the process tends to be time consuming, emotionally demanding and, to some degree, unsatisfying to all, including the person bringing the complaint. Secondly, there is the drawback that, to the extent that kite-marking wins public confidence, it encourages people to be that much less vigilant: kitemarks only work well when it offers straightforward, unequivocal guarantees of the kind that counselling and psychotherapy by their very nature cannot give.

A conflict of objectives

Sally's summary raises a major difficulty to do with BACP's structure: 'the view is always to the two main objectives: what is

best for the public and what is best for members'. BACP is an educational charity and everything it does must be charitable. Pursuing the interests of its members isn't a charitable objective and is only permitted if there is no conflict with the public interest. Sally effectively admits that BACP's twin objectives may be in conflict when she says that members want regulation because they believe it will give them access to work, income and status.

In recent years I have had difficulty with the organisational direction taken by BACP and, in particular, with its reluctance to be open about this potential conflict. In 1999, I resigned from its Management Committee because I was unhappy about the way they appeared to be using its educational charity status as cover for a drive towards greater professionalisation not necessarily in the best interests of the public, but definitely to do with the pursuit of greater power and status for counsellors. I didn't think we were taking enough account of the debate about statutory regulation going on outside BAC(P). What I said in my resignation letter was:

I believe that, if BAC wants to retain its integrity whilst pressing ahead for government recognition, it should divide into two entities – one which pursues professional recognition and the other which focuses on promoting counselling. Some of BAC's more intractable problems can be traced to its continued existence as a hybrid organisation. Not least, what is in jeopardy is the moral authority it has acquired over the years as the 'voice of counselling'.

By not being explicit about its mutually conflicting objectives BAC is perpetuating a long-standing muddle, one consequence of which was the Bernard Manning scam. By pressing hard for government recognition without sorting this out, BAC will add to the confusion and expose counsellors unnecessarily to further media attacks.

In December 2005, Andy Rogers asked why no-one within the BACP Executive questioned the move to statutory regulation sooner. When I resigned I sent a letter to *Counselling* explaining my reasons. It wasn't published. Some while later, when I told the then Chief Executive of BAC(P) about this, he was shocked, and encouraged me to resubmit it to what had then become CPJ. But, again, my letter wasn't published.

In the intervening years other dissenting voices have not been heard either – with the exception of Brian Thorne's⁷. You wouldn't know from reading our journal that, for the past 15 years or so, there has been much written in the UK about the merits and demerits of regulation. Because of this, members wanting to be informed have had to turn elsewhere, while others have drifted towards apolitical passivity or impotent resignation. This has had a detrimental impact on the development of our would-be profession.

At the same time – and because of its preoccupation with pressing the case for regulation – BACP has been much less active than otherwise in promoting debate about enhancing public protection. This has inhibited communication further. BACP's attitude is captured in the summary to Sally Aldridge's article: future developments are envisaged as deriving from government reports and meetings and debate among BACP staff, its Board of Governors and Committees. Seemingly, members will be kept updated but not expected to contribute.

New thinking

Recently, divergent thinking and experimentation have taken place *outside* BACP rather than within it. Take, for example, the impressive record of the comparatively small number of people active in the Independent Practitioners' Network. Over the last decade, IPN has carefully developed a workable alternative to BACP accreditation, based on direct and ongoing face-to-face peer-group contact, support and challenge. This can either be regarded as a stand-alone framework or a way of remedying gaps or weaknesses in BACP's paper-based accreditation process. IPN has given new impetus to efforts at more mature ways of mediating when clients complain.

The Network has also inspired two journals – PIN and IPNOSIS – and two important collections^{8,9}. Richard House has articulated a critical perspective¹⁰, while Denis Postle¹¹ has developed a detailed proposal for a 'noncredentialed registration' procedure based on Dan Hogan's work, an alternative to statutory regulation that avoids the negative unintended consequences of the latter. Individuals active within IPN have given strong support to clients who want to put forward their own perspective for us to learn from – the so-called 'Client Voice Movement'¹².

Dan Hogan⁵ is clear about the present situation and what needs to happen: 'The future of counselling and psychotherapy in the United Kingdom would appear to be at a critical juncture today. If restrictive licensing is adopted, I fear the field will be crippled for years to come.' And: 'We need to reconceptualise the entire process of regulation. Instead of an almost exclusive emphasis on control and discipline which restricts practitioners from entering the field, we need to focus on how regulation can help the profession develop.'

He suggests it is wrong to focus on inputs ('standards and criteria governing entrance to a profession') rather than outputs ('licensing should control output, the actual skills, not how they are gained'). This deserves more exploration. *Therapy Today*, for instance, is the biggest single journal in the field; it can and should be a focal point for creative discussion about how public protection can be enhanced. Meanwhile there is plenty that can be done without waiting for action from government. If BACP really is serious about enhancing public protection, it could encourage all accredited counsellors to consider participating in IPN to the point of becoming members of Full Member practitioner groups – or at least embrace the peer practitioner group procedures that IPN has so effectively pioneered.

We, that is BACP the organisation and BACP the members, need to be engaged in much more informed and inclusive discussion. After all, we claim special expertise in dealing with that which isn't being put into words. We are even reminded that we are an increasingly mature body of practitioners. What kind of credibility and self-respect can we have if we do not properly and fully examine and debate key questions about our own future?

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- - References:

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