

State Regulation: a fork in the road?

By Jennifer
Maidman, MBACP,
musician and
integrative therapist



It's been several years now since music became statutorily regulated. You probably didn't even notice. Most people outside what used to be called 'professional circles' weren't aware that it had happened, although it was the subject of considerable anxiety and fierce debate amongst those of us who used to call ourselves 'musicians'. At first nobody thought it would really happen, but relentless pressure from the classical lobby and the music colleges eventually persuaded the government that regulation was needed to protect the public from those who played too loud, too out of tune, or who confused people by using the funny time signatures associated with 'progressive rock music'. And so the Music Professions Council (MPC) came into being. Since then anyone who wants to use the protected title of 'musician' has had to do a very expensive MPC approved course. Those of us who had been playing music for years prior to regulation were offered the chance to buy our way on to the new register of approved musicians, they called it 'grandparenting' for some reason I still don't understand, but most of us turned it down and carried on regardless. We just didn't refer to ourselves as musicians anymore. The MPC's response was to protect all the titles which refer to an instrument such as 'drummer' or 'saxophonist'.

Post regulation I was a 'bass guitarist' until they put that on the list, so right now I'm a 'low frequency sound manipulator'. It has a nice ring to it I think, and when I turn up loud and lay down a James Brown style funky groove, the people seem to dance their troubles away just the same. The Musicians Union had to change its name to something more inclusive of course as they now have both registered and unregistered members. It's called 'Harmony' now. I quite like the new name. There was a bit of a scare for a while when the MPC said we couldn't refer to our work as 'music' or 'musical services' anymore, but then we realized everyone knows what rock, soul, reggae, blues and jazz are. We just don't use the 'M' word!

Ok. I'm making it up of course. I suppose I've used this analogy because it feels close to home. Unlike many of those opposed to the state regulation of counselling and psychotherapy, I am not a full time therapist but a musician. However my interest and involvement in therapy goes back as far as the mid 1970's when I spent a few years in at first, psychoanalytic therapy and later primal therapy at Arthur Janov's centre in Los Angeles. Since then I've been more or less continuously involved in various kinds of 'human condition work', including eight years in a twelve step program and six years of intensive weekly psychotherapy. More recently I trained for three years, qualified as a humanistic counsellor and became a full member of BACP. Music however is still very much my main occupation and takes up most of

my time. One of the perks of the job is that I get to travel all over the world, and in fact I'm writing this article in a hotel room in France, still on a bit of an adrenaline 'high' from tonight's gig. None of the musicians on stage with me earlier were formally trained or went to music college by the way, but that didn't seem to bother the 7000 people who had come to listen and enjoy. Music, like therapy, has historically been an extraordinarily rich and diverse field, with room for everyone from the self taught enthusiast to the highly trained 'professional', the radical improviser to the confirmed traditionalist, and generally speaking, relations between the various 'camps' are characterized by a spirit of mutual respect. I do wonder though, if my fantasy scenario, in which state regulation makes no practical difference and everyone carries on as before, might not be slightly optimistic. What might have happened if the classically trained musicians, the people with the degrees who can read all the little black dots, really *had* persuaded the government that only *they* were legitimate, that only *they* should have the right to call themselves 'musicians' or practice the art of music? Would music still be the vibrant, creative art form we all know and love? Who knows? Would the Beatles and the Stones have stood a chance? What about Chuck Berry, Joni Mitchell, The Sex Pistols or Lady GaGa? Perhaps the classical violinist Nigel Kennedy would have been struck off for bringing the profession into disrepute when someone overheard him playing

jazz at a private party. He does you know. Implausible though my fantasy scenario may be, I believe that the proposed statutory regulation of counselling and psychotherapy by the Health Professions Council (HPC), well intentioned though it may be, may represent an equivalent act of social and cultural vandalism and may, if it goes ahead, demand a similarly radical response.

Perhaps one reason I've resorted to fantasy is that to be honest it's hard to think of anything new to say about state regulation at this point. The case against it has been so comprehensively and, in my view, convincingly made already elsewhere that there seems little point repeating all of the arguments again here. (See for instance Bates & House, 2004; Hogan, 1979; House & Postle, 2009; House & Totton, 1997; Mowbray, 1995; Parker & Revelli, 2008; Postle, 2007). Yet the regulation bandwagon seems to trundle on regardless, perhaps a little more slowly, but still propelled towards its goal by a combination of political momentum acquired under the previous government and the apparent inertia of much of the field. Every now and then there is the obligatory scare story in the media recycling the same old clichés and stereotypes. Regulation of therapy is said to be "long overdue". "Vulnerable people" are described as being "at risk". Clients and patients we are told face exploitation by unscrupulous and unqualified practitioners because "anyone can put up a brass plate and call themselves a therapist". In fact the image of the 'brass plate' has become so ubiquitous that the

possession of one must surely have begun to signify somebody best avoided. Meanwhile those in favour of regulation, usually so keen on 'evidence based practice' remain mysteriously silent when it comes to providing any evidence that statutory regulation would protect clients more effectively than the current status quo. Nor do they offer any evidence as to the level of harm supposedly done by 'unqualified practitioners' (who of course are by definition outside the 'system'). I fear however that I am now beginning to sound a bit like Marvin, the robot from Hitchhikers Guide to the Galaxy: "It's all rather depressing". But actually it is depressing or at the very least extremely tiresome to keep banging one's head against a brick wall of un-reason masquerading as 'common sense'. It's not in my nature to proscribe what other people do, within reason, and to those who sincerely wish to be regulated, my best instincts are to say "goodbye and good luck". However while I am willing to respect their aspirations, it remains the case that my own independence and autonomy may be compromised by the Health Professions Council (HPC) and its followers. I trained for three years as a *counsellor* and I do feel an attachment and a connection to that title and its history within the Person Centered tradition. If I must let it go to preserve my own integrity then so be it, but I know I shall feel outraged that it has been hijacked by people and institutions that self-evidently have little understanding of what the word 'counselling' means to me and many others.

In 1957 Carl Rogers, a pioneer of humanistic therapy and the founder of Person Centred therapy, proposed six conditions as being necessary and sufficient for therapeutic personality change to occur. I'm assuming that not all Self and Society readers are humanistic therapists or familiar with Rogers' work, so here is the key section of his paper:

"For constructive personality change to occur, it is necessary that these conditions exist and continue over a period of time:

1. *Two persons are in psychological contact.*

2. *The first whom we shall term the client, is in a state of incongruence, being vulnerable and anxious.*

3. *The second person, whom we shall term the therapist, is congruent or integrated in the relationship.*

4. *The therapist experiences unconditional positive regard for the client.*

5. *The therapist experiences an empathic understanding of the clients internal frame of reference, and endeavours to communicate this to the client.*

6. *The communication to the client of the therapist's empathic understanding and unconditional positive regard is to a minimal extent achieved."*

(Rogers, 1957, 1990 :221)

The promoters of professionalization and state regulation would apparently like

to add a seventh 'condition' of their own:

7. *The therapist must be a person of professional standing, registered with and audited by a state appointed regulator and in possession of a certificate of competence issued by a training school approved by that regulator.*

I don't know. Maybe it's just me, but somehow it doesn't quite seem to measure up alongside Carl Rogers' brilliantly succinct and timeless work.

If we are to maintain any sort of authenticity *as human beings*, surely we need to be willing to trust and engage at times with feelings, thoughts and experiences which stretch us beyond restrictive social norms such as those that happen to be considered 'professionally appropriate' at a particular point in time by state appointed bureaucrats? In my own experience as a client, it has often been a practitioner's willingness to take risks and challenge taken for granted assumptions which has proved to have the greatest therapeutic effect. The key ingredients for me have always been honesty, empathy and respect between the individuals involved. For the state or its agent to involve itself in any way with that relationship uninvited by me, the client, seems to me to be an abusive process. I also believe that the pro-regulation case is built on an entirely false assumption. It seems to be simply *assumed* by proponents of state regulation (usually professionals themselves or clients who have only had experience of

professional therapy), that the *process* of 'psychotherapy' or 'counselling' can (or should) only take place in the presence of a trained and qualified 'professional' psychotherapist or counsellor. My own experience, and that of many others, is that this is simply untrue.

For many years I've been active in the twelve step movement, a loose affiliation of voluntary and entirely non-professional 'fellowships' which provide a great deal of 'therapy', in both group and one-to-one settings, to millions of people around the world. (Alcoholics Anonymous is the best known twelve step fellowship, though out of respect for the tradition of public anonymity, I prefer not to say which fellowship I'm a member of myself). Nobody has a fixed role or title in a twelve step fellowship, there are simply 'service positions' which can be filled by any member at any time on an ad hoc basis by mutual consent. I've been to hundreds of twelve step groups and I've seen some extraordinary examples of psychological healing and growth take place there. It's true that twelve step fellowships usually focus specifically on particular problems such as addiction, but then so do many professionals. In fact in "Further Along the Road Less Travelled" the author M. Scott Peck aptly referred to the twelve step movement as 'lay psychotherapy' (Scott Peck, 1993). Having also had many years experience as a client in professional therapy, and spent time working as a counsellor myself in general practice, I believe that whilst the structures

and boundaries may be different, from the perspective of one who receives the benefit of the therapy there is no inherent, qualitative difference between a professional and non-professional therapeutic process. Furthermore, there is solid evidence to back this up. A substantial body of research has found that formal training is only *one* route to becoming an effective practitioner and that non-professional or 'lay counsellors', without formal training can be at least as effective as trained professionals in many settings. (e.g. Karlsruher, 1974; Durlak, 1979; Berman & Norton 1985; Burlingame & Barlow 1996; Bright *et al*, 1999). Clearly, the interpersonal and intrapersonal *process* denoted by the word 'psychotherapy' (as opposed to the socio-economic roles and behavioural norms with which that process often coincides) can and does take place in the absence of professional practitioners of any kind. The same could be said for 'counselling' of course.

The twelve step movement incidentally has itself had an interesting and somewhat ambivalent relationship to the professional field since it first appeared in the 1930's. The founders of Alcoholics Anonymous ('AA'), the first and still the largest twelve step fellowship, were well aware of the pitfalls of professionalization and advised strongly against it in guidelines worked out in the late forties and published in 1953. They suggested that "*twelfth step work should remain forever non-*

professional"(AA,1953).To this day, although the twelve step model itself has now been quite widely adopted by professionals, AA and the other fellowships which spun off from it such as NA, Al-Anon and CODA have stayed true to that original ethos. A thorough reading of the early literature reveals how highly the early twelve steppers valued the non hierarchical structure of the fellowships they started and how by avoiding professionalization and affiliation with any other institution or enterprise, they hoped to prevent as they put it: "*problems of money, property and prestige diverting us from our primary purpose*" (AA, 1953). Their sole priority was to bring help to those who needed it. Given the rather undignified pursuit of professional prestige and market share which sometimes seems to characterize the professional field today, perhaps AA's founders could still teach us a thing or two.

Of course the twelve step approach is just one way amongst many to work with the human condition, and it's entirely possible to earn a living as a professional psychotherapist or counsellor (or musician!) without compromising one's integrity. The present attack on pluralism and freedom of choice comes not from the twelve step movement or any of the other groups and individuals who reside on that wide prairie which Denis Postle has called "the psychological commons", but from the professionalizers and would be regulators. The HPC may pay lip service to diversity and openness, but the reality is that its entire raison d'être, despite the no doubt noble intentions of

its staff, is inevitably to standardize, to audit and to foist a stifling conformity on everyone and everything it touches. HPC, Skills for Health, NICE and their ilk are the very embodiment of the old modernist worldview, wherein human experience is conceived as if it were always measureable and comprehensible in terms of its observable, material world correlates. They make maps and then confuse the two dimensional map with the multi-dimensional territory in front of them. The philosophy which underpins HPC and other institutions like it is, in my view, part of the very problem many people enter therapy in order to address. How on earth can it make sense to give such an institution power over the entire field of counselling and psychotherapy?

I want to say something briefly about a band I played with for many years because it seems somehow relevant here. The Penguin Cafe Orchestra (PCO), of which I was a member from 1984 until 2007, was started by my friend Simon Jeffes in a garage in 1976. The PCO was actually more of a loose collective rather than anything as organized as an 'orchestra'. Its guiding ethos was a belief that a world which cannot give space to the random, the accidental and thus occasionally the unfortunate, becomes a place of 'ordered desolation', a world in fact devoid of spirit, heart, or soul. The PCO, somewhat to Simon's surprise I think, became internationally successful, and we toured the world for many years until

Simon sadly died in 1997. The PCO embodied its own ethos not just through the music, but also in its eclectic line up, which in concert featured a mixture of trained classical players, jazz musicians, and an amateur ukulele enthusiast, as well as rock refugees such as myself. In fact as Simon readily admitted, the whole idea of the PCO had been somewhat accidental:

*"In 1972 I was in the south of France. I had eaten some bad fish and was in consequence rather ill. As I lay in bed I had a strange recurring vision, there, before me, was a concrete building like a hotel or council block. I could see into the rooms, each of which was continually scanned by an electronic eye. In the rooms were people, every one of them preoccupied. In one room a person was looking into a mirror and in another a couple were making love but lovelessly, in a third a composer was listening to music through earphones. Around him there were banks of electronic equipment. But all was silence. Like everyone in his place he had been neutralized, made grey and anonymous. The scene was for me one of ordered desolation. It was as if I were looking into a place which had no heart. Next day when I felt better, I was on the beach sunbathing and suddenly a poem popped into my head. It started out 'I am the proprietor of the Penguin Cafe, I will tell you things at random' and it went on about how the quality of randomness, spontaneity, surprise, unexpectedness and irrationality in our lives is a very precious thing. **And if you suppress that to have a nice***

orderly life, you kill off what's most important. Whereas in the Penguin Cafe your unconscious can just be. It's acceptable there, and that's how everybody is. There is an acceptance there that has to do with living in the present with no fear of ourselves "

Simon's genius I think lay in his ability to trust and act upon the random and the irrational. For instance one PCO tune, "Telephone and Rubber Band" was the result of Simon obtaining both the ringing and engaged tone simultaneously on his phone one day. He noticed that an interesting rhythm was being produced and rather than hang up he recorded several minutes of this on his Walkman. With the addition of a 'rubber band bass' and a few distinctly out of tune violin parts one of the PCO's best loved pieces was born. Isn't it often a similar ability to engage with what is unusual, out of place or at first feels 'wrong' that sometimes underpins the therapeutic process? What chance this playful but occasionally challenging attitude will survive in practitioners who have the state regulator looking over their shoulder? Better to play it safe perhaps?

'Risk' in fact seems to have become a bit of a dirty word recently. As the sociologist Frank Furedi has pointed out, the word 'risk', which once signified an action with at least the possibility of a positive outcome, has metamorphosed into something approaching an autonomous entity (Furedi, 2008). An entirely new concept has evolved, the idea of 'being at risk'. To be 'at

risk' has become an attribute which can be ascribed to an individual and potentially become a permanent attribute of their identity, *even though no harm may have actually taken place*. This then justifies the proliferation of institutions who claim to be able to manage or neutralize the risk, such as the HPC. Thus in the stereotypical discourse of the pro-regulation lobby clients are habitually depicted as being 'at risk' from unregulated or unqualified psychotherapists and counsellors. The 'rogue practitioner' has become something of a mythical figure, a convenient monster ready to step in and muddy the waters whenever rational argument threatens to bring some clarity to the debate. It may be more palatable to believe that the threat comes from those *outside* the mainstream professional institutions, but according to Kenneth Pope, widely accepted as the foremost researcher into abuse and boundary violations by practitioners, clients are if anything *more* likely to have their trust abused by high status, highly qualified people. Pope says: "*there emerged a stereotype (and, regrettably, it may have been cultivated by an embarrassed profession), that therapists who sexually abused patients were those marginal members of the profession who were most poorly trained*" (my emphasis). Pope goes on to say that: "*Sexually abusive psychotherapists cannot be dismissed as the most marginal members of the profession. They are well represented among the most prominent and respected mental health*

professionals." (my emphasis) (Pope,1990). Certainly the two worst cases in the UK, which led to a government inquiry, involved highly respected NHS psychiatrists who for years got away with sexually abusing their patients. One incredibly, was a teacher of medical ethics. As I write, I see in the news this week that another psychiatrist has just been struck off for abusing a patient and a further case is currently before the GMC. It would appear that registration and regulation are not all they are cracked up to be. So since it obviously offers me no extra protection, I think on balance I'd rather not have my counsellor or psychotherapist state approved or audited thank you very much. I hope the HPC will respect my choice. I'd prefer my therapist to be a free agent, someone a bit wild, and not scared to get things wrong once in a while. I believe it's called Humanity.

If the HPC should succeed in adding the words 'counsellor' and 'psychotherapist' to its ever expanding regulatory portfolio, and they are after all only words, they certainly can't capture or cage the fundamentally human process those words signify for me and many others, anymore than regulating the word 'music' would stop me from creating the joyous noise I love so much. Authentic, respectful encounter between persons, spirit to spirit, soul to soul, will always offer extraordinary potential, not only for the healing of past hurts, but also for the growth of the individual and the community. Ronnie Laing, who was by all accounts a complex, fallible, but

very human man, practiced psychotherapy during the sixties and seventies. He pioneered the existential approach, and wrote eloquently about the politically and socially constructed aspects of individual experience. I find his words still very resonant today: "*They will say we are regressed and withdrawn and out of contact with them. True enough, we have a long, long way to go back to contact the reality we have all long lost contact with. And because they are humane, and concerned, and even love us, and are very frightened, they will try to cure us. They may succeed. But there is still hope that they will fail*". (R.D. Laing, 1967)

It's just occurred to me that probably the nearest thing we ever had in this country to 'state regulated music' was in the early 1960's. In those days BBC radio, which had a monopoly on broadcasting at the time,

severely restricted the airtime available to pop music. I still remember that sinking feeling I had every Sunday night as the syrupy dirge of 'Sing Something Simple' took over the Light Programme at seven o'clock. Readers of a certain age will know what I mean and will also remember how the pirate radio stations quickly sprung up just outside the limits of UK territorial waters playing the kind of music we wanted to hear. It took a few years, but eventually of course the government caved in to the inevitable, allowed a lot more freedom and diversity, and relinquished its exclusive control of the airwaves. So if things get really bad, I've got an idea. There's an old wartime fort about twelve miles straight out to sea from my house. Apparently Screaming Lord Sutch had a pirate radio station there in the sixties. How about the world's first offshore psychotherapy and counselling centre?

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Jennifer Maidman is a singer, musician, composer and humanistic counsellor. She trained as a humanistic therapist at Thanet College in Broadstairs. She has played with many well known artists including Gerry Rafferty, Joan Armatrading, Robert Wyatt and Bonnie Raitt. When not on the road she lives by the sea in Kent with her partner, the jazz trombonist Annie Whitehead. She can be contacted by email at jennifermaidman@ntlworld.com
www.earthmusic.com/jennifer.htm