

## Who Owns the Soul?

*Setting the renewed – and seemingly eternal – battle about regulation of counselling and psychotherapy against a wider back-drop.*

**Andrew Samuels**

### A WAR BREAKS OUT

In the United States and Britain, with resonances in other Western countries, a full-scale war has broken out regarding emotional distress and illness: how we talk about it, whether we try to measure it or not, and – crucially – what we do about it. Behind this war over ownership of the soul lies culture's profound ambivalence regarding psychotherapy and counselling. Many societies have opted for what they believe to be a quick and effective form of therapy, Cognitive Behaviour Therapy (CBT), which, proponents say, has been scientifically measured to have proven effects in relation to sufferers of anxiety and depression.

But if you read my last sentence again, you will see just below its surface the main grounds upon which the war is being fought. Are there really separate diseases called 'anxiety' and 'depression'? No-one in the field seriously believes that, hence the coinage of the term 'co-morbidity'. And whether or not you can measure either the illness or the cure is such a hot topic that it will be keeping university Philosophy of Science departments busy for years. Is there such a thing as an 'effective' therapy? Don't people keep coming back?

Recently, a further front opened up in connection with the proposed Diagnostic and Statistical Manual (DSM) of the American Psychiatric Association. Many established professional bodies are concerned that there is going to be an over-easy pathologisation of what are really ordinary – if difficult and painful – human experiences such as grief. If the draft DSM doesn't get changed, then the psychiatrists will win the war.

But will they actually win? The stock-in-trade of psychiatry is drug treatments and, recently, a series of books and scholarly papers have appeared (notably Irving Kirsch's *The Emperor's New Drugs: Exploding the Antidepressant Myth*) that cast doubt on the reliability of the research that seems to support such treatments. Kirsch's point is that the methodology that underpins such research – randomised controlled trials (RCTs) – is liable to many kinds of distortion. For example, if a patient is given a placebo with a mild irritant in it, she/he will assume they have been given the actual drug being trialled (all drugs have side-effects, don't they?) and - Hey Presto! - they get better.

In Britain, there is great interest now in discussing the pros and cons of RCTs because they are effectively used to ration therapy on the National Health Service. Well-established approaches, such as humanistic and integrative, family systemic and psychodynamic are vanishing from the NHS. But it is too easy to dismiss RCTs as totally unfavourable when it comes to the effectiveness of therapy, even though many of us believe that to be the case. Overall, the facts are friendly. The reason why counselling and psychotherapy are under attack is as much political as anything else.

Things are happening on the NHS political front. The United Kingdom Council for Psychotherapy (UKCP) is performing a useful leadership function in trying to get all the warring powers to sit round a table together. It is early days, but the UKCP is hoping that a 'both-and' approach to competing research methodologies will mean that patients and clients in Britain will be able to get the fullest possible range of effective psychotherapies on the NHS.

In addition to the professional and academic challenge and dialogue mounted by UKCP, as the lead professional body for psychotherapy in the UK, a new campaign promoted by the Alliance for Counselling and Psychotherapy (a pressure group drawing support from across the field) called for an independent review of the *non-RCT* evidence for the efficacy of psychotherapy and counselling. There's masses of such evidence, but the government agency that draws up guidelines for treatments on the NHS does not recognise the methodologies that underpin this research. At times, the National Institute for Healthcare Excellence (NICE) does seem to have been captured by the proponents of RCTs and – due to the way in which it has been researched via RCTs – by CBT. The Department of Health claims that NICE is beyond its control, which, frankly, has left many observers gobsmacked.



The Alliance launched a petition that has attracted over 6000 signatures from psychotherapists and counsellors in a short space of time, including many proponents of CBT who clearly want to put the formation of a balanced approach to therapy ahead of their own sectional interests. This is the largest expression I can remember of public dissent by psychotherapists and counsellors who have, traditionally, been rather reticent and apolitical.

#### **REGULATION OF COUNSELLING AND PSYCHOTHERAPY**

The war over the soul is the essential backdrop to that perennial dispute within the fields of counselling and psychotherapy over 'accountability' and its operational derivative – regulation.

The Labour government's plans for statutory regulation via the Health Professions Council (HPC) were scrapped by the Coalition government. Let's be clear about why this happened. It was by no means solely due to the change of administration. That's just a face-saver put about by those who expressed slavish adoration of the HPC scheme.

Then there was the Judicial Review brought by opponents of the HPC scheme on the grounds that there had been no research done into whether the field really needed statutory regulation or what kind there should be. HPC assumed that it was a done deed. The result of the preliminary hearing in court confirmed the view of many opponents of HPC, including myself, that there had been many departures from correct procedure and, I am sorry to say, considerable sleight of hand on the part of the leadership of HPC. The Department of Health was never going to back the bunch of losers and incompetents that the HPC leadership showed themselves to be after Judge Burton delivered his verdict.

It was also convincingly made clear by opponents of HPC, such as the Alliance for Counselling and Psychotherapy, that the whole model was deeply flawed and unsuitable for these professions. A prime example of this lack of fitness for purpose was the legalistic, adversarial and often quite absurd system of complaints operated by HPC.

Last, but by no means least, the anti-HPC groupings simply won the battle of ideas. We heard this from the horse's mouth, high up in the government. Ministers understood that no evidence existed to suggest that there is a public safety risk that would warrant statutory regulation.

The anti-HPC forces were not, on the whole, against any kind of regulation of, or accountability framework for, counselling and psychotherapy. In a sense, they echoed the doubts of those colleagues,

required by their office or other reasons to engage with HPC, who could remember how recently HPC became the official policy of the professions. Such individuals did their duty but let it slip, often in public, that they didn't much care for what was being enforced by HPC.

Before looking at what the government has now proposed for us in any detail, I want to say in these pages, as I said in my role as chair of UKCP many times, that I do appreciate how hard it is for the supporters of HPC, especially those whose backing was genuine, to come to terms with the demise of statutory regulation. Even after a written parliamentary answer by the minister responsible made it 100 per cent clear that there will be no statutory regulation, disinformation from sources such as the inappropriately named pressure group 'Integrity' continued to agitate for the profession to declare itself a pressing public safety risk because that might trigger the government's desideratum for potential statutory regulation.

Just think how weird that would be: we would go to the Department of Health and tell them we had evidence that our work presented a pressing public safety risk. What evidence? There hasn't been a single reputable study pointing to such a conclusion. The British Association for Counselling and Psychotherapy (BACP) found that in the latest ten-year statistics period, there were only around 90 serious complaints – in an organisation with tens of thousands of members.

There was, and is, a problem of incomplete mourning over statutory regulation. If I had been a supporter of HPC, I think I'd be pretty cheesed off and sad. No-one likes to lose. And some sectors of the professions, especially humanistic and integrative psychotherapists, really did believe that their standing would be enhanced by belonging to the same statutory register as other mental health professionals. For some, the statutory protection of their title would have been a meaningful gain. Such individuals were dismayed when legal advice confirmed that 'alternative professional accountability' would be in order: don't call yourself a psychotherapist or counsellor (try therapist or psychoanalyst) and get under a decent system for complaints, and you will be fine. We were going to have this option at UKCP for those who did not want to be under HPC, but the policy changed and there was then no need.

In spite of what I have just written, I do manage to empathise with those who felt that stopping a situation wherein anyone could call themselves a psychotherapist or counsellor would be changed for the better by law. Frankly, if the supporters of such a change had managed to detach their goal from association with HPC, many more would have been as interested. But instead, the supporters of HPC insisted that HPC was the right, the only, the best way to regulate the professions. They became fanatical, and this tendency exists today in relation to that magical acronym 'HPC', as we shall see in a moment.

You may ask why the supporters of statutory regulation by HPC have degenerated in this way. Some of it is markedly personal. Some of it may be understood as an inability to manage a changed circumstance. Some continues to be fuelled by the hope of personal (and institutional) advancement if closely involved in a governmental agency. So it is perhaps some mixture of hurt feelings, authoritarianism and conservatism, and as-yet unsatisfied greed, that has produced this hypnotic state in which 'HPC' seems to turn some people on.

The government's scheme of assured voluntary regulation (see Douglas Bilton's article, this issue), is, in my view, the least worst scheme I've seen. In a moment, I'll detail where I think it needs changing. Now, let me explain for readers of *Self and Society* what this scheme, to be run under the Professional Standards Authority (PSA; previously the Council for Healthcare Regulatory Excellence) will look like.

Voluntary registers that have been established for more than two years will, if they meet the quite reasonable criteria, receive a stamp of approval from the PSA. Anyone (anyone at all) on these registers will be able to mention this in their self-descriptions. And the PSA will make sure that employers understand that this is a significant increase in regulation, and that it will be wrong not to recognise it

as such. Specifically, assurances have already been given that anyone on a PSA assured register will not lose out in terms of jobs by comparison with someone on the existing HPC statutory register.

The point about jobs is, of course, crucial. But – and here I speak with knowledge gained as chair of UKCP – the awful attacks on psychotherapy and counselling in the NHS have nothing to do with the regulatory situation. Senior medical psychotherapists are losing their jobs as well. Nor has this anything at all to do with psychotherapists and counsellors finding themselves working under other mental health professionals. True, this does happen – but it would not have changed if we were under HPC statutory regulation. Ask the Art Therapists; they are HPC registered – and yet rarely get to lead teams and services which include other mental health professionals.

The charges that PSA will be bad for jobs and for prestige are, sorry to say, smear tactics fuelled by the unresolved mourning and hypnotic infatuation following the abrupt removal of the HPC option last year. Beware of such smears! When I was running for chair of UKCP, these same smearers said that a vote for me and my anti-HPC line would be a vote for losing jobs. Good (dirty) politics – but, as I've shown, not true.

The smears are currently being used to promote the virtues of the joker-in-the-pack: the government's having left open the door for HPC to play a role in the regulation of counselling and psychotherapy by opening a *voluntary* register for us. Let's be forensic about this possibility (bearing in mind that we don't in fact know if HPC *will* seek to do this, and they are careful to make this clear).

We would be faced with the invidious situation in which an organisation whose entire business to date has been based on law were now offering a voluntary set-up to professionals, many of whom have now made it clear how uncomfortable they are with HPC's entire approach to its work. How confusing it will be to the public to be faced with a voluntary scheme run by a statutory body. Is it fair that a statutory body should be enabled to compete with voluntary bodies in a field that is in the process of being registered under the new scheme the government has proposed?

The Department of Health is on to these anomalies and confusions. For example, HPC's potential voluntary register must be self-financing; HPC cannot syphon off the profits from statutory regulation to subsidise a voluntary register. So, how is HPC supposed to finance its voluntary register then? It means that they will have to go to the Department of Health to ask for start-up funds. If they do so, there will be an outcry from those who do not consider HPC an appropriate regulator for us in any way, shape or form. The perception that, for some at HPC, 'capturing' (their word) psychotherapy and counselling has become a personal obsession will be strengthened.

The Department has also made it clear that steps should be taken to prevent any misunderstanding: a professional under HPC voluntary regulation is not under any circumstances to be muddled up with a professional under existing HPC statutory regulation. So, advancement by association with the HPC brand has been ruled out ahead of time.

Actually, I can't see why any individual psychotherapist or counsellor should want to join the HPC voluntary scheme, even if there were to be one. But, unlike the pro-HPC constituency, I will strongly support the right of any individual to put their name on a potential HPC voluntary register. I would want to be consistent and ethical about it. For, as chair of UKCP, one of the most notable achievements I managed was to create a situation where the rights of minority groups would be honoured and respected. At that time, the anti-HPC folk were the minority. Now it might be those wanting HPC voluntary regulation. Let them have it, if they want it. But not at the price of smearing the good-enough scheme that the PSA will run.

Incidentally, even if it turns out that the majority of UKCP members wanted to register under a potential HPC voluntary scheme, the UKCP's register as a whole is still going to come under the PSA scheme. And quite soon, for the discussions about it have gone well. PSA is interested in co-creating with the profession what they call a 'right-touch' regulatory set-up. Rather different from working with the HPC, to be sure. HPC's system of consultations and professional liaison groups masked the true state of affairs in which the HPC leadership runs the show.

Please don't give credence to the idea that there has been an improper process, or no consultation in connection with UKCP's participation in the PSA scheme. The Board and the major committees were consulted, and the membership are to be given the chance to approve or refuse their register coming under PSA. It's shameful that the very people who, when they ruled the roost, refused proper discussion of the HPC statutory scheme now – quite falsely – accuse the UKCP of failing to consult this time round. Both candidates in the recent UKCP election for chair supported the PSA scheme, and when I was elected on an anti-HPC ticket the proportion voting for me was two-to-one.

There is one area where the new critics of the PSA scheme do have a point. It will not be as divorced from the profession-as-it-is as HPC, and I hope that PSA's scrutiny of the voluntary registering bodies (such as BACP and UKCP) will be stringent. UKCP has already recognised that it must improve its complaints system which, as I said when chair, is riddled with cronyism, amateurism and legalism. What is beginning to emerge at UKCP will be much better – and certainly better than HPC's complaints system which mainly benefits the lawyers.

I will conclude with a couple of points that I hope will be taken up by progressive forces within psychotherapy and counselling. We need to get PSA to think a bit more out of the box. At the moment, in order to get their imprimatur as an individual you will have to be on one of the voluntary registers they assure. Whilst most psychotherapists and counsellors will probably be on such a register, I think there is an important minority that will not. PSA needs to find a way to enable these individuals to come under its aegis. For example, a new organisation might be created from scratch which would enable therapists who don't want to be on the UKCP or BACP registers to attain regulation at a level that would command public and professional support. If PSA doesn't do something like this, then it will enshrine the exclusivity of the current scene in which the big registering bodies hold sway. Those of us who led the fight against HPC, and took a lot of personal battering in the process, must continue to be vigilant against hegemonic and oppressive tendencies that are the shadow of what – I repeat – is basically a good-enough scheme.

There's also a pressing need to find a way that clients' voices can be heard, perhaps as part of the PSA structure. We are finding, in connection with attacks on NHS psychotherapy services, that patients will step forward and give testimony to committees and commissions. They value their treatment and do not wish to see it removed from the range of treatments on offer. And the stigma attached to receiving counselling or psychotherapy is reducing. There is, therefore, no reason why the clients should not be an important element in a tweaked PSA system.

In conclusion, the intent of this piece has been to set the on-going regulation dispute in a larger relevant context – something which has very rarely been attempted, and I must own up to not having done it quite like this hitherto.

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