

## Response to Proposals on Statutory Regulation

By Paul McGahey

Published in PCQ Aug 07

‘Professions seek a monopoly over an area of economic activity supposedly to protect the public from incompetent practitioners (‘non-maleficence’), but they have in practice tended to become perpetually over-concerned with the establishment of, the protection of, and the enhancement of their own social status and economic position. In view of this well-documented hidden agenda, the statements of the professional bodies should not be taken on trust but rather regarded with appropriate circumspection’ (Mowbray R. 1995, p33). Richard Mowbray refers to the above as the phenomenon where (client) protection is used as a justification, and simply masks *protectionism* (for the profession).

This writing takes a deliberately critical stance in regard to recent moves towards statutory regulation (SR). The accepted mainstream take on SR seems to be that it is ‘inevitable’ and that on balance it will be of immediate benefit to the client and ultimately the profession too. In this news article I attempt to expose some of the errors and anomalies around the arguments in favour of SR. I also hope to demonstrate that this is a subject that is worthy of our attention, something which we cannot afford to ignore. Now I find this subject fascinating – it brings out the ‘conspiracy theorist’ configuration in me. But at first I came to it partly out of distress, a feeling of helplessness and quiet desperation about what seemed to be in the air. I wanted to try to understand the implications of what was happening and be able to anticipate the potential threats to the future of person-centred therapy in this country.

In the May issue of PCQ a critical letter originally sent by Colin Lago to the BACP journal *therapy today* was printed. At the time of writing (mid-June) that letter hasn’t surfaced in any issue of the journal or on their website [www.therapytoday.net](http://www.therapytoday.net) I find it curious and slightly disturbing that Colin’s letter wasn’t considered for publication, especially as it was written with such passion, precision and gravitas. I am not sure what to make of that because other critical letters were published, for example in April Roger Casemore’s and Simon Spence’s letters were published in the *therapy today* journal and Maggie Pollard’s on the website.

If you are feeling dazed and confused about the recent proposals for regulation, then don’t worry, that’s normal. This is a huge and complex area but I believe that it is possible to understand many of the relevant issues and begin to distinguish the wood from the trees. This writing is intended as a partial and selective *rough guide* to the process. However, be warned there are so many red herrings out there we could stock an entire fishery. It is so easy to lose sight of what Denis Postle calls ‘the big picture’, when we get too caught up in the details. And there are so many details! Witness, for example the 93 pages of the 4<sup>th</sup> draft of National Occupational Standards of core roles and core competencies proposed by ENTO – each page beginning with either ‘You must be able to ...’ or ‘You must know ...’. That’s a lot of *musts* and a lot of competencies to remember. Mercifully Denis’ new book ‘**Regulating the Psychological Therapies**’ (see below) published by PCCS, has arrived with exquisite timing. This is an indispensable guide to the Machiavellian intrigues and subtleties of the parties involved in regulation process.

Reading his book, it feels like we are at the crossroads – there may be time to re-consider and turn back but it may be too late.

As this is such a daunting subject it is tempting simply to withdraw from the whole process by abdicating responsibility to our respective professional bodies. This is a risky strategy though as we have to be able to trust the integrity of these organisations. The problem here is that all the major bodies are explicitly committed to the establishment of a counselling/psychotherapy profession through statutory registration. They have revealed their hand and their behaviour is driven by a political imperative which has the goal of SR as its final destination. What is missing of course is something resembling an adequate consultation with the membership. I believe that it is disingenuous of the BACP to pretend that its membership is truly being consulted. There has been an almost complete absence of rational debate based on a balanced, informed argument. What we get instead is just a series of assertions without any proper empirical basis. Also, witness the anodyne results of the consultation exercise in May's *therapy today* (pp35/6). There is a kind of hysteria which substitutes for authentic dialogue. When these assertions are challenged there is no meaningful engagement as though the whole project would collapse when subjected to close scrutiny. Instead we get repetition of the very same rhetoric. This is how propaganda works and represents an example of the use of power without substance. In a sense we are regarded like children, without the capacity to make mature decisions based on the evidence. What we get instead is a token consultation. With the victory in sight and the result in little doubt, our professional bodies can afford to print a few critical letters because it won't make any difference anyway. All this tends to encourage a passive, docile response from members who are only required to acquiesce. Maybe it's time to raise our heads from the sand before in Mowbray's immortal line 'they add the cement'. We need to be alert because what's on offer is a very poor deal where we may have to surrender the very things we hold most precious. The carrot of professional status and economic privilege is dangled together with the stick of threatened exclusion – a potent mix.

'The push towards state regulation emanates from an alliance of training and accrediting organisations (BACP & UKCP) concerned with extending control over entry into therapeutic practice. Deploying a mantra "for the protection of the public" has served to deflect and depress discussion of what is at stake. Neither counsellors nor psychotherapists nor the public have been adequately consulted nor are in any agreement that this is what they want. The case against state regulation has already been comprehensively argued in two books (*see below*) in print for the last ten years and in numerous articles. To date the lobby for state regulation has largely avoided engagement with the argument, as if they recognised their project would not stand up to the test of open debate, instead pressing ahead behind the scenes while claiming to represent an (invisible) consensus'. (Guy Gladstone. Ipnosis website. Archive. *My emphasis*)

In his excellent and finely-judged analysis in May *therapy today* (pp 20/1), entitled '**Regulating the Risk of being Human**', Simon Spence's describes most of the key threats to therapies that rely heavily on the humanity and authenticity of the counsellor/client relationship. He says:

'I have a suspicion that, in the drive towards regulation, we may be being seduced by the apparently attractive notion that, if we are competent enough, we can have risk-free relationships in counselling and

psychotherapy, and that this would be a 'professional' thing to desire. Not only do I think that this is impossible, I also think that the aspiration itself is anti-therapeutic'. (pp 20/1)

Later he concludes:

'If we accept a very narrow definition of our 'competencies' – one that does not do justice to the human realities of uncertainty and vulnerability, nor to the art, and spirit, of human relating as well as its science – then we should not be surprised to find ourselves in a much smaller and impoverished therapeutic world, which, whilst it might satisfy those who for their own reasons may want more certainty, security, and a more solid 'professional' status, will ill serve the variety, individuality, and humanity of our clients and the experiences they take the risk of sharing with us'. (p 21)

I keep having a recurring dream about the creation of a new generation of sophisticated androids with artificial intelligence that have been programmed with the whole range of 'core competencies'. They leave the production line repeating the mantra 'stricter boundaries, safer practice'. But then things take a sinister turn, when it's discovered (too late) that there is a fatal flaw in the design, and despite a product recall they have run amok.

Where does all this leave us as an active person-centred community, with our strong radical tradition of dissent? Carl Rogers and his colleagues established and then managed to position CCT as an academic discipline firmly in the mainstream of therapeutic activity in the 1950's. We have always been aware of and proud of this radical tradition. However, there is a tension in that we need to be both *apart from* and a part of the system – if we position ourselves totally outside then we risk (further) marginalisation.

"A society needs a healthy fringe – a fringe that is on the edge but not split-off in cult-like isolation. It is the seedbed from which much of what is novel will spring. It is where ideas ahead of their time will germinate and grow, later to be adopted into the mainstream. In order to remain a fertile seedbed the fringe needs to be legitimate rather than driven underground or 'criminalised' – which would stifle it, but also it must not be absorbed into the mainstream – which would stultify it with 'establishment' thinking and respectability. The necessary ethos of positive experimentation would be smothered by a climate of negative anticipation. In many countries the 'fringe' in this area is already outside the law and its activities subject to the whim of regulatory board, usually dominated by professional interests. The 'mavericks' have been made 'outlaws'. (Mowbray R. 1995, p 199).

I have listed below some of the resources that have helped me through the SR maze. The pro-regulation case seems to me, on close examination to be so flawed that it simply does not stand up to real critical scrutiny. Ironically, it is based not on evidence but on an ideological stance and on the 'indisputable' rhetoric that in an unregulated market SR will obviously provide the necessary safeguards for the public against unprincipled practitioners. As people like Richard Mowbray show, this simply isn't true. I believe that education and heightened awareness still have a major role to play. I also feel that as responsible practitioners we actually have a duty to resist this process. *I wish to acknowledge the efforts of Andy Rogers whose contributions over the years in BAPCA and BACP journals questioning the whole SR project frequently stood out as a lone voice.*

Below I have listed some of the resources that have helped me begin to see the *wood for the trees*.

**Denis Postle's** new book, published by PCCS, with the title '*Regulating the Psychological Therapies*', with the brilliantly apt sub-title '*From Taxonomy to Taxidermy*', describing the 4-stage process culminating in state regulation as *mapped, measured, captured and stuffed*. This light hearted sub-heading disguises an absolutely serious project – a commitment to deconstruct, elucidate and importantly resist the registration/regulation process in the UK over a period in excess of fifteen years now and still continuing. A task as far as I can discern carried out with all the courage and determination, unrelenting rigour and professional integrity of the best investigative journalist (hardly surprising that he was a BBC documentary film-maker in a previous life). I recommend this book unreservedly. Its arguments are so well put together that it's difficult to put down.

Postle has primarily the UKCP in his sights, due to its desire to 'own' the title of 'psychotherapist' and thereby (post-regulation) to consolidate its grip on the market. He argues that this whole debate about regulation is less about the mantra of 'client protection' as the UKCP and Government constantly asserts, but all about a 'trade association' (not a profession) capturing and protecting its market. And a very lucrative market it is too! It doesn't take much imagination to realise that the power to take control of the psychotherapy market and to have it endorsed by the state involves potentially huge rewards for its associated training organisations and its members in terms of status and privilege. It also raises serious questions about the potential for abuse of power within our governing institutions, like BACP and UKCP with cultures of fear becoming installed and increasingly institutionalised. Due to its very different historical origins and development and without some of the bitter and deep internecine struggles that have occurred within UKCP – mainly due to the analysts' assertions of their innate seniority (or superiority), BACP is a very different matter. What we have to try to ensure is that the same doesn't happen in BACP. But it may already be too late.

Fantastic resource: articles on **Ipnosis** website <http://ipnosis.postle.net> under 'Archive' sub-heading, managed by Denis Postle. I particularly recommend articles on '*Shrink-wrapping Psychotherapy*' and '*Gold into Lead*'. Both superb. **(N.B. Denis Postle will be coming to do a presentation on SR at the BAPCA conference: Friday pm slot.)**

The **second** resource I would recommend is **Richard Mowbray's** seminal work: '*The Case against Psychotherapy Registration: A Conservation Issue for the Human potential Movement*. London: (1995) Trans Marginal Press

New and second hand copies available from £5 + p&p on [www.amazon.co.uk](http://www.amazon.co.uk)  
Known affectionately as simply 'The Case' – this is a kind of 'bible' for those involved in the anti-regulation movement. Mowbray's detailed argument is scholarly, comprehensive, painstakingly well-researched and just plain brilliant. It's worth acquiring a copy.

**Three: Richard House'** various writings including:

*'Ethically Challenged Professions: enabling innovation and diversity in psychotherapy and counselling'* Co-edited with **Yvonne Bates** and published by PCCS in 2003. Richard, along with Denis helped to found the Independent Practitioners Network (IPN). Richard's writing, like Denis' is extremely accessible. They are both trying to set out the facts as they see them in as an unbiased way as possible. They are also doing the rest of us a real service by trying to demystify the whole 'smoke and mirrors' game of regulation. I trust them both to be acting, not out of narrow self-interest but out of a position of solidly argued principle and integrity. I also believe that we can form potentially very strong alliances, based on solidarity and common interest with people like this. In fact, for our future survival, strategically we may *have* to form such alliances.

*'Implausible Professions: arguments for pluralism and autonomy in psychotherapy and counselling'* Co-edited with Nick Totten (1997) and published again by PCCS books.

*'For and Against CBT.'* Co-written by House, R and Loewenthal, D (Eds) (forthcoming 2008) Maidenhead: McGraw-Hill education. Open University Press.

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