

Documents from the front line

This section, an ongoing feature of the journal, is intended to include material of a non-academic, practical and immediate nature, representing ongoing psycho-political process – including manifestos, course handouts, leaflets, petitions, round-robins and ephemera of all kinds. All contributions will be gratefully received.

STATE-REGULATION AND PSYCHOANALYSIS: THE POSITION OF THE COLLEGE OF PSYCHOANALYSTS-UK*

From the website of The College of Psychoanalysts-UK at <http://www.psychoanalysis-cpuk.org>

For more than ten years there has been an aspiration within psychotherapy and counselling in the UK for some form of statutory regulation of those professions. A great deal of work has gone into this objective within both professions, where effective voluntary regulation now exists. Within the past two years, however, it has become apparent that the government will not sanction statutory-regulation for either profession and that the government wants state-regulation under the Health Professions Council (HPC) instead of the original preference of the professions for statutory-regulation via a *Psychotherapy Bill*. Almost by default, that now appears to be the direction in which both professions are heading.

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The College is concerned principally with the discipline of psychoanalysis, which some consider to be just one of many modalities of psychotherapy while others consider it to be an entirely separate, if related, discipline and profession in its own right. Having had the opportunity to reflect on what now appears to be taking place, many psychoanalytic practitioners have serious reservations about regulation of psychoanalysis under HPC. Regulation in itself is not necessarily a bad objective, provided it is in the interests of both the profession and members of the public alike. Hence, The College is gravely concerned about whether the present proposals would be in the interests of either group. This document deals with how those concerns might be examined and brought to the attention of all psychoanalytic practitioners, so as to promote informed discussion

and debate among practitioners from all schools of psychoanalysis.

THE BACKGROUND

In order to think about what is now taking place, it is first necessary to understand the important difference between statutory-regulation, which was the original aspiration of the profession, and state-regulation, which is what now appears likely to be imposed by the government on the profession.

Statutory-regulation is the model which applies in many of the established professions in the UK which have been regulated for many years; where regulation remains in the hands of the profession itself, backed by statutory powers. The most notable exemplars of this form of regulation are the medical and legal professions. Each of those professions has the regulation of their practitioners within their own control and, when necessary, practitioners can be brought before their disciplinary tribunals, which have at their disposal various sanctions backed by statute. The important characteristic of this form of regulation is that governance remains in the hands of the profession itself, even though there may also be, when appropriate, important elements of lay representation. The problem, so far as the government is concerned, is that statutory-regulation of the medical and legal professions in particular, has been less effective than it should have been in recent years, as notably demonstrated by Shipman. This is almost certainly why the government will not sanction statutory-regulation for psychotherapy and counselling.

State-regulation is very different. This involves regulation, not by the profession itself, but by a state-controlled agency. HPC is such an agency and, if the current proposals were to go ahead, the profession would be governed by public servants: well-meaning, no doubt, but with an inherent

inability to fully comprehend the real nature of the work we undertake. HPC claims to work in conjunction with established professional bodies, as representatives of individual practitioners, while HPC gets on with looking after the interests of members of the public. It is HPC that would determine standards of training; which practitioners are entitled to go on the register, using which professional titles; and deal with all complaints under the vaguest possible rubric of *fitness to practise*.

THE NATURE OF THE PROBLEM

As has been made clear, The College is concerned principally with the modality of psychoanalysis within the situation outlined above. Within that context, it is necessary to take careful note of how psychoanalysis might fit into, for example, the following which is taken from HPC's document on *Standards of conduct, performance and ethics*:

As a health professional, you must protect the health and wellbeing of people who use or need your services in every circumstance.

This means that you must always keep high standards of conduct. You must always:

1. act in the best interests of your patients, clients and users;
2. respect the confidentiality of your patients, clients and users;
3. maintain high standards of personal conduct; and
4. provide any important information about conduct, competence or health.

Also, you must always keep high standards of performance. You must always:

5. keep your professional knowledge and skills up to date;
6. act within the limits of your knowledge, skills and experience and, if necessary, refer on to another professional;

7. maintain proper and effective communications with patients, clients, users, carers and professionals;
8. effectively supervise tasks you have asked others to carry out for you;
9. get informed consent to give treatment (except in an emergency);
10. keep accurate patient, client and user records;
11. deal fairly and safely with the risks of infection; and
12. limit your work or stop practising if your performance or judgement is affected by your health.

Finally, you must always keep high standards of ethics. You must always:

13. carry out your duties in a professional and ethical way;
14. behave with integrity and honesty;
15. follow our guidelines for how you advertise your services; and
16. make sure that your behaviour does not damage your profession's reputation.

The above may, on the face of it, sound innocuous. However, it is understood that the manner in which HPC interprets these requirements is that little or no provision is likely to be allowed for important aspects of psychoanalytic clinical practice and that HPC would, in fact, be inimical to many of them. The following are examples of points that immediately spring to mind in this connection:

- The HPC category of 'patient' is problematic: it assumes a unity rather than a division: where contradictory wishes, desires etc. might exist. The 'good' of the patient therefore becomes a complex issue.
- Psychoanalytic ethics might involve listening for what is concealed beyond

the manifest demand of the analysand and so entails a questioning of the immediate 'good' that such a demand may call for.

- The aim might not be removal of the symptom but, rather, accessing the structure behind the symptom.
- Questioning the relationship between pleasure and pain might, contrary to the models assumed by HPC, involve a sustained period of pain and difficulty.
- As a result of having to deal with unconscious resistance, the 'patient' might want relief from a particular symptom but fundamentally not want to know anything about that which lies at the root of that symptom.
- Processes of change in psychoanalysis do not usually become accessible to conscious awareness and so the patient is not in a position to constantly monitor the shifts that may be occurring in the treatment.
- All of the above must point to a serious questioning of the presumption of conscious, happiness-directed agency in the HPC notion of 'patient'. Many schools of psychoanalysis do not agree with the economist's assumption that human behaviour is governed by goal-directed activities which can be described in instrumental terms.
- A further serious problem is the requirement in the preamble to the above list of standards which provides:

You must protect the health and wellbeing of people who use or need your services in every circumstance.

A common feature of psychoanalytic treatment is the acting out of behaviour by the analysand which, on the face of it, is often harmful and even self-destructive. Understanding the cause and roots of such behaviour is often crucial. The provision referred

to above, however, would appear to impose a rigid and absolute duty on the analyst to intervene and prevent the analysand from engaging in such behaviour, in a manner which is completely alien to sound psychoanalytic clinical practice and which would be likely to affect deleteriously any psychoanalytic treatment. In other words, this requirement would entail an unwarranted and damaging intervention by the analyst which might fundamentally undermine the experience of psychoanalysis by the analysand, imposed entirely by state-regulation and without any regard for the clinical implications.

- The situation outlined above is compounded by guidelines relating to the standard of conduct referred to in 1 above where the following applies:

As soon as you become aware of any situation that puts a patient, client or user at risk, you should discuss the matter with a senior professional colleague. If you feel that you cannot raise the matter with a senior colleague, you can contact our [HPC's] Registrar.

This constitutes an expectation by HPC that, under certain circumstances, an analyst would discuss behaviour of the type outlined in the previous paragraph with a public servant who will almost certainly have no clinical experience.

- Two further worrying provisions of the guidelines in relation to the standard of conduct referred to in 9 above, which are antithetical to psychoanalysis and speak for themselves, are as follows:

You must explain to the patient, client or user the treatment you are planning on carrying out, the risks involved and any other treatments possible. You must make sure that you get their informed consent to any treatment you do carry out. You must make a record of the person's treatment decisions.

and

If someone refuses treatment and you believe that it is necessary for their wellbeing, you must make reasonable efforts to persuade them.

The above constitute examples of the difficulty of applying the type of state-regulation to the discipline of psychoanalysis envisaged by HPC and there are probably many other related issues. There is a serious need to take time to consider whether all of the above requirements, which are entirely appropriate where a defined form of medical treatment is envisaged, can ever really be appropriate for psychoanalysis, which is an entirely non-medical form of intervention.

It is difficult to comprehend why the British Psychoanalytical Society, for example, should, apparently, feel able to subscribe to such requirements, the administration and implementation of which would be vested, not in its own experienced senior practitioners, but entirely in the hands of public servants. This from a society which, when it abandoned its membership of UKCP in order to set up the rival BCP, claimed, inter alia, in relation to the ethical provisions being debated for implementation by UKCP:

Nobody outside our society can begin to understand the way we deal with complaints [from patients].

Neither is it possible to understand why BPAS is now, apparently, content for the psychoanalytically untrained public-servants of HPC (not even members of related professions) to deal with any complaints from patients regarding their members. Presumably this is in the mistaken belief that, by giving up the right to deal with complaints which they have previously claimed as exclusively theirs, BPAS will thereby acquire the monopoly of the professional title *psychoanalyst*, exclusively for their members. What they and many others

fail to realise is that this title would, under the governance of HPC, become available to anyone setting up a course which meets the standards decided upon by HPC for an approved course leading to that particular professional title, should it in fact become regulated. Such standards would almost certainly be governed by the lowest-common-denominator principle.

There are many other such issues connected with the policy of HPC. They all need to be carefully considered and debated by all psychoanalytic practitioners from all schools of psychoanalysis.

THE WAY FORWARD

The College, in conjunction with the London School of Economics, is arranging an international conference, to be held at LSE in London on 31st March and 1st April 2006. At that conference these issues will be properly presented and discussed; so that individual practitioners themselves will have the opportunity of taking part in a serious debate and be heard on these important issues; and so that an effective policy might be formulated to see whether state-regulation of psychoanalysis within HPC really is in the interests of psychoanalysis and those members of the public who might have an interest in psychoanalysis, whether as patients or otherwise.

If a substantial proportion of psychoanalytic practitioners were to conclude that state-regulation of psychoanalysis within HPC is not in the interests of the discipline of psychoanalysis or members of the public, that is a view which could be conveyed to those conducting the proceedings which have already been commenced and which

they would be obliged to take into account. The process towards state-regulation by HPC is, fortunately, a long and thorough one with many stages, involving not only HPC but, ultimately, the Secretary of State for Health. The whole process would end with an enquiry conducted by the latter, open to members of both the public and the profession. In this connection, it is very interesting to note the substantial reservations now being formulated by the British Psychological Society in the public enquiry for psychologists following the long process of negotiations and proposals for state-regulation of their profession via HPC. That profession may yet conclude that state-regulation, as proposed by HPC following long and careful negotiations, is not in the interests of either psychologists or members of the public.

In the meantime, The College will explore, by all means at its disposal, ways in which it can take part in the process which has already begun towards state-regulation of the profession of psychotherapy within HPC. While membership of The College is open to all psychoanalytic practitioners from all schools of psychoanalysis and whether they are IPA-recognised or not, The College is de facto, at the present time, the only professional body in the UK which represents the interests of non IPA-recognised psychoanalysts from all schools of psychoanalysis and, on that basis, The College is entitled to be heard in the present discussions towards state-regulation which are already under way.

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