

Submission on the proposed regulation of counsellors and psychotherapists under the Health and Social Care Professionals Act 2005

Introduction

The Minister for Health, Mr Simon Harris TD has invited interested persons, organisations and other bodies to make representations concerning the proposed designation under the Health and Social Care Act 2005 of the professions of counsellor and psychotherapist.

This submission is made by a collection of independent psychotherapists from different therapeutic modalities. We are all fully qualified under existing standards of training and accredited voluntary registration. We feel compelled to make this submission.

We are grateful to the Minister for Health for this opportunity. The submission is structured in line with the section headings set out in the consultation document.

Submissions

Submissions have been invited specifically on:

- **Whether the professions of counsellor and/or psychotherapist ought to be subject to State regulation.**

Our submission is that the professions of counsellor and/or psychotherapist should **not** be subject to state regulation on the following basis:

1. The argument *for* regulation by the state or a state-sponsored body has never been made, but is simply assumed. There is no solid research demonstrating widespread abuse by practitioners; nor is there either research or argument to show that such regulation lessens abuse. Protection of clients is cited as the main grounds for state regulation, but despite the emphasis on evidence-based practice which accompanies the demand for regulation, that demand is itself not evidence-based.
2. The majority of practitioners work full or part time in private practice. Their clients make decisions as responsible adults to come to them and to continue in therapy or to leave, and are able to seek advice or redress from a number of self-regulating professional bodies or from the legal system; they are in effect the practitioner's employer. State regulation is clearly inappropriate for an activity contracted voluntarily between adults. We support extending the private client's autonomy and freedom of choice to HSE and voluntary sector clients, rather than the reverse.
3. The therapeutic field is a rich and complex ecology, built up of many different approaches. This diversity is intrinsically valuable – since clients and their issues are equally varied – and is part of what we want to protect. From a regulatory point of view, it is awkward and inconvenient, but it is not something to be feared or flattened out. Good training helps the practitioner to develop their own unique style

of work, rather than making them conform to a supposed 'best practice'.

4. Successful psychotherapy and counselling usually requires courage, from both client and practitioner, and a willingness to take calculated risks. For example, in order for therapeutic change to occur, at some stage in the therapeutic process clients are likely to have to dare to do/try something different. Whilst this usually results in the long-term benefits that clients are seeking, in the short term it can be scary and temporarily destabilising. It is essential that practitioners have the courage to trust and support this process. Psychotherapy and counselling cannot therefore be made to conform to safety-first culture. State regulation will only strengthen the existing trend towards defensive practice – that is, practice which is more concerned to protect the practitioner from complaint than to help the client's growth and self-understanding.

State regulation could only be justified if the benefits could be shown to outweigh the drawbacks. For the reasons cited above, we believe that with state regulation the damage caused to psychotherapy and counselling will be profound, and the benefits dubious and minor.

- **If so, whether the professions ought to be regulated under the Health and Social Care Professionals Act 2005 or otherwise.**

Our submission is that the Health and Social Care Professionals Act 2005 is inappropriate for the regulation of the counselling and psychotherapy professions, based upon the following:

1. Paragraph 4 (3) (a) to (d) of the Health and Social Care Professionals Act 2005 designates health or social care professionals under four categories. These categorisations are heavily weighted towards diagnosis and cure, and imply that the origins of all 'personal, social or psychological problems' are exclusively within the individual. This view is not shared by a majority of psychotherapists and counsellors, is incommensurable with the values of many practitioners and presents a barrier to the development of effective therapeutic relationships with clients.
2. Although many counsellors and psychotherapists work in medical settings, their work is not a branch of medicine nor an activity ancillary to medicine. Most forms of therapy do not focus exclusively on the relief of symptoms, but emphasise creating and exploring a relationship. If there is a goal, it is a general improvement in the quality of life (so that client satisfaction, rather than the improvement of an isolated symptom, is the appropriate measure of effectiveness). The implied medical values and criteria of the Health and Social Care Professionals Act 2005 are in many ways antithetical to psychotherapy and counselling.

For the reasons cited above it would be inappropriate and harmful to regulate the counselling and psychotherapy professions under generic legislation alongside medical professionals.

- **If the professions are to be regulated under the 2005 Act whether it would be appropriate to regulate one or two professions under one registration board.**

Our submission is that neither the counselling nor psychotherapy professions should be regulated under one registration board:

1. A healthy system of ethics and values is maintained through continuous debate and discussion. Ethical practice in the psychotherapy and counselling professions requires an ongoing dialogue between the individual practitioner and the registering bodies. The existing system, which includes a wide range of bodies (for example, ICP, IAHIP, IACP – to name just a few) under which practitioners can choose voluntary registration, safeguards ethical practice through such debate. It follows that a single system of regulation under one registration board will stifle debate and would be antithetical to the maintenance of ethical practice.
2. Beyond the broad understanding of the therapeutic field as the rich and complex ecology described above, the counselling and psychotherapy professions are necessarily difficult to define and concrete definitions would not only be impossible to agree but would also be inappropriate and dangerous. Pluralism is central to the health of these professions and to the welfare of clients. The current one-size-fits-all proposals are woefully inadequate as no single registration board could adequately represent the wide range of therapeutic approaches available to clients. The existing opportunities for practitioners to voluntarily choose registration with whichever of the numerous available organisations most closely reflects their values and therapeutic approach, would be lost with unacceptable consequences.

For the above reasons, counsellors and psychotherapists should not be required to register under one registration board. Pluralism should not only be protected, but also promoted.

- **The appropriate level of qualifications to be set for existing practitioners and future applicants having regard to the QQI Awards standards.**

Our submission is that QQI Awards Standards are woefully inadequate as the basis for professional qualification as a counsellor and/or psychotherapist on the following basis:

1. Successful outcomes in counselling and psychotherapy are almost always dependent upon the practitioner's ability to establish and maintain effective therapeutic relationships with clients. Whilst this requires sufficient working knowledge of theories underpinning the various therapeutic approaches, there is no correlation between academic prowess in and of itself and the ability to work therapeutically with individuals in distress. QQI standards are weighted heavily in favour of academia and would serve as a significant barrier to many otherwise potentially excellent practitioners from training in the field. This would be an unacceptable development in terms of client welfare.
2. Many practitioners see their work as more an art than a science: a series of skilled improvisations in a relational context, where each client, and indeed each session, offers unique issues and demands unique responses. Such an activity cannot be

captured by a list of 'competences', however elaborate; at best, such a list can offer only a parody of therapeutic practice. Yet regulation in accordance with QQI standards which do not reflect the reality of therapeutic activity, demands an 'objective' version of our practice, even if this falsifies its nature. The inconvenient reality is that the field consists of many groups and individuals doing *some* of the same things in *some* of the same ways, but with many small and significant differences and with constant invention and variation – which has always driven advances in practice.

3. Any attempt to impose a quasi-objective framework of standards and competences not only stifles creativity in the field, it also damages the therapeutic work with the client. In trying to apply a predetermined set of external principles to a particular individual, the practitioner must override the client's individuality and sacrifice the therapeutic process to the demands of a fixed technique. This is ethically unacceptable for the practitioner as well as therapeutically ineffective for the client.

For the above reasons, the proposed QQI standards should not be adopted as the baseline qualification for the counselling and psychotherapy professions.

- **The title or titles that ought to be protected for the exclusive use of registrants.**

Our submission is that no titles should be protected for the exclusive use of registrants, on the following basis:

1. Protected titles need to be considered within the context of the principles underpinning *Equal Opportunites, Anti-Discriminatory Practice, Inclusivity, Diversity* and valuing *Individual Difference*. The psychotherapy and counselling professions should be leaders in championing these principles, yet serious barriers exist which inhibit people from disadvantaged and marginalised communities from accessing counselling and psychotherapy. This problem is exacerbated by relatively small numbers of people from minority and / or marginalised groups from being able to train as counsellors and psychotherapists. Notwithstanding that reality, the counselling profession in Ireland, perhaps more so than any other European country, has a rich heritage of being a genuine community based activity. In Ireland, counselling has developed within the humanistic integrative tradition of being of the people and for the people. It is this heritage, rather than any specific titles, that must be protected, promoted and widened to reach all sections of Irelands marginalised communities. Protected titles are by their very definition "exclusive", and would make it even harder for individuals from the more marginalised communities to have access to counsellors and psychotherapists from those communities. Any system of restriction, particularly one based upon narrow and arbitrary academic standards, would be a seriously harmful retrograde step.
2. Protected titles would **not** protect client safety. The vast majority of professionals subscribe to high ethical standards across the board and in a small number of cases abuse occurs within every profession across the board, regardless of the nature and level of regulation. Unregistered practice would continue under any system of state

or other regulation, only it would most likely be under titles with only slight and difficult to spot variations of whatever titles are protected.

3. The existing system of voluntary registration is more than adequate in assisting clients to make informed choices about whether the practitioner they are working with is right for them. Any shortfalls in the existing system can be rectified by education about the wide range of the therapies available and advice about how to choose the right therapist.

For the reasons cited above, counsellor and psychotherapist should not be designated protected title status.

Reading and Resources List

The general arguments against state regulation of psychotherapy and counselling have been developed through discussion and critical debate over some 40 years. These arguments are comprehensively set out in a number of European texts, including:

- Marie-Noël Godet, 'Des Psychothérapeutes d'État à l'État Thérapeutique', Paris, L'Harmattan, 2009.
- Daniel Hogan, 'The Regulation of Psychotherapists', 4 Vols, Cambridge, Mass, 1979.
- Richard House and Nick Totton eds, 'Implausible Professions: Arguments for Pluralism and Autonomy in Psychotherapy and Counselling', London, 1997.
- Richard Mowbray, 'The Case Against Psychotherapy Registration', London, 1995
- Ian Parker and Simona Revelli eds, 'Psychoanalytic Practice and State Regulation', London, Karnac, 2007.
- Denis Postle, 'Regulating the Psychological Therapies: From Taxonomy to Taxidermy', Ross-on-Wye, 2007.
- Nikolas Rose, 'Governing the Soul', London, Routledge, 1989.
- Bruce Wampold, 'The Great Psychotherapy Debate: Models, Methods and Findings', London, 2001.

Plans for state regulation of psychotherapy and counselling in the UK were abandoned after the case against regulation was successfully made. Whilst there are differences in the precise circumstances between the UK and the Republic of Ireland, many of the issues are directly comparable. The following report should therefore be considered by the Minister for Health as part of this consultation process:

- The Maresfield Report on the Regulation of Psychotherapy in the UK, London 2009.

Conclusion

Our submission is made in earnest on the basis that the case for regulation has never been substantiated. In contrast the case against state regulation is historically well documented and compelling. State regulation would not protect client welfare above and beyond the

existing robust system of voluntary regulation and would have serious ramifications in terms of client choice. Existing barriers to training for people from marginalised sections of Ireland's diverse communities would be made worse, again to the detriment of clients from those communities, and defensive practice, which would often serve against clients' best interests, would be promoted.

We find the current proposals for state regulation unacceptable. We formally ask the Minister for Health to stop the process at this juncture and to consider alternatives which would protect clients and safeguard the professions through strengthening an already appropriate system of voluntary accreditation with existing reputable bodies.

Signed:

Matthew Henson, psychotherapist, (UKCP registered)
Dr Barbara Dowds, psychotherapist, (MIAHIP, MIACP, SIACP)
Markus Hohmann, psychotherapist (IAHIP accredited).

29 November 2016