

What kind of regulatory framework do we really want to work in? A personal response to compulsory state regulation. (Last updated 22 Feb 2007)

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In July 2006, the Department of Health (DoH) circulated a letter to various umbrella organisations asking for feedback on their proposals to state-regulate psychotherapy, counselling and psychoanalysis through the Health Professions Council¹ (HPC). They essentially have threatened compulsory state regulation (rather than voluntary self-regulation) of these “talking” therapies, under the auspices of the HPC and the training framework of Skills for Health² and ENTO³. This proposal is based on the Foster Report⁴.

I first heard about this through the Independent Practitioners Network⁵ (IPN) email discussion group⁶.

Although the DoH may not have any allocated budget to carry this out, it is a serious threat not just to psychotherapists, but to complementary therapists as a whole. Furthermore, this very political manoeuvre is just the visible end of a rather large iceberg of public policy, legislation and regulation which has been moving for over two decades.

Trying to force a herd of cats into a box

Compulsory state regulation of the psychological professions would in effect drive a wedge between this *functional* part of complementary therapies and the rest of therapeutic practice. Because it is compulsory regulation by Act of Parliament, it would define that divide, not by the title of its practitioners, but by the kind of intervention they provide. There has been a large debate over the past years as to the distinction between a "food" and a "medicine" for nutritional supplements. The dilemma of “when does a food substance become classifiable as a medicine” is at the core of this DoH proposal. Where is the cutoff line between a friend giving advice, a doctor or nurse giving advice reassurance and psychological support to a patient, and psychotherapy/counselling? A physiotherapist might talk to a client during a session as part of their professional service - most people like to talk a bit about themselves. So when does this become psychotherapy? Any definition of counselling based on an intervention/ outcome (rather than on its professional title) would place many people in an invidious position.

The DoH also seems to want to classify psychotherapy so that training and qualifications can be standardised and fitted into a recognisable management structure⁷. This is the purpose of the National Occupational Standards (NOS) – its statement of assisting “workplace flexibility” is really about categorising each task to allow flexible deployment of human resources in a largely inflexible but changing industrial environment. The NOS originally replaced traditional generalised apprentice schemes with training which gave people knowledge to practice spare part surgery on a specific machine without necessarily understanding how the machine worked – a cheaper, controllable, minimum standard which would allow an employer to recognise that a very specific but limited task could be performed.

The fact that this leviathan of an industrial training policy has been rolling out over the past 20 years to cover every possible job that anyone can do in the UK is a statement in how the external form of work tasks has been mistaken for the real thing. I read recently that I can now obtain an NVQ level 3 in Taiji. As someone who has practiced Taiji for something like 15 years, I cannot convey adequately the utter

ridiculousness of this “qualification”. Subtle therapeutic bodywork such as Craniosacral Therapy (CST) is largely based on variations of *intention* rather than on its external form – so I am appalled at the prospect of an NOS in any Complementary Therapy – it gives me nightmarish visions of newly trained well intentioned people making all the right external movements attempting something which they have no significant grasp of.

The DoH also wants to be able to calculate – “we do X at cost P and have result Y at value Q, giving a net benefit of Q - P”. Essentially this is an attempt to fit all services which it *might* use into the same model as that used to classify medicines. In practice there is a vast array of different trainings and even of paradigms in psychotherapy. Hence the failure of the various professional bodies to reach agreement over a common syllabus core or training structure over the past few years; and hence the DoH stepping in, threatening to take over and run the profession themselves.

The sheer diversity and rate of development and change of these disciplines places them outside the ability of the “Skills for Health” and ENTO programmes to classify and box them. This is NOT a good reason to force them into a box. In fact it is an indication that whilst this formal kind of classification may be desirable for NHS administration, it is not a reflection of reality. The DoH/NHS is a large and powerful enough institution to be able to attempt to change realities which it finds inconvenient – I’m really not convinced that it should be allowed to do so. If the NHS wishes to define the training standards which it imposes on its employees, then it can easily do so by internal policy decision – there is absolutely no need to impose this arrangement on everyone else by Act of Parliament.

The biggest problems this will create will not be in the current generation of practitioners, who have a large word of mouth patient referral rate – but when we retire, there would be no means to replace us. New people would either come up through the State system, or not at all. I have briefly outlined just a few of the other implications below.

If any complementary therapists are in doubt as to the DoH’s intentions, the recent developments with Pharmacists are instructive. *Pharmacists are currently overseen by a body (RSPGB⁸) which has a dual role of promoting the members professional (not financial) interests and regulating the profession. The government has said that (a) better regulation is needed (the RSPGB complied and set up stricter regulations), and (b) Oh, now we think it isn't a good idea to have dual roles, so the HPC is likely to take over the regulatory function. The result seems to be that the RSPGB, which was responsible for regulation - and therefore had compulsory membership - would no longer have that function. This has led to something akin to panic in the Society HQ, as the new role would be less defined, and certainly carry no statutory compulsion⁹. Similarly an entry into the Federal structure proposed by the Princes Trust would have exactly the same effect by different means – professional organisations would be reduced to little more than printing magazines and designing T shirts.*

Political fashion ignores long-term needs

In many ways, the political adoption of Cognitive Behavioural Therapy (CBT) from about 2005 has muddied the waters. CBT is a “think positive” approach which has many positive things going for it. However, it just doesn’t go deep enough into the subconscious to make a lasting impression in many cases. The relapse rate one year after treatment is about 90% - which fact seems to have been forgotten in all the hype about how effective it is in the short term. The 10% long-term success might be worth its political sponsorship, but there should still be something left to catch the 90% who don’t make it!

The basic 6 sessions of counselling available in GP's surgeries is a very useful service, and can make a huge impact – but for a large number of people it just isn't enough. The private sector of counsellors, psychotherapists and complementary therapists provides a largely affordable alternative when this basic service is insufficient, but their problems are not so severe that they warrant more NHS attention (e.g. by sectioning under the Mental Health Act). To briefly describe a recent case which came through my door, if someone has had low grade but nevertheless distressing mental health condition for 20 or 30 years, telling them what to do and then refusing further treatment when they cannot comply is not really going to heal them, or help them. In my more cynical moments, I suspect that some of these “rejects” will eventually succumb to cold whilst living on the streets, or will take an overdose whilst isolated in their “back into the community” flats.

Some of the history of this in the broader context of the UK Mental Health services is described on the Critical Psychiatry website¹⁰

Playing with Mr Potato Head

Huge advances in neurophysiology have been made over the past 50 years. The fundamental principles of many body therapies and psychotherapies are now converging onto a recognisable model of body-mind interactions - and how to work with them therapeutically.

Psychotherapists and counsellors approach the mind-body phenomenon from the direction of the psyche. There are many bodywork techniques which approach it from the body/ physiology/ motor systems. The two approaches naturally meet in the middle, because that is where the complete human being is situated. There is actually no division between mind and body except for the artificial one we have taken on culturally. If I breathe shallow and quickly I feel panicky. If I think of a lemon, my mouth salivates. If I get frightened or angry, then my metabolism mobilises and certain muscles tighten. If I consciously tighten those muscles while relaxed, I become more Sympathetic-aroused and alert. If I sit with head drooped, I feel depressed, and if I pull myself vertical, my mood lifts. If I talk about a stressful situation, even for a few seconds, my blood pressure rises. If I touch an old scar tissue or a particular place on the body, or take up a particular posture, memories are evoked. So where does psychotherapy end and physiology begin? Cutting edge research such as the brain activity research of Ellert Nijenhuis¹¹ in the Netherlands and PTSD work of Eli Somer¹² in Israel, along with work by Babette Rothschild¹³ and Pat Ogden¹⁴ are just a few of many demonstrations of the deep interplay between soma and psyche, and show that the body and mind work as a unified whole at the level of personality and the subconscious.

The DoH seems determined to legislatively cut the human being off at the head - just as the psychotherapy professions themselves are starting to join the head back onto the body. My personal practice sits exactly in the middle of all this. I have a main practice of CST which is supposedly “bodywork”, and I *talk* to my clients to resource them and to assist the mental part of the body processing. Furthermore, I have a large proportion of clients who have received psychotherapy for years, and who come for the bodywork I offer because it helps them mentally - once they have hit their limits of talking, they can get more progress by approaching themselves through their tissues and muscles.

Vulnerability vs Victimhood

The vulnerability of clients who come for counselling, psychotherapy, or other “complementary” therapy is *already* fully recognised by the various professional bodies and codes of conduct already in place. Over-emphasising a client’s vulnerability is usually counter-productive and unhelpful. In psychotherapy there is a well known relationship between the triangular co-dependent¹⁵ roles of Rescuer, Victim and Persecutor. If one person is given a Victim role, the helper becomes the Rescuer/Persecutor (there is psychologically very easy slippage from the role of Rescuer into Persecutor). Similarly, if a person or an organisation takes up a Persecutor or Rescuer role, the third party takes up a Victim role. State-sponsored healthcare always teeters dangerously on the edge of a “Rescuer” role, creating “victims” by default, and always at risk of falling into a Persecutor role. I’m not saying this doesn’t also happen in the private sector, but the power of the roles (and helplessness of a defined victim) is far greater in a state-sponsored system. There is a grievous error being made in over-protecting sectors of the public¹⁶, because they begin to take on the role in this co-dependent triangle they have been given by default. Once someone is subconsciously acting as a Victim, they naturally attract Rescuers ... and Persecutors.

The NHS is the envy of many countries worldwide, and provides a fantastic service to people in the UK. However, universal public health insurance through universal taxation has some downsides. The financial downside has already hit the buffers – how do you provide the latest (expensive) medical interventions to everyone? The answer is that you can’t, but the public will nevertheless continue to expect that unless it is clearly presented with the highly unpalatable truth... not an easy political decision. Another serious problem created by a National Health care system is that the State promises to care for the health of its citizens, and over the years most of us have lost interest in maintaining our bodies in any real sense of the word because the State will pick up the pieces (and the tab) when something goes wrong. Doctors do not provide a way out of this dilemma because they are trained to think in terms of illness instead of the promotion of health. As a complementary health practitioner, I am sometimes left overawed at the degree to which we have become separate from our bodies, and the degree to which any sensed connection with them as self-repairing organisms has been given up as “flights of fantasy”. In fact, Health is the greatest gift we have in life, and it is available to anyone who cares to focus on health rather being hypnotised by cultural statements of the inevitability of illness. The separation from the realities of nature culminate in our attitude towards death – when after 65 years of leaving the responsibility for health of our bodies to someone else, we ask them to postpone death indefinitely. And when death is welcome, Doctors are averse to letting it happen easily just in case they are accused of euthanasia.

Where Science meets public policy

In our ever accelerating world, there has been a lot of effort to make public policy catch up with science. It is a continuous dilemma which has no easy answer. The problem is that policy requires some long-term certainty, but science is an ever evolving set of opinions based on very controlled and limited observations. You read one week that fruit or oily fish is good for you, and the next week hear that it is dangerously full of dioxins, or mercury, or that there is not enough of it to go round. Complementary therapies tend to make bigger leaps of inference than science is comfortable with. No doubt sometimes the result is “silly science” – but often the result has been common knowledge 20 years ahead of the real science. Complementary Nutrition is very much ahead of the field. For example, nutritionists and allergists were saying 30 or 40 years ago that modern wheat varieties do not contain the nutrition that wild

varieties contain – a fact verified in 2006 by the discovery that a vital part of the wheat genome is “turned off” in commercial wheat varieties. Similarly – the findings on the human mind-body interface are “fringe” science...

To a practitioner this interpretation makes very good sense, and it fits the science – but “Science” will not fully piece together all the strands of this in a completely “scientifically acceptable” way for at least another 30 or 40 years or more. Although I doubt this argument would be accepted by many public policy makers, Complementary therapies are able to indulge in these leaps of induction because we have a radically different view of what treatment is, how to apply it, and how to best help human beings. We go lightly on interventions, we have a respect for client choice (real choice, not the spin version), we listen to them, we listen to their bodies, and we work from a place of trust and understanding that the human body (and mind!) knows how to heal itself, and just needs the right opportunity and the tiniest of nudges in the right direction. This, whilst in the private sector, makes for largely safe treatments, and good results, provided the client is working by the same rules and understands them. I have a deep unease about complementary therapies being rapidly integrated into the NHS because the patients will not understand the ethos, and the techniques will be used in a far more interventionist culture. The mainstream medical profession remains good at “battlefield surgery” and last-ditch attempts to preserve life. Complementary and Alternative medicine as practiced now is most often used to improve quality of life and to deal with symptoms well before they need attention as an emergency case. The two could in theory work very well side-by-side, if only...

So what do policy makers do in response to the almost daily reversals and changes in up-to-date medical science? The answer is that they muddle through as best they can, using the advice of the experts they have chosen – often chosen because their views coincide with what the ministers would prefer to hear. Most of the medical policy experts are totally unfamiliar with complementary therapies, and a substantial number are hostile to them. The result is that Government policy continues to be focussed on the allopathic medical model of a failing, illness-prone body rather than that of an organism which is fundamentally self-repairing and self-healing. Medication increasingly tends to be for life – because the development of this kind of medication makes more economic sense to the pharmaceutical companies who are trusted to provide the “next generation” of ground-breaking medical interventions.

Treating the Private Sector as if it is Public sector : Confrontation vs Mediation

Historically, people have talked with each other and helped each other – counselling is a professionalisation of a very old art. Somewhere in between plain human-to-human talking and NHS psychiatrists who deal with suicide cases and acute schizophrenia, there is a soft, grey middle ground. This is populated by tens of thousands of mainly private sector professionals, not by NHS professionals. People do not go to these private professionals and give themselves body-and-soul unconditionally, trusting that the treatment is OK because it has been provided by the benevolent state. Instead, the clients are largely self-regulating and can largely tell if they are receiving valuable help, or not. If not, most of them are perfectly capable of leaving, and do so.

It is a fundamental mistake to attempt to regulate the private sector as if it is part of the public sector. Because the NHS appears to dominate the health “market”, the DoH appears to have a rather limited view of the importance and high quality work being provided in this grey middle ground by the private sector. The HPC is a highly aggressive regulator which places on its website the names of people who are subject to complaints investigations even before any evidence has been heard. This “name and shame” policy is pretty close to assuming guilt first, until proved innocent *and is as abusive as the*

situations it is supposed to prevent. If you were accused of professional misconduct, I really wonder which procedure you would prefer – the HPC model, or a mediation process? For NHS sector employees who are within a large (hopefully) supportive organisation, are salaried (and therefore will be paid regardless of whether they work or not), who are often members of a union, and who are also often members of very large professional associations; there is some buffering, protection and support available. Self-employed private sector therapists are not so lucky.

Furthermore, it does not help patients/clients to be given a confrontational complaints procedure as first choice – when there are already excellent models for mediation procedures already in practice in the complementary therapy world – procedures which are based on models applied in industry and at international level^{17,18}. Mediation-driven complaints procedures are far more able to distinguish between the vulnerable abused client and the would-be stalker who is persecuting the therapist, and to respond appropriately and in a timely manner. In the complementary Therapy world this is possible partly because there each professional body is voluntary, committed, and oversees a relatively small number of therapists when compared to the worlds biggest employer – the NHS. Compare this to the 2 year waiting list (December 2006) for complaints procedures for the nursing profession, and 18 month waiting list for complaints being dealt with by the HPC.

Confrontation (or lack of compassionate mediation) just ups the insurance premiums and makes people work to “jobsworths” rather than to the best interest of clients. Why risk following an obviously productive route when it is a “non-standard” procedure, and so might not be supported by a governing professional body which wants to protect its own public image, and is so large that sacrificing one or two of its members is not particularly problematic? Worryingly for complementary therapies as a whole, the main alternative to the HPC at the moment is the Princes Trust¹⁹. Reading between the lines of the “consultation” document they produced, they are following the fashion for aggressive control, and also appear to favour a punitive (rather than mediatory) complaints procedure to “protect the public”.

This will lead to professionalisation of Complementary Therapies, which may look good from the top down as a way of controlling public safety. From the bottom up, it looks not so good. Complementary therapists (CTs) are fairly expensive to someone on a minimum wage, but are nevertheless just about affordable. At the moment, if the conventional medical services available through the NHS come to a limit of what they can achieve, many people turn to CTs. Professionalisation (in the direction being taken by the HPC and Princes Trust) will mean more expensive training, more expensive insurance, more expensive professional upkeep, and higher professional fees. Where will people then go?

I typically see about 200 individual patients a year and perform about 1000 treatments, at an average cost to each person of about £180. Something like 90% of them find relief from the various kinds of pain or physical dysfunction they came with. Most of them have already gone through the NHS system and found little or no relief. If this is a typical complementary practice, the financial contribution in reduced prescriptions, reduced hospital and GP visits, increased work availability must be enormous. Even more importantly is the enhanced quality of life, reducing the stress and improving long-term health of both themselves and their family and work colleagues.

The path to inhuman control is paved with good intentions

The slippage into a jobsworth culture is the spiritual death of every profession in which it happens, and has been accelerated by a gradual diffusion of the philosophy of the Health and Safety Act (1974) into every corner of working life. As an ex-mining engineer who applied this Act every day in dangerous situations, I have no difficulty accepting its importance. However, its attempts to prevent (and blame someone for allowing) every possible act of human stupidity or malice in every sphere of human activity is stifling. Following the H&S Act to its logical final conclusion - as we seem to be doing one small regulatory step at a time - could make any inspired or non-standard response a statutory offence. One part of a professional's job is to balance the risks against the possible gains, and to decide accordingly. As a society we are becoming so risk-averse that professionalism is becoming defined in some sectors by how well someone can stick to a rather limited rulebook. Occasional stories of councils permanently closing children's playgrounds for health and safety reasons are just one glimpse of this sorry slippage into a society which protects its own backside at any cost, and has lost the plot – life is inherently risky, and we have evolved to survive and thrive in that risk and deal with risks as they arise.

A second working code which I am familiar with is ISO 9000, the Quality Assurance guidelines, which are being used to write those limited rulebooks. These paperwork-heavy systems were originally devised to control critical processes in military and nuclear manufacturing. They quickly became a manufacturing "golden standard" in the 1980's, and then continued to diffuse into almost every corner of life in the UK; and most insidiously into education. A system *originally devised to prevent any possible human error* is now being used to define teaching methods. My strong opinion is that ISO 9000 and its offspring, the NVQ (National Vocational Qualifications) system (e.g. ENTO for counselling training), is now *driving* teaching practice (and many other human activities) rather than being a tool which assists it. At its best, the ISO 9000/ NVQ system gets rid of sloppy, vague and woolly teaching and replaces it with a well-structured course. At its worst, it provides an exercise in box-ticking, which, because of its meeting "official" standards, is far harder to identify as "poor". What has really been gained? I wonder whether it is truly possible to evaluate this?

The H&S Act and ISO 9000 provide fantastic models for the workplace, as tools for management – but are not a good basis for defining all of human activity. When applied inappropriately they cost a lot – in administration overheads (which almost always reduce supportive person-to-person interactions in favour of paperwork), in restricting human adaptability, and in alienation and stress. The cart has moved itself in front of the horse, and needs to be stopped and put back in its place. However, this trend to increasing control is not confined to complementary therapies, but is present throughout public health policy. The following quote is from the Critical Psychiatry website :

In the last fifty years there has been growing disaffection with the medical profession. Until recently, the public was happy to defer to what was seen as the knowledge and experience of experts like doctors. What might loosely be called post-modernism has changed that, questioning the role of experts by challenging the authority of their knowledge. The assumption that science and technology can answer society's most complex problems has been thrown open to doubt. Science is no longer regarded as the saviour of mankind, but as the bringer of even greater problems. As medicine has become more influenced by technology and science, it has lost contact with basic human values of respect for the other person's beliefs and preferences. This is particularly so in psychiatry, where clinical neuroscience has driven a political agenda inflamed by distorted media coverage of high profile 'failures' of community care, in which risk reduction is of

paramount importance. The result is legislation that attaches more importance to forcing people to take medication. Psychiatry has always been deeply split between care and healing on the one hand, and coercion and social control on the other. Government legislation, in shifting the balance away from care towards control, is making this split even clearer.²⁰

The dangers of imposing a blanket regulation on a professional body (instead of allowing that body to be somewhat flexible in its approach) was brought home to me recently when I talked to a pathologist. He mentioned a move to standardise post-mortem reporting of cancers, and how it was in reality impossible due to the enormous varieties of occurrence – and his description of his job reminded me in many ways of the professional “Art” we experience as complementary therapists. He also was worried that he would be struck off in a few months time when all doctors would be required to pass examinations for patient communication skills and knowledge of current prescribing standards. As a pathologist he is a scientist, not a GP, and doesn’t need to talk to his patients or prescribe them medicine – but would nevertheless be included in the umbrella regulations being imposed. So as the legislative strings tighten, a lot of people are beginning to squeak. I wonder how much we will all have to squeak before someone realises that something isn’t quite right.

Post-Shipman (etc) and institutional fear of psychopaths

Finally, but most crucially, there is also a Post-Shipman fear of abuse of patients by psychopaths and of children by child molesters. Just as in the supplements debate, another aspect of the above dilemma is the apparent inability of administrators (and legislators) to draw a line between publicly supplied and endorsed high impact, high risk interventions vs privately provided low risk interventions. Shipman as a psychopath was a danger because a) he was a trusted institutional authority figure and b) because he had access to highly dangerous substances which most people cannot obtain. Applying legislation aimed at someone like Shipman to people who have no official public position, and who do *not* have access to life-threatening substances is applying a rather large sledgehammer to a very small nut. It is widely acknowledged that real psychopaths know how to manipulate the system. Placing loops and hurdles to make a public display of “doing the right thing” does not prevent them getting in and doing damage, but it makes life a lot less pleasant for everyone else. Once inside a supposedly safe institutional framework, they become more dangerous because of the supposed safety of that framework. If there is a punitive complaints procedure (rather than a fair mediation process which uses teeth *only* when necessary), colleagues are in fact far less likely to report “suspicions” to a regulatory body.

Following the publication of the Government White Paper²¹ on the regulation of health professionals (21 Feb 2007), a brief poll of opinions was taken on the BBC website. The following comments from doctors are fairly typical of the response :

“I am a doctor (consultant pathologist) and I cannot stand this level of public misinformation any longer - I and all my colleagues already do continuous professional development - we have yearly appraisal - we participate in departmental audit - I participate in 5 separate national external quality assurance programs - we read professional journals, belong to professional associations and attend scientific conferences - all in order to keep up to date and maintain our competence - so what else is it you want us to do?”

“I’m a doctor in training - 2 years from being a consultant and for the last 14 years have been subject to assessment roughly every 3 months, including very expensive exams. The misinformation about our appraisal process is shocking. None of the proposals will make ‘Shipman’ less likely to happen again, and this will leave even less time to spend doing patient

care - what most of us want to do. The lower standard of proof will also make many more [doctors] worried about 'aggressive complaints', not based on malpractice but causing huge damage to a career even if proved fit to practise...."

"...either the required knowledge will be extremely low or there will be a shortage of doctors...."

I would also suspect that policy makers are suffering vicarious traumatising from cases such as Shipman, world events such as 9/11, and the increasing gut-response pressure imposed by the media. As a result, they have adopted one of the typical traumatised human response mechanisms – attempting to control all situations. Any rational look at life will tell you that total control of everything is impossible. Nevertheless, to someone suffering direct or vicarious trauma, control (or whatever other survival response they adopt) seems the only route to take²². In an individual this would be a cause for compassion, but is still pathological – in a government it results in a pathology which spreads throughout society via legislation.

An insidious aspect of this is the tendency to treat everyone as if they might be a paedophile, or a psychopath or terrorist. Instead of assuming that everyone is motivated by a sense of wanting to help fellow humans (admittedly hopelessly optimistic, but if you expect something from someone, they are far more likely to give it) – we assume that *everybody* is potentially bad, flawed and downright dangerous. This is a modern secular version of the mediaeval view of man as being fundamentally sinful, redeemable only by God. Redemption now comes about by having your police record checked on a regular basis. Do we really want to live in a society which has this unspoken assumption at its core? The more this kind of expectation is applied, the more rotten the apple will get, because there is no real moral call to be upstanding. Statements about "good citizenship" hold absolutely no weight when accompanied by actions which imply that all citizens are potentially bad. The problem is that we have already stumbled a long way down this road, and it is inconceivable that a government might turn round and suddenly say that "it's all OK – we didn't need to do this at all - oops". The effect is that of a ratchet, because it would be a brave government that removed controls (imposed by its predecessors) which were overtly designed to protect public safety.

In fact, as of December 2006, the government is not even thinking of moderating its stance. The shock of Shipman's duplicity went deep into the system. Its result is an institutional determination to remove any chance of another Shipman by a) aggressively policing and screening to prevent such people entering the health system, and b) even more aggressively policing and checking to spot and remove anyone who might even possibly be a danger, as soon as possible. This policy is being carried through as a first priority – that means the prevention of just one serious incident from within the system is worth a million smaller sacrifices by the professionals who are working in it.

I question the moral economics of this policy. How do we balance a million smaller evils against one big evil? The answer is not straightforward, but my bet is that the million smaller ones are probably going to have a far greater human impact over the long-term than one or two big ones. Everyone will have to pay. In social and democratic terms, this is a monstrous policy, because it is a state attempting to create a totally risk-free environment in one part of itself. To do so, it is willing to sacrifice freedoms. This may be a difficult view to swallow, but I urge you to have a serious think about it. A democracy must allow some degree of foolishness, stupidity, malice, knavery and even evil to take place, because the controls necessary to *totally* eradicate these result in – not a democracy, but a totalitarian state. And the events will, one way or another, still happen. We live in a fine balance, where the majority of people gain because of their freedom, which also allows a small minority to screw the system and screw other people.

I don't see any serious public debate on what is a reasonable place to stop regulating, merely screams for more and more regulation, and in the medium to long term this doesn't look very pretty.

Maastricht and beyond

It would be a serious omission not to mention the Maastricht Treaty, which the UK signed in 2000. Much legislation since that date affecting complementary therapies has been aimed at fulfilling the promises made by the UK government to unify its regulatory framework with Europe. This carries a significant cultural cost, so far largely invisible, due to the deep-rooted incompatibility between English Common Law and the European Code Napoleon. Common Law contains a list of things which are not allowed, and allows anything which is not on that list. It allows traditional practices to continue, amended by laws over time, but with relatively little external intervention. In contrast, the Code Napoleon provides a list of what is allowed, and anything not on that list is illegal. The CODEX for nutritional supplements is one of the first branches of complementary therapy to be affected by this – with a list of exact chemical substances having been drawn up. This list can only be added to if something passes the current medical standard for proof of efficacy and safety – the double blind placebo-controlled trial. At first sight there is little wrong with this. However, remember this is being applied to supplements which are already essentially, by their nature, safe – they are *not* fundamentally the same as the dangerous pharmaceuticals which the system was set up to regulate – the prescription of which is rightly restricted to doctors with 5 years intensive medical training. What this CODEX *does* do is impose a testing regime costing millions of pounds over up to a decade for any new product. This will effectively hand over manufacture of all new nutritional supplements to a small number of multinational pharmaceutical companies, and rather than protecting public safety it is a political and financial coup for a small number of corporations which already dominate NHS spending.

So the loss of Common Law in the UK looks like it will begin in the health sector. In many ways the NVQ and NOS systems already pave the way for this. Perhaps an extreme view that I hold is that there is a fundamental danger in state control of the healing professions – particularly the psychotherapeutic ones. One of the first legislative acts of the Nazi regime was to pass the Healing Practitioner Law – which forbade anyone without medical qualifications to perform *any* type of therapeutic intervention whatsoever. In another example of State control, the mental health system was notorious in the USSR as a tool for disposing of dissidents.

The zeitgeist of the 21st Century is uncertainty – uncertainty about terrorism, and about the fate of the planet. This results in fear, resulting in a demand for increasing control. These are ideal conditions for gradual slippage into a police state, particularly as the media are unaware of this and mostly scream for more control. So far, politicians seem to have preferred to ride on its wave and increase its momentum; rather than stand as statesmen and provide the steady presence which would reverse this dangerous trend of public hysteria. We are sleepwalking.

A democracy only exists because people take part in it, and only functions properly when people contribute their opinions. The government we have is the one we voted in, and they are doing on our behalf what we asked them to do and/or what we allow them to do. A healthy democracy wobbles along a median path with equal attention being given to all extremes, but most attention being given to the middle ground. In this ideal imperfect balancing act, MPs represent the average person's interests, and so are disagreed with by up to 50% of the population as being too much or not enough of one thing or

another. The situation now is that the UK has drifted over the past 20 years from consensus government into government by large majority.

The common use of the word “Spin” is itself a dangerously blinding habit. Politicians have historically used bland, deflecting language to cover their failings and preserve their options. However, this use of “spin” has now migrated to the description of legislation. You don’t get what you think you’re getting, because the spin detracts from the small print. In effect this is no longer a democratic process, because it is in effect (disguised by the word “spin”) a conspiracy to hide information from both MPs and the public. The people doing this probably don’t realise that they are engaged in a conspiracy, because they have fallen into the trap of believing that their decisions are in the best public interest - and it is only the public getting in the way of all this good being done. With a large parliamentary majority, they can continue to get away with this unless enough members of the public shout that something is not right. Really, MPs should be doing the shouting, but they aren’t. Really, the media should be doing the shouting, but it has shouted so much in so many different directions for very little reason whatsoever that now it is just crying “Wolf!” most of the time.

Public services in the UK have been plagued by “in-the Public-Interest-ism” for some time, and it affects local and county councils on a regular basis – so maybe there is little reason for National bodies to be immune. The downward spiral is argued something like this :

- a) The function of our organisation is to provide services for the public
- b) What we do is therefore in the public interest
- c) Any decision we make is for the benefit of the public, and is in the Public Interest and is therefore Good
- d) Therefore anyone who disagrees with us or tries to prevent us acting is Bad

I hope you can spot at least three logical errors in this. Unfortunately, if a group of administrators wind themselves into this little hole, it takes quite a lot of effort to undo the mess. In the Water Industry, it took about a decade for the Environment Agency to extricate itself from the “Public Interest” culture it inherited.

The effect of Maastricht, post-Shipman paranoia and Public Interestism is being felt not only in the Complementary Health professions – it is being felt throughout the entire health (including veterinary) sector. In an article in *Farmers Guardian*²³, Chris Lees points out that (like the control of human medicines) the legislation is written in terms so broad that they are impossible. A quote from the Veterinary Medicine website.... “*any substance or combination of substances presented as having properties for treating or preventing disease in animals; or (b) any substance or combination of substances that may be used in or administered to animals with a view to either restoring, correcting or modifying physiological functions by exerting a pharmacological, immunological or metabolic action, or to making a medical diagnosis.*” This legislation is, based on the Maastricht agreement, designed to encourage free trade. Instead it makes even feeding and watering animals a potentially illegal act if the intention is to strengthen their metabolism.

The general *attitude* of government behind this avalanche of controlling legislation is illustrated (in a different context) in the granting of licences for 3G telecommunications networks. There is continuing debate about the safety of these high density, low frequency pulsed microwave transmissions, with a growing number of reports of ill health (very similar to ME symptoms) being caused. The government has decided that 3G is the future, so planning regulations have been specially altered. Nobody can argue against a mast installation on health grounds (*because “We Know That This Is Safe”*), and the planning

consents contain the rather circular argument that the masts are required because there is a public demand for them, and the phone companies are required under the terms of their contract to provide 80% population coverage. Meanwhile the latest telecommunications conference focussed on the knotty problem of how to convince the public that they need these additional services. The sense is that there is an absolute conviction that something is “Good for the Public”, and then the public get it whether they want it or not. Current research indicates a 6-15 year time lag between mobile phone microwave exposure starting and a epidemiologically recognisable response, so watch this space.

Back to Complementary therapies

In summary, a lot of legislative and regulatory measures are being taken out of fear for public safety, an increasing blame culture, and a subsequent need to control augmented by a need to structure the NHS. Many of these measures are already creating long-lasting impacts which are highly negative. In addition, the legislative trend is to steamroller through any measure as forcefully as necessary, in the “Public Interest”, with more and more attention to detail, and in a style which is increasingly similar to European rather than Common Law.

Complementary therapists, including counsellors and psychotherapists, are a highly useful group of largely self-employed, private sector workers who are being affected by all this. We are probably split into two main factions – those who see their future in the NHS (which group is not strongly opposed to the current regulatory moves, mainly I suspect because they haven’t read between the lines); and those who would prefer to remain in the private sector, like myself. The former are actively lobbying for regulation, thinking that professionalisation will lead to lucrative NHS contracts, and more status. However, my opinion is that there is an overwhelming majority who do not wish to see the HPC, or anything like it, regulate this profession. I can see no positive long-term benefit to the general public’s health and safety from this kind of regulation, but rather can see it having a serious long-term negative impact. As a small part of a much bigger social trend, it bodes ill for democracy in the UK and Europe.

Whether or not you agree with this “bigger picture” longer term political analysis (or believe that this is the result of less organised over-keen civil servants) the short term facts are that draconian controls are being applied for the purposes of political/administrative expediency rather than because they are really the best thing to do.

Notes

¹ <http://www.hpc-uk.org/>

² <http://www.skillsforhealth.org.uk/>

³ <http://www.ento.co.uk/>

⁴ The Foster Report can be found at <http://www.dh.gov.uk/assetRoot/04/13/72/95/04137295.pdf>

⁵ <http://i-p-n.org/>

⁶ A rough summary of the opinions voiced are found at <http://ipnosis.postle.net/pages/TaxonomyandTaxidermy.htm> and linked webpages

⁷ <http://www.mcfadz.fsnet.co.uk/therapy/reg/sfhconsult.pdf>

⁸ <http://www.rpsgb.org.uk/>

⁹ Email from Tyagi, IPNlist Digest 47, Issue 2

¹⁰ <http://www.critpsynet.freeuk.com/>

¹¹ The Haunted Self by Onno Van Der Hart, Ellert R. S. Nijenhuis & Kathy Steele. Publ WW Norton 2006 ISBN 0-393-70454-8

¹² <http://www.issd.org/Conference2006/Plenary2006.htm#eli>

¹³ <http://home.webuniverse.net/babette/>

¹⁴ Trauma And The Body by Pat Ogden, Kekuni Minton & Clare Pain. Publ WW Norton 2006 ISBN 0393704572

¹⁵ Co-Dependency is a maladaptive relationship pattern which most people fall into at some time or other. It usually plays out subconsciously, so the various parties who have taken up the roles are usually unaware of what they are doing.

¹⁶ The “Safeguarding Vulnerable Groups Act 2006” came into effect on 8th November, centralising the vetting system for people who work with children and vulnerable adults. Under the proposed new law employers will be committing an offence and will face penalties if they employ people to work with children and vulnerable adults that they know are barred. In the most serious cases they could face penalties of up to five years in prison. Failure to make a background check could also result in fines of up to £5,000.

¹⁷ Mediation means giving all parties a fair say, and providing an opportunity for them to come to an agreement – it does not mean a soft option for anyone who has really abused their client, but is designed so that all parties as far as possible recognise that justice has been done. If no agreement is possible due to intransigence of one or more of the participants, then legally-based approaches become appropriate.

¹⁸ As an example, BACP publish names and details of complaints received in their journal, in the interests of transparent process, but only after the complaint has been considered and sanctions decided upon. It does publish complaints which have been found to unfounded, and therefore dismissed and no sanctions applied. Plus - later - details of whether any sanctions have carried out and the complaint has been lifted or not. The IAHP and IPN use processes even more in line with international peace/negotiation protocols.

¹⁹ <http://www.princes-trust.org.uk/>

²⁰ <http://www.critpsynet.freeuk.com/healthmatters.htm> : *Critical Psychiatry* by Dr. Phil Thomas (Consultant Psychiatrist)

²¹ “*Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century*”. Secretary of State for Health, February 2007, CM 7013. <http://www.dh.gov.uk/assetRoot/04/14/31/43/04143143.pdf>

²² Eli Somer, lecture notes, UK Society for the Study of Dissociation, Conference, UEA Norwich 2006

²³ Chris Lees “Homeopathy for farm animals – and for freedom” *Farmers Guardian (Points of View)* August 18, 2006