

Council – 13 December 2007

## Counsellors and Psychotherapists – road map to their statutory regulation

### Executive summary and recommendations

#### **Introduction**

This paper:

1. Highlights the challenges that will be faced by the Health Professions Council (HPC) and other key stakeholders if Counsellors and Psychotherapists are to be statutorily regulated.
2. Seeks the view of the Council on whether the HPC should commence a proactive process to investigate the statutory regulation of Counsellors and Psychotherapists.
3. Recommends that the HPC establish a Counsellors and Psychotherapists Professional Liaison Group (PLG) in July 2008 to review and recommend: structure of the register, professional titles, the standards of proficiency, standards of education and training, post registration standards and grandparenting arrangements. The establishment of the PLG would be preceded by three months of research by the HPC Policy and Standards Department.

It is assumed that in the UK there may be some 100,000 individuals who describe themselves as Counsellors or Psychotherapists whose practise may affect the health and well being of clients, patients or service users. In the UK Counsellors and Psychotherapists are not currently statutorily regulated. This means that:

- Anyone can use the titles Counsellor or Psychotherapist without demonstrating competence
- There are no agreed and universally adopted national education standards
- There is no process, backed up by legislation, to prevent incompetent or unethical individuals from treating patients
- The public can not easily differentiate individuals with appropriate standards from those without
- The public is not protected

Date	Ver.	Dept/Cmte	Doc Type	Title	Status	Int. Aud.
2007-12-03	a	CER	PPR	Counsellors and Psychotherapists	Final	Public
					DD: None	RD: None

### **Objective of statutory regulation of Counsellors and Psychotherapists**

The only justification for statutory regulating Counsellors and Psychotherapists is that public protection will be enhanced. The benefits of statutory regulation will have to outweigh any potential down sides of statutory regulation and in particular the cost of regulation, which will have to be born by those regulated. As many practitioners work outside the NHS, the cost of regulation will have to be paid for by the patients.

### **UK Government's position on the statutory regulation of Counsellors and Psychotherapists**

The UK Government has made a number of statements indicating their intention to statutory regulate Counsellors and Psychotherapists. Most recently at a meeting on 15 November 2007, officials of the Department of Health (DH) stated that one of the Section 60s to be brought on to the statute book by the end of 2010, will be for the statutory regulation of Counsellors and Psychotherapists. However, the DH expect that key stakeholders, and not they themselves, will have to make substantial progress in agreeing a number of key issues.

They include:

- The professional title(s) to be protected
- The standard(s) of proficiency
- The standard(s) of education and training

The DH has also funded a number of projects to establish agreement on education and training standards and standards of competence for Counsellors and Psychotherapists. To date no agreement has been reached amongst all parties. In addition, the exercise to agree National Occupational Standards is continuing.

### **Devolved Administrations**

The Scottish Government and the Northern Ireland Government both have a direct involvement in the decision to statutory regulate health professionals who were not regulated before devolution.

It is therefore important that any work done in this area takes account of the views of these governments, including their plans for the future development of Counselling and Psychotherapy in the Home Countries.

### **Maximising the success of the process to regulate an aspirant group**

One measure of the success of the process to bring an aspirant group into statutory regulation is the percentage of individuals who either join the register when it opens, or, who are eligible to join the register once they have completed their programme of education and training. In the recent experience of the HPC, it can be argued that the process to statutorily regulate Operating Department Practitioners (ODPs) was a success because almost 100% of eligible individuals joined the HPC register the day it opened and there were few applications via the transitional or Grandparenting routes. The process was assisted by a number of key factors. They included: agreement on the titles to be protected, an agreed standard of proficiency and agreed standards of education and training.

However, as the percentage of eligible individuals is reduced below 100% of those using the relevant protected title the impact on public protection is reduced.

It should be noted that whilst there are many who will welcome the introduction of statutory regulation, there might be a small but vocal minority of individuals and organisations who may want to avoid statutory regulation for a variety of reasons.

They include:

- Unable to meet competence standards
- Their application would be rejected due to inability to meet ethical standards, for example a previous conviction or a determination by a statutory or non-statutory regulator
- Reluctance to pay the registration fees
- Disagreement with the professional body operating a voluntary register
- Opposed to the concept of statutory regulation
- Concerns about the future financial viability of education and training programmes

If at the point a new register is opened a large number of individuals do not join the register but choose to practise using a professional title that is not protected then the public will be less well protected.

### **Challenges posed by Counsellors and Psychotherapists**

Compared to the ODPs, the process to start the statutory regulation of Counsellors and Psychotherapists will be more complicated. The challenges include:

#### **Professional and Occupational Groups**

To date the HPC has regulated professionals whose pre-registration education and training ranges, in terms of length of training, from Clinical Scientists to Paramedics. The HPC's focus on professionals is reflected in the criteria that are used by the HPC in deciding whether or not to recommend to the Secretary of State that an aspirant group should be statutory regulated. In relation to Counsellors and Psychotherapists, while some individuals clearly work at a professional level that is the equal of HPC registrants, others appear to work at a non-professional level more akin to an Occupational Group.

#### **Wide variety in scope of practice**

An initial review of Counselling or Psychotherapy will quickly identify a wide spectrum of techniques and philosophical approaches in terms of scope of practice that are used. This means that there are no universally agreed standards of proficiency either an initial level or any advanced levels.

The wide scope of practice is directly linked to the breadth of education and training programmes and methods.

#### **Different types of education and training**

To commence the practice of Counselling or Psychotherapy there are no compulsory requirements to undertake education or training and indeed it is reasonable to assume that some practitioners undertake no training whatsoever. This has resulted in a wide range of training and education programmes ranging

from courses lasting a few weeks to university master degree programmes. At the point that statutory regulation starts agreement needs to have been reached on the level of education and training required. Therefore the setting of the standards of proficiency and the standards of education and training will determine what percentage of students will be eligible to join the register once it opens. If the standard can only be met by a minority of education and training providers then this may encourage prospective registrants who are ineligible to join the register to use titles that are not protected. From the perspective of the public this will lead to confusion and hence a lowering of public protection.

In addition, there is no definitive list of individuals and/or organisations providing training and education programmes, the standards used, quality controls used or the types of qualifications awarded to those who successfully complete programmes.

### **Protected Titles**

On the working assumption that Counselling or Psychotherapy will be regulated using “closure of title” and not “closure of function”, then the decision of which title, or titles, will be protected will be critical in terms of the success of statutory regulation.

Individuals working in the field of Counselling and Psychotherapy use many different titles in addition to the titles “Counsellor” and “Psychotherapist”. These may include:

1. Titles that reflect types of initial education and training
2. Titles that reflect additional education and training following completion of initial education and training.

Clarification will be needed on the following four questions:

1. Are Counselling and Psychotherapy separate professions?
2. Will it be possible to protect the generic titles “Counsellor” and “Psychotherapist” or will this not be possible because both terms are in common use in many settings outside healthcare. (It should be noted that the phrase “healthcare” may not be appropriate in the context of Counselling and Psychotherapy as practitioners and their clients may not regard their practice to be in “health”.)
3. How many titles will need to be protected to delineate all Counselling and Psychotherapy, or will titles need to be protected to indicate different levels of proficiency?
4. Will protection of post registration titles be required or can reliance be placed on marking the register?

### **Numerous voluntary membership organisations**

A review of the Internet will identify numerous organisations that regard themselves as being representatives of individuals working in Counselling and Psychotherapy. The total number of such organisations is unclear but certainly

numbers dozens, if not hundreds. While the number of organisations in itself is not a concern, indeed it could be seen as a positive advantage, the challenge arises because there is no overall agreement between all the organisations on many of the key questions including: titles, standards of education and training, standards of proficiency and indeed, if statutory regulation is appropriate.

### **Number of practitioners**

Because of the plethora of organisations there is no agreement on the number of potential registrants. The situation is made more complex by the possibility of dual membership.

### **The role of HPC and the possible way forward**

To date the HPC has waited for applications to be received from Aspirant Groups before it starts the process to make a recommendation to the Secretary of State if they should be regulated using Article 3(17) of the Health Professions Order 2001, which states:

***(17) The Council may -***

***(a) make recommendations to the Secretary of State concerning any profession which in its opinion should be regulated pursuant to section 60(1)(b) of the Health Act 1999; and***

***(b) give such guidance as it sees fit, to such persons as seem to it to have an interest in such regulation, on the criteria to be taken into account in determining whether a profession should be so regulated.***

To date the various groups that have been supported by the DH have not reached any agreement amongst the various interested parties on the issues for the regulation of Counsellors and Psychotherapists. This is in marked contrast to the initiative funded by DH being led by Professor R Michael Pittilo, to investigate and make recommendations on the possible statutory regulation of acupuncture, herbal medicine and traditional Chinese medicine, and is due to be published within the next few months.

In addition, the Executive of the HPC had assumed that by the autumn of 2007 significant progress would have been made by the DH on implementing the HPC recommendations to statutorily regulate various groups including a number of healthcare scientists including clinical profusionists, clinical physiologists and clinical technologists. However, the DH's current plans do not envisage that these groups will be regulated until 2010.

This means that the HPC has an opportunity to proactively commence work on the statutory regulation of Counsellors and Psychotherapists.

The HPC Executive therefore recommends that the HPC establishes a Counsellors and Psychotherapists Professional Liaison Group (PLG) in the spring of 2008 to review and recommend:

- Structure of the register
- Professional titles
- Standards of proficiency
- Standards of education and training

- Post registration standards
- Grandparenting arrangements

In addition, the HPC Executive should:

- Estimate the number of potential registrants
- Draw up a list of all organisations representing Counsellors and Psychotherapists
- Identify all education and training programme providers and the standards and quality controls used, the types of qualifications awarded to those who successfully complete programmes and the number of students on each programme

As part of this process, because of the large number of organisations involved in this area, it will be particularly important that HPC move forward in this area with the benefit of the expertise of organisations and individuals who have worked in this area before. It is anticipated that this will be achieved through a variety of channels including:

- Membership of the PLG
- Possible discussion events/workshops
- Work by the HPC Communications Department, including individual stakeholder meetings where appropriate
- A designated part of the HPC website, as well as any formal consultation on standards developed

## **Decision**

The Council is requested to agree that:

- 1 The HPC commences a proactive process to investigate and make recommendations to the Secretary of State on the statutory regulation of Counsellors and Psychotherapists.
- 2 The HPC establishes a Counsellors and Psychotherapists Professional Liaison Group (PLG) in July 2008 to review and recommend: structure of the register, professional titles, the standards of proficiency, standards of education and training, post registration standards and grandparenting arrangements. The establishment of the PLG would be preceded by three months of research by the Policy and Standards Department.

## **Background information**

None

## **Resource implications**

HPC has the current resources to manage a maximum of three PLGs in any one year. If the PLG goes ahead it would be one of the three PLGs undertaken in 2008 – 2009.

**Financial implications**

This will form part of the 2008 – 2009 Policy and Standards annual budget.

**Appendices**

None

**Date of paper**

3 December 2007