

The Health Professions Council

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Minutes of the first meeting of the Psychotherapists and Counsellors Professional Liaison Group held on **Thursday 4 December 2008** at Park House, 184 Kennington Park Road, London, SE11 4BU.

Present: Professor D Waller (Chairman)
Ms S Aldridge
Ms F Ballantine Dykes
Mr P Bell
Mrs M Clark-Glass
Mr J Coe
Professor M Cooper
Professor P Fonagy
Mr J Lousada (items 4-7 inclusive)
Professor J Lucas
Mr B Magee
Ms L Matthews
Ms J McMinn
Ms K Murphy
Professor G Smith
Ms E Thornton
Professor A Turner

In attendance:

Mr C Bendall, Secretary to the Group
Ms N Blunck, Public Affairs Manager
Mr N McDermott, Head of Secondary Legislation, Department of Health (items 1-5 and part of item 6)
Mr M Guthrie, Head of Policy and Standards
Mr S Rayner, Secretary to Committees
Mr M J Seale, Chief Executive and Registrar
Ms C Urwin, Policy Officer
Dr A van der Gaag, President

Item 1.08/1 Welcome and introductions

- 1.1 The President welcomed members of the group and people in the public gallery. She explained the importance of regulation in ensuring that professionals were accountable and felt that HPC was a good example of an effective, transparent and forward-looking multi-professional regulator.
- 1.2 The Chairman welcomed members of the group and people in the public gallery. She felt honoured to have been chosen to chair the Group.
- 1.3 Members of the Group introduced themselves. The Group noted that Ms Rose Mary Owen was unable to attend due to illness and that Mr Bell was attending instead, by agreement with the HPC.

Item 2.08/2 Apologies for absence

- 2.1 Apologies for absence were received from Ms Rose Mary Owen. The Group noted that Mr Lousada was expected to arrive shortly.

Item 3.08/3 Approval of agenda

- 3.1 The Group approved the agenda.

Item 4.08/4 Presentation from the Department of Health

- 4.1 The Group received a presentation from the Head of Secondary Legislation at the Department of Health on the background to the proposed regulation of psychotherapists and counsellors, which had been proposed in the White Paper 'Trust Assurance and Safety: The Regulation of Health Professionals in the 21st Century'. A copy of the presentation is attached to these minutes.
- 4.2 The Group noted that Skills for Health were developing National Occupational Standards for psychotherapists and counsellors. At the same time, the Improving Access to Psychological Therapies (IAPT) programme aimed to support primary care trusts in implementing National Institute for Health and Clinical Excellence guidelines for people suffering from depression and anxiety disorders. The Group noted that there was concern and deep suspicion among some parts of the profession about these developments and their influence on the work by the HPC.

- 4.3 The Group noted that HPC was an independent statutory regulator which was not bound to follow standards which were developed by other organisations. The Group noted that, for example, HPC had differed from Skills for Health on a number of occasions.
- 4.4 The Group noted that the process for any regulation of psychotherapists and counsellors would be as follows:
- the Group would report to the Health Professions Council (expected to be in July 2009);
 - the Health Professions Council would discuss the recommendations and would be asked to agree a consultation document on the recommendations, including standards of proficiency and the threshold level of qualification for entry to the Register. The HPC would hold a three-month consultation on the recommendations. The HPC would then consider the recommendations in the light of the consultation and make recommendations to the Department of Health. The Group noted that the consultation document and a document summarising the outcome of the consultation would be published by the HPC;
 - the Department of Health would prepare draft legislation and undertake a consultation on the legislation. The Group noted that the Department of Health would attempt to reach a compromise if it disagreed with the recommendations from the HPC. Following the consultation, the legislation would be subject to consideration and amendment by the UK and Scottish Parliaments. The Group noted that the respective Parliaments would have the final decision on the content of the legislation.

Item 5.08/5 Presentation from Health Professions Council

- 5.1 The Group received a presentation from the Head of Policy and Standards on the context for the Group's work, an explanation of the HPC's role, areas of work for the Group, dates of future meetings and the process for statutory regulation. A copy of the presentation is attached to these minutes.
- 5.2 The Group noted that the vast majority of the professionals already regulated by HPC were never subject to a fitness to practise complaint. Only 0.23% of registrants were subject to any complaint

and some of these cases did not result in action being taken or a final hearing taking place, depending on the circumstances of the case.

- 5.3 The Group noted that meetings of a wider reference group would be held, involving stakeholders with an interest in the process. Invitations for meetings of the reference group were expected to be issued shortly.
- 5.4 The Group noted that it was hoped that its work would be inclusive of the majority of existing practitioners in the field and would enable diversity to be maintained in the profession.

Item 6.08/6 Overview of responses to the call for ideas

- 6.1 The Group received a paper for discussion/approval from the Executive.
- 6.2 The Group noted that the paper was an overview of the responses which HPC had received to the call for ideas on statutory regulation of psychotherapists and counsellors. The responses to the call for ideas would be examined in more detail in papers considered by the Group at each of its subsequent meetings.
- 6.3 The Group noted that the call for ideas had run from 23 July 2008 to 24 October 2008. A copy of the document had been sent to key stakeholders, including professional bodies and education and training providers. The document had also been available to download on the HPC's website and had been available in hard copy on request. The Group was asked to identify particular areas which would require further work at future meetings.
- 6.4 The Group noted that the issue of dual registration would need to be addressed during its work.
- 6.5 The Group noted that a number of responses had opposed the principle of statutory regulation. Some respondents had felt that statutory regulation would lead to an oppressive system, while others were concerned that statutory regulation would lead to standardisation and a lack of diversity in the profession. The Group felt that some respondents might have lacked information about the HPC's approach to regulation. The Group agreed that it would be useful for a future meeting of the Group to hear about the experience of a profession which had previously become subject to statutory regulation.

Action: MG (ongoing)

6.6 In respect of the concerns that diversity in the profession would be reduced, the Group noted that the HPC already regulated a diverse range of professions. The Group noted that the standards of proficiency included generic standards (which were common across all 13 professions regulated by the HPC) and profession-specific standards (which related to each profession). The Group noted that the language of the standards was to be reviewed over the next year.

6.7 The Group noted the following aspects of regulation by the HPC:

- professional bodies continued to play a major role, for example in developing the profession's scope of practice and the body of knowledge. HPC did not produce curricula for programmes of education and worked in partnership with professional bodies;
- registrants had ongoing input into the HPC's work, through being appointed as Partners to carry out work such as visiting education programmes and considering fitness to practise allegations;
- on a day-to-day basis, regulation by HPC was light-touch and HPC would only intervene if standards were not met;
- standards produced by the HPC could be helpful to practitioners in resisting demands from employers to undertake work which was outside their scope of practice;
- the HPC was not focused on work within the NHS. Many registrants worked in the independent sector;
- the HPC believed that it was not always necessary to extend regulation. For example, the HPC had not agreed that it was necessary for revalidation to be introduced for the professions, as proposed by the Government in 2008.

6.8 Professor Fonagy provided a progress report on the work by Skills for Health to develop National Occupational Standards (NOS). The Group noted that Skills for Health was an independent body which aimed to develop a skilled and flexible healthcare workforce for the NHS and the independent and voluntary sectors. The NOS were intended to indicate good practice. Skills for Health had been commissioned to develop NOS for psychological therapies in four modalities: Cognitive Behavioural Therapy; Psychodynamic and

Psychoanalytic Therapy; Family and Systemic Therapy; and Humanistic, Person-Centred, Process Experiential Therapy.

- 6.9 The Group noted that there were two stages in the development of NOS: a review of the best evidence for a particular modality to be used safely and effectively and then systematic studies which were codified in manuals of psychotherapy, describing what each modality did. The NOS were prepared with input from practitioners, including some members of the Professional Liaison Group. The Group noted that there was disagreement and opposition within the profession about the NOS project. The Group asked to be kept informed of progress. The Group noted that the NOS would be prepared in greater detail than any standards produced by the HPC, which would be prepared independently of Skills for Health. A question was raised about how the counselling National Occupational Standards would be integrated, or not, into the National Occupational Standards being developed in four modalities for the psychological therapies by Skills for Health. The Group had noted that this issue had yet to be resolved.
- 6.10 The Group noted that the HPC had a process for deciding whether to regulate a new profession, which examined how a profession met ten criteria, such as whether there was a discrete area of activity, a defined body of knowledge, a voluntary register and defined routes of entry to the profession. The Group noted that the Government had already recommended that psychotherapists and counsellors should be subject to statutory regulation, due to the level of risk to the public. The Group noted that, due to the recommendation from Government, it was not appropriate to use the new profession process in this instance. However, the Group agreed that it would be useful to ensure that its work addressed the areas indicated in the new profession process.
- 6.11 The Group agreed that its work should focus on making recommendations on statutory regulation, whilst listening to dissenting and sceptical views. The Group agreed that its work should aim to ensure that statutory regulation would protect the public. The Group agreed that its discussions should focus on issues which related to protection of the public. The Group noted that it was possible that a system of statutory regulation might be imposed by the Government if agreement could not be reached.
- 6.12 The Group asked that the Executive should consider how the work of the Group should be publicised and communicated.

Item 7.08/7 Professional Liaison Group workplan

- 7.1 The Group received a paper to note from the Executive on the workplan for the Group.

Item 8.08/8 Any other business

- 8.1 There was no other business.

Item 9.08/9 Date and time of next meeting

- 9.1 The next meeting of the Group would be held at 10.30 am on Wednesday 28 January 2009 and Thursday 29 January 2009.
- 9.2 Subsequent meetings would be held at 10.30 am on:

Tuesday 3 March 2009 and Wednesday 4 March 2009
Wednesday 29 April 2009
Tuesday 26 May 2009 and Wednesday 27 May 2009

Chairman

Date

Regulation of Psychotherapists and Counsellors

First meeting of HPC Professional
Liaison Group
4th December 2008

Why Statutory Regulation?

- The principles set out in Trust, Assurance and Safety
 - Overriding interest: public safety
- Regulation will mitigate the risks to public and patients posed by malpractice of a minority of practitioners

Why Regulation through the HPC?

Trust, Assurance and Safety, Ch. 7, para 7.16

“The Government’s view is that most new professions should be regulated by the **Health Professions Council** which was **designed for this purpose** and **has the most expertise** in bringing **new professions into statutory regulation** and also in regulating a wide range of professions within a common system.”

Linked work in this area

- Skills for Health National Occupational Standards
- IAPTs New Ways of Working for the Psychological Therapists programme
- HPC Professional Liaison Group

Legislating for Statutory Regulation

- Achieve via an Order under s.60 of the Health Act 1999 (secondary legislation)
- Equivalent of a medium sized Act of Parliament (primary legislation)
- Experience shows that this is a 18-24 month process

What Happens Next?

- Role of Department of Health's Professional Regulation Branch
- Turning the policy into legislation

Michael Guthrie, Head of Policy and Standards
4 December 2008

Psychotherapists and Counsellors PLG

Outline

- Context
- Meetings
- Timetable
- Report
- Our approach

Context

The White Paper said:

The government is planning to introduce statutory regulation for...psychotherapists and counsellors.

'These are the priorities for the introduction of statutory regulation because their practice is well established and wide spread in the delivery of services, and what they do carries significant risk to patients and the public if poorly done.'

Trust, Assurance and Safety: The Regulation of Health Professionals in the 21st Century

Why statutory regulation?

- **Protect the public**

- Establishing standards
- Protection of title
- Ability to check practitioners' registration
- Taking action when things go wrong (fitness to practise)

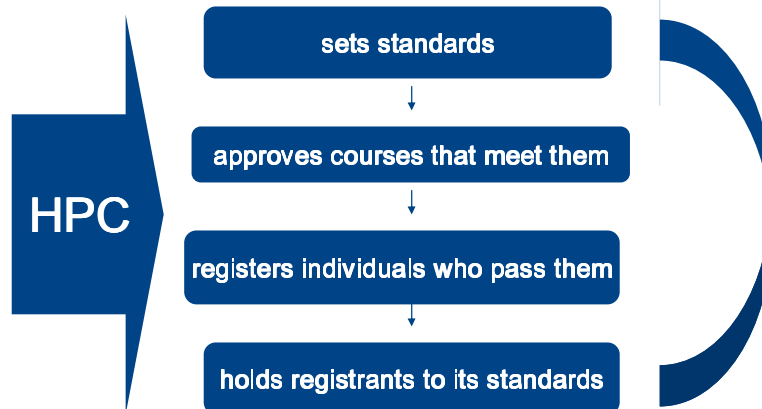
- **But also...**

- Benefits for professionals
- Benefits for education providers
- Benefits for professional organisations

About the Health Professions Council (HPC)

- Independent UK regulator
- 13 professions
- Health Professions Order 2001
- Statutory professional self-regulation
- Purpose: ‘..to safeguard the health and wellbeing of persons using or needing the services of registrants’
Article 3 (4)

Four key processes



Psychotherapists and Counsellors PLG

- **Structure of the Register**
 - How should the Register be structured?
- **Protected titles**
 - Which titles should be protected?
- **Voluntary register transfer**
 - Which voluntary registers should transfer?
- **Standards of proficiency (entry to the Register)**
 - What are the threshold standards for public protection?
- **Standards of education and training (approval of courses)**
 - What educational award or level is necessary in order to protect the public?

Meetings

- 5 meetings:
 - 2 day meetings – 28 & 29/01, 03 & 04/03, 26 & 27/05
 - 1 day meetings – 04/12 and 29/04
- Wider reference group – meeting in late March / early April 09
- Papers at each meeting:
 - Responses to the Call for Ideas
 - Information about the area or process
 - Analysis

Report to the HPC Council

- July 2009
- Recommendations relating to the terms of reference
- Any other areas considered relevant by the group
- Where there is disagreement, the reasons for this will be reflected in the report

The path to statutory regulation..

- PLG reports to the HPC Council
- HPC consults on recommendations, including standards of proficiency and threshold level of qualification for entry to the Register
- Following consultation, recommendations made to government
- Legislation drafted and consulted on
- Legislation passed in UK and Scottish parliaments
- Opening of the Register – 2011?



Our approach to regulation

- Professional and lay input – on the group and throughout our work
- Openness and transparency
- Inclusivity not exclusivity
- Diversity not uniformity
- Public protection, not persecution

Thank you

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