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## **Frequently asked questions on the statutory regulation of psychotherapists and counsellors**

These frequently asked questions (FAQs) on the statutory regulation of psychotherapists and counsellors have been put together based on the common questions we have received on this topic.

At the time of putting together these FAQs we are consulting on the recommendations of the Psychotherapists and Counsellors Professional Liaison Group (PLG). The outcomes of the consultation will be considered by the HPC Council in December 2009 and recommendations made to the Secretary of State for Health. As such, some of the answers to these questions are based on those recommendations and may be subject to change in line with the final recommendations.

These FAQs will be kept under review and will be updated as appropriate.

### ***1: What is the relationship between the HPC, the government and the Department of Health?***

We are a self-governing organisation that is independent of the day to day decision making within government and their departments. We are not a government department or non-departmental government body. We are funded by registrants' fees and not funded by taxes.

### ***2: What is the difference between state regulation and statutory regulation?***

State Regulation is an old term that refers to when the Council for Professions Supplementary to Medicine (CPSM) was a state regulator. The role of the CPSM was to register individuals who worked within the NHS and other state sectors; they did not regulate people in the private sector.

We use the term statutory regulation to refer to regulation which is set up by 'statute' (legislation). We were set up by a piece of legislation called the Health Professions Order 2001. We register individuals who work in a variety of different settings including the NHS, social services, education, industry and independent practice. Anybody who uses a title we protect has to be registered with us.

### ***3: Does statutory regulation stifle creativity and eliminate diversity?***

Statutory regulation does not stifle creativity and eliminate diversity.

We set broad, enabling standards for safe and effective practice and we recognise that registrants might meet these in a variety of different ways, depending upon, for example, their professional background or personal preference. We do not prescribe the ways in which the standards can be met.

When we set standards, we consult widely with stakeholders to ensure that the standards are set at an appropriate level for safe and effective practice and do not act as an unfair barrier to innovation or diversity.

#### **4: How does statutory regulation increase public protection?**

No system of regulation can protect the public entirely.

Statutory regulation protects members of the public by setting standards, protecting commonly recognised professional titles and providing a way in which complaints can be dealt with fairly and appropriately. Statutory regulation means that the very small minority of practitioners who do not practice safely and effectively can be removed from the Register and prevented from continuing to practise and continuing to cause harm.

At the moment, a psychotherapist or counsellor who is removed from the membership of their professional body, for example, can simply continue in practice without any legal means for preventing continuing harm to members of the public.

#### **5: Will statutory regulation affect the therapeutic relationship?**

Statutory regulation will not affect the therapeutic relationship. Regulation protects clients by ensuring that only those practitioners who have met standards for their competence and conduct are able to become registered and practice their profession.

We do not prescribe the nature of the therapeutic relationship for the professions we regulate now or in the future. The standards we set are broad enabling standards which do not affect the therapeutic relationship

#### **6: What title(s) will be protected?**

Each of the professions we regulate has at least one 'protected title' – a title that is protected in law and which can only be lawfully used by someone who is registered with us. For example, the titles 'physiotherapist' and 'physical therapist' are protected titles in the 'physiotherapists' part of the Register and we have powers to prosecute someone who uses a protected title without being registered.

The PLG has recommended that the Register should be structured to differentiate between psychotherapists and counsellors. They recommended that the two protected titles should be:

- Psychotherapist; and
- Counsellor.

#### **7: What is the HPC's position on people practicing under a non-regulated title?**

Our primary concern is that the public are not misled as to who is, or is not HPC registered and that protected titles are not misused (or implied) by those who are not registered. It would be a decision for the individual practitioner whether they needed to become HPC registered or, indeed, whether they needed to retain their registration with another body, taking into account factors such as the professional title they were practising under, the nature of their practise and any requirements of their employer.

We run regular communication campaigns to raise awareness with the public about the titles we protect. In the past this has included adverts on buses and tubes, leaflets in GP surgeries, and exhibiting and presenting at conferences.

**8: Does the HPC only regulate professions that work to the medical model?**

The professions we currently regulate do not all work to the 'medical model' or consider themselves to be 'medical modalities'. For example, occupational therapists and art therapists have been successfully regulated by us since 2003 and these professions do not work to a 'medical model'.

We recognise that many psychotherapists and counsellors do not work within the National Health Service (NHS) or other 'medical settings' and that many psychotherapists and counsellors do not work to the 'medical model'. We recognise that psychotherapy and counselling are not 'medical modalities'.

We set broad, enabling standards for safe and effective practice and recognise that registrants might meet these in a variety of different ways, depending upon, for example, their professional background or personal preference.

We do not prescribe the model or theoretical approach that people must work to.

**9: What are the links between the HPC, the National Institute for Health and Clinical Excellence (NICE) and the Improving Access to Psychological Therapists (IAPT) project?**

The relationship, if any, between projects which are focussed on service delivery, workforce development or public funding, and statutory regulation, can sometimes be unclear. We recognise that there are understandable anxieties at the moment about the links, if any, between such projects and regulation.

It is helpful to distinguish between projects that are focused on service delivery in particular settings or the funding of particular interventions, and statutory regulation. As a UK-wide regulator, our standards and processes need to apply across the board in any environment, and are not tied to any one particular service provider.

There is no direct link between the Improving Access to Psychological Therapists (IAPT) project or the clinical guidelines published by the National Institute for Health and Clinical Excellence (NICE) and regulation. It is important to state from the outset that the purpose of statutory regulation is firmly public protection – it is not to exclude or marginalise practitioners or to promote one modality or approach to practice over others. Whilst service providers might decide to fund particular interventions rather than others, for example, this is not directly a matter for the statutory regulator.

**10: Does the HPC require registrants to meet all the National Occupational Standards (NOS)?**

Skills for Health is currently undertaking a project to develop NOS for psychological therapies. They are used by employers and others in developing new roles and in commissioning education and training programmes. However, they are not used in regulating individual professionals.

The standards that we set are written in broad terms and are set at the threshold necessary for safe and effective practice. The NOS are very different in detail and purpose and might be used in developing new roles or in the development of education and training programmes. We do not use the NOS in any of our processes, including the approval and monitoring of education and training programmes.

***11: How does the HPC check that those on the Register continue to meet its standards?***

All our registrants must meet the standards that we set. Registrants renew their registration every two years and must declare that they meet the relevant standards for their profession and that there have been no changes to their health and character which affect their fitness to practise.

Registrants are also required to undertake continuing professional development (CPD) which meets our CPD standards. In summary, these standards require registrants to ensure that their CPD constitutes a mixture of learning activities, is relevant to their current or future practice and benefits their practice and service users.

Each time a profession renews its registration, registrants are asked to make a self-declaration to confirm that they continue to meet our standards, including the standards for CPD. To demonstrate that they meet the standards, samples of those renewing their registration are audited.

More generally, we are one of a number of organisations with different but related roles who help to maintain high professional standards, including professional bodies, education and training providers and employers.

***12: What is meant by 'fitness to practise'?***

'Fitness to practise' is when someone has the skills, knowledge, character and health to carry out their role safely and effectively. We consider a number of areas when looking at whether someone is fit to practise. We make these decisions when someone applies to join the Register, when they renew their registration or if we receive information at another time. 'Fitness to practise' is also the name of the process by which we look at complaints made against registrants.

***13: How does the HPC consider complaints about registrants?***

Our role is to protect the public rather than punishing registrants or promoting one approach to practice over another. We can only consider allegations about our registrants' fitness to practise.

Anyone can make a complaint about a registrant. We receive complaints from other registrants, other professionals, patients and their families, employers, managers and the police.

Complaints are considered individually by a panel made up of at least three people who are HPC 'partners'. Partners work as agents of the HPC. They provide the expertise the HPC needs for its decision making, and ensure that we have good professional and lay input into what we do. Further information about

partners can be found on our website via this [link](http://www.hpc-uk.org/aboutus/partners/) (http://www.hpc-uk.org/aboutus/partners/).

A panel would include a chair, a lay person and a member of the profession concerned, ensuring that decisions are reached by those with relevant expertise. This system ensures that panels are fully aware of potential profession-specific issues when they consider complaints. In the case of psychotherapists and counsellors, registrant panel members who consider cases would usually be drawn from the same modality / theoretical approach as the person who is being complained about.

Further information on our complaints process and relevant publications can be found on our website via this [link](http://www.hpc-uk.org/complaints/) (http://www.hpc-uk.org/complaints). Publications include 'How to make a complaint about a health professional' and 'What happens if a complaint is made about me'.

#### ***14: How will I be able to register with the HPC?***

In the past, when a new part of the Register opens, there have been four routes to registration.

#### **Voluntary register transfer**

When the HPC Register opens, there will be a transfer of voluntary registers maintained by professional bodies and other organisations to the statutory Register. This means that someone whose name appeared on one of those voluntary registers will become HPC registered without any need for further checks as to their qualifications.

#### **UK approved course**

Shortly before the opening of the Register, we will normally approve all education and training programmes, historic and current, which lead / would have led to entry on to a voluntary register.

The following types of people might apply to us via the UK approved course route once the Register is opened:

1. Someone who successfully completes an approved programme after the Register opens.
2. Someone who completed the training which led to membership of a voluntary register but decided not to join the voluntary register.

#### **Grandparenting**

There will normally be a grandparenting period. This allows individuals who have not been on the voluntary registers, and who do not hold a qualification which meant they could be registered, to apply for registration.

Grandparenting allows individuals who have been in practice for a certain period time and who meet certain criteria to become registered. Each application is considered separately by members of the profession to determine whether the requisite standards have been met. At the end of the grandparenting period, the only route on to the register for UK trained individuals is via an approved course. The PLG proposed the grandparenting period should be two years in length.

## **International route**

Once the Register is opened, we can accept applications via the international route from people who have trained and qualified outside the UK.

### ***15: Which voluntary registers will transfer?***

When the Register opens, there will be a transfer of registers maintained by professional bodies and other organisations to the statutory Register. This means that someone whose name appeared on one of those registers will become HPC registered without any need for further checks as to their qualifications.

The PLG has put together draft criteria for determining which voluntary registers should transfer to the statutory Register. These criteria will be subject to consultation and organisations will then be invited to submit documentation to evidence the criteria in 2010. We will scrutinise the evidence and decide if the register meets the criteria. Those that do will be recommended for transfer.

### ***16: Will education and training programmes currently accredited by professional bodies be approved for entry to the HPC Register?***

We usually approve all those education and training programmes, historic and current, that led, or leads to voluntary registration. This would mean that someone who was part way through their education and training when the HPC Register opens, or who had allowed their voluntary registration to lapse, for example, would be able to apply for registration by virtue of having completed an 'approved qualification'.

We would then develop arrangements over a period of time to visit and approve those programmes against our standards. We publish standards of education and training which cover such areas as admissions, programme management and assessment. A programme which meets the standards of education and training will allow someone who successfully completes that programme to meet the standards of proficiency – the threshold standards for safe and effective practice.

### ***17: What levels of qualifications are required to be registered with the HPC?***

The standards of education and training (SETs) are the standards we use to assess and monitor education programmes. SET 1 is concerned with the qualifications usually needed to be eligible to apply to register with us. The level of the qualification is normally seen as the level required to meet all of the standards of proficiency for a profession. This is seen as the minimum level for safe and effective practice.

The PLG recommended that the normative threshold level of qualification for entry to the Register as a psychotherapist should be masters level / level 7 on the National Qualifications Framework / Level 11 on the Scottish Credit and Qualifications Framework.

The PLG recommended that the normative threshold level of qualification for entry to the Register as a counsellor should be diploma level / level 5 on the National Qualifications Framework / Level 8/9 on the Scottish Credit and Qualifications Framework.

If agreed following consultation, **this would apply to education and training programmes seeking approval after the Register opens and not to individuals**. We will approve any education and training programme that meets our standards of proficiency and standards of education and training.

This means that individuals who are practicing before the Register opens can still apply for registration, even if their qualification is not at the recommended normative threshold level of qualification for entry to the Register. For information on the routes to registration please see question 14.

***18: What type of education and training providers does the HPC approve?***

We approve education and training programmes. We do not run our own education and training programmes, nor do we set or administer exams. We do not specify the type of provider who can provide education and training programmes. We will approve any programme that meets the standards of proficiency and the standards of education and training. We already approve programmes delivered outside of Higher Education, including professional body qualifications. Further information on our education and training processes and relevant publications can be found on our website via this [link](http://www.hpc-uk.org/education/) (http://www.hpc-uk.org/education/).

***19: When will psychotherapists or counsellors join the Register?***

Any final decision about whether psychotherapists and counsellors should become regulated is one for the Government and subject to parliamentary approval. If agreed, we currently anticipate that the earliest date the Register for psychotherapists and counsellors might open is 2011. However, the legislative timetable is often subject to delay.

Any decision about regulating a new profession is one for government and is subject to parliamentary approval, currently in Westminster and the Scottish parliament.