

PsyPraxis - the Changing Context

Research Report 48 26 March 2010, *Janet.Low@mac.com*

Round up of current situation. Some of you will know that I had a pretty horrid experience at the end of January this year: I encountered a mad man in the street wielding a mallet – very fortunately he did me no physical harm, but it did rather turn me away from HPC related things throughout February, while I focussed on life affirming things in the main. As a result, I am still catching up with developments that occurred earlier in the year.

At the best of times there is a great tumble of different things to grapple with in order to understand this current regulatory rubbish – IAPT, NICE, CHRE, HPC, UKCP, BACP, BPC, Health & Safety initiatives, Audit Culture, Risk Aversion Politics, Education Policy, etc etc etc. The proliferation of symptoms in the body politic presents too many different choices to focus on, and many of us just want to turn away. Those who do manage to stay looking at the gorgon get tangled up in debates about the best way forward. There are those, like me, who want to mobilise colleagues to take an active stance wherever they are: at work, or with their MPs, or in their training and umbrella organisations. Others are good at writing to the newspapers, intervening in blog debates, or inventing alternative accountability strategies. One has even written a play (see below)!

It is certainly difficult to say what act is having which effect – but surely the more that people are acting according to their own abilities, ideas, and local opportunities, the better it will be.

There is, however, always tension. And there is one currently that touches on politics and law that I would like to think about here more carefully. It touches on the effects of the Judicial Review and those of Merits of

Statutory Instruments Committee (MoSIC).

First the JR. As you know, several

Perhaps more surprising is **Mind**'s publication of a snapshot poll which suggests that lots of its members want to complain about counsellors. This has been spun as 'evidence' and reproduced in full on the BACP and BPC websites. It is, however, in contradiction to what CE Paul Farmer said in October last year, and which was reported here, in PP41, 20 January 2010.

The gap between the wishes of centralised staff and those of local working people seems to be getting larger – a trend that is expected in an era of state centralisation. Evidence of this is also emerging in the huge new super-sized trade union – UNITE (created by a merger of TGWU and AMICUS). It is holding a meeting in London on Wednesday 14th April, 12.30 til 4pm for Counsellors and Psychotherapists, at 35 King Street, WC2E 8JG. Their keynote speaker is none other than the HPC Director of Policy and Standards Michael Guthrie! UKCP Chair Andrew Samuels has written to insist that the Union present a balanced case, and is currently struggling to convince head office staff that their membership deserves to know the facts.

The tension between small local actions and the leverage gained from organisational cohesion is central to this struggle. But so too is attention to the power of small strategic committees. One commentator, Julia Evans (convenor of the Regx2 email list) believes that the real power is to be found in the quiet work of the Merits of Statutory Instruments Committee, whose labours she has been monitoring for the last two years.

This committee, buried in the labyrinths of Parliament, published the results of its recent research (A study of post implementation reviews of secondary legislation) at the end of January this year. They have been most concerned about, well, the *merits* of SI that governments increasingly like to use. This is a quote from their conclusion: "The NAO conducted a benchmarking study for us: it found that 46% of the sampled SIs with Impact

Assessments from 2005 had not been subject to any evaluation of their effectiveness after 4 years, and only 29% had received a full post-implementation review."

The secretary to this committee (Jane White) has been most courteous and helpful to those of us who wrote in to raise our concerns when the draft Section 60 order (to hand over the psychologists to the HPC) was going through parliament last summer. She also wrote to me recently to confirm that the committee is very aware of the concerns our profession has about the impending HPC regulation. She invited us to get in touch when and if the S60 enters parliament later in the year:

"The Committee is very aware of the stakeholders' concerns over the regulation of psychologists and therapists. Currently it has no scope to influence the development of the legislation, our remit only runs once the final version of the instrument has been laid before Parliament. However as soon as the 2nd Order is laid, if it is laid, the Committee will be very interested to hear your views on the proposals." (email, 1 Feb).

Julia's point is that the research undertaken by the MoSIC has resulted in a new strategy of action for them. It is this, she argues, that is the real coup against HPC's intention to blunder on through with the S60.

The report's main recommendations are:

- * Government should take a more active role in supervising both Impact Assessment (IA) and Post-implementation Review (PIR) systems to ensure that the approach is appropriate and the reviews are done. The formats for both should be more closely aligned in terms of content and method.

- * Departments should ensure that all IAs include a clear statement of the baseline position against which the change introduced by the legislation can later be measured to assess whether the success criteria have been met.

- * Departments should propose arrangements for PIR in the consultation

exercise on the draft regulations that are appropriate and proportionate to the content of the regulations. This applies just as much to public sector legislation as to that which affects business.

* All PIRs/evaluations on Statutory Instruments should be published online, alongside the original IA.

* Each Department should establish and maintain an online register of its legislative portfolio to track PIR commitments, aid consolidation, and also to smooth transition when machinery of government changes are made.”

http://www.parliament.uk/parliamentary_committees/merits.cfm

According to Julia’s analysis the MoSIC will not allow any future SI to proceed on its journey through parliament, UNLESS AND UNTIL IT PROVIDES STRONG BASELINE EVIDENCE against which it can then measure an improvement as a consequence of its passage into legislation. That is, unless it is clear what harm already exists, the SI cannot hope to persuade anyone that it will improve the situation. It is now necessary for any government to prove that there *is harm* of a significant level before it wades in and tries to cure that harm with a SI. If the MoSIC does indeed possess the power to prevent a draft S60 from entering the parliamentary process, then this could also be why the DH has stopped its drafting.

On this theme it is also worth noting that John Gloster-Smith (Life Coach and Alliance activist) wrote directly to Anne Milton (Conservative) and Norman Lamb (Lib Dem) to ask what their policy will be re regulating counselling and psychotherapy in the up-coming election. Tho still awaiting reply from Milton, John received a response from Norman Lamb’s office within the hour. It said that the Lib Dem position is to support the introduction of statutory regulation (Lord Alderdice must influence this), but to also understand that concerns are loudly expressed in this field. The reply

went on to say that regulation should not be used as an excuse to exclude people from practicing legally **if there is no evidence that their methods are harmful** (email of 2 Feb 2010).

By the way, UKIP is opposed to the Government’s intention to regulate counselling and psychotherapy through the Health Professions Council. It says their proposals are unnecessary, costly and impossible to enforce properly. Check out their manifesto:

<http://www.ukip.org/media/policies/UKIPHealth.pdf>

So, the hard work of the many people beavering away in their various ways seems to have actually managed to bring the headless machine back under some kind of thoughtful control. However, the animosity of those still hoping to make the machinery work, must still be counteracted. Expect trouble, but keep on keeping on. And in the meantime, here’s something nice to look forward to:

Friday 9th April, 2.45 for a 3pm start (ends approx 4.30pm) - a special reading of the **new play THERAPY** about the clash between the values of psychotherapy and those of the Health Professions Council. 'Therapy' is written by **Josh Appignanesi** (whose new film 'The Infidel' opens in April) and directed by **Matthew Lloyd**, whose recent production of 'Duet for One' at the Almeida was highly acclaimed. A hilarious satire, drawing on a detailed knowledge of the current debates while at the same time being accessible to those from outside our field. **Richard Schiff** from 'The West Wing', and **Hugh Bonneville** will play the therapists. Expect terrific actors, and reserve your seats as soon as possible. The reading will take place at the **Vaudeville Theatre**, 404 The Strand, London, and the proceeds will go towards the JR Fighting Fund. **Tickets are £20 and can be reserved by phoning 0845 838 0829**

My heartfelt thanks to many, many colleagues for their tireless work in making and sharing the news that is written about here. Thanks also to you for reading it.