

“The dialogic approach of CAT simultaneously seeks to hold in awareness social; cultural; and political influences, alongside developmental influences in the formation of subjectivity, and in the search for meaning in the therapy room.”

Charity Commission Letter

Dear Reformulation,

Re: The Relationship between ACAT and the Charity Commission

BACKGROUND

This matter arises because an article written by two respected members of ACAT, exploring ways in which ACAT could engage with issues around campaigning was withdrawn from the last issue of Reformulation by the Board of Trustees. The Trustees believed that the opinions expressed could threaten ACAT's need to avoid political campaigning beyond its narrow charitable objects and thereby ultimately threaten its charitable status, (Editorial 43). We believe the Trustees have misconstrued the Charity Commission (CC) regulations, which we describe later.

Several issues arise which this letter (written jointly by the editors and other concerned readers) seeks to explore:-

- The restrictions on ACAT and ACAT members' activities as a result of ACAT having charitable status;
- The question as to whether there are any additional limitations as to what can be published in Reformulation beyond the constraints imposed by ACAT ethics and the aims and scope of Reformulation;
- The democratic accountability of the Trustees and editors of Reformulation to the membership of ACAT;
- The democratic rights of ACAT members to express their opinions in ACAT forums, including Reformulation; and
- The procedures for negotiating differences of opinion between the editors of Reformulation and the Trustees.

The main advantage for ACAT of being a charity is financial as tax relief is granted on members' subscriptions through gift aid. If ACAT were to lose this source of additional income, due to a serious breach of CC regulations, then ACAT as an organization would run into financial difficulties: at the very least member subscriptions would have to go up.

Charity Commission Regulations

The constraints of being a charity are that the organization must abide by CC regulations regarding its constitution and governance and its activities must be relevant to the charity's objects:



The objects of ACAT are:

The promotion and protection of good health by:

(a) educating health professionals and promoting proper standards and good practice in cognitive analytic therapy; and

(b) increasing awareness and understanding of cognitive analytic therapy amongst health professionals, service providers and the public.

These objects are open to a wide range of interpretations; from a narrow remit of providing training and persuading other relevant professionals, 'service providers' and potential clients of the value of CAT, to an organization that engages in wider educational awareness about mental health issues, for example, initiating and supporting mental health campaigns for CAT to be available to people who need it and could benefit from it as part of an adequately staffed and publicly funded NHS mental health service.

The reason the Trustees gave for withholding publication of the article was that if it had been published, it risked putting ACAT in breach of CC regulations about political campaigning in a way that was not in keeping with ACAT's charitable objects.

The authors of the said article and the editors of Reformulation did not accept the Trustees' interpretation of CC regulations regarding political campaigning by charities and sought unsuccessfully to persuade them otherwise. The Trustees may constitutionally have the right to overrule the views and decisions of both potential authors and the editors. We believe, however, that this has serious implications not just for freedom of expression in Reformulation but also for freedom of expression in general amongst ACAT members, particularly the freedom to debate and engage in initiatives to promote the availability of CAT in public services.

Charity Commission regulations about political campaigning

The regulations concerning "political" campaigning by charities are available on the CC website, referred to as CC9. From reading these it is clear that charities are allowed to and even encouraged to engage in campaigning in support of the objects of the charity. The only constraint is that such campaigning must be legal and not 'party political': that is to say that charities cannot campaign for a political party but can campaign for an issue that is supported by political parties, including lobbying representatives of a political party. For example a mental health charity might campaign for better provision of in-patient mental health facilities, an issue that is also in the manifesto of a particular party but could not, in doing so call, on its supporters or others to vote for that party. We can see examples of this type of campaigning in ACAT's accrediting body (registered charity) UKCP, which calls on members to lobby MP's and electoral candidates in relation to NHS resources for psychological therapies/ equity for physical and mental health (see UKCP Bulletin 31- public policy news).

Why campaigns to support NHS services are in keeping with ACAT's objects.

It is important to remember that ACAT is the Association for Cognitive Analytic Therapy, not for cognitive analytic therapists. Our interpretation of this is that the interests of clients or patients, the people who could benefit from CAT, takes precedence over the self-interest of CAT therapists, although obviously there are many times when the interests of both groups coincide and overlap.

CAT was a therapy designed specifically for use in the NHS and other publicly funded services, accessible to the majority of people who could not afford to pay for therapy in the private sector. Its heritage is to mitigate health inequalities through increasing access to psychotherapy. So drawing attention to the effects of cuts in services on the people who would formerly have been offered CAT in the NHS is part of our remit - both in promoting proper standards in CAT and in increasing awareness of reduced services amongst 'service providers'

The nature of complaints investigated by the Charity Commission

There are in the region of 160,000 charities in the UK, not including those in Scotland. (www.charitychoice.co.uk/charities) The CC is a relatively small organization compared to the number of charities it is charged with regulating. Alleged breaches of regulations are usually investigated following a complaint from a member of the public. Unless the breach is a particularly serious or criminal matter then complaints are usually resolved by discussion and negotiation not by stripping the organization of its charitable status. Complaints and investigations are listed on the CC website. They are concerned with misuse of funds, e.g. channeling money to 'terrorist' organizations, prostitution, fraud and other forms of gross misconduct. We do not think that legitimate expressions of opinion in Reformulation would constitute any breach of such regulations in the first place even less that officials of the overworked CC have either the time or inclination to pore over the journals of relatively small psychotherapy charities looking for possible breaches of CC regulations on political campaigning!

Why freedom of expression and debate in Reformulation does not breach CC regulations

The tentative proposals in the withdrawn article, put forward for discussion and debate, did not suggest any change in ACAT's policies. Even if the article had done so, it would have been an expression of opinion only and not a policy. The policies of ACAT can be changed only if the membership votes for them to change and even then the trustees have a right to veto any changes they disagree with or believe would jeopardise ACAT. Reformulation like most other therapy journals/magazines carries a disclaimer that the views expressed in articles or other submissions are those of the authors and do not necessarily reflect those of the editors or the organization. This is to allow for freedom of expression and debate whilst also protecting the trustees from responsibility for the expression of opinions that might conflict with official policy.

Conclusion

This incident has not been easy for those involved. But it has highlighted the need for clearer and more explicit guidelines about the relationship between the ACAT Chair and Trustees and the Editor(s) of Reformulation, as well as what can and cannot be published in Reformulation, given its charity status.

References:

CC9 (www.gov.uk/government/publications/speaking-out-guidance-on-campaigning-and-political-activity-by-charities-cc9).

Lloyd J & Pollard R, 'Editorial' (2014) Reformulation Issue 43 p 2 – 3.

Weisz J and Pink D, UKCP e-bulletin 31(February 2015).

Yours sincerely,

Josephine Ahmadi, Phil Clayton, Annalee Curran, Deirdre Haslam, Rose Hughes, Ian Kerr, Julie Lloyd, Nicola Murphy, Annie Nehmad, Michelle Olivier, Steve Potter, Rachel Pollard, Tony Ryle, Janet Toye, Jo Varela, Lawrence Welch and Barbara Williams.