

Third-party funding in New Zealand

**The impact of specific third-party funding on what counts in New Zealand counselling.**

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### **Abstract**

During their short history New Zealand counselling and related agencies have helped the government support its need to address public concerns about disturbed youth, increased unemployment and the victims of sexual abuse. Each of these cases has changed the structural arrangements between government and counsellors. The perceived need for sexual abuse counselling in particular resulted in the establishment of a specific type of third-party funding for counselling and has had a major influence on both professional practice and the way that individual counsellors and therapists do their work. This article documents the impact that this third-party funding has had on what counts in New Zealand counselling.

### **The development of counselling in New Zealand**

There is an abundance of literature describing the development of counselling in New Zealand's social welfare system (Winterbourn, 1974; Webster and Hermansson, 1983; Hesketh and Kennedy, 1991; Hermansson and Webb, 1993; Small, 1984 and 1995; Miller, 1996 and 2001; Manthei, 1996; Hermansson, 1999; Wadsworth, 1999). This literature documents the development of a government supported Vocational Guidance Service in the 1930s, a Psychological Service in the 1940s and the Secondary School Guidance Service in the 1960s. It also describes the establishment of the New Zealand Psychological Society in 1969 and its legislative registration in 1981 and the formation of the New Zealand Guidance and Counselling Association in 1974 and its name change to

the New Zealand Association of Counsellors in 1990. As the latter organisation was initially established to provide professional support for Secondary School Guidance Counsellors, who retained their registration with the Post-Primary Teachers' Association, it did not seek legislative registration<sup>i</sup>. Some of the literature also documents the major neo-liberal, market-oriented policy changes that were introduced by the Labour Government of the mid-1980s, and the National Governments of the 1990s, which reduced financial support for general welfare services and led to changing patterns in the provision of social services (Hermansson and Webb, 1993; Webb, 1998 & 2000; Hermansson, 1999; Miller 1996 and 2001). These policies also insured that, at that time, the government would be unlikely to support professional registration of counsellors.

The introduction of these new policies coincided with the emergence of public concern about the once private concerns of family violence and sexual abuse. Despite the government's attempts to remove itself from the provision of welfare services, it recognised the need to respond to these family and sexual violence issues and looked to counselling as one of a number of solutions. Initially the government provided grants to Rape Crisis Centres but, as demand for services increased, it set up a fee-for-service arrangement with psychologists and counsellors to provide counselling for survivors of sexual abuse. This specific funding was controlled by a government agency, the Accident Compensation Commission of New Zealand (ACC)<sup>ii</sup>, and has had a dramatic impact on what counts in New Zealand counselling. While initial effects of this government influence on counselling were considered to be positive, recent accountability procedures introduced by ACC have been described by executive members of the New Zealand Association of Counsellors as potentially damaging to clients (NZAC

*Newsletter*, March 2002:44). In this paper I examine some of the unique features of the third-party funding and its subsequent impact on New Zealand counselling.

### **Development of specific third-party funding for counselling in New Zealand**

Accident Compensation Commission was established in 1972 to administer a compensation scheme whereby people who sustained injuries at work or through accidents involving motor vehicles could claim compensatory payments on a no-fault, or no-blame, basis. In that year the nature of the compensation to be administered by ACC became an election issue and when the *Accident Compensation Act 1974* was passed the compensation scheme was extended to cover **everyone** who suffered injury by accident (see Fahy, 1984; Campbell, 1974 and 1983 and Palmer, 1979). This scheme was part of a radical reform (Scheppele, 1991) as its introduction abolished common law claims for all accidents for all persons. A problem for its development, however, was that the term 'accident' was not defined in the statute. This enabled claimants to introduce a whole range of accidents for compensatory payments, each of which would be central to the interests and work of particular professional bodies. During the first six years of the *Accident Compensation Act*, therefore, arguments about the legal definition of accident were fought out in the Courts. Each appeal held the possibility that the boundaries of what qualified as an accident would be re-defined and stretched.

By 1982, a new Act provided a maximum lump sum payment for permanent physical disability, pain, suffering, disfigurement and loss of amenities or enjoyment of life (from April 1983) of \$NZ 17,000. Access to lump sums was controlled by lawyers (Fahy, 1984) whereas access to all ongoing forms of compensation was controlled by medical practitioners. They were able to refer claimants to 'auxillary' health workers

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such as physiotherapists, optometrists, chiropractors, occupational therapists and podiatrists. There was also provision for other health workers including counsellors and psychologists to claim ACC funding.

*...if a registered medical practitioner believes that an accident patient would benefit from a service not provided by one of the accepted 'auxillary professions', this may be considered by the ACC as part of its rehabilitation obligations (Fahy, 1984: 75-76).*

In 1988, a Law Commission review of the ACC (Law Commission Report, 1988) recommended that there be special provision in the case of victims of sexual assault. This signalled a dramatic shift in the focus of ACC, and was when counsellors first formally appeared as recommended service providers for ACC funding. Palmer (1995:96) argued that:

*As a result of feminist analysis, more research and much greater candour about admitting things that previously had been off-limits, the scheme is now paying out for types of injuries not anticipated in the 1960s. ACC is one of the few places that provides compensation and counselling for sexual abuse.*

Two features of the Act at this time were significant in the influence that ACC had on what counted in counselling. The first was that, given the still flexible definition of 'accident', the successfulness of claims depended on the judgement of ACC personnel. It was likely that a claim made by a medical practitioner would be accepted as an

'accident'. Medical practitioners, however, who were expected to make the first diagnosis, were keen to limit their work in the area of sexual abuse claims (The Dominion, 1989). This meant that it was the counsellors who had to make credible claims on behalf of their clients to ACC personnel. The second was that, because the legislation was founded on a 'no-fault or -blame' principle, claimants did not need to prove legally that sexual abuse had occurred to be entitled to subsidised counselling. Both of these factors made it imperative that ACC set up a mechanism by which it could insure that claimants would receive an accountable, credible service. Initially, ACC assumed that this occurred because it employed a Clinical Psychologist to screen applications of counsellors who sought ACC accreditation in order to gain access to this fee-for-service.

In 1992 a new Accident Compensation Act was passed in which lump sums were abolished and a series of definitions of *accident*, including sexual assault, were incorporated. Also, in this Act, an amendment was included to accept claims made for accidents that happened prior to 1974. This amendment was introduced to address the needs of workers suffering the effects of working with asbestos prior to 1974 but it opened up the opportunity for adults to make claims for sexual abuse they experienced when they were children. The introduction of this amendment, therefore, had serious implications for the nature and amount of counselling work that would be subsidised by government. There were two other aspects of this Act that had important implications for what counts as counselling. The first was the establishment of a Counsellors' Approval Committee to replace the Clinical Psychologist to approve or decline counsellor's applications for ACC accreditation. The other was the introduction of a schedule of fees-

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for-service; the fee-for-counselling-service was set at \$ NZ 50.00 plus Goods and Services Tax (GST) for each of up to 20 counselling sessions with a client. The total amount of funding paid out by ACC for counselling has increased from \$NZ 2.5 million in 1990 to \$NZ 5.6 million in 1994, \$NZ 7.4 million in 1996 and \$NZ 6.7 million in 2001 (*ACC Injury Statistics 2001 (Second Edition)*).

### **The impact of specific third-party funding on what counts in counselling**

Friedson, (1994) argues that the presence of third-party funding for professional work highlights the tensions between the need to provide a conscientious service and the economic interest of service providers. When sexual abuse became a new field of subsidised counselling work in New Zealand, however, government departments were being restructured and procedures for greater public financial accountability were being established (Lovelock, Patterson and Walker, 1998). The management of specific third-party funding, therefore, highlighted the tensions between the government's need to find accountable, credible service providers and the counselling profession's need for autonomy.

The government agency (ACC) determined who would be eligible for the fee-for-service and psychologists, covered by the *Psychologists' Act 1981*, were automatically given access to the funding. There was, however, more demand than could be serviced by psychologists and psychotherapists alone. Here, the fact that counsellors were not regulated by statute through a registration process posed a problem for government. As a result, government (ACC) imposed its own boundaries about who could legitimately claim jurisdiction. It set up its own accreditation scheme. The accreditation criteria were that the counsellor be a member of a professional association, have undergone particular

counselling training and have experience of working with people who have experienced sexual abuse. This action of ACC had different implications for different sectors of counselling.

***Impact on the professional associations***

In the first instance, the government assumed that if a therapist was a member of the New Zealand Psychological Society, which was registered by statute, he or she would provide a service that was effective and accountable. When the government sought other service providers, to meet the unexpected demand it found, however, that the New Zealand Association of Counsellors lacked some of the essential professional traits of accountability set by the ACC to make it eligible. These traits included appropriate codes of ethics, complaints procedures, disciplinary procedures, continuing education, peer supervision and professional development programmes for their members (*ACC News* Issue 5, September 1993).

Although at the time only 26 per cent of the New Zealand Association of Counsellor's members were in private practice (and therefore affected by ACC funding), the establishment of these professional traits coincided with the Association's professional project (Larson, 1990) that was beginning to gain momentum. The Association therefore readily adopted the standards, and recorded ACC's influence on its quality control.

*Until such time as the code of ethics was revised, ACC would not approve members becoming registered sexual abuse counsellors (New Zealand Association of Counsellors Newsletter 12 (3):6, 1992), and*



*The standards set in our new guidelines for 'member' status are similar to ACC requirements* (New Zealand Association of Counsellors Newsletter 13 (1): 11, 1992).

When the Association adopted these structures of accountability, the impact on the size of its membership and, consequently, its organisation was dramatic (Miller, 1996). Membership increased (from approximately 500 in 1991, to 950 in 1993 and to 2400 in 2002) and the proportion of members who were in private practice increased (from 24 per cent in 1990 to 50 per cent in 1993).

The adoption of these structures of accountability by the New Zealand Association of Counsellors signalled the beginning of formal relations between its executive and personnel in ACC. These relations have highlighted the tensions between the requirements of ACC to manage its funding and the needs of Association members to retain some autonomy over their work. The first challenge that exposed this tension occurred when the news media highlighted a public debate about the validity of claims about sexual abuse. Two groups were represented: repressed memory advocates who identified counselling and therapy as having a positive, facilitative role, and the false memory advocates whose scepticism concerned the power of counsellors or therapists to put ideas in the heads of clients. There was need for both government and the counselling associations to justify government's funding of sexual abuse counselling. In this instance, the ACC promoted counsellors' ability to work in a way that was autonomous and legitimate:

*Despite uncertainty over the validity of recovered memories, the Accident Compensation Corporation is prepared to pay counselling fees for claimants who say they have repressed memories of being abused. If there is doubt about the validity of a claim, ACC will ask for a report from a counsellor, who might already have firm views on the fraught issue (The Press, December 7:15, 1993).*

Public comments such as these were able to be made because ACC controlled counsellor access to its funding. Other less public debates, however, demonstrated that the ACC's agenda took precedence over counsellor autonomy. In 1994, Association members questioned the standards that the Counsellor's Approval Committee was using to screen counsellors. Counsellors wanted the ACC to accredit members with a demonstrated level of competence and experience in sexual abuse counselling, but who may not be qualified academically (*The Press*, January 1:2, 1994). Internal debates within the Association about the definition of 'experience' were unresolved with some counsellors claiming preference for counsellors who had experienced sexual abuse and others claiming that such counsellors would be too personally involved to provide unbiased assistance to clients. The result was that in 1997, the ACC, the funder, established the standard. It declared that ACC claimants could *not* be ACC counsellors (*ACC policy documents*, June, 1997).

A further example of the way in which ACC policies superseded those of professional counselling associations related to the surveillance of counsellors receiving funding. Despite the fact that the New Zealand Association of Counsellors established a Code for Supervisors in 1995, the following statement appeared in the ACC Sensitive

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Claims Newsletter<sup>iii</sup>: *There is[sic] variable criteria amongst the [professional] associations for [counsellors] choosing supervisors...ACC will draft their expectations of supervision for consideration at the next meeting (Insight, December 1997:2).*

The main impact on professional associations of the ACC funding for sexual abuse was one in which there was constant negotiation and compromise on the part of professional associations about acceptable standards of counselling practice.

### ***Impact on counsellor education and training***

In most interpretations of professionalisation (Johnson, 1972; Abbott, 1988 and 1991; Rothblatt 1995; Macdonald, 1995) academics play an important role in constructing the curriculum and the definition of the work and publicising the profession's unity and legitimacy. In the case of New Zealand counselling, however, the integral role of government complicates this picture. University-based counsellor educators, although initially protected from market influences, were, in 1980, put in competition with one another when the government reduced its financial support for the training of secondary school guidance counsellors. This competition was increased in 1992 when the government instituted a new standards-setting exercise that opened up government-supported counsellor-training programmes in institutions other than universities. This competition meant that counsellor-educators adapted their education programmes such that a single national training programme was not achieved and the curriculum was left vulnerable to government changes in policy.

One such change in policy related to ACC's construction of what counts in the training of counsellors eligible to gain access to its third-party funding. ACC has defined

the criteria that count including such characteristics as demonstrated knowledge and training in: two or more models of counselling, family dynamics, abnormal psychology; specific understanding of the influence of age, beliefs, culture, gender and Maori<sup>iv</sup> values and beliefs on responses to trauma and injury and at least one year's work as a counsellor after obtaining the counselling qualification. Consequently, some tertiary-level counselling programmes have introduced new courses consistent with these criteria. Furthermore, two university-based programmes have established the basis of their training on new models of counselling known as brief therapies. These therapies share common characteristics with those that have developed in the managed care environment in the United States with its emphasis on cost effectiveness. The characteristics are: goal-oriented, purposeful, efficient in their use of time, minimally intrusive, client-centred, cost-effective and of high quality. While it cannot be said these changes were introduced solely because of the criteria established by ACC, it is noteworthy that they complement the needs of students to obtain the necessary credentials to gain access to third-party funding. It is also interesting to note that graduates of counsellor-education programmes now use their ability to access ACC funding as a marketing credential (Miller, 2002).

Further influences of the ACC funding of sexual abuse counselling on counsellor-education programmes is found in the area of field instruction. Student counsellors train for a number of hours in the field. Since they are very unlikely to have gained ACC accreditation, they have no access to sexual abuse clients. Consequently, their ability to bring third-party funding revenue to a counselling agency is limited. The irony here is that counsellors are expected to refer sexual abuse clients to ACC accredited counsellors, yet, to become accredited, counsellors are expected to demonstrate effective work with

sexual abuse clients. Added to this is the concern of some agencies that field supervisors, who earn much needed ACC funding, take time away from counselling to provide this supervision. An effect is that the number of field placements available for student fieldwork is reducing.

### ***Impact on counselling practice***

A major impact of third-party funding on the autonomy of professionals to determine their own work is the increased need for visible accountability. The funders need assurance that their money is well spent and therefore lay down their own standards of service and demand that systems of surveillance of service providers are put in place (Newland – Forman, 1995). So, it has been with counsellors and the ACC. Initially, sexual abuse counsellors were required to submit review reports to ACC after 20 sessions with a client and were reviewed more thoroughly after 40 sessions. The assumption that counselling for sexual abuse should take no more than 20 sessions or, at most 40 sessions, is part of the definition of counselling determined by the ACC rather than by the counsellors' professional body. This has some parallel with the observation of Cummings and Sayama (1995) that in the United States, under Managed Care, most practitioners negotiated the 20 session limit *overlooking that fact that this was artificially created by insurers in the first place* (ibid:20).

By 1996, this definition of effective sexual abuse counselling as being time-limited was further refined when the ACC reported that 53 per cent of counselling services were completed in under 10 sessions and a further 26 per cent in under 20 sessions. The claim was made by ACC that: *we work from this experience, our clinical knowledge and the principle that it is most effective for the majority of claimants to offer*

*short term, intensive assistance* (ACC Newsletter, April 1996:1). As a result, ACC proposed an increase in its system of surveillance by proposing that an independent assessor be used after 10 counselling sessions to ‘help meet the legislative criteria described in the Accident Insurance Act 1998’ (NZAC Newsletter, December, 2001:5). This proposal has been implemented despite submissions being made by counsellors that this practice will re-traumatise already vulnerable and fragile clients (NZAC Newsletter, March 2002:44).

All of these changes have resulted in increased administrative paperwork for counsellors who have had to re-apply for ACC accreditation under each new amendment. This and the increased paperwork involved for each individual client has meant that counsellors have begun to review the benefit of doing ACC-funded work. In 2002, ACC reported that there were 620 counsellors approved for funded work whereas there were 750 approved counsellors before the latest re-approval process began (NZAC Newsletter, September 2002: 26). This number testifies that the ACC funding still attracts counsellors and that they are working in ways that allow them to maintain their ACC accreditation and use this as a credential when they advertise their services. Each of these points about aspects of counselling demonstrates that this particular third-party funding has a major impact on what counts in New Zealand counselling.

## **Conclusion**

Despite the fact that counsellors have played a significant role in administering government’s social policies, counselling in New Zealand has yet to achieve government registration. This situation would normally deny counsellors access to government funding for services. In this paper, however, I have described the unique relationship that

has occurred between counsellors and government in the context of government funding for the provision of services to people who claim to have been sexually abused. The relationship is unusual because it has developed despite the ambiguity associated with the term counsellor in New Zealand and because the ambiguity associated with the term 'accident' allowed an unexpected group, people who claim to have been sexually abused, to gain compensation from the government agency ACC. When the nature of this compensation extended to include counselling services, the relationship between counsellors and the government was influenced by different constructions of what counted as effective counselling.

Since the government provided the funding, it defined the criteria that counsellors were required to meet before they could become service providers and it has continued to adapt these criteria to increase its systems of accountability. Some of these criteria have been contested by counsellors, counselling association members and members of the public, but, in the main, they have been accepted by counsellors as features of professionalism. The result is a dynamic relationship between government and counselling in which both parties must co-operate in order to provide a service demanded by the public yet, more recently, has resulted in competition as both parties have attempted to define the essential elements of what counts in counselling.

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<sup>i</sup> The term ‘counsellor’ in New Zealand is not legislatively protected by government and therefore may be used by anyone who wishes to style herself or himself as being a counsellor.

<sup>ii</sup> Although the name Accident Compensation Commission was changed to the Accident Compensation Corporation in 1980 and Accident Rehabilitation and Compensation Insurance Corporation in 1992, the letters ACC have continued to be used by the agency for its title.

<sup>iii</sup> The ACC claims for sexual abuse are called ‘sensitive claims’ and are considered in a unit called the ‘Sensitive Claims Unit’ established in 1993.

<sup>iv</sup> Maori are the indigenous people of New Zealand.