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## **Consultation on the code of practice for part 1 of the Adult Support and Protection (Scotland) Act 2007 (ASP) and Associated Regulations on performing council officer functions**

### **Response from the College of Occupational Therapists**

**Date: 20 March 2008**

The College, which represents over 28,000 occupational therapists, support workers, and students in the UK, of whom over 3,000 are in Scotland, contributes to policy consultations throughout the UK. The College also sets professional and educational standards for occupational therapists, provides leadership, guidance and information relating to research and development, education, practice and lifelong learning.

Occupational therapists work in a variety of settings including the NHS, Local Authority Social Work Services and Housing Departments, schools, primary care settings and a wide range of vocational and employment rehabilitation services including voluntary and private sector.

Occupational Therapists are regulated by the Health Professions Council and work with individuals of all ages with a wide range of occupational problems resulting from physical, mental, social or developmental difficulties. The philosophy of occupational therapy is founded on the concept of occupation / activity being essential to human existence, and to health and wellbeing. Occupation has the potential to restore, maintain and improve physical and mental health and prevent ill health.

The following members have assisted the College in this response - Jamie McDermott, Senior Officer in a Scottish Local Authority; Alison Meikeljohn, Scotland representative of the College's Specialist Section-Mental Health; and Linda Nicol-Smith, member of the College's Scottish Board and Specialist Section-Learning Disabilities.

#### **Response**

The College welcomes these new measures for the protection of adults at risk of harm. Our members had no specific comment or advice on the Code as felt it would be accessible for and appropriate to all required to use it. Our members were however concerned with ensuring the right level of experience and responsibility of council officers.

#### **Council officer**

The College is pleased that occupational therapists have been appropriately designated as being suitable to undertake the council officer function. Pre registration training for occupational therapists includes both physical and mental health. This places occupational therapists in the unique position of having the skills and knowledge to work effectively with people who have both physical and mental ill health or disabilities.

Occupational therapists are the second largest group of professionals working within mental health services.

It is therefore both relevant and appropriate that occupational therapists take on these new duties.



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**Question 1 and 2.**

**Is this the right level of experience and responsibility for a council officer undertaking the functions set out in sections 7-11, 14, 16, and 18 of the Act?**

**If you do not feel this is the right level of experience and responsibility, please state your reasons why and any alternative proposal with supporting evidence.**

The College supports the minimum requirements for professionals undertaking the functions set out in sections 7-11, 14, 16, and 18 of the Act, being an occupational therapy, social work or nursing qualification and registration with the appropriate body.

Our members agree that 'experience does not always equate to competence', and therefore suggest that it is insufficient to specify post qualification experience in identifying, assessing and managing adults at risk.

Our member also feel strongly that it is wrong to assume that the standard for continuous professional development and continuing registration requirements of the appropriate registering body would ensure that council officers have the necessary competence to identify, assess and manage adults at risk. It is also felt that Authorities will require guidance in measuring competence in fulfilling their role of ensuring the continued competence of those they employ to undertake council officer functions.

It is therefore suggested that a competence framework applicable to all professionals undertaking the functions set out in sections 7-11, 14, 16, and 18 of the Act is developed to provide a clear framework. This would ensure a recognized level of competence across the various professional groups. It would also give a framework upon which competence can be measured and give the authorities a benchmark to ensure continued competence.

Only by defining competence and ensuring those undertaking the functions are competent, will adults at risk receive the support they deserve through this Act.

The College would also recommend that a core training programme is developed for frontline practitioners and managers to support implementation of the Act.

**Question 3. Are there any other groups of health professionals, appointed by a council under S. 64 of Local Government (Scotland) Act 1973, that could undertake the council officer function as set out in sections 7-11, 14, 16 and 18 of the Act?**

No. The College is satisfied that the group of professionals identified is appropriate but emphasises the importance of restricting the group of people who can perform the functions of council officer to those who are competent to perform it in terms of qualifications, competence and experience.

**Question 4. If you have answered yes, please state which groups and why?**

N/A

**Question 5. Do you consider that council officers fulfilling the requirements of paragraph 12 above would have the necessary level of experience and responsibility to perform the functions set out in sections 7-10 of the Act?**

No. The College strongly recommends that the functions set out in sections 7 –10 of the Act should only be undertaken by staff the staff already mentioned who can prove registration with the appropriate registering body.



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Members are concerned that widening this to include staff registered under section 44(1) of the Regulation of Care (Scotland) Act 2001 would result in a wide and diverse group of staff who may not have the relevant skills, knowledge and experience to undertake these important functions. Restricting the function to those who do have competence, as discussed in question 1 and 2, is felt to be in the best interests of the adults needing protection.

The consultation also refers to registered social service workers as requiring 12 months experience. There is no mention of what this experience should include. The benefit such experience would bring to the particular focus of working with adults at risk of harm or abuse is thus questionable.

**Question 6. If you have answered yes, please state your reasons.**

N/A

**Question 7. Are there any other groups appointed by a council under section 64 of the Local Government (Scotland) Act 1973 that could undertake the council officer functions set out in sections 7-10 of the Act?**

No

**Question 8. If you have answered yes, please state which groups and why.**

N/A

**Question 9. At what stage in an inquiry should a case be referred to an MHO?**

Cases should continue to be referred to a Mental Health Officer (MHO) when intervention is required by a MHO under the Mental Health (Care & Treatment) (Scotland) Act 2003 or the Adults with Incapacity (Scotland) Act 2000.

**Question 10. What are your views on requiring MHO's to conduct functions under the Act where the adult is suspected of having a mental disorder?**

MHO's conduct functions as defined under the Mental Health (Care & Treatment) (Scotland) Act 2003 and the Adults with Incapacity (Scotland) Act 2000. The fact that an adult has or is suspected of having a mental disorder does not always result in intervention being required under the 2000 or 2003 Acts. The College feels that it would be an inappropriate use of MHO resources if MHO's were required to conduct functions under the Act for all adults who have or are suspected of having a mental disorder.

**Question 11. Should any other class of person undertake these functions?**

Yes. Occupational therapists can undertake these functions where the necessary training and support has been made available.

**Question 12. If you have answered yes, which persons. Please provide reasons**

Pre registration training for occupational therapists includes both physical and mental health. This places occupational therapists in the unique position of having the skills and knowledge to work effectively with people who have both physical and mental ill health or disabilities.



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Occupational therapists are also the second largest group of professionals working within mental health services.

In England and Wales occupational therapists are taking on the new roles of Responsible Clinician, previously the Responsible Medical Officer, and Approved Mental Health Professional, formerly the Approved Social Worker under the Mental Health Act 2007. Training has been put in place to ensure those staff taking on these new roles have the required competencies.

Training includes:

1. Responsible Clinician - evidence of competency must be provided by those taking on this role. Two to four days training is provided about responsibilities under the Mental Health Act 2007.
2. Responsible Medical Officer - staff taking on this role will be required to undergo training first. (Carr 2007)

Furthermore, we also have evidence that occupational therapists in social services in England are taking on new roles around adult protection.

Occupational therapists are therefore, well placed to take on these important tasks to support and protect the vulnerable adults they work with.

Reference: Carr J (2007) 'The introduction of new roles under the Mental Health Act 2007' Mental health in occupational therapy 12. 3 p99-100

**Question 13. How does this compare with what happens currently under existing legislation?**

Current practice should continue around the role and function of MHO's with input being sought as required under existing legislation (Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003).

**Question 14. Would any of these suggestions have implications for the workforce? If so, please give details.**

The College recognises the introduction of this new legislation as a major step forward in protecting adults who are or may be at risk of harm or abuse. While the College supports the position of occupational therapists undertaking functions under the Act, it is likely to impact on workload especially and it is thus important to monitor the impact and the consequences for workforce planning.

**Contact details**

Elizabeth MacDonald

Policy Officer - Scotland

College of Occupational Therapists

PO Box 19571

Johnstone

PA9 1YP

tel - 01505 702 022

e-mail - [elizabeth.macdonald@cot.co.uk](mailto:elizabeth.macdonald@cot.co.uk)