



RCOT / BAOT Briefings

Employment Relations Briefing: Guidance for Occupational Therapy stewards and managers facing restructuring

Country Relevance: UK wide
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Introduction

Your Occupational Therapy department may be facing proposals to restructure its services. Where services are no longer meeting the needs of patients, UNISON is supportive of considered re-structuring based on broad consultation with service users and staff. However, many of these restructuring programmes may be 'knee-jerk' reactions to financial pressures, and in some instances skill reviews may be used as a cloak for cuts to occupational therapy services.

UNISON believes that ill-considered service cuts will result in long-term detriment to the quality and availability of services; and that those most likely to be affected by service cuts are the most vulnerable groups of people within our society.

This guidance note has been drawn up to provide occupational therapy stewards and their managers with ideas and suggestions about the types of questions which they should be raising where cuts to Occupational Therapy services are proposed.

How you should raise the issues

Where services are being restructured, it is vital that this is done with proper consideration of the implications for staff and for the services provided to the public.

The best results for implementing changes to the occupational therapy (OT) department will be achieved by managers and stewards working in partnership to challenge any changes they feel are detrimental to their service or their client groups. Having involvement from a union representative from the outset of any restructuring process is very important, as it will give OT staff a collective voice and enable them to raise issues of concern.

If your department doesn't have an OT steward, now is the time to elect one! UNISON provides training and support for individuals who wish to become stewards. If you are interested in finding out more about the role of a steward and how you can get access to training, please email baotstewards@unison.co.uk for information.

Consultation

Many workplaces will have produced guidance on how departments can respond to any proposed changes. However, if you have not been given the opportunity to be consulted, you should, in the first instance, write to your Head of Service (ideally in joint names of the BAOT steward and the OT departmental manager), notifying your Head of Service that the



occupational therapy department wishes to respond to the proposals and will be submitting a document for consideration. If you have already tried this approach and do not feel that your concerns have been taken into account, or your Head of Service shares your concerns about the proposed changes, you should then write to the Chief Executive. It will be useful for you to send a copy of any correspondence to your UNISON branch so that they are aware of your concerns and know that you are organising around this issue.

Further details on your rights to be consulted can be found in the Information and Consultation of Employees Regulations. The ICE Regulations, introduced in 2005, give employees the right, subject to certain conditions, to request that their employer sets up or changes arrangements to inform and consult them about issues in the organisation.

www.acas.org.uk/index.aspx?articleid=1598

Where the union is recognised by the employer, the Trade Union Labour Relations (Consolidation) Act specifies “allocation of work duties of employment as between workers or groups of workers” as a general area that is subject to collective bargaining. Furthermore, the same Act imposes on employers a duty to disclose bargaining information under the ACAS code of conduct which specifically highlights the duty in relation to “planned changes in work methods, materials, equipment or organisation.”

Under collective bargaining rights, it is of great value to pre-empt service restructuring by seeking a specific agreement on organisational change. UNISON has a draft organisational change agreement that can be adapted to local circumstances which is available [here](#). The model agreement seeks to establish fair and consistent procedures to be followed when conducting service restructuring.

Where the union is not recognised, the Information and Consultation Regulations can provide a useful mechanism for enforcing the right to be “informed and consulted about decisions likely to lead to substantial changes in work organisation or contractual relations.” UNISON’s advice on utilising these, the regulations is available [here](#)

Putting together your response

The more staff you involve in putting together your response, the better. You could hold a meeting to discuss some of the issues flagged up in this briefing to get a wide range of examples and case studies to illustrate the points you wish to make. You may also want to consider working with other AHP or nursing teams if the whole of the clinical service is being targeted for cuts.

Support for your response

If you feel that you have not had a satisfactory response when trying to raise your concerns internally, you should try to make links with other relevant stakeholders such as local patient/service user groups and networks, community campaign groups, voluntary sector organisations, trades councils, local media, the local Labour party, GPs, non-executive directors, local councillors and MPs.

Local decisions regarding health and social care services are overseen by independent scrutiny bodies which gather information on public need and gauge the opinion of service users and the public. These are sometimes known as scrutiny committees or advisory councils and are usually hosted by health boards or local authorities. An important part of their role is to promote the inclusion of patients, communities and other stakeholders in the planning and delivery of health and social care services, including scrutinising any proposals to change services. You may want to get in touch with your local scrutiny bodies if you are concerned that proposed changes to health or social care services could have an impact on the quality of care or service delivery.



Evidence

In order to support your case, it is helpful to gather evidence which can demonstrate the impact of any negative changes to structures or services.

When gathering your evidence you might want to consider:

- Improving lives, Saving Money Campaign available at: <https://www.rcot.co.uk/promoting-occupational-therapy/occupational-therapy-improving-lives-saving-money>
- Occupational therapy evidence factsheets available at: <https://www.rcot.co.uk/about-occupational-therapy/ot-evidence-factsheets>
- locally collected information on the effectiveness of the service, e.g. statistics on readmissions, testimonials from services users, etc.
- profession-based research, e.g. BJOT, WFOT, OT News
- RCOT guidance and best practice. Useful documents include:
Competences in Occupational Therapy briefing available at: <https://www.rcot.co.uk/practice-resources/occupational-therapy-topics/scope-practice>
Definitions of Occupational Therapy briefing available at: <https://www.rcot.co.uk/practice-resources/occupational-therapy-topics/scope-practice>
Code of ethics and professional conduct for occupational therapists and
Professional standards for occupational therapy practice available at: <https://www.rcot.co.uk/practice-resources/rcot-publications/downloads/rcot-standards-and-ethics>
- Linking your evidence to the organisational priorities described in relevant service frameworks (i.e. the priorities or objectives set out by your organisation or by local or national government strategies).

The following sections of this briefing may provide you with a useful summary of some areas to consider in your response. Your response will have more weight if you include good examples within each section.

Services to patients/service users

Consider how patients/service users may be affected by any proposed changes, such as increased health inequalities, lowering standards, unmanageable caseloads or decreased patient engagement in decisions about the service.

Some questions you may want to consider include:

- What kind of occupational therapy roles are being threatened/displaced? Was there a clear rationale for the development of these posts? Does the rationale still count? For example, if specialist skills were developed among occupational therapy staff to support the needs of particular patients/service users, do those types of patients/service users still exist within the local health economy?
- Is the service/activity being reduced as a result of this planned restructuring? If so, which patients/clients will be affected by the service reduction? Will this lead to the creation or worsening of health inequalities within the service?
- If the service or activity is not being reduced, then how is the organisation planning to deliver this with fewer staff? How will caseloads be affected? Are standards going to be lowered/waiting time increased and/or patients/service users put at risk? What organisational key performance indicators or targets will this have a negative impact on?
- Will this have a knock-on effect on other NHS or social care services? For example, if specialist posts in the community are being cut, is this likely to have an impact on the ability of hospital teams to discharge patients within the target times?
- How will the proposals affect plans to implement new policy directives or Government strategies?



Effect on your duty of care and professional standards

All occupational therapy staff have a duty of care to ensure their practice is safe. It is important to consider how the proposal to restructure your service may impact on the duty of care and clinical governance. For example, could the changes jeopardise access to competent clinical supervision, appraisals carried out by trained staff, resources and protected time for training and CPD, effective workforce planning or staff input into professional groups and forums?

Also, Occupational Therapists are required to register with the Health and Care Professions Council (HCPC, www.hcpc-uk.org) and uphold standards of performance, conduct, competency and ethics. Every registrant must read these standards, and agree to keep to them, even if they are not practising. Any instructions or workplace situations which may require you to breach these standards should be regarded as unreasonable and must be challenged. These standards are a useful means to highlight and raise any concerns you have around your ability to practise safely and effectively.

All BAOT members should also uphold the BAOT Code of Ethics and Professional Conduct for Occupational Therapists and the Professional Standards for Occupational Therapy Practice. Although not legally enforceable like the HCPC standards, any breach of the BAOT standards is a threat to the duty of care and should be questioned and challenged. BAOT members can use their standards as a positive tool enabling them to advocate the interests of their patients or service users.

If you are concerned that plans to restructure services may have a negative impact on safety or patient care then you should refer to UNISON's popular Duty of Care handbook (revised 2011, available at: www.unison.org.uk/content/uploads/2013/06/Best-Practice-and-ProceduresDuty-of-Care-handbook-20113.pdf)

The handbook aims to help all health and social care staff to maintain their duty of care to patients/service users, colleagues and the public, particularly when there is pressure on services. It is a practical guide to empower BAOT and UNISON members to have a positive influence and be the guardians of safe, effective and high-quality services.

Health and Safety

It is essential that any workforce changes or restructuring do not impact negatively on the health and safety of staff. Some examples of relevant health and safety issues may include lone working, heavy lifting, safe record keeping, increased workload, morale, stress and staff leaving the service.

The basis of UK health and safety law is the Health and Safety at Work Act 1974. The Act (and the various regulations and approved codes of practice made under it) place a duty on employers to ensure the safety, health and welfare at work of their employees and to ensure their activities do not endanger others.

Employers are required to carry out risk assessments, i.e. a careful examination of what, in a workplace, could cause harm to people, so that measures can be identified that eliminate or significantly reduce the risk of harm.

Some useful resources include:

- The Health and Safety Executive (HSE) is responsible for health and safety policy and the enforcement of health and safety law. Detailed information and guidance on the legislation is available from the HSE website www.hse.gov.uk
- UNISON Health and Safety guidance briefings on a range of relevant topics are available at: www.unison.org.uk/safety



Equality

The Public Sector Equality Duty places a duty on public authorities to advance equal opportunity and eliminate discrimination. Equality Impact Assessments (EIAs) are the best way of achieving that during service restructuring.

Equality Impact Assessments should be used to assess the relative impact of proposals on the terms and conditions of the relevant target groups with respect to: gender, race, disability, sexual orientation, religion or belief and age. You have the right to challenge your organisation/employer if you feel that they are not undertaking a thorough and systematic analysis of a policy to ensure it is not discriminating against any particular group.

UNISON equality guidance is available at www.unison.org.uk/equality This includes guidance on how to ensure employers are fulfilling their obligation to undertake a full equality impact assessment on a proposed course of action.

Changes or cuts to posts

If any attempts are made to revise roles or pay grades it is essential to seek the support of your union and insist on being involved in any review. Work together with your local UNISON branch to ensure that the job evaluation process (including any subsequent review or appeal) is robust and provide supporting evidence, both in person and in writing, where possible.

It is worth seeking written confirmation that any new posts created as part of a restructuring exercise will be put through the Job Evaluation process at local level. This will ensure that employers understand that they will not get the same levels of work from posts at a lower band than within existing structures.

Under the guise 'skill mix review' some employers are being tempted to take groups of staff and drop them down the grading system in order to deliver cost savings, leading to plummeting morale and overstretched services. This process (sometimes called 'downbanding') is usually in response to financial difficulties rather than part of a progressive programme of service redesign. If a role or group of roles are 'downbanded' then your employer should not be expecting those staff to deliver the same level of work for less money (even though their pay should be protected). Staff affected should be encouraged to work to their job description and gather together any evidence that services are suffering due to the reduction in grades. Remember, if you are always plugging the gaps, then it will make it almost impossible for you to demonstrate to your employer that there is a need to reassess the situation.

And don't forget, if any roles and responsibilities change again in the future then you are entitled to ask for the job descriptions to be revised and for the posts to be re-evaluated under the formal job evaluation procedure of your employer.

In the event that posts are removed from the occupational therapy structure, stewards need to involve their UNISON branch in discussions regarding the application of the relevant redundancy policy.

Ask for information from your employer

Check to see what information is available from your employer. Ask for detailed information on their plans and the evidence they are using to make their decisions.

If reports or documents that you have requested from your employer are not forthcoming, then, with the support of your local UNISON Branch, you may wish to consider using:

- The ICE Regulations www.acas.org.uk/index.aspx?articleid=1598



ICE - the Information and Consultation of Employees Regulations - were introduced in 2005 and apply to businesses with 50 or more employees. The regulations give employees the right, subject to certain conditions, to request that their employer sets up or changes arrangements to inform and consult them about issues in the organisation.

- The Freedom of Information Act www.gov.uk/make-a-freedom-of-information-request/the-freedom-of-information-act
The FOIA gives you the right to access recorded information held by public sector organisations.

Additional Resources:

- Effective Campaigning: a UNISON guide
This helpful guide packed full of ideas and tips for running an effective campaign.
Download the guide at: www.unison.org.uk/search/effective+campaigning+unison+guide
- BAOT/UNISON briefings
Additional guidance briefings on a range of topics produced by UNISON and intended for use by BAOT/UNISON Stewards, are available from the UNISON section of the BAOT website at www.rcot.org.uk You will need your BAOT membership number to log-in to the website. If you require assistance or further info, please email baotstewards@unison.co.uk
- UNISON guidance, briefings and campaign resources
 - Health: www.unison.org.uk/healthcare/
 - Local government: www.unison.org.uk/localgov/
 - Higher Education: www.unison.org.uk/education/higher/