



Malpractice & Professional Liability and Public & Products' Liability Insurance for BAOT Members

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Country relevance: UK wide

Introduction

Malpractice & Professional Liability insurance protects BAOT members acting in the course of their occupational therapy work (including voluntary services) and this work is where a practitioner offers advice or intervention. The insurance protects the occupational therapist against a claim for damages brought by a service user if the practitioner has committed a negligent act, error or omission in the course of their occupational therapy work.

In order to bring a successful claim against a member, the service user, or other person bringing the claim, has to prove on the balance of probabilities:

- A breach of your duty or care – that the intervention or action taken was such that no reasonable practitioner would have delivered that care.
- Causation – that the breach of duty or negligence caused or contributed to the injury, loss or damage suffered, and that the service user would not have suffered that injury, loss or damage without the breach.
- Both these tests have to be established to prove negligence.

This briefing outlines the insurance requirements for an occupational therapist registered with the Health and Care Professions Council (HCPC) and the relevance of the professional indemnity insurance available to British Association of Occupational Therapists (BAOT) members as part of their membership benefits. It should be read in conjunction with the insurance summary document available on the College website.

The College of Occupational Therapists cannot provide insurance advice. If this briefing does not provide adequate information, members are encouraged to contact Aon UK Ltd (Details below).

Insurance requirements

By law, HCPC registrants (other than social workers in England) must have a professional indemnity arrangement in place as a condition of registration. As of 1 April 2015, applicants who apply for registration, or renew their registration with the HCPC, must make a professional declaration about the professional indemnity arrangement they have or will have in place when applying for admission to the Register. The insurance cover needs to be appropriate to the risks involved in the registrant's practice. More information about HCPC insurance requirements is available here:

<http://www.hcpc-uk.org/Assets/documents/1000476773851HCPCProfessionalIndemnity.pdf>

Accessed 28.09.16

It is the practitioner's responsibility to ensure that they have adequate insurance. This cover may be provided in a number of ways:

- through an employer's vicarious liability insurance;
- through a professional organisation's policy for members; or



- through a policy arranged personally; or a combination of these.

BAOT Malpractice & Professional Liability and Public & Products' Liability Insurance

The BAOT insurance policy provides Malpractice & Professional Liability cover and Public & Products' Liability cover in respect of occupational therapy work. It is cover for the individual member, whether "employed" or "self-employed" but not for their employer. The policy does not provide cover for any type of entity whether that is a company or a partnership. If cover is required for any type of entity a separate policy will need to be arranged in the name of that entity.

The BAOT professional indemnity insurance covers members who are occupational therapists, occupational therapy support workers and occupational therapy students who are engaged in the practice of occupational therapy work. Support workers and students must be working under the supervision of a qualified occupational therapist for this insurance policy to be available to them.

For "employed" members the BAOT insurance policy does not replace the employer's insurance but acts as an additional safeguard to the BAOT member as an individual.

The BAOT policy is provided on a "claims occurring" basis, i.e. providing the person was a member of BAOT when the claim occurred, they will be covered by the policy. The policy includes "run off" cover for those members who were previously insured under the BAOT insurance - including retired and/or non-practising members - when it was on a "claims made" basis. NB. Members should remember that if they end their subscription their insurance cover will cease automatically.

There are some conditions and exclusions to the policy which members should be aware of and further details are given in the insurance summary available on the College website.

Members are able to request individual evidence of cover certificates if requested by their employer. Please contact Emma McWhinney at Aon UK Limited (contact details below).

The scope of occupational therapy work

Practitioners must consider whether their work can be considered as within the scope of occupational therapy practice. At the heart of occupational therapy is the belief that the ability to participate in meaningful occupation is fundamental to health and wellbeing, and that occupation in itself has therapeutic value. From this it can be said that the core skills of an occupational therapist focus on the assessment of occupational needs and the facilitation of occupational performance/engagement. Thus any activity that an occupational therapist uses or does therapeutically, in order to enable or enhance occupational performance, may be considered within the professional scope of practice. If asked, the practitioner concerned must be able to demonstrate that their professional rationale for any activity or intervention is the enhancement of health and wellbeing through the promotion of occupational performance/engagement. The title of the practitioner's job is not relevant to this decision.

If a BAOT member can meet this requirement in their practice, the professional body insurance would cover their work, providing they were within a membership category that includes insurance cover. If the activities or interventions they use have no basis in occupational performance/engagement, cover would not be provided.

If the member's views were ever doubted, it is the BAOT's decision which is final as regards what is defined as occupational therapy at any particular time.



More information is available in the *Scope of Occupational Therapy briefing* (COT 2015) available on the College website:

<https://www.cot.co.uk/professional-practice/scope-occupational-therapy>

Accessed 28.09.16

Voluntary work and returning to practice

BAOT members employed as volunteers are covered by the BAOT professional indemnity insurance as an individual and should also be covered by the organisation's own Liability cover. Confirmation of this should be sought from the organisation's human resources department.

For occupational therapists returning to practice, who are on placement, they are classed in the same category as volunteers for the purposes of the host organisation's insurance policy. If the returner is a BAOT member they will also be covered by the BAOT insurance policy.

Working overseas

The policy covers BAOT members engaged in occupational therapy work worldwide except for the USA and Canada. It will only respond to claims first made or filed in the European Union, the Channel Islands and Australia and will only pay damages awarded by courts of these countries.

Retirement

The BAOT insurance is also available if the member has retired or is no longer practising.

Indemnity to other persons

In the event of the death of the insured member indemnity is provided to the personal representative(s) of the insured member.

Limit of cover

The limit is £6,000,000 for any one claim per member, costs in addition and £6,000,000 in the annual aggregate per member, costs in addition.

Making a claim

If the BAOT member knows of any claim being made against him or her (whether this is alleged or actual) or circumstances likely to give rise to a claim, notification must be made immediately in writing to: Emma McWhinney, Client Service Advisor, Aon UK Ltd, Mercury Place, 11 St George Street, Leicester, LE1 1DR.

Additional insurance cover

The BAOT insurance policy only provides cover as detailed above. If members require business cover they can contact Aon UK Limited (see contact details below) to obtain a quote.

The College's Specialist Section – Independent Practice has negotiated a favourable rate of cover for its members from another provider, Balens. Private/independent practitioners may want to consider joining the specialist section for this and other benefits.

Resources

- BAOT Insurance queries
Contact Aon UK Limited Tel: 0116 280 7363



PLEASE NOTE: The College of Occupational Therapists cannot give insurance advice. Members are encouraged to contact Aon.

- BAOT insurance policy – cover summary
Contact the College of Occupational Therapists' Membership Department on 020 74502348 or
Email: membership@cot.co.uk
Or download from:
<https://www.cot.co.uk/faq/membership/what-are-insurance-benefits-membership>

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Insurance brokers

AON UK Limited

This is the BAOT's insurance brokers and advisors.

<http://www.aon.com/unitedkingdom/>

Accessed 28.09.16

Balens

<http://www.balens.co.uk>

Accessed 28.09.16

Medical Indemnity Register

<http://www.medicalindemnity.com>

Accessed 28.09.16

References

College of Occupational Therapists (2015) *BAOT malpractice and public liability insurance summary* (October 2016 to September 2017). London: COT.

College of Occupational Therapists (2015) *Scope of Occupational Therapy briefing*. London: COT 2015.

Both of these documents are available from the College website: <https://www.cot.co.uk/>

Accessed 28.09.16