21 Jun 2021

Occupational health

Outlines the kind of occupational health services an organisation might offer and the role of confidentiality and consent in discussing an employee's health

Introduction

Occupational health seeks to promote and maintain the health and wellbeing of employees, with the aim of ensuring a positive relationship between an employee's work and health. Having access to specialist occupational health practitioners is key to unlocking the benefits for employees and organisations.

This factsheet outlines the role of occupational health services and the professional groups providing specialist services, from doctors and nurses to physiotherapists and psychologists. It stresses that confidentiality and consent are central to the relationship between occupational health professionals and employees, and it's essential that employers uphold the legal and ethical guidelines surrounding that confidentiality. The factsheet concludes with a look at pre-employment health queries and what is legally permissible.

What is occupational health and what are its benefits?

Occupational health (OH) is about how work affects a person's health and how someone's health affects their work.

Forward-thinking organisations recognise that managing their people is just as important as controlling financial and capital resources. Developing a healthy workplace culture and adopting a systematic approach to OH will contribute to an organisation's success. For example, evidence suggests that there is a link between stock market price growth and having a great employee well-being programme.

The evidence review of Waddell and Burton has confirmed that being in work is generally

© Copyright Chartered Institute of Personnel and Development 2021, 151 The Broadway, London SW19 1JQ, UK
Incorporated by Royal Charter, Registered Charity no. 1079797 123

better for health and well-being than being out of work. Those in healthy and safe work (the majority) will live much longer than those out of work. If individuals move from work to worklessness, their risk of mortality rises and if they move back into work, it falls. Thus, individuals' job (or jobless) level determines their life expectancy. Of course, this is the role of OH services to support employees in remaining at work or returning to work earlier – and thus contributing to the employees' physical and psychological well-being.

For more on issues related to OH, see our factsheets on health and safety at work, well-being, mental health and stress.

Occupational health in the time of coronavirus

With the focus now on returning to the workplace, there's a danger that organisations may either not provide adequately for the health and wellbeing of their staff and risk potential prosecution, or adopt inappropriate or unreliable measures to help employees back to work safely. OH professionals are ideally placed to support organisations during the COVID-19 pandemic by making quick risk assessments to help identify an organisation's needs to ensure ongoing workplace health and safety. The Society of Occupational Medicine (SOM), CIPD and other organisations have produced an advice leaflet for employees on recovering from Long COVID and returning to work. SOM has also produced a range of return to work toolkits.

Organisations with existing OH services may need to extend them to help make additional assessments to decide if employees should remain away from the workplace, what adjustments may be required and how they could return to workplace safely. Those with no existing services can easily establish an affordable ad hoc service or may judge that now is the time to establish an ongoing service. OH providers can be found via the SOM, the NHS Trusts who provide external OH services or via SEQOHS (Safe, Effective, Quality Occupational Health Service).

There's more on how employers should be dealing with the crisis in our Responding to the coronavirus hub.

Who provides occupational health services?

OH encompasses a range of professions from different disciplines. The two most visible are OH doctors and nurses, who should have specialist qualifications in either

© Copyright Chartered Institute of Personnel and Development 2021, 151 The Broadway, London SW19 1JQ, UK
Incorporated by Royal Charter, Registered Charity no. 1079797 123

occupational medicine or OH nursing. Others include OH physiotherapists, occupational psychologists, occupational hygienists, ergonomists and OH technicians.

Only large organisations are likely to employ their own in-house OH professionals. Some, particularly those working in hazardous or safety-critical areas, may have a team comprising full-time OH nurses, physicians, technicians and administrative staff. Others may employ one or more full-time OH nurses, possibly supported by a part-time occupational physician carrying out medicals and other assessments. Many organisations, including some large employers in both the public and private sectors, outsource their entire OH function to one of the many commercial OH providers. Others will engage the services of a provider as and when needed.

Commercial OH providers range from individual sole practitioners, who often provide services to smaller firms, to large sophisticated companies delivering multidisciplinary support according to the client's needs. The decision of whether to employ an in-house service or outsource to a commercial provider will depend on many factors, not least the size of the business, nature of the work and the location and distribution of the workforce. One way to confirm high-quality OH provision that meets appropriate professional standards employers can look for services accredited with the SEQOHS (Safe, Effective, Quality Occupational Health Service) scheme. Both in-house and commercial services can be accredited. Accreditation is not mandatory and providers without SEQOHS are also required to provide evidence-based care though legislation and professional standards.

Types of occupational health services

The range of OH services an organisation decides to offer will depend on the nature of the employer's business, but can include:

- assessing employees on long-term sick leave, advising on the likely timescale of the absence and promoting an effective return to work
- using a 'biopsychosocial' approach to recovery from sickness to help recognise the psychological, social and work issues that can act as barriers or facilitators to returning to work
- assessing fitness to work regarding ill-health capability dismissal or ill-health retirement
- helping employers fulfil their duties under the Equality Act 2010 (including disability, pregnancy and age discrimination)
- advising on temporary or permanent changes to the work or workplace ('reasonable adjustments') to enable someone with a physical or mental health condition or

© Copyright Chartered Institute of Personnel and Development 2021, 151 The Broadway, London SW19 1JQ, UK
Incorporated by Royal Charter, Registered Charity no. 1079797 123

disability to work effectively and safely
- undertaking and interpreting pre-employment or pre-placement health assessments (see below)
- carrying out specific assessments to determine fitness for work in safety-critical environments – such as transport, food safety and clinical healthcare
- advising on ergonomic issues and workplace design
- introducing programmes to support the wider health and wellbeing of the workforce
- providing confidential health advice and counselling to employees
- advising employers on preventing or minimising exposure of workers to hazardous agents – such as noxious chemicals or excessive noise
- undertaking 'stress audits' and advising employers on measures to control risks to mental health, such as excessive pressure at work, bullying and harassment
- assessing where a person's work has affected their health and what action should be taken both to support the individual and prevent recurrence in other workers
- performing statutory health surveillance where this is required by law, such as when workers may be exposed to hazardous substances, noise or vibration.
- helping compliance with other health and safety regulations.

OH professionals may also advise employers on issues such as alcohol and drug misuse by employees, signposting individuals for external support in dealing with addiction, and offering confidential advice. However, it's generally considered good practice that a third-party organisation is contracted if the employer introduces drug and alcohol testing to minimise the potential impact of loss of trust. The OH service will, however, be able to advise on the legitimacy and practicalities of drug or alcohol testing, the development of policy and on contacting respected third-party testing firms.

Generally speaking, OH doctors and nurses do not 'treat' patients – an exception being immunisation of healthcare workers – and do not duplicate the work of general practitioners (GPs). That said, there might be occasions where the OH doctor or nurse needs to liaise with an employee's GP on issues relating to fitness for work. An employee will always need to agree to their GP providing information to OH (see below).

Confidentiality and consent

Within an organisation, OH professionals will liaise with HR and health and safety managers. It's also important that line managers feel able to approach OH to discuss concerns and issues; however, discussions about an individual employee's health should be restricted to issues relevant to their fitness to work. Managers should be aware that any conversations they have with OH might be noted in the OH records. It's inappropriate for managers to have 'off the record' discussions about an employee's health and it is not

© Copyright Chartered Institute of Personnel and Development 2021, 151 The Broadway, London SW19 1JQ, UK
Incorporated by Royal Charter, Registered Charity no. 1079797 123

the role of OH to find a spurious health reason for a dismissal when the issue should be dealt with by management. Any formal referrals by a manager of an employee to OH should be made with the individual's informed consent with open and full disclosure of the reason.

There are both legal and ethical issues on maintaining the confidentiality of employee health information and it must be understood that as registered healthcare professionals OH physicians and nurses are required by their regulatory bodies to preserve medical confidentiality and only reveal health information to third parties with the individual's informed consent. The exception to this is by court order or 'disclosure in the public interest' where the individual has refused consent to disclose information and there is a genuine risk to the safety of others. Examples might include where the health professional suspects child abuse or where an individual ignores explicit medical advice that they are unfit to drive.

Employee health records must be kept separate from personnel records and should only be accessed by qualified health professionals, (OH clerical staff should sign confidentiality agreements in the same way as administrative staff at a GP surgery). It's inappropriate for HR, health and safety and line managers to have access to employee health records, and information about an employee's health should only be disclosed to them with the individual's express and informed consent. It may often be in the best interests of the individual for information to be disclosed, for example, to be able to make a 'reasonable adjustment' to help overcome the occupational effects of a disability, but again this must be with their consent. Where disclosure consent is denied for something that may, for example, affect the employee's safe operation of machinery, the OH professional may simply have to tell the employer that the employee is unfit for work.

An employer or manager will sometimes request OH to carry out an assessment of an employee's fitness for work and produce a report. An employee must consent to the assessment and also to the sending of the report. However, if the employee refuses consent for the report to be sent, then the employer or manager is entitled to make a management decision without it, which could, of course, be to the detriment of the individual.

Anyone undergoing an OH assessment should be clear about its purpose and what will be reported, for example to the employer or pension scheme. There should be 'no surprises'. As the Faculty of Occupational Medicine advises: 'The most transparent method of avoiding surprises is to explain the content of the report during a consultation and to offer to show the worker a copy before sending it to the recipient'.

There are occasions where OH or HR requires a medical report from an employee's GP or treating physician (such as a consultant psychiatrist or orthopaedic surgeon). The OH or

© Copyright Chartered Institute of Personnel and Development 2021, 151 The Broadway, London SW19 1JQ, UK
Incorporated by Royal Charter, Registered Charity no. 1079797 123

HR professional should only request relevant information (not the whole GP/medical record) and again the employee must consent to the report being written and sent. The Access to Medical Reports Act 1988 (AMR) applies to such reports and has specific rules about consent. The AMR applies where the doctor is responsible for the 'clinical care' of the worker, so does not normally apply to reports written by OH. However, OH reports are covered by similar duties of confidentiality and consent under professional codes of practice and data protection law with associated guidance from the Data Protection Commission.

Pre-employment health enquiries

The employer may wish to make enquiries about the health and fitness for work of a job applicant using a pre-employment or pre-placement health questionnaire. Once again, the employer and an OH service carrying out the assessment must ensure compliance with medical confidentiality, data protection law and the equality legislation.

Questions concerning the health of job applicants should not be asked until a job offer is made which could be contingent on successful health clearance. The reason is that before the legislation came into force, an employer could ask any number of questions which might reveal an applicant's health condition or disability and could (consciously or unconsciously) make a decision not to shortlist the individual based on stereotypical assumptions before the individual had been given the opportunity to demonstrate their capability to do the job. It is appropriate, however, to ask applicants if they need reasonable adjustments to the job-application process or interview (for example because they have a hearing or mobility impairment).

The health assessment should be fit for purpose and only ask for information relevant to the job. For example, for low-risk clerical jobs a simple health declaration may be appropriate. A more extensive health questionnaire (or even medical examination) should in general only be needed where there are specific health requirements – such as safety-critical work, healthcare and food preparation.

Health questionnaires should be designed and interpreted by OH professionals. Non-healthcare managers (including health and safety practitioners) should not be involved in the interpretation or even the initial screening of pre-employment health assessments. Many commercial OH providers will be qualified to undertake such assessments if there is no in-house resource, and the work can readily be outsourced to them.

Useful contacts and further reading

© Copyright Chartered Institute of Personnel and Development 2021, 151 The Broadway, London SW19 1JQ, UK
Incorporated by Royal Charter, Registered Charity no. 1079797 123

Contacts

Acas - Using occupational health at work

Association of Occupational Health Nurse Practitioners (UK)

Commercial Occupational Health Providers Association

Council for Work and Health

Royal College of Surgeons (advice on returning to work after surgery)

Society of Occupational Medicine

Books and reports

FACULTY OF OCCUPATIONAL MEDICINE (2017) *Good occupational medical practice 2017*. FOM.

KLOSS, D. and BALLARD, J. (eds) (2012) *Discrimination law and occupational health practice*. London: The At Work Partnership.

Journal articles

HOWLETT, E. (2019) Majority of UK workers don't have access to occupational health. *People Management* (online). 4 July.

CIPD members can use our online journals to find articles from over 300 journal titles relevant to HR.

Members and *People Management* subscribers can see articles on the *People Management* website.

This factsheet was written by Dr John Ballard FFOM (Hon), editor of the journal *Occupational Health [at Work]* and last revised by the Society of Occupational Medicine.

© Copyright Chartered Institute of Personnel and Development 2021, 151 The Broadway, London SW19 1JQ, UK
Incorporated by Royal Charter, Registered Charity no. 1079797 123