**Evidence to the Department of Health on the Mental Capacity Act Code of Practice and forms May 2019.**

Produced by Helen Van Ristell, Professional Adviser on behalf of the Royal College of Occupational Therapists, the professional body for occupational therapists across the UK.

**Summary of Position**

The Royal College of Occupational Therapists (RCOT) welcomes the new Mental Capacity Act and is very pleased to see Occupational Therapists on the list of formal assessors.

**Background information:**

Our members have told us that there is a significant need for prescriptive legislation as infringements of people’s liberty is frequently seen by Occupational Therapists. They also feel they are regularly involved in situations where they are being asked to deprive liberty, such as by providing equipment which is used as a form of mechanical restraint for example tables and trolleys which are placed in front of someone to prevent them getting up.

Occupational Therapists are currently involved in providing information about people’s functional ability in relation to Activities of Daily Living which is used in capacity assessments led by medical staff

**RCOT’s Position:**

The College welcomes the inclusion of Occupational Therapists on the list of formal assessors. However, we have some concerns about the following areas:

1. Experience of Assessors. Need clarity as to what constitutes 3 years’ experience of working with people that lack capacity and how this will be assessed / monitored.
2. Supervision arrangements. Formal assessors need to have high quality supervision from a supervisor with experience of assessing capacity. This may not be available from their profession, particularly in the early stages of the roll out of the Act. Arrangements need to be in place to support the Formal Assessors.

**Member’s concern:**

Members have expressed concerns over the practical implementation of the Act, particularly the availability of Occupational Therapists to take on the role of formal Assessors and the implications for staffing.

Members questioned

* Will occupational therapists be undertaking formal assessments within their current role, i.e. only within their own caseload?
* Will occupational therapists provide assessments of capacity for people within their own Trusts but not on their caseload?
* Or will occupational therapists undertake assessments wherever they are required?
* Will there be any funding to back fill staff released to perform assessments?

**About the College**

The Royal College of Occupational Therapists is the UK Professional Body and Trade Union for over 33,000 occupational therapists, support workers, managers and students. Occupational therapy enables people of all ages to participate in daily life to improve health and wellbeing. They are the only Allied Health Profession trained at a pre-registration level to work within both physical and mental health.

**Contact**

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