

RCOT Specialist Section – Independent Practice: code of business practice



Introduction

This updated Code of *business practice* (the Code) seeks to guide occupational therapists in independent or private practice (self-employed or occupational therapy business owners) to achieve standards of good practice by defining some clear principles on which their practice should be based. It is understood that practitioners will be working within current health and social care legislation (for the location in which they are working).

The Code has been written in broad terms to cover the various arrangements in which occupational therapists may be delivering private occupational therapy services to individuals in small to large organisations, some of which will be business-to-business contracts. (N.B: It is noted that not all practitioners are business owners or vice versa and therefore the terms are used interchangeably where relevant.)

This Code has been agreed by the Royal College of Occupational Therapists (RCOT) and members of the RCOT Specialist Section – Independent Practice. It is scheduled for review in 2025.

1. Registration and professional practice requirements of the practitioner/business owner

- 1.1 As an RCOT member, the practitioner, and if appropriate the business owner, will be registered on the Health and Care Professions Council (HCPC) Register.
- 1.2 The practitioner/business owner works to the relevant current standards, of which knowledge and adherence are assumed, including:
 - *Professional standards for occupational therapy practice, conduct and ethics* (RCOT 2021a)
 - *Standards of conduct, performance and ethics: your duties as a registrant* (HCPC 2016)
 - *Standards of continuing professional development* (HCPC 2018)
 - *Standards of proficiency – occupational therapists* (HCPC 2013, new version comes into effect 01.09.23.)

- 1.3 The practitioner/business owner will ensure systems, policies and procedures are in place in relation, but not limited, to:
- complaints
 - continuing professional development (CPD) for staff
 - data protection/GDPR
 - delegation
 - fee policy
 - governance of practices carried out by the service and all staff
 - record keeping
 - risk
 - supervision
 - terms and conditions as specified in contracts with customers.

2. The business identity and objectives

- 2.1 The practitioner/business owner clearly defines, for themselves and any others within the business as required by regulations – *Register of People with Significant Control Regulations 2016* – their role and the legal trading status of their work: sole trader, partnership, limited company or other recognised structure (Great Britain. Parliament 2016).
- 2.2 Each practice defines in writing its objectives and scope of professional and business practice, including the nature of the professional work and how the service will be delivered.
- 2.3 The practitioner/business owner must ensure that the scope of all professional practice is in keeping with the skills and experience of current staff in the business at any given time (RCOT 2021a, Section 6.2.1, p36).
- 2.4 The practitioner/business owner may be delivering a range of services, some of which are not occupational therapy. The practitioner/business owner ensures that any business practice they are associated with complies with this Code and that the practitioner/business owner personally meets the relevant industry standards for any non-occupational therapy services. In doing so, the practitioner/business owner should avoid any activity that would bring the profession into disrepute (RCOT 2021a, Section 5.11.1, p34).

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- 2.5 If the practitioner/business owner is drawing on their professional skills and/or knowledge in the course of their work, irrespective of the job title or setting, then they can declare that they are practising their profession (RCOT 2021a, Section 1.1.4, p3).
- 2.6 If the practitioner/business owner relates their continuing professional development (CPD) to their occupational therapy skills, knowledge and experience and to their current and future practice, while meeting the HCPC standards for CPD, they can safely declare that they have met this requirement (RCOT 2021a, Section 6.3.7, p37).
- 2.7 The insurance provided by RCOT does not cover limited companies. Therefore, the business owner with a limited liability company should maintain their own separate medical malpractice/professional liability insurance in respect of the work that is being undertaken by the company.

3. Business governance and legislative requirements

- 3.1 The practitioner/business owner shall be aware of the requirements placed on them to adhere to Inland Revenue, National Insurance, Customs and Excise, and UK General Data Protection Regulations.

- 3.2 The practitioner/business owner, dependent on the nature, size and location of the business, is aware of and adheres to UK law and good practice in relation to areas including but not limited to:
- company law
 - confidentiality, data protection and sharing, access to records/freedom of information
 - consumer rights
 - Customs and Excise (VAT)
 - Disclosure and Barring Service requirements
 - employment
 - equality
 - health and safety
 - human rights
 - national care standards.
- 3.3 If a practitioner is providing services to other countries, they must abide by that provincial law and have adequate insurance cover for that locality.
- 3.4 The practitioner/business owner must ensure that they and all their staff are trained in how to avoid anti-competitive behaviour or activities. Staff must work within established systems that identify and report any anti-competitive behaviour. Larger businesses must not abuse a dominant market position by offering unfair terms or limiting opportunities for other businesses, including RCOT Specialist Section – Independent Practice members’.
- 3.5 The practitioner/business owner must adhere to the *Consumer Rights Act 2015* which sets out consumer rights as regards sale of goods and services ‘in-store, online, distance and at home.’ (Great Britain. Parliament 2015).
- 3.6 The practitioner/business owner sets and maintains a clear fee structure, which is accessible to all customers prior to a service being agreed and provided, regardless of needs, and fairly reflects the nature of the business undertaken. The practitioner/business owner takes a proactive and responsible approach to financial planning and cash flow management.
- 3.7 The practitioner/business owner must ensure that goods are as described, and all services must be carried out with reasonable skill and care.
- 3.8 The practitioner/business owner must ensure that they adhere to all aspects of the *Consumer Rights Act 2015* (Great Britain. Parliament 2015), including offering a 14-day cancellation/cooling-off period, and rights to repair, to fix a service when things go wrong or provide refunds. Consumers also have a right of compensation in some circumstances and the practitioner/business owner must ensure this is honoured where appropriate.
- 3.9 The practitioner/business owner carries professional, public and product indemnity insurance (RCOT 2021b). The practitioner/business owner must ensure that all relevant insurance cover is in place for each aspect of the business. In addition, the business must possess employers’ liability insurance if employing staff or taking students. (The certificate of employers’ liability insurance must be displayed by the business.)
- 3.10 RCOT offers insurance to all members carrying out occupational therapy services, whether employed or self-employed, including independent practitioners, but not their employers. The RCOT policy does not provide cover for any type of entity whether that is a company or a partnership. It is the individual’s responsibility to ensure that they have sufficient cover for themselves and their business.
- 3.11 The practitioner/business owner continues the professional indemnity and other insurance for the necessary period of years following cessation of practice to cover the lapse of time allowed in law for possible claims to be made (RCOT 2021b).

- 3.12 The practitioner/business owner has a system of financial record keeping and accounting in accordance with relevant legal, tax and accounting practice. The practitioner/business owner also has an annual financial audit or accounts review, where appropriate, to comply with tax and accounting regulations.
- 3.13 The practitioner/business owner setting up in independent practice does not canvass customers of his or her previous employer (according to the specific terms and conditions agreed in the contracts, as timescales and scope may differ).
- 3.14 The practitioner/business owner must engage with any legal, regulatory or inspection regimes once notified of an interest or concern raised with regard to the operation of the business.

4. Requirements for business practice

- 4.1 The practitioner/business owner has terms and conditions of business, which are in written form and readily accessible for each customer.
- 4.2 The practitioner/business owner has a contract in written form, signed by both parties (the practitioner/business owner and the customer) to cover each piece of work, agreed prior to commencement of that work and to include all likely fees and expenses.
- 4.3 Advertising and marketing by the practitioner/business owner should be in accordance with the *Professional standards for occupational therapy practice, conduct and ethics* (RCOT 2021a, Section 5.11.1, p34) and the *CAP code: the UK code of non-broadcast advertising and direct and promotional marketing* (Committee of Advertising Practice 2014).
- 4.4 The RCOT logo is protected by copyright and cannot be used by individuals. To use the Member of RCOT (MRCOT) logo and post-nominal lettering, the practitioner/business owner must be a current member of RCOT and must abide by the terms and conditions of use, available from the RCOT website.
- 4.5 The practitioner/business owner must comply with the RCOT commercial and advertising policy (RCOT 2021c) when representing the Specialist Section at exhibitions organised by RCOT or the RCOT Specialist Section – Independent Practice.

5. Service quality and business performance

- 5.1 The practitioner/business owner is responsible for maintaining their own continuing professional development in their chosen field of practice (Interprofessional CPD and Lifelong Learning UK Working Group 2019, RCOT 2021a, Section 6.3.7 p37).
- 5.2 The practitioner/business owner takes responsibility for updating their knowledge of current business issues relevant to the practice.
- 5.3 The practitioner/business owner provides customers with information on a range of products or suppliers to ensure that their needs and choices are not compromised by the practitioner/business owner. The practitioner/business owner must be able to demonstrate that they have acted in the best interests of their customers, particularly where the customer may be vulnerable and in need of support from others.
- 5.4 The practitioner/business owner gives and adheres to clear timescales for the customer with respect to enquiries, completion of reports and other work agreed, and provides supporting documentation where relevant.
- 5.5 The practitioner/business owner has a set of policies and procedures that denote business

operations as they relate to customers' needs and legal requirements (RCOT 2021a, Section 3.6.1.3, p17). For example, health and safety (RCOT 2021a, Section 3.6.1.4, p17), data protection (RCOT 2021a, Section 4.9, p25) and complaints (RCOT 2021a, Section 3.2.1.6, p13).

- 5.6 The practitioner/business owner has a clear system in place for recording and managing complaints and other customer feedback and clarifying lines of accountability for resolving complaints (RCOT 2021a, Section 3.2.1.6, p13).
- 5.7 The practitioner/business owner maintains records, which are clear and accurate, facilitating an optimum service to customers and satisfying legal, RCOT and HCPC requirements (ICO 2022, RCOT 2021a, Section 4.8, p24, RCOT 2018).
- 5.8 The practitioner/business owner must make arrangements to resolve disputes through the use of a third party, such as an alternative dispute resolution (ADR) service.
- 5.9 The practitioner/business owner operates their business in accordance with the RCOT values (RCOT 2022).
- 5.10 Members are at times contracted to carry out work on behalf of the RCOT Specialist Section – Independent Practice; when doing so they are required to adhere to all necessary guidelines that underpin the operation of the RCOT Specialist Section – Independent Practice in the delivery of such services and ensure any conflicts of interest are reported to the National Executive Committee.
- 5.11 The practitioner/business owner must develop a system for monitoring service outcomes (RCOT 2021a, Section 4.6, pp22–23), including clinical governance. Systems should demonstrate improvement of service quality.
- 5.12 The practitioner/business owner ensures that they have sufficient business resources and expertise to deliver the service that is advertised or commissioned (RCOT 2021a, Section 5.11, p34).
- 5.13 The practitioner/business owner takes responsibility for ensuring the provision of adequate mentoring and advice for business development.
- 5.14 Any conflict of interest, pecuniary or otherwise, must be declared immediately to the customer at the point the practitioner/business owner becomes aware of such conflict.

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Recommended reading

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