**RCOT response to the Independent Review of Mental Health Law in Scotland**

***If you are working in an area that uses any of these Scottish laws (Mental Health, Adults with Incapacity, Adult Support and Protection) it asks the following questions:***

**The Mental Health (Care and Treatment) (Scotland) Act 2003 (“the Act”) came into force in 2005 – how well does it work at the moment?**

The Royal College of Occupational Therapists (RCOT) is the professional body for occupational therapists and represents over 33,000 occupational therapists, support workers and students from across the United Kingdom. Occupational therapists have a unique skillset offering support to people with physical and mental illnesses, long term conditions, and / or those experiencing the effects of aging.

The RCOT believe that the current Act is dominated by a medical approach to mental distress. We disagree with this approach and recommend that changes to the Act should embrace the social model of disability and take a human rights led approach to mental health care and treatment. This approach would see an end to the use of forcible detainment, medication, seclusion and restraint. It would focus instead on genuine places of sanctuary when experiencing distress and would tackle the root cause of distress which in many cases is deprivation, exclusion, poverty and abuse.

Importantly, any shift towards the social model of disability and a human rights perspective should not be driven solely by social work and social care. The right levers need to exist within the health system itself to embrace widescale change. Occupational therapists for example, are trained to deploy a social care model and are embedded throughout the health and care system. They will be useful allies in the paradigm shift that is required. The RCOT supports a shift towards a zero tolerance approach on restraint and seclusion which are incompatible with human rights.

**Are there certain things that hinder the Act from working effectively? What would improve things?**

Systems under the Act have become too risk adverse. The RCOT feel that all systems, processes and the workforce need to move to embrace positive risk taking. We should adopt an approach that balances risk to safety with the risk of further excluding and alienating people by denying them the opportunity to do the activities that are important to them and harm no-one.

In our experience, risk assessment can result in a person being denied the opportunity to safely engage in their chosen occupations. We have found that providing in-depth tools to promote positive risk taking is helping to change practice. We have produced a document called “Embracing Risk, Enabling Choice –Guidance for Occupational therapists” (RCOT, 2018) which could be used as the basis for wider guidance for the whole workforce and we would welcome its use in this way.

**Are there groups of people whose particular needs are not well served by the current legislation? What would improve things?**

People with learning disabilities and autism are not well served under the current legislation. The RCOT supports autism and learning disabilities being defined as disabilities rather than mental disorders and using the social model of disability to create positive change. Occupational therapists are trained to approach their practice from this perspective and advocate tackling the causes of disability which are barriers in the social and physical environment.

**The Act has a set of legal tests to justify making someone subject to compulsion. Would you suggest any changes to these?**

The RCOT supports the idea of having a human rights assessment rather than a mental health assessment with special regard for a persons’ will and preference. We have long advocated for a role extension for our members to take on this responsibility for carrying out these assessments.

For example, some of our members, who with additional support and training, would be well equipped to deliver human rights assessments. The Human Rights Framework produced in September 2018 already contains categories that are part of an occupational therapy assessment such as standards of living, health and independent living. We understand that the proposed human rights assessment by the Mental Health Officer can include information from occupational therapists and that the Tribunal can invite the occupational therapist to give evidence and clarify their views. We would like to see this extended so our members can have the opportunity to provide human rights assessments. This would enable occupational therapists to directly bring their skills and expertise to improve people’s lives. It would also create a wider group of professionals who are able to carry out these roles.

**The Act requires a local authority to provide services for people with a mental disorder who are not in hospital, to enable them to live as full a life as possible (sections 25 and 26 of the Act) - Do you think this requirement is currently met? Does more need to be done to help people recover from mental disorder? You may wish to provide an example or examples.**

The RCOT feel that greater investment in community-based support, such as that provided by occupational therapists will be needed to fully meet this requirement. We believe that occupational therapists should be positioned to:

* Develop wider partnerships to create access to opportunities in education, work and leisure
* Provide advice and training to families and service providers
* Provide clear access points for partners and service providers to utilise advice and guidance from occupational therapists

The RCOT also support the idea of giving people with autism and learning disabilities the right to access support, care and treatment who are not in hospital. We support the concept of creating a new National Autism Service in Scotland and have occupational therapists who specialise in working with people with autism.

The RCOT supports the right to independent living and this was a major theme in our recent publication “[*Leading fulfilled lives; occupational therapy supporting people with learning disabilities*](https://www.rcot.co.uk/promoting-occupational-therapy/occupational-therapy-improving-lives-saving-money)*”* (RCOT 2019). The document describes Ian’s story, who was housed in a specialist forensic rehabilitation unit far from home. The occupational therapist was able to advise about suitable housing nearer his mother and he was discharged to a rented property.

We also believe that secure support centres could be led by occupational therapists who can take a personalised approach to care. The right to independent living should be included in the scope of the law, as settled accommodation is a key feature in moving people out of secure environments.

**Does the law need to have more of a focus on promoting people’s social, economic and cultural rights, such as rights relating to housing, education, work and standards of living and health? If so, how?**

The RCOT believes it is time to rethink the law to focus on the social determinants of health such as education, housing, income and meaningful occupation. Many mental health services and teams include, and rely on, the valuable contribution of occupational therapists. As a significant part of the workforce, occupational therapists are committed to moving away from traditional models of medicalised practice to approaches which focus more on the everyday occupational concerns of people and their families. These focus frequently on the most important determinants of health and life expectancy such as employment and social support.

The RCOT also supports the need for rehabilitation centres and fair access to rehabilitation. We believe that appropriately designed rehabilitation centres could be a workable new model as an alternative to detention, particularly if occupational therapists are involved in the design and delivery of these. Successful outcomes have been achieved involving occupational therapists in the design of new environments that offer the opportunity for skills development in a protected environment such as forensic settings. This has enabled a balance of safely and the need for environments that support social interaction, activity and personal choice.

**Do you think the law could do more to raise awareness of and encourage respect for the rights and dignity of people with mental health needs?**

The RCOT feel there is scope for the law to include the need to regularly review the medications a person is on to check against overmedication. For example, the RCOT are firm supporters of the STOMP pledge (stopping the over medication of people with learning disabilities) and feel that a proactive campaign could also work in Scotland. This NHS England campaign aims to stop the over use of psychotropic medicines and involves a variety of organisations including the majority of professional bodies in health and social care. Giving personal pledges has enabled each professional group to define their contribution in this area. For example, the RCOT committed to support members to include the reduction of medication in care plans; to challenge the use of medication and to encourage increased access to meaningful occupations during the reduction of psychotropic medication. Giving clear, tangible examples such as these can help promote change in the workforce.

**The Review is also looking at the way people with a mental disorder are affected by the Adults with Incapacity (Scotland) Act 2003, and the Adult Support and Protection (Scotland) Act 2007.  Based on your experience, are there any difficulties with the way the 3 pieces of legislation work separately or the way they work together? What improvements might be made to overcome those difficulties?**

There continues to be confusion about the overlap between these different pieces of legislation. We are aware that Northern Ireland has attempted a fusion piece of legislation to address this and we believe there is merit in this approach being explored in Scotland.

**Is there anything else you wish to tell the Review?**

We include two case studies here showing the work that occupational therapists do to support the social determinants of health with people who have been involved in the mental health legislation. For more information please see our publication, *Getting My Life Back; Occupational Therapy Promoting Mental Health and Wellbeing in Scotland,* available at: <https://www.rcot.co.uk/promoting-occupational-therapy/occupational-therapy-improving-lives-saving-money>

**Donna’s story**

Donna is a 22-year-old young woman with schizophrenia. She had previously been to university but unfortunately had become extremely unwell and had to leave her course for a period of inpatient care. This was followed by a prolonged recovery period during which Donna decided that she would like to return to university. When her mental state was stable enough, the community mental health team referred her for occupational therapy supported education.

The occupational therapist first met with Donna to assess the barriers that she was experiencing to accessing education. Donna was extremely anxious about returning to a large university campus and worried that this would prevent her starting another degree. She also had concerns about making the successful transition back into the student role, in particular relating to time management, study skills and social interaction. Donna was worried that the stress would overwhelm her and cause her to become unwell again.

The occupational therapist and Donna worked on a graded exposure programme so she could get used to travelling to and orientating around the university campus. This helped to lessen her anxiety before starting her course. Donna and the occupational therapist wrote a plan of coping strategies to help her manage specific aspects of her student role, for example the use of diaries and electronic reminders for attending lectures. Donna’s partner wanted to support her in returning to university and the occupational therapist invited her to join Donna’s sessions so they could problem solve together.

As Donna’s application progressed, and with her permission, the occupational therapist made contact with the university to discuss reasonable adjustments. These particularly focused on reducing stressors and how to intervene early if Donna was feeling unwell.

**Outcomes:**

• Successful entry on to the university course of Donna’s choice.

• Reduction in anxiety around re-establishing Donna’s education.

• Improved emotional and practical support from Donna’s partner.

**Ross’s story**

Ross has been in high and then medium secure care. He is now supported by the forensic community mental health team. Ross was given the diagnosis of schizo-effective disorder in his early 20’s. He experiences auditory hallucinations which cause him distress and to feel unsafe around people he does not know. After many years of living in a structured and managed environment, Ross was struggling to cope with the transition into the community and was isolated with a poor routine.

When Ross first met the occupational therapist, she asked him about the activities he enjoyed doing in the past. The occupational therapist considered what motivated and interested Ross and what strategies and skills he had been able to use in the past to participate in occupations. They agreed goals to overcome the barriers he was currently facing in order for Ross to become more active. Ross particularly liked taking part in gym and football sessions when in hospital. He felt sport kept him fit and lifted his mood. Football reminded him of happy times with his father and grandfather.

The occupational therapist set up a Live Active referral for 6 weeks of free gym sessions at his local sports centre. She introduced Ross to the Queens Park Football Club for fitness training and monthly football games as part of a mental health league using football grounds across Scotland. Ross was encouraged to join an indoor climbing group facilitated by the occupational therapy team and a climbing tutor. As a result of the occupational therapy intervention, Ross visits the gym each week; he continues to play for the football team and takes great pride in being part of the league. Ross is a keen supporter of Celtic Football Club and this was a big incentive for him to join and complete their Health and Wellbeing Course. This has resulted in Ross walking rather than taking the bus on shorter journeys. Ross also attended all 10 sessions of the climbing group and due to his significant progress achieved membership of the climbing centre.

**Outcomes:**

• Ross is more engaged in positive occupations and reports a more stable mental state.

• Ross has had a decreased number of re-admissions to hospital.

• Ross has had improved social inclusion due to better engagement with mainstream community resources.

• Reduced stress for carers as Ross’ mental health recovers.

For more information about this submission please contact

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