

**The answers below reflect The New Zealand Association of Occupational Therapists (NZAOT) understanding of the implementation of the ACT in relation to occupational therapists.**

**1. Is the Act achieving its purpose? Please explain.**

The Act makes a valuable contribution to ensuring that health practitioners are competent.

However there are some concerns that some occupational therapists may choose to leave the profession because of the costs involved. This applies particularly to those in part time and private practice, and those who work for organisations where a more generic title might be used eg – case worker. The impact of this is twofold – people actively choosing to continue to call themselves by a generic title (as stated in a position description) rather than their profession specific title, even though the position has been obtained on the basis of their health professional training.

Secondly, the costs and the process may be a disincentive to people interested in returning to practice as returnees often begin as part time staff members.

Additionally, while the individual practitioner may make significant changes in their practice to meet the requirements of a registration board, there is no requirement for employers to change/improve systems to support the changes the individual makes.

**2. What evidence supports your answer?**

Many of NZAOTs members have begun to attend more consciously to their ongoing competency through supervision, reflective practice and peer review. The requirement of competency review established by OTBNZ has been instrumental in this development.

The evidence cited above is anecdotal from members of NZAOT.

We are not able to provide evidence that demonstrates that the safety of the public is improved.

Many occupational therapists continue to work in inadequately resourced and staffed situations.

**3. What, if any, comments do you have on the adequacy of evidence available about the success of the Act and any changes needed – including, for example, any reporting requirements that might ensure more open access to evidence that the Act is being effective.**

We are not aware of any evidence regarding the success of the Act.

- 4. Are the provisions in section 7 of the Act operating in a way that ensures that non-qualified persons do not claim or imply to be qualified practitioners and what, if any, changes do you recommend (note that issues around enforcing breaches are dealt with in the section titled 'Enforcement of the Act' which is set out below)?**

As far as we are aware these are operating effectively.

- 5. Are the provisions in section 8 operating effectively and what, if any, changes would you recommend?**

As far as we are aware these are operating effectively.

- 6. Are the provisions in section 9 and the current list of restricted activities operating effectively and what, if any, changes, amendments or additions would you recommend?**

As far as we are aware these are operating effectively.

- 7. Is the Ministry approach to enforcement of the Act in keeping with the purpose of the Act and what, if any, changes would you recommend?**

As far as we are aware.

- 8. Are scopes of practice achieving their intent? Please explain.**

Occupational therapists work in many and varied areas, so a general scope of practice is very appropriate. At some time there may be need to consider specialisation within the profession with the development of 'specialist' scopes of practice whilst continuing to recognise the ongoing competence of the occupational therapist to work at a competent level across the 'general' scope of practice.

There is some concern that the present scope of practice does not fit very easily with occupational therapists engaged in education of occupational therapy students, those in management positions and those whose practice may be non clinical yet related e.g. supervisors.

**9. What, if any, comments do you have on the operation of the powers that registration authorities hold to allow conditions or authorisations on individuals' scopes of practice?**

It is appropriate that OTBNZ holds the power to place conditions or authorisations on individual's scopes of practice.

NZAOT would like to see consultative processes in place for the review of the conditions and authorisations placed on scopes of practice to ensure they are effective in; meeting the intent of the act, to establish whether the level is set appropriately, and to consider the implication of the conditions on the workforce and recruitment.

Anecdotally there is some concern about the level of conditions placed on those returning to NZ to work and experienced practitioners coming from countries with similar health systems to our own.

**10. Is the process for developing scopes of practice operating well (e.g. are there suitable mechanisms for ensuring scopes of practice reflect service need) and what, if any, changes would you recommend?**

In deciding to have a 'general' scope of practice OTBNZ consulted with the profession. This was a satisfactory method of engaging the profession.

**11. Do prescribed qualifications reflect scopes of practice? Please explain with reference to particular scopes of practice and considering whether a) the levels of qualification are too low or too high when considering their purpose of assuring public safety, and b) whether they meet the requirements of section 13.**

The level of qualification works well for occupational therapists. It may not work as well for those who work as Visiting Neurodevelopmental Therapists for example or as Case Managers or Case Workers. Visiting Neurodevelopmental Therapists usually have an additional post graduate qualification on top of their first qualification which may be in occupational therapy or in physiotherapy.

**12. With regard to their purpose of assuring the competence of registered professionals, how well are the current recertification regimes working (where possible refer to particular professions)?**

For occupational therapists, OTBNZ has developed a process of recertification based on continuous competency review.

Over the time of the ACT, the OTBNZ has refined the process and the requirements. It is hoped that this will continue.

While some members have expressed concern about the lack of clarity around the interpretation of some of the processes (specifically the Occupational Therapy Continuing Competency Framework for Recertification), there are many who appear to have grasped what needs to be done. Some members have suggested that OTBNZ provide training for new graduates regarding the use of the CCFR. NZAOT would support this initiative.

For occupational therapists the process of recertification based on continuous competency review, has an expectation that a process of 'supervision' will monitor this. Many members have found the use of the term *supervision* confusing here, since it appears from Board documents that the supervisory expectation is linked to monitoring and evaluating performance and competency. Some occupational therapists comment that their employers already have a system for assessing competence and this is a double up of work and effort, and leads to over assessment/evaluation.

Others have commented that the definition of supervision used by the Board does not reflect the broader understanding of supervision held by many health professionals, this being that supervision is an ongoing dynamic, confidential, and reflective process of looking over one's work with a skilled supervisor, designed to facilitate professional identity, growth *and* competence, and ensure standards of practice and practitioner self-care. The ACT currently averts this notion by mandating supervision that places more emphasis on monitoring and evaluating competency and fitness to practice, akin to performance monitoring. Supervision, that is insightful reflection with another, and proactive planning for ongoing professional development, rather than performance management, is essential to the maintenance of competence.

Some members suggest that the Board definition of supervision allows employers to limit a supervisory relationship to performance management only and, whilst the Board has attempted to clarify the use of terminology, many members are still unclear of the purpose and type of "supervision" required under the ACT, which has recently been likened to peer review by the Board (which is a different process altogether). Some members also continue to confuse the supervisor role with the Third Party sign-off role.

Many NZAOT members have commented about the large variation in requirements between the professional Regulatory Boards of other health professions. Some appear to be much less contingent on continuing competency and more about professional development. There is also a large variation regards the likelihood of being audited.

NZAOT would like to see a review of these variations for meeting the purposes of the Act, in particular ensuring practitioners are safe to practice and balance this with the costs (financial and time) of implementing the various regimes. There is some concern that the OTBNZ's Continuing Competency Framework for Recertification (setting goals) whilst involving

therapist's time and effort that this may not be effective (or the most effective system) for identifying issues of competence to practice.

**13. What changes, if any, are needed to improve the evidence available to answer the previous question?**

The information available to us at present is anecdotal. We anticipate that as time passes OTBNZ will be able to provide statistical evidence about some of these issues and that consultation will then occur with changes being made as necessary.

**14. Where recertification arrangements are in place, what issues arise and what changes, if any, would you suggest (e.g. in respect of the nature of the programmes, the level of compliance, monitoring practitioners' compliance, the costs and other impacts on practitioners employers etc)?**

There is variation in views about the process, while some members find that the process is burdensome, others are positive and comment on the value in of writing a critical reflections in each competence area. Some have suggested that the number of competencies (seven) is too high.

The cost of recertification for occupational therapy is high. Most publicly employed occupational therapists have their recertification costs met by their employer. However this is not the case for many in non government organisations or private practitioners.. This can act as a disincentive to continuing to be recognised as an occupational therapist. For example an occupational therapist can be employed as a case worker (receive less pay and not be subject to the process of recertification).

Overseas graduates report that the process is time consuming and the amount of material needed to become registered in Aotearoa/New Zealand is excessive. A comparison with the process of registering overseas trained graduates in other jurisdictions would be informative. For example; One member has recently registered under the Health Professions Council in the UK – and found the process amazingly simple and quick.

There is also an equity issue – the smaller professions are penalised on the basis of cost for being smaller. Over time employers may decide not to continue to pay the fees for the more expensive professional groups and instead employ more people with lesser qualifications, who may not be subject to the HPCA ACT.

NZAOT would be concerned if the recertification process became more prescriptive. A more prescriptive process might lead to a lessening of opportunities to develop expertise within the general scope of practice.

**15. Where recertification programmes have not been introduced how do the authorities assure competence, and are there ways that these processes could be improved?**

No comment

**16. What would be the gains or problems associated with requiring all authorities to institute recertification programmes?**

No comment

**17. Registration authorities have to judge when a practitioner 'may pose a risk of harm to the public' and trigger notification: is this working effectively and what, if any, suggestions do you have to improve effectiveness?**

This is difficult to answer as we have not received statistics or sufficient information from the Occupational Therapy Board to judge this. Mechanisms have yet to be set in place to feed this information back to the profession.

**18. Is it appropriate that authorities must notify a particular set of agencies: what changes, if any, are needed?**

No comment

**19. At what times, if any, other than when there is a concern of a risk of harm to the public, should a registration authority exercise its power to review the competence of a health practitioner?**

Currently the Continuing Competence Framework for Recertification and the Board's audit programme provides additional opportunities to review an occupational therapist's competence. We are not at this stage able to comment on whether this is an effective mechanism as auditing is only occurring for the first time in 2008.

**20. Is voluntary reporting by practitioners of possibly unfit practitioners working, on what do you base this opinion, and, in the light of experience, what are your views on making it a requirement to report concerns about a possibly unfit practitioner?**

We have insufficient evidence to state with any certainty that this is working. The profession has some concerns about:

The differentiation between a performance management issue and report to OTBNZ

The safety of the person reporting especially if they are reporting someone who manages them.

**21. Is compulsory reporting by employers of possibly unfit practitioners working, on what do you base this opinion?**

NZAOT does not have access to the information that would enable us to answer this question accurately.

We would like to see regular reporting to the profession of the cases referred to OTBNZ and the outcomes of these cases (acknowledging that a degree of confidentiality will be required in how this information is reported).

**22. Are the interests of the public and of practitioners being balanced when dealing with the risk of harm from practitioners who are deemed to fail to meet required standards of competence? Please explain.**

NZAOT does not have access to the information that would enable us to answer this question accurately

**23. In practice, do competence and recertification programmes differ, are both sets of provisions needed or should changes be made?**

See answer 12 above.

**24. Should any other parties be obliged to inform the registrar of a practitioner's inability to perform their required functions because of a mental or physical condition?**

No

**25. Are the interests of the public and of practitioners being balanced when dealing with fitness to practise issues? Please explain.**

NZAOT does not have access to the information that would enable us to answer this question accurately.

**26. Are protected QAAs operating in areas you are familiar with: are they valuable, are there any problems, are the reporting requirements appropriate, should there be any changes to the QAA arrangements, should QAAs continue? Please explain.**

No comment

**27. Are PCCs being used by the registration authorities you are familiar with, how often and for what reasons?**

No comment

**28. To what extent is the suspension of an annual practising certificate and referral of a practitioner to the HPDT effective in protecting the public?**

Currently a person suspended could not practice as an occupational therapist but potentially they could take on work in the health field with another title, this may mean that the public was still at risk depending on the issue. An annual practicing certificate should not be suspended lightly. Other actions must take place before this happens – ongoing monitoring of practice, supervision etc.

**29. What, if any, additional steps should be taken into account when determining to suspend an annual practising certificate?**

It is imperative that the process is not rushed and that all involved have sufficient time to contribute.

**30. What, if any, benefits or problems have arisen from having a single tribunal for all regulated professions and what, if any, changes would you recommend?**

No comment

**31. Is the current membership structure of the HPDT operating and are there any changes you would recommend (for example, the mix, the selection and appointment processes, training of members)?**

We believe that a more rigorous process of selection would be of benefit. The criteria used to select members by the Ministry is not transparent and

appears to be not as rigorous as may be expected for a position of this responsibility. Training is offered but is not compulsory members are expected to fund own travel for training.

**32. Is there a need for the HPDT to have the capacity to deal with multi-practitioner/ team-based disciplinary matters and, if so, how should this be organised?**

Unable to comment

**33. Are the current arrangements for financing and supporting the HPDT, appropriate and what, if any, changes would you recommend (including the costs of taking cases to the tribunal and sustaining the operation of the tribunal)?**

Unable to comment

**34. Are the appeal provisions operating well and what, if any, changes would you recommend?**

Unable to comment

**35. How do you think the current number and mix of professions and authorities is operating and what, if any, changes do you think should be made?**

Occupational Therapy is a small profession compared to other health professions covered by the Act. It is important that the needs of small professions are not overlooked. There is concern that if registration authorities are amalgamated smaller professions will find it harder to be heard.

**36. Are the provisions for adding new professions or health services working and what, if any, changes would you make?**

No comment

**37. Are the current membership and appointment provisions working (eg, is the size and mix right, are people with the best skills being appointed, should the power to hold elections be retained and/or used, are lay and professional members appropriately trained and supported) and what changes, if any, would you recommend?**

NZAOT believes that the registration board must comprise occupational therapists and other members of the community to ensure a satisfactory skill mix. NZAOT has lobbied the Ministry of Health to ensure that all occupational therapists are informed of vacancies as they arise which has just begun to happen (late 2007). However, the criteria used by the Minister to select Board members is not clear or transparent at this time.

NZAOT considers that the election of some members by their peers would add balance to the current process.

**38. What deletions, amendments or additions, if any, do you recommend to the list of functions – and why?**

Some NZAOT members have suggested that they would like to receive a brief annual report from OTBNZ about its activities as well as a copy of the audited financial reports.

**39. How well are authorities carrying out their functions and what changes, if any, do you recommend?**

OTBNZ has worked very hard to develop a process for reviewing the competency of occupational therapists. It is to be hoped that regular reviews and changes to the process will continue over time in response to feedback from the profession, service users and interested others and when comparing to other similar authorities. .

**40. Are there any specific legislative requirements that regulatory authorities are currently subject to that they should not be? Please explain.**

No comment

**41. To what extent are the current powers of the Minister of Health appropriate to the purpose and effectiveness of the Act and what changes, if any, do you recommend?**

No comment

**42. What changes, if any, do you recommend to matters covered by the provisions of Part 7 of the Act?**

No changes at this time

**43. What changes, if any, do you recommend to specific wording in the Act in order to clarify or address technical issues not otherwise covered already?**

The occupational therapy profession and we believe other allied health professions use the terms *supervision* and *oversight* in different ways to the Act, we would like to see the definition of these terms changed.

**44. What, if any, other matters are you aware of in respect of the operation of the Act and what changes do you recommend?**

There is always a workload balance issue. As compliance requirements increase occupational therapists are reporting that the time spent in working with service users is compromised. Already many undertake the majority of the recertification requirements in their own time. At some point this will need to be addressed.

Secondly, because it is a web based system, some occupational therapists have difficulty accessing the website, particularly those who work in under resourced services, or where restrictions are placed on web access by employers, and where broadband is not available the process can be very time consuming.