The Occupational Physician
Guidance for specialists and others practising occupational health
January 2013

www.bma.org.uk
The BMA Occupational Medicine Committee

The committee’s terms of reference are:

‘To consider and report on matters affecting the health, safety and welfare of persons at work and the practice of medicine in industry and allied occupations.

To advise the Association on the implementation of health, safety and welfare legislation as it affects its members and their working environment.

This standing committee of the BMA has 10 members:
• three elected annually by the representative body
• three by BMA Council
• one nominated by the Council of the Society of Occupational Medicine,
• one nominated by the Board of the Faculty of Occupational Medicine and,
• one ex officio, member of BMA Council representing occupational medicine (elected every two/three years by BMA members principally engaged in the practice of occupational medicine)

The four chief officers of the BMA (President, Chairman of the Representative Body, Chairman of Council, and Treasurer) are also ex officio members of the committee.

Members of the committee usually include full-time and part-time occupational physicians from large and small organisations, as well as from NHS occupational health services. The chairman of the occupational health committee reports regularly on the activities of the committee to the BMA Council and the representative body.

The committee is a reference point for consultative documents put out by international organisations, the government and the Department of Health, and such bodies as the Health and Safety Executive.

In addition, the committee acts as an advisory panel on matters concerning principles or refers enquiries to suitable individuals.

The occupational medicine committee has compiled this guidance booklet and is responsible for the annual salary supplement,21 which gives the suggested BMA rates of remuneration (see page 20).

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The BMA Employer Advisory Service offers FREE comprehensive, impartial and authoritative advice on a huge range of employment-related issues ONLY for BMA members. Our dedicated advisers have in-depth knowledge of employer matters relating to doctors which may be particularly helpful for Occupational Physicians.

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BMA Employer Advisory Service
Comprehensive, impartial, authoritative advice only for BMA members
Preface

The first edition of this booklet (formerly published under the title *The doctor in industry*) was published in 1980.

The booklet aims to formalise the guidelines and advice that the BMA has offered to its members, to the Government, to employers and to trade unions on matters affecting occupational health.

The booklet acknowledges and incorporates some of the published views of other organisations – the General Medical Council (GMC), the Faculty of Occupational Medicine, and the Royal College of Nursing, amongst others.

Reference is also made, as far as possible, to the main UK and European Legislation that now governs a large part of health and safety practice at work.

Occupational health focuses on enhancing and maintaining:
- the health of people at work, ensuring they operate safely; and
- the organisational effectiveness of enterprises by providing expert advice to management.¹

Like most areas of healthcare, occupational health is a discipline which employs doctors, nurses and sometimes allied professionals. Doctors who practise occupational medicine include both the generalist and the specialist. Only some of the work in occupational medicine requires the expertise and competencies of a specialist. Whichever doctor it is that provides a service, the level of expertise needs to be appropriate to the work to be performed.

An occupational physician is a doctor who possesses a qualification in occupational medicine recognised by the Faculty of Occupational Medicine and has particular competencies, acquired through postgraduate training and experience and who maintains these through ongoing continuing professional development, and annual appraisal that addresses his/her practice in occupational medicine.

Generalist doctors include general practitioners who have a particular interest in occupational medicine and portfolio doctors who, attracted by the diversity that this type of work offers, practice across a number of specialties. The generalist should have a Diploma in Occupational Medicine as an absolute minimum in order to practise occupational medicine.

Occupational medicine is a distinct specialty recognised as such by the European Qualifications Order. Specialist occupational physicians are doctors who have completed the curriculum for specialist training in occupational medicine approved by the GMC or equivalent training, experience and knowledge approved by the GMC. Specialists will have Membership or Fellowship of the Faculty of Occupational Medicine (MFOM or FFOM).
1. Occupational health for all

The right to health and safety at work is a basic human right. People spend one-third of their adult life at work, contributing actively to the development and wellbeing of themselves, their families and society.

Work may impact on health positively or adversely. In favourable circumstances work provides income for meeting life's needs and has a positive impact on social, psychological and physical health and wellbeing.

The Constitution of the World Health Organization (WHO), the WHO Global Strategy on Health for All and the International Labour Organization (ILO) Conventions on Occupational Safety and Health and on Occupational Health Services stipulate the fundamental right of each worker to the highest attainable standard of health. To achieve this objective, the WHO Global Strategy on Occupational Health for All endorsed by the World Health Assembly in 1996 stipulated that:

...access to occupational health services should be ensured for all workers of the world irrespective of age, sex, nationality, occupation, type of employment, or size or location of the workplace.

In 2007, the World Health Assembly endorsed the WHO Global Plan of Action on Workers’ Health (GPA) (2008-2017) and urged member states to improve the performance of and access to occupational health services and to:

work toward full coverage of all workers to basic occupational health services for the primary prevention of occupational disease and injury.


The BMA supports the principle of occupational health services for all working people and in 2008 the following motion was passed at the Annual Representative Meeting and continues to be BMA policy:

‘That this Meeting considers that it is a national disgrace that only a small proportion of the workforce has access to a doctor trained in occupational medicine and that many do not even have access to an occupational health service; and insists that:

(i) all employees in the NHS and elsewhere must have access to specialist-led occupational health services;

(ii) the role of work place assessment for those ill or with disabilities is properly the role of occupational health services.’
2. Work, Health and Wellbeing

Work is an integral part of life. Increasing employment and supporting people into work are key elements of the Government's public health and welfare reform agendas. An independent review, *Is work good for your health and wellbeing?*, shows that there is strong evidence that work is generally good for physical and mental health and wellbeing, taking into account the nature and quality of work and its social context. There is also strong evidence that long periods of worklessness are associated with poorer physical and mental health and increased mortality, as such the following motion was passed at the BMA's Annual Representative Meeting in 2010:

That this Meeting believes in the principle that work is good for health and well-being and recommends that doctors work closely with all interested parties to facilitate their patients' safe and timely return to the most suitable and meaningful employment.

Overall, the beneficial effects of work outweigh the risks of work and are greater than the harmful effects of unemployment. Work can also reverse the adverse health effects of unemployment. All doctors should discuss with their patients the health benefits of work and the ill effects of prolonged periods of being out of work.

Employers are able to claim a deduction against business profits in making payments to employees, provided the expenditure is wholly and exclusively for the purpose of business. If significant alterations or improvements result from the work done, the expenditure is not deductible but may qualify for capital allowances.

You can see a help sheet that explains the rules and gives examples on the Health and Safety Executive (HSE) web site: [http://www.hse.gov.uk/pubns/taxrules.pdf](http://www.hse.gov.uk/pubns/taxrules.pdf).
The joint International Labour Organisation (ILO) and World Health Organisation (WHO) Committee on Occupational Health defined occupational health at its 1st session (1950) and revised the definition at its 12th Session (1995) as:

“Occupational health should aim at: the promotion and maintenance of the highest degree of physical, mental and social well-being of workers in all occupations”

Occupational health services also have an important role in rehabilitating employees back into work, after sickness or injury.

A comprehensive occupational health service is multidisciplinary and aims to protect and promote workers’ health through actions related both to the work environment and to the workers themselves.

Occupational medicine is a distinct medical specialty practised by occupational physicians.

**Occupational Health Service Standards and Accreditation**

Dame Carol Black’s review of the health of Britain’s working-age population ‘Working for a Healthier Tomorrow’ published in March 2008 advocated clear standards of practice and formal accreditation of all providers who support people of working age. The Government’s response to the review, *Improving health and work: changing lives*, endorsed that recommendation.

The Faculty of Occupational Medicine developed the Safe Effective Quality Occupational Health Service (SEQOHS) Standards and launched the [SEQOHS voluntary accreditation scheme](#) for occupational health services in December 2010. The scheme aims to help to raise the overall standard of care provided by occupational health services and to make a meaningful difference to the health of people of working age. It is available to all occupational health services in the British Isles.
4. The occupational physician

An occupational physician may be employed by a large organisation to work in an in-house occupational health service, or may be employed by a third-party occupational health provider to deliver contracted services, or he/she may be self-employed.

The only doctors who should use the title occupational physician are those who:
1. have a relevant higher postgraduate qualification in occupational medicine recognised by the Faculty of Occupational Medicine, and
2. can demonstrate that they have achieved the desired competencies in occupational medicine through training and experience, and
3. maintain these competencies through continuing professional development (CPD) and
4. complete annual appraisal relevant to their practice in occupational medicine

As the term specialist has a legal meaning in European law only those doctors who have completed formal higher specialist training in occupational medicine and are included on the GMC’s specialist register are entitled to use this term.

The occupational physician appointed to provide a service must have appropriate medical qualifications and clinical competence to fulfil the needs of the business and to ensure the optimum health of all employees. In addition, occupational physicians should have a good understanding of:

- how business operates
- leadership skills
- workplace law
- hazard and risk.
The precise duties of an occupational physician will be determined by the requirements of the employer or customer. These duties may include:1,7

- visit the workplace regularly and advise on the provision of safe and healthy conditions by informed scientific assessment of the physical and psychological aspects of the working environment
- promote compliance with relevant health and safety legislation
- help develop policies, practices and cultures that promote and maintain the physical, mental and social wellbeing of all workers
- assess the fitness of workers for specific tasks, ensuring a satisfactory fit between person and job, recommending suitable adjustments to enable a person to undertake the work they have been selected to perform safely and effectively, considering any health issues or disabilities they may have
- monitor the health of workers who are potentially exposed to hazards at work through health surveillance programmes
- analyse data from surveillance programmes using sound epidemiological methods to identify trends in worker health and recommend any remedial measures necessary to improve worker health
- advise employees and employers regarding work-related health issues
- assess potential cases of occupational injuries and illness; investigating, managing and reporting individual cases appropriately and establishing if this is a single case or if there is wider incidence
- manage immunisation programmes for workplace biological hazards and for business travellers
- work with employers to promote best practice in physical and mental health in the workplace to help prevent sick leave
- case manage workers who are on sick leave, working with other health professionals to ensure the earliest return of functional capacity and return to work
- recommend suitable alternate work in circumstances where a worker cannot perform their normal job, either temporarily or on a permanent basis because of a health problem
- determine whether employees satisfy the medical criteria for ill health retirement under the terms of the relevant pension fund rules
- ensure people have the necessary health information to undertake their work safely and to improve their own health.
6. Health assessments

A health assessment is any procedure or combination of procedures used to assess an individual's health. It may include questionnaires, review of medical records, consultation with a health professional, or tests of physiological function or health effect.

In an occupational setting, the purpose of health assessments is to detect and measure any effect of:

a. health on work (e.g. medical fitness for work assessments); or
b. work on health (e.g. health surveillance)
c. and to act on the findings accordingly.

Post-offer health assessments

Post-offer health assessments are undertaken after a person has been offered a job and before he/she commences duties, usually in safety critical work, to ensure that any health condition from which the individual suffers does not present a hazard to themselves or to other persons, e.g. for airline pilots, air traffic control officers, armed forces personnel, seafarers, divers, licensed goods vehicle drivers, etc. In some of these cases, assessment of medical fitness for work may be a statutory requirement.

It is in general unlawful to ask health questions pre-job offer. Post offer assessments and the questions asked in questionnaires must be justified and relevant. A specimen post offer health and capability declaration is attached at Appendix 1. The Faculty of Occupational Medicine's Guidance on ethics for occupational physicians provides further advice.

Health surveillance

Health surveillance includes the periodic targeted medical examination of workers exposed to specific hazards at work with the objective of protecting them from, or preventing, occupational disease. The purposes of health surveillance are to:

- detect any special vulnerability to particular hazards, e.g. pre-existing hearing loss in someone who will be exposed to loud noise at work
- establish baseline health status for future review
- to detect any departure from health at an early and reversible stage and to instigate remedial measures
- comply with relevant legal requirements for specific occupations or hazards.

Periodic examinations required by law include eg those defined in:

- The Control of Lead at Work Regulations 2002
- The Ionising Radiations Regulations 1999
- The Control of Asbestos Regulations 2006
- The Control of Substances Hazardous to Health Regulations 2002
- The Control of Vibration at Work Regulations 2005

Employers and prospective employers are entitled to know whether an individual is medically fit for the proposed post or for continuing service in that post. They have no legal right to medical information about an individual without that person's signed informed consent.
Other health assessments
An occupational physician may assess the health of a worker who has a health condition to either help them return to their own job or another job if necessary with reasonable adjustments or, when all else fails, to assess their suitability for ill health retirement. See chapter 8, Sickness absence.

Occupational health services may also offer voluntary health checks or health screening as part of a broader health promotion programme. Such ‘well-person’ health assessments monitor general health, unrelated to employment.

Advice on VAT
According to the HMRC’s notice on healthcare professionals, published in 2007, pre-employment medicals were ruled to be taxable by the ECJ which considered them to be primarily for the purpose of enabling a prospective employer to take a decision on recruitment. This is considered to include medicals (and reports) for the purpose of determining whether a person is medically fit enough to join a professional register.

Post-employment medicals – where these are to:
• ensure a person is medically well enough to undertake proposed work activities
• assess whether proposed work could adversely affect their health and to make recommendations to minimise any risk accordingly
• determine whether early retirement on ill-health grounds is appropriate, then the principal purpose is considered to be protecting the health of the individual concerned and the supply is exempt. However, where the medical is undertaken to determine whether a person can join a pension scheme, the supply is taxable as the principal purpose is to enable a third party to take a decision.

Management Request Consultations
Except in an emergency, only written requests for medical assessment should be accepted. A formal management request for a report ought always to be in writing. The request should include:
• a clear statement of the questions being asked
• the names of the persons who will receive the report
• a statement confirming that the actions which may result from the report and the possible implications for the employee have been explained to the employee by the manager making the request.
• confirmation that the employee consents to the assessment

When the employee attends, the relevant member of OH staff should satisfy themselves that the above points have been met and that the employee understands the purpose of the consultation.

The written referral shall be shown to the employee on request.

At the end of the consultation the employee should be informed of the result (or the next steps) and told that no clinical information will be disclosed without their consent.

The employee should be offered sight of or a copy of any report that will be sent to their employer. The employee should be told that they have the right to comment on any part of the report that they believe is inaccurate or misleading. Employees should be told that they have a right to withdraw consent having seen a written report.

Consent
In 2009 the GMC published ‘Confidentiality’, a revised version of their 2004 report, which sets out the principles of confidentiality and respect for patients’ privacy that doctors are expected to understand and follow. The guidance accepts that, in many circumstances, doctors may wish to gain verbal rather than written consent to the content of their reports to avoid unnecessary delays. However, in these cases doctors should record this in the clinical notes as well as the report and doctors should also offer their patient the option of receiving a written report to give consent to. In circumstances where doctors are basing their opinions on reports already held by third parties consent does not need to be sought. Employees should be told that they have a right to withdraw consent having seen a written report.
7. Sickness absence

Control of sickness absence is a management responsibility. Occupational health services can advise employers and employees to help them understand and minimise sickness absence on an individual basis and in the organisation as a whole.

Certification and monitoring
National Insurance regulations permit self-certification for the first seven calendar days of absence. Thereafter a Statement of Fitness for Work must be submitted. The purpose of this is stated explicitly as ‘for Social Security and Statutory Sick Pay purposes only’.

Further information is available from the Department for Work and Pensions for general practitioners and other doctors and for occupational health professionals.

A ‘fit note’ chart is attached as appendix 2.

Advice to employers on absence
The occupational physician should be familiar with the rules on occupational and statutory sick pay. The employer may ask for advice about an employee who has had long-term (i.e. greater than 20 working days) or frequent short-term sick leave, depending on the organisation’s policy. Issues that the occupational physician should address in a report to employers may include the following.

- If currently unable to perform their normal duties, is the employee able to perform some form of work? and if so:
  - What temporary or permanent adjustments are needed to facilitate return to work?
  - What is the likelihood of return to work within a specified period?
  - Is there likely to be any residual disability at that time?
  - What is the likely term of that disability?
  - Is the condition likely to qualify as a disability under the Equality Act 2010?
  - Will it be necessary for the individual to have time off work to attend medical appointments?
  - Is it likely that the individual will qualify now or in the future for ill health retirement under the pension fund rules?
- Is there any other way in which management can help?
- To what extent is this a management issue rather than a medical issue?
- Is there an underlying medical reason which may contribute to an unsatisfactory attendance record?

To answer these questions, the occupational physician should normally consult with the employee and, where appropriate, contact the GP or specialist with the employee’s written and informed consent (see Access to Medical Reports Act 1988 or the Access to Personal Files and Medical Reports (Northern Ireland) Order 1991). The occupational physician should ensure that the purpose of the assessment, including the occupational physician’s role as an impartial and objective adviser and their duty of confidentiality is understood at the start of the consultation and be satisfied that the employee consents to proceed. Good communication between the occupational physician and the GP or the specialist helps the occupational physician to give clear and sensible advice to both the employer and the employee and helps the treating GP or specialist who has clinical care to understand the nature of their patient’s work and the opportunities for rehabilitation.

Answers to the questions above aim to inform the employer without breaching medical confidentiality and help the physician to avoid providing vague advice. The occupational physician should be as precise as possible with regard to any adjustments recommended. The use of vague phrases such as ‘light duties’ or ‘restricted duties’ should be avoided unless qualified and quantified with further information on the employee’s ability to lift, bend, stand, sit, walk, work at heights, climb ladders, operate lift trucks or motorised vehicles, work with moving machinery, work shifts, work alone, etc.

When properly supervised by an occupational physician, an early return to work after illness or injury will:
- assist rehabilitation of the employee
- maintain the employee’s basic earnings and thus minimise financial hardship
- shorten the period of sickness absence.
If an employee is prevented from performing their normal job on a long-term basis they may require periodic assessments to determine the need for ongoing adjustments of duties, redeployment to other work or ill health retirement.

**Sickness absence review**

The independent review of sickness absence reported in November 2011. The review made a number of recommendations, including the introduction of an Independent Assessment Service which employers and GPs can access to receive functional occupational health advice. It also recommended changes to the Fit Note guidance to ensure that judgements about fitness to work move away from only job specific assessments. The full report is available here: [http://www.dwp.gov.uk/docs/health-at-work.pdf](http://www.dwp.gov.uk/docs/health-at-work.pdf)

The BMA submitted evidence to the Review stating that there needs to be greater investment in funding for Occupational Physician trainees to ensure wider access to occupational health services to improve the healthcare of all employees.

The Government responded to the report in January 2013. The response also outlines a broader strategy to support the health and wellbeing of the working age population.

8. Ill health retirement

The occupational physician should be aware of the terms and conditions of the employer’s pension scheme(s) and especially the rules on entitlement to early retirement due to ill health or disability.

Assessment

If management is considering the early retirement of an employee, an occupational physician may be asked to examine that employee to determine whether the degree of ill health satisfies the rules of the occupational pension scheme, and to advise management and the employee concerned. Where the occupational physician provides occupational healthcare to the employee and also advises the Pension Fund trustees he/she must be assiduous in acting and being seen to act impartially.9

The occupational physician must ensure that they have sufficient objective medical evidence from occupational health clinical records and/or factual and objective reports of the individual’s health condition from the patient’s GP and/or consultant, with the worker’s written informed consent (see Access to Medical Reports Act 198810 page 15 or the Access to Personal Files and Medical Reports (Northern Ireland) Order 199111) or, if necessary, an independent examination and report. The Faculty of Occupational Medicine’s Guidance on ethics for occupational physicians9 provides further advice.

The occupational physician can only be asked to provide advice on the impact of the individual’s health on their ability to do their current job. Occupational physicians should not be asked to assess patient’s ability to obtain work in the future. The GMC maintains the position that doctors should only deal with matters, and express opinions, that fall within the limits of your professional competence. The patient’s ability to obtain work in the future may, for example, be affected by the person’s mental and physical abilities in the absence of the illness, the availability of work and the economic circumstances: all of which cannot be foreseen by the occupational physician.
9. Occupational health clinical records

The occupational clinical health records (OHCRs) of workers, maintained for professional use by a doctor, in this case the occupational physician, are confidential documents. Access to them by personnel outside the occupational health department is only allowed where the worker provides written informed consent, unless exceptional circumstances arise, eg where there is a grave risk of serious harm to others, or where ordered by a competent Court or Tribunal.

OHCRs should be distinguished from health records maintained, for example, to record the outcome of health surveillance under the Control of Substances Hazardous to Health 2002 Regulations (COSHH). Health records maintained for COSHH should not contain any medical information and should be maintained by the employer separately from OHCRs.

All occupational health clinical staff are responsible for the safe custody of OHCRs. Further information is available in the GMC's publication Confidentiality and the Faculty of Occupational Medicine's Guidance on ethics for occupational physicians.

As well as providing a factual record of consultations and health assessments, OHCRs are a powerful research tool for investigating work-related diseases. Occupational physicians undertaking research using information contained within OHCRs should refer to the GMC guidance Good Practice in Research and Consent in Research.

Disclosure without consent

If in exceptional circumstances an occupational physician has good reason to provide information without the patient's consent or against the patient’s wishes (e.g. disclosure in the interests of preventing a risk of serious harm to others) they should first seek advice from their professional indemnity insurer, and be prepared to justify their decision to the patient, if appropriate to the GMC and the courts if called to do so. Further guidance is available in the GMC publication Confidentiality.

Confidentiality of records

OHCRs are confidential to the medical and nursing staff of the occupational health department. Employees have a statutory right of access to their occupational health records under the Data Protection Act 1998, or to authorise a third party, such as a legal adviser, to exercise that right on their behalf.

Relatives of deceased workers have a statutory right of access to relevant parts of the records of the deceased if they have a claim under the Access to Health Records Act 1990 or the Access to Health Records (Northern Ireland) Order 1993.

Further advice is available in the Faculty of Occupational Medicine's Guidance on ethics for occupational physicians or from the occupational health secretariat at BMA House.

It may be necessary for clerical support staff to have access to clinical records provided that this is done under the supervision of occupational health clinical staff who must ensure that such personnel understand the need for confidentiality and their contractual obligation to preserve it. Clerical staff not subject to such obligations should not be allowed access to personal health information.
Confidentiality in the health sector
The confidentiality of OHCRs applies equally within the National Health Service and private health sector. No employee outside the occupational health department may access OHCRs, even if they themselves are health professionals. The distinction between health service body ‘patient’ records and OHCRs must be emphasised to staff.

Retention of OHCRs
OHCRs should normally be retained for at least 10 years after the end of an employee’s service. It is also sensible to keep the clinical details of health surveillance for as long, if only as an epidemiological tool. Statutory health records required under certain Regulations must be kept for longer ie the Ionising Radiation Regulations – 50 years, and the Control of Substance Hazardous to Health Regulations – 40 years. These records should be kept separate from OHCRs. Archived old records may be microfilmed or computerised to save space or to improve clerical efficiency and the old records destroyed as confidential waste.

Occupational physicians should note that records may be required as evidence in future litigation, the outcome of which might be prejudiced if they have been destroyed.

Transfer of records
If an occupational health department is to be closed, the OHCRs should be transferred (either intact, or archived onto microfilm or computer disk) to another occupational physician or suitably qualified occupational health nurse in the new occupational health provider. If there is no suitable medical or nursing guardian within the company, the records could be held by a part-time doctor with links to the organisation, or could be held elsewhere in the organisation under lock and key, to be accessed only by a named and registered occupational health professional. For further information refer to the Faculty of Occupational Medicine’s Guidance on ethics for occupational physicians.9
The main principle of the Access to Medical Reports Act 1988 and the Access to Personal Files and Medical Reports (Northern Ireland) Order 1991 is the right of access by individuals to medical reports relating to themselves for employment or insurance purposes, provided by doctors who are, or who have been, responsible for their clinical care.

The Act gives the individual the right to see the report and to discuss, with the doctor who is providing it, matters which he/she feels to be factually incorrect or misleading. Ultimately, if the individual remains dissatisfied with the report, he/she can withhold consent for it to be provided. The Act does not give the individual the right to insist that the doctor suppresses any relevant information in a report or change a professional opinion, although the individual can insist that the doctor attaches a statement by the individual on the areas which the doctor has declined to amend.

How the Act affects occupational physicians

Although the Act, for most practical purposes, applies to reports provided by an individual’s GP or hospital doctor, it also affects occupational physicians in the following circumstances:

a) where an occupational physician provides clinical care to the employee (care is defined in the Act as including examination, investigation or diagnosis for the purposes of, or in connection with, any form of medical treatment)

b) where an occupational physician has previously provided medical treatment or advice to an employee (in the context of a doctor/patient relationship) and therefore holds confidential information which could influence the subsequent report

c) where an occupational physician acts as an employer’s agent, seeking clinical information from an individual’s GP or consultant. In this case the occupational physician, acting for the employer, should seek the employee’s consent to request a report and explain his/her rights under the Act.

Specimen forms are attached at Appendix 2.

Occupational physicians responsible for initiating medical reports on employees or prospective employees, or who receive requests from management for such reports, should ensure that the individuals concerned are advised of their rights under the Act.

Provided that clinical care (as defined in the Act) is not undertaken, the BMA believes that the Access to Medical Reports Act does not apply to occupational physicians in the same way that it does to those doctors who provide clinical care. However, there can be differing perspectives on what constitutes ‘clinical care’, even as defined in the Act, so the question is not easily resolved. Workers do have access to any personal information that pertains to them under the Data Protection Act 1998. Similarly, the relatives of deceased workers have a right of access to relevant parts of any records pertaining to the deceased to satisfy a claim under the Access to Health Records Act 1990 or the Access to Health Records (Northern Ireland) Order 1993.
The Department of Health explains the situation in [Questions and answers about accessing health records](#). This states that the Access to Medical Reports Act 1988 only applies to a report prepared by the medical practitioner who usually looks after the clinical care of the person. Reports prepared by other medical practitioners, such as those contracted by the employer or insurance company are not covered by the Act. Reports prepared by such medical practitioners are covered by the Data Protection Act 1998. It is good practice to discuss with the employee the content of the report, the implications of the advice given and to share written reports even if there is no statutory right of access. If occupational physicians, exercising their professional judgement, decide to withhold access to any information or report, they must be prepared to justify such action if necessary to the courts. Advice on this matter can be obtained from the BMA Occupational Medicine Committee and medical ethics departments, or in the Faculty of Occupational Medicine's [Guidance on ethics for occupational physicians](#).10
11. General Ethical Guidance

In most other branches of medicine the doctor has a straightforward duty of care to the patient. In occupational medicine, besides having professional, legal and ethical obligations to the individual, occupational physicians also have a contractual duty to the employer who has appointed them. Where fitness to work is a consideration, the occupational physician must also consider the health and safety of other workers and the general public. These circumstances require specialty specific guidance that is outside the scope of this document.

For more detailed guidance occupational physicians should ensure that they have access to a contemporaneous copy of the Faculty of Occupational Medicine's Guidance on ethics for occupational physicians and Good Occupational Medical Practice.

Although generally considered an unsatisfactory situation, in certain circumstances the doctor may be both the GP and occupational physician. These two roles must be clearly distinguished – information about a patient obtained in the capacity of a GP must not be used to formulate advice to an employer without the patient's informed consent.

It is in patients' best interests for the general practitioner (GP), to be fully informed and responsible for maintaining continuity of a patient's medical care. An occupational physician, (with the employee's informed consent), should inform the general practitioner of any work-related facts which may have a bearing on the health of their patients or if a patient has been referred to a specialist for an opinion. If a specialist starts treatment without the general practitioner being informed, except in an emergency, or where it is impractical to inform the general practitioner, the specialist becomes responsible for providing or arranging all necessary after care.

Business ethics and confidentiality
Occupational physicians should not disclose facts or knowledge concerning the industrial processes, technologies, formulae, specifications and designs of products acquired in the course of their duties except with the consent of management or by order of a competent court or tribunal.

Approaching companies for work
Occupational physicians may approach companies to offer their professional services and should write to the most senior occupational physician in the organisation or, where none exists to the managing director or director of human resources. The letter should be restricted to an inquiry about the availability of occupational health work. If such work is available, the doctor should supply a straightforward curriculum vitae. Good Occupational Medical Practice contains guidance about providing and publishing information about services.

Relationships with others
The occupational physician should apply the following principles in professional relationships with others.

With patients
- communicate frankly, politely and considerately respecting patient's dignity and privacy
- not refer patients to a hospital consultant for treatment, except in the event of an emergency, without informing the patient's general practitioner*
- provide appropriate information regarding complaints procedures
With purchasers of services
- provide clear information about the nature and extent of the services provided and
- specifically any services that are excluded
- provide details of the applicable charges and fees
- make available information regarding any complaints procedures that are available in the event of a dispute

With other occupational health professionals
- only delegate professional tasks to other personnel when that person is specifically trained and has demonstrated competence in the performance of that task

With general practitioners and specialists
- comply with all legal requirements relating to medical reports
- with the employee’s consent, promptly inform the general practitioner of work-related facts which may have a bearing on the health of their patients
- not refer patients to a hospital consultant for treatment, except in the event of an emergency, without the agreement of the patient’s general practitioner*
- not influence workers in their choice of doctor

* It is very important to inform, with the employee's consent, the general practitioner whenever a patient has been referred to a specialist. If a specialist starts treatment without the general practitioner being informed, except in an emergency, or where it is impractical to inform the general practitioner, the specialist becomes responsible for providing or arranging all necessary after care18.
12. Quality and audit/Revalidation

All doctors must take part in regular and systematic audit and structured peer review of their clinical performance with colleagues. Occupational health services within the NHS will have the same clinical governance procedures as other specialties within the same hospital Trust. Large in-house occupational health services in the private sector will be expected to have quality systems and corporate governance mechanisms in keeping with those operated elsewhere in the organisation.

Done properly, quality management and audit help to reduce variation in what practitioners do to ensure consistently high standards of practice. This can help ensure legal compliance and help ensure that clinicians achieve the best possible health outcomes for workers.

The Society of Occupational Medicine operates a quality assured appraisal scheme for occupational physicians working outside a managed system. In addition most doctors working in Occupational Medicine will be subject to a process of revalidation. This is the process by which all doctors demonstrate to the GMC on a regular basis that they are up date and fit to practise. It is a positive affirmation that doctors are safe, rather than just an absence of concerns. The satisfactory sign-off of 5 annual appraisals will form the basis of a recommendation to the GMC that a doctor is fit to practise.

The first step towards the introduction of revalidation began in November 2009 with the introduction of licences to practise. It is now a legal requirement to have a licence and be registered with the GMC in order to practise medicine in the UK. Revalidation was introduced in December 2012. A Responsible Officer from the Faculty of Occupational Medicine is available to use for revalidation. Doctors without a formal Faculty qualification, who spend the majority of their practice in occupational medicine, may join the Faculty for the purpose of revalidation.

Further information about revalidation is available on the BMA website.
13. Prescribing medicines

Nurses who provide occupational health services have specific exemptions under medicines legislation to supply or administer medicines. These amendments allow nurses operating an occupational health service to order pharmacy medicines, general sales list medicines and prescription only medicines (POMs) in response to a written order signed by a doctor or very exceptionally by a registered nurse employed by that organisation. Nurses may only dispense POMs when a doctor has issued written instructions regarding the specific circumstances in which each medicine may be administered.

Clinical procedures and operational policy

The occupational physician should ensure that there are documented clinical procedures for nurses to define the POMs which they may supply or administer and the general indications for which they can be used. The policy should separate drugs administered by injection from those administered by other routes and it should be reviewed periodically. A specimen written instruction is attached at Appendix 3.

The occupational physician must ensure that:

- the nurses required to administer medicines and vaccinations are specifically and adequately trained to undertake this work
- the medicines and drugs are such that their administration may be properly delegated to a nurse
- the competence of the individual nurses concerned is adequate to cope with foreseeable situations.

The physician should restrict products to those that are necessary for the occupational health service, and must make sure that adequate records are kept of all medical products administered or supplied to individual employees.
14. Terms and conditions of service and remuneration

The occupational physician’s job description and contract of employment must define the duties of the appointment in light of the guidance given in this document and relevant employment legislation. Guidance for occupational physicians wishing to offer their professional services to organisations is given on page 19.

Whole-time occupational physicians – definitions and remuneration

This section should be read in conjunction with the salary supplement. The BMA regards whole-time occupational physicians as being in one or other of the grades below, described in terms appropriate to commercial organisations. The titles used reflect the comparison between each grade and its equivalent in the NHS. Individual organisations may wish to use their own titles.

In suggesting the salary ranges that appear in the supplement to this booklet, the BMA takes account of the Doctors and Dentists Review Body’s detailed annual review of salaries. If occupational medicine is to attract and retain a proper proportion of able and experienced doctors, the BMA believes that the material rewards and prospects offered must be competitive with those available to the profession in other fields.

Trainee occupational physician

This grade covers doctors undergoing specialist training in a post approved by the Faculty of Occupational Medicine which, as in other specialties, normally lasts for a minimum of four years. The post is of limited tenure, to allow the doctor to receive training while under the supervision of an approved trainer, leading to the award of a Certificate of Completion of Training (CCT).

Specialist occupational physician

This is a doctor who has a CCT. On appointment to a post in this grade, it is suggested that occupational physicians receive at least the minimum salary set out in the supplement. Starting salaries should be commensurately higher where the doctor has previous relevant experience in other employment. Salary should also be related to a number of factors, which include the size of the organisation, the responsibility involved, supervision of other occupational physicians and health professionals, and senior manager’s salaries in the organisation. Salary should progress by annual increments and more quickly for outstanding performance.

Part-time occupational physicians

Part-time occupational physicians should be paid at sessional rates not lower than those set out in the salary supplement. Previous relevant experience and qualifications in occupational medicine should be taken into account when deciding the sessional rate of pay.

It is recommended that contracts or letters of appointment should include provision for annual reviews of salary scales in the light of changes in the BMA’s recommended scales. Part-time occupational physicians should, where possible, be given the opportunity to contribute to and ultimately benefit from an occupational pension fund, although the rates of remuneration set out in the supplement do not assume this.

Item-of-service remuneration and ad hoc fees for a specific occupational health problem or problems are a matter for private negotiation between the occupational physician and the customer.

Salary supplement

The suggested salaries and sessional rates given in the supplement should be regarded as the minimum and should be increased where qualifications, skills and experience warrant. Employers should also take account of special circumstances such as geographic high cost of living. Occupational physicians should be accorded similar privileges to other senior managers and professionals of similar level in the organisation.

The salary supplement is updated annually subsequent to publication of the recommendations of the Doctors and Dentists Review Body for NHS doctors, as well as other factors. It is available via the BMA website.
Contracts of employment

The Employment Rights Act 1996 gives employees the right to a minimum period of notice of termination of their employment according to length of service, and the right to receive from their employer a written statement of their main terms and conditions of employment. It is the doctor’s responsibility to ensure that their contract of employment covers the BMA recommendations regarding terms and conditions of service. Doctors must be clear whether they are being offered a ‘contract of service’ or a ‘contract for services’, and should seek legal advice on the wording of the draft contract.

The following provides a brief description of the types of contract.

A contract of service is one under which the person paying for the services has general control over the performance of those services. This type of contract is covered by the benefits of the Employment Rights Act 1996 (as amended).

A contract for services in contrast is one under which the person providing the services is free from the element of control. If and when the contract is terminated by due notice there is no question of unfair dismissal compensation, nor do any of the other benefits associated with the Employment Rights Act 1996 (as amended) arise.

A letter of appointment is a formal offer of a post. Such a letter may itself contain some, if not all, of the terms of the contract that will result from its acceptance. Advice on job descriptions and contracts of employment for occupational physicians is available to members of the BMA by contacting 0300 123 123 3

The contract of employment should contain the following:

- title of post
- hours of duty
- remuneration
- overtime arrangements
- occupational pension arrangements

- notice periods
- annual leave entitlement
- sick leave and pay arrangements
- grievance procedures
- duties and responsibilities
- arrangements for health records
- supervision/liaison with colleagues
- advisory nature of the role to the other divisions of the organisation which are also responsible for the health, safety and welfare of employees, eg safety committees.

Occupational pensions

Arrangements for occupational pensions vary from employer to employer, eg they may be either defined benefits or defined contributions; contributory or non-contributory; based on 1/50th or 1/60th of salary or some other denominator, and based on final salary or for example an average of last three years’ salary. Also, the ability to transfer pension contributions on change of employment differs from one scheme to another. Occupational physicians should consider the provisions of the occupational pension scheme before entering into a contract of employment. Doctors who are well established in their career and who change employer should consult a pensions adviser. BMA members may obtain advice from the BMA Pensions Department (info.pensions@bma.org.uk)

Restrictive clauses

Attempts should be resisted to include in the contract a clause to restrict the practice of an independent, part-time occupational physician during the time when he/she is not undertaking work for that company or to restrict the practice of any occupational physician for a period after the termination of his/her contract. BMA members should contact the BMA for advice where a proposed contract lays down such restrictions.

Medical indemnity

The BMA strongly advises all doctors to take out cover with a medical defence organisation even if some cover is provided by their employer, eg NHS indemnity scheme. Addresses for medical defence organisations can be found on page 27.
15. Training and qualifications

The Faculty of Occupational Medicine is the specialty's academic body. Information on training in occupational medicine is available on the Faculty's website.

**Diploma in Occupational Medicine (DOccMed)**
The DOccMed is aimed at doctors who do not necessarily aspire to become occupational medicine specialists but who wish to develop their skills in this area. It is typically taken by general practitioners, either to enhance their work with their own patients and or to enable them to offer occupational health sessions to local firms.

**Associateship of the FOM (AFOM)**
The AFOM was a mid-training qualification aimed at doctors interested in pursuing a full-time or substantial part-time career in occupational medicine. The AFOM was withdrawn as a stand-alone examination for non-specialists in January 2010. Candidates who have passed the AFOM in its entirety will be exempt from part one and two of MFOM.

**Membership of the FOM (MFOM)**
The MFOM is a career specialist qualification and is required for appointment as a hospital consultant. The MFOM can only be awarded once Higher Specialist Training (HST) is complete, examinations passed and the dissertation/thesis component accepted.

**Fellowship of the FOM (FFOM)**
The Faculty's Fellowship Committee awards Fellowships to those Members who have made a distinguished contribution to the specialty and who demonstrate a greater depth of experience and expertise in occupational medicine.
16. Liaison with outside organisations

Addresses of organisations can be found at page 29.

Doctors holding an appointment in occupational medicine are advised to contact the local group of the Society of Occupational Medicine. In addition, it is recommended that strong links be established with local general practitioners, particularly given the element of shared care of patients.

Some universities in the UK have departments of occupational health, which provide teaching and research. It is considered advantageous to establish contact with such a department.

The Faculty of Occupational Medicine, the Society of Occupational Medicine and the Section of Occupational Medicine of the Royal Society of Medicine hold regular local and/or national meetings and conferences of interest to occupational physicians. Membership of these organisations is important in the continuing professional development of full-time or part-time occupational physicians.
17. References


18. Useful addresses

Secretariat, Occupational Medicine Committee
British Medical Association
Tavistock Square
London
WC1H 9JP
Tel: 020 7383 6735
Info.omc@bma.org.uk

Department of Health
Wellington House
133-135 Waterloo Road
London
SE1 8UG
Tel: 020 7972 4776

The Faculty of Occupational Medicine of the Royal College of Physicians
3rd Floor
New Derwent House
69-73 Theobalds Road
London
WC1X 8TA
Tel: 020 7242 8698

The Society of Occupational Medicine
Hamilton House
Mabledon Place
London
WC1H 9BB
Tel: 020 7554 8628

General Medical Council
44 Hallam Street
London
W1M 6AE
Tel: 020 7580 7642

Health and Safety Executive
Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS
Tel: 0151 951 4000

Medical Commission on Accident Prevention
Royal College of Surgeons
Lincoln's Inn Fields
London
WC2A 3PF
Tel: 020 7242 3176

Medical Defence Union
MDU Services Limited
230 Blackfriars Road
London
SE1 8PJ
Tel: 0800 716 376

The Medical and Dental Defence Union of Scotland (MDDUS)
Mackintosh House
120 Blythswood Street
Glasgow
G2 4EA
or
1 Bell Yard
London
WC2A 2JR
Tel: 0845 270 2034

Medical Protection Society
33 Cavendish Square
London
W1M 0PS
or
Granary Wharf House
Leeds
LS11 5PY
Tel: 020 7399 1300

Medical Research Council
20 Park Crescent
London
W1N 4AL
Tel: 020 7636 5422

Royal College of Nursing
20 Cavendish Square
London
W1M 0AB
Tel: 020 7409 3333

Royal Society of Medicine
7 Wimpole Street
London
W1M 8AG
Tel: 020 7408 2119

The Medical and Dental Defence Union of Scotland (MDDUS)
Specimen health and capability declaration

ABC plc is an equal opportunities employer. We recruit and promote people irrespective of any personal factors, including gender, race, disability or sexual orientation.

ABC plc aims to promote and protect the health and wellbeing of all its people.

This declaration aims to identify people who have pre-existing health-related capability issues before they start their job, so that the company’s occupational health service (OHS) can advise management how to adjust people’s work accordingly and help people work to their full potential.

You should have had the opportunity to read the job description for the role to which you are being recruited and to discuss practical matters with your recruiting manager. Please tick the statement that you think applies to you and sign and date the declaration.

Either:
A. I am not aware of any health condition or disability which might impair my ability to undertake effectively the duties of the position which I have been offered.

Or:
B. I do have a health condition or disability which might affect my work and which might require special adjustments to my work or at my place of work.

If you have ticked B, you may provide details below and send the completed form to OHS in the sealed envelope marked ‘confidential for OH only’. Occupational health staff may then contact you to discuss your health further in confidence in order to determine if any special measures are required to accommodate you at work.

I consent to providing this information and declare to the best of my knowledge that the answers to the questions above are complete and accurate. I also understand that any false declaration may result in my service being terminated.

Signature Date
20. Appendix 2

Fit Note Chart

- Can the individual return to their normal job full time?
  - Yes: Advise patient FIT for normal job
  - No: Does the patient have access to an Occupational Health Service at work?
    - Yes: Consider referral to Occupational Health
    - No: Are you confident to advise?
      - Yes: Can the individual perform their normal job part-time?
        - Yes: Certify to recommend altered hours
        - No: Can the individual perform some other work?
          - Yes: Certify to recommend amended duties. Describe activities the patient should avoid
          - No: Define the expected duration
          - No: Certify UNFIT work
      - No: Can the patient have access to an Occupational Health Service at work?
        - Yes: Consider contacting Occupational Health advice line
        - No: Review
Specimen form of consent in respect of an application for a report from an employee’s own doctor

CONSENT TO APPLICATION FOR AND RELEASE OF PERSONAL MEDICAL INFORMATION

General

Occupational Health (OH) wishes to write to your Doctor to request a Medical Report on you (your doctor is usually your Family Doctor but also your Hospital Doctor if you are being treated by a Hospital Specialist). This form records your formal consent and will be forwarded to your doctor. A copy will be kept by OH and a further copy will be given to you.

Under the terms of the Access to Medical Reports Act 1988 you have the following rights:

1. You can refuse to give consent if you wish.
2. If you do give consent you have the right, if you wish, to see your Doctor’s report before it is sent to OH.
3. If you want to see the report you must ask your Doctor for sight of it within 21 days of the date on which OH has requested a report (you will be told in writing what that date is). If you do not meet this 21-day deadline the report will automatically be sent to OH (provided you have given your consent).
4. When you have seen the report you have the right to withdraw your consent to its being sent to OH, if you wish.
5. If you consider any of the information in the report to be incorrect or misleading you can ask for it to be amended. You must do this in writing. If your doctor does not agree that the information is incorrect or misleading he/she does not have to amend the report. Instead you will be invited to prepare a written statement giving your views of the disputed information. That statement will be included when the report is sent to OH.
6. You will continue to have a right of access to the report after it has been sent to OH. If you decide you want to see the report you may ask your doctor or occupational health to let you see it.
7. If you just want to see the report it will cost you nothing, but your doctor may charge you a fee if you want a copy to keep.
8. In exceptional circumstances, your doctor has the right to withhold from you any information which he/she considers may cause serious harm to your physical or mental health. In these cases the doctor may allow you to see only part of the report.
### Information

Please provide the following information

<table>
<thead>
<tr>
<th>Surname</th>
<th>*Title Mr/Mrs/Miss/Ms/Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forenames</td>
<td></td>
</tr>
<tr>
<td>Date of birth</td>
<td></td>
</tr>
<tr>
<td>Address</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Postcode</th>
<th>Telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full name and address of Family Doctor</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Postcode</th>
<th>Telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full name and address of your Hospital Specialist</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Postcode</th>
<th>Telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Please give your hospital registration number:</td>
<td></td>
</tr>
</tbody>
</table>

### Declaration

Please read this declaration, then sign it to show your consent.

I consent/do not consent* to OH applying to my doctor for a medical report on me.

I wish/do not wish* to see my doctor’s report before it is sent to OH.

I understand that the information given will be retained by OH on a confidential basis and that any advice given to Management will be expressed in terms of my fitness for employment and/or my fitness to carry out my duties both now and in the future. It will not include detailed information about my medical condition unless I consent.

**Signature:**

* Delete as necessary

**Date:**
Specimen letter to an employee who has requested access to a medical report

Dear

Further to the return of your Consent Form, I have today applied to Dr/Mr …………… for the medical report and have informed him/her that you do/do not require access to the report before it is supplied to me.

You will recall that under your expressed option in the summary on the Consent Form you have the following rights:

* You give your consent, but wish to read the report before it is issued. You should therefore arrange to visit the above named medical practitioner in order to read the report once it has been prepared
* The above named medical practitioner will also be informed of this, and will not supply me with the report until you have read it. If the medical practitioner has not heard from you to the contrary within 21 days of this letter, he/she will assume you agree to provision of the report.
* When you read the report, if there is anything which you consider incorrect or misleading, you can request in writing that the medical practitioner amend the report, but he/she may not agree to do so. In this situation you can:
  – withdraw consent for the report to be issued
  – ask the medical practitioner to attach to the report a statement from you giving your views
  – agree to the report being issued unchanged.

You can also withdraw your consent if the medical practitioner will not show you the report (or part of it) because he/she considers there are special circumstances.

Yours sincerely

Signature of applicant and position in organisation.
23. Appendix 5

Specimen operating policy

Date of issue .........................................................

General written instruction/local operational policy
for the Occupational Health Nurse ......................................................... (Name)
of the ................................................................................................ (Organisation)

1. This instruction covers the above named nurse working in the following locations within the above organisation:
   (1) ........................................................................................................
   (2) ........................................................................................................

2. (a) The following prescription only medicines other than injectable may be supplied as indicated below:
   Proprietary name Form Dosage Indications for use
   .................................. ................................. ................... .................................

   (b) The following parenteral route prescription only medicines (injectable) may also be administered as indicated below:
   Proprietary name Form Dosage Indications for use
   .................................. ................................. ................... .................................

3. The RN who is authorised and willing to undertake treatments involving the use of prescription only medicines listed above should indicate willingness and agreement to do so by signing below:
   Name Qualifications Date Signature
   .................................. ................................. ................... .................................

4. The doctor or doctors giving authorisation to this instruction are:
   Name Qualifications Date Signature
   .................................. ................................. ................... .................................

Notes
1. This instruction should be reviewed at least once per year.
2. Any changes in legislation should be taken into account.
3. All new staff (both doctors and nurses) should be named as parties to the instruction.
24. Appendix 6

Specimen contract for self-employed occupational physicians

Confidential

An agreement made the .................. day of ........................20..... between .......................... whose registered offices are at .................... (herein after called the Company) and Dr........................... of .......................... (herein after called..........................) for the receipt of and performance of occupational medical services described in this agreement upon the basis of a contract for services upon the following terms and conditions.

It is agreed:

1. The Company will accept and Dr........................... will provide his/her services as Occupational Physician to the Company at the Company's premises as set out in schedule 1 for an indefinite period/commissioning .................. and expiring on ..................

1.2 This agreement may be terminated by either party at any time by giving at least .................. months notice in writing to the other.

1.3 The continuation of the contract for services created by this agreement is conditional upon the Occupational Physician producing to the Company upon demand a current annual registration certificate from the General Medical Council and evidence of current membership of a medical defence organisation/malpractice insurance scheme approved by the General Medical Council.

1.4 Dr........................... undertakes to discharge faithfully and diligently all the skills which may reasonably be expected of an Occupational Physician in providing the services described in schedule 2 to this agreement.

1.5 In the course of delivering the services described in schedule 2 Dr........................... will ordinarily report to .......................... at the premises described in schedule 1. In any case in which Dr........................... considers there to be an urgent issue relating to the health or safety within or related to the Company's operations or staff at the said premises or in the absence of .......................... for any period greater than one day Dr........................... will report to the .......................... Director at the said premises or, exceptionally, the .......................... Director at the Company's registered offices.

1.6 Dr........................... will be an independent contractor and nothing contained in this agreement shall be construed or have effect as rendering Dr ........... an employee, worker, agent or partner of .......................... or any associated entity.
2.0 Remuneration

2.1 During the continuation of this agreement the Company will pay to Dr…………… without any deduction of tax or national insurance contributions, in return for the services provided in accordance with schedule 2 seessional fees at the rate of ……….. per day session and ……….. per night session: each session comprising 3.5 hours. Remuneration shall be payable at the end of each calendar month or on such a periodic basis as may be agreed between Dr………… and the Company from time to time.

2.2 Dr…….. will attend the premises set down in schedule 1 to provide the service described in schedule 2 and such attendance will comprise a total of ………… sessions per annum allocated at a time and date as agreed with the ………………… at the respective premises.

2.3 Dr ……… shall be reimbursed an allowance of …………. pence per mile when travelling on Company business in his private motor vehicle.

2.4 Dr……… will be entitled to receive reimbursement of any expenses arising in addition to those paid under paragraph 2.3 above in respect of other travel undertaken at the request of the Company in connection with the discharge of the services described in schedule 2.

2.5 The amounts payable to Dr …………….. as the annual retainer/sessional fees together with the allowances in paragraph 2.3 shall be hereafter reviewed annually following discussion and agreement and taking account of the Occupational Physician remuneration supplement published annually by the British Medical Association.

3.0 Confidentiality

3.1 The Company recognises the clinical independence of the Dr ……………., his/her duties to his/her patients, and his/her right to maintain the confidentiality of occupational health clinical records and information for which he/she is responsible.

3.2 By agreeing to the terms of the agreement Dr ……………….. acknowledges that in providing services he/she will be exposed to sensitive and confidential information relating to the Company (hereinafter referred to as “information”). Such information may include, but is not limited to, facts or knowledge concerning the processes, formulae, specifications and designs of products. It is hereby agreed that Dr…….. will hold in confidence and not disclose to third parties, and not without the prior written consent of the Company, use for the benefit of anyone other than the Company such information. The duty of confidentiality set out above shall remain in effect for a period of 20 years following the termination of this agreement for whatsoever reason.

3.3 Dr ………. agrees that he/she will not, without the prior written consent of the Company, which will not be unreasonably withheld, publish the results of any research undertaken by him/her which includes data which he/she has obtained concerning the Company’s employees or business activities.
3.4 On termination of this agreement Dr ……… will hand over to either his/her successor as Occupational Physician or to the ………………… at the location/locations at which he/she shall have performed his/her duties hereunder or to ……………………… all records held by him concerning the Company and its employees and any item of property belonging to the Company.

In witness whereof Dr …….. and a duly authorised officer of the Company have hereunto set their hands the day and the year first above written.

Please note: This is a contract for services provided by a self-employed occupational physician rather than a contract of employment. A self-employed occupational physician would not be entitled to go to an industrial tribunal if the contract were breached, although he/she could sue for breach of contract.
Schedule 1

The premises at which services are to be performed.

Schedule 2

The services to be provided under article 1.1

1.1 Consultation with employees as referred to the occupational physician by the Company from time to time.

1.2 Procedures and services as may be agreed with the Company from time to time. Insofar that the occupational physician considers that any such additions or amendments are such as to substantially affect the scope or duration of the service he/she is required to perform he/she may require the ...................... to consult with him/her as to the effect of such additions or amendments on this agreement and to conclude as they agree to be appropriate.

1.3 The times at which the occupational physician shall attend the premises in schedule 1 shall be agreed with the ................... and will be varied thereafter only by mutual consent.

Signed by the occupational physician in the presence of .................................

Signed by ......................... on behalf of the Company in the presence of ...........................

Issued by: Occupational Medicine Committee,
BMA House, Tavistock Square, London, WC1H 9JP
January 2013