



The HR Edit

Series 2, Episode 3: Demystifying Occupational Health

[Music]

0:00:05,349

Helen: Hello and welcome to the HR edit, the podcast from South East employers taking a look at those common and often tricky HR questions. Today I'm joined by Michelle hi, Michelle,

0:00:14,100

Michelle: Hi Helen.

Helen: And Sarah, hi Sarah

Sarah: Hello

0:00:17,874

Helen: and we're going to be discussing occupational health. So, michelle, let's start with the obvious question what is occupational health?

0:00:25,120

Michelle: So occupational health is a tool available to employers to help them manage the sickness, absence and well-being of their workforce. So, generally speaking, you'll have occupational health physicians or practitioners. Physicians are definitely medically qualified as doctors. Practitioners are often nurses or other medically qualified people who are able to advise very specifically on the impact of health on work and work on health.

0:00:54,917

Sarah: So, Michelle, does that mean occupational health officers actually are part of a council, or they're usually external people?

0:01:02,422

Michelle: They used to be in-house, but probably about 20-odd years ago we saw a mass exodus into outsourcing to medical companies and occupational health companies, so there are very few councils who would still have an in-house occupational health professional.

0:01:19,717

Sarah: You'd think that if they were in-house, you know, perhaps more people would use them, whereas if you have to be sort of referred to occupational health, you know there's not that immediate benefit of it. And in an age where mental health and physical health is so important and we put a lot of value on that, rightly so I'm surprised that it's still very much an external thing, although really not surprised in economic terms, I suppose.

0:01:44,072



Michelle: Yet most occupational health contracts these days include an element of well-being support and on-site or virtual access in terms of the prevention side of things. So they'll run smoking cessation courses or they will run well-being days where you know they'll be on-site and can do very quick blood pressure, cholesterol tests, that kind of thing. So by outsourcing, yes, you lose that personal touch, but it gains the sort of independent perspective rather than being an employee of the organisation delivering a service for the organisation about its other employees. And you know that you haven't lost a huge amount because, as I say, you know those well-being services are kind of contracted into the provision.

0:02:33,731--> 0:02:35,678

Helen: So what circumstances would somebody use occupational health like? When would you refer somebody?

0:02:39,632

Michelle: So there are a number of circumstances where you might choose to refer someone. The most obvious is when someone is off on long term sick and that's normally defined as being an absence that has lasted, or is expected to last, more than four weeks. But I would always recommend referring to Occupational Health if there is any hint of mental ill health, depression mentioned on any of the fit notes that are supplied to the organisation, particularly if they're saying work-related stress, because there are some added liabilities there. But effectively, occupational Health is seen very much as a stick to beat employees with not necessarily the organisation's perspective, but from an employee's perspective it's seen as this big bad thing that oh gosh, you've done something wrong and therefore you're going to be referred, whereas in actual fact it is a really, really important supportive tool to help an employee to attend work regularly, to get the support they need from their employer, to help them do that and to help managers make the best decisions to help their workforce to be as productive as they possibly can.

0:03:55,470

Helen: So if an employee feels that they might need extra support, do they need to wait for a referral or can they come to Occupational Health themselves?

0:04:04,250

Michelle: That will quite often depend on the terms of the contract that's in place with the organisation, but if an employee actually feels that they would benefit from a referral to Occupational Health, there's nothing stopping them from approaching their manager or HR team and requesting that. The other thing to note is that quite often Occupational Health contracts come alongside an employee assistance programme or an EAP, and they will quite often have counselling services, debt management services that will help an employee, and the employee can go to them direct, and generally those services are anonymous, so the employer would never find out that they had been in contact. They would just get a figure of how many people have been in contact that week or month.

0:04:45,970



Helen: So if you have been referred to Occupational Health, do you have to engage and participate, or can you decide not to?

0:04:54,970

Helen: You don't have to. Generally speaking, an employer will refer an employee when they need some advice on how to support that employee through whatever health condition they are managing. So by refusing to participate in the process, you are effectively limiting the information that is made available to your employer, which means that they are in a position of having to make decisions around your work, your employment, without all the facts. The whole point of Occupational Health is to provide information to management that will enable them to make those key decisions about how best to support that employee in the workplace, given the medical situation that they are in. So if you are refusing, then that limits the information they have available. The consequence of that, of course, is that if you are refusing to participate in the process or you have refused to allow the report that Occupational Health write to be sent to your employer, so you've engaged in the process in terms of you've attended the appointment and you've had a conversation with Occupational Health, but you are refusing to release the report again, the managers are going to be, or the management is going to be, in a situation where they are making decisions without the benefit of the input that Occupational Health might provide, which means that you are more likely to end up in a more severe employment situation, ie you know if your absence is a level that is no longer sustainable within the organisation. It may be the difference between looking for redeployment around what you are capable of doing versus facing a dismissal for health capability reasons.

0:06:49,986

Sarah: So it's in everybody's interest really, employer and employee, to allow occupational health to kind of take its course, I suppose if you're referred to actually participate- Absolutely, absolutely, and from an employer's perspective it's an absolute must.

0:07:05,845

Michelle: If you have an employee who is on long term sick or is indicating that there is a mental health concern, then it is an absolute must for the employer to have made that referral to occupational health or at least sought to make the referral. And the reason behind that is if you go to tribunal, in the unfortunate event of going to tribunal following a dismissal for health capability, if you have not sought medical advice and taken that on board before making your decision, you are very much at risk of that being an unfair dismissal because you've not followed a fair and reasonable process. Obviously, if you've sought to make the referral and the employee has either refused or refused to allow you to have a copy of the report, then you have done everything you possibly can at that point and therefore, if you make a decision on the basis of the information you know, then you will not have or you should not have a particular issue at tribunal.

0:08:06,185



Helen: So, when you refer to occupational health, how much information is available to them, like, do they have access to your medical records, or what do they have access to?

0:08:16,085

Michelle: So when you make the referral, you will normally fill out some kind of preset form that asks you for details of the job that the individual is required to do, their sickness absence record, any other information that may be relevant. So if there are specific duties that they have been undertaking recently that aren't part of the job description, you'll provide all of that to them. On top of that, there should be as part of that referral process a form that the employee completes and signs that releases access to their medical records, and this will allow the occupational health team, where they deem it to be relevant, to contact the employee's GP and ask for evidence from their medical records. That is a legal requirement. They can't just dip into a medical record. They actually have to have the employee's authorization to do so. That's part of the reason why occupational health can take some time to get a resolution or a report back to you, because, although they might write to the GP to get access, they might also have to contact any specialist consultants that the employee has been referred to. Particularly if a medical condition is yet to be diagnosed or it's a complicated diagnosis, they may need to speak to the consultant or communicate with consultants to get that specialist knowledge and advice so that they can then interpret that in terms of how it impacts on that individual's ability to work.

0:09:50,925

Helen: So what benefit would it be to the employee going to occupational health versus their GP, or vice-versa?

0:09:58,806

Michelle: So, generally speaking, the employee will already have been to their GP, particularly if they've been signed off sick. Now the GP is great in terms of managing that individual's well-being and health and supporting that individual through medication or treatment. But they are not specialists on understanding illness in the workplace and the impact that health has on work and work has on health. So the occupational health team will have that specialist knowledge of the kind of interaction between work and life. Effectively. We do come across it where the GP says you know they're not fit to work and the occupational health team say, yes, they are, and that can lead to some conflict because the employee, depending on their nature, will either want to side with the GP and stay off work or will want to be back. But there's this conflict between the two sets of advice. We have always said that occupational health are the experts in that life, health, work balance and understanding the interactions. Therefore they are effectively the consultant version of a doctor. So their advice and I will say it is advice, it's not you must, it is advice to you that you have to take on board and consider is that specialist advice and should take priority over the advice of a GP. What I would recommend is if you haven't got it in your sickness absence management policy yet, put in a specific reference to whose advice takes priority. One of the councils I used to work with didn't have it and it caused some issues. So if you haven't got it in your policy, do put in that in the event of a conflict you'll go back to occupational health and



just seek to clarify why there is a conflict in advice being given and that once you have gone back to occupational health and sought that clarification, the occupational health advice will be taken as the advice to the organisation rather than the GP's.

0:12:14,226

Sarah: I can definitely see why people come unstuck with well, my GP says this, but the occupational health person saying this and also that kind of, I can understand the lack of clarification for the employee in that respect as well, because, having worked at a council for X number of years, the only other time I heard about occupational health was when somebody was on long term sick and it felt like, oh no, now you're being referred, you know, naughty, naughty. So I suspect there's and, as we always say on this podcast, there's a lot of work that can be done there internally with internal communications, to actually, you know, make people aware that this is what it is, absolutely this is what they do and this is why we use them, you know, and whereas a GP, as it, as the name suggests, sort of general practice or general practitioner over somebody who actually has refined their kind of career to concentrating on health in the workplace. So, occupational health because, to be honest, before this conversation I would have assumed that the GP would take, you know their advice would be, would be the kind of overruling advice.

0:13:14,485

Michelle: Yeah, and a lot of people do you know. Do assume that you know and you're right. There is this fear factor in terms of you're being referred to occupational health. Therefore, you're about to be exited from the organisation and that's not really the purpose of occupational health. The whole purpose is to support the employee to get back to work.

0:13:32,531

Helen: So, as an employee that has been referred to Occupational Health, how do you ensure you're getting the most out of your referral?

0:13:39,551

Michelle: So the first point is to make sure that the referral form or letter that is being sent to Occupational Health is accurate, so the sickness absence dates are correct and the associated reasons are correct. Realistically, the way to get the most out of an Occupational Health referral for the employee is to participate, be open and honest, engage with the process and enable the Occupational Health professional to provide a report back to the employer. That will then allow that employer to make the appropriate decisions to support you to return to work in an effective manner. And that may be that there are adjustments that need to be made or sort of a phased return to work is needed, or you know that there needs to be an adjustment in working practices you know to support you to return to work and to remain at work and that's the most important part is, you know, helping you to maintain attendance in a healthy way.

0:14:48,435

Sarah: So on the back of that then, Michelle, how do you ensure that the employer gets the most out of this process as well?



0:14:53,871

Michelle: Some of it is exactly the same. It's making sure that the information that is provided is accurate and you've provided as much information as possible around the employee's wellbeing, health, absence rates and things are going on in the workplace. But, more importantly for the employer, it's around the questions that you ask Occupational Health. So it's really really important that you think really carefully about what information you want back from Occupational Health. So if we're talking long term sickness, where there is a mental health element to it, so if there's stress, anxiety, depression, anything that impacts on the mental wellbeing of the employee, you know you need to be asking specific questions about how best to support. You know, is there anything that you can put in place to support that employee more effectively? If we're talking about a long term absence that is potentially considered to be a disability, or is considered to be a disability, bearing in mind that certain conditions are considered to be disabilities from the point of diagnosis. So cancer, ME, some of those sort of long term degenerative illnesses, you're asking about what reasonable adjustments you can make as an employer to support that employee to work effectively. You may be asking should you consider this person to have a disability? And it may be that you want to specify disability under the Equalities Act versus disability in terms of a social model of disability, which is more about the community and the society barriers that prevent an employee from participating fully. So the society or the environment is the disabling factor. It depends on where your organisation sits, on how they define a disability. In terms of medical profession, it will always be a disability by the Equalities Act. For example, wherever I go to work, one of the first things I say to them is I need a specific mouse, I need a trackable mouse. I cannot use a normal mouse because I end up with severe pain in my wrists. Now that's not a medical disability. It wouldn't be considered a disability under the Equalities Act. But it is considered a social disability because I can't use what is normally provided as part of your standard IT tech. So once you've identified what you really want to know from Occupational Health and you put those questions in, the next phase is when you get that report back. So once the Occupational Health Professional has interacted with the employee, got all the medical information that they need, they will write a report. The employee has the right to see that report before it gets sent to you and they have the right to refuse to allow that report to be released to you. As I've said, that's not necessarily in their best interest, but they do have that right. From your perspective, once you've got that report in hand, as the manager, it is really important you read through that report carefully. Make sure it answers the questions that you had posed to Occupational Health in the first place. So if Occupational Health have come back with a sort of on-the-fen answer, it is really worth going back and just clarifying with them and really asking them to drill down a bit into that. Your organisation is paying for a service and that service is to provide managers with advice on how best to manage the health and well-being of its workforce.

All too often Occupational Health providers these days and I hear about it quite a lot are really reluctant to kind of be definitive, particularly around the is this a disability question? But the number of times I hear HR professionals say something along the lines of the report isn't worth the paper it's written on. Well, that comes down to two things are you asking the right questions and are you pushing back when you're not getting definitive answers? It's a contract management issue really. You know you are paying for a service you deserve to get



the service that you need to be able to use, manage your workforce. But that can be a bit difficult for people who are not regularly in contact with Occupational Health. And the final thing really for making the most out of the referral is really taking on board the advice you are given. Now, occupational Health are only providing advice. Generally speaking, you should follow their recommendations, but you shouldn't follow them blindly. We have had case law where an organisation took the information that was contained within the Occupational Health report and took it at face value, and it happened to be that the in the Occupational Health team had indicated that the employee would not be considered to have a disability. But it was really clear from what was going on that that wasn't really reflective of the reality. And this is where asking very specific questions comes into its own. It was a generic question that was asked and therefore there was a sort of a technical way of saying no, they're not considered to have a disability, whereas you know, in reality the tribunals felt that the medical situation warranted being considered as a disability and criticised the employer for taking the Occupational Health report at face value and not having a considered thought process around the application of that and the reality on the ground. So you know, it's really clear that employers are expected to exercise their own brains in understanding and implementing the recommendations of the Occupational Health profession.

0:21:05,994

Helen: Thanks as always, Michelle and Sarah. If you are a member of Southeast employers and have any questions or queries related to Occupational Health, you can always contact us at advice@seemp.co.uk or for any other topics of HR advice, you can also visit the HR edit web page at www.seemp.co.uk/theHRedit for any resources related to any of our episodes. Be sure to subscribe to the podcast on Apple Podcasts, spotify or wherever you get your podcasts, and visit the SEE website for more information on how the South East Employers Team can support you with anything HR related. Thank you for listening and see you next time.

Transcribed by <https://podium.page>

[Music]