

CONNECTIONS

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Protecting your practice and OT career



Spotlight on independent contractor agreements, employment contracts and compliance with employment laws.

Whether you're a practice owner or employed as an occupational therapist, one of the most important and often overlooked aspects of your professional life is understanding the fine print of employment contracts.

Independent contractor agreements

Practice owners must ensure all independent contractor agreements are genuine.

Under the Closing Loopholes Act 2024, incorrectly classifying an employee as a contractor can result in serious penalties for sham contracting, including fines of up to \$99,900 per contravention for practices with fewer than 15 employees, and up to \$495,000 per contravention for practices with 15 or more employees.

Even if an agreement says "contractor," the Fair Work Commission will look at how the relationship operates in practice. If it looks and feels like employment, it likely is.

To protect your practice, review your independent contractors' working arrangements regularly and seek professional advice to ensure compliance with the latest workplace laws.

Restraint of trade clauses

Restraint of trade clauses in both employment and independent contractor agreements are another critical area for practice owners to get right. These clauses are designed to protect the practice owner's legitimate business interests, such as client relationships, when a team member moves on. However, restraints must be reasonable in scope to be enforceable and should be reviewed regularly to stay aligned with business needs.

For occupational therapists, understanding what you're signing is essential, especially around post-employment obligations. Too often, disputes arise when someone resigns and unknowingly breaches a restraint of trade clause by soliciting clients from the previous employer within the period specified in the contract.

Before signing or exiting a contract – key considerations for allied health practitioners:

- Review your agreement thoroughly: Pay close attention to clauses relating to non-solicitation, non-compete, and restraints of trade. These can significantly impact your ability to work with former clients or start a new practice.

- Seek professional advice: If anything in your agreement is unclear, particularly around post-employment restrictions, it's essential to seek legal or HR advice before making decisions, especially if you're considering establishing your own practice or contacting former clients.
- Clarify the exit process: A well-managed exit includes:
 - Discussing restraint and non-compete obligations
 - Identifying who is responsible for communicating the departure to clients and stakeholders
 - Agreeing on the handling of client information and ongoing care arrangements, to ensure a respectful and compliant transition
- Plan ahead: Clear expectations, transparent communication, and a structured process can help avoid misunderstandings, minimise legal risk, and maintain goodwill on all sides.

Whether you're welcoming a new team member or moving on to the next chapter of your career as an occupational therapist, having clear contracts and open conversations supports a smooth, professional transition for everyone involved.

Need advice?

All OTA members receive special member benefits through WorkPlacePLUS for support with HR and IR issues. Our services include:

- ✓ Development of employment contracts
- ✓ Independent Contractor vs Employee assessments
- ✓ Award classification reviews
- ✓ Performance and change management
- ✓ Managing Fair Work issues

For more information, contact WorkPlacePLUS on (03) 9492 0958 or visit [WorkPlacePLUS.com.au](https://www.workplaceplus.com.au)

