Recruitment, employment law and you

Jo Banks discusses the pitfalls of recruitment and employment law - and how to avoid them to attract and retain the best people for your practice

For many practice principles the words ‘employment law’ is enough to make their blood run cold. It's a complex and often frustrating area, but there are many things you can do to ensure that you avoid any pitfalls. The following information has been designed to help you through every stage of the employment process, including how to advertise for and appoint the best possible candidates for your practice.

Getting the advert right

When a position becomes available, the first thing you need to do is advertise for a new member of staff – and often very quickly. This is easier said than done, as getting your advert wrong can be a costly exercise when paying for placement in local newspapers.

Therefore, it’s worth spending some time putting together a short list of criteria for the role. What skills and attributes do you consider a necessity and which would be more of an added bonus? Some practices consider qualifications and experience the most important factor, as training takes time and money. Others hold customer care and loyalty in higher regard as the rest can often be learned on the job.

Deciding what is right for you and your practice is important, as your criteria can then be put across in your advert to reduce the risk of unsuitable candidates. It can also be a useful reference point when looking at CVs and later, during the interview process.

It's worth bearing in mind that your advert actually forms the basis of a job agreement, so making sure it is accurate and not misleading is essential. For example, if you advertise a role at £13k per annum and then only offer the candidates £12k, this could be seen as false advertising and candidates could raise a grievance. Therefore, it’s a good idea to put a salary range in place instead as this will usually attract the right calibre of candidate, or you could simply say ‘competitive salary’.

Interviewing skills

On a scale of 1-10, most interviewers only rate around 3½ for the job. This is usually because they’re not asking the right questions. Asking questions which only require a ‘yes’ or ‘no’ answer are not going to give you much insight into a candidate’s experience or skills. Asking ‘textbook’ questions, similarly, will only result in getting textbook answers and will not tell you much.

Asking for an example of when they used a particular skill relevant to the role is a better way of finding more information and can also uncover if they’ve been ‘exaggerating’ their experience on their CV. It’s estimated that around 80-85 per cent of people lie to some extent on their CV. This may sound shocking, but more worrying is the fact that around 60 per cent of people continue to lie in their interviews, so it's important not to take them at their word.

Now, I'm not saying that all your candidates are lying to you, but if computer skills are a necessary requirement of the role, don’t be afraid to set them a computer skills task during the interview stages. If they're going to be in a clinical role, don’t be afraid to ask them clinical questions or to perform a basic clinical task. You could even ask them to take part in a trial day, to give you a better idea of how well they gel with the team and deal with patients. However, it's important to avoid questions which can get you in trouble legally. Asking about a candidate's marital status, whether they have children, their religion or sexual orientation is a strictly no-go area. So too is asking about a candidate's marital affiliation. It's important not to make them feel guilty in their interviews, so it's important to ask questions which can get you in trouble legally. 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References

According to the October 2010 Equality Act, all references should provide factual, provable information only. A
person’s employer has a duty of care, not only to the employee, but to the potential new employer. Therefore, you should not give any opinion about an employee’s performance or level of skill—even if it’s all positive.

Unfortunately, this does not really help you when trying to appoint your own team members, but it’s important to be seen to treat all your employees the same and to be fair to all parties at all times. Usually a reference will consist of confirmation of the employee’s dates of employment and their job title only.

Redundancies and dismissals
Redundancies are sometimes a necessary course of action when workload has diminished significantly. However, you need to have evidence to show that this is the case. You cannot, therefore, make a team member redundant if you’re not happy with their work. It’s also worth bearing in mind that, in redundancy cases, if an employee has been with you for more than two years, they are entitled to compensation.

If you are dismissing a member of staff you need to ensure that you have documented evidence of fair process. If you have given the employee fair warning and the opportunity to rectify the problem, you can then undergo a consultation with them to explain why you are planning to let them go and your reasoning behind the decision.

There should then be a short period of no more than 48 hours before another meeting is held. This is to hear the employee’s thoughts and any ideas or suggestions they have and they are entitled to bring a representative to this meeting such as a work colleague or trade-union representative. It’s a good idea to give any ideas some serious consideration, but you are not obligated to take them up. If, after this meeting, you decide to let the employee go, you can hold a dismissal meeting to formally give notice. The employee then has the right to appeal to bodies such as the Defence Union, but this does not happen in the vast majority of cases.

You’re not alone
Hopefully the information above has given you some useful ideas and guidance. Recruitment and employment law is a complex topic, but please don’t feel like you are alone. You can not only get valuable advice from bodies such as www.direct.gov.uk, but some payment plan specialists also offer training courses on the topic. These can not only provide helpful information, tailored to your specific needs, but can also offer verifiable CPD, so why not check them out? So, please don’t feel overwhelmed and there is also no reason not to make recruitment and employment law work for you.