Employment law: know where you stand

Michael Sultan looks at the potential minefield of employment law

Dentistry has always been a challenging profession, and now, with regulation and competition between practices at an all-time high, it is perhaps more challenging than it’s ever been. Be it the CQC, the GDC, PCTs, or even the HMRC, there are just so many hurdles for us to cross, and hoops for us to jump through, it’s staggering that we have any time for our patients at all!

Cause for concern
But while as a profession we have had to get used to the likes of CQC inspections and the need to fulfil regular quotas of CPD, there is one particular aspect to our role as employers that that has given me great cause for concern in recent months. That is, employment law.

As a regular visitor to dentistry shows and conferences throughout the year I am always keen to attend lectures and listen to speakers share their thoughts on dentistry, I am especially interested to learn from our international colleagues, many of whom offer a different perspective to what we are used to here in the UK.

Our American colleagues in particular will often speak passionately on the subject of branding. According to the US philosophy, in order to run a successful practice – or indeed a successful business – staff should always reflect the nature of the organisation.

Time and time again, any speaker on branding will always say the same thing: if your staffs aren’t ‘on brand’ then find staff who want to work for you!

In a British room, this message often leaves the audience feeling somewhat perplexed. This is because in the UK our labour laws very much favour the employee. As an employer then, if ever we were to employ someone who just wasn’t ‘doing it’ for us anymore, then we’d sorely struggle to part company with that employee on any grounds other than the most serious.

Labour laws
I fully understand the need for employment laws, and the need to protect employees’ rights. What I don’t agree with however is the completely debilitating and sometimes catastrophic consequences that some of these employment laws can have.

How is a dental practice expected to survive if an employee is required to be suspended on full pay during an investigation? Not only must the practice meet the cost of the suspended staff member’s pay, but they must also cover the cost of the replacement, and the loss of working efficiency experienced as a result. With employment laws as they stand even the smallest matter can potentially cripple a practice and run it into the ground.

Window
There’s been some coverage in the press recently surrounding an amendment to employment law that is supposed to work in employers’ favour. Essentially it gives employers a two-year window in which they can legally still ask an employee to leave. While this might be a slight change to our benefit, I still can’t help but think this doesn’t address a number of the fundamental issues.

As an employer, if you have a grievance with a member of staff there will be an informal and formal grievance procedure, a disciplinary and even an appeal process. With the rise in unionism within...
certain areas of the profession, we are also now finding a number of unscrupulous individuals and organisations taking advantage of dentists’ ignorance of labour law. This has led to more people than ever pushing for the likes of unfair dismissal or constructive dismissal. Very often this doesn’t leave the dentist with a leg to stand on, and the practice will fast be out of pocket if they haven’t followed the correct procedure.

Flawed
One striking example here is that if you sack someone and don’t tell them they’ve got a right to appeal then the industrial tribunal will always find for that employee, no matter what the problem was originally as the issue is a flaw in the procedure! Furthermore, dental practices will also find that if they don’t have the relevant documentation, policies or disciplinary procedures in place to protect themselves and their staff then they will find that they are themselves vulnerable to a successful complaint from a disgruntled prospective, present or even past employee.

Troublesome issue
With employment law such a tricky and potentially troublesome issue for dental practices, it really does pay to have an advisor on your side.

About the author
Dr Michael Sultana BDS MSc DFO FICD is a Specialist in Endodontics and the Clinical Director of EndoCare. Michael qualified at Bristol University in 1986. He worked as a general dental practitioner for 5 years before commencing specialist studies at Guy’s hospital, London. He completed his MSc in Endodontics in 1995 and worked as an in-house Endodontist in various practices before setting up in Harley St, London in 2000. He was admitted onto the specialist register in Endodontics in 1999 and has lectured extensively to postgraduate dental groups as well as lecturing on Endodontic courses at Eastman CPD, University of London. He has been involved with numerous dental groups and has been chairman of the Alpha Omega dental fraternity. In 2008 he became clinical director of EndoCare, a group of specialist practices. For further information please call EndoCare on 020 7224 0999 or visit www.endocare.co.uk

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