

Recruitment and Selection Guide

Overview

Composite Legal Expenses Insurance provides advice to thousands of businesses and individuals each year through its legal advice helpline. The vast majority of calls to the helpline come from businesses seeking help on employment related matters.

Our expert lawyers have used their years of experience dealing with these matters to create this guide for you to use as a reference tool.

The guide has been condensed as much as possible to make sure you only get an overview of the area, for that reason it should not be viewed as comprehensive or as a substitute for specific legal advice.

If you have the benefit of a legal expenses policy with us, then the guide can be used in addition to the advice we provide and you should contact our advisors for advice in relation to any specific situations.

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RECRUITMENT AND SELECTION

Recruitment

Most successful businesses find that people are their most important assets. Hopefully, with a good recruitment process you can find the right people at the outset and avoid problems in the future.

The aim of any recruitment process should be to attract people who are qualified for the role and will fit well within the organisation.

How you go about recruiting will generally depend on the role you are looking to fill:

- Advertising

For an entry level or low skilled job, advertising yourself could be the most cost effective approach. It is often possible to advertise on certain websites for free. The downside with adverts is that there is no guarantee of success, even when you pay.

The Equality Act 2010, which deals with discrimination, can still apply during a recruitment process. For this reason, it will be important that any adverts don't appear to discriminate against certain people or groups of people, for more information on discrimination see our Discrimination Guide.

- Recruitment consultants

This will usually be more appropriate for senior or highly skilled jobs. Recruitment consultants tend to be expensive, although you normally only pay once you have found the right candidate.

The most important thing here will be your selection/interview process. Usually once the candidate starts work you will need to pay the consultant's fee, regardless of whether or not the employee stays long term.

- Agencies

Agencies are usually able to supply workers for all kinds of jobs at short notice. This can be really useful when dealing with unforeseen demand such as sickness, holiday absence, maternity leave or just during busy periods.

The downside will be the premium paid, you will normally pay the agency a percentage on top of the employee's salary. This may not be cost effective when looking for a permanent position.

- Internal candidates

Don't underestimate the potential of the staff you already have. There will be no advertising costs and you would expect them to have a good background knowledge of the business, which will save time and training costs.

It is, however, likely to lead to vacancies elsewhere within the organisation, that may counter the original cost savings.

Job description

Whichever way you decide to recruit it is important to ensure the job description accurately describes the position and the factors you are looking for. If the description isn't accurate, you're unlikely to get the right applicants.

Selection

How do you pick the right person from the pool of applicants you've received?

As you would expect there is no set answer, much will depend on what you are looking for and who will fit within your organisation.

From a legal point of view, it is important to keep detailed records of the reasons for making decisions. If someone makes an allegation that you have discriminated against them for a particular reason, usually it falls on you to prove you haven't. Without records this can be a challenge.

Usually, if you have a reasonable reason, i.e. one that isn't discriminatory in itself, that will be enough to rebut any presumption of discrimination.

Consistency is important. If you have too many CVs or applications, it could be reasonable to filter them, for example, by not offering an interview to anyone without a particular qualification.

Formulate interview questions and try to score candidates consistently. This way, if you are ever asked to disclose evidence about the reason a person wasn't selected, you will ideally have clear documented evidence as to why they weren't the best person for the job.

Most employment related claims have a limitation period of 3 months, although it is usually appropriate to retain recruitment records for at least 12 months.

References

References can be an invaluable aid during the recruitment process and should ideally be sought whenever an offer is made.

It is possible to make an offer of employment subject to satisfactory references, so if the references are poor or not forthcoming the offer can be withdrawn.

Medical questions

It is worth pointing out that since the introduction of the **Equality Act 2010**, it has been unlawful to ask questions about someone's health prior to making an offer of a job.

The following exceptions apply, so you can ask for information if:

- You need to establish whether the applicant will be able to comply with a requirement to undergo an assessment (i.e. an interview or selection test)
- You need to establish whether the applicant will be able to carry out a function that is intrinsic to the work concerned
- You want to monitor diversity in the range of people applying for work
- You want to take positive action towards a particular group – for example, a guaranteed interview scheme
- You require someone with a particular disability because of an occupational requirement for the job