



Hiring Process - Do's and Don'ts

OVERVIEW

Hiring a new team member can be a daunting process. Employers understandably want to make sure a new employee is the correct fit (sometimes quickly) and therefore want to know everything they can about a candidate. The need to on-board new employees quickly can create a number of issues for employers if the process is done incorrectly.

We have set out some key things to keep in mind when looking to hire a new employee.

Recruitment Process

Before hiring to fill or create a new position, make sure you are clear on what your employment needs are and what the job description is. Consider what level of skill and experience is required to make someone successful in the role. Once you have established this, you can advertise the role and request applications.

Once the application process is complete, it is time to shortlist the preferred candidates and begin the interview process.

Interviewing and Avoiding Discrimination

It is easy to assume that an employer can ask anything they want in a job interview as there is no employment relationship. This is not the case - employers need to be wary of the questions they ask in an interview.

Some common questions that employers mistakenly ask a candidate without just reasoning are:

- If they have children or are planning to in the future;
- What their relationship status is; and
- What their age is.

A candidate's relationship and family status is generally considered irrelevant for a role unless they are in a relationship with an existing employee of the company as this can create a conflict of interest.

The age of a candidate is very rarely relevant to the role but can be asked if necessary for the role available, i.e. the role requires work on licensed premises.

Employers can ask if a candidate has any medical conditions, if asked correctly. For instance, an employer can ask a candidate if they have a medical condition that may impact their ability to perform the role or require support or assistance from the employer.

The general rule regarding discrimination is that if an employer's line of questioning is focused on a candidate's ability to perform the role, understand their skills, and experience necessary, there should be no problems with discrimination in the interview process.

Reference Checks

Before offering employment, it is recommended you do a reference check of a candidate to help determine if they will be the right fit for the role.

It is important to remember employers have privacy obligations to a candidate even if they haven't been offered a position yet.

Do not contact a reference without receiving the candidate's agreement and consent to do so. The fact that a candidate has listed the contact details of a reference or former employer does not mean they have consented to you contacting them.

If you are unsatisfied with the reference check, advise the candidate they were unsuccessful and go back to the list of shortlisted applicants to repeat the same reference check process.

Pre – Employment Conditions

Before offering employment, employers must decide if the offer will be subject to any conditions. Pre-employment conditions differ depending on the role being offered but may include:

- Drug and alcohol testing;
- A criminal record check;
- Confirmation of required qualifications; and
- A medical assessment.

All pre-employment conditions must be relevant to the role and therefore reasonable for the employer to ask them.

Clarity is key when it comes to conditional offers of employment. If it is unclear whether the candidate's employment is reliant on them passing the pre-employment test or check they may still be considered an employee under the Employment Relations 2000 Act.

Offer of Employment

Once you have found a candidate you wish to offer the available position to, it is recommended you send a letter of offer accompanying the employment agreement.

We recommend your letter of offer includes:

- The name of the company offering the position;
- The type of employment being offered i.e. full-time, part-time, casual;
- The name of the position being offered;
- Reference to the terms and conditions set out in the employment agreement;
- Reference to the candidate's entitlement to seek independent advice about the terms of an agreement before it is accepted; and
- A date the candidate is to return the signed employment agreement by if they wish to accept the position (ensure they are given adequate time to review the agreement before making a decision).

Once an offer of employment has been made to a candidate, the candidate is considered an employee by law. This means employers cannot withdraw an offer once it has been sent.

An offer of employment can be accepted by a candidate regardless of whether final details have been agreed upon.

Summarised Checklist for Hiring a New Employee

- Determine what the available role is and what would make a candidate successful.
- Advertise the available position.
- Once you have advertised the role and ideally had several job applications, shortlist a list of appropriate applicants to interview.
- Interview the applicant. We advise having at least two people interviewing as it can help to determine the suitability of the right candidate.
- Ask the candidate you wish to offer employment for at least two references.
- Conduct reference checks.
- Offer employment by sending the letter of offer and employment agreement to the candidate.

If you require advice with hiring an employee or assistance drafting employment documents, get in touch so we can help.

Contact:

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One of our team will be in touch to assist you within 24 hours.