

Employment Lifecycle Series

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Gadens' Employment Advisory Team is pleased to introduce its new series of alerts covering the employment life cycle: From the Cradle to the Grave... From Recruitment to Termination.

In this series we will bring you regular updates with useful tips on issues that our clients have encountered at all stages of the employment lifecycle, including recruitment and on-boarding, people management, disciplinary processes, dismissals and post-employment obligations.

Our first update, **Getting Your Recruitment Processes Right**, is set out below.



Getting Your Recruitment Processes Right

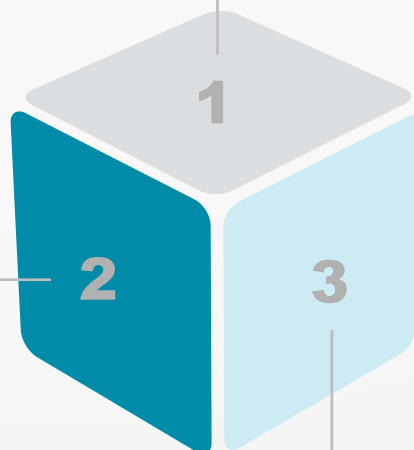
Recruitment can give rise to a range of risks even before the employment lifecycle really begins. Employers must balance the need to recruit the best candidate with their obligations arising under employment, equal opportunity and privacy legislation.

Before starting recruitment activities generally, employers should:

Create documentation to support the recruitment process that accurately reflects the position to be filled, and is not framed in discriminatory (or potentially discriminatory) language. This documentation includes:

- a. job advertisements;
- b. detailed position descriptions specifying the responsibilities, tasks and competencies of the role, and what is expected from an employee in terms of behaviour and performance; and
- c. creating objective selection criteria to assess the suitability of applicants, including as against required skills, experience and qualifications.

Review their recruitment policies and procedures for legal compliance and best practice and ensure that these are followed by managers in practice. This also applies where a third party or agency is used in part of the recruitment process.



Consider what recruitment methods and selection techniques are most likely to result in a suitable candidate being hired for a particular position. While an interview is almost always part of the process, think about how structured the interview should be, whether it should be one-on-one or with a panel, and so on.

Getting Your Recruitment Processes Right

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In considering candidates, employers should always:

- 1** Determine the range of terms and conditions of employment that will be offered to a successful candidate, including remuneration levels, working hours, bonuses and other benefits.
- 2** Where interviews are to be conducted (as is almost always the case), employers need to both obtain information about candidates to be able to predict which candidate will perform best, and provide candidates sufficient information so that they can make an informed decision as to whether this is the position for them. Planning an interview is crucial!
- 3** Ensure interview questions are relevant to the requirements of the position. Avoid questions that could give rise to a discrimination claim, such as “do you have kids?” and “how old are you?”
- 4** Train managers to conduct interviews, to apply selection criteria appropriately, and to recognise and manage unconscious bias. Unconscious bias leads to sub-optimal hiring decisions.
- 5** Exercise caution if screening candidates via their social media profiles and consider the risk of rejecting a candidate based on what is contained in such profiles.
- 6** If necessary, conduct pre-employment checks and any testing required to confirm a candidate's suitability for the inherent requirements of the position. Consider what checks are directly relevant to the position being recruited for and ensure that the applicant consents to those checks being undertaken.
- 7** Ensure that a candidate has a right to lawfully live and work in Australia, through citizenship, permanent residency or an appropriate visa. Employers can be subject to significant fines for employing unlawful workers.
- 8** Embrace diversity and inclusion – employees will bring different skills and perspectives to the workplace, and it can lead to increased productivity, morale, creativity and problem solving, a stronger brand, and an increased ability to attract the right candidates.
- 9** Consider obligations arising under the federal privacy legislation relevant to the recruitment process and hold all information received from applicants in accordance with the Australian Privacy Principles.
- 10** Keep brief written records of why a candidate was not selected for a position and ensure that the reasons are not unlawful.

Gadens can assist employers with their recruitment processes, to ensure businesses are legally compliant and are in the best position to recruit successfully.

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