



## **Ask the expert: How do I deal with applicants who lie on their CVs and during interview processes?**

Jul 20 2012 [Chris Holme](#)

In this regular feature subscribers can have their employment-related questions answered by an employment law expert. If you have a query that you would like to have addressed, please email the [news team](#).

### **The importance of pre-employment checks**

It is estimated that one in three people lie on their CVs when applying for jobs, so employers may well hire individuals believing them to have skills, qualifications or experience which they simply do not have. Lies can range from relatively minor embellishments of the roles individuals have played in particular projects or pieces of work (e.g., exaggerating the responsibility and input that they had) to claims that they qualifications they do not, or have held more senior roles than is in fact true.

Obviously, the more serious the lie, the greater the implications can be for employers if it is left unspotted, as it may well mean that someone is carrying out a role and job, and being given responsibilities, with which they are simply not able to cope. This is an unwelcome area of risk for a business.

This heightens the need for pre-employment checks, to make sure that people actually have the experience they have claimed. Firms regulated by the Financial Services Authority (FSA) are ahead of most sectors as they have to make sure that they meet their various regulatory obligations. Even so, firms must ensure that the references they request are actually received and reviewed, and that assertions of certain experience are not simply taken at face value. Indeed, for more senior roles, especially controlled function positions, the FSA now expects more and more information from hiring firms about why they believe the candidate in question is suitable, before they will give approval. The regulator also expects firms to have developed their own view, rather than relying on the contents of a CV.

### **What steps can be taken to verify an applicant's CV?**

References are essential, to confirm that someone has actually held the employment positions they have listed on their CV. This will only give the employer so much information, however. Even "FSA references", which should be supplied by other FSA-registered entities if the reference relates to an "approved person", will not set out details of the person's experience, but often only the role (described by a generic job title) and dates of employment, together with anything that might have given that entity cause for concern.

Interviews should therefore be used to question elements of the CV, so that the employer can be confident that the person really does have the appropriate experience. A candidate who has a blank face when asked about an interesting transaction on their CV, or who cannot talk in detail about the trickiest issue they had to overcome in that transaction, may well not have had the exposure within that transaction that their CV suggests.

Employers can also request evidence of qualifications, although these days it is more common for third-party companies to be engaged to check such things on an employer's behalf. Once this information has all been obtained, firms should be mindful of the restrictions on collecting and storing the personal data which has been gathered, as it will be covered by the [Data Protection Act 1998](#). The main points are that checks should be proportionate and justifiable, and firms should not collect more data than necessary. Information should not be retained for any longer than needed and firms should ensure that they have policies in place for document retention, and that these are followed.

### **Can firms Google an applicant?**

Simply typing an individual's name into Google, or another search engine, is an informal practice which some companies carry out in relation to applicants. There is no reason why companies (certainly in the private sector) should not do this as it will only generate information which is publicly available, and it can sometimes produce interesting and relevant results. Any results which are irrelevant to the role

which is being hired for should be ignored, however, and no copies should be kept. If any information is retained, firms need to be ready to justify exactly why this has been done, and how the information is relevant to the application and selection process.

#### **Can an offer be made subject to pre-employment checks, and how?**

Firms which need to make an offer quickly, but want to reserve their position until pre-employment checks have been completed, can make a conditional offer. Indeed, this is the most common method for all offers in the financial services sector.

#### **If it comes to light that an employee has misled the firm as to his qualifications or registrations, what can be done?**

If it emerges once employment has commenced that someone has lied, firms will need to consider their response. Provided the lie comes to light before the person has obtained unfair dismissal protection, the employee can be dismissed without fear that a claim might be brought. Nevertheless, if they are considering dismissal, firms will still need to consider the employee's contractual rights. As a matter of practice, firms will ordinarily want to go through a disciplinary process anyway to hear and consider what the person has to say. If the lie is serious enough to amount to gross misconduct, the option of terminating the individual's employment without any payment of notice may be considered.

If a person has passed their qualifying period and has unfair dismissal protection, then additional care is needed to ensure that a fair procedure is followed, that any findings of fact are based on a reasonable and genuine belief following a reasonable investigation, and that a decision to dismiss is within a band of responses which reasonable employers would decide upon in the circumstances. The aim would be to avoid an unwelcome unfair dismissal claim. Any decision to dismiss an approved person for lying then becomes an honesty and integrity issue and firms will need to consider this when reporting on the "Form C", and also in FSA references to any other regulated firm who might look to hire the individual in future.

#### **Anything else to consider?**

Although it sounds like common sense not to take into account the fact that someone might have brought a discrimination claim against a previous employer when considering whether to employ that person, nevertheless a case surfaces every couple of years where an employer has done exactly that. While carrying out their pre-employment checks, they have been told informally that the applicant in question brought a grievance or claim concerning discrimination against a previous employer and may effectively have been told, "I wouldn't employ him/her". The result: a withdrawn offer. This amounts to an act of unlawful discrimination by both the previous employer and the potential new employer.

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***Originally published by Thomson Reuters GRC.***