

Getting organised



Modern Dentist spoke to **Sarah Buxton**, Director and HR and Employment Solicitor at FTA Law, about what dental practice owners and managers need to be on the lookout for in terms of HR and employment strategies in 2019.

Q What are some of the most common questions dental practice owners and practice managers ask when running their dental business?

A It really does vary on a day to day basis as no two practices are the same, however the five most common scenarios I advise on are:

- How do we manage sickness absence?
- How do we dismiss an employee due to lateness/punctuality/absence?
- What is the process for disciplinary proceedings?
- How do we deal with an underperforming employee?
- Can we change the terms of employment?

Q What HR pitfalls do practice owners and managers need to be aware of and how can they manage them effectively?

A Not following the correct procedure, i.e. before commencing disciplinary proceedings against an employee there must be a full investigation into what has happened. This is something that practice owners and managers often forget to do. To ensure that this does not happen, always seek legal advice, so they can advise you how to proceed on a step by step basis.

Also, not knowing an employee's rights, i.e. employees with two years' service have the right not to be unfairly

dismissed. Therefore, it is important to ensure that when employees' have two years' service, a fair procedure has been followed otherwise you may end up with a claim in the Employment Tribunal. Another example would be discriminating against employees; if you dismiss an employee due to sickness absence and it turns out they have a disability then they may be able to bring a disability discrimination claim against you. When this is the case you must ensure you have taken all reasonable steps to establish whether the employee concerned has a disability.



“The consequences of failing to abide by both employment legislation and the CQC regulations have dire consequences for the practice”

Q Why is it important for dental professionals to have a better understanding and awareness of effective HR and employment systems in order to have a profitable and well-run practice?

A Any breaches of employment legislation put the practice at risk of a claim in the Employment Tribunal, which will burden the practice financially but also may affect other working relationships

within the practice. It is also very stressful for all involved to be involved in an Employment Tribunal claim and it can take up an awful lot of time. I have represented clients in the Employment Tribunal where the case doesn't get to trial for over a year.

If employees are not happy with how something has been handled, for example they have raised a grievance

against another employee and it has not been dealt with correctly or efficiently, it may cause them to become less productive and will disrupt the running of the practice.

In addition to this, if there are conflicts between members of staff, this will become apparent to patients who will not only feel uncomfortable, but the dentist/dental nurse/hygienist has a duty of care to the patient and if they are not focused it may cause harm to the patient.

I often say to my clients that a happy team is a profitable team!

Q How can the right tools help to prevent disputes and encourage a happy and profitable team?

A Having policies/tools in place to deal with any issue's employees may have will mean that everything is dealt with effectively and consistently. If you do not follow the correct procedure or change the procedure each time the issue arises then employees are likely to become unhappy with this and it may affect the working relationships within the team. This allows for certainty and for staff to be treated uniformly across the practice, thereby reducing the risk of claims of unequal/less favourable treatment.

Q Why is it important for practice owners and managers to abide with employment law and CQC regulations?

A The consequences of failing to abide by both employment legislation and the CQC regulations have dire consequences for the practice, which causes further stress and costs. For example, failure to abide by employment law may lead to a claim in the Employment Tribunal and if practice owners and managers have not followed the correct legislation, they will struggle to defend the claim. Whilst the failure to abide by CQC regulations may result in a warning notice, which will set out a timescale for improvement and will carry out an inspection at the end of the notice. The CQC may decide to cancel the CQC registration, impose sanctions or prosecute for certain CQC breaches.

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Q What are the differences between self-employed workers and employees, and why is it important to have the correct contracts in place?

A Employees have different employment rights. Employees are entitled to holiday and sick pay, they are on the payroll and their employer is responsible for deducting taxes, national insurance contributions and pension payments. Employees also have the right to request flexible working and time off for emergencies.

Self-employed staff generally take full responsibility for their service, for example, hours, availability, cover, and they pay their own taxes.

It is important to have the correct contract in place because if for example a dental associate is found to be employed then their employer will be liable for tax and national insurance contributions. In addition to this, they have more protection under employment law and if they were dismissed, they would have a better chance of bringing a claim in the Employment Tribunal as employees have the right not to be unfairly dismissed, whereas self-employed workers do not have this.

This is especially important for practice owners as many hygienists and associates are self-employed and they should seek assistance from an Employment and HR solicitor with Dental knowledge when drafting an Associate or Hygienist agreement to ensure self-employed status.

Q What changes are we likely to see in 2019 regarding HR and employment in the profession?

A Both the national minimum wage and national living wage rates will increase in April 2019. Practice owners and managers should ensure that all of their employees are on the correct wage.

- NLW minimum hourly rate for workers 25 and over increases from £7.83 to £8.21;
- NMW for workers aged between 21-24 will increase from £7.38 to £7.70;
- NMW for workers aged between 18-20 will increase from £5.90 to £6.15;

- NMW for those under 18 will increase from £4.20 to £4.35;
- Apprentices wage will increase from £3.70 to £3.90.

From April 2019, the minimum contributions for auto-enrolment pension schemes will increase for both employers and employees. Currently, automatic enrolment requirements mean employers must contribute a minimum of 2% with the employee contributing 3%. These figures will rise to a minimum of 3% and 5%. Practice owners and managers should allow time to consult with staff before making any changes to their pension contribution scheme.

Changes to the way employers issue payslips comes into force on 6th April 2019. Practice owners will be obliged to include the total number of hours worked on payslips for employees whose wages vary depending on how much time they have worked. Practice owners should work with their payroll department to ensure the correct procedure is in place ahead of the change.

Following the governments Good Work plan published at the end of last year, the government may announce further changes to employment law and working practices. One proposed change was further clarification on the tests for employment status following recent case law.

Further we still do not know what impact Brexit is going to have on our employment legislation. I suspect there will be no change, however we should watch this space.

Q How would you advise a practice when creating a new strategy?

- A
- Consult with employees on the proposed new strategy/changes;
 - Take any feedback into consideration whilst putting the new strategy together;
 - If this is a change in the terms and conditions of their employment, practice owners/managers should ensure they are following the correct procedure;
 - Propose a trial run of the strategy to see how it works within the practice, practice owners do not want to unilaterally impose something if it is going to disrupt the working relationship and environment;

Q What is your top piece of advice for practice owners and managers in 2019?

- A
- Ensure that you have policies and procedures in place to deal with anything from disciplinary to maternity so that every employee receives the same treatment;
 - If you are unsure on how to deal with any query consult an Employment and HR solicitor to prevent breaching employment legislation and putting your practice at risk of a claim in the Employment Tribunal.

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Sarah Buxton is a Director and HR and Employment Solicitor at FTA Law. FTA Law specialises in acting for dentists, dental practice owners and managers in all aspects of selling, buying and running a business. Sarah is happy to help and dental practice owner/manager with those tricky HR and Employment queries, so please do not hesitate to get in touch at sarah.buxton@fta-law.com or **0330 088 2275**.