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| **QUESTION** | **ANSWER** |
| **Privacy** | | |
| Which of these statements are CORRECT ( there may be more than one) | A. Do not use and disclose personal information other than for the primary purpose for which it was collected (unless an exemption applies). |
|  | B. Do not allow the candidate to have access to their personal information, subject to some exceptions. |
|  | C. Ensure you protect personal information, which you hold, from misuse, loss or inadvertent disclosure. |
|  | D. You can collect and kep personal information from any source if it is necessary for at least one of your lawful activities. |
|  | E. Personal information needs to be accurate, complete, up-to-date, relevant and not misleading. |
| Which of the following statements about Privacy legislation is FALSE? (Select one) | Personal information should be collected directly from the individual wherever it is practicable to do so. |
|  | Candidates generally have a right to request correction of their information (including information obtained from a referee) if it is wrong or misleading. |
|  | Privacy legislation does not tell you how long you must keep personal information. |
|  | There is no express right to ‘privacy’ at an individual level in either Australia or New Zealand. |
|  | You must obtain the candidate’s consent before collecting information regarding any medical issues that might prevent them from doing certain types of work. |
| Personal information may be collected if there is a chance that it might come in handy at some later time even if there is no present need for it. | TRUE |
|  | FALSE |
| Which of the following statements about Privacy legislation are TRUE? (There may be more than one correct answer) | All of them |
|  | The right to access information also includes the right to correct any errors contained in that information. |
|  | Not every obligation of confidentiality that you think you may owe will necessarily be enforceable. |
|  | An agency might be required by law to retain personal information despite it no longer being needed for any purpose for which it can be used or retained. |
|  | You do not have to give the candidate access if the information was received subject to an enforceable promise to someone else that you would keep it confidential. |
|  | The APPs are high-level, broadly stated rules around how personal information collected from Australian individuals can be collected, stored, used and disclosed. |
| What is the correct response in the following scenario as far as Privacy legislation goes? | You have received information that your candidate has an extensive criminal history of violent offences; but his last offence was three years ago. The job for which you are considering the candidate is an IT job on a farm that will require him to set up accounting and production management systems. You have discussed this with the candidate and he has confirmed that the information is true. The candidate has told you that he picked up his IT training in prison so that he could make a fresh start upon release. He does not consent to your disclosing his criminal history to your client. He tells you that you would be breaching his privacy and discriminating against him if you do disclose his criminal history and he wants you to shortlist him for the job. He also picked up his knowledge of law in prison. |
|  | Shortlist him. The client has final responsibility for the selection anyway and if he has not offended for three years the risk is probably not that great. |
|  | Disclose anyway. It's a matter of workplace safety and your duty is to your client. |
|  | Shortlist him-but discreetly tell the client he does not come with your recommendation. |
|  | Shortlist him-but discreetly tell the client to ask for a police check. |
|  | Tell him that you will only shortlist him if he consents to your disclosing his relevant criminal history. Your duty is to your client; but the choice is his. |
| You have placed a job ad for a position with one of your clients. The job has been filled but you have not yet pulled the ad because it was a fantastic ad. It is drawing in so many good applicants, whom you are considering for other positions. Provided that everyone remains happy when you tell them the job has already been filled it is OK to continue to collect the information in this way. | TRUE |
|  | FALSE |
| Your client has given you a Position Description specifying the successful applicant's required experience and skills, and proven track record in Project Management. It's a great job, offered by a very reputable company. You think that it would draw a lot of candidates with excellent technical skills if only it weren't for the "proven track record in Project Management" requirement. So, you decide to place an ad omitting that requirement and inviting resumes to attract the widest pool of applicants, some of whom you will be able to offer alternative work. This is acceptable. | TRUE |
|  | FALSE |
| If you collect personal information about candidates in Australia and disclose it to clients in New Zealand, those clients would be required to collect that information from you in accordance with Australian privacy laws. | FALSE |
|  | TRUE |
| You have collected additional information about a candidate from their Facebook page. As the information is publicly available, you can use it however you like and do not need to follow the APPs. | TRUE |
| FALSE |
| What is the correct response if the following occurs? | You accidentally send files containing personal and sensitive information relating to several candidates to a client. |
|  | Conduct an assessment of the suspected breach within 30 days to confirm whether in fact a breach has occurred and whether that breach is likely to result in serious harm to affected individuals. |
| Immediately notify your manager and IT department who will take the appropriate steps**.** |
| Recall the email and hope for the best. |
| Notify the candidates immediately. |
| **Employment** | | |
| Which statement best distinguishes an independent contractor relationship from an employment relationship? | An independent contractor is a person whose contract says they are an independent contractor and not an employee. |
|  | An independent contractor has an ABN; does not have leave entitlements; and is paid a flat rate per hour. |
|  | Independent contractors are in business for themselves and carry out the work for which they are paid in their own business**.** |
|  | An independent contractor is a person who does not do more than 80% of their work for any one client. |
| The terms of an employment contract prevail over anything to the contrary that might be contained in a Modern Award or Enterprise Agreement. | TRUE |
|  | FALSE. An employment contract cannot contain terms and conditions that are less than those provided under a Modern Award or Enterprise Agreement. |
| Which of the following is NOT included in the 10 National Employment Standards? (There may be more than one correct answer) | Annual leave |
|  | Notice of termination and redundancy pay |
|  | Minimum wages |
|  | Casual loading |
|  | Fair Work Information Statement |
|  | Maximum weekly hours of work |
|  | Requests for flexible work arrangements |
|  | Parental leave |
| An employer has no right to control an employee’s conduct which extends beyond the workplace or outside working hours. | TRUE |
|  | FALSE. An employer CAN control the out-of-hours conduct of its employees whenever there is a “sufficient and relevant connection” between the employment and the conduct. |
| Which 2 statements best distinguish a casual employee from a non-casual employee? | A casual employee is a person who is paid a casual loading; but does not get paid leave entitlements. |
|  | A casual employee has an employment contract that describes them as a casual employee. |
|  | A casual employee is someone who does not work full-time hours. |
|  | A casual employee is typically someone who has an irregular, uncertain or intermittent work pattern. |
| What is necessary in order to terminate an employee lawfully? (if they are eligible to bring an unfair dismissal claim) | A valid reason |
| (There may be more than one correct answer) | Three written warnings |
|  | A process to ensure the dismissal is not harsh unjust or unfair |
|  | Instruction from the client |
|  | Approval from the Fair Work Commission |
|  | Serious misconduct |
| What conditions must be satisfied for a post-termination restraint of trade to be enforceable? (There may be more than one correct answer) | It must be consistent with the public interest |
|  | It must be in writing signed by the employee |
|  | It must be drafted as a "cascading" provision |
|  | It must operate for no more than six months |
|  | It must be no more than is reasonably necessary to protect the legitimate interests of the employer |
| Which of the following factors are more indicative of an employment relationship? (there may be more than one) | An employee always wears a uniform |
| An employee cannot delegate their duties and responsibilities under the employment contract to another person |
| An employee provides their own tools and equipment |
| An employee is employed under an employment contract which states they are an employee |
| An employee cannot perform work for others without the authorisation of the employer |
| If an interposed company is contracted to perform the work, then the individual actually doing the work is not an employee of the person for whom the work is performed. | TRUE |
| FALSE |
| Fixed and maximum term employees are not entitled to redundancy pay or protected from unfair dismissal if their employment ceases at the end of the term. | FALSE |
| TRUE |