

Lying on your CV – what can possibly go wrong?

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Once offered, the hiring organisation should check both the essential requirements of the role (proof of education and level of experience in senior roles) by taking up references and independent checks if appropriate. If there is a need to demonstrate that the person is “fit and proper” (under Regulation 19 of the Health and Social Care Act 2008 for instance) further checks as to good character, health and competence, as well as professional qualifications all feature as the relevant conditions of employment. It is particularly important to show (and have on file for audit purposes) that the criteria has been fulfilled.

But, if taken on trust, and where this essential due diligence step is missed or not rigorously applied, this can lead to unfortunate consequences for the organisation. In fact, whoever takes the first step in validating the false or misleading information, could inadvertently set in train further opportunities for the individual to exploit their position with successor organisations. The impact is serious, denting public confidence and a significant distraction from the valuable work these organisations carry out.

The need for integrity and honesty in all positions of trust (in senior management) is of paramount importance especially in the health and charity sectors which provide essential services to the public. Where that trust has been abused and the applicant has benefitted from their deception, what remedies are available to the victim organisation?

The Supreme Court found in [R v Andrewes \[2022\] UKSC 24](#) that the self-styled Dr Jon Andrewes (who possessed no doctorate despite claiming to have two) who had secured senior positions with St Margaret’s Hospice and paid positions at Torbay NHS Care Trust and the Royal Cornwall NHS Hospital Trust had benefitted from “ a series of staggering lies” about his experience and qualifications.

Mr Andrewes had pleaded guilty to all charges of obtaining pecuniary advantage by deception under the Theft Act 1968, for the period prior to the Fraud Act; and fraud by false representation under the Fraud Act 2006 and was sentenced to 2 years. The question at hand on appeal was whether it was proportionate to make a confiscation order (under the Proceeds of Crime Act 2002) for the benefit he had obtained in these roles. It was agreed that the available sum was £96,737.24. His legal team argued that despite the lies he had given “full value” for his services and that this was the only sum available to him despite gross earnings of £643,602.91 and in fact he should not have to pay anything.

In rejecting the argument that the competent provision of services was just or adequate restoration , the Supreme Court distinguished jobs which were performed illegally (i.e. where there was pre-requisite of a license or professional qualification and there was none) and here where valuable services were provided and there was no legal bar to performance. Even where Mr Andrewes had received good or outstanding annual reviews in the role, he had committed fraud, and there was a suitable penalty.

In the case of illegality, the correct approach was the complete removal of the profits of their employment (i.e. full net earnings) in their entirety as a proportionate response to the crime.

In Mr Andrewes case, the Court adopted a “middle way” where credit was given for the value provided by Mr Andrewes (noting that he had received good or outstanding annual reviews) but that he was ordered to repay the difference between his previous earnings and the higher earnings which had derived from his deception in the CV fraud. That figure equated to £244,569.

Comment

This is an unusual case which provides clarity in CV fraud cases pursued in the criminal courts. Lying on CVs does constitute fraud, and can lead to severe consequences for the perpetrator – summary dismissal from employment, a custodial sentence and criminal record and a penalty to repay their unlawful gains despite performing a role competently.

Whether the victim organisation chooses to pursue criminal or civil proceedings for recovery for the illicit gains and loss of profits, this decision will be a useful guide of the Court’s approach.

In practical terms, all organisations will see the benefit in conducting rigorous due diligence, before appointment; to avoid then having to remove employees for misconduct or capability reasons who have dishonestly misled them.

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