

People Management – Policies and Guidance

Employment References – Guidance

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INTRODUCTION

1. This Guidance is aimed at managers who are responsible for recruitment and those who may be asked to provide a reference for a current or ex-employee.

TAKING UP REFERENCES DURING THE RECRUITMENT PROCESS

Why take up references?

2. References play an important part in the recruitment and selection process as they provide confirmation of a candidate's employment history, qualifications and experience. References are just one part of the selection process and should be used to check facts, employment history, qualifications, etc. Only factual information/data should be relied on, not subjective opinion with regard to competence or performance.

When do we take up references and from whom?

3. With the exception of staff employed in schools, references should be taken up following interviews and the selection of a preferred candidate. Employers must have the consent of the applicant to approach a referee and no job reference should be sought without the prospective employee's express permission as this would breach the individual's rights under the GDPR (Data Protection regulations). Managers should never seek to make "secret enquires" about a prospective employee, whether on the telephone or in writing, however useful they think such enquiries might be.
4. **Two** references are required for **external** applicants. These must be provided by the applicant's current employer (if in employment) and their previous employer. If the applicant is not in employment, then the most recent employer should be used. It is important that the named referee is their **direct line manager** and not a work colleague or friend at their place of work. Recruiting managers are responsible for checking that the correct referees have been provided and that any gaps in employment are explored. This can be done at interview. Failure to do this could result in delays to the appointment process.
5. Where an applicant has not been in employment immediately prior to applying for a job with the Council, then you may wish to contact the most recent employer as well as the referees provided on the application form.
6. If the candidate is **self-employed** they may provide the name of someone who has known them in a professional capacity, such as an accountant or solicitor.
7. If the applicant has not been employed before, then a personal reference may be accepted as well as a reference from the applicant's school or college. Please ensure that the personal referee is not related to the applicant.

8. References or open testimonials provided by the candidate or references from relatives should not be accepted. (Please contact your HR / Recruitment Advisor for advice).
9. For **existing employees** who apply for jobs, only **one** reference from the current line manager is requested (unless the Recruiting Manager specifically requests additional references). Where the Recruiting Manager is also the current line manager then a formal reference does not need to be requested as it is assumed that the manager is satisfied with the performance, etc of their employee. This is with the exception of internal applicants applying for posts working with children, young people and/or adults at risk where statutory requirements prevail or where additional references need to be validated and reviewed to ensure the applicant's suitability to work in this area .
10. Information is available on our jobs pages to assist applicants with their selection of an appropriate referee.

What information do we request from referees?

11. If you are using the Council's Recruitment Service, the Team will request references using a standard template (Page 10). This template has been designed to ask specific questions relating to the applicant. If, for some reason, you approach referees direct you should always use this template.

What to do once references are received

12. It is the Recruiting Manager's responsibility to carefully check references and to ensure that the information provided is sufficient to enable a decision to be made.
13. If the information provided is not sufficient or raises concerns, you may consider following up with a telephone call or email to the referee. Please seek advice from your HR or Recruitment Advisor. Please see paragraphs 21 to 24.
14. Once you are satisfied with the references and, subject to other pre-employment checks being completed, you will be able to confirm the offer of employment to the applicant and agree a start date.
15. **If a Referee refuses to provide a reference**, it is recommended that you seek consent from the applicant to approach another employer or person who can verify information provided. Please make a note of the refusal and reasons why where possible.

Jobs which involve work in "regulated activity" or with vulnerable group

16. For posts based in schools and those which have access to children, young people and/or adults at risk, the Council reserves the right to approach other employers named in the application.

17. Where an applicant is not currently working with children, young people and/or adults at risk, but has done so in the past, a reference must also be obtained from the last employer with whom the applicant was employed and worked with children, young people and/or adults at risk, as appropriate.
18. Schools are recommended to seek 2 references from all shortlisted applicants prior to interview. Further guidance is available at [Keeping Learners Safe WG Guidance](#)

Telephone References

19. Telephone references should never be used instead of a written reference request. However, there may be times when a referee needs to be contacted by telephone, including:
 - Where the information contained within the written reference is ambiguous or insufficient
 - Where you are recruiting to a post with access to children, young people and/or adults at risk and a telephone reference is required to confirm authenticity and/or clarify any anomalies or discrepancies.
20. The following checklist is useful to follow when contacting a referee by telephone:
 - Plan beforehand and be clear about the information you are seeking
 - Ensure you are speaking to the correct and most appropriate person
 - Ask factual questions only using the reference template supplied with this guidance (page 10)
 - Be aware that a referee may only be prepared to provide basic or limited information
 - Take notes and make an accurate record of the conversation

Where the post is working with children, young people or adults at risk, the following additional questions should be asked:

- What is the referee's opinion of the candidate's suitability for working with children, young people or adults at risk;
- Whether there are any disciplinary warnings, including time-expired warnings, that relate to the safeguarding of children, young people and/or adults at risk;
- Whether the referee considers the applicant as suitable for the post being applied for

21. The notes of the telephone reference form part of the recruitment process and should be sent to the Recruitment Team for their records.

What to do if the reference is unsatisfactory, incomplete or raises concerns

22. Occasionally a reference may be received which appears to contradict information provided by the applicant or infers unsatisfactory performance or conduct in a previous role.

This does not necessarily mean that you should not offer employment to the applicant and it is important that you take time to consider:

- Is the information provided relevant to the job the person has applied for?
 - Does the information render the individual unsuitable for the job? Why?
 - How recent is the information?
 - Is the previous employment similar to the post you have sought references for?
23. You should not automatically assume that the job applicant has provided incorrect or misleading information and you seek clarification with the applicant before making a decision wherever possible. You should seek HR advice particularly if the reference contains information regarding disciplinary matters, safeguarding concerns or disclosure of convictions.
24. When discussing any discrepancies with the applicant you should be mindful of protecting the confidentiality of the referee. Speak to your HR Advisor or Recruitment Team for advice.

References and the General Data Protection Regulation (GDPR)

25. Occasionally job applicants or employees may ask for references (from the provider or from the person receiving them) relating to them to be released under the "subject access" provisions of data protection regulations.
26. An employer does not have to release this information as it is exempted from these provisions. For this reason, the Council's reference template is marked "Strictly confidential – employment reference". In addition, when providing a reference, the same strapline should be used.
27. Although employers can rely on this exemption to refuse to disclose a reference to the individual, an employer may decide to adopt an approach of openness and provide a copy anyway. It should consider whether or not the disclosure would also reveal the identity of another individual (namely the author of the reference). The employer may decide to disclose the reference if the other individual concerned consents to this or if his or her identity can be concealed. Each case should be considered on its merits. Please seek your HR Advisors advice.

PROVIDING REFERENCES FOR CURRENT OR EX-EMPLOYEES

What you should do if you receive a request to provide a reference

28. Whilst there is no legal obligation to provide references the Council's Policy is to provide references using the agreed reference template (Page 14). **Do not respond using any other template or format.**
29. Only a Line Manager or HR / Recruitment Advisor should respond to a reference request.
30. The reference provider has a **duty of care** to the employee/ex-employee and to the prospective employer and must ensure that the reference is accurate and factual. Personal opinions should not be expressed.
31. Reference requests received from **external** organisations should be referred to your Recruitment/HR Advisor in the first instance. Please ensure that the person or organisation requesting the reference has a legitimate need to seek a reference.
32. **Follow the reference template** and ensure that you provide only the information allowed for and which can be supported by **facts** that are known to the employee/ex-employee. Do not provide any additional information.
33. All reference requests seeking an assessment of suitability to work in regulated activity or with vulnerable adults/children must be forwarded to your Recruitment/HR Advisor.
34. **Never** include information about criminal convictions (spent or unspent) that have been revealed to you via a DBS check or directly from the employee/ex-employee. It is the new employer's responsibility to seek this information directly from the applicant or via the Disclosure and Barring Service if the job requires it.
35. Always address the reference to the named referee to ensure that it is seen only by that person.

Potential Consequences of breaching the duty of care

36. An employee or ex-employee may sue the Council if they believe a reference has been provided negligently resulting in a withdrawal of a job offer or other loss. There are a number of cases where employees have been successful in bringing a claim and have been awarded financial settlements due to the employer's failure to provide a true and accurate reference. This is why it is important to stick to the facts and avoid personal and/or subjective opinion.

37. Discrimination claims can also arise where the employer's action (or lack of it) when providing references can be linked to a protected characteristic¹ as set out in the Equality Act 2010. For example, if the reason for refusing to provide a reference or making negative statements in a reference was that the employee or ex-employee had brought a claim for race discrimination against the employer, this could be construed as an act of victimisation and would amount to unlawful race discrimination.
38. Be alert to providing a reference for an employee or ex-employee who has gender transitioned. Whilst the approach to and content of the reference will be identical, care should be taken with the use of pro-nouns and names. Discuss with the employee or ex-employee first and take advice from your HR Advisor if required.

Helpful hints for constructing the wording of a reference

39. The reference provided should be fact based and avoid any subjectivity. Here are a few examples to demonstrate the difference between a fact based statement and a subjective statement.

Examples of facts	Examples of opinion/vague/subjective statements
Jim was rated 2 on a scale of 1-5 (where 1 is the lowest and 5 is the highest) in his most recent (<i>state year</i>) performance appraisal	Jim's work was considered unsatisfactory
Hannah was given a first written warning regarding timekeeping in (<i>state date</i>)	Hannah frequently turned up to work late in the mornings
Jack was summarily dismissed from the company for fighting with a colleague	Jack's conduct at work left a lot to be desired
Kate supervised six members of staff and her appraisals show that she demonstrated excellent people management skills	Kate supervised six members of staff and we think she had very good people management skills
Jayne met five out of 12 of her monthly deadlines during 2012	Jayne was unreliable

¹ age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

PROVIDING A TELEPHONE REFERENCE

40. Before agreeing to provide a telephone reference remember:
- ✓ There is no such thing as an “off the record” or confidential discussion. Treat the conversation the same as if you were providing a written reference.
 - ✓ Stick to the information that you would provide in a written reference (use the Template as your checklist).
 - ✓ Always call the person requesting the reference. Do not provide information until you are satisfied that this person has a legitimate reason to ask for a reference.
 - ✓ Make a note of the name and job title of the person you are speaking to, the organisation they represent, telephone and email address, the date and time of the conversation and the reason they have requested the reference.
 - ✓ Make notes of the information you provide.
41. Send a copy of your notes to the Recruitment Team for their records.

**Strictly confidential – employment reference
Request for Reference**



This person has applied for employment with us and has named you as a referee. We would be grateful if you would complete this form as fully as possible and return it to:

Applicant's Name:	
Applicant's Address:	
Position Applied For:	
In what capacity do you know the applicant?	Professional / Personal*
Please state how long you have known the applicant.	

If you have been or are the applicant's employer please confirm the following:

Are you the applicant's current or most recent line manager?	Yes/No*
Period of employment:	From dd/mm/yyyy until dd/mm/yyyy
Date of continuous Local Government service (if applicable):	dd/mm/yyyy
Job Title:	
Type of contract:	Full-time / Part-time*
Number of days / weeks shared / parental leave taken (if applicable):	
Reason for leaving (if applicable):	
Is there a formal capability / disciplinary sanction / action in place or pending against the applicant (including on-going investigation):	Yes / No*
If yes, please provide further details:	

<p>If the applicant has left your employment, was there a capability / disciplinary sanction / action in place or pending against the applicant, or was there an investigation on-going at the time s/he left your employment:</p>	<p>Yes / No*</p>
<p>If yes, please provide further details:</p>	

IF THE POST APPLIED FOR IS WORKING WITH CHILDREN, YOUNG PEOPLE OR VULNERABLE ADULTS, PLEASE COMPLETE THE FOLLOWING SECTION.

<p>Whilst in your employment, was the applicant the subject of any issues involving the safety and welfare of children, young people or adults at risk, including any in which a disciplinary sanction has expired and the outcome of them?</p>	<p>Yes /No</p>
<p>If yes, please provide further details:</p>	
<p>Are you aware of any allegations or concerns that have been raised about the applicant that relate to the safety and welfare of children, young people or adults at risk or behaviour towards them? Yes / No*</p>	
<p>If yes, please provide further information, including whether the matter(s) were investigated, the conclusion reached and how the matter was resolved.</p>	
<p>Do you know of any reason why the applicant is unsuitable to work with children, young people or adults at risk?</p>	<p>Yes /No *</p>
<p>If yes, please provide further details</p>	

If you are providing the reference in a professional capacity, Using the Job Profile and Person Specification as a guide, please provide factual information regarding the applicant's suitability for the role.

If you are providing the reference in a personal capacity, please use the space below to detail the skills, knowledge and experience you have observed in the applicant which may be relevant to the position applied for.

Continue on a separate sheet if necessary.

Signature: _____

PRINT NAME: _____

Job Title: _____

Date: _____

Company Stamp:

Thank you for taking the time to complete this form. Please return it to:

PROVIDING A REFERENCE

This template should be used at all times when a request for a reference has been received. Do not provide a reference in any other format.

Strictly confidential – employment reference

<Date>

<Name and address>

Dear Sir or Madam

<NAME OF APPLICANT>

Thank you for your recent request for a reference for the above person. Carmarthenshire County Council's Policy is to provide the following factual information only for current or former employees:

Employed from:

Employed to:

Job-title(s): *(Please list all if more than one post held and dates)*

Key Duties in most

Recent post: Please refer to job-profile attached

Salary:

Reason for leaving (where relevant):

Disciplinary/Capability/Safeguarding:

*(*Please check with your HR or Recruitment Advisor before completing)*

*I can confirm that no formal disciplinary/capability action/sanction is recorded on file.

*I can confirm that the following formal disciplinary/capability action/sanction * is recorded on file/pending*:

*I can confirm that a formal safeguarding record is recorded on file/pending

Absence:

The Council does not provide details of an employee's absence record unless confirmation is received from you that the information request is following an offer of employment to the prospective candidate and with their express consent.

Yours sincerely

<Name>

<Job Title>

Enc: Job profile