



Reference Policy and Procedure

Ermysted's Grammar School

The Governing Body of Ermysted's Grammar School (the 'School') ratified this policy on 1 February 2024.

1.0 Introduction

1.1 The purpose of this policy is to:

- To ensure the information provided in references by the school is fair, accurate, true, and complies with legislation.
- To ensure comprehensive reference information is obtained on all applicants, and that this is used appropriately within the selection process.
- To ensure the principles of safer recruitment are applied when the school provides or obtains reference information.

1.2 This policy applies to all employment references provided or obtained by the school.

2.0 Principles

Providing Employment References

2.1 It is recommended that when an employee leaves a job, a reference is completed by the manager and placed on the personal file to provide the information for future reference requests. There are templates available to support this policy and should be used regardless of the reference questions or detail asked for or format requested. The details of the reference can be shared with the employee as part of the exit process.

2.2 Managers have a responsibility to provide references, if requested, for current and former employees, subject to paragraph 3.0 below. A refusal could be detrimental to the person under consideration for a job. All references provided should be labelled "strictly confidential – employment reference".

2.3 Reference requests will be responded to in a timely manner.

2.4 Employment references must be given by a senior person with appropriate authority. As a general rule, this is the line manager who has responsibility for that employee, and who would have direct knowledge of any disciplinary, capability or attendance management action in relation to the employee. Where the line manager is not the Headteacher, the reference should be confirmed as accurate in respect of any disciplinary investigations by the Headteacher.

2.5 When providing sickness absence details, it is important to state the number of occasions of absence as well as the number of days. The reason for absence should not be disclosed.

2.6 References must be fair, accurate and true in substance, based upon verifiable facts, and given without malice. Managers must not conceal or omit any serious matter relating to the employee's conduct or capability. Failure to provide information to a new employer could lead to a negligence claim.

Under the Amendment to the School Staffing Regulations 2012, schools must provide on request, whether or not a teacher has been the subject of capability in the preceding two years, and provide details of the concerns, duration, procedure and outcome. Where schools have adopted the NYES HR model Developing Performance and the Capability Policy, this statutory responsibility applies where an individual has been subject to the Capability Policy.

- 2.7 There is a legal obligation for employers to disclose any information on an employee relating to the safeguarding of children and vulnerable adults, if the job falls into this category. Information should confirm whether the manager is satisfied with the applicant's suitability to work with children and provide the facts (not opinions) of any substantiated safeguarding allegations. Cases in which an allegation was categorised as false, unsubstantiated, unfounded or malicious should not be included in a reference. Seek further advice from NYES HR.
- 2.8 References (for external requests) should be in writing. Where any verbal clarification is sought from the prospective employer, information provided should be factually correct and limited to clarifying information already provided in a written reference. Information given verbally is never "off the record", and the referee must record the detail and be able to account for any comments made.
- 2.9 References must be sent only to the employer making the reference request, for the job specified, to ensure a consistent approach for all external reference requests, regardless of the varying formats from external employers.

Open employment references addressed "to whom it may concern" must not be provided.

- 2.10 Where a settlement agreement is used on ending an individual's employment, the details to be included in any employment reference will have been agreed at the time, using advice from HR and Legal Services. Only the agreed information should be used in the reference.
- 2.11 If a work colleague is asked to provide a reference for an individual, it must be stated on any letter that the reference is personal and not an employment reference.

Obtaining Employment References

- 2.12 Schools should obtain references for shortlisted candidates before interview to allow any concerns raised to be explored further with the referee and taken up with the candidate at interview. Where this has not been possible, it is recommended that all clearances including references are to be obtained within 3 weeks of the offer being received by the applicant. Where reference(s) are outstanding, the candidate should be made aware of this at interview/offer stage by the recruiting manager. If the recruiting manager is unable to obtain the required references and other associated clearances and there has not been suitable updates supplied by the applicant, then consideration of withdrawing the offer of employment should be made.
- 2.13 References must be requested only when permission to do so is given by the candidate.
- 2.14 The purpose of seeking references is to allow employers to obtain factual information to support appointment decisions. They should not be used to evaluate candidates as part of the assessment process but are used as a check of suitability. Compare the information in the application form with that in the reference and take up any discrepancies with the candidate.
- 2.15 Schools should use the reference pro forma template to request references direct from the employer, to ensure information is obtained in line with safeguarding requirements.
- 2.16 From 1st October 2010, due to changes in the Equalities Act, it became unlawful to ask any health / absence related questions prior to an offer of employment, other than
- to determine if reasonable adjustments are required in the selection process,
 - to determine if an applicant can carry out a function essential to the role,
 - for diversity monitoring purposes.

Take advice from NYES HR if you consider there is a need to ascertain fitness to carry out a function essential to the role. In specific circumstances, there may be some roles that require this information to be obtained prior to an offer of employment being made.

To comply with legislation in these circumstances these references will be requested in two parts with the health / absence related information requested in the second part once an offer of employment has been made.

- 2.17 At least two references are required for external candidates, one of which must be from the last employer. The number of references relates to the applicant's employment history and the type of work to be undertaken, meaning additional references may be required.
- 2.18 A reference must be obtained from the relevant employer from the last time the applicant worked with children (if not currently working with children), in addition to a reference from the last employer. If the applicant is not currently employed, then obtain verification of the individual's most recent relevant period of employment.
- 2.19 Information must be requested on any issues or concerns that have been raised about the applicant regarding the safeguarding of children or vulnerable adults.
- 2.20 References must be obtained from the organisation's business address directly and should be addressed to a senior person with appropriate authority (if the referee is school or college based, in most cases this will be the Headteacher but, where it is not, the reference should be confirmed by the Headteacher / Principal as accurate in respect of disciplinary investigations)
- 2.21 Open references or testimonials are not acceptable e.g. to whom it may concern. School will not accept employment references from the applicant's relatives or people writing solely in the capacity of a friend.
- 2.22 The applicant could seek access to the reference information under the Data Protection Act, as a Subject Access Request, however, there is a general exemption for references given in confidence for actual or prospective employment of the subject of the reference. Further information can be sought from the appropriate Data Protection Officer for the school.

Action Required on the Receipt of References

- 2.23 The Manager must ensure the reference received is an official employment reference. The referee who completed the request should be a senior person with appropriate authority.
- 2.24 The reference must be scrutinised and compared with the application form to identify inconsistencies and areas for concern, for example, discrepancies regarding employment dates, reasons for leaving, gaps in employment, or undisclosed performance or disciplinary issues. Any discrepancies should be taken up with the candidate.
- 2.25 Always verify any information with the person who provided the reference and clarify content where information is vague or inconsistent.
- 2.26 Any information about past disciplinary action or allegations will need to be considered and advice should be sought from NYES HR.

Unsatisfactory References

- 2.27 If the references obtained are considered unsatisfactory this should normally result in a withdrawal of the conditional offer. The manager may decide, with the applicant's permission, to seek further references to consider the position further. This would be appropriate only in limited circumstances. A suitable reference is still required from the last employer and the referee must be an appropriate referee. Further advice can be sought from NYES HR.
- 2.28 In the event that the reference is unsatisfactory due to the level of absence, further advice from NYES HR and Occupational Health should be sought.

Action When there is Difficulty in Obtaining Employment References

- 2.29 If there is difficulty in obtaining all references, seek further advice from NYES HR. Managers are required to demonstrate that all reasonable steps have been taken to secure all relevant references.
- 2.30 A conditional offer of employment can only be withdrawn if the person has not commenced work.

Use of Personal (Character) References

- 2.31 In some circumstances it may not be possible to obtain employment references, for example, when an applicant has not worked for several years or has never worked. In such exceptional situations, personal references must be obtained. The school must carefully assess the risk involved and ensure that appropriate alternative safeguarding measures are undertaken and/or put in place if the person is appointed. These details must be recorded on employee's file. References from friends or family members of the applicant are not acceptable for this purpose and personal references should ideally be sought from someone who has supported the individual from a professional capacity (e.g. Teacher, Lawyer, Doctor).

Releasing Reference Information

- 2.32 If a new employee asks to see a reference provided to the school the manager should seek advice from the Data Protection Officer before doing so.

3.0 Statutory Obligations

This Policy and Procedure recognises the requirements to comply with the following legislation / statutory guidance:

- Safeguarding of Vulnerable Groups Act 2006
- Data Protection Act 1995 and (Amendment) Regulations 2003
- Equalities Act 2010
- Keeping Children Safe in Education 2021
- The School Staffing Regulations