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The Queen's Award for
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Policy on Providing Employment References for Employees/Former Employees



1. Purpose

- 1.1. This policy sets out Foresight's policy on dealing with requests for references for current or former employees in relation to job applications.
- 1.2. This policy applies to all members of staff and must be adhered to at all times when a request for a reference is received.



2. Scope

- 2.1. There is no legal obligation for the charity to provide references for employees or former employees. However, a refusal to provide a reference may be unhelpful to other employers and is likely to be interpreted as an indication that there was a problem with the individual, which might then disadvantage them.
- 2.2. Therefore, it is the normal policy to provide references on request unless there is a good reason not to do so.
- 2.3. Guidance on the information that should and should not be included when providing an employment reference is included in Appendix A.



3. Authorised Providers of References

- 3.1. It is the charity's policy that any references in relation to job applications for current or former employees may only be provided by one of the following;
 - i. the employee's current Line Manager (or in their absence, a more senior manager, or in some cases where more appropriate, a previous line manager).
 - ii. Human Resources.
- 3.2. Any requests for a reference from a prospective employer should be immediately passed to an appropriate member of staff as above who may consult with other colleagues if appropriate. It is recognised that other colleagues may also wish to provide personal references, subject to the guidance below.
- 3.3. No other person in the charity is authorised to provide an employment reference on behalf of the charity, whether verbal or written about current or former employees. Should anyone be in doubt as to whether they are authorised to provide a reference, then they should consult with Human Resources to obtain the correct advice before taking any further action.



4. Obtaining Consent to Provide a Reference

- 4.1. Personal data in an employment context is information held on record by an employer about an individual. Providing personal data to a prospective employer about an employee or former employee will amount to processing for the purposes

of the Data Protection Act 1998.

4.2. Under the Act, all personal data must be processed fairly and lawfully and in order to ensure that, the individual dealing with the reference request should ensure that the employee/former employee to whom the request for the reference relates has given their consent for a reference to be provided.

4.3. If the person dealing with the request has any doubts about whether or not the individual has given their consent, they must contact the individual to check whether or not they authorise a reference to be provided.

5. The Duties of Providers of References

5.1. When providing references there is a legal obligation to exercise a duty of care to both the person seeking the reference and to the person about whom the reference is provided.

5.2. If an employer gives a careless reference, for example failing to mention the fact that the employee was incompetent at his or her duties, the person receiving the reference may sue the employer if he or she has relied on the reference and suffered financial loss as a result.

5.3. If a job applicant either is refused an offer of employment or has an offer withdrawn as a result of inaccurate information or opinion contained in a reference, the applicant may have a claim against the provider of the reference in respect of any loss that he or she has suffered as a result.

5.4. These duties of care mean that although there is no requirement for a reference to be full and comprehensive:

- i. any information provided in a reference must be accurate and factual,
- ii. reasonable care must be taken not to give misleading information, and
- iii. that a reference must be fair to the individual in an overall sense and not misleading on account of the selective provision of information or as a result of the inclusion of facts and opinions stated in a manner that may give rise to a false or mistaken conclusion in the mind of the recipient.

6. Providing the information requested

6.1. It is the responsibility of the author of the reference to ensure that the information provided is true, accurate, fair and not misleading. Any comment on an individual's performance or conduct must be factual and objective.

6.2. References should normally be in writing to avoid any subsequent confusion. They should always be marked 'private and confidential – addressee only' and particular care should be taken if sending by e-mail that they are directed to the correct person.

6.3. Verbal references may only be given once the identity of any caller has been verified. If a verbal reference is given, a written record of the information provided must be made at the time of the conversation.

7. Disclaimer

The following disclaimer should be included in the reference making it clear that, while the information provided is accurate to the best of the charity's knowledge, the charity cannot accept any liability for errors or omissions in the content of the reference or any decisions based upon it.

“ While all reasonable efforts have been made to ensure the truth and accuracy of the statements made in this reference, neither the person providing the reference nor the charity is responsible for any errors, omissions or mis-statements contained in this reference.”

8. Character References

8.1. If members of staff wish to provide character references for colleagues or former employees, they must make it clear that they are doing so purely as a personal acquaintance or friend and not in their capacity as an employee of the charity. A reference should not be provided in such circumstances until the referee and prospective recipient have acknowledged that the reference is given in a personal capacity and that the charity will not accept any responsibility for it.

8.2. Under no circumstances must charity headed paper or a charity telephone or email address be used.

9. Access to References

9.1. Under the Data Protection Act 1998, job applicants and employees have the right, upon written request, to gain access to any record held about them. Although certain exemptions apply in relation to references, reference providers should work on the basis that any reference provided by the charity could potentially be seen by the individual in the future.

9.2. The author of the reference may allow the employee to see the draft reference before it is provided to the prospective employer, but this is not obligatory.

Appendix A - Guidance on information to be included in references

Line managers and Human Resources should ensure that references contain factual information only and not subjective views or opinions about an employee's performance or conduct that cannot be backed up by fact.

Information to be provided might include:

- ☑ the dates on which the individual's employment with the charity began and ended;
- ☑ the employee's job title;
- ☑ a short description of the employee's main duties and level of responsibility;
- ☑ information about their performance and ability which can be backed up by fact;
- ☑ factual information such as the employee's salary and attendance record if requested (however see notes below on attendance record);
- ☑ any non-expired disciplinary warnings;
- ☑ the reason for termination of employment, ie. whether the employee resigned or whether the termination was the result of dismissal, redundancy, retirement or the expiry of a fixed-term contract.

Examples of facts (safe) Examples of opinion/vague statements (risky)

Jim was rated 2 on a scale of 1-5 (where 1 is the lowest and 5 is the highest) in his most recent (state year) performance appraisal

Jim's work was considered unsatisfactory

Hannah was given a first written warning regarding timekeeping in (state date)

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

Jeremy had 11 days' certified sickness absence during 2006

Jeremy was regularly off work due to an alleged back complaint

Jayne met five out of 12 of her monthly deadlines during 2006

Jayne was unreliable

Any unfavourable statements in a reference should be confined to matters which the employer reasonably believes to be true on objective grounds and following a reasonable investigation.

☑ Example: A reference suggesting that an employee was allowed to resign in circumstances where he would in any event have been dismissed on account of dishonesty, was found by a court to be inaccurate and unfair because the dishonesty charges had never been put to the employee, the allegations had not been the subject of any proper investigation and there had never been a formal disciplinary hearing.)

Where there have been problems with an individual, for example if he or she was dismissed for serious misconduct, there is nothing to prevent the employer from stating the relevant facts in a reference, provided that those facts are known to the individual and are stated objectively and accurately.

☑ Example: in another case, a court considered it reasonable to advise a prospective employer that, when the individual in question left employment on mutually agreed terms, he had been under suspension following allegations of financial irregularities.

Provision of details of employee's attendance record

Under the Equality Act 2010 it is not permissible to ask for details about an applicant's attendance before a job offer has been made. Therefore line managers should establish whether a job offer has been made before providing this information. Once this has been confirmed, factual information can be provided about the number and length of absences in the last twelve months.

Details of the reasons for absence should not be given without the employee's express consent.

However, managers should recognise that employees may wish to give their consent, as this may help to explain high levels of absence and could be taken into account by the new employer. It is advisable

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to discuss this with the employee prior to their leaving the charity.

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This information is also available in other formats, languages and picture format upon request.