



Health Education & Improvement Wales

Employment References Policy and Procedure

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Version 1

Employment References Policy & Procedure

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1. Introduction

The purpose of employment references is to obtain information about a candidate's employment history in order to assess the candidate's suitability for the post for which they have applied. Prospective employers may seek information on matters including length of employment, job title, details of responsibilities, abilities, overall performance, timekeeping, absence record and reason for leaving. While there is no legal requirement for HEIW to provide references about employees or ex-employees, NHS employers have a duty of care to both patients and staff to ensure that all reasonable checks are undertaken.

HEIW is committed to responding to employment reference requests in a way which is fair, accurate and does not unduly hinder the opportunity of employment in the future. It recognises that an individual's circumstances may change over time and no assumptions should be made about the individual's suitability for another role in a different setting.

All reference requests must be directed to and returned by the People Team using the standard template (Appendix 2). If more detail is offered by a colleague or manager, it must be made clear that a character reference is being supplied (as defined below) and no association made with HEIW.

Raising employment reference requests for potential new employees to HEIW is managed by the NHS Wales Shared Service Partnership (NWSSP) Recruitment team via Trac.

This policy has been developed using an evidence based Integrated Equality Impact Assessment as part of HEIW legal requirement to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act,
- Advance equality of opportunity between persons who share a relevant protective characteristic and persons who do not share it,
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

2. Purpose

This Policy provides guidance and the procedure to employees, ex-employees, members of the People Team and managers for giving and requesting references. It aims to ensure that the principles of equity and consistency are applied when dealing with all employment reference enquiries.

3. Scope

This procedure applies to successful applicants joining HEIW and all staff currently employed or previously having worked within HEIW.

4. Definitions

There are two types of reference requests;

- A character reference whereby the referee is commenting on the personal relationship between themselves and the employee. The referee is not responding on behalf of HEIW, but as a private individual. Character references must not be given using HEIW headed paper or official e-mail account.

A character reference will only be requested by NWSSP on HEIW's behalf when all other opportunities have been exhausted or there has been no previous employment.

- An employment reference, whereby the referee is asked to comment on the employment relationship between HEIW and the employee. This will be completed by the People Team using the standard template (Appendix 2).

Employment references sought by HEIW will be managed by NWSSP and approved by the recruiting manager.

5. Process

5.1 Employment References - Received

HEIW requests that employment references are submitted to the People Team **in writing either on headed paper or from a relevant and appropriate company/organisation email account**, in order to verify the authenticity of the request. Giving or receiving telephone references must be avoided to ensure HEIW is not misrepresented at a later date.

Only members of the People Team are permitted to respond to an employment reference request. If a reference request is received by any other member of staff or management, it should be referred to the People Team, ensuring confidentiality is maintained. Where the applicant is not known, the request should still be passed to the People Team to investigate further.

The People Team will ensure that a **current employee is made aware that a confidential reference request has been received** before responding. For a past member of staff, consent will be assumed, providing the request has come from a verified source.

Whether an employer is requesting more or less information, their form will be discarded and **the HEIW standard form (Appendix 2) fully completed in all circumstances**. This ensures the same approach is taken and the same factual level of information provided every time.

Under the Data Protection Act (as amended by the General Data Protection Regulation 2018) and Freedom of Information Act, the applicant can request to see a copy of any reference provided for them.

Responses to reference requests should be given within **a reasonable amount of time**, in order not to unduly hinder progress of the applicant's start of new employment.

Completed references should be **marked 'private and confidential' for the attention of a named representative of the requesting organisation and sent to a relevant and appropriate company/organisation business address or email account.**

A copy of all employment references, raised and received, will be kept on the employee's / leaver's personnel file for 6 months or until the employee leaves HEIW, whichever is longest.

5.2 Confidentiality

Where there is a mismatch between the applicant's name and other corroborating information, relevant supporting paperwork may be supplied e.g. marriage certificate, deed poll or decree absolute, or the requesting organisation can be asked if there is "any other name by which the applicant is known", but unless a match can be made, no reference should be given.

In cases where an individual has changed their name as part of their transition it should be noted that there are lawful and moral duties not to disclose when someone has transitioned or is transitioning. However, every reasonable effort should be made to contact the ex-employee to confirm a 'match' and a reference given, so as not to unduly hinder their opportunity of employment in the future.

5.3 Pre-Employment References

Pre-employment referencing within HEIW is driven by NHS Wales Shared Service Partnership (NWSSP) Recruitment team via Trac using a similar form. Prospective employees are asked to nominate referees as part of the application process and recruiting managers are asked to review and approve these references on the information supplied. Within the NHS, full disclosure is expected otherwise this information may be limited to confirmation of job title and employment dates. Recruiting managers should contact the People Team for advice before approving references where dates do not match or there are other concerns.

5.4 Character References

Character references must not contain any association with or confidential information relating to the business of HEIW or the individual's employment at HEIW.

Character references must not be given using HEIW headed paper or from an HEIW email address and must be expressly stated as personal opinion.

6. Roles and Responsibilities

6.1 Employee / Applicant's Responsibilities

The applicant is expected to facilitate the request for their employment reference by:

- providing the requesting organisation with the contact details for the People Team i.e. Health Education and Improvement Wales, Ty Dysgu, Cefn Coed, Nantgarw, CF15 7QQ
Email: HEIW.People@Wales.nhs.uk
OR providing NWSSP Recruitment team the name, job title and work address / email address of their current and previous line managers on application, as appropriate,
- ensuring that any request is made on headed paper or from a relevant email account,
- allowing HEIW a reasonable amount of time in which to respond,

6.2 Line Manager Responsibilities

The line manager is responsible for:

- referring all employment reference requests to the People Team in a timely manner and respecting (ex) employee confidentiality. They may be asked to provide supporting information e.g. details of disciplinaries or complaints, but should respond directly to the People Team, not any outside organisation,
- reviewing and approving pre-employment checks for successful candidates for any roles they have advertised on Trac.

6.3 People Team Responsibilities

It is the People Team's responsibility to:

- provide advice and guidance to all staff and line managers referring to the Employment References Policy and Procedure to ensure all employment requests are referred to the People Team, explaining the difference between an employment and character reference and discouraging them from submitting the latter.
- respond to all employment reference requests in a fair, accurate and timely manner, respecting (ex) employee confidentiality and ensuring the reference is received only by the nominated person in the requesting organisation, as dictated in the process above,
- inform the requesting organisation promptly when the applicant is not known to HEIW.

6.4 NWSSP Recruitment Team

Raising employment reference requests for potential new employees to HEIW is managed by the NHS Wales Shared Service Partnership (NWSSP) Recruitment team via Trac.

7. Monitoring

This policy will be reviewed as necessary and at least every 3 years.

Appendix 1: The Legal Position

The legal risks associated with providing references fall under the following headings:

Negligence:

If a reference is provided by an employee, the main legal risk lies in the law of negligence. An employer will be liable if loss results from the employer's failure to exercise reasonable care in the preparation of a reference.

The reference must not give an unfair or misleading impression overall, even if its discrete components are factually correct.

There may also be a 'contractual duty' to provide a reference where: it is 'natural practice' to require a reference from a previous employer before offering that type of employment, and the employee could not expect to enter that type of employment without a reference.

It is entirely feasible that the Health Board could be sued by another organisation for providing a misleading employment reference.

Defamation / malicious falsehood

If a reference contains a false or unsubstantiated statement that damages the reputation of an employee, he or she may be able to claim damages for defamation.

Discrimination

It should be noted that it does not matter how long ago the person worked for you, as long as the worker could show that any unlawful discrimination arises out of and is closely connected to the previous employment relationship. For example:

An employee who is given a poor reference in breach of the Equality Act 2010 may be able to bring a claim against their former employer. As highlighted in case law: [Pnaiser v NHS England and Coventry City Council 2015](#)

Victimisation

Victimisation is defined in the Equality Act as:

Treating someone badly because they have done a 'protected act' (or because you believe that a person has done or is going to do a protected act).

A 'protected act' is:

- Making a claim or complaint of discrimination (under the Equality Act).
- Helping someone else to make a claim by giving evidence or information.
- Making an allegation that you or someone else has breached the Act.
- Doing anything else in connection with the Act.

Breach of Contract/ Unfair Dismissal

This may apply to an employee who resigns as a result of their manager providing them with inappropriate references and consequently claims unfair dismissal at an Employment Tribunal. A misleading reference can amount to a fundamental breach of contract of employment.

Appendix 2: Employment Reference Template

Confirmation of Employment Request		
Information provided in this reference reflects the most up to date information available at the time the request was fulfilled.		
Name of the applicant		
National Insurance number or date of birth (Only to be used to confirm applicant's identity where further clarity is required)		
Employment dates	From:	To:
Current / most recent job title		
Current / most recent grade		
Reason for leaving		
1. Are there any warnings on the applicant's record that have not been disposed of?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please give details (this may include warnings that could have been imposed, if the individual had not left before an investigation had concluded)		
2. Is the applicant under investigation for any matter (incl. conduct, or performance) under any of HEIW's employment policies?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please give details (this may include any formal action that could have been taken, if the individual had not left before the investigation had concluded):		
3. Please provide details of when you last completed a check with the Disclosure and Barring Service (DBS)		
– Date DBS check was last completed:		
– Please indicate the level of DBS check undertaken	<input type="checkbox"/> Basic <input type="checkbox"/> Standard <input type="checkbox"/> Enhanced	
– If an enhanced with barred list check was undertaken, please indicate which barred list this applies to	<input type="checkbox"/> Adults <input type="checkbox"/> Children <input type="checkbox"/> Both	
– Did the check return any information that required investigation?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Confirmation of Employment Request

Information provided in this reference reflects the most up to date information available at the time the request was fulfilled.

Name of the applicant	
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4. Are you aware of any recent/outstanding allegations that were made against the applicant that relate to any safeguarding issues/referrals (including any referrals to the DBS)?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please give details

5. The answers given above have been provided in good faith and are correct to the best of my knowledge and belief.

Referee name (please print):

Organisation: Health Education and Improvement Wales

Email address:

Telephone number:

Signature: _____ Date: _____

Data Protection: This form contains personal data as defined by the Data Protection Act 2018 (as amended by the General Data Protection Regulation 2018). This data has been given exclusively as confirmation of employment for recruitment purposes, and will be sent to a named person at an authorised business email account or address. The receiving party must protect any information disclosed within this form, keeping it confidential and ensuring that it is not passed to anyone not involved in the recruitment decision.