

Provision of Employment References Policy

We will provide this policy on request at no cost, in large print, in Braille, on tape or in another non-written format.

INTRODUCTION

Wheatley Care as an employer follows Safer Recruitment Guidance and the receipt of two satisfactory written references is an essential part of our Recruitment and Selection Procedures. Please refer to the Recruitment and Selection Policy for details of references acceptable to Wheatley Care for prospective candidates for employment.

We recognise that other employers will have similar standards in their recruitment and selection procedures. The purpose of this policy is to provide guidance on the provision of references to ensure that employees and ex-employees are treated fairly and that the organisation is not unnecessarily put at risk.

AUTHORITY

References may only be provided by employees who have authority to access files and a full understanding of the capabilities and suitability of the candidate. The following individuals may provide a reference for an employee or ex-employee on behalf of the organisation:

Deputy Service Manager/Service Manager and above
Section Head and above

If personal references are provided by an employee of Wheatley Care, they are not provided with the express agreement of the organisation and must not be provided on headed paper.

PROVIDING A REFERENCE

The purpose of a reference is for an employer to obtain information about a candidate's suitability for the post applied for, previous performance and conduct and to verify factual information provided by the candidate.

Requests will normally be made in writing, but an approach may be made by email or telephone. All references provided on behalf of Wheatley Care must be in writing, with a copy forwarded to Human Resources for inclusion in the employee's or ex-employee's file.

Points to Consider:

1. Check that you are the most appropriate person to provide the reference
2. Check if providing a reference for an ex-employee that a standard reference has not been agreed (contact Human Resources).

3. Check all the essential information is available, eg. dates of employment, absence records, disciplinary record.
4. Ensure that all information in the reference is factual and can be substantiated. References must be fair, factual, accurate and not give a misleading impression of the candidate.
5. Where possible check with the employee that they have agreed that you may provide a reference. Discuss the content of the reference with the candidate.

The provider of a reference has a duty of care in negligence to both the prospective employer and the employee. An employer providing a reference will be liable if the employee or prospective employer suffers loss as a result of the referee's failure to take reasonable care in the preparation of a reference. All references should be checked carefully for errors prior to being sent, however where inaccuracies are discovered at a later date, these should be corrected in writing as soon as possible.

Managers must ensure that references are non-discriminatory. The protection against discrimination is extended in circumstances post employment where there is a link between the discrimination and the employment relationship.

In general, references will be comprehensive enough to meet the needs of the prospective employer, however there may be some circumstances where references will provide only minimum factual information. An example of this may be where the reference request is for an ex-employee and the length of time since they have been supervised would prevent you from being able to comment accurately on their suitability. This should however not be used to prevent release of relevant information.

Managers providing references must take care to ensure that questions asked by the prospective employer are reasonable. If at all unsure if you are able to provide a response to certain questions please seek advice from line management or Human Resources.

DATA PROTECTION

The Information Commissioner's Officer has published good practice guidelines in the provision of employment references. These can be viewed on the Information Commissioner's website: www.ico.gov.uk.

The provision of an employment reference involves the disclosure of personal data for the purposes of the General Data Protection Act 2018 (GDPR). Some reference requests refer to information regarding sickness absence. Providing the number of

days absent is not classified as sensitive personal data, but information relating to the condition is and should not be provided without the consent of the individual. If a reference request is received and sensitive information is requested please seek advice.

The GDPR Act applies differently if the reference is in the possession of the employer providing the reference and the prospective employer receiving it.

Under the GDPR Act it is not obligatory for an employer to supply a copy of an employment reference being provided to the employee, however Wheatley Care would consider this to be good practice. Where circumstances allow, the content of a reference should be discussed with the employee and a copy provided.

It should be noted that under the GDPR Act, with exceptions, an employer in receipt of a reference, may be required to disclose it to the employee if requested.

RECORD KEEPING

A copy of every reference provided on behalf of Wheatley Care must be forwarded to Human Resources where it will be retained in the personal file of the employee or ex-employee.