HUMAN RESOURCES POLICY AND PROCEDURES
FRAMEWORK

Reference Policy and Procedure for Prospective and Previous Employees

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Reference Policy and Procedure for Prospective and Previous Employees

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1. Purpose

This document sets out the College’s position on employment references.

It provides guidance to managers on obtaining references for new staff and draws their attention to the responsibilities and legal liabilities that may arise when providing references on behalf of existing or former employees.

The guidance also applies to current and ex-employees regarding the College’s position on provision of references.

This policy applies to candidates for posts within West Highland College, UHI and to those current/former employees who may be seeking alternative employment.

2. Scope

2.1 This policy applies to candidates for posts within West Highland College, UHI and to those current/former employees who may be seeking alternative employment.

2.2 Whilst there is no strict legal obligation on the College to provide a reference, the College recognises it has a moral duty to treat employees fairly and there may be legal consequences of refusing to do so in particular cases.

2.3 Normally the College is asked to provide references for employees for employment purposes. However, references may be provided for other purposes, for example; in support of a mortgage application or when renting accommodation. The principles outlined in this Policy apply to employment references.

3. References for Prospective Employees

3.1 Normally two satisfactory references will be sought for each prospective employee, including one from the most recent previous employer. (note candidates may not wish their existing employer to be contacted unless they are successful in being appointed to the post – permission must be obtained in all cases before proceeding).

3.2 A copy of the job description and person specification shall be sent to the candidates’ referees for information. He or she shall be requested to provide information on the candidate relative to the criteria on the person specification and job description. (A sample letter is shown in Appendix A)

3.3 Where references are obtained on candidates prior to interview (unless a candidate specifically requests existing employer not to be contacted) they should normally contribute to the selection decision made by the recruiting manager. Any areas of concern identified in the reference should be explored with the candidate during the interview.
3.4 Following interview, where a successful candidate has been in employment but does not provide a referee from their current or most recent employer, the College reserves the right to contact the employer as stated on the application form. Candidates will be advised if such an eventuality arises.

3.5 If references are not received in writing prior to interview, then a reference can be obtained by telephone subject to the referee being asked for confirmation in writing. In all such cases a file note will be made and held by the Human Resources.

3.6 Applicants who are school leavers or graduates may nominate a head teacher, lecturer and work experience employer as appropriate.

4 References for Existing and Former Employees

4.1 Referees have a responsibility to be truthful, not to be malicious and to include only what is accurate, true, fair and reasonable.

4.2 As a result of the onerous nature of this responsibility and the potential risks to the College, it has been decided

   i. if the individual is a former employee who is not known by the referee and/or you would not re-employ, the reference should only give facts of the job role and the length of service, plus confirm sick record if requested. (A sample copy is shown in Appendix B)

   ii. if the individual is a current/former employee who is known by the referee and/or who you would re-employ, a more evaluative reference can be given – always remembering to be accurate, true, fair and reasonable.

   iii. All references should be checked by senior managers before sending.

   iv. A copy must also be provided to HR for file. The HR team can also give advice if required.

   v. No personal endorsements should be given
5 Unsatisfactory References

5.1 In the event an unsatisfactory reference is received after a provisional offer of employment has been made, advice should be sought from Human Resources on withdrawing the offer.

5.2 All offers are made subject to satisfactory references. Therefore, a decision to withdraw the offer or to terminate the contract with due notice (or payment in lieu of notice) is unlikely to be successfully challenged.

6 Offers of Appointment

6.1 Under normal circumstances a candidate should not start without satisfactory references.

6.2 If he/she does take up post without references having been received, every effort should be taken to obtain this with the minimum of delay i.e. follow-up telephone call for verbal reference.

6.3 All Offers of Employment are subject to receipt of two satisfactory references (see Recruitment & Selection Policy & Procedure).

7 Key Legal Considerations in Providing a Reference

7.1 Defamation

A reference must not contain a false or unsubstantiated statement that damages the reputation of the individual as actions for damages may result.

7.2 Deceit

Where a false statement is knowingly made with the intention that the person receiving the reference will act on it, for example providing a glowing reference in respect of an employee which is false in that it attributes characteristics, abilities or a level of competence to that person which the referee knew to be untrue, an action alleging deceit could arise. The prospective employer would have to show that the individual had been appointed on the basis of the reference, only to find that he/she was not suitable in respect of a "material" factor, provided in the reference.

7.3 Negligence

A claim of negligence could arise where a referee provides a reference with facts that have not been checked and has failed to take reasonable care in its preparation.
7.4 Duty of Care

The College has a duty of care both to its employees and to third parties to whom it supplies references. This duty of care requires that references are provided in good faith and are fair, reasonable, true and accurate as well as not being misleading when considered overall. The duty thus may have negative as well as positive aspects. For example, by omitting from a reference known relevant information which the subject of the reference might consider unhelpful to his/her application (such as disciplinary action), a referee may have to discharge the duty of care to the third party seeking a reference.

7.5 Possible Consequences

Such activities could lead to litigation against the College by the third party if the third party suffers any kind of loss or damage as a result of engaging someone on the basis of a misleading or erroneous reference.

8 Timing

Requests for references will normally be actioned within 5 working days.

9 Complaints

If a manager receives a complaint about any aspect of employment references, no comment or liability should be admitted, and the matter should be referred immediately to the Human Resources team.

10 Review

This policy will be reviewed every 3 years or when circumstances change any part of it.

(Appendices attached)
Appendix A
Sample standard reference request from West Highland College, UHI

OUR REF

[ date ]

Private and Confidential

Dear [ ]

[FULL NAME AND ADDRESS OF CANDIDATE]

[full name of candidate] has been offered a part-time post with us, as a [job title], based in [insert place of work], and [he/she] has given your name as a referee.

Please can you confirm if

- This individual was employed by you in the role of (insert job title) from (insert the dates given in application)
- The salary for this individual was (Insert salary)

Please also confirm if the absence and disciplinary record for this individual was acceptable.

We have enclosed a copy of the job description for this post. We would appreciate it if you could refer to this and comment, from your experience of [his/her] work, on [his/her] suitability for this post and if you would be happy to re-employ this individual.

Thank you for your help.

Yours sincerely

[ name]

HR
Appendix B

Sample standard reference for West Highland College, UHI

OUR REF

YOUR REF

[ date ]

Private and Confidential

Dear [ ]

Thank you for your letter dated [ ] requesting a reference for [ employee full name].

We are able to confirm [first name's] employment with the College.

[First Name] was employed by the College as a [job title/description] [within the part of College if appropriate] from [start date] to [end date].

This reference is given in the strictest confidence and without any financial or other liability.

Yours sincerely

[ name]