

References Policy

Westbrook Primary School



Approved by:	Governing Body	Date: 16th October 2023
Last reviewed on:	October 2023	
Next review due by:	October 2026	

1. Purpose of the policy

The purpose of this policy is to provide the school/academy with a fair, consistent, and transparent procedure for obtaining and providing employment references.

Although the school/academy is not obliged in law to provide a reference for employees or ex-employees, it is the school/academy policy to do so and as a minimum, factual information relating to such items as employment dates will be provided. The school/academy is committed to safeguarding and promoting the welfare of children and young people and vulnerable adults and expects all staff, volunteers and prospective applicants to share this commitment.

The school/academy will ensure that any reference is accurate, factual and not misleading.

This policy applies to all staff employed by the school/academy.

2. Access to references

Applicants have the right under the Data Protection Act to access information held by the school/academy about them, such as references, upon requests. Such a request is known as a 'subject access request'.

3. References provided by the school/academy

When an individual requests a copy of a reference the school has provided and was provided in confidence, the school/academy is not obliged to provide the employee with a copy of the reference due to an exemption in the Act.

4. References received (in confidence)

There may be occasions when an applicant or employee requests a copy of a reference provided to the school/academy by a previous employer. Such requests should be considered under the normal rules of access.

If the reference provided is marked "in confidence" then consideration will need to be given to whether the request is exempt under the Data Protection Act.

In doing so the school/academy should not unreasonably withhold information which is already known to the individual. Factual information such as employment dates will be known to an individual and should be provided. Where it is not clear whether information is known to the individual the school/academy should contact the referee and ask whether they object to this being provided and why.

If a referee states that they do not want the school/academy to release their comments the school/academy would need to consider requests on a case by case basis and justify and document the reasons for relying on an exemption should the reference not be provided.

5. Providing references

Any reference request received should be passed to the Headteacher in the first instance. The Headteacher will either respond to the request or delegate the responsibility to respond. If delegated the reference should

be confirmed as accurate by the Headteacher prior to being issued. Should the reference be for the Headteacher, the Chair of Governors should complete the reference requests.

6. Methods of providing references

The school/academy will provide a written response to all requests for references. Verbal references will not be given as a route; however, it is recognised that there may be times when this is necessary. The referee will ensure that in doing so they are speaking to an appropriate person in that organisation and confirm any discussions in writing. Open references will not be provided i.e., those addressed to whom it may concern.

A copy of the reference that has been provided should be retained by the school/academy as this may be called upon in the future.

7. Settlement agreements

Where the school/academy receives a reference request in regards to a previous employee the individual's personnel file should be checked to ensure that a reference has not been agreed as part of a settlement agreement. Where this is the case, this is the only reference that should be provided.

8. What information will be included in a reference given by the school/academy

When providing a reference the school/academy will ensure that they are accurate, factual and not misleading. References will not include any personal views or opinions about the employees performance or conduct that cannot be supported by evidence.

The reference should be provided in writing, either in the form of a letter or using a template form. If a reference makes a request for information deemed inappropriate, the referee will indicate that the question is not appropriate and not respond.

If the school/academy has not been provided with a standard form to complete, the reference should be provided on the school's reference template form and should include"

- The dates on which the individual's employment with the school/academy began and if relevant ended
- How long they have known the individual and in what capacity
- The employee's job title
- A short description of the employee's key job duties and level of responsibility, including a current job description
- Any jobs that the employee held within the organisation
- If any formal disciplinary warnings have been issued to the individual which are still live on the employee's file
- A statement about the employee's suitability to work with children.
 - Anything that might raise concern in relation to the employees suitability to work with children
 - Whether the employee has been the subject of substantiated allegations about their behaviour towards children and if so, a summary of how the investigation was followed up, resolved and a not of any action taken, and decisions reached should be included
- Where the individual has left the employment of the school/academy, the reason for them leaving (if known)
- For teaching staff only - Where requested by the referee if capability proceedings have been started in the preceding two years

To comply with the Equality Act 2018 information about the person's absence/attendance record should not be requested or provided until the conditional offer of employment has been made to the individual

concerned. If there is any doubt that the reference request is being made prior to the conditional offer the referee should simply provide a statement as follows:

“Absence/attendance information cannot be provided in line with the Equality Act 2018 until after the conditional offer has been made”.

When providing absence information as part of the reference only the number of days of absence and the number of occasions absent should be provided e.g., 2 occasions of absence totaling 10 days, not the reasons for the absence. If by not providing further detail this may cause a detriment to the candidate, written consent should be sought from the candidate gaining consent to provide further information.

9. Disclosing Negative Information

For references to be true, accurate and fair in substance, it may be necessary to mention negative issues. If this applies, the authorised officer should proceed as follows:

10. References for teachers who have been the subject of formal capability proceedings within the past two years

If requested by a school, the authorised officer must provide written confirmation that a teacher has been the subject of a formal capability procedure. Details must also be provided of the concerns which led to the formal capability procedure, how long the teacher was the subject of the procedure, and the outcome. This requirement relates only to capability issues arising from lack of skill or ability, not to those arising from ill-health.

11. References for employees who have been dismissed

The School/Academy has a responsibility to inform the prospective employer if an employee has been dismissed because of misconduct or capability (including ill health and performance). The reference should be factual and should not contain any subjective opinions.

12. References for employees with current disciplinary sanctions

The authorised officer should only include details of any formal disciplinary procedures the applicant has been subject to in which the disciplinary sanction is still live on the employee's file unless it is considered a serious safeguarding concern in which case it should be disclosed.

13. References for support employees with significant performance issues

Generally only comments on an individual's performance or ability that have already been the subject of discussion with them should be included in a reference. The authorised officer may wish to reach an agreement with the employee on the wording of the reference.

14. Negative references for employees working with children

In addition, the authorised officer must ensure that they include in the reference any concerns or allegations that have been substantiated about the applicant's ability to work with children, including what the concerns were and how they were dealt with. The authorised officer should also refer to any disciplinary warnings that have expired in relation to the safety and welfare of children. Also, refer to any disciplinary warnings that have expired in relation to the safety and welfare of children.

Keeping Children Safe in Education states that cases in which allegations were proven to be unsubstantiated, unfounded, false, or malicious should NOT be included in references. A history of repeated concerns or allegations which have all been found to be unsubstantiated, unfounded, false, or malicious should also NOT be included in any reference. The definitions of substantiated, unsubstantiated, unfounded, false, are as follows:

Substantiated: there is sufficient evidence to prove the allegation

Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive or cause harm to the person subject of the allegation

False: there is sufficient evidence to disprove the allegation

Unsubstantiated: there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence

Unfounded: to reflect cases where there is no evidence or proper basis which supports the allegation being made.

15. Obtaining references

The Governing Body/Trust is responsible for ensuring that references are requested, received, and checked for every new employee of the School/Academy, including supply/casual workers, prior to their commencement in role. This responsibility will be delegated to the Headteacher, except where the appointment is to the post of Headteacher, where it will be the responsibility of the Chair of the appointment committee.

16. What references are required?

The School/Academy requires at least 2 satisfactory employment references and at least one of the referees should be from the applicant's current, or if not in employment, most recent employer.

References should cover a full period of 3 years prior to the date of application.

A reference must be sought from the most recent employer where the applicant worked with children, even if this means obtaining more than 2 references or that the reference is outside of the 3-year period as stated above.

The School/Academy will always seek, in the first instance, a written reference rather than relying on verbal statements. However, there may be occasions when verbal references will be sought in the first instance and subsequently confirmed in writing.

The School/Academy will not accept open references e.g., to whom it may concern and will not rely on the applicant obtaining their own reference.

In some circumstances it may not be possible to obtain employment references, for example, when an applicant has never worked. In such exceptional situations, personal references must be obtained, and the authorised

officer must 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 the employee's file. References from friends or family members of the applicant are not acceptable for this purpose as they will not give the School/Academy sufficient information to determine the applicant's suitability for a post. Personal references should be sought from someone who has supported the individual from a professional capacity (e.g., Teacher, Lawyer, Doctor).

Open references i.e., those addressed as to whom it may concern, will not be requested or accepted.

17. When will references be obtained?

References should be sought prior to interview for all short-listed applicants. At this stage, to comply with Equality Act 2018 no questions can be asked about health or attendance related issues.

The School/Academy will seek consent from the prospective applicants to take up references prior to interview. This will usually be detailed at the application stage.

The purpose of requesting references at this stage is to enable the recruiting panel to review the references before the interview so that if concerns are highlighted these can be considered and where necessary explored before or at the interview. If the referee provides information about health or attendance at this stage, then this information should not be considered.

If a request is received from an applicant to delay seeking references until it is known whether they are to be offered the position, then careful consideration will be given. The School/Academy will contact the applicant and explain their duty to seek references in line with safer recruitment practices. If the applicant refuses to give consent and provides justification, it will be for the Headteacher to determine whether the justification is acceptable. If the Headteacher does not feel that the reason given is justifiable then the application may be withdrawn from the process and the applicant notified of this decision in writing.

Failure, on the applicant's behalf to provide suitable referees may result in an application not being progressed further.

Where references have not been received prior to interview the request should be followed up as a priority as part of a conditional offer of employment.

The School/Academy should ensure electronic references originate from a legitimate source.

18. What information the school / academy will seek from a referee

All requests for references will seek objective verifiable information to include:

- Confirmation of the applicant's current post, including job title
- Confirmation of the dates on which the applicant's employment with the School/organisation began and if relevant ended
- Any jobs that the applicant held within the School/organisation prior to the job that they held at the date of resignation/termination (or the current job), and for how long they performed these jobs
- What is the referee's relationship with the applicant? If this is/was a working relationship; if so what; how long the referee has known the applicant and in what capacity
- A short description of the applicant's key job duties and level of responsibilities undertaken with the employer
- Specific verifiable comments about the applicant's performance history and conduct
- Details of any disciplinary procedures the applicant has been subject to in which the disciplinary sanction is current

- Details of any disciplinary procedures the applicant has been subject to involving issues related to the safety and welfare of children or young people, including any in which the disciplinary sanction has expired, and the outcome of those
- Details of any substantiated allegations and/or concerns that have been raised about the applicant that relate to the safety and welfare of children and young people or behavior towards children or young people, and the outcome of those concerns e.g., whether the allegations or concerns were investigated, the conclusion reached and how the matter was resolved Where the applicant has left the employment of the organisation, the reason for the termination For teaching staff only Details of whether capability proceedings have been started in the preceding two years. If so a request for written details of the concerns which gave rise to this, the duration of the proceedings and the outcome.

Once a conditional offer has been made a further request for information should be sent to the referee to ask information about the person's attendance record, e.g., the number of days' absence over the last 2 years of employment and the number of occasions and details of the candidate's timekeeping.

19. Unsatisfactory references

Where a reference appears to be vague or incomplete, the authorised officer should contact the referee to seek further information. Any concerns should be resolved satisfactorily before the person's appointment is confirmed.

In the event that the reference is unsatisfactory due to the level of absence, further advice from HR and/or Occupational Health should be sought. As a general rule absence that would trigger the School/ Academy attendance management procedure would be deemed unsatisfactory, however care must be taken to ensure that the School/ Academy does not discriminate against the applicant due to a protected characteristic.

If upon receipt of a reference the School/Academy believes it not to be suitable then the offer of employment will be withdrawn from the applicant.

20. The legal framework

Throughout the application of this policy the School/Academy will comply with the legal framework of relevant employment legislation that affects all employees and includes:

Equality Act 2018.

The School Staffing (England) Regulations 2009 and associated guidance and updates. Education Act 2011 and associated guidance and updates.

Data Protection Act 2010.

Employment Rights Act 1996.

Any other relevant employment legislation.

Where applicable this policy should be read in conjunction with the following documents:

Guidance for Safer Working Practice for Adults who Work with Children and Young People' Department for Education guidance on "Keeping Children Safe in Education.

Any other relevant documentation or guidance produced by the Department for Education.

Any updates to statutory guidance.

This list is not exhaustive.