

Employment Reference Policy

1. Introduction

This policy covers:

- providing references to external organisations for existing and former University employees, and
- obtaining references for prospective University employees.

The aim of this policy is to set out the principles relating to reference requests and draw attention to the responsibilities and legal liabilities that may arise.

References are intended to provide factual information and an objective assessment of the performance of an individual.

The provision of a reference will generally involve the disclosure of personal data, and therefore be subject to data protection legislation.

There is a difference between a reference given in a personal capacity, and a corporate reference. A corporate reference is one given on behalf of the employer by one of its own staff and the employer remains legally responsible for compliance with data protection legislation. A personal reference is one given by a member of staff in an individual capacity; whilst it might refer to work, it is not given on behalf of the employer. This policy covers references given in a corporate capacity on behalf of the University, which would be written on OU headed note paper, and the person giving the reference would provide their own job title.

The University is vicariously liable for the actions of its staff when supplying references. Therefore when Heads of Unit provide a reference, they must be satisfied that the principles contained in this document have been observed. The same rules apply to both written and oral references.

2. Providing references to external organisations for existing and former University employees

It is the practice of the University to supply references to other organisations regarding past and present employees where requested. Refusal to give a reference in itself could leave the University open to legal action and references should not be refused without seeking advice from the People Hub. Whilst there is no general entitlement to a reference, where an employer fails to provide one, the failure could also potentially be subject to a claim that this is for discriminatory reasons, or could constitute victimisation if a discrimination issue has already been raised. There is no limit in time, and it is essential therefore that informal references are not issued, or ex colleagues talked about in derogatory terms.

In view of the legal considerations all requests for references must be approved by the Head of Unit or nominee. If the reference request relates to an employee who has been disciplined or prosecuted for fraud or the reference is subject to any legal agreements, the reference request must be passed to the People Hub for completion.

An open reference will not normally be issued directly to an employee or ex-employee.

If giving an oral reference, it is important to keep a note of what is said, and preferably follow this up in writing so that there is a written record of what has been said.

Details of sickness absence should not be included in references as this could contravene the requirements of equality legislation. To avoid adverse assumptions being made about the lack of this information, the following statement should be included in the reference:

'It is our policy not to provide details of absence records therefore you should not view the lack of absence details as either a positive or negative statement regarding the individual'.

3. Obtaining references for prospective University employees

It is the policy of the University to obtain references for all. At least one reference must be from the most recent employer. Where this is not received before a formal offer is made, the offer will be subject to the receipt of satisfactory references. Questions about health and disability (including sickness absence) must not be asked.

A copy of all references received for the employee must be held on their personal file.

4. Equality, Diversity and Inclusion

Policies are inclusive of all Open University staff, regardless of: race, sex, disability, age, religion or belief, sexual orientation, gender, gender identity, gender expression or gender reassignment.

5. Guidance

For further guidance on obtaining references for prospective employees and for providing references for existing or former employees see the document listed below. The guidance also gives more details about who has a right of access to references, and specific arrangements relating to internal candidates.

6. Useful References

Employment Reference Guidelines