



Boroughbridge High School and King James's School Federation

POLICY STATEMENT

Reference Policy

Policy last reviewed (date)	October 2022
Ratified by Governors (date)	
Next policy review due (date)	October 2025
Due for review by Governors (date)	October 2025
Staff Lead	HR Advisor

MISSION STATEMENT:

This policy will support the school by being reflective of the Governors' direction and School's development plan.

Significant revisions since the last review:

Policy review following NYHR amendments.

Reference Policy and Procedure

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Reference Policy

1 Purpose

- 1.1 To ensure the information provided in NYCC references is fair, accurate, true, and complies with legislation.
- 1.2 To ensure comprehensive reference information is obtained on all applicants, and that this used appropriately within the selection process.
- 1.3 To ensure the principles of safer recruitment are applied when providing or obtaining reference information on behalf of NYCC for jobs involving access to children or vulnerable adults.

2 Scope

- 2.1 This policy applies to all NYCC employees, including school based employees, where the governing bodies of individual schools have adopted the policy.

3 Principles

Providing Employment References

- 3.1 It is recommended that when an employee leaves a job, a reference is completed by the manager and placed on the personal file to provide the information for future reference requests. The details of the reference can be shared with the employee as part of the exit process.
- 3.2 Managers have a responsibility to provide references, if requested, for current and former employees, subject to paragraph 3.3 below. A refusal could be detrimental to the person under consideration for a job.
- 3.3 References are provided only for job applicants selected for interview, not to assist with short listing.
- 3.4 Employment references must be given by recognised and appropriate managers. As a rule, this is the line manager who has responsibility for that employee, and who would complete any disciplinary, capability or attendance management action.
- 3.5 Managers must obtain information from the employee's personal file and Resourcelink records before completing a reference to ensure full and accurate information. When providing sickness absence details, it is important to state the number of occasions of absence as well as the number of days. The reason for absence should not be disclosed.
- 3.6 References must be fair, accurate and true in substance, based upon verifiable facts, and given without malice. Managers must not conceal or omit any serious matter relating to the employees conduct or capability. Failure to provide information to a new employer could lead to a negligence claim. Note for Schools: Under the Amendment of The School Staffing Regulations, schools must provide on request, whether or not a teacher has been the subject of capability in the preceding two years, and provide details of the concerns, duration, procedure and outcome.
- 3.7 There is a legal obligation for employers to disclose any information on an employee relating to the safeguarding of children and vulnerable adults, if the job falls into this category. Cases in which an allegation was unsubstantiated, unfounded or malicious should not be included in a reference. Seek further advice from HR.

- 3.8 References (for external requests) should be in writing with verbal references not normally given. If they are they should be factually correct and limited to clarifying information already provided in a written reference. Information given verbally is never “off the record”, and the referee must record the detail and be able to account for any comments made.
- 3.9 References must be sent only to the employer making the reference request, for the job specified, to ensure a consistent approach for all external reference requests, regardless of the varying formats from external employers. Open employment references addressed “to whom it may concern” must not be provided.
- 3.10 Where a compromise agreement is used on ending an individual’s employment, the details to be included in any employment reference will have been agreed at the time, using advice from HR and Legal Services. Only the agreed information should be used in the reference.
- 3.11 The role of Human Resources (HR) is to provide guidance to managers on this Policy. References cannot be written by HR on behalf of managers.
- 3.12 If a work colleague is asked to provide a reference for an individual, it must be stated on any letter that the reference is personal and not an employment reference.
- 3.13 References must be requested only when permission to do so is given by the candidate.

Obtaining Employment References

It is recommended that all clearances including references are to be obtained within 3 weeks of the offer being received by the applicant. This should have been briefed at interview/offer stage by the recruiting manager. If the recruiting manager is unable to obtain the required references and other associated clearances and there has not been suitable updates supplied by the applicant then consideration of withdrawing the offer of employment should be made.

- 3.14 References are not used to evaluate candidates but are used as a check of suitability so should be considered only at the point the selection panel is proposing to make an offer of employment to the candidate.
- 3.15 Schools should use the reference pro forma to request references direct from the employer, to ensure information is obtained, in line with safeguarding requirements.
- 3.16 From 1st October 201, due to changes in the Equalities Act it became unlawful to ask any health / absence related questions prior to an offer of employment other than:
- to determine if reasonable adjustments are required in the selection process
 - To determine if an applicant can carry out a function essential to the role
 - For diversity monitoring purposes

Take advice from HR if you consider there is a need to ascertain fitness to carry out a function essential to the role. In specific circumstances there may be some roles (due to their seniority or complexity) that require references to be obtained prior to an offer of employment being made.

To comply with legislation in these circumstances these references will be requested in two parts with the health / absence related information requested in the second part once an offer of employment has been made.

- 3.17 At least two references are required for external candidates, one of which must be from the last employer. The number of references relates to the applicant’s employment history and the type of work to be undertaken, meaning additional references may be required.
- 3.18 When appointing to jobs involving access to children or vulnerable adults, where DBS check is required, a reference must be obtained from the last employer for which the applicant undertook this type of work, in addition to a reference from the last employer.

- 3.19 For jobs requiring a DBS check, information must be requested on any issues or concerns that have been raised about the applicant regarding the safeguarding of children or vulnerable adults.
- 3.20 References must be obtained from the organisation's business address, and the candidates' line manager within the organisation.
- 3.21 Open references or testimonials are not acceptable. Your school should not accept as employment references those from the applicant's relatives or people writing solely in the capacity of a friend.
- 3.22 In the case of applicants already employed by NYCC, references must be obtained in the same way as for external candidates and 1 internal reference from the current line manager is required.
- 3.23 The reference request must inform the referee that the applicant could seek access to the reference information under the Data Protection Act and NYCC would be obliged, in most circumstances, to provide this.

Action Required on the Receipt of References

- 3.24 The Manager must ensure the reference received is an official employment reference and the referee was the manager of the applicant.
- 3.25 The reference must be scrutinised and compared with the application form to identify inconsistencies and areas for concern, for example, discrepancies regarding employment dates, reasons for leaving, gaps in employment, or undisclosed performance or disciplinary issues. The manager must clarify these with the referee. Any serious matters, recent or unresolved issues must be explored further with the referee. The manager's understanding of the issue should then be confirmed in writing to the referee as a record of the discussion. Advice should be sought from HR in such circumstances.
- 3.26 For posts involving work with children or vulnerable adults, any information about past disciplinary action or allegations will be considered and advice should be sought from HR.

Unsatisfactory References

- 3.27 If the references obtained are considered unsatisfactory this should normally result in a withdrawal of the conditional offer. The manager may decide, with the applicant's permission, to seek further references to consider the position further. This would be appropriate only in limited circumstances and a suitable reference is still required from last employer and the referee must be the line manager of the applicant. Further advice can be sought from HR.
- 3.28 In the event that the reference is unsatisfactory due to the level of absence, further advice from HR and Occupational Health should be sought. As a general rule absence that would trigger NYCC's attendance procedure would be deemed unsatisfactory, however care must be taken as some absence may be pregnancy or disability related which may require further consideration.

Action when there is difficulty in obtaining employment references

- 3.29 If there is difficulty in obtaining all references, it may be possible to appoint using only one reference. However, managers considering this should seek further advice from HR and this could only apply to posts that do not require DBS check. Managers are required to demonstrate that all reasonable steps have been taken to secure all relevant references.

- 3.30 A conditional offer of employment can only be withdrawn if the person has not commenced work therefore a manager should not allow the person to start working until all clearances, including references are in place.

Use of Personal (Character) References

- 3.31 In some circumstances it may not be possible to obtain employment references, for example, when an applicant has not worked for several years or has never worked. In such exceptional situations, personal references must be obtained and the recruiting manager 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 employee's file. References from friends or family members of the applicant are not acceptable for this purpose and personal references should ideally be sought from someone who has supported the individual from a professional capacity (e.g. Teacher, Lawyer, Doctor).

Releasing Reference Information

- 3.32 If a new employee asks to see a reference provided to NYCC the manager should seek advice from the Data Management Team before doing this.

4 Statutory Obligations

This Policy and Procedure recognizes the requirements to comply with the following legislation:

- Safeguarding of Vulnerable Groups Act 2006
- Data Protection Act 1995 and (Amendment) Regulations 2003
- Equalities Act 2010

5 Links to Training

NYCC Managers are required to complete the following mandatory online learning courses available via the Learning Zone:

Recruitment and Selection/Safer Recruitment. Schools are recommended to complete the above courses.

6 Qualifications and Professional Registrations

For the majority of roles certain qualifications or their equivalents will have been identified on the Person Specification as essential. Applicants will be asked to bring their original documents to interview to include any qualifications that are a legal requirement to undertake the role. These should be checked, verified and copies taken to ensure that they meet the criteria prior to an offer of appointment. The Recruiting Manager will need to retain copies of the qualifications for the new employees personnel file.

For certain posts there will be a requirement to hold a specific registration or membership of a professional body. For posts such as Social Worker, Teacher, Accountant etc if there is a genuine professional requirement to hold a certain qualification or registration to enable legal practice in that role, you must obtain evidence of this and not an equivalent.

If you need further guidance regarding qualifications, comparisons and equivalent levels, please visit: www.qaa.ac.uk/en/Publications/Documents/qualifications-can-cross-boundaries.pdf

7 Health Related Clearances

The Equality Act 2010 limits the circumstances under which you can ask absence and health related questions before you have offered the candidate a job, to help avoid discrimination based on absence that may have occurred for various reasons such as disability, pregnancy, or gender reassignment. Prior to offering a candidate a post, health and absence related questions can only be asked if they have the specific aim of determining whether any reasonable adjustments can or should be made to the selection process.

Within the conditional offer of employment correspondence, a health questionnaire will be issued (as a link to an e-form) to the offered candidate. Candidates are required to complete this as soon as possible. Recruiting Managers will be informed if reasonable adjustments are to be considered or if the applicant is fit to undertake the work offered.

Offers of employment should not be withdrawn for health-related reasons without consultation with Health and Wellbeing Services