



Employment References

(Policy and Procedure)

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“Do not judge and you will not be judged because the judgments you give are the judgments you will get and the standard you use will be the standard used for you” (Matthew 7.1-1 New Jerusalem)

Section One: Policy

1. Purpose

1.1 This policy sets out the Kent Catholic School’s Partnership (KCSP) policy on dealing with requests for references for current or former employees in relation to job applications.

1.2 This policy applies to all members of staff and volunteers, and must be adhered to at all times when a request for a reference is received.

2. Scope

1.1 There is no legal obligations for KCSP to provide references for employees, former employees or volunteers. But to do so can be helpful to people seeking to develop their careers or having to move employment.

2.2 A refusal to provide references may be unhelpful to other employers and is likely to be interpreted as an indication that there was a problem with the individual. This in turn might disadvantage the individual and so, therefore, it is KCSP’s normal policy to provide references on request unless there is a good reason not to do so.

2.3 Guidance on the information that should and should not be included when providing an employment references is included in Appendix A.

3. Authorised Providers of References

3.1 A request for a reference from a prospective employer should be immediately passed to the Headteacher or member of staff with HR responsibility.

3.2 Only the academy’s current Headteacher, the current Chief Executive Officer (CEO) or the Director of Finance & HR are permitted to give a reference to a prospective or actual employer in relation to employment with us.

3.3 The Headteacher and member of staff with HR responsibility should always liaise to ensure that any information provided for an employment reference is accurate and otherwise in line with this policy

3.4 No other employee, governor or other volunteer is authorised to provide an employment reference on behalf of KCSP, whether verbal or written about current or former employees, or volunteers, and should anyone be in doubt as to whether they are authorised to provide a reference, advice must be obtained from the Director of Finance & HR before taking any further action.

4. Obtaining Consent to Provide a Reference

4.1 Personal data in an employment context is information held on record by an employer about an individual, and providing such personal data to a prospective employer about an employee, former employee or volunteer will amount to processing for the purposes of the Data Protection Act 1998.

4.2 Under the Data Protection Act all personal data must be processed fairly and lawfully, and those dealing with the reference request must ensure that the employee, former employee or volunteer to whom the request for the reference relates has given their consent for a reference to be provided.

4.3 If the person dealing with the request has any doubts about whether or not the individual has given their consent, they must contact the individual to check whether or not they authorise a reference to be provided.

5. The Duties of Providers of References

5.1 When providing references there is a legal obligation to exercise a duty of care to both the person seeking the reference and to the person about whom the reference is provided.

5.2 If an employer gives a careless reference (for example failing to mention information which is relevant, current and factual as held on the employee's personal file), the person receiving the reference may sue the employer if he or she has relied on the reference and as a result their business has suffered – for example, in a financial sense.

5.3 If a job applicant either is refused an offer of employment or has an offer withdrawn as a result of inaccurate information or purely opinion contained in a reference, the applicant may claim

against the provider of the reference in respect of any personal loss that he or she has suffered as a result.

5.4 These duties of care mean that although there is no requirement for a reference to be full and comprehensive:

- I. Any information provided in a reference must be accurate and factual;
- II. Reasonable care must be taken not to give misleading information;
- III. A reference must be fair to the individual in an overall sense and not misleading on account of the selective provision of information or as a result of the inclusion of facts and opinions stated in a manner that they may give rise to a false or mistaken conclusion in the mind of the recipient.

5.5 For references where the new role will involve contact with children, the reference must offer a view on whether we have information suggesting that the individual is not suitable to work with children or whether there have been any safeguarding concerns relating to the current or former employee, or volunteer. This will include any information in relation to disciplinary investigation or processing about safeguarding which have not been completed at the time of departure, whether or not it is requested by a prospective or actual employer.

5.6 For references relating to teachers proposing to join maintained schools or academies, there is a legal obligation under Funding Agreement with the DfE to provide written details of any concerns which have given rise to any formal consideration of employment capability in the last 2 years, its duration and the outcome if that information is requested in writing by the prospective or actual employer. To avoid delays in handling reference requests such information will be provided voluntarily in the reference.

6. Provision of information requested

6.1 It is the responsibility of the author of the reference to ensure that the information provided is true, accurate, fair and not misleading.

6.2 Any comment on an individual's performance or conduct must be factual and objective.

6.3 References should be normally in writing to avoid subsequent confusion, and must always be marked 'private and confidential – addressee only'; particular care should be taken if sending by e-mail that they are directed to the correct person.

6.4 Oral reference may only be given once the identity of any caller has been verified and, if given, a written record of the information provided must be made at the time of the conversation.

6.5 References must only be given in respect of a particular role for which an application has been made. Generic references that might be used for multiple applications should only be used if advised as appropriate in a particular situation by SPS and must be agreed with the person concerned (comment: these are needed in some redundancy etc. cases)

7. Disclaimer

The following disclaimer should be included in the reference making it clear that, while the information provided is accurate to the best of the company's knowledge, it cannot accept any liability for errors or omissions in the content of the reference or any decision based upon it:

"While all reasonable efforts have been made to ensure the truth and accuracy of the statements made in this reference, neither the person providing the reference nor KCSP is responsible for any errors, omission or mis-statements contained in this reference."

8. Character References

8.1 If members of staff, governors or volunteers wish to provide character references for colleagues, former employees or volunteers, they must make it clear that they are doing so purely as a personal acquaintance or friend and not in their capacity as an employee of the company or volunteer working in the company.

8.2 A character reference should not be provided in such circumstances until the referee and prospective recipient have acknowledged that the reference is given in a personal capacity and that KCSP will not accept and responsibility for it.

8.3 Under no circumstances must KCSP or Academy headed paper, or a telephone or email address be used for the purpose of a character reference.

9. Access to References

9.1 Under the Data Protection Act 1998, job applicants and employees have the right, upon written request, to gain access to any record held about them. Although certain exemptions apply in relation to references, reference providers should work on the basis that any reference provided by KCSP could potentially be seen by the individual in the future. Authors of references may allow the employee to see the draft reference before it is provided to the prospective employer and are encouraged to do so, but this is not obligatory.

10. Retaining a copy of the reference

10.1 Where a reference has been provided on behalf of the company, the Line Manager must keep a copy of the reference with the employee's or volunteer's file.

Appendix 1: Guidance on information to be included in references

The provider of the reference should ensure that references contain factual information only and not subjective views or opinions about an employee's performance or conduct that cannot be backed up by fact.

Information to be provided for an employee, former employee or volunteer might include:

- the dates on which the individual's employment or activity with the company began and ended;
- their job title or role;
- a short description of their main duties and level of responsibility;
- agreed factual statements from their appraisals and personal files

(In all of the above three examples this can reflect changes and progression during employment at the academy)

- factual information about their attendance record such as the number of days' absence over the last 12 months of employment (see below);
- any non-expired disciplinary warnings;
- the reason for termination of employment or ceasing volunteer activity, i.e. – whether the employee resigned or whether the termination was the result of dismissal, redundancy, retirement or the expiry of a fixed-term contract.

Examples of facts (safe)	Examples of opinion/vague statements (not safe)
Jim was rated 2 on a scale of 1-5 (where 1 is the lowest and 5 is the highest) in his most recent (state year) performance appraisal	Jim's work was considered unsatisfactory
Hannah was given a first written warning regarding timekeeping in (state	Hannah frequently turned up to work late in the mornings
Jack was summarily dismissed from the company for fighting with a colleague	Jack's conduct at work left a lot to be desired
Kate supervised six members of staff and her appraisals show that she demonstrated excellent people management skills	Kate supervised six members of staff and we think she had very good people management skills
Jeremy had 11 days' certified sickness absence during 2006	Jeremy was regularly off work due to an alleged back complaint
Jayne met five out of 12 of her monthly deadlines during 2006	Jayne was unreliable

Any unfavorable statements in a reference should be confined to matters which the employer reasonably believes to be true on objective grounds and following a reasonable investigation. These should be agreed with SPS

- **Example:** *A reference suggesting that an employee was allowed to resign in circumstances where he would in any event have been dismissed on account of dishonesty, was found by a court to be inaccurate and unfair because the dishonesty charges had never been put to the employee, the allegations had not been the subject of any proper investigation and there had never been a formal disciplinary hearing.*

Where there have been problems with an individual, for example if he or she was dismissed for serious misconduct, there is nothing to prevent the employer from stating the relevant facts in a reference, provided that those facts are known to the individual and are stated objectively and accurately.

- **Example:** *in another case, a court considered it reasonable to advise a prospective employer that, when the individual in question left employment on mutually agreed terms, he had been under suspension following allegations of financial irregularities.*

Provision of details of employee's attendance record.

- I. *Under the Equality Act 2010 it is not permissible to ask for details about an applicant's attendance before a job offer has been made, and therefore line managers should establish whether a job offer has been made before providing this information.*
- II. *Once this has been confirmed, factual information can be provided about the number and length of absences in the last twelve months.*
- III. *Details of the reason for absence should not be given without the employee's express consent; it should be recognized that employees may wish to give their consent, as this may help to explain high levels of absence and could be taken into account by the new employer.*
- IV. *It is advisable to discuss any periods of absence, which may be requested via reference, with the employee prior to their leaving the company.*

Employment Reference Template

Dear XXXX

Strictly Private and Confidential Employment Reference

Full Name of Employee: X

Thank you for your recent reference request for XXXX. It is the policy of schools within the Kent Catholic Schools' Partnership not to give oral references in person or by telephone and not to complete pro forma questionnaires or to answer written questions. We do not analyse the job description for the proposed role or comment on the content of the candidate's job application.

Disclaimer

The information provided in this reference is given in confidence and in good faith solely for the purposes for which it was requested. Neither its author nor Kent Catholic Schools' Partnership accepts any responsibility for any errors, omission or inaccuracy in the information or for any loss or damage that may result from reliance being placed on it.

Employment history

X joined us on DATE, and holds/held the position of X at xx School, xx, Kent. His/her main duties and responsibilities are/were...

- a
- b

X's employment at X school ceased on X. He/she left the school because (resigned, dismissal, redundancy, retirement or the expiry of a fixed-term contract).

Performance

In his/her appraisals, X was judged to be X in his/her most recent review. This means that...

Sickness Absence Records

X had X number of days' absence over the last 12 months of employment

Unexpired disciplinary or capability warnings

There (are/are no) unexpired disciplinary or capability warnings.

Suitability to work with children

There (are/are no) safeguarding or child protection concerns.