
Reference Policy and Procedure

Status: May 2015

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1.0 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.

2.0 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.

3.0 Principles

Providing Employment References

- 3.1 When an employee leaves a job with NYCC, a reference must be completed by the manager, on the [Template Form for Providing NYCC References](#) at that point and placed on the personal file in wisdom 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 by NYCC 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 general 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 NYCC 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, on the NYCC template form, 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 and NYCC heading must not be used.

Obtaining Employment References

NYCC expect **all** clearances including references 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.

- 3.13 References must be requested only when permission to do so is given by the candidate.

- 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 For NYCC corporate roles Employment Support Services will request employment references, on behalf of the recruiting manager, which will be usually be requested via email at the point of making a conditional offer of employment. 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 2010, 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 (formerly CRB) 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 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. Also, NYCC will 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

3.32 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

3.33 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.

4.0 Statutory Obligations

This Policy and Procedure recognises 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

5.0 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.

REFERENCES – FAQ
Updated February 2015

	Questions	Answers
1	Who should provide a reference on behalf of NYCC?	It is the responsibility of the employee's <u>last appropriate line manager</u> to provide a reference on behalf of NYCC. It is important that the line manager providing the reference is the manager who would be aware of any issues and who can provide a true and accurate picture. For example, if an Administrator reports to a Team Leader, but issues of performance or conduct would be dealt with by the Administrative Manager, then the Administrative Manager would be the 'appropriate' manager to provide a reference.
2	What if I don't want to supply a reference?	As an NYCC manager, you have a duty of care to employees and ex-employees and so should not refuse. NYCC practice is to provide references and refusal could therefore have an implied detrimental effect.
3	But the person who I have succeeded into this role managed the employee. Given that I have never managed the individual, surely I can't provide a reference?	If the line manager has moved on, his or her successor should provide the reference on behalf of NYCC on the basis that s/he will have full access to the employee's records. If the appropriate manager has left NYCC, the reference should be on file as it requires completion as part of the leavers process. If this is not available the replacing manager, with access to the relevant records should complete the reference request making it clear that they did not have personal knowledge/management of the employee.
4	What if I am asked to provide a reference for a peer?	Where a reference is provided on behalf of NYCC on an NYCC template or headed paper, a line management relationship must exist. Where a reference is provided by a colleague / peer this should be given as <u>personal</u> reference. Any personal references must: <ul style="list-style-type: none"> • not be provided on the NYCC template • not be on headed paper • clearly state 'personal reference' and capacity in which you are giving the reference
5	What about agency workers?	Given that there is no employment relationship between NYCC and agency workers, you should not provide a reference on behalf of NYCC. Should you wish to provide a personal reference then the guidelines above should be followed (Q.4)
6	What should the reference contain?	Different employers ask different questions in their requests and so, to support managers and gain some consistency in the information we provide, a reference template, which must be used in all circumstances. It is essential that the NYCC template is completed for all references provided on behalf of NYCC. Where a question does not apply or information is not held to answer the question the response should state that this is the case. <p> Always check the individual's wisdom file/s and Resource Link to ensure accuracy of information.</p> <p> Never provide 'open' (i.e. 'To whom it may concern) references. It is important that the reference is specific to the role, especially where there are safeguarding issues.</p>

7	What if there have been issues with the employee? Should I mention these?	<p>Yes. There is a myth about not being able to provide a 'bad' reference – this is not true. In actual fact, the opposite applies: the reference must be fair, accurate and true in substance and the omission of a negative issue i.e. gross misconduct would not be a true reflection.</p> <p>👉 References should be factual and information provided on them must be known, or available on request, by the individual about whom they are written.</p> <p>👉 If a disciplinary sanction has expired it should not be included in the reference unless there is a safeguarding issue (if in doubt seek advice from Human Resources).</p>
8	But I have heard that there can be liability issues in disclosing negative issues in a reference. Is this true?	<p>Liability is not an issue where the manager believes the information in the reference is correct (factual and evidence to support) and it is given without malice. Liability is more of a concern in the event that we fail to reveal something to a new employer: the new employer could seek a negligence claim for loss.</p>
9	Safeguarding issues – how do I know whether or not to include these?	<p>If we are aware of a safeguarding issue we have a legal obligation to include this on the reference – this should be done with advice from HR. Safeguarding issues are always live and never expire in the way that standard disciplinary records do. Cases in which an allegation was proven to be unsubstantiated, unfounded or malicious should not be included in the reference</p>
10	I have been asked to provide details of sickness absence – how do I record this?	<p>Merely stating the amount of absence in days may not give an accurate overall impression e.g. 100 days absence in a 12 month period may have been due to a serious illness which may now be resolved. As requested on the NYCC reference template, you should state the days <u>and</u> number of occasions.</p> <p>👉 Only provide details of hospitalisation if you have the employee's consent.</p> <p>👉 Due to changes in the Equalities Act 2010, the reference template has been revised. Sickness information can be declared as part of the reference however it is the responsibility of the person making the request to ensure that the information is used at the appropriate stage of the recruitment process.</p>
11	And if I am asked to give a verbal reference?	<p>External references given on behalf of NYCC should be written only, using the NYCC Reference Template.</p> <p>For internal appointments, you may be approached directly by the internal Recruiting Manager to provide a reference, which will help speed up the recruitment process and make a smoother transition for the employee.</p>
12	I have been asked the question 'Would you re employ?' on the reference request but the NYCC template states that I should not provide an opinion on this. Why is this?	<p>It is very possible that we may not re-employ an individual as, for example, a Social worker or a senior manager, but it is likely that we may re-employ them in some other capacity. For this reason, NYCC have elected not to provide an opinion on this question.</p>

13	When appointing to NYCC jobs, who is responsible for obtaining employment references?	It is the recruiting managers overall responsibility to ensure all clearances including references are obtained and are satisfactory. Employment Support Services will support the recruiting manager by requesting the references and other employment clearances – their focus will be to secure the clearances as quickly as possible to enable the manager to confirm their appointment decision and start the person in post. However, for posts in schools, the references are obtained by the School’s recruiting manager or designated person. For information on additional services that schools can buy into, see A Media Guide to School Recruitment
14	How many employment references are required?	Two references are normally required but an additional reference may be needed to ensure that references are relevant to the applicants history, in particular for posts requiring DBS Certificate (formerly CRB) to ensure that a reference is obtained from the last employment involving work with vulnerable people.
15	What can I do if a candidate has stated that references cannot be requested until after interview?	References <u>must not</u> be requested without the candidate’s permission. The candidate should be informed after interview that he/she is being considered for the post and that the referee(s) need to be contacted. At this point, the candidate should be making contact with the referee and requesting they provide a reference as soon as possible. Schools are advised to follow this practice.
16	How do I know that the employment reference obtained is genuine?	By using the NYCC Reference Request form (sent by Employment Support Services for NYCC posts), appropriate details will have been sought and the referee will have been asked to confirm that he/she has line management responsibility for the job candidate. It is good practice for the recruiting manager to follow up written references with a verbal conversation with the referee to further scrutinise and satisfy yourself with the validity of the reference.
17	I have been given the name of a referee but the address supplied seems to be a home address. Is this acceptable?	If this is an employment reference, it must be obtained from a business address to ensure that the referee is in a position to provide an employment reference. For example, for a vacancy in a school when, a chair of governors is named as a referee, the reference should be requested from the school address. If it was a personal (character) reference, a home address would be acceptable as it is not being provided as an employment reference on behalf of an employer.
18	How can I obtain an employment reference if a candidate has never worked before?	Personal (character) references must be obtained instead but these must be from appropriate sources, for example, from the course tutor for someone entering employment following a period of study.
19	Why are references necessary?	The references provide valuable factual information to support or, if necessary, change the selection decision. However, for posts requiring DBS Certificate, the additional information that must be provided will ensure that a fully informed decision is made regarding the candidate’s suitability for appointment in a job with access to vulnerable people.
20	Can the selected candidate be offered the job and start work, subject to receiving suitable references?	No, NYCC’s policy is that all clearances must be obtain prior to commencing employment

21	I still have some questions. Where can I go for further help and guidance?	If you have any further questions or need some advice regarding a particular reference request, you can contact Employment Support Services-01609 532190, employmentsupportservice@northyorks.gov.uk
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GUIDANCE FOR MANAGERS ON COMPLETING NYCC REFERENCE TEMPLATE

This guidance is to assist managers when completing employment references using the template available on the Staff Information Website.

1.	Section	Details required
1.	Name of employee/applicant	This information is available from My View
2.	Current/previous post Salary Date of commencement of employment with NYCC Last Date of Employment with NYCC (if applicable)	<p>These details will be held on My View. If you are unable to locate the details contact Employment Support Services for advice.</p> <p>As above</p> <p>Dates of employment with NYCC. If there have been gaps in employment eg someone leaving and then returning, this should be the most recent start date.</p> <p>These details will be held on My View. If you are unable to locate the details contact the Employment Support Services for advice.</p>
3.	Disciplinary action taken/ Performance issues	<p>Where disciplinary action has been taken and the sanction has expired, this would not normally be disclosed.</p> <p>Where a live sanction exists then details should be given including the reason, dates and sanction issued.</p> <p>If disciplinary action, spent or unspent, relates to a safeguarding matter, we have a legal obligation to declare this on any reference we provide. Any sanction would never be considered spent and remain live. Please consult HR for further guidance relating to this, prior to completion.</p> <p>Provide details of performance issues that may have been dealt with either formally or informally during the employment. Include the nature of the concerns and dates and any action taken to address these, i.e. Capability procedure. When disclosing performance issues that were either: minor (the employee easily adjusted behaviour with no further issue) or happened a long time ago without any repeated issue, consider whether the inclusion affects the overall balance of the reference, ensuring that it provides a true reflection of the overall impression of the employee.</p> <p>References should be factual and information provided on them must be known or available on request, by the individual about whom they are written. Any opinion on issues such as performance must be backed by some form of evidence.</p>

4.	Safeguarding issues (for posts requiring DBS checks)	If any concerns have been raised with the employee relating to factual safeguarding issues during the employment, then these should be disclosed on the reference. Where safeguarding issues need to be disclosed, this should be done with advice from HR.
5.	Attach copy of Job description/person specification	This should be on the employee wisdom file, ensure the most recent copy is provided.
6.	Sickness details	This information will be available from My View. Please advise the employer on the number of occasions as well as the total number of days over the previous 2 years to ensure that you provide an accurate overall picture of the individual's sickness history for the past 2 years. Whilst you are providing this information, the onus is on the person requesting the reference to ensure they use the information relating to sickness at the appropriate stage of the recruitment process, following changes in legislation under the Equalities Act 2010.
7.	Name of referee Job title and employment relationship to applicant Contact address and telephone number Date reference completed	Your details as the person supplying the reference. This reference should only be completed on behalf of NYCC by an employees' last appropriate Line Manager. An appropriate Line Manger would be the person most likely to be aware of any performance or conduct issues. If this definition of a line manager is not an accurate reflection of your relationship with the individual then you MUST NOT complete this NYCC template as you will only be able to provide a personal reference. A personal reference should clearly state PERSONAL and should not be provided on the NYCC template or NYCC headed paper.

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 and provide these to Employment Support Services.

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

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.

Further guidance regarding health screening is available in the '[Guidance for Managers- Interview Pack and Equalities FAQs](#)'.