Carwarden House Community School

Reference Policy

Policy owner: **Tim Stokes**

Date: **15.06.20**

Adopted by governors / trustees: July 1st 2020 **Review date: September 2022**

Date shared with staff: July 2020

1. Introduction and Purpose of Policy

The purpose of this policy is to provide guidance for staff where a reference request is received in respect of a former or current employee.

There is no requirement for employers to have a policy on giving references in place so adopting such a policy is entirely discretionary.

Whilst there is no statutory obligation to provide a reference for a member of staff, Carwarden House School's [the School] general policy is to respond to such requests unless there are compelling reasons not to. The Governing Body is mindful of its obligations under the Equality Act 2010 and will seek to ensure that its practices in relation to the provision of references do not discriminate unlawfully against individuals with protected characteristics.

The School recognises that, in order to comply with statutory guidance on safer recruitment, it is normal practice that offers of employment in a school or college environment will be conditional on two references being received that are deemed satisfactory by the new employer and also that a prospective employer may seek to check that the information supplied by an individual in his or her job application is accurate and complete. It is a safer recruitment requirement for schools & colleges to obtain a reference from the individual's last employer. The School therefore acknowledges that it is in the interests of all schools and colleges that there is a spirit of cooperation in this regard.

The School accepts that, in providing a reference, it owes a duty of care to both the employer that requested the reference and the individual who is the subject of the reference.

2. Receiving a Request for a Reference

It is the School's policy that employment references may be given only by the Headteacher, referred to in the remainder of this policy document as the 'referee'. Any requests for references, whether written or verbal, should therefore be referred immediately to the referee for a response. The referee will seek the input of other managers as appropriate to ensure that an accurate and fair reference is given.

The Chair(s) of Governors will act as the referee for the Headteacher. They may also provide a reference for other members of the SLT but only in addition to a reference provided by the Headteacher.

3. Providing a Requested Reference

As the rules around the provision of references in the education sector derive from statutory guidance, application forms for school/college vacancies tend to be formulated to include the applicant's consent for seeking references (and other verification of past employment as needed). An employee or former employee has a genuine choice about whether or not to consent to personal information being shared for the purposes of providing a reference. In order to comply with data protection law the school should ensure written consent has been obtained before sharing any personal data.

References must be provided in writing and marked as confidential, although it is good practice for the prospective employer to clarify any vague or uncertain elements of the reference by telephone if necessary.

In the event that the referee is contacted by telephone, supplementary information given should not deviate from the original reference, only clarify it. A written record of the conversation, signed and dated, should be kept on file.

4. Content of the Reference

The referee, and any other member of staff asked to contribute to a reference, will take all reasonable care to ensure that only accurate and factual information is provided. This might include:

- The dates of the employee's employment;
- The employee's job title, salary, and a short description of his/her key duties and responsibilities;
- Whether or not the individual held responsibility for staff, money, equipment etc.;
- Confirmation of any other previous roles that the employee held and for how long he/she performed those roles;
- Details of any live disciplinary warnings on file;
- Details of any expired disciplinary warnings or substantiated allegations that relate to the safety and welfare of children or young people (details will not be provided relating to unsubstantiated, false, unfounded or malicious allegations);
- Details of any capability proceedings to which the applicant has been subject within the previous two years;
- Where the employee has left the organisation, the reason why: for example resignation, redundancy or the expiry of a fixed-term contract.

Whilst the referee or other relevant manager may provide a personal opinion on the individual's performance or conduct, the information provided should be verifiable (for example, through appraisal or meeting records). The referee is expected to refrain from making adverse comments on aspects of an individual's performance that have never been brought to his/her attention. It is the responsibility of the referee to ensure that the reference provided is true, accurate and fair. Whilst there is no requirement for a reference to be full and comprehensive, it must not give a misleading impression overall.

The referee will consider discussing the content of the reference with the employee in circumstances where there are concerns about balancing the need to be fair to the individual with the need to avoid giving a misleading impression about his/her performance or conduct.

All references will be provided using only the template attached in appendix 1. This may be changed in-line with updated guidance from our HR provider.

5. Providing Information about Employees' Attendance Levels

Since the Equality Act came into force in October 2010, a prospective employer may only ask questions about an applicant's health or disability if a formal offer of employment (conditional or unconditional) has been made to the individual (unless certain very limited exceptions apply). Questions about an employee's attendance levels, therefore, are very likely to constitute questions about health for these purposes.

Schools requesting attendance information as part of a reference request made prior to interview may therefore be in breach of the Equality Act. A request for such information after an offer of employment has been made will, however, be acceptable.

The referee may decline to provide information about health (including absence levels) where the request is clearly being made pre-offer.

In certain circumstances, such as when stating the reason for terminating employment, mentioning an employee's health prior to a job offer being made may be unavoidable if the reference is to be accurate. In such circumstances, the referee will consider how best to respond to the reference, involving the individual and/or seeking HR advice as appropriate.

Where the request is made post-offer, the referee will nevertheless give particular regard to the sensitive nature of information that may be disclosed about an employee's health or disability.

Absences that relate to a protected characteristic, such as pregnancy-related sickness, disability leave or gender reassignment leave may be omitted from references or shown separately, according to the circumstances.

6. Disclosure of References to Employee

The referee may allow the employee to see the draft reference before it is provided to the prospective employer, but this is not obligatory. An employee does not have the right to be given access to a copy of a job reference given in confidence from either the organisation which has provided it or the recipient of the reference. There is an exemption to this effect in data protection legislation.

7. Retention of References

It is the School's policy to retain a copy of any employment reference given (and any written record of subsequent verbal enquiries) securely for a period of six years after employment ceases. This is to enable the School to respond to additional reference requests in the future when the original referee may have since left.

8. Data Protection

When preparing employment references, the School processes personal data collected in accordance with its data protection policy. Data is held securely, accessed by, and disclosed to, individuals only for the purposes of preparing an employment reference. Inappropriate access to, or disclosure of, employee data constitutes a data breach and should be reported in accordance with the data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under our disciplinary procedure.

9. Status of Policy and Review

The content and operation of this policy is reviewed as and when deemed necessary by the Governing Body. The policy is discretionary and does not confer any contractual rights.

Appendix 1

Carwarden House School Employment Reference – *Strictly Confidential*

Applicant Name	

Post applied for	(state post applied for) at (name of establishment)

Please ensure that the information you provide is true, accurate, fair and does not contain any material misstatement or omission. Relevant factual content of the reference may be discussed with the applicant.

Q. 1	What is your relationship to the applicant (i.e. did you have a working relationship)?

Q. 2	How long have you known the applicant and in what capacity (years/months)?

Q. 3	Please confirm the applicant's current post and salary (if the applicant has left, please provide details of his/her post at the time of leaving). Please also confirm continuous service dates.		
Post Title	(include pay grade if appropriate)	Annual salary	
Continuous service with organisation (dates from and to)		Continuous service with other modification order bodies (if different) *(public sector only)*	

Q. 4	Are you satisfied that the applicant has the ability to undertake the job in question? Please include any specific comments about the applicant's suitability for the post. (continue on separate sheet if required)

Q. 5	Has the applicant been the subject of capability procedures within the last two years?	YES	NO
	If yes, please provide specific verifiable comments about the applicant's performance history, including details of the concerns which gave rise to capability procedures, the duration of the proceedings and their outcome.		

Q. 6	Has the applicant been subject to any disciplinary procedures in which the disciplinary sanction is still current?	YES	NO
	If yes, please provide specific verifiable comments about the applicant's conduct and the concerns which gave rise to disciplinary procedures, and their outcome.		

Q. 7	Has the applicant been subject to any disciplinary procedures involving issues related to the safety and welfare of children or young people, including any in which the disciplinary sanction has expired?	YES	NO
	If yes, please provide specific verifiable comments about the applicant's conduct and the concerns which gave rise to disciplinary procedures, and their outcome.		

Q. 8	Please provide details of any **substantiated** allegations or concerns that have been raised about the applicant that relate to the safety and welfare of children or young people or behaviour towards children or young people, including the outcome of those concerns (e.g. whether the concerns were investigated, the conclusion reached and how the matter was resolved).

Q. 9	If the applicant has left your organisation, please confirm (a) his/her reason for leaving and (b) whether you would re-employ the applicant in the future.		
Reason for leaving:			
Would you re-employ?	YES	NO	If no, please give reason(s) below:

In writing your reference, and providing any information which you consider relevant to the applicant's suitability for employment, please note that, in order to protect children and young people, the post for which application is made is exempt from the Rehabilitation of Offenders Act 1974. Any such information will be kept in strict confidence and only used in consideration of his/her suitability.

Signature			
Name (please print)		Date	

Please return the completed form at your earliest convenience, **marked as confidential**, only to the named individual who requested the reference.

If you supply the required information by email to send only to name@school.etc – *NB this should be an appropriate individual's work email, not a generic inbox that more than one person can access*.