

Employment Reference Policy

There are two principal reasons why an employer normally requests a reference on a prospective employee:

- a. to confirm the accuracy of statements made in his/her application, and
- b. to provide opinions as to the candidate's suitability for the post in question and his/her potential for the future.

There is no legal requirement for an employer to provide a reference for a current or past employee. It is at the company's discretion if they choose to provide a reference.

However, there is an expectation that employers will provide references and it is our policy to provide references on request subject to this policy.

The nursery shall not be able to provide a reference for any employee in some circumstance which include the below:

- the employee has breached their contract e.g. if an employee leaves the company / nursery without providing the correct notice as set out in their contract.
- the employee has not successfully completed their probation period.
- the employee is in breach of the nursery's policies including "Employing nursery staff" and takes up caring and employment with a current or ex-parent of the nursery.
- the employee undertakes actions to poach and solicit staff actively to positions at their next/future employer.
- the employee is dismissed following disciplinary procedure for any reasons whatsoever.
- the employee takes actions to harm the nursery / company or any of its officers e.g. the employee gives the company / nursery/ her managers public reviews and comments that are harmful or derogatory in nature.
- the employee or the employer are undergoing legal / court procedures.

In case of circumstance above we shall reserve our right to provide a reference and may decline to provide a reference.

Reference requests for current or past employees are to be handled by Human Resources (HR) and it will be our practice to provide a standard letter containing factual information as set out in Appendix A

Reference requests are to be sent to hr@superstartnurseries.co.uk

A reference will be containing the following detail:

- Confirmation of employment dates.
- Confirmation of post employed in.
- Safeguarding information - Plus for roles within regulated care services – a statement regarding any disciplinary action, sickness absence and if any referrals have been made to any statutory, regulatory or professional bodies in relation to their employment.

"Safer Recruitment" guidance set out by the government suggests a level of information sharing between employers of social care roles to indicate suitability to work with vulnerable adults and children, hence related information being included in a reference statement where relevant.

Where managers are asked to provide a reference for present and past employees you may wish to do so but on the understanding that it is in a personal capacity and is in line with the guidance set out in this policy.

If any staff / employee is asked to provide a reference in a personal capacity (e.g. as a friend, known as a Character reference) you must make this clear and not under any circumstances use the company/nursery's headed paper or email address.

No liability will attach to the nursery / company if you decide to act in a personal capacity as a personal / character referee.

Reference requests from banks, building societies or other potential lenders should be directed to HR for response, as should any reference request which relates to an employee who has been dismissed or who has been subject to disciplinary sanctions or whose performance is under review.

Reference requests may be received from banks, building societies or other financial organisations to verify an employee's salary in support of a mortgage or loan application. Such requests should be forwarded to the HR Department who will contact the employee to get approval (if it has not already been provided) before a response is given.

If there is any doubt over any aspect of this policy, guidance must be sought from HR.

All personal references given must be copied onto the HR department.

Duty of care and general approach

When providing references, you must be aware that the nursery/company owes a duty to the recipient (usually a prospective employer) and to the employee.

The duty is to take reasonable care and to provide information that is true, accurate, fair and non-discriminatory. The reference given does not have to be full and comprehensive but it must not give a misleading impression.

It is therefore essential that the reference is based on facts which can be backed up by evidence if challenged. Opinions and subjective personal views which cannot be substantiated should not be included.

Statements made should be consistent with those made elsewhere about the employee, for example, comments made about standard of performance in annual performance reviews.

If a careless, misleading or false reference is provided and the recipient acts on it and as a result suffers loss, the person who wrote the reference may be sued for providing a fraudulent or negligent misstatement, or for defamation.

In addition, the individual about whom the reference was written may be entitled to compensation for damages caused by a negligent reference.

Providing a reference

The Nursery / company reference is provided via HR on behalf of the nursery/company. All reference requests for existing or past employees should be directed to HR for processing and a standard reference will be issued as set out in Appendix A

This is a minimal reference and sets out the name of the employee, job title, and employment dates.

This standard, minimal approach is:

- communicated to all employees at the outset of employment.
- applied uniformly to all employees.
- not used as a means of concealing something serious.

All references should be marked 'confidential' to the addressee and must contain the following disclaimer in the final paragraph: "In accordance with our normal practice this reference is given in good faith and in confidence, without legal liability on behalf of the author or the company/nursery."

A reference provided by a senior manager on behalf of the nursery/company In exceptional situations, members of the senior management team (SMT), and only SMT members, are authorised to respond more fully to reference requests relating to current and former members of staff but always within the guidelines set out in this policy.

Confidentiality and disclosure of references

All references are given in confidence but the company/nursery or the recipient, may be required to disclose a reference under certain circumstances, such as a request for disclosure by an Employment Tribunal or a Court dealing with a negligence or defamation case. References received from another person are likely to be covered by the Data Protection Act 2018 (DPA/ GDPR – General Data Protection Regulation).

An individual can have access to information which is about them but may not necessarily have access to information about other people, including their opinion, provided in confidence.

Although it is not a legal requirement, it is best practice to operate an open recruitment and selection procedure with any references written being copied to the subject. Subject to the provisions of the DPA / GDPR, it is our practice, that where an individual member of staff gives notice to HR that they wish to see the contents of their HR file, their request is accommodated.

Telephone or verbal references

Requests for telephone or verbal references are infrequently received and should be avoided to minimise the risk of misinterpretation. If a telephone reference is urgently required, and the person requesting it is not known to you, take the telephone number of their place of work, verify this, and call them back to confirm their position and determine that they are properly authorised to obtain a reference.

Always make a full note of the questions asked and the answers given and follow up the conversation in writing.

Unsolicited references

It is generally inadvisable to provide unsolicited references addressed 'to whom it may concern'. If exceptionally, such references are provided they must be limited to factual statements made in accordance with the proforma at Appendix A.

Requesting references for prospective employees

Our policy regarding the taking up of references on prospective employees is contained within the safer recruitment procedures.

Appendix A

DATE

STRICTLY PRIVATE & CONFIDENTIAL

NAME

ADDRESS

ADDRESS

Dear NAME

EMPLOYMENT REFERENCE FOR STAFF NAME

Thank you for your recent letter concerning STAFF NAME.

I am pleased to confirm details of employment with us as below:

Job Title:

Start Date:

Leaving Date:

We have no reason to doubt their honesty or integrity.

Please note it is our policy to only provide this basic information for employment reference purposes.

In accordance with our normal practice this reference is given in good faith and in confidence, without legal liability on behalf of the author or the nursery/company.

Yours sincerely

Human Resources