

Short Guide to References

This is not intended as a substitute for the longer [Guide to References](#), setting out the University's practice in detail, but is a supplement to that and provides a quick reminder of salient points that apply in general.

The current legal background is largely one of 'less is more', in that caselaw and challenges to references arising out of the rights of subjects to see these have led many organisations to avoid giving detailed references. A sensible balance needs to be struck, depending on the circumstances. The main aspects set out below are with a view to assisting in this.

Points to Note:

- It should be made clear whether the reference is given on behalf of the University or given as a personal reference.
- If a reference is given in a personal capacity, University of York letter-heading should NOT be used.
- The provider of any reference should normally be a direct line manager or, in the case of a student, in a position such as supervisor. They must also have the implied or express consent of the employee or student to give the reference.
- Employees/students should be expected and encouraged to seek prior permission to give a referee's name.
- Where prior permission has not been given, references sought should be treated as unsolicited, requiring the subject's consent and with extra care to be taken – see longer Guidance to References for details.
- In any reference, the referee should state their relationship to the employee or student, together with any limits upon their ability to comment upon them, for example, there has been limited contact involved.
- References should be marked "PRIVATE AND CONFIDENTIAL" and for the attention of the addressee only. Copies should be kept of those sent out.
- A disclaimer can be included that "**This reference is given in good faith but no liability is accepted in relation to its accuracy**". This should be in font size as large as the main body of text. It can be inserted at the end, but preferably in bold.
NB – Whilst a disclaimer can give limited help, it will not automatically release the referee from any duty of care and is not to be seen as a reliable 'get-out'.
- Verbal/telephone references should be avoided.
- Where a reference is provided on behalf of the University, it must be a true reflection of the individual and their employment record, or academic record in the case of a student, and able to be borne out by records and evidence available to the University.
- A referee should only make statements or comments they are qualified to make.
- A referee should always bear in mind that the reference may later have to be disclosed to the employee or student (including notes of any verbal/telephone references given).
- Referees have a duty to their employer or to a student and also to recipients of references, to take reasonable care and skill in ensuring references are accurate and fair. They can also have an obligation not deliberately to mislead any recipient, such as through an unjustifiably favourable reference, plus a duty to the University to act reasonably.
- In relation to questions about attendance/health, accuracy is particularly important and any information given must be demonstrable as correct and justified from records

and evidence available. Details of the nature of health problems should be avoided, but that health-related issues have affected performance can be stated if this is the case and the subject's consent has been given. Provision of any other 'sensitive data' should also be avoided. (See the University's [Data Protection Policy](#))

NB Disclosure of health-related and other sensitive data needs the express consent of the subject.

- In general, if something cannot be clearly evidenced and shown as justified, then it is better not to include this.
- In particular, hearsay (i.e. something that has been reported or passed on but without any direct evidence to prove the truth of it) should not normally be included.
- Facts must be correct and not presented in a misleading way, with no innuendos or implications made to give an unfair impression.
- If opinions have to be given, they must be opinions that the referee believes to be true and has reasonable grounds for believing to be so, based on making such investigation as is reasonable in the circumstances.
- If serious concerns have to be expressed, it is better that these have been discussed with the employee/student first. Thought may have to be given to keeping the reference entirely factual and non-evaluative (or exceptionally even to declining to give a reference) particularly if the employee/student objects to or disputes the grounds for such concerns. See longer Guidance to References for further details.
- It may often be appropriate to show references to the employee or student in advance, to avoid any later dispute over content.
- Nothing discriminatory should be included, whether in relation to sex, race, religion, sexual orientation, disability, age or otherwise.
- The reference need not be full or comprehensive, but care must be taken over the selection of what is included and it must not be misleading overall.

The above pointers should be read in conjunction with the longer Guidance on References and the University's Data Protection Policy. Those giving references should make themselves familiar with these documents, but may find this Short Guide a useful, quick tool to refresh the memory, when providing any reference.

Registrar's Office
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