### Policy statement
It is the Office of the Police and Crime Commissioner’s (OPCC) policy to provide employment and financial references for current employees and, where possible and applicable, former employees.

### Scope
All employees of the OPCC

### How to use this document
This document is not part of the formal policy. Instead it provides additional information to help you as the manager in the practical day to day application of the policy.

It is expected that you will have an understanding of the References Policy prior to using this guide.
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Roles and responsibilities

As the manager you are responsible for:

- ensuring the employee has given their consent for the reference to be provided
- ensuring the data you provide is accurate, fair and not misleading and based on objective evidence
- checking the accuracy of any third party information you include in the reference
- complying with the Data Protection Act 1998
- ensuring the reference is lawful, not discriminatory or contrary to an employee’s rights
- responding to reference requests in a timely manner and in an appropriate format as set out in this guide
- saving a copy of the references you provide on the employee’s personnel file or ePF.

All employees are responsible for:

- providing their consent if they require a reference to be given
- asking if they may provide your details as a named referee

The HR person who is supporting the manager is responsible for:

- advising on policy application and best practice
- advising on the completion of letters
- HR does not perform a decision making role
How to provide an employment reference for a current employee

Employment references should only be provided on behalf of the OPCC by the employee’s manager. If an appropriate manager is not available the reference should be passed to IBC for an Employment History reference to be provided.

You need to check any reference request is genuine (i.e. on headed paper). You must ensure the employee has given you their written consent for a reference to be provided. Where you are in any doubt about whether the employee has given their consent, you must contact the employee to check they want a reference to be provided and gain their written consent.

References must relate directly to the post sought and be reviewed on each occasion they are requested.

In most circumstances a role profile and/or job description will be provided by the requesting organisation for managers to assess the candidate’s suitability for the role and supply a form for the referee to complete.

A reference provided on behalf of the OPCC must be:
- factual
- true
- accurate
- fair
- not misleading

A reference provided on behalf of the OPCC must not be:
- discriminatory
- negligent
- ambiguous
- biased
- offensive
- create a misleading impression through omission

A reference provided on behalf of the OPCC must not refer to protected characteristics namely:
- age
- disability
- gender reassignment
- race
- religion or belief
- sex
- sexual orientation
- marriage or civil partnership
- pregnancy and maternity
- political affiliation or membership of a trade union

You have a ‘duty of care’ to the employee. An inaccurate or defamatory reference can be the subject of an action for negligence as well as for defamation against the OPCC (vicarious liability) and you. This includes deliberately withholding information to create a misleading impression as well as what is included in the reference. A reference must be lawful and not discriminatory or contrary to an employee’s rights.

When providing a reference you should ensure that the data provided is correct by checking the employee’s record.

The reasons for sickness absence should not normally be disclosed as this is sensitive information under the Data Protection Act 1998.

All references must be based on objective evidence. Where you include information from another appropriate manager you must take steps to ensure the accuracy of the information you include.

Comments which are judgmental or based on opinion must be clearly distinguishable from statements of fact and must be capable of being substantiated.

A disclaimer should be included in the reference making it clear that, while the information provided is to the best of the OPCC’s knowledge, the OPCC cannot accept any liability for decisions based on it.

Whether a reference is returned by post or email, it must be marked as “private and confidential” and “for the addressee only”.

If you receive a form to complete, the same principles apply.

A template reference letter is available from HR Operations. You must ensure that you save a copy of any reference you provide on the employee’s ePF.
In addition to the above information, managers must consider whether the following is relevant and appropriate to disclose to the requesting organisation (further guidance can be sought from HR Operations):

- any misconduct or performance matters under investigation
- any safeguarding investigations underway or completed

If the employee is taking up a job working with children or vulnerable groups a more in-depth reference may be requested for the purposes of safeguarding. In these instances, the manager should complete the reference as comprehensively as possible in order to satisfy Safeguarding / Safer Recruitment requirements.

Unsubstantiated allegations (i.e. neither proven nor disproven) should not normally be included on a reference. However, in exceptional circumstances and where the allegations are in relation to children or vulnerable adults, it may be appropriate to refer to unsubstantiated allegations in references. HR Operations can advise you on a case by case basis whether or not these allegations should or should not be included.

How to provide an employment reference for a former employee

As you do not have access to data relating to former employees you will need to contact the IBC for the employment history information. Line managers must not complete their assessment of the candidate’s suitability and then forward this information to the IBC to complete the remainder of the reference as this could inadvertently contravene data protection principles.

Where there is no longer an appropriate manager who can provide a reference for the former employee you will need to contact IBC who will complete an Employment history reference. The IBC will not be able to provide comment on the individual's suitability for any role.

References are not normally provided for ex-employees after 6 years following their last day of their employment, unless the OPCC was their last employer.

The IBC will ensure that a copy of any reference they complete will be retained on the employee’s ePF.
How to manage additional enquiries from a prospective employer

If the prospective employer contacts you to request clarification on the reference you have provided you must ensure you do not go beyond the content of the reference in the additional information you provide.

You should respond to any such enquiry in writing where possible to avoid any subsequent confusion. The information you provide must be accurate and represent your honest belief. If the enquiry is dealt with over the telephone you must make a written record of the information provided at the time of the conversation. This should be filed on the employee’s personnel file or ePF with the original reference.

If the accuracy of a reference that has been provided is subsequently challenged, contact HR Operations immediately for advice. Do not admit liability or enter into any communication about the reference.

How to manage the disclosure of references to an employee

Where a current employee requires access to documents on their personnel file or ePF, they should contact you. In this circumstance you must liaise with HR Operations to ensure that letting the employee review their file does not allow a breach of data protection requirements.

An informal disclosure of records does not require the employee to complete a Subject Access Request or pay a fee. However, the employee still has the right to make a formal Subject Access Request if they wish.

Where an ex-employee requires access to a document on their personal file, they must make a Subject Access Request.

When responding to a Subject Access Request, you, with support from HR Operations must decide whether, on balance, the ex-employee’s right to know what information is held about them and its source, outweighs the right to privacy of the person giving the reference as they may be identifiable through releasing information on the file.

In difficult situations, the individual rights have to be decided on a case by case basis. A reference can only be withheld or redacted, by applying an appropriate exemption under the Data Protection Act 1998.

There are a number of factors that you must consider when
deciding whether to disclose a reference:

- would releasing the information break the confidence of the referee?
- what was the referee told about possible disclosure of data when the reference was requested?
- what reasonable expectation does the referee hold that the reference will remain confidential?
- whether the referee has expressly refused consent to release of the information and, if appropriate, the reasons given
- what impact the disclosure (or non-disclosure) of the reference would be likely to have on the ex-employee/employee?
- whether the reference includes facts about which the ex-employee/employee ought to be made aware of in case they wish to dispute them
- whether the reference identifies the referee in a business or personal capacity. When considering the release of a reference, the referee’s right to privacy is greater if they are the author of a personal reference as opposed to a corporate one. Note, the OPCC is entitled to take steps to protect the identity of third parties such as the authors of references.

In most cases, the Information Commissioner believes that references should be disclosed to employees, unless the referee provides a compelling reason as to why it should be edited or not disclosed at all.

Data Protection Officers can advise further on the Data Protection Act 1998 and its application.

**How to provide a verbal reference**

If the enquiry is dealt with over the telephone the information you provide must be factual and objective. You should make a written record of the information provided at the time of the conversation. This should be filed on the ePF with the original reference.

The information you provide verbally may be disclosed to the individual and may still be challenged if it is inaccurate, defamatory, discriminatory, or contrary to an employee’s rights.

**How to provide an employment**

The same principles and duty of care apply to Employment History references for current employees as they do to
Employment References. However, the information provided is restricted to factual information specifying:

- length and dates of service with the OPCC
- dates of employment in present / last post
- number of days sick leave taken and number of occurrences (excluding the reason for absence)
- present / last salary

When providing a reference you should ensure that the data provided is correct by checking the employee’s record.

HR Operations can provide a letter template for you to use (deleting the unnecessary fields).

You must ensure you retain a copy of any reference you have completed on the employee’s ePF.

As you do not have access to data relating to former employees, and if the request is not asking for your assessment of the candidate’s suitability for the role you will need to forward the reference request to the IBC to complete the employment history information and forward to the requestor.

You must ensure that any signed authority from the employee to release their information to the requestor is attached to the reference request.

The IBC will save a copy of any reference they complete on the employee’s ePF.

All requests for financial references (e.g. mortgage, rental etc.) must be sent by email to payrollsupport@hants.gov.uk

We need to ensure data is protected and therefore require written permission to release personal information. The employee should raise an ESS enquiry to inform the IBC of an impending request. On the ESS enquiry the follow options should be selected:
Type = “Personal Financial Reference”
Select “Reference/Proof of Employment (mortgage, letting agent etc)

The employee should include who the 3rd party company is in the text of the enquiry query.
How to provide a character reference

The provision of a character reference is a personal relationship between the individual and the referee and cannot be endorsed by the OPCC.

Referees must ensure that the reference is not provided in their capacity as an employee of the OPCC and is not provided on behalf of the OPCC.

The referee must not use the OPCC’s headed paper or their work email account to provide the reference, and the reference must not refer to the individual's employment with the OPCC.

How to manage requests for the disclosure of references to an employee

Where a current employee requires access to documents on their ePF, such as references relating to themselves they should contact you. You may wish to check to ensure that there is no breach of data protection.

An informal disclosure of records does not require the employee to complete a Subject Access Request or pay a fee. The employee still has the right to make a formal Subject Access Request if they wish.

Where an ex-employee requires access to a document on their personal file, they must make a Subject Access Request.

In most cases, the Information Commissioner believes that references should be disclosed to employees, unless the referee provides a compelling reason as to why it should be edited or not disclosed at all.

Departmental Data Protection Officers can advise further on the Data Protection Act 1998 and its application.

This written permission will be valid for 10 working days; the employee should ensure the 3rd Party is aware of this deadline.

Any financial reference requested for that is not supported by permission via ESS will be completed and returned to the employee’s home address.

The IBC will save a copy of any reference they complete on the employee’s ePF.
Managers:
Any queries can be directed to HR Operations.

A confidential Employee Support service is available on freephone **0800 030 5182** (or 0161 836 9498 if calling from a mobile) at any time. Further information is available at [http://www3.hants.gov.uk/employee-support](http://www3.hants.gov.uk/employee-support)

### How to guide

#### Governance

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