

APPENDIX

MODEL OPEN REFERENCES POLICY

1. While there is no legal obligation to provide a reference, if a reference is given, the law expects it to be an honest one. Therefore, care needs to be exercised, both in justice to the employee and the prospective employer, and to protect the School and the County Council against liability for mis-statements. If a reference is provided which is false in a material particular, the giver of the reference, the school or the County Council may be liable for an action for defamation, malicious falsehood or negligent mis-statement. Additionally, failure to give a reference that is reasonable and fair (even if it is strictly accurate) may breach the implied term of trust and respect, and could lead to a claim for constructive dismissal.
2. The Governing Body *is* committed to supporting employees of the School in career development and aims to ensure that fair and justifiable references for employees will be provided, on request from other employers/schools, by the Headteacher [or other designated senior members of staff].
3. It is the prime concern of the Governing Body that in ensuring references will be provided, information contained therein shall not in any way be defamatory, maliciously false or contain mis-statements.
4. Official Employer References provided will take the form of an accurate summary of the subject's skills, knowledge and abilities, as demonstrated during the period of their employment with the school. References will only be provided in response to specific requests.
5. Testimonials will *not* be provided. Where a reference is provided outside this policy by an individual other than the Headteacher [or other designated senior member of staff], that reference will be deemed a Personal Reference and must not be written on the School's headed note paper. The author of any such personal reference must make it clear that the reference is not the official employer reference.
6. The Governing Body under this policy requires the Headteacher [or other designated senior member of staff] to operate an open reference approach, specifically that s/he will:-
 - (i) Draft a reference taking into account his/her own knowledge of the subject of the reference and details provided by other appropriate staff at the School (e.g. head of department or other line manager);
 - (ii) Share the draft reference with the subject (subject to practicality where a reference is being prepared for an ex-employee), to request comments on accuracy and balance;
 - (iii) Consider comments received from the subject and, where it is felt appropriate, amend the reference accordingly. Where adjustments are not

made, the reasons for this should be discussed with the subject. It should be understood that this is not a negotiating process and the subject should not expect all comments to be incorporated. However, the author of the reference should consider carefully comments made by the subject, and in the light of guidance provided by the LEA on the provision of references;

- (iv) Issue the [revised] reference, providing the subject with a copy.
- 7. Requests for references will normally be processed only if received in writing (including fax or e-mail requests). Written references only shall be provided by the Headteacher (or other authorised senior staff) at the school. Every effort will be made to achieve deadlines stated within requests to the extent that faxed or e-mailed responses may be sent. If e-mail or fax is used as the medium, the sender will ensure, before sending, that confidentiality exists at the receiving end. In all cases, the requirements of this open reference policy will be met in terms of sharing information with the subject of the reference. No information will be provided by telephone.
- 8. Where other senior members of staff (e.g. deputy Headteacher or head of department) have authority to write official employer references for the School, approval should be sought from the Headteacher before the reference is issued. This requires the author to show the draft reference to the Headteacher and for the Headteacher's comments to be taken on board. No reference should be issued without the Headteacher's (or in the absence of the Headteacher, but only where the Headteacher's absence is likely to extend beyond the deadline for submission of the reference, the deputy Headteacher's) approval. Where the Headteacher is sufficiently concerned about the content of a reference, s/he has the authority to withhold that reference.
- 9. Staff other than the Headteacher will only have authority to provide official employer references for the School when approved by the Headteacher. Details of 'approved referees' shall kept by the Headteacher and staff will be made aware of appropriate arrangements.
- 10. Staff other than the Headteacher will make it clear within the reference their own position in the School and the capacity in which they are writing the reference (i.e. his/her relationship to the subject).
- 11. A copy of the reference will be retained on the employee's confidential personal file at the School.
- 12. All existing staff will be made aware of the Governing Body's policy. New appointees will be informed as part of their induction programme.
- 13. If any employee considers s/he is treated unfairly in respect of references provided, s/he should initially discuss the matter with the Headteacher [or author of the reference if other than the Headteacher] in the first instance. If the matter is not resolved through this process, he or she may make a complaint that will be dealt with through the school's Grievance Procedure. However, before embarking on such an act, the individual should be advised to contact their Professional Association/Trade

Union. It is recognised, however, that the subject of a reference who feels s/he is the victim of defamation, malicious falsehood or negligent mis-statement, may pursue a claim beyond the jurisdiction of the Governing Body.

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