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Bwrdd Iechyd Prifysgol
Cwm Taf Morgannwg
University Health Board

Employment Reference Policy

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Target Audience:

People who need to know about this document in detail	Author/Owners of this procedure.
People who need to have a broad understanding of this document	Board Members, Management Board, Senior Leaders, Board Committees.
People who need to know that this document exists	Employees of Cwm Taf Morgannwg University Health Board and its hosted services.

Integrated Impact Assessment:

Equality Impact Assessment Date & Outcome	Date: 25/10/2022 This policy has been screened for relevance to Equality. No potential negative impact has been identified.
Welsh Language Standard	Yes - If Standard 82 applies you must ensure a Welsh version of this policy is maintained.
Date of approval by Equality Team:	25/10/2022
Aligns to the following Wellbeing of Future Generation Act Objective	Co-create with staff and partners a learning and growing culture

MAE EIN
GWERTHOEDD
YN EIN HELPU
NI I FOD I'AR
EIN GORAU

#CTMareingorau

RYDYN NI'N
GWRANDO,
YN DYSGU
AC YN GWELLA



WE LISTEN,
LEARN AND
IMPROVE

RYDYN NI'N
TRIN PAWB
A PHARCH



WE TREAT
EVERYONE
WITH RESPECT

RYDYN NI I GYD
YN CYDWEITHIO
FEL UN TIM



WE ALL WORK
TOGETHER
AS ONE TEAM

OUR VALUES
HELP US BE AT
OUR BEST

#CTMatourbest

Disclaimer:

If the review date of this Policy has passed, please ensure that the version you are using is the most up to date version either by contacting the author or email [CTM Corporate Governance@wales.nhs.uk](mailto:CTM_Corporate_Governance@wales.nhs.uk)

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1. Policy Statement

Taking up and providing employment references is an important part of the selection process for all NHS appointments. It is also good practice, as it encourages reciprocal co-operation between NHS organisations and external employers. Cwm Taf Morgannwg University Health Board ("Health Board") will therefore provide written factual employment references upon request.

The Health Board recognises it has a duty of care to both the subject of the employment reference and the potential employer, to provide content based on information that is fair, accurate and factual, to avoid potential legal claims against the Health Board (See Appendix 3).

2. Scope of the Policy

This policy applies to all substantive employees, agency, bank workers and volunteers, as well as external applicants applying for a post within the Health Board via the Recruitment and Selection process.

The term "employee" used in this policy references not only substantive employees but also agency workers, bank workers and volunteers.

3. Principles

This policy seeks to embed the following principles:-

- Raise awareness of the legal requirements to provide a factual, fair and balanced employment reference;
- Raise awareness of the legal implications of failing to provide an employment reference which is not factual, fair and balanced;
- Ensure a consistent approach when referees (supervisors / managers) are responding to reference requests;
- Ensure employment references do not comment on an employee's protected characteristics (covered by the Equality Act 2010):- *age, disability, race, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief, sex or sexual orientation*.
- Ensure individuals are not discriminated against or disadvantaged due to their potential new employer being provided with non-factual, unfair or unbalanced reference; and
- Provide referees with guidance on how to deal with internal Health Board, internal NHS Wales and external organisation reference requests.

4. Reference Types

There are two types of employment references:-

1) Factual Employment Reference

Provided upon request by the employer in writing, setting out the details of the employee's / former employee's, job title, start and end date etc. (See **Appendix 2**).

2) Character Reference

Provided by a [persons of some standing in the community](#) (in a personal capacity) in writing, setting out the details of the individual's character and their skills used in their non-working life, to help determine their suitability for the role applied for.

An employee may provide a character reference if they are a person of standing in their community. They must ensure they clearly state that they are doing so in a personal capacity and **not** on the behalf of the Health Board. Such reference must **not** be provided on Health Board headed paper.

Where an employer requests a manager or supervisor to provide a character reference for an employee they must seek advice from the People Services Team, before providing the reference, as it is the Health Board Policy to only provide factual employment references.

4.1 Verbal References

A referee in exceptional circumstances may only give a verbal reference. The referee should always seek advice from the People Services Team, when asked to provide a verbal reference.

5. Employment Reference Requirements

The following are the Health Board's employment reference requirements:

- **Internal to the Health Board** – No reference required;
- **Internal to NHS Wales** – one reference required;

- **External to NHS** – Two references are required, covering a two-year period.

Where it is not possible to get an employment reference for these candidates, a character references (see 3.1 above) must be obtained instead.

- **External Overseas** (worked overseas for a continuous period of six months or more prior to appointment) – Two references are required, one of which must be from the appointee's overseas employer or academic institution. The reference must provide:
 - Proof of residence for the time spent overseas; and
 - Reference from an UK department / agency based overseas, e.g. the Foreign and Commonwealth Office, Missions, British Council, non-government departments and agencies.

There can be no exceptions to the minimum reference standards, as they are in place to ensure the safety of NHS patients and service users.

6. Providing an Employment Reference

If you have or had line management responsibility for an employee and received an employment reference request, you are required provide a reference using the Health Board's **Standard Employment Reference Letter template (Appendix 2)**. By using this format, it will ensure the employment reference is fair, accurate and does not provide a misleading overall impression of the employee (**See Appendix 3**) and avoid any allegations of discrimination or breach of the implied term of trust and confidence.

You must not provide an employment reference if you have not had a line management relationship with the subject of the employment reference request

The referee must ensure the employee has consented to the reference being given by completing the **Reference Permission Request Form (Appendix 1)**. This is to ensure the request is genuine and the employee has provided their express consent to the disclose information.

7. Role and Responsibilities

7.1 The Referee (Supervisor / Manager)

Referees have a duty of care to provide factual information and must not provide false or misleading information, either by providing selective details or by the inclusion of anecdotal information or

personal opinions. Should a referee have any doubt regarding the information they should include in a factual Standard Health Board Reference Letter, they should contact the People Services Team for advice, prior to providing the reference.

They are responsible for:

- Checking they are authorised to provide a factual employment reference on behalf of the Health Board;
- Providing the employment reference on the Standard CTM Health Board Reference Letter template (Appendix 2).
- Responding to a reference request in a timely manner;
- Ensuring all information is accurate and factually correct;
- Reading through the reference before sending it to ensure that the overall impression of the employee / former employee is fair and justified based on factual information;
- Provide information based on fact and **not** opinion;
- Not omitting information that would otherwise assist to provide the new employer with a fuller and fairer picture of the employee / former employer. For example, if there is live disciplinary to be disclosed, ensure the factual details are provided; outcome of the investigation / sanction issued and whether the employee left prior to completion of the process etc.; and
- Reviewing and approving / declining reference request checks on TRAC.
- Seeking advice from the People Services Team when in receipt of an unsatisfactory employment reference, before taking any action.

7.2 People Services Team

They are responsible for:

- Coaching referees on how to prepare and complete a factual and fair employment reference;
- Providing advice on providing character references;
- Informing the requesting employer in a timely manner when the subject of a reference request is not known to the Health Board.
- Providing advice to appointing managers where a reference disclosure requires a disclosure e.g. investigation/disciplinary etc. or an offer of employment may have to be withdrawn due to receipt of an unsatisfactory reference etc.

7.3 NWSSP Recruitment Services Team

They are responsible for:

- Ensuring all factual employment references are requested (see 3.2 above) in a timely manner on behalf of the Health Board, in respect of offered candidates.
- Approve references for appointed candidates (including Bank workers) within agreed parameters.

8. Equality Impact Assessment Statement

This policy has been subject to a full Equality Impact Assessment. The assessment has not identified any protected characteristic implications.

9. Related Policies

- Recruitment and Selection Policy.
- Recruitment and Retention of Disabled Staff.
- Recruitment and Retention of Transgender Staff Policy.
- Policy Relating to the Registration of Professional Staff.
- Disclosure Barring Scheme Policy.
- Staff Bank Policy.
- DBS Policy.
- Records Management Policy.
- Equality and Diversity Policy.
- Welsh Language Policy.
- United Kingdom Visas and Immigration Guidance.
- Recruitment of Ex-Offenders Policy.

10. Information, Instruction and Training

Coaching and support with the implementation of this policy will be provided to supervisors and managers, as and when required by the People Services Team.

11. Main Relevant Legislation

This policy complies with the legal requirements, ACAS good practice principles and guidelines and national terms and conditions of service. The following employment legislation relates to employment references:

- Equality Act 2010;
- Employment Act 2002;
- Employment Relations Act 1999;and
- Employment Rights Act 1996.

12. Further information

[NHS Employers Employment Recruitment Standards and Regulation](#)
[ACAS Guidance on Providing a Job Reference](#)
[UK GOV Employment References Your Rights](#)



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Appendix 1

Employment Reference Permission Request Form

Name:	
Job Title:	
Workplace:	
Home Address:	
Date of Birth:	
NI Number:	
Payroll Number:	
Start date of employment:	
End date of employment:	

I hereby give permission to provide an employment reference to:

Name of Employing Organisation: _____

Name of Appointing Manager: _____

Job title of appointed to role: _____

Employee's Signature: _____ Date: _____

Appendix 2

Standard CTM Health Board Employment Reference Letter

Date:

Private and Confidential

<Name>

<Address 1>

<Address 2>

<Address 3>

<Postcode>

Dear

<Insert Employee's Name> – Standard Cwm Taf Morgannwg University Health Board Employment Reference

Thank you for your employment reference request. Please find below our standard employment reference, in accordance with the Health Board's Reference Policy: **<Insert the relevant information below>**

- Name of the employee* / former employer*:
- Job Title:
- Employment start date:
- Employment end date:
- Employment Relation matter: ***Only insert factual and accurate details of any live or pending disciplinary investigations, hearings, sanctions / outcome, capability initial assessment, performance notices, hearings / outcomes and warnings.**
- Sickness absence over the previous two year period:
- Restrictions to practice: *Delete if not applicable.
- DBS referral:

***Delete if not applicable.**

This reference is provided to the addressee in confidence and good faith. It should not be disclosed as part of a Subject Access Request under the Data Protection Act (1998). The information contained in this employment reference must only be used for the purposes, for which it was requested. The Health Board does not accept any responsibility or

liability for any loss or damage caused to the addressee or any third party because of any reliance placed on the above content.

Yours sincerely

<Insert Supervisor / Manager Name>
<Insert Job Title>

c.c. Employee's Personnel File

Appendix 3

Liability to the Subject of an Employment Reference

The referee can be liable to the employee and the prospective employer, should they suffer a detriment because the employment reference has been found not to be factual, fair and accurate.

The legal risks associated with providing references fall under the following headings:

- **Negligence**

An employment reference must be fair, accurate and truthful and not give a misleading or false impression overall, even if the discrete components are factually correct. The main risk is a claim of negligent misstatement from either the employee, prospective employer or both for damages.

- **Defamation/malicious falsehood**

If an employment reference contains a false or unsubstantiated statement that damages the reputation of the employee, they may be able to claim for damages for defamation.

- **Discrimination**

An employee may be able to bring a claim against an employer who has given an employment reference in breach of the Equality Act (2020).

- **Breach of contract / unfair dismissal**

This may apply to an employee who resigns because their manager provided them with an inappropriate reference and consequently claims unfair dismissal at an Employment Tribunal. A misleading reference can amount to a fundamental breach of contract of employment.