

### WHAT IS A REFERENCE?

An employment reference is a summary of your employment with a company, usually requested by a new employer in order to assess your suitability for a role they have offered you. In the Film and TV Industry these are generally given in an informal and often verbal manner.

There is no legal requirement for an employer to give a reference. Though it is generally seen as common practice to do so.

Any given references should be made in writing, and not given verbally. If a reference is given verbally, it is advisable to follow up with an email confirming what was said.

### REQUESTING A REFERENCE

It is best practice to ask for a minimum of two references from the applicant you wish to employ. Ideally one of these should be their current employer.

Current employers should only be contacted with permission from the applicant, and if not possible until the role is offered, the offer should remain subject to obtaining a reference that is satisfactory to the new employer.

You should avoid asking questions about an applicant's attendance or sickness absence record, as this could lead to disability discrimination if the absence is disability related. Questions regarding family-related leave, such as maternity and paternity, should be avoided due to potential risk of discrimination. Asking for dates of any unpaid parental leave taken is acceptable, as the new employer will need to know how much of an employee's statutory parental leave entitlement has already been used.

### GIVING A REFERENCE

When an employer gives a reference for an ex-employee, there is a duty of care to provide a true, accurate and fair reference. A reference that disregards this and results in a job offer being withdrawn, or the new employer suffering a loss due to misinformation in a reference can result in a claim being made for the loss suffered. However, if the reference is discriminatory, the new employer may itself be liable under the Equality Act 2010 if it withdraws the offer on the basis of the discriminatory reference.

Due to risks associated with giving a bad reference, or no reference at all, many companies decide to give 'bare minimum' references.

A 'bare minimum' reference would usually include the employees job title and the dates they worked at the company. If you decide to provide 'bare minimum' references, it would be best practice to provide all references from your company in this way, for all individuals, and state to those requesting the reference that this is your company policy.

If the employer decides to give a more detailed reference, they should make sure that the person preparing the reference is the best person to comment on the employee, such as an immediate manager.

### DATA PROTECTION

## REFERENCE REQUEST TEMPLATES

Employers should avoid giving specific reasons for sickness absence in a reference without the employee's permission, as this would qualify as special category data under the Data Protection Act 2018 and could be subject to a subject access request from the employee.

## REFERENCE REQUEST TEMPLATES

### Example Letter requesting a reference

#### Private and Confidential

*[Insert name]*

*[Insert address]*

*[Insert date]*

Dear *[insert name]*,

*[Insert name]* has applied to our Company for employment in the position of *[insert job title]* and has given us permission to write to you for a reference. I have enclosed the signed consent form indicating this.

We would be grateful if you would assist us in assessing *[insert name]*'s suitability for the above post by kindly providing the following details and responding at your earliest convenience.

Please outline and confirm:

- their start and end dates of employment
- their position and main job responsibilities
- the reasons for leaving your employment
- whether you would be willing to re-employ them and, if not, why not?
- any other details or comments you feel are applicable to this application.

We thank you in anticipation of your assistance and enclose a pre-paid envelope for your reply which will be treated in the strictest confidence. Alternatively, please send your responses to the following secure inbox: *[insert email address]*

Yours sincerely,

*[Insert name]*

*[Insert job title]*

## REFERENCE REQUEST TEMPLATES

### **Example employee consent form: General Data Protection Regulations**

Under General Data Protection Regulation, we require your consent to process personal data (unless one of the other legal requirements apply).

Please indicate below whether or not you wish [*name of organisation*] to provide a reference about your employment with us where a reference request is received from a prospective employer.

In accordance with [*name of organisation*]'s policy on giving references, any such reference may include: [*insert details as appropriate, eg dates of employment, job title, key job duties and level of responsibility*].

Yes/No

You have the right, if you wish, to withdraw consent at any time. If you wish to withdraw your consent, you should do so in writing to [*data protection officer or another appropriate individual*].

Employee's signature

Date