



THE MERCIAN TRUST

# Reference Policy



*Effective from:*

# December 2025

*Approved by:*

## People & Culture Committee

### *Responsibility:*

## Director of People and Organisational Development

## Policy changes since the last review

- Updated to includes our obligations and approach to references in relation to safeguarding allegations and investigations, in line with KCSIE and ACAS guidance.

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### *Review process:*

This policy will be reviewed according to The Mercian Trust's Policy Schedule outlined in its Scheme of Delegation. If there are any changes in legislation or legal requirements, an earlier review will be conducted to ensure compliance and relevance.

## 1 **Background**

- 1.1 The purpose of providing an employment reference is to provide a prospective employer with enough information (as part of the recruitment/selection process) to determine an individual's suitability for a particular post. As a result, line managers can expect to be asked to act as a referee for current or former employees (described in this policy as "Applicants") from time to time.
- 1.2 As a result, we have produced a policy which sets out what to do when presented with such a request.
- 1.3 Any reference given should be fair, true and accurate. Some employers may choose to only give a factual reference stating dates of employment, job title and salary, but its position and application of this policy must be consistent. Further information on a prospective employee should therefore be sought from a reference provider in circumstances where the information provided is vague and/or insufficient.
- 1.4 Employers must give a reference if there was a written agreement to do, or if they are under some other obligation to do so, such as providing certain information under the terms of the Funding Agreement or under the agreed terms of a Settlement Agreement.

## 2 **Our position**

- 2.1 Only the Head Teacher and Director of People and OD, Director of Safeguarding and Executives are authorised to provide employment related references on behalf of the Academy Trust. All other employees and workers are prohibited from providing employment related references on behalf of the Academy Trust, with the exception of point 2.2 below
- 2.2 Where a member of staff has worked for the Academy Trust or school for a long period of time, and therefore requires a second written reference from the Academy Trust/School, this may be completed by a member of the Schools's Senior Leadership Team, but must be approved by the Headteacher prior to the reference being sent.
- 2.3 Requests for telephone or verbal references are infrequently received but should be avoided to minimise the risk of misinterpretation. Any verbal requests for references should be referred to the Headteacher or Executive, all other employees and workers are prohibited from giving verbal references on behalf of the Academy Trust, including members of the Senior Leadership Team.
- 2.4 If a Head Teacher or Executive having considered the circumstances and taken advice concludes that a telephone/verbal reference must be given, a full, contemporaneous note of the conversation should be made. Any such reference should be made in line with this policy.
- 2.5 It is our policy to provide a reference in accordance with the requirements of Keeping Children Safe in Education (KCSIE) (as amended from time to time), rather than a reference that merely confirms details of employment.

## 3 **Legal issues**

- 3.1 Referees should be aware that there are various legal issues involved with the writing of references. The provision of a reference will generally involve the processing of data and so be subject to the Data Protection Legislation. We will comply with the requirements of Data Protection Legislation (being the UK General Data Protection Regulation and Data Protection Act 2018) and any implementing laws, regulations and secondary legislation, as amended or updated from time to time and the relevant Information Commissioner's Employment Practices Code.

3.2 Our Data Protection Policy sets out how we will comply with Data Protection Legislation. Records will be kept in accordance with our Workforce Privacy Notice, our Retention and Distribution Policy and in line with the requirements of Data Protection Legislation. In accordance with the Data Protection Act 2018, Applicants are not entitled to view references written or received in respect of them where such references are provided in confidence, including when requesting a reference provided in confidence through making a subject access request. In these circumstances all references are given in confidence. Those who give references owe a legal duty of care in their preparation to both the Applicant and the prospective employer.

3.3 What this means for Referees:

- 3.3.1 You must only provide content which is true, accurate, factual and fair to the best of your knowledge and belief and which does not give a misleading overall impression.
- 3.3.2 If this does not happen, the Applicant may bring a claim against both the Academy Trust and the Referee alleging, for example, deceit, negligence, negligent misstatement, defamation, malicious falsehood or alleged discrimination, such as victimisation because of a protected characteristic.
- 3.3.3 The prospective employer may also bring a claim for negligence if they suffer financial loss or damage as a result of an inaccurate or misleading reference (e.g. following the withdrawal of a job offer).

#### **4 Obtaining consent to provide a reference**

- 4.1 Personal data in an employment context is information held on record by an employer about an individual. Providing personal data to a prospective employer about an employee or former employee will amount to processing and sharing for the purposes of the Data Protection Legislation.
- 4.2 All personal data must be processed lawfully, fairly and in a transparent manner. The Referee must obtain written consent from the employee/former employee in order for a reference to be provided. Where the employee is applying for a role in an education setting, the prospective employer will have a statutory obligation under Keeping Children Safe in Education (KCSIE) to obtain references and the consent is not required to include safeguarding-related information in references.
- 4.3 If the person dealing with the request has any doubts about whether or not the individual has given their consent, they must contact the individual to check whether or not they authorise a reference to be provided. Consent must be expressly provided in writing by the individual concerned. Verbal or implied consent will not suffice. Writing references
- 4.4 Reference requests may be made in the form of providing the prospective employer with a letter or completion of a proforma. Either can be provided by the Referees. Whenever a reference is being prepared, the following guidance should be observed:
  - 4.4.1 Before dealing with a reference request, a check of the Applicant's personnel file should always be made to establish:
    - (a) whether the Applicant and the Academy Trust have agreed the wording of a reference (e.g. via a Settlement Agreement) and/or any other agreements about the manner in which a reference is given;
    - (b) whether references have been given recently concerning this Applicant (to ensure consistency); and

(c) whether there are any other circumstances which should be taken into account, such as safeguarding concerns (in accordance with the requirements of Keeping Children Safe in Education), ongoing disciplinary matters, or any other sensitivities.

4.4.2 When asked to provide a reference, the Referee should ensure the information confirms whether they are satisfied with the applicant's suitability to work with children and provide the facts (not opinions) of any substantiated safeguarding concerns/allegations that met the harm threshold. References should not include information about concerns/allegations which are unsubstantiated, unfounded, false, or malicious nor should they include details of any repeated concerns or allegations which did not meet the harm threshold and which have all been found to be false, unfounded, unsubstantiated or malicious should not be included in any reference.

4.4.3 Low level safeguarding concerns should not be included in references except where they met the threshold for referral to the LADO and were found to be substantiated.

4.4.4 Accurate information on an Applicant's performance must be given; to do this the Referee should have recent and first-hand knowledge of an Applicant.

4.4.5 The content of the reference must be factual, complete, and not misleading.

4.4.6 Once an offer of conditional employment is made, if requested a reference can include details as to the number of days' absence from work an Applicant has had during the past year. However, personal information about an Applicant's health is special category data and cannot be disclosed without the consent from the Applicant. If a Referee is asked to provide information regarding the reasons for an Applicant's absence, it should exercise caution and seek written consent from the employee before responding.

4.4.7 Special category data of any type should not be included in a reference without consent from the Applicant. Special category data includes, but is not limited to, the individual's racial or ethnic origin, political opinions, religious or similar beliefs, trade union membership, physical or mental health or condition or sexual life.

4.4.8 Information provided must be capable of being independently verified, e.g. through appraisals or attendance records.

4.4.9 Subjective opinion should be avoided. The reference must provide an overall balanced view of the Applicant, although it does not need to be full and comprehensive.

4.4.10 Comments on suitability for a new job must be given with caution because they are difficult to justify objectively. These comments should not be made where an Applicant is applying for a role different from the role which they previously undertook. However, references should confirm whether you are satisfied with the Applicant's suitability to work with children, as is outlined in Keeping Children Safe in Education and as set out in 5.1.2 above.

4.4.11 Under ACAS guidance, only details of live disciplinary warnings and/or sanctions should be given on references. Details of any spent warnings or sanctions given under the disciplinary process or details of any disciplinary investigations where there was no case to answer or no warning/sanction given should not be provided on references, unless relating to substantiated safeguarding allegations that met the threshold, reference 5.1.2 above.

4.4.12 Mark the reference as "Private and Confidential for the addressee only" and a copy should be retained on the Applicant's personnel file.

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

## **5 Refusal to give a reference**

- 5.1 As an Academy Trust, references are given as a matter of course, so if you consider refusing a request for a reference for any reason, advice must be sought from HR in the first instance.
- 5.2 Where a member of the teaching staff employed at the Academy Trust applies for a teaching post at another Academy, a maintained school, or a further education institution, the Academy Trust must at the request of the board of governors or Academy Trust of that other educational institution:
  - 5.2.1 advise in writing whether or not, in the previous two years, there have been any formal capability considerations or proceedings for that teacher at the Academy Trust or the Predecessor School; and
  - 5.2.2 give written details of the concerns which gave rise to any such consideration of that teacher's capability, the duration of the proceedings and their outcome.

In these circumstances a refusal to give a reference would be a breach of the Academy Trust's funding agreement.

## **6 Personal references**

- 6.1 If a request is made to provide a personal reference for an Applicant, this may be given but Academy headed paper, e.g. letterheads and compliments slips, must not be used in any circumstances, nor should the reference be sent from an Academy Trust's email address. The response must also clearly state that the reference is being given entirely in a personal capacity and not on behalf of the Academy Trust and the content is not to be taken as a reflection of the employer's views.

## **7 Business networking websites**

- 7.1 Where employees (or ex-employees) have set up personal profiles on business networking websites such as LinkedIn, these websites may include the facility for the user to request their contacts or other users to provide them with open recommendations or references which are then published on their personal profile web pages for other contacts or connections, or prospective contacts or connections, to read. As these could potentially be construed as open references given on behalf of the Academy Trust, all managers and employees must not provide these types of open recommendations or references online to or for the benefit of other employees or ex-employees, unless express permission is obtained from the Head Teacher before complying with such request. All employment references to prospective employers should comply with this policy and should not be given online in an open format via websites such as LinkedIn.
- 7.2 If these types of recommendations or references are requested online by clients, customers, contractors, suppliers or other school-related business connections, managers should, in the first instance, refer such requests to their line manager and seek the permission of the Head Teacher before responding.

## **8 Requests from authorised officers of Jobcentre Plus**

8.1 Where a request is received from an Authorised Officer of Jobcentre Plus, it is a legal requirement to respond in the form that has been requested and within the time period stated. Legal advice should be sought before responding to any requests from an Authorised Officer of Job Centre Plus. Only Referees are authorised to respond to these requests.