

ARK HOUSING ASSOCIATION LTD (ARK)

POLICY REF: HR31

Version 2.0 – February 2017

EMPLOYMENT REFERENCE POLICY

1.0 ARK'S VALUES

1.1 Our organisational values are the basis for everything that we do from providing housing, care and support to tenants and service users to ensuring safer recruitment processes. ARK believes that everyone should have the opportunity to lead a happy, healthy and safe life. We value:

- The worth of each person
- Trusting relationships
- Understanding difference
- Challenging oppression
- Personal and organisational accountability
- Caring for our physical environment
- Enjoyment

1.2 All ARK policies and procedures are underpinned by our values and we will ensure that our prospective employees are treated fairly, consistently and in line with ARK's values.

1.0 PURPOSE

1.1 The aim of this policy is to ensure a consistent approach for managers in dealing with employment references. It provides guidance on obtaining and verifying references from a third party and to draw their attention to the responsibilities and legal liabilities that may arise when providing references on behalf of existing or former employees of ARK.

2.0 INTRODUCTION

2.1 The purpose of a reference is to obtain information from a third party, providing a factual check on a candidate's employment, qualifications and experience. Additional information normally sought will also include length of employment, job title, brief details of responsibilities and reason for leaving. References can also be used to check factual evidence such as timekeeping, general performance and development. In the interest of good practice, references should contain opinion based on fact as to the applicant's suitability for the job on offer.

3.0 LEGAL BACKGROUND

3.1 There is no legal obligation to provide references but social service employers are expected to comply with their code of practice. In particular code 3.1 seeking and

providing accurate and appropriate references to share information relevant to a person's suitability to work in social service posts.

- 3.2 If a reference contains a false or unsubstantiated statement and was given with malice intended, to damage the reputation of the individual, a civil action for defamation or malicious falsehood may result.

4.0 OBTAINING EMPLOYMENT REFERENCES

- 4.1 References must be sought from at least **two** referees for all successful external candidates. If the applicant is employed, one reference must be from their current employer and the other from their previous, or most recent, employer.
- 4.2 For successful internal candidates **one** reference should be obtained from the candidate's current manager.
- 4.3 If the applicant is unemployed, the references must come from the applicant's most recent employer. There may be circumstances where this may be difficult such as a school leaver or someone returning to work following a lengthy absence. If this is the case character references may be accepted from a professional person accompanied by a risk assessment. Appendix 2
- 4.4 Character references from friends and relatives are not acceptable.
- 4.5 A copy of the job description for the post will be sent to the applicant's referee for information. He or she will be requested to provide information on the applicant, related to the criteria laid out in the job description, including the nature of the work undertaken, quality of their work and whether they would re-employ the applicant.
- 4.6 If an applicant has refused to give permission for a reference to be sought then this should be discussed with the applicant. It must be explained to the applicant that an offer of employment cannot be made without this.
- 4.7 All references must be reviewed by the line manager and confirmed as satisfactory before an unconditional offer of employment is made. It is the appointing manager's responsibility to ensure any areas of concern raised in a reference, is addressed before an unconditional offer is made to appoint.
- 4.8 A decision to recruit or not must not be made on the basis of the applicant's health. Managers should not ask questions in relation to an applicant's health / attendance record either directly to the applicant or their referee.
- 4.9 If a manager allows the employee to start work before references have been received the employee will have the same rights as any other employee if the job offer is then subsequently withdrawn due to unsatisfactory references. e.g. in relation to wrongful dismissal.
- 4.10 On request from an individual, managers are generally required to give access to references they have received from a former employer of the individual. However, the manager needs to balance the rights of the individual who is asking to see the reference with any duty of confidence that they owe to the person who wrote the reference and Data Protection legislation.

4.11 The reference form will seek the following information-

- About the referee's relationship with the candidate and ensure that the referee is from an appropriately senior member of the relevant organisation and not a former peer of the candidate ;
- Whether the referee is satisfied that the candidate has the ability and is suitable to undertake the job in question, and for specific comments about how they have demonstrated in that they meet the person specification;
- Whether the referee is completely satisfied that the candidate is suitable for the post and if not, for specific details of the referee's concerns and the reasons why the referee believes the person might be unsuitable;
- For confirmation of details of the candidate's current post and recent sick record;
- Specific verifiable and relevant comments about the candidates performance and conduct;
- Details of any disciplinary procedures the candidate has been subject to in which the disciplinary sanctions is current;

4.11 All references must be on corporate headed paper, company stamped or from a traceable email address. Character references from professional people should indicate their current work status and the qualification/PIN number/professional body membership of their status along with contact details for verification. References are verified/cross checked using a range of methods

5.0 PROVIDING EMPLOYMENT REFERENCES

5.1 This applies to any reference requests that managers are asked to provide on behalf of ARK.

5.2 Reference requests on behalf of ARK must only be given by managers working in partnership with HR.

5.3 As employers, managers have a duty of care to provide an accurate and honest assessment of a staff member's ability. Responses to questions should be factually correct. Vague personal statements or opinions which could be construed as subjective or ambiguous should be avoided. **If managers are in any doubt about the information they are providing they should seek further advice from HR.**

5.4 Under the Data Protection Act (1988) individuals are allowed to see the contents of their personal file and you should bear this in mind when completing a reference form.

5.5 Some organisations may still make reference requests asking for information on an employee's sickness/medical records. In line with the Equality Act 2010, ARK does not *request* such data in relation to applicants. Data relating to an employee's medical condition is classified as sensitive personal data (Section 2 of the Data Protection Act 1998) therefore caution must be taken by managers in providing such information. The consent of the individual should be sought when dealing with such requests.

5.6 Disclosing information relating solely to the number of days of absence will not amount to the processing of sensitive personal data. However, merely stating the number of days absent may not give a fair overall impression, particularly if there has

HR31 Employment Reference Policy February 2017

been a high level of absence e.g. due to hospitalisation. In cases such as these it is advisable to discuss the response to this question directly with the employee, to ensure that the response is accurate, factual and creates an overall fair impression.

- 5.7 If you only have a limited working knowledge of the individual you are being asked to provide a reference for, you should state this on the reference. Alternatively ARK's standard reference pro-forma (See Appendix 1) can be completed for the individual.
- 5.8 Where a reference is requested on a former employee who worked for ARK some time ago, and there is no manager who has direct knowledge of that individual, it may only be possible to confirm factual information. ARK's standard reference pro-forma should be used in these occasions. (See Appendix 1).
- 5.9 Where an employee has been dismissed or has resigned whilst disciplinary action is pending, the Head of People and Organisational Development must be consulted before a reference is given.
- 5.10 A former employer may be exposed to a claim from a subsequent employer if there is a serious issue of gross misconduct which the former employer omits to mention. The main point is that the reference must be true, accurate and fair in substance and therefore must mention the negative issue e.g. the gross misconduct or events giving rise to a disciplinary process, in a way which is overall accurate and correct. Providing a bare minimum reference in situations such as these, should be avoided as a means of concealing something serious. All such cases should be referred to the Head of People and Organisational Development
- 5.11 The referee should ensure that:-
- The facts provided in the reference are factually accurate. If unsure about any information, including dates of employment, please contact your HR Team.
 - The reference should only answer the information requested.
 - The reference should be honest, based on fact and fall within the referee's professional judgement.
 - Statements should be direct and simple, avoiding the use of ambiguous language
 - Any sensitive data should be excluded i.e. – information which related to an individual's physical or mental health, ethnic or racial origin, religious beliefs, sexual life or trade union membership.

6.0 MONITORING AND REVIEW OF POLICY

Responsibility for monitoring the application of this policy will rest with the Head of Organisational Development

Approved by SLT in:	February 2017
Approved by Board of Management in:	May 2017
Approved by Unite:	September 2017
Next Review:	February 2020

APPENDIX A

PRIVATE & CONFIDENTIAL

Must be on ARK headed paper

Date

Dear Sir/Madam,

Re: NAME & ADDRESS OF EMPLOYEE

Thank you for your recent request for an employment reference for the person named above. I am pleased to confirm the following information in response to your request:

Job Title:

Start Date:

Leave Date:

Post:

Nature of Duties: Give brief details and enclose Job Description.

Reason for leaving:

Additional Comments

For example, XXX was a valuable member of the team. I have been given no reason to doubt his/her integrity and honesty.

In accordance with ARK Housing Association's normal practice this reference is given in good faith and in confidence, without legal liability on behalf of the author or ARK Housing Association, and to the best of my knowledge is factual, honest and truthful.

Manager's Name: _____

Manager's Signature _____

Date _____

Contact Details _____

ARK HOUSING ASSOCIATION LTD
REFEREE'S REPORT
IN CONFIDENCE

NAME OF APPLICANT: x

ADDRESS OF APPLICANT: x

APPOINTMENT FOR WHICH
APPLICANT IS APPLYING: x

- Sections 1, 2 & 3 to be completed by Employer Referees
- Sections 1 & 3 to be completed by Character Referees

- *Please do not complete this reference if you are a family member or friend.
Please return paperwork in envelope provided.*

SECTION 1: CHARACTER INFORMATION

Please fill this out for Character and Employer References

1. For how long have you known the applicant?

2. In what capacity have you known the applicant? (please circle)

I was/am:	Manager	HR Department
	Team Leader/Supervisor	Colleague
	Tutor	Other (give details - <u>friends/family not acceptable</u>)

3. What in your opinion would you say are the applicant's main strengths and weaknesses?

4. In the context of the attached post details, please comment on the applicant's ability to carry out the duties of the post.

SECTION 2: EMPLOYMENT INFORMATION

Please only fill out this section if you have been an employer of the applicant

1. Please confirm the dates which the candidate worked for you and his/her final salary level.

Start date: _____ Leave Date: _____

Final Salary Basic: _____ Additional: _____

2. What is your assessment of: (please tick)

	Excellent	Good	Fair	Poor
Quality of work				
Quantity of work				
Application to job				
Honesty				
Relations with others				
Attendance/punctuality				
Work without supervision				

3. In the context of your knowledge of the candidate, please describe the applicant's skills and/or knowledge in the following areas:

a) Ability to work as part of a team

b) Communication / interpersonal skills

c) Experience of working with people with learning disabilities

d) Recording & Planning skills

e) Decision making & Leadership skills

f) Confidentiality

4. Has the individual been subject to any disciplinary proceedings within the last 3 years, or is there any ongoing or impending disciplinary action? *Yes/No (*delete as appropriate)
If yes, please can you give details?

5. Would you re-employ? *Yes/No (*delete as appropriate)
If No, please can you tell us why?

6. Are there any further comments you wish to make?

SECTION 3: DECLARATION

Please fill this out for Character and Employer References

Do we have your consent to show this reference to the candidate if they request to see it? YES / NO

Name: _____ Designation: _____

Company Name / Address: _____

_____ Postcode: _____

Signed: _____ Date: _____

Tel: _____ Email: _____

<p>For Employers References: Please provide your Company stamp as authorisation that you are permitted to provide the above reference.</p> <p>If you do not have a Company stamp, please provide confirmation on Company letterhead</p>	<p>Company Stamp:</p>
---	------------------------------

HR31 Employment Reference Policy February 2017

that you are permitted to provide the above reference.	
--	--

After completion, please return this form as soon as possible to:-

HR Department
The Priory
ARK Housing Association
Canaan Lane
Edinburgh
EH10 4SG

Tel: 0131 447 9027

Fax: 0131 478 8193 *

** If using fax, please telephone a member
of the HR team prior to transmission.*