



Policy on references for current and former employees

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Author/owner: Board of Trustees
Review: Triennial

NB. 'Trustees' means the Directors referred to in the Trust's Articles of Association

History of most recent policy changes

Version	Date	Page	Change	Origin of Change e.g. TU request, Change in legislation
V1.0	November 2020		New policy introduced for the Tarka Learning Partnership Central Trust Team and Schools within the Trust	Requirement for central policy to explain the approach to providing references for current and former staff members
V2.0	September 2022	5	General review of the policy and new section "References and safeguarding concerns"	Update in the Keeping Children Safe in Education Guidance 2021 & 2022 regarding low-level concerns and inclusion in references

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1.0 Introduction

The Tarka Learning Partnership is committed to being transparent about its safer recruitment practices to ensure that it meets its obligations in regards to legislation for Data Protection and Equality when providing employment references for staff / previous staff members.

This policy sets out its approach to dealing with requests for references for current and previous staff, in relation to employment applications.

2.0 Scope

There is no legal obligation for the Tarka Learning Partnership to provide references for staff or previous staff. However, a refusal to provide a reference may be unhelpful to other employers and may disadvantage the staff member.

It is the Trust's normal policy to provide employment references on request, unless there is a good reason not to.

3.0 Authorised providers of references

It is the Tarka Learning Partnership policy that any references in relation to job applications for current or former staff may only be provided by a member of the Senior Leadership Team within a school.

Any request for a reference from a prospective employer should be immediately passed to a senior leader. No other person within the school is authorised to provide an employment reference on behalf of the school or Tarka Learning Partnership.

4.0 Obtaining consent to provide a reference

Personal data in an employment context is information held on record by an employer about an individual. Data will be processed in line with the requirements and protections set out in the UK General Data Protection Regulation. To ensure we meet our obligations of the General Data Protection Guidelines, the Senior Leader will ensure that the current or former staff member has given their consent for a reference to be provided. If there are any doubts or where no consent has been given, contact will be made with the individual to check whether or not they authorise a reference to be provided.

5.0 Duties of providers of references

When providing references there is a legal obligation to exercise a duty of care to both the person seeking the reference and to the person about whom the reference is provided.

If an employer gives a careless reference, for example failing to mention the fact that the staff member was incompetent at their duties or involved in a disciplinary matter which ended their employment, the person receiving the reference may seek recompense from the Tarka Learning Partnership if they have relied on the reference and suffered financial loss as a result.

If a job applicant either is refused an offer of employment or has an offer withdrawn as a result of inaccurate information or opinion contained in a reference, the applicant may have a claim against the Trust in respect of any loss that they have suffered as a result.

These duties of care mean that although there is no requirement for a reference to be full and comprehensive:

- Any information provided in a reference must be accurate and factual
- Reasonable care must be taken not to give misleading information
- A reference must be fair to the individual in an overall sense and not misleading on account of the selective provision of information or as a result of the inclusion of facts and opinions stated in a manner that may give rise to a false or mistaken conclusion in the mind of the recipient.

6.0 Providing the information requested

It is the responsibility of the author of the references to ensure that the information provided is true, accurate and not misleading. Any comment on an individual's performance or conduct must be factual and objective. Information provided in the references will include name, job title, service dates and if any safeguarding allegations or concerns relating to the safety and welfare of children and young people were raised during the individual's employment with the Trust.

References should normally be in writing to avoid any subsequent confusion. They should always be marked "Private and Confidential – for the attention of the addressee only" and particular care should be taken in sending by email that they are directed to the correct person.

It will not be usual practice to provide a verbal reference. In exceptional circumstances a verbal reference will only be provided once the identity of the caller has been verified. If a verbal reference is given, a written record of the information provided must be made at the time of the conversation and copied to the individual's file.

If staff wish to provide a character reference for colleagues or former colleagues, they must make it clear that they are doing so purely as a personal acquaintance or friend and not in the capacity as an employee of the school and Tarka Learning Partnership. A reference should not be provided in such circumstances until the referee and prospective recipient have acknowledged that the reference is given in a personal capacity and that the Trust will not accept any responsibility for it. Under no circumstances must school or Trust headed paper or school email address be used.

Open references will not be provided by the Trust unless they form part of a settlement agreement.

7.0 References and safeguarding concerns

Any safeguarding allegations or concerns relating to the safety and welfare of children and young people which were raised during the individual's employment with the Trust will be detailed in a reference where the allegation or concern has met the harm threshold and has been substantiated, or is the subject of a current investigation at the time of the reference request.

In accordance with paragraph 441 of the Keeping Children Safe in Education 2022 guidance, a low-level concern should only be included in a reference, if they relate to issues which would normally be included in a reference, for example, misconduct or poor performance. It follows that a low-level concern which relates

exclusively to safeguarding (and not to misconduct or poor performance) should not be referred to in a reference, unless it has met the threshold for a referral to a Local Authority Designated Officer (LADO). A referral to a LADO will depend on whether the criteria specified by Devon County Council, the Trust's local authority, has been satisfied and the school felt that a referral was necessary. If no referral to the LADO was made, then the KCSIE does not require that safeguarding concerns are specified in a reference.

8.0 Disclaimer

The following disclaimer will be included in the reference making it clear that, while the information provided is accurate to the best of the school's knowledge, the school and Trust cannot accept any liability for errors or omissions in the content of the reference or any decisions based upon it.

'Whilst all reasonable efforts have been made to ensure the truth and accuracy of the statements made in this reference are on the basis of the information available to the employer at the time it is given, neither the person providing the reference nor the Tarka Learning Partnership is responsible for any errors, omissions or mis-statements contained in this reference nor as a result of any reliance being placed on it.'