Name of Policy: Reference Policy

Effective From: 30/08/2012

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<th>06/08/2012</th>
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<td>Review Date</td>
<td>01/08/2014</td>
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<td>Sponsor</td>
<td>Director of Transformation and Compliance</td>
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This policy supersedes all previous issues.
## Version Control

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1 **Introduction**

This policy sets out the requirements and responsibilities in providing and obtaining references.

When providing a reference it is essential that the information provided is fair, honest and accurate. For this reason it is important to distinguish between a reference given in a personal capacity (a character reference) and a reference given on behalf of the Trust (an employment reference); each section of the policy will provide guidance respectively.

A guidance note for managers on providing and requesting references is also attached as Appendix 1.

This policy complies with ‘Safer Recruitment: A Guide for NHS Employers 2006’ and is in line with Trust policies PP10a Recruitment and Selection, PP10b Recruitment and Selection of Consultant Medical Staff and PP10c Appointment and Employment of Locum Medical Staff.

2 **Scope**

The policy applies to all Trust employees, volunteers and honorary contract-holders. It covers the following areas:

5: The legal background to providing and taking up references.
6: Guidance on obtaining references.
7: Guidance on providing employment references – including who is authorised to give references on behalf of the Trust.

3 **Aim**

The aim of this policy is to ensure a consistent approach from managers when dealing with employment references.

4 **Responsibilities**

4.1 **Divisional Managers/Directors** – should adhere to this policy, ensure managers and staff within their areas of management are aware of the requirements of the policy and delegate appropriately the responsibility to provide references in accordance with the policy.

4.2 **Managers Authorised to Provide References** – should adhere to this policy, be clear for which posts/positions he or she has delegated responsibility to provide references and when requested to do so to provide references appropriately in accordance with the policy for staff/volunteers/honorary contact-holders within their area of management. Appendix 1 provides guidance.

4.3 **The Personnel Department** – shall request references as part of recruitment and selection processes in accordance with this policy. Any references obtained will be held in a confidential manner. The process for requesting references will be audited periodically to ensure that it remains effective.
4.4 **Staff/Volunteers/Honorary Contract-Holders** – within the Trust should approach their manager if he or she is to be named as a referee to ensure that they are the appropriate person to provide a reference and are expecting the request. Staff not authorised to provide an employment reference should not do so, but may provide a personal reference as detailed in 7.2.

5 **The Legal Issues**

5.1 Although there is no Statute law that directly places a duty on employers to provide an employment reference, there is case law to suggest that within the contract of employment the employer has a duty to provide a reference for an employee if the employee would not be able to gain other employment without one.

5.2 Under the Data Protection Act 1998, the employee has the right, upon request, to be supplied with any personal data held by the employer. Therefore, this means an employee can ask to see their personal file with their references on it. On request from an individual, managers are generally required to consider whether it is appropriate to give access to references 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 confidentiality owed to the person who wrote the reference.

5.3 Managers may, after discussion with the Personnel Department, decide to allow applicants to access their references:

- From a current employer.
- From the manager themselves who has provided the reference for the purposes of employment, education or the provision of any service.

5.4 However if by disclosing the references to the employee, the author of the reference will be identified, consent needs to be sought from the author prior to the release of information. The Personnel Department should seek consent in writing.

5.5 If consent is not given, in discussion with a Personnel Manager, the appointing manager will have to decide whether the benefit of disclosure to the applicant outweighs the duty of confidentiality to the reference source.

5.6 If the reference is disclosed and the employee feels that the reference provided by an employer contains information that is misleading or inaccurate, the employee can in accordance with the Data Protection Act 1998 bring a claim for damages against the provider of the reference for actual harm or detriment suffered as a result of inaccurate, malicious, misleading or negligent information being given or processed.

6 **Obtaining References**

6.1 **Employment References**

Written references for job applicants must be sought prior to interview from at least two referees for each post unless the candidate specifically requests otherwise. If the applicant has not named their current or most recent previous employer as a reference or has refused to give permission for a reference to be sought then this
should be discussed with the applicant at the interview. It must be explained to the applicant that an offer cannot be made without 2 appropriate references or 3 for Medical staff and Finance staff Band 8 and above. The following guidelines should be followed when obtaining employment references:

- If the applicant is employed, one reference must be from their current line manager, the other from their previous line manager or another professional with whom they work.

- If the applicant is unemployed, the references must be from the applicant’s most recent employer.

- If it is difficult to obtain a reference from a previous employer a reference should be obtained from someone who can comment on the individual’s suitability for the post e.g. a back-to-work co-ordinator, registered charity or voluntary organisation.

- If the applicant is applying for a post following full time education references must be sought from the school/college/university or work experience employer.

NB. This approach must be used even if the applicant has not named previous or current employers as referees. Under HSC 1998/212 “Choosing with Care” the Trust reserves the right to approach a previous employer. Permission from the applicant will be sought prior to contacting the previous/current employer.

Where references are received prior to the interview, they should contribute to the selection decision. The Personnel representative dealing with the vacancy will review all references prior to the interviews. The Chair of the panel should be alerted by a Personnel representative to any area of concern within a reference in order to explore this during the interview. The interview panel must review all references of preferred candidates before an offer of employment is made. Original references will be retained on the successful candidate’s personal file.

Verbal references should only be accepted in exceptional circumstances. A file note should be made summarising the content of the verbal reference and must always be followed up in writing.

6.2 Personal References

Personal references from immediate colleagues or friends of the job applicants should not be accepted unless specifically given as a character reference.

6.3 Format of References

References should be requested using the relevant pro-forma. Appendix 2 is an example of the pro-forma, which can be tailored to a specific post.

7 Providing References

7.1 Employment References
This applies to any references that managers are asked to provide in their professional capacity on behalf of the Trust.

To ensure a consistent approach reference requests should only be dealt with by Line/Clinical Managers – see 7.3 reference grid. This responsibility can then be delegated to lower level management if necessary and appropriate and the person delegated to is deemed as competent to provide references by the manager identified in the grid. This responsibility needs to be explicitly communicated to the person receiving this delegation.

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. Subjective or ambiguous personal opinions or statements should not be included.

If managers are in any doubt about the information they are providing they should seek further advice from the Personnel Department.

Verbal references should only be given in exceptional circumstances i.e. where a response is needed urgently. However, even in such circumstances, managers should verify the designation of the person they are providing the information to and follow the verbal reference with a written reference.

Where an employee has been dismissed or resigned whilst disciplinary action is pending, the relevant Divisional Manager/link Personnel Manager must be consulted before a reference is given.

7.2 Character References

Personal character references must not be written on behalf of the Trust, and therefore must not be typed on headed stationery. The reference must not refer to the employment of the individual. If managers are concerned about the information they are being asked to provide as a referee, they should contact the Personnel Department for further advice.

If responding to personal reference requests from colleagues, managers should clarify that it is their personal opinion and the reference is not an employment reference on behalf of the Trust, again Trust headed stationery should not be used.

7.3 Grid – Authority to Provide Employment References

<table>
<thead>
<tr>
<th>GROUP OF STAFF</th>
<th>AUTHORITY TO GIVE REFERENCE (or explicitly delegate that responsibility to lower management level)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Executive</td>
<td>Chairman or Non Executive or Board member in consultation with Chairman</td>
</tr>
<tr>
<td>Executive Board Members</td>
<td>Chief Executive</td>
</tr>
<tr>
<td>Clinical Directors</td>
<td>Professional Reference: Medical Director Organisational Reference: Appropriate Executive Board Member</td>
</tr>
</tbody>
</table>
| Consultant | Professional Reference: Medical Director  
Organisational Reference: Appropriate Executive Board Member |
|-----------------|---------------------------------------------------------------|
| Career Grade Doctor | Professional Reference: Clinical Director  
Organisational Reference: Appropriate Executive Board Member |
| Medical/Dental Staff in Training | Consultant |
| Senior Managers below Executive Board Level | Appropriate Executive Board Member |
| Senior Nurse, Matron, Senior AHP, Heads of Departments | Divisional Manager, Head of Service, appropriate Executive Board Member |
| Clinical Support Staff and Nursing Staff | Divisional Manager, Head of Service, Department, Ward Managers, Matrons |
| Ancillary staff, Paramedical Helpers and Admin & Clerical | Head of Department |

8 Monitoring Compliance/Effectiveness of the Policy

Audits will be undertaken on an ongoing basis of all vacancy and appointment papers by members of the Personnel Team. These audits will monitor compliance against NHS Employers pre-employment checks and will encompass permanent and temporary appointments within the Trust. In the event of temporary staff being supplied through Agencies, the Trust will only use those Agencies who are compliant with PASA regulations and checks will be made on an annual basis to ensure the Agencies are following appropriate screening standards. The Trust reserves the right to conduct appropriate local checks as necessary e.g. identity checking/health screening for agency staff.

In the event that any of the audits identify deficiencies, an appropriate action plan will be drawn up with named leads and timescales.

Human Resources Committee receives regular reports on an annual basis that monitor all HR policies’ compliance and effectiveness.

Should processes be identified which are not compliant with the policy requirements, these will be looked at on a case by case basis and appropriate retraining or support given where necessary. Where individuals are not compliant, this will be treated on a case by case basis. Any issues of non-declaration or inaccurate declaration of appropriate information may be referred into the Disciplinary Policy (PP1) as necessary.

LA
Nov 2009
GUIDANCE NOTE FOR MANAGERS ON PROVIDING AND REQUESTING REFERENCES

The following guidelines are intended to support the Trust policy on the use of references and provide managers with information on how to deal with issues that may arise with their use.

Providing References

♦ References should only be provided by managers identified in 7.3 or managers to whom this responsibility has been explicitly delegated. It should be made clear to staff who is authorised to provide references in their area.

♦ If requested to provide a reference your response should be factually accurate and an honest assessment of the staff member’s ability should be given. Attached, as Appendix 4 is a standard Trust reference response.

♦ To ensure consistency of approach, employment references should only be given by the line manager or clinical manager.

♦ You should try to avoid personal statements or opinions, which could be subjective and/or ambiguous.

♦ You should share a copy of your reference with the person about whom it is written.

♦ If you only have limited working knowledge of the individual you are being asked to provide a reference for, you should state this and return the reference.

♦ Under the Data Protection Act 1998 individuals are allowed to apply to see the contents of their personal file and you should bear this in mind when completing the reference form.

♦ Verbal references should only be given or requested in exceptional circumstances i.e. where a response is needed urgently. However, even in such circumstances, you should verify the identity and designation of the person requesting/providing the reference and the content of the verbal reference should be in line with the standard reference request form (see Appendix 2).

♦ Where an employee has been dismissed or has resigned whilst disciplinary action is pending, the relevant link Personnel Manager/Divisional Manager must be consulted before a reference is given. Attached as Appendices 5, 6 and 7 are standard reference responses, for dismissal due to capability issues, dismissal due to conduct and resignation prior to disciplinary action. These should be used only after consultation with the relevant link Personnel Manager/Divisional Manager.
Requesting References

♦ When recruiting either internally or externally, two references must be sought in accordance with the Trust’s Reference Policy.

♦ Prior to a decision being made it is the appointing manager’s responsibility to ensure that references are obtained and any areas of concern addressed before a firm offer of appointment is made. See 6.1.

♦ Best practice is to review references after the person has been interviewed and before any offer of appointment is made to the applicant.

♦ When the appointing manager produces a short-list, he/she should also indicate which references are required, in accordance with the Trust’s Reference Policy. This is important, as the references required i.e. current/most recent employer might not necessarily be the referee the applicants have supplied. Permission from the applicant must be sought prior to contacting the previous/current employer.

♦ If the applicant has not named their current or previous employer as a reference or has refused to give permission for a reference to be sought, then this should be discussed with the applicant at the interview. It must be explained to the applicant that a firm offer cannot be made without 2 appropriate references, 3 in the case of Finance posts Band 8 and above and all Medical posts.

♦ If managers receive a reference that is ambiguous or raises concern then they should follow up with a telephone call to the referee clarifying the information provided and seek advice from the Personnel Department on the implications of this.

PLEASE NOTE: REFERENCES SHOULD NOT BE PHOTOCOPIED
REFERENCE REQUEST FORM

Post applied for:  Name of Applicant:
Applicant Number:  Ref No:

Referees should note that if the subject of a reference requests to see it the rights of the individual who is asking to see the reference will need to be balanced with any duty of confidentiality owed to the person who wrote the reference.

The form below is in two sections: Section A is to be completed by current or previous employers, and Section B is to be completed by all referees.

Section A

1a. How long have you known the applicant and in what capacity?

1b. Please specify the dates when the applicant was in your employment:
From:                                                   To:

1c. Capacity in which employed (job title):

2a. Whilst the applicant was in your employment:
Is/was the applicant’s overall job performance?
Excellent □  Good □  Satisfactory □  Poor □

Please explain:

2b. How does/did the applicant get on with other people?
Excellently □  Well □  Satisfactorily □  Poorly □

Please explain:
3a. Would you consider the applicant to be trustworthy, honest and reliable?

Yes ☐ No ☐

If No please explain why:

3b. Is/Was the applicant’s attendance at work?

Excellent ☐ Good ☐ Satisfactory ☐ Poor ☐

Please explain:

3c. Is/was the applicant’s timekeeping?

Excellent ☐ Good ☐ Satisfactory ☐ Poor ☐

Please explain:

4. Please state why the applicant left the job? (If applicable):

5. Would you re-employ the applicant?

Yes ☐ No ☐

If no please state why:

6. How many days has the applicant lost due to sickness absence in the last 24 months?

7. At the date of leaving, was the candidate subject to any form of disciplinary investigation or procedure?

Yes ☐ No ☐

If yes please give any relevant details:

8. Has the applicant:
- Been charged or convicted of a criminal offence;
- Been bound over or cautioned;
- Currently been the subject of any police investigations, which might lead to a conviction, an order binding him/her over, received a caution in the UK or any other country?

**Before answering these questions please read the note as to the application of the Rehabilitation of Offenders Act 1974 to this post on the final page of this document.**

**YES/NO**

Has the applicant been or is s/he currently the subject of any fitness to practice proceedings by an appropriate licensing or regulatory body in the UK or any other country?

**YES/NO**

Has the applicant been removed from the register or conditions made on his/her registration by the licensing or regulatory body in the UK or any other country?

**YES/NO**

If yes to any of the above, please provide further details.
Please provide any other information relevant to the post applied for, giving your opinion of
the applicant's ability to carry out the duties specified on the attached job description. Please provide details of any particular strengths or weaknesses which the applicant has, which are relevant to the post applied for. (Please continue on a separate sheet if necessary.)

NOTE ABOUT THE APPLICATION OF THE REHABILITATION OF OFFENDERS ACT 1974 TO THIS POST

The Rehabilitation of Offenders Act 1974 helps rehabilitated ex-offenders back into work by allowing them not to declare criminal convictions to employers after the rehabilitation period set by the Court has elapsed and the convictions become ‘spent’. During the rehabilitation period, convictions are referred to as ‘unspent’ and must be declared. Please provide details of ‘unspent’ convictions in the section below. Any such information will be kept in strict confidence and used only in consideration of the suitability of this applicant for the position for which they have applied;

Please give details of any convictions:

<table>
<thead>
<tr>
<th>Signature:</th>
<th>Print Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date:</td>
<td>Job Title:</td>
</tr>
<tr>
<td>Organisation:</td>
<td></td>
</tr>
</tbody>
</table>

In order to preserve confidentiality, this form must not be photocopied.

Please return this form together with any additional papers to:
Personnel Dept, Gateshead Health NHS Foundation Trust, Queen Elizabeth Hospital,
Sheriff Hill, Gateshead NE9 6SX
Telephone 0191 482 0000  Confidential Fax 0191 445 6184
Section B

Please provide any other information relevant to the post applied for, giving your opinion of the applicant’s ability to carry out the duties specified on the attached job description. Please provide details of any particular strengths or weaknesses which the applicant has, which are relevant to the post applied for. (Please continue on a separate sheet if necessary.)

NOTE ABOUT THE APPLICATION OF THE REHABILITATION OF OFFENDERS ACT 1974 TO THIS POST

In order to protect certain vulnerable groups within society, there are a number of posts within the NHS that are exempt from the provisions of the Rehabilitation of Offenders Act 1974. These include positions where there is access to patients in the course of normal duties. As the post for which the application is made falls within this category, it will be exempt from the provisions of the by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. It is not, therefore, in any way contrary to the Act to reveal any information you may have concerning convictions which would otherwise be considered as ‘spent’ in relation to this application. Any such information will be kept in strict confidence and used only in consideration of the suitability of this applicant for a position where such an exception is appropriate.

Please give details of any convictions:

<table>
<thead>
<tr>
<th>Signature:</th>
<th>Print Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date:</td>
<td>Job Title:</td>
</tr>
<tr>
<td>Organisation:</td>
<td></td>
</tr>
</tbody>
</table>

In order to preserve confidentiality, this form must not be photocopied.

Please return this form together with any additional papers to:
Personnel Dept, Gateshead Health NHS Foundation Trust, Queen Elizabeth Hospital, Sheriff Hill, Gateshead NE9 6SX
Telephone 0191 482 0000 Confidential Fax 0191 445 6184
Dear Mr X

Re: XXXX

The above named has applied for the post of XXXXXXXX and has given your name as a referee.

I would be grateful if you could provide any information relevant to the above named person for this post. In particular I would welcome your opinion of the applicant’s character and ability to carry out the duties specified in the attached job description.

In addition, would you please provide details of any particular strengths or weaknesses the applicant has which you feel may be relevant to the post. Outline any sickness or absence during the past 24 months.

Finally please indicate if at the date of leaving, the candidate was subject to any form of disciplinary investigation or procedure?

Please do not hesitate to contact me if you need to discuss the matter further.

Many thanks in anticipation of your assistance in this matter.

Yours sincerely
STANDARD EMPLOYMENT REFERENCE RESPONSE FOR CURRENT/PREVIOUSLY EMPLOYED STAFF

Name of Individual

Thank you for your letter of (date) concerning the above named individual.

(Name) was employed by Gateshead Health NHS Foundation Trust between (date) and (date) when he/she resigned of his/her own accord.

During his/her employment with the Trust, he/she was employed as (job title) Grade/Band (x).

In my opinion (name) is (reliable/trustworthy/honest) and (his/her) work was (generally satisfactory/always satisfactory/of a high standard).

I am not aware of any reason why you should not employ (name).

Yours sincerely

Name and Job Title of Reference Provider
# APPENDIX 5

## REFERENCE TO BE USED FOR EMPLOYEES WHO HAVE BEEN DISMISSED ON GROUNDS OF CAPABILITY

The reference given below must be used without amendment, and forwarded to the person/organisation requesting it, on Trust headed stationery.

**Name of Individual**

(Name) was employed by Gateshead Health NHS Foundation Trust between (date) and (date) and in my opinion was honest (and trustworthy). During his/her employment with the Trust, he/she was employed as (job title) Grade/Band (x).

1. It was unfortunately necessary for the Trust to terminate (name) employment due to capability

Or

2. It was unfortunately necessary for the Trust to terminate (name) employment due to (some other substantial reason).

Yours sincerely

**Name and Job Title of Reference Provider**
The reference given below must be used without amendment, and forwarded to the person/organisation requesting it, on Trust headed stationery.

**Name of Individual**

(Name) was employed by Gateshead Health NHS Foundation Trust between (date) and (date). During his/her employment with the Trust, he/she was employed as (job title) Grade/Band (x).

(Name) was dismissed following disciplinary proceedings for misconduct/gross misconduct.

Yours sincerely

**Name and Job Title of Reference Provider**

**THIS MUST NOT BE SENT OUT WITHOUT DISCUSSION WITH THE APPROPRIATE LINK PERSONNEL MANAGER**
REFERENCE TO BE USED FOR EMPLOYEES WHO HAVE RESIGNED BEFORE ANY DISCIPLINARY ACTION COULD BE TAKEN

The response below must be used without amendment, and forwarded on Trust headed stationery:

**Name of Individual**

(Name) was employed by Gateshead Health NHS Foundation Trust between (date) and (date). During his/her employment with the Trust, he/she was employed as (job title) Grade/Band (x).

At the time of his/her resignation, disciplinary action for (conduct/capability) was being considered, although (he/she) has not had an opportunity of answering or refuting the allegations.

Yours sincerely

**Name and Job Title of Reference Provider**

*THIS MUST NOT BE SENT OUT WITHOUT DISCUSSION WITH THE APPROPRIATE LINK PERSONNEL MANAGER*