

S

## Introduction

Employers are not obliged to provide references for employees (aside from in the public sector) but, if they do so, they are under a duty of care to the employee/ex-employee who requests the reference and the person to whom the reference is given.

Most employers take up on this duty because factual information about an employee's recent past performance and experience is usually a good basis for a reference.

Some employers seek to sidestep their duty by not giving references at all or just providing basic information such as dates of employment. If this is done consistently and any reference is given in order to avoid a future employment claim, it may provide a detailed (or, indeed,

references for employees or former employees (outside the public sector) but, if they do so, they are under a duty of care to the employee/ex-employee who requests the reference and the person to whom the reference is given.

When they recruit a new employee, they should consider the employee's recent past performance and experience in a similar role.

Employers should avoid problems by not giving references at all or just providing basic information such as dates of employment. If this is done consistently and any reference is given in order to avoid a future employment claim, it may provide a detailed (or, indeed,

## Content of the reference

Great care needs to be taken in giving a reference about the employee's performance. Employers should also ensure that the reference is fair to the employee.

Any reference given by an employer should be accurate and not misleading. If it is not, then either the prospective employer or the employee can seek damages.

Employers should keep the following information as possible, covering such issues as:

- a) Dates of employment;
- b) Job title;
- c) Short job description;
- d) If applicable, why the employee left the Company e.g. redundancy, resignation etc.

If the subject of the reference is a former employee, an employer can state this in the reference, provided that the facts surrounding the termination of his/her employment are stated objectively and truthfully.

Requesting a reference involves processing personal data under the General Data Protection Regulation (GDPR). Employers should ensure that they have a legal basis for processing data and, in the absence of consent, that the employee has consented to process the data. It is a good practice to give the employee a genuine choice about whether to provide a reference for employment purposes.

Employers should comply with their legal obligations by ensuring that a

reference. Nothing should be said which cannot be backed up by fact. Employers should not give information that is known to the employee.

Any reference given by an employer should be accurate and not misleading. If it is not, then either the prospective employer or the employee can seek damages.

Employers should keep the following information as possible, covering such issues as:

- a) Dates of employment;
- b) Job title;
- c) Short job description;
- d) If applicable, why the employee left the Company e.g. redundancy, resignation etc.

If the subject of the reference is a former employee, an employer can state this in the reference, provided that the facts surrounding the termination of his/her employment are stated objectively and truthfully.

Requesting a reference involves processing personal data under the General Data Protection Regulation (GDPR). Employers should ensure that they have a legal basis for processing data and, in the absence of consent, that the employee has consented to process the data. It is a good practice to give the employee a genuine choice about whether to provide a reference for employment purposes.

Employers should comply with their legal obligations by ensuring that a

A

M

P

L

E

