

## Employment Reference Policy

### 1. References for staff – overall guidelines

There are two principal reasons why an employer normally requests a reference on a prospective employee:

- a. to confirm the accuracy of statements made in his/her application, and
- b. to provide opinions as to the candidate's suitability for the post in question and his/her potential for the future.

There is no legal requirement for an employer to provide a reference for a current or past employee. However there is an expectation that employers will provide references and it is Monitor's policy to provide references on request.

Reference requests for current or past employees will normally be handled by Human Resources (HR) and it will be Monitor's practice to provide a standard letter containing factual information as set out in the attached Appendix A.

Where Managers are asked to provide a reference for present and past employees of Monitor you may wish to do so but on the understanding that it is in a personal capacity and is in line with the guidance set out in this policy.

If you are asked to provide a reference in a personal capacity (e.g. as a friend) you must make this clear and not under any circumstances use Monitor headed paper. No liability will attach to Monitor if you decide to act in a personal capacity as a personal referee.

Reference requests from banks, building societies or other potential lenders should be directed to HR for response, as should any reference request which relates to an employee who has been dismissed or who has been subject to disciplinary sanctions or whose performance is under review.

If there is any doubt over any aspect of this policy, guidance must be sought from HR. All personal references given must be copied onto the HR department.

### 2. Duty of care and general approach

When providing references, you must be aware that Monitor owes a duty to the recipient (usually a prospective employer) and to the employee. The duty is to take

reasonable care and to provide information that is true, accurate, fair and non-discriminatory. The reference given does not have to be full and comprehensive but it must not give a misleading impression. It is therefore essential that the reference is based on facts which can be backed up by evidence if challenged. Opinions and subjective personal views which cannot be substantiated should not be included. Statements made should be consistent with those made elsewhere about the employee, for example, comments made about standard of performance in annual performance reviews.

If a careless, misleading or false reference is provided and the recipient acts on it and as a result suffers loss, the person who wrote the reference may be sued for providing a fraudulent or negligent misstatement, or for defamation. In addition, the individual about whom the reference was written may be entitled to compensation for damages caused by a negligent reference.

### **3. Providing a reference**

#### **Monitor reference provided via HR on behalf of Monitor**

All reference requests for existing or past employees of Monitor should be directed to HR for processing and a standard reference will be issued as set out in Appendix A.

This is a minimal reference and sets out the name of the employee, job title, and employment dates. That Monitor takes this standard, minimal approach is:

- communicated to all employees at the outset of employment by Monitor;
- applied uniformly to all employees; and
- not used as a means of concealing something serious.

All references should be marked 'confidential' to the addressee and must contain the following disclaimer in the final paragraph:

*"In accordance with Monitor's normal practice this reference is given in good faith and in confidence, without legal liability on behalf of the author or Monitor."*

#### **Monitor reference provided by a senior manager on behalf of Monitor**

In exceptional situations, members of the senior management team (SMT), and only SMT members, are authorised to respond more fully to reference requests relating to current and former members of staff but always within the guidelines set out in this policy.

### **4. Confidentiality and disclosure of references**

All references are given in confidence but Monitor or the recipient, may be required to disclose a reference under certain circumstances, such as a request for

disclosure by an Employment Tribunal or a Court dealing with a negligence or defamation case.

References received from another person are likely to be covered by the Data Protection Act 1998 (DPA). An individual can have access to information which is about them, but may not necessarily have access to information about other people, including their opinion, provided in confidence.

Although it is not a legal requirement, it is best practice to operate an open recruitment and selection procedure with any references written being copied to the subject.

Subject to the provisions of the DPA, it is Monitor's practice, therefore, that where an individual member of staff gives notice to HR that they wish to see the contents of their HR file, their request is accommodated.

## **5. Telephone or verbal references**

Requests for telephone or verbal references are infrequently received, but should be avoided to minimise the risk of misinterpretation.

If a telephone reference is urgently required, and the person requesting it is not known to you, take the telephone number of their place of work, verify this, and call them back to confirm their position and determine that they are properly authorised to obtain a reference. Always make a full note of the questions asked and the answers given, and follow up the conversation in writing.

## **6. Unsolicited references**

It is generally inadvisable to provide unsolicited references addressed 'to whom it may concern'. If exceptionally, such references are provided they must be limited to factual statements made in accordance with the proforma at Appendix A.

## **7. Requesting references for prospective Monitor employees**

Monitor's policy regarding the taking up of references on prospective employees is contained within the Recruitment and Selection Policy.

*This policy came into operation in January 2008 and will be reviewed in January 2009.*

# Appendix A



Independent Regulator  
of NHS Foundation Trusts

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DATE

**STRICTLY PRIVATE & CONFIDENTIAL**

NAME

ADDRESS

ADDRESS

Dear NAME

**EMPLOYMENT REFERENCE FOR STAFF NAME**

Thank you for your recent letter concerning STAFF NAME.

I am pleased to confirm details of employment with us as below:

<b>Job Title:</b>	ROLE
<b>Start Date:</b>	DATE
<b>Leaving Date:</b>	DATE

We have no reason to doubt their honesty or integrity.

Please note it is our policy to only provide this basic information for employment reference purposes.

In accordance with Monitor's normal practice this reference is given in good faith and in confidence, without legal liability on behalf of the author or Monitor.

Yours sincerely

Director of Human Resources & Corporate Services