

## 1. Scope

All employees of Expansive Learning

## 2. Aim

This policy aims to:

- provide references to external organisations for existing and former employees, and
- obtain references for prospective employees.

The aim of this policy is to set out the principles relating to reference requests and draw attention to the responsibilities and legal liabilities that may arise. References are intended to provide factual information and an objective assessment of the performance of an individual. The provision of a reference will generally involve the disclosure of personal data, and therefore be subject to data protection legislation.

There is a difference between a reference given in a personal capacity, and a corporate reference. A corporate reference is one given on behalf of the employer by one of its own staff and the employer remains legally responsible for compliance with data protection legislation. A personal reference is one given by a member of staff in an individual capacity; whilst it might refer to work, it is not given on behalf of the employer.

This policy covers references given in a corporate capacity on behalf of Expansive Learning, which would be written on headed letter paper, and the person giving the reference would provide their own job title. Expansive Learning is vicariously liable for the actions of its staff when supplying references. Therefore, when a Line Manager provide a reference, they must be satisfied that the principles contained in this document have been observed.

## 3. References for staff – overall guidelines

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

- to confirm the accuracy of statements made in his/her application, and
- 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 Expansive Learning policy to provide references on request.

Reference requests for current or past employees will be handled by the Corporate Services Human Resources Department and it will be Expansive Learning 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 Expansive Learning you may do so if you wish 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 Expansive Learning headed paper. No liability will attach to Expansive Learning if you decide to act in a personal capacity as a personal referee.

Reference requests from banks, building societies or other potential lenders must 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 to HR.

### ***Duty of care and general approach***

When providing references, you must be aware that Expansive Learning 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 statement, 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.

## **Requesting a References**

Reference will be taken up immediately after an offer of employment has been made.

All offers of employment will be subject to the receipt of a minimum of two references which are considered satisfactory by Expanse Learning. One of the references must be from the applicant's current or most recent employer. If the current / most recent employment does/did not involve work with children, then the second reference should be from the employer with whom the applicant most recently worked with children. The referee should not be a relative. References will always be sought and obtained directly from the referee, and their purpose is to provide objective and factual information to support appointment decisions.

All referees will be asked whether they believe the applicant is suitable for the job for which they have applied and whether they have any reason to believe that the applicant is unsuitable to work with children. Referees will also be asked to confirm that the applicant has not been radicalised so that they do not support terrorism or any form of "extremism". Please note that no questions will be asked about health or medical fitness prior to any offer of employment being made.

Any discrepancies or anomalies will be followed up. Direct contact by phone will be undertaken with each referee to verify the reference. Expanse Learning does not accept open references, testimonials or references from relatives.

## **4. Providing a reference**

Expanse Learning references provided via HR on behalf of Expanse Learning. All reference requests for existing or past employees of Expanse Learning must 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 Expanse Learning takes this standard, minimal approach is:

- communicated to all employees at the outset of employment by Expanse Learning;
- 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 Expanse Learning Limited's normal practice this reference is given in good faith and in confidence, without legal liability on behalf of the author or Expanse Learning Limited."***

Expanse Learning reference provided by a senior manager on behalf of Expanse Learning

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.

## Confidentiality and disclosure of references

All references are given in confidence but Expanse Learning 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 2018 (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 Expanse Learning’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 as highlighted in the Data Sharing policy.

## Telephone or verbal references

Requests for telephone or verbal references are infrequently received and must be refused. The rationale for this is to minimise the risk of misinterpretation. 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.

## 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 pro-forma at **Appendix A**.

## 5. Monitoring and Review

The effectiveness of this policy will be reviewed annually.

<b>Impact of non-compliance for:</b>	
<b>Staff:</b>	Disciplinary action, Support, Action Plan
<b>Student:</b>	Not applicable
<b>Legislation/organisational:</b>	statutory and non-regulated compliance. Prosecution, Staff Retention, Poor employee performance etc
<b>Compliance lead:</b>	Corporate Services
<b>Policy Reference:</b>	ELGR-HR-011
<b>Version:</b>	3
<b>Agreed policy location:</b>	DatabridgeMIS
<b>Does the policy require Governor approval?</b>	No

### Approval

<p><b>Prepared by</b> Scott Roberts 01/09/2020</p>  <p>Head of Corporate Services</p>	<p><b>Approved by</b> Tony Brown 01/09/2020</p>  <p>CEO</p>	<p><b>Counter Signatory</b> Karl Wane 01/09/2020</p>  <p>Director of College</p>
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## Version Control

<i>Version</i>	<i>Date</i>	<i>Revision</i>	<i>Review Date</i>
3	01/09/2020	Reviewed	31/08/2021
4			
5			
6			
7			

**Appendix A - (To be printed on Letter Headed paper ONLY)**

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**STRICTLY PRIVATE & CONFIDENTIAL**

Name  
Address  
County  
Town  
Post-code

**RE: Employment Reference for Staff**

Date Format [Day] [Month] [Year]

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Dear [NAME],

Thank you for your recent letter concerning [STAFF NAME].

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

Job Title	Start Date	Leaving 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 Expanse Learning Limited normal practice this reference is given in good faith and in confidence, without legal liability on behalf of the author or Expanse Learning Limited.

Yours sincerely

HR Expanse Learning