



CURRICULUM POLICY AND PROCEDURES FRAMEWORK

Existing and Former Student Reference Policy and Procedures

1.0 Purpose

These Policy and Procedures provide guidance to academic staff and explain their responsibilities and legal liabilities when providing references on behalf of existing or former students.

2.0 Policy Statement

Jewel & Esk College will strive to respond to all appropriate requests for confidential references for students past and present.

3.0 Scope

- 3.1 These Policy and Procedures apply to students and potential employers of students seeking references from Jewel & Esk College.
- 3.2 Whilst there is no strict legal obligation on the College to provide a reference to a third party, the College recognises it has a duty to treat students fairly and there may be legal consequences of refusing to do so in particular cases.
- 3.3 Normally the College is asked to provide references for students for employment purposes. However, references may be provided for other purposes, for example: in support of university entrance, a mortgage application or when renting accommodation. The principles outlined in this Policy apply to all references.
- 3.4 This policy should be read in conjunction with the College Equality and Diversity Policy and Procedures and its Disability, Race and Gender Equality Schemes.

4.0 Responsibilities

- 4.1 The Depute Principal is responsible for the implementation and development of this policy.
- 4.2 All staff are responsible for ensuring they comply with this policy. Referees have a responsibility to be truthful, not to be malicious or discriminatory and to include only what is accurate, true, fair and reasonable.
- 4.3 Curriculum Leaders have the responsibility to provide references for students.
- 4.4 Student Services are responsible for co-ordinating UCAS reference procedures. The Class Tutor is responsible for writing the UCAS reference, the content of which should be written in accordance with the guidance notes available on the UCAS website. The College's 'Notes for Tutors' annually updated, outlines the procedures to be followed when writing a UCAS reference. These notes are included in the Tutor pack.
- 4.5 Learning Managers have the responsibility to check and endorse student references.
- 4.6 The Halls of Residence Manager has the responsibility to provide references (when a student has lived in the Halls of Residence). These will be checked and endorsed by the Director of Campus Redevelopment.

5.0 General Principles

- 5.1 Existing students should obtain the permission of the member of staff they nominate as a referee.
- 5.2 Normally references written by a member of College staff shall be available on request to the individual concerned.
- 5.3 All references shall be signed by the Curriculum Leader and countersigned by a Learning Manager as being compliant with this policy.
- 5.4 Under no circumstances will references contain any information regarding Disclosure under Part V of the Policy Act 1997 (see Disclosure of Information by Students Policy)
- 5.5 Personal references must not be produced on College headed notepaper. A breach of this fundamental principle may result in the use of disciplinary procedures (see clause 12.3).

6.0 Procedures

6.1 When to give references

- 6.1.1 Detailed references shall normally only be given for students who have studied or are studying for a full-time or substantial programme that allows the construction of a valid reference.
- 6.1.2 Detailed references for former students will normally only be given within a period of three years after leaving the College.
- 6.1.3 When a reference is requested for a student who has been away from college for more than three years this will normally be restricted to known facts on attendance at College and qualifications gained.

7.0 Format

- 7.1 References must be given in writing and meet the requirements as specified in these procedures.
- 7.2 Oral references have the same legal standing as written references but can be misunderstood or misconstrued. See Clause 18.1 for action required.

8.0 Providing References for existing or former students.

- 8.1 In providing a reference, both the College and referee accept certain responsibilities and liabilities. In addition to data protection subject access rights (see College's Data Protection Policy), documents may have to be disclosed in connection with litigation. References therefore must be scrutinised carefully before issue.

9.0 Key Legal Considerations in Providing a Reference

9.1 Defamation

- 9.1.1 A reference must not contain a false or unsubstantiated statement that damages the reputation of the individual as actions for damages may result.

10.0 Deceit

- 10.1 Where a false statement is knowingly made with the intention that the person receiving the reference will act on it, for example providing a glowing reference in respect of a student which is false in that it attributes characteristics, abilities or a level of competence to that person which the referee knew to be untrue, an action alleging deceit could arise. The prospective employer would have to show that the individual had been appointed on the basis of the reference, only to find that he/she was not suitable in respect of a "material" factor, provided in the reference.

11.0 Negligence and the Duty of Care

- 11.1 A claim of negligence could arise where a referee provides a reference with facts that have not been checked and has failed to take reasonable care in its preparation.
- 11.2 The College has a duty of care both to its students and to third parties to whom it supplies references. This duty of care requires that references are provided in good faith and are fair, reasonable, true and accurate as well as not being misleading when considered overall. The duty thus may have negative as well as positive aspects. For example, by omitting from a reference known relevant information, which the subject of the reference might consider unhelpful to his/her application (such as disciplinary action), a referee may have to discharge the duty of care to the third party seeking a reference. This could lead to legal action being taken against the College by the third party if the third party suffers any kind of loss or damage as a result of engaging someone on the basis of a misleading or erroneous reference.
- 11.3 If there is an issue arising out of a requirement to provide specific information the referee should advise the student (or former student) that information might be provided which could prove detrimental to their application.

12.0 Who may provide references on behalf of Jewel & Esk College

- 12.1 Curriculum Leaders may provide references for students on behalf of Jewel & Esk College. However, in view of the above legal implications student references must be countersigned by a Learning Manager as being compliant with this procedure.
- 12.2 All references provided on behalf of the College must be on College headed notepaper and should be sent directly to the third party requesting the reference.
- 12.3 Individual members of College staff may be nominated on a personal basis. Where a reference is provided in a personal capacity rather than on behalf of the College, then this should be stated in the reference and College headed notepaper must not be used (see clause 5.5).

13.0 Contents of References

- 13.1 The referee has a duty to disclose only that information which is relevant to the post for which the application refers e.g. University entrance, when renting accommodation, etc.
- 13.2 The two principal aims of a reference are:
- to confirm facts;
 - to provide an opinion as to suitability based on an assessment of performance as a student, for example:
attendance;
standard of work;
meeting deadlines;
conscientiousness;
team work;
career focus.
- 13.3 A reference relies on both fact and opinion and it is essential to differentiate between the two. It must in all cases be accurate, reasonable, not misleading and give a fair overall impression of the student concerned.
- 13.4 Factual information should be able to be substantiated.
- 13.5 Subjective opinions on suitability must be avoided.
- 13.6 Where a reference is requested on a former student who left the College some time ago and no member of staff has direct knowledge of the individual, then only factual information such as dates of attendance at College and qualifications gained should be provided.
- 13.7 The style of the reference should be clear, unambiguous and not malicious in any way.
- 13.8 Accommodation References supplied by the Halls of Residence manager will contain appropriate information and will be retained in the Halls Office
- 13.9 Copies of all references must be sent to the Registration Section for retention in the student's file.
- 13.10 On occasion a reference will be requested using a proforma issued by the third party. The proforma when completed must contain the College stamp and a covering letter containing the disclaimer as outlined in clause 20.1.

14.0 Disclosure of Information

- 14.1 The College owes a duty of confidentiality in respect of certain information which it holds about its students and has a duty under the Data Protection Act 1998 to process data fairly and lawfully.
- 14.2 Referees should not include extraneous matters, but they should not make the reference misleading by withholding information on the grounds that it may be damaging to the student's prospects.

15.0 Disciplinary Record

- 15.1 Statements in a reference should not refer to complaints or to difficulties that have not been raised with the student concerned.
- 15.2 Where a disciplinary warning is outstanding it may be referred to if relevant to the post for which the student has applied. However a pending investigation where no disciplinary action has been taken should not be referred to in writing. There may be exceptions, for example, if the alleged disciplinary offence is one of gross misconduct and could affect the student's suitability for the employment in question.

16.0 Health

- 16.1 Information concerning a student's physical or mental health is likely to be classified as confidential and sensitive personal information in terms of the Data Protection Act 1998. If there is an overriding "public interest" in disclosure – which is permitted under the 1998 Data Protection Act – the student should be informed that the College needs to refer to these matters in giving a proper reference. The student should give his or her explicit consent in writing, to disclosure of such information. If this consent is not provided the third party should be advised that the College is not in a position to provide a reference.

17.0 Dismissal

- 17.1 A referee should not provide a favourable reference for a student dismissed from the college.
- 17.2 Referees need to be aware of their duty to a prospective employer when supplying references on students who have been dismissed. Omitting information on a dismissal from the reference information may render the College liable to breach of its duty not to be unfair or misleading to the recipient.

18.0 Providing Oral References

- 18.1 Oral references should be avoided if at all possible. If necessary the referee should verify the authenticity of the third party by returning the phone call. Thereafter, and without delay it should be followed up in writing, confirming that this is the "formal" reference.

19.0 Timing

- 19.1 Requests for references should normally be responded to within 5 working days. Unnecessary delay will reflect badly on the College's reputation and may jeopardise the candidates' chances of employment, university entrance, etc. If the referee is unavailable within this timescale, eg on holiday, where possible, the organisation requesting the reference will be notified.

20.0 Disclaimer

- 20.1 All references will contain the following disclaimer

“In line with College policy, this reference is given without prejudice and neither its author nor the College can be held responsible for its interpretation”.

21.0 Data Protection Act 1998

- 21.1 Jewel & Esk College is committed to ensuring that the processing of personal data is only undertaken in the legitimate operation of the business of the College. The College will ensure that the eight principles on which the Act is based are made known to and observed by all College staff.

22.0 Complaints

- 22.1 If a referee receives a complaint about a reference, no liability should be admitted, and the matter referred immediately to the Depute Principal.