

Livewell Southwest

Reference Policy

Version No 1

Review: December 2019

Notice to staff using a paper copy of this guidance.

The policies and procedures page of intranet holds the most recent version of this guidance. Staff must ensure they are using the most recent guidance.

Author: Human Resources Department

Asset Number: 943

Reader Information

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Asset number	943
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Document review history

Version no.	Type of change	Date	Originator of change	Description of change
1	New Document	December 2016	HR Policy Group	Development of New Policy.

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Reference Policy

1 Introduction

- 1.1 Livewell Southwest is committed to fairness and equity and values diversity in all aspects of its work as a provider of health and social care services and as an employer of people. We constantly strive to build a workforce that is representative of the community it serves.
- 1.2 Livewell Southwest is committed to eliminating all forms of discrimination on the grounds of age, disability, gender reassignment, marriage / civil partnership, pregnancy maternity, race, religion or belief, sex and sexual orientation in the provision of our services and in recruitment and employment. This enables an environment that is characterised by dignity and respect which is free from harassment, bullying and victimisation.
- 1.3 The organisation is committed to the application of fair and consistent procedures for the requesting and processing of references. This policy aims to provide all employees with frameworks for requesting references for new employees and current employees moving into new roles, along with the provision of references, including employment references, character references, and other references.

2 Purpose

- 2.1 The purpose of references is to obtain information, in confidence, from a third party to provide a factual check on a candidate's employment history, qualifications, experience and/or an assessment of the candidate's suitability for the post in question. The information sought usually includes length of employment, job title, brief details of responsibilities, reasons for leaving etc.
- 2.2 Livewell Southwest has a duty of care to the employee/former employee and the prospective employer in preparing a reference. This is to ensure that either the individual or prospective employer does not suffer a loss as a result of inaccuracies in a carelessly drafted reference. For this reason, it is therefore essential that all references are:
 - True, fair, factual
 - Does not give a misleading impression overall
 - Does not unfairly present a poor image of the individual

Therefore references should be prepared with reasonable care. For further advice, please contact the HR department.

- 2.3 This policy applies to all employees of Livewell Southwest. It is important to ensure the application of the most appropriate policy given the historical employment record of the employee concerned, particularly as specific contractual policy arrangements may apply following transfer processes (known as TUPE).

3 Definitions

- 3.1 **References** are defined as information provided to a prospective employer relating to the employment history of a current or former employee including positive or negative factual comments about an employee's job performance. Also employment history and salary confirmation details provided for mortgages, rental arrangements, etc. There are usually two forms of references – employment reference and/or personal character reference.
- 3.2 **Employees** are any individual working under a contract of employment for Livewell Southwest. For the purposes of requesting and providing a reference, this includes volunteers who have a signed Volunteer Agreement with Livewell Southwest.
- 3.3 **Referee** is the person preparing the reference.

4 Duties & Responsibilities

- 4.1 The **Chief Executive** is ultimately responsible for the content of all policies, implementation and review.
- 4.2 Line Managers are responsible for:
- Ensuring that this policy is adhered to within their specified area, and should take consideration of it when processing reference requests.
 - Ensuring that employees are made aware of this policy and understand their responsibilities in relation to it.
 - Providing a reference which is in substance true, accurate and fair with consideration to the mutual trust and confidence. The reference must not give an unfair or misleading impression overall, even if its discrete components are factually correct.

The organisation may be liable to a claim of negligence if the employee suffers loss as a result of a manager failing to exercise reasonable care in the preparation of a reference.

- 4.3 Employees must:
- All employees have a responsibility to familiarise themselves with this and other relevant policies and procedures.
 - All employees must inform their line manager immediately if approached for a reference which they are not authorised or in a position to provide on behalf of the organisation.
 - Employees should ensure they provide external recruitment representatives with accurate contact details of their line manager to ensure their reference request is processed in timely manner.
 - As a matter of professional courtesy, all employees are expected to inform their line manager if they are applying for any position, either internally or externally, which requires a reference from their employer.

4.4 Legal Obligation

- 4.4.1 There is no legal obligation on an employer to provide a reference for an existing or former employee. However, refusal to provide a reference can be interpreted negatively by the prospective employer and may be perceived by the individual as victimisation amounting to direct or indirect discrimination.
- 4.4.2 Refusal to supply a reference should only be exercised in limited circumstances e.g. where an employee is currently bringing a claim against the organisation, or where the individual left prior to the formation of the new company on the 1st October 2011. Please discuss this with the HR team.

4.5 Inaccurate References

- 4.5.1 An employee or former employee could bring an action against their employer for libel or defamation of character, if they consider the reference to be inaccurate. It is essential therefore that all information provided can be substantiated with factual evidence, if challenged at a later date. Referees must avoid using vague statements that could be misleading or open to interpretation.
- 4.5.2 An employee or ex-employee can bring a claim for unlawful discrimination where the employer or the individual who provided the reference has provided an adverse reference for a reason linked to one of the protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation).

5 Requesting References

- 5.1 Once a candidate has been interviewed and considered suitable for appointment, a conditional offer of employment can be made subject to all of the pre-employment checks being successful as detailed in the Recruitment and Selection Policy. This includes reference requests for all appointments (internal and external).
- 5.2 External candidates shall require a minimum of two references, of which one must be from the current, or last, line manager. Internal candidates shall require one reference - which must be from the current line manager.
- 5.3 Requests for references will be issued to the referees detailed on the relevant section of the successful candidates application form. Where full and relevant referee details have not been provided, candidates will be asked to confirm this information to the recruitment team, including referee contact details.

Requests for references will be issued by the recruitment team within 10 calendar days of the appointing manager confirming the outcome of recruitment and selection processes. In the event that the candidate has not indicated their permission to contact their referees the recruitment team

representative shall contact the candidate to advise them of the date references will be issued.

External References

- 5.4 All external referees will be provided with the Livewell Southwest standard reference request form for completion and return to the recruitment team (Appendix 1). However the organisation recognises that some external organisations may use a pro-forma of their own.
- 5.5 However in exceptional cases where timescale pressures prevent this it may be appropriate for the recruitment team representative to obtain a telephone (verbal) reference. A record of the telephone reference should be retained, (Appendix 3).
- 5.6 External appointments shall require at least two references, and must cover at least the last three years of work and/or training history in accordance with NHS Employer requirements. With regard to Adult Social Care posts a period of 5 years of references is required (as required by Local Government Safeguarding instructions) The number of references may differ for each applicant, depending on how many episodes of employment/training they may have had in the last three years prior to making their application. Any gaps in employment history may be explored with the applicant for clarification by the recruitment representative.
- 5.7 In exceptional circumstances, if it is difficult to obtain a reference from a previous employer two references should be obtained from someone who can comment on the individual's suitability for the post and preferably has known the candidate for at least three years e.g. a back-to-work co-ordinator, registered charity, voluntary organisation, tutor or education provider. Acceptance of alternative reference providers is at the discretion of the recruitment manager/recruitment team.
- 5.8 It is recognised that defining a "satisfactory" reference is very subjective and the decision ultimately lies with the recruitment team with the support of the appointing line manager. Line managers may review the reference documents by contacting the recruitment team to arrange an appointment.
- 5.9 If when conducting employment checks a reference comes back that is not considered satisfactory, in the opinion of the recruitment team, then the offer of employment can be legitimately withdrawn. This may include circumstances where no references are obtained or where a reference is incomplete, unsatisfactory (i.e. poor, previously dismissed, etc.), or gives limited assurance.
- 5.10 The recruitment team and appointing managers should however take reasonable care not to jump to conclusions about what has been said or not said in a reference. If anything is vague the recruitment team should contact the referee for clarification and carefully record the outcome.

Internal References

- 5.11 All internal referees will be provided with the Livewell Southwest standard reference request form (Appendix 2) for completion and return to the recruitment team.
- 5.12 Reference requests shall be accompanied by a copy of the job description and person specification for the post applied for.
- 5.13 Reference requests will be marked "private and confidential" and "for the addressee only" and sent by secure email to the referee. The referee shall be required to return the completed reference within five working days to the recruitment team.
- 5.14 Internal appointments shall require one reference from their current line manager, in accordance with NHS Employer requirements (unless the current line manager was on the interview panel).
- 5.15 The reference shall be reviewed by a representative of the recruitment team with the support of the appointing line manager. The decision ultimately lies with the recruitment manager. Line managers may review the reference documents by contacting the recruitment team to arrange an appointment.

General Principles

- 5.16 Completed references shall be stored on the personnel file within the HR department in accordance with the organisations document management protocols for the retention and destruction of sensitive personal information.
- 5.17 Returned references shall be reviewed by a representative of the recruitment team with the support of the appointing manager. The recruitment team representative shall be responsible for reviewing and considering the appropriateness of the reference and shall mark the outcome on the reference paperwork.
- 5.18 In accordance with current legislation, candidates may request to review any reference received. The organisation shall seek the permission of the referee where possible prior to release however page 1 of the reference can be released immediately and page 2 requires permission from the person who has supplied the reference. If the referee has used their own format for the reference, permission to release the information will be required.
- 5.19 Where an offer of employment has been withdrawn due to the reference information received, the recruitment paperwork shall be stored within the HR department in accordance with the organisations document management protocols for the retention and destruction of sensitive personal information.

6 Provision of References

- 6.1 Line managers should prepare and supply references in consultation with the HR Department.
- 6.2 Where there has been a change of management and the individual's current manager is not suitably familiar with their work, then the approved manager must liaise with the previous manager and incorporate their comments into the reference accordingly. Where the previous manager is either no longer employed by Livewell Southwest or unavailable at the time, then this must be communicated to the person requesting the reference.
- 6.3 Requests to Livewell Southwest to provide an employment reference must be received on the headed notepaper of the company/organisation making the request. Some organisations, such as the NHS may request references as part of an automated process by e-mail which can be easily verified by contacting the company/organisation. If this is not possible, please refer to the HR department for advice.
- 6.4 Any requests for a reference received should be passed to the line manager as soon as reasonably possible to ensure it can be processed in a timely manner. Livewell Southwest aims to process all reference requests within 14 calendar days of receipt.
- 6.5 Due to the complex nature of the organisation, line managers must ensure the employee (or former employee) is eligible for an employer reference from Livewell Southwest by considering the historical employment record of the individual.
- 6.6 Any uncertainty regarding the provision of references should be clarified with the HR department who will provide advice and guidance on the provision of references.
- 6.7 Where possible the person dealing with the reference request should seek confirmation from the employee to check it is a genuine request. If the person dealing with the request has any doubts about whether or not the individual has given his/her consent and/or the accuracy of any statement made, they should contact the individual to for clarification and check whether or not he/she wants still wishes for a reference to be provided.
- 6.8 Any employment references provided must be in writing using the organisation's standard pro forma (Appendix 4) to ensure consistent information. This will be supported by a covering letter (Appendix 4) which should explain that it is the policy of Livewell Southwest to respond to requests for information in a standard format.
- 6.9 There is an implied duty of mutual trust and confidence between the referee and the employee. Where a manager supplies factual information that concerns a shortfall in the ability of the employee/former employee, this must only be included if the shortcomings have previously been brought to the

individual's attention such as performance, timekeeping or attendance for example. In these cases an appropriate discussion has taken place and a record of that discussion has been documented. Where there are issues that the employee has not formally been made aware of, these should not be included. Disciplinary or performances that that concluded some time ago should also not be included, particularly if that particular disciplinary process did not have a bearing on the individual's reasons for leaving their current employment.

- 6.10 Where a reference is requested for an employee who has been dismissed for gross misconduct, or has been suspended or is subject to a current disciplinary investigation, guidance must be sought from HR on how to respond this this circumstance. Guidance from HR should also be sought where Livewell Southwest has been asked to confirm in a reference the number of days' sickness absence which an individual has had in the previous 12-month period and/or the reason(s) for any absence(s) as part of a conditional offer and any information provided will need to be approved in advance by the HR Department. In such circumstances, a member of the HR Department will double check with the individual concerned that the information to be provided to the prospective employer is 100% accurate and seek their approval on a draft response before disclosing it.
- 6.11 The reference must not contain personal opinions about the individual's performance or conduct. It is the responsibility of the person preparing the reference to ensure that the information provided is true, accurate, fair and not misleading.
- 6.12 A disclaimer should be included in the reference making it clear that, while the information provided is, to the best of the organisation's knowledge, completely accurate, Livewell Southwest cannot accept any liability for decisions based on it.
- 6.13 Once completed, the reference should be forwarded to the prospective employer. The reference should be marked "private and confidential" and "for the addressee only" and sent by post or secure email to the prospective employer.
- 6.14 If the person preparing the reference receives an enquiry from the prospective employer for clarification of information given in the reference, they must ensure that they do not go beyond the content of the reference in the information provided.
- 6.15 Any such enquiry should, where possible, be dealt with in writing to avoid any subsequent confusion. If the enquiry is dealt with over the telephone, a written record of the information provided must be made at the time of the conversation and stored within the personnel records of the employee whom the reference concerns.
- 6.16 A copy of the references documentation, and any subsequent enquiries, should be held securely within the line management records in accordance

with the Livewell Southwest policies on record retention. Thereafter, the reference should be disposed of securely.

References Supplied Under a Settlement Agreement

6.17 References are often included as part of the negotiated terms of a Settlement Agreement (previously known as Compromise Agreements). This means that when reference requests are received in connection with an employee who left the organisation under a Settlement Agreement, the individual providing the reference should seek advice from HR. It is possible that a reference format has been arranged as part of the Settlement Agreement and only this agreed reference should be supplied. If a reference has been pre-agreed, any references supplied must not deviate from these sets of words.

Personal Character References

6.18 From time to time representatives of the organisation may be approached by current or past employees with a request for a personal character reference. Personal character references are personal opinions of a person's character and must not be written on behalf of Livewell Southwest. It is entirely at the discretion of the referee as to whether they provide this or not.

6.18.1 If agreeing to provide a personal reference the referee must make it clear that any statement made is their personal opinion and that any information provided comes from them.

6.18.2 Personal references must be written on the referee's own stationery and sent as from their home address or personal e-mail address. They must not be written on headed paper nor sent from workplace e-mail addresses.

6.18.3 It is advisable, however, that the referee restrict their reference to factual information for which they can provide evidence if required to do so.

Receiving a Request for Other References

6.19 The organisation often receives requests for additional references such as mortgage or rental references. It is the organisation's policy that references for mortgage or rental agencies may only be given by the payroll provider at Shared Business Services (SBS). No other person in the organisation is permitted to provide a written or verbal reference about current or former employees. Any requests for a reference should be passed to SBS within 14 calendar days of receipt. The individual dealing with the reference request should ensure, where possible, that the employee whom the request for the reference relates has given their consent (preferably in writing) for a reference to be provided to the named company requesting the reference.

References for Others

6.20 All requests for references for contractors, temporary workers, or employees from partnership agencies should be referred to the HR department who will respond on behalf of Livewell. It is the organisation's policy not to provide professional references to employees of external organisations.

Reviewing the Reference Provided

6.21 Employees may request to review a copy of the reference documentation by contacting their line manager in writing. The line manager will reasonably consider the request.

6.21.1 Current employees who are not satisfied with the reference documentation provided may wish to discuss the situation with their line manager. Alternatively they may refer to the Grievance Policy where appropriate.

6.21.2 Former employees who are not satisfied with the reference documentation provided may wish to refer to the Compliments, Concerns & Complaints Policy.

7 Training implications

The HR department provides advice, policy awareness raising and coaching to managers as and when required. Training will be provided to Managers, as required, on their duties in relation to this policy.

8 Monitoring compliance

Failure to comply with the contents of this policy may result in disciplinary action. Please refer to the Disciplinary Policy for further details. The effectiveness of this policy will be monitored through the HR Policy Group.

All policies are required to be electronically signed by the Lead Director. Proof of the electronic signature is stored in the policies database.

The Lead Director approves this document and any attached appendices. For operational policies this will be the Locality Manager.

The Executive signature is subject to the understanding that the policy owner has followed the organisation process for policy Ratification.

Signed: Director of Clinical Practice and Development

Date: 21st December 2016

Appendix 1 – External Applicant Reference Request
TO BE SENT VIA EMAIL WHERE POSSIBLE

Level 1, Windsor House
Tavistock Road
Plymouth, PL6 5UF
Tel: 01752 <PHONE>
Email: <EMAIL>@NHS.net

<DATE>

PRIVATE AND CONFIDENTIAL

<NAME>

<ADDRESS>

<ADDRESS>

<CITY>

<POSTCODE>

Dear <NAME of REFEREE>,

We have recently interviewed <CANDIDATE NAME> for the position of <ROLE TITLE> with Livewell Southwest. The application for <CANDIDATE NAME> is being pursued and they have provided your name as a referee.

Please find attached the Job Description and Person Specification for the post. Due to Livewell Southwest's standards, we are required to request references from individual's employment / educational history up to three years ago. We would be grateful if you could complete the reference form attached and provide any further information you may wish to give on an additional sheet.

By statutory requirement, the post applied for is exempt from the Rehabilitation of Offenders Act 1974 by its Exception Order of 1975 and 2013. You are, therefore, asked to disclose all cautions and convictions known to you which may be relevant to the applicant's suitability for employment and are appropriate to disclose given the Exception Order of 2013. Any information disclosed will be kept strictly confidential.

Please note that if requested by the applicant, a copy of the response in sections 1-5 will be given to the applicant. However, the information given for sections 6-10 will only be provided to the applicant with your consent.

I would be grateful if you could reply by email, using your organisational email address only, or fax, details to 01752 272391 as soon as possible. Thank you in advance for your cooperation.

Yours sincerely,

<NAME>

<ROLE TITLE>

Appendix 1 – External Applicant Reference Request Form

Name of Referee		For Office use only	
1. Organisation/institute		Name of Applicant	
Email address		Job Reference	
Contact number		Locality	
Relationship with applicant		Job Title	
2. Start date of applicant's employment/study		Date checked	
End date of applicant's employment/study		Comments	
3. Job Role of applicant/subject studying			
Reason for leaving if relevant			
4. How many days and how many occasions has the applicant been absent from work due to illness over the past 2 years?			
	Number of occasions	Dates	
Within previous 12 months			
Previous 12-24 months			
5. During the past 2 years has there been any reason to counsel the applicant under your disciplinary or performance procedure? (If so, please give details and expand as necessary)			
6. If relevant, are you completely satisfied that the candidate is suitable to work with children? (If not please give details and expand as necessary)			

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7. If relevant, would you re-employ? (please give reasons and expand as necessary)				
8. Does the applicant have any cautions or convictions to your knowledge? (please give details and expand as necessary)				
9. Please mark with an "X"	Poor	Satisfactory	Very good	Excellent
Communication skills				
Please give details				
Responsibility				
Please give details				
Punctuality				
Please give details				
Team work				
Please give details				
Reliability				
Please give details				
Attendance at work				
Please give details				
Overall job performance				
Please give details				
10. Please provide any additional information which you believe to be relevant to the applicant's suitability for this position (expand as necessary)				
Do you give your permission for the applicant to view the information in sections 6-10?				Yes/No
E-Signature				
Date				

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Appendix 2 – Internal Applicant Reference Request
TO BE SENT VIA EMAIL WHERE POSSIBLE



Level 1, Windsor House
Tavistock Road
Plymouth, PL6 5UF
Tel: 01752 <PHONE>
Email: <EMAIL>@NHS.net

<DATE>

PRIVATE AND CONFIDENTIAL

<NAME>

<ADDRESS>

<ADDRESS>

<CITY>

<POSTCODE>

Dear <NAME of REFEREE>,

We have recently interviewed <CANDIDATE NAME> for the post of <ROLE TITLE> for Livewell Southwest. The application for <CANDIDATE NAME> is being pursued and has given your name as a referee.

Please find attached the job description and person specification for the post. We would be grateful if you could complete the attached internal reference form and return via email, using your organisational email address within **five working days**.

Any information provided will be kept strictly confidential. If the applicant requests to see a copy it will only be provided with your consent.

Yours sincerely

<NAME>

<ROLE TITLE>

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Internal Applicant Reference Request Form

Reference Request for <u>internal applicants only</u> – please return within five working days.				
Name of referee				
Contact number				
Relationship with applicant e.g. Manager/supervisor				
How long have you line managed/supervised this applicant?				
How many days and how many occasions has the applicant been absent from work due to illness over the past 12 months?	Number of occasions	Dates		
During the past 2 years has the applicant been subject to a disciplinary or performance process? (If so, please give details and expand as necessary)				
Overall performance (please mark 'X')	Excellent	Very Good	Satisfactory	Poor
Please provide any additional information which you believe to be relevant to the applicant's suitability for this position (expand as necessary)				
Is there any other relevant information or issues that you feel we need to be made aware of regarding this applicant?				
E-Signature				
Date				

For office use only	
Name of applicant	
Job reference	
Locality	
Job title	
Date checked	
Comments	

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Appendix 3 – Verbal Reference Record

Verbal Reference Record	
The following verbal reference record shall be used by the recruitment team to record verbal references for external and internal candidates during the recruitment and selection pre-employment checks. The recruitment team shall be responsible for following seeking confirmation of this record in email/letter as per the Reference Policy arrangements.	
Name of Applicant	
Job Reference	
Locality	
Job Title	
Ask the referee to confirm the following information:	
Referee's Name	
Referee's Job Title	
Referee's Company/Organisation	
Referee's Phone Number	
Referee's Email Address	
Recruitment Team Representative:	
Date and Time of Reference Check	
Name of person taking the verbal reference	
Signature	
Date	
Additional Information:	

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Appendix 4 – Proforma Current/Former Employee Reference
TO BE SENT VIA EMAIL WHERE POSSIBLE



Level 1, Windsor House
Tavistock Road
Plymouth, PL6 5UF
Tel: 01752 <PHONE>
Email: <EMAIL>@NHS.net

<DATE>

PRIVATE AND CONFIDENTIAL

<NAME>

<ADDRESS>

<ADDRESS>

<CITY>

<POSTCODE>

Dear <NAME of EMPLOYER>,

Following your recent reference request, I enclose a Livewell Southwest proforma reference with regard to <NAME of EMPLOYEE>, <ROLE TITLE>.

Our policy on providing references for present and previous employees is to use a proforma template of our own to ensure consistency of information.

I do hope the information provided is of use in you decision making process.

Should you have any queries please contact HR Services on Tel: 01752 435024 or Email: PCHCIC.hr-pch@nhs.net.

Yours sincerely

<NAME>

<ROLE TITLE>

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Reference for Current/Former Employee of Livewell Southwest

Employee	Name:			
	Role:			
	Team:			
	Period of Employment:	Date From:		
		Date To:		

The skills used to perform this role were: (e.g. professional, technical, managerial)

Reason given for leaving:

Any Additional Relevant Information.

Authorisation	<p><i>I declare that the information given in this reference is to the best of my knowledge complete and accurate.</i></p> <p><i>This reference is given in confidence, to the addressee only, and only for the purposes for which it was requested. The reference is given in good faith, based on the information available to the organisation at the date on which it is given.</i></p> <p><i>Neither the organisation, nor the author of the reference, accept any responsibility or liability for any loss or damage caused to the addressee or any other third party as a result of reliance being placed on it.</i></p>		
	Referee Signature:		Date:
	Referee Name:		Organisation:

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