

Employers Tread Carefully on References

Company bosses are treading carefully when it comes to providing references for ex-employees. There are a number of laws which prevent them from writing accurate but unflattering job references, and fear of being brought before an employment tribunal or court is causing most to restrict their references to simple factual lists of dates and job titles.

Employers often face the dilemma of either telling the whole truth about an employee's performance and ability or risk a possible legal claim later on. There's also the added worry of passing an unreliable worker onto

another company without spelling out the potential problems of employing them.

Of course previous employers can choose not to provide a reference but this act in itself implies there may have been problems with the employee's performance record.

If they do choose to provide a reference, they should be aware of the minefield of legislation relating to data protection and discrimination.

This is perhaps why many employers opt to provide a simple reference listing job titles and positions held. Over time, this practice is likely to become more widespread and the importance attached to the traditional reference will diminish.

Employers taking on new staff face a similar issue when making their pre-employment checks as again, the provisions of the Data Protection Act should be considered. Companies need to find out about a candidate's employment history and these checks must be related specifically to the job which the candidate has applied for. The employer also has a duty to inform the candidate that they are being screened, and ask for their written consent.

There is one further hurdle to cross: does the candidate have the right to work in the UK? A civil penalty of up to £2000 may soon be imposed on firms offering employment to workers without permission to work in the UK – whether they realised it or not.

