



Be Aware of References*

The issue of references is an issue which we covered in the May issue of Keeping in Touch.

A recent UK Appeals Tribunal has indicated the risk of employment references both for those who issue them and those who rely on them. In the UK case Ms. X suffered from a disability. She had prolonged period of absence. The company mentioned her absences in her employment references and also commented that it felt she was unsuitable for the role with Company B. As a result Company B withdrew the offer it had made to her. The Tribunal found that both Company A and Company B were guilty of discrimination. It is important for employers to be mindful what they include in employment references, whether in writing or verbally. References can be sensitive subject particularly where an employee has left under unfavourable circumstances.

There is no requirement in Ireland to provide a reference.

Many employers now are simply giving a reference that gives a start and finishing date, a commencement salary and a finishing salary and particulars or any increases or bonus payments received by an employee during their employment with the employer including their starting position and finishing position within the company.

If an employer proposes to do this then it is important that number of simple rules is followed. Namely:

1. That the employment reference policy is clearly set out in the Contract of Employment or Staff Handbook.
2. That the employer has evidence that the employee has accepted this by way of a signature on the Contract or Staff Handbook.
3. That the employer applies this reference policy across the board in respect of all employees without deviation.

This will protect an employer from a claim.

There are however some drawbacks.



If you, as an employer, give a very limited form of reference then you cannot look for any more extensive reference in respect of a prospective employee than you are prepared to give yourself.

The whole issue of giving and receiving references is an issue which employers need take specific legal advice on as failure to deal with this issue can result in significant claims against you, as an employer, when you give a reference or when you act on a reference.

***Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.**

****In contentious cases, a solicitor may not charge fees or expenses as a portion or percentage of any award of settlement.**