

# Unlocking the Mysteries of Reference Checks:

A Guide for IT Employers and Job Seekers

UP ON THE BLOG



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One of the most common ways an employer will assess a candidate's character and learn more about their work ethic and suitability for the role is by examining references from previous employers. A glowing reference can improve your chances of standing out from the competition when applying for a competitive role, demonstrating your most valuable skills and attributes, while at the same time confirming you are an employee that is capable of performing the role.

A bad reference, on the other hand, can instantly destroy your chances of getting your dream job, and make it almost impossible to find a new employer.

Unfortunately, in most parts of the world, giving a bad reference (or no reference at all) isn't illegal. Here's everything you need to know about bad references in the IT space.

However, have you noticed that most companies in the UK now only provide basic and standard job references?

This is due to the fear of legal action for defamation or breach of data protection laws, which can make obtaining references challenging and stressful.

**My advice for candidates:** There are still ways to stand out, such as building a strong network, developing skills, and providing a strong personal statement and cover letter.

**For hiring managers:** While basic references may not provide as much information as in the past, they are still valuable for verifying basic information such as job title, dates of employment, and reasons for leaving. You can also look at the candidate's online presence, such as their LinkedIn profile to gather additional information about their skills and experience.

## Can an Employer Give You a Bad Reference?

Though a bad reference can severely harm your chances of being hired in the IT industry, they're not illegal. There are very few laws that prohibit an employer, co-worker, or anyone else you approach from sharing negative information about you. However, the exact rules and guidelines around references vary from one country to the next.

### Legal Regulations in the UK

In the UK, an employer isn't required to give a reference, unless they agree to do so in writing. If a Tech employer chooses to share their thoughts on your attributes and work ethics, they are required to provide accurate insights, which are fair and legitimate.

While employers are allowed to share honest information about things like poor punctuality, whether you were fired, and whether you acted inappropriately, they are not permitted to add unfair or misleading information to a reference.

If you believe the statements made about you in a reference are false, you may be able to claim damages in court. Your employer will be required to back up the reference and show evidence of its accuracy.

## Legal Regulations in the US

The legal regulations surrounding Tech references in the USA are similar to those in the United Kingdom. However, it's worth noting different states may impose their own rules on top of federal laws. On a federal level, all employers are required to give accurate, true, and fair insights into their employees when writing a reference. This means you can still challenge a reference if you believe it's unfair or misleading.

Many states also regulate exactly what an employer can say about a previous employee. For instance, some states prohibit an employer from sharing personal information about a staff member without their consent. Some states have "service letter laws" which require employers to describe certain aspects of a team member's employment, such as their work history, pay rates, or reasons for termination.

## Legal Regulations in Australia and New Zealand

In Australia and New Zealand, employers will not breach any Commonwealth privacy laws by providing personal information in a reference that relates directly to an employee's job. However, they are often required to ask for consent when sharing specific details.

Employers are required to carefully consider what information is appropriate to provide in a reference. Generally, employers aren't permitted to disclose private information about their staff members, such as their medical history, due to Commonwealth privacy laws. However, the exact information an employee can share may vary based on state or region.

## When Might An IT Employer Give a Bad Reference?

In most parts of the world, employers are permitted to share negative comments about an employee if they're relevant and fair. Most local and federal laws allow employers to comment on an employee's conduct in the workplace, their performance, and other factors, such as poor attendance.

However, employers typically aren't permitted to share defamatory comments based solely on their dislike of an employee, or another irrelevant factor.

Since employers have the freedom to discuss many factors relevant to a staff member's employment during a reference, it's crucial for IT employees to choose whom they ask for references from carefully. If you believe you didn't perform according to the standards set by your employer during your time working for them, it might be best to forgo a reference.

Negative references not only damage your chances of getting the next IT role you apply for, but they can also have a long-standing impact on your professional brand. If word spreads about your negative attributes, you may struggle to take the next step in your career.

## What to Do if You Receive a Bad Reference

Receiving a bad reference can be extremely detrimental to your future as an IT employee. That's why it's so important to hold yourself to high standards when working in any environment, regardless of whether you're planning on seeking out a new job or not.

If you're given a bad reference by your previous Tech employer:

- **Know your legal rights:** While employers are permitted to share negative insights into an employee, they can only do so when their statement is fair and accurate. If you believe that whatever your employer has said about you in a reference is incorrect, obtain a copy of the reference, and consider seeking out legal advice.

- **Speak to your new employer:** Talk to your would-be employer about the reference and challenge any aspects you believe to be unfair or unreasonable. If the reference is accurate, tackle the negative feedback head-on, and let your new employer know what influenced your performance previously, and how you plan on addressing these issues.
- **Talk to your former employer:** Depending on your relationship with your current or former employer, it may be helpful to speak with them about the reference. Question the issues they raised and ask them whether there's any chance they may be willing to change the reference. Apologising for any misconduct may help to resolve the issue amicably.
- **Assess other references:** It may be possible to mitigate the impact of a bad reference by providing other, complementary references to your new employer. Look at statements you've received from other colleagues, co-workers, and employers in the past, and draw attention to these when connecting with your new employer.

You can also consider speaking to your IT recruitment company for some extra advice. They may be able to offer insights on how you can reduce the impact of a bad reference or seek out better commentaries from other people in your history. They can also help you to develop your professional brand, so you still make a positive impact on new employers.

*Remember, you have the power to choose who you provide as a reference. Keep their contact details handy and ask for permission before sharing them. And while a bad reference may be a concern, take comfort in the fact that they are rare. In my 17 years of recruiting, I have never seen one. Keep pushing forward!*

*All the best*

*Rachel*

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