



## TCHC Reference Policy

Item 6

May 25, 2021

Governance, Communications and Human Resources Committee

**Report:** GCHRC:2021-23

**To:** Governance, Communications and Human Resources Committee (“GCHRC”)

**From:** Vice President, Human Resources (Interim)

**Date:** May 17, 2021

### **PURPOSE:**

This report responds to a request by the GCHRC to advise whether TCHC has a specific policy governing employment references, and if not, what the elements of such a policy would be, what the interests that shape the provisions of the policy would be, how it would be implemented, who would be responsible for ensuring that it would be complied with, and the basis on which a reference would be provided for non-union staff who are exited without cause.

### **RECOMMENDATIONS:**

It is recommended that GCHRC receive this report for information.

### **Current State**

TCHC’s hiring policy includes a provision that addresses Reference Checking as part of the recruitment process. As part of the final stages of the recruitment process when filling positions at TCHC, it is a requirement that TCHC obtain two references from the successful candidate in any job competition process, before an offer of employment is extended.

The request by GCHRC however was not to report on the policy or practices around **obtaining** references as part of the hiring process, but rather to report back on whether TCHC has a policy that dictates whether the company will **provide** references for existing or former employees who may be seeking to be employed by another organization.

TCHC does not have a policy that governs “giving references”. As a result, there are no restrictions that would prevent its employees from giving references. At the same time, TCHC is not obliged to provide references for employees or former employees either. Generally, it is up to individual employees, on a case-by-case basis, to agree or not to serve as a referee for a current or former TCHC employee. It should be noted, though, that in some circumstances, particularly when negotiating a settlement for a termination of a TCHC employee, such negotiation may include a commitment to provide a reference as a means for finalizing the negotiation and avoiding costly litigation.

Much in the way that TCHC (like most employers), relies on obtaining references from the employers/previous employers of job candidates, so too do TCHC employees typically expect to be able to rely on their TCHC colleagues to provide them with references at such time as they are looking to secure employment with a different employer.

### **Key Points**

- Employment references are an important component of the selection process.
- As an employer, TCHC requires all candidates to provide references from current and/or past employers, before extending an employment offer.
- It is common for employees to expect to rely on a current or former employer to provide a reference, as they look to secure a new job.
- While most employees who depart TCHC do so on a voluntary basis, some employees may be terminated involuntarily.
- It is not uncommon, as part of the negotiation of a settlement arising out of a termination for former employees and their lawyers to seek a commitment that the organization will provide the former employee

with a reference that would serve to assist in their ability to secure future employment.

- TCHC, like many organizations, does not have a policy that prohibits its employees from providing references for former or current employees who are seeking employment elsewhere.
- Just as TCHC expects to obtain references from candidates it is looking to hire, so it has not sought to limit its own practices around providing references for current or former employees.
- Some organizations have adopted a risk-averse position to not provide references for their current or former employees who are seeking employment. They may adopt this approach as a mechanism for limiting their potential liability, should an employee (or former employee) assert that the reference provided by the organization was defamatory or in some way contributed to their not securing an offer of employment.
- On a case-by-case basis, TCHC staff determine their willingness to provide an employment reference for a departing/departed employee. There may be some limited circumstances whereby TCHC is only prepared to confirm employment dates, job title and perhaps key duties/responsibilities – but will not comment on details about the employee's specific performance.

### **IMPLICATIONS AND RISKS:**

To ensure the protection of TCHC's and its employees' interests, it would be useful for HR staff to develop guidelines that would serve to educate TCHC staff on general principles to adhere to in providing references. Such principles to include ensuring that information disclosed is factual, objective, given without malice and is not based on rumour or other people's opinions, and that personal information should never be disclosed. It is also good practice for the reference giver to make notes on what information was disclosed.

If TCHC wishes to continue to rely on obtaining references from job candidates' current and/or previous employers to assist in finalizing hiring decisions, it should be prepared to do the same for other employers, as well as be prepared to have our current and former employees be confident

that they can rely on TCHC for a reference, at such time that they may be seeking alternate employment.

It is recommended that TCHC staff continue their willingness to provide references for current and former employees seeking alternate employment.

**SIGNATURE:**

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