

# Can you lie about your references?

It can be tempting to stretch the truth when it comes to job applications and references, but what are the legal implications for doing so?

## What you need to know about reference checks

- **It's illegal to lie about your references**

People who lie about their references may be engaging in misleading or deceptive conduct, and this breaks the [Australian Consumer Law](#). Employers who hire someone who has lied about their references may be able to try and recover the cost of hiring and paying an employee who has lied. While this is relatively uncommon, there have been [cases](#) where an employer was found to have a lawfully sacked a former employee who lied on their resume.

“Candidates who are later found to have lied about their references may be [immediately] dismissed from their employment,” says John Morrissey of [JFMLAW](#). “This means that a lying employee will not receive the notice that they would otherwise be entitled to receive when their employment comes to an end.”

Members of some professions may also suffer disciplinary consequences for lying about their references. “Solicitors, for example, may be found to have engaged in professional misconduct if they lie about their references,” Morrissey says. If professional misconduct has occurred, the lawyer may be judged as not fit or proper to be working in the profession. “Honesty is always the best policy,” he adds.

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## **Previous employers aren't required to provide a reference**

Employers are not usually required by law to provide a reference for a past employee, regardless of whether the employee or the prospective employer is asking.

However, Morrissey says that some industry bodies have rules about reference checks. "In the finance industry, banks who are signatories to the Australian Bankers Association's Background Check Protocol have to provide certain information about misconduct engaged in by former employees when asked by a prospective employer," he says.

As an alternative to a reference, some employers may offer to give you a statement of service, which is a record of when you began and finished work, what your role was, and this statement may also include your previous duties.

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### **You may be able to find out what a referee has said about you**

Referees who work within the private sector are usually under no obligation to let their former employees know what they said during a reference check. "In certain circumstances, candidates who used to be employed by public sector organisations may be able to make a Freedom of Information request to find out what their [former] employers said about them," says Morrissey.

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### **A prospective employer can contact a former employer without your consent**

While you don't need to give your permission for a potential employer to contact your ex-employer, your former employer can't give out certain types of information without your consent.

In terms of information that an ex-employer can provide to a potential employer, Morrissey says any information that is not an employee record (that is about salary, performance, discipline and the circumstances of their resignation or

dismissal) must be dealt with in accordance with the Privacy Act. “Generally, this means that the information cannot be given to a prospective employer without the former employee consenting,” he says.

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### **Get the best reference by discussing it with your former employer**

“Employees who are resigning from their current employer should take an active role in ensuring that they get a reference which will not harm their chances of taking the next step in their career,” says Morrissey. “Although employers and resigning employees cannot be misleading or lie, it is common for employers and resigning employees to negotiate about what information is included in a written reference, and who the designated contact person or referee will be.”

Reference checks are an important part of the recruitment process, and there can be repercussions if you lie about your references. However, it is possible to make the most of reference checks by talking with your former employer before they provide a reference to your potential employer.

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