

## Media Release

# Referees need to take care not to defame

October 10

Managers may not only have a duty to provide references for departing staff, they may also have an obligation “to take reasonable care to ensure that a reference is true, fair and accurate,” according to Angus Macinnis, a senior associate at lawyers Dibbs Abbott Stillman.

Email records and in cases of telephone references, diary notes, can be used as evidence and “liabilities in defamation could arise,” he said in a recent *hrmonthly* article (October 2006).

A reference that is “exuberant” or “wildly overstates” a former employee’s qualities is not recommended but is less likely to give rise to a cause for action, mainly because employers who discover the new employee’s failure to live up to the reference will strike barriers to taking action.

One barrier, for example, would be establishing that the reference was the cause of their economic loss, as distinct from other causes.

As a rule of thumb for referees Macinnis suggest the adage, do unto others as you would have them do unto you.

*hrmonthly* is a publication of the Australian Human Resources Institute.

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