STANLEY HILL ELKINS
FAMILY, CRIMINAL & TRAFFIC LAW

HOW TO WRITE A CHARACTER REFERENCE FOR COURT – TRAFFIC OFFENCES

When a person is charged with an offence, they must answer the charge(s) in court.

Upon a guilty plea to an offence(s), the person can provide the court with a character reference to assist the court in understanding who the person is, why the offence occurred, and, importantly, why it is unlikely to be repeated. A character reference can be of great assistance to the court and help mitigate any penalty the court may impose.

What is a character reference?

Character references are letters addressed to the court by an author who knows the defendant and can speak to his/her character in general, despite the guilty plea to the offence(s) being admitted. Character references provide insight into the person's disposition and help the court to understand whether the person usually behaves in this manner or if the offence(s) were a one-off occurrence.

Who can author a character reference?

Appropriate authors of a character reference include people who know the defendant, such as a work colleague, employer, friend, or an associate within the community.

A family member can also provide a character reference, which is usually considered a letter of support rather than an unbiased character assessment from the author, as viewed by the court.

A character reference or letter of support must clearly state the nature, duration and background of the author's relationship to the person.

I want to author a character reference. What should I include?

Character references need to detail the person's personal circumstances. The most effective character references include examples of the person's usual behaviour, along with specific scenarios you have witnessed.

How do I format a character reference?

The reference should be typed or written as a formal letter. An example format is included below. The reference should:

- Include your full contact details at the top right of the page
- Include the date
- Be addressed to “The Presiding Magistrate” for matters being finalised in the Magistrates Court, or “The Presiding Judge” for matters finalised in the District Court
- Include the signature of the author.

Character References do not need to be lengthy and generally should not exceed one page. References are submitted to the court by a lawyer during submissions in mitigation of penalty, so you should not send the character reference directly to any court.

You should include:

- Introduce yourself as the author of the reference by explaining who you are and your occupation, including qualifications (if you have any)
- Detail your relationship with the person, including how long you have known the person and in what capacity
- Confirm that you are aware of the charges (list the charge(s) in your letter) and that the person has admitted or pleaded guilty to them
- Provide examples of what the person has done since the offence to demonstrate insight and remorse for the offence(s)
- Explain whether you believe the conduct was out of character and why. You can include the good qualities that you admire or previous examples of good character that you have witnessed, including any positive contributions the person has made/makes to the community, such as charity or volunteer work
- Mention any personal hardships (marital, familial, financial, social or mental) the person may have been experiencing at the time of the offence and whether those issues have since been addressed
- Describe any hardship the defendant is continuing to suffer, especially if those are a consequence of the offence (such as loss of employment or other support).

Additional points for traffic matters

For traffic-related offences, it is also helpful to include:

- Any difficulties the person may face if they lose their driver's licence
- Details of any assistance you have provided with transport and how frequently you have done so.

What <u>not</u> to include

Character references are about the person taking responsibility for the offence(s) and showing that the offending is out of character. Avoid any comments that minimise the person's offending, including blaming other people or criticising the legal system.

It is not appropriate to suggest the penalty that should be imposed by the court, and most importantly, do not provide false or misleading information in a character reference.

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EXAMPLE – HOW TO FORMAT A CHARACTER REFERENCE (TRAFFIC/CRIMINAL OFFENCES)

Author's Name
Author's Address

Author's Phone Number

The Presiding Magistrate/Judge
Court Address

Date

Dear The Presiding Magistrate/Judge

Character Reference for (person's name)

My name is (your full name, occupation and any qualifications).

I have known (person's name) for (length of time), including how often you see or speak to each other regularly and how you met.

I am aware that (person) has pleaded guilty in court to the offence(s) of (list the charge(s).

(Provide examples of what the person has done since the offence to demonstrate insight and remorse for the offence(s).)

(Explain whether you believe the conduct was out of character and why. You can include the good qualities that you admire or previous examples of good character that you have witnessed, including any positive contributions the person has made/makes to the community, such as charity or volunteer work.)

(Mention any personal hardships (marital, familial, financial, social or mental) the person may have been experiencing at the time of the offending and whether those issues have since been addressed.)

(Describe any hardship the defendant is continuing to suffer, especially if those are a consequence of the offence(s) (such as loss of employment or other support). If you are the employer of the person, detail the impact that a licence suspension or term of imprisonment would have on your business.)

(Confirm that, despite admitting the offence(s) in court, your view/opinion that the person is of good character and unlikely to reoffend.)

Yours faithfully,

(Signature)
(Author's name)