

Character References – Some Guidance

Court Proceedings

This Guidance specifically deals with the scenario whereby a chaplain is asked by an individual, or more commonly a family member, to provide a Character Reference to support an individual facing criminal court proceedings. Though rare, you could be required to attend Court to give live evidence if the reference you provide is contentious, and/or would dramatically alter the outcome of a court decision. So, you have to regard the contents of the letter you draft as honest and true to the best of your knowledge and belief, as if you had sworn an oath in court.

Purpose - Character

The purpose of the Reference is to provide the Court with an additional insight into the character of your client, his/her personal life/life-situation; in other words, who s/he is. The matter before the Court will be dealing with WHAT s/he is said to have, or was found, to have committed. It is vitally important you stick to this brief of the 'who', rather than the 'what' (the domain of the Court), as any 'straying' into the domain of the Court will hurt, rather than help, the client's position. In addition, your good reputation within the judicial system as a chaplain would be significantly harmed to the detriment of any future clients requiring your assistance in this way.

Pre-Character Reference Prep & Research

1. Consent – you **MUST** obtain personal consent from the client, for whom who are writing the Reference, before submitting it to the Court either via the client/family, or legal representatives. Consent must be evidenced either in writing, or verbally, which should be recorded somewhere. You will also need to obtain consent from the client to speak with the solicitor representing him/her to undertake the below.
2. Contact Legal Reps – you should speak with the solicitor, or equivalent, with conduct of the client's case. They will need to have received from the client authority to speak with you beforehand, hence the above. The solicitor will give you a brief outline of what is alleged and how you can best support the client, either as trial evidence, or following conviction (found guilty and part of the sentencing process). I always ask about any pre-convictions, which may help avoid the pitfalls of saying something ridiculous, embarrassing or plainly untrue.

Structure

1. Introduce Yourself – who are you? – How do you know the client? How long have you known him/her? (their family) - In what context?

2. Refer to the Proceedings – You know why the client is in court. If convicted, the client may express their own view on what went on, which isn't always helpful. You must not 'go behind' the decision of the Court in any event. However, expressions of remorse, for example, can be really useful.
3. Knowledge of Client - client's conduct, attitude to life, family, work, etc.
4. Conclusion – if pertinent, repeat client's contrition (if part of sentencing hearing) and request the Court's mercy in sentencing the client.

Approval and Submission

1. **ALWAYS** – **Gatekeep** (run past a colleague for comment and approval) the letter.
2. **ALWAYS** seek the approval of the client before submitting the Reference to the Court/Legal Representatives. Record the client's approval.
3. Once gatekept and approved by the client, **SIGN AND DATE** the document, and send to the Legal Representatives rather than the Court, usually, (Seek guidance from the solicitor) and send a copy to the client or nominated family member for their records. This is especially useful if the Legal Reps fail to produce the Reference from their file, as sometimes happens.
4. If possible, provide the Reference at three working days before the hearing is scheduled, earlier if possible.

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