

## DO YOUR REFERENCES DISCRIMINATE?

References have always been a minefield for employers, but recent developments have made life still harder. As we explain, there is a case for adding yet another policy to the staff handbook.

### The “good old days”

A good reference has been described as “an employer’s parting gift” and even an indifferent reference is often better than nothing at all. So, although in most cases employers have no legal duty to provide a reference, they are under considerable pressure to do so if they want to be seen as good employers.

In recent years, employers have had a duty not only to the recipient of the reference but also to the employee to make sure it is fair and accurate, and some high profile cases have alerted employers to the financial risks of getting this wrong. But sleepless nights could be avoided by the comforting thought that few employees would get to see their references, and in really difficult cases the easy answer would be to decline to provide a reference.

### What’s changed?

There have been two significant changes with implications for the giving of references. First, the extension of the Data Protection Act to manual records almost two years ago means that employees will

normally be able to get hold of references by making a standard subject access request. Although the giver of the reference is exempt from these disclosure requirements, the same is not true of the recipient of the reference, who will, in most circumstances, have to disclose the reference.

The second change has been brewing for some time, but has only come to prominence with a House of Lords decision in June this year, which decided that ex-employees are able to bring discrimination and victimisation claims against their former employer, even if the action they are complaining about occurred after their contract of employment was terminated. This ruling applies to all three main discrimination jurisdictions (sex, race and disability) and the new regulations on sexual orientation and religion, coming into effect in December this year, will make similar provision.

This means that the giving of references for former employees will be brought within the ambit of the discrimination legislation for the first time. Employers can be exposed to claims not only if a reference is unfavourable, but also if it is withheld altogether, for example because the employee has brought previous discrimination claims.

### What can be done?

To bring a successful claim, it will of course be necessary

for a former employee to do more than show that he or she is unhappy about what the ex-employer has done; it will also be necessary to show that he or she has been treated less favourably than other ex-employees in comparable circumstances. So, for example, if an employer applies a consistent policy that no references are provided to employees more than two years after their employment ends, it will be able to defend any discrimination claim brought because it has withheld a reference after that point.

It is more difficult to make rules about the content of references, but it is possible to lay down some general guidelines about difficult issues that commonly arise, such as how to address previous tribunal proceedings.

Many employers will have established practices to do with references, but unless these practices are gathered together in one place and clearly communicated to all staff involved, it may be difficult to rely on them when the going gets tough. In addition, if ex-employees know what to expect, perhaps they will be less likely to feel aggrieved when they do not get what they want.

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## WOULD YOU BE AN ANGEL...?

Far from asking a favour, the title of this article is a genuine question. The term ‘angel’ - more specifically ‘business angel’ - is a label used to define those brave individuals that invest their own cash into early-stage companies looking for funding to grow, or in many cases, survive.

The concept of angel investment has existed for centuries – Columbus’ voyage to the Americas was funded by Queen Isabel of Spain in 1492 – but is best understood by looking at recent success stories such as Anita Roddick and the Bodyshop. An initial investment of c.£10,000 by Ian McGlinn at one point showed in excess of a 2,500-fold increase, and we all know how successful the Bodyshop concept and brand has been in general.

### So what does a business angel actually do?

A business angel is an individual with discretionary capital willing to invest part of it into early-stage companies. They do so for many reasons, including the potential for financial returns, the thrill of being involved with a risky venture, the tax concessions offered for investing in unquoted companies and the opportunity to contribute in a practical way to the success of a fledgling business. This last point is important – although angels primarily offer financial support they regularly provide near-priceless experience in terms of industry knowledge and business ‘nouse’.

### Who becomes a business angel?

If a stereotype business angel were to exist, it would be an investor with hundreds of thousands to plough into early-stage companies within a maximum of 2½ hours drive from the angel’s home. Although the latter is

often true – business angels traditionally want to be able to keep physical tabs on their investment – the former is not always the case.

Business angels will of course have enough discretionary wealth to undertake the high-risk investment synonymous with early-growth funding, yet the amounts invested in these enterprises can be anything upwards from £10,000 – a figure that may seem surprisingly low. However those of us with experience in early-stage companies know the significant impact that even such a small amount can have, and the trend demonstrated by most business angels of investing in groups - choirs of angels - means that these smaller amounts pooled together quickly become significant.

If you have got the cash and would like to be an angel, what matters is your attitude to risk – this is not for the faint-hearted. Alongside poker, roulette and racing, angel investment has got to be one of the riskier ways of venturing your money. The rewards, however, can be significant.

### Safety in numbers

The critical factor in reducing your risk will be the quality of companies into which you invest, and yet finding such companies is perhaps the greatest challenge facing a ‘virgin angel’. Business angel networks such as the Great Eastern Investment Forum address this problem by sourcing companies and presenting a selection to a group of ready investors. Although the choice of which business to support will still be down to you, the practical experience of investing alongside well-seasoned angels who have been through the process time and time again will be both invaluable and reassuring.

### Factors to consider when choosing your investment

There will always be a vast range of factors to consider and it is difficult to do the subject justice in such a short overview. Issues will include the uniqueness of the product or service; market demand; time left to market; the existence of credible, external advisors; competition and barriers to entry; and the quality of strategic planning in terms of production, distribution, financial operations and marketing.

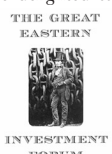
However, the most important factor to consider will always be the management team. If you invest into a growing business, you need to know that this potential winner is going to be carefully crafted by people that you trust and believe in, with both the necessary skills to drive the company forward and the ability to recognise and address their skill shortages.

### About the Great Eastern Investment Forum

The Great Eastern Investment Forum is a leading business angel network, introducing early-stage companies, seeking finance and practical support, to committed business angels. Our track record is proven - in the past eight years GEIF angels have provided invaluable management input and funding to over 70 early-stage UK-based companies.

So if the above has whetted your appetite then please give us a call - whether this is the first time you have considered angel investment, or you are an experienced investor looking for additional deals, we would be delighted to hear from you.

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# A BUSINESS MODEL CAN BRING MAJOR BENEFITS TO EVEN THE SMALLEST OF STARTUPS

Businesses are awash with data. Whilst individual functions within the business understand their marketplaces and bring their skills to bear on developing them, CEOs and owners need a means of taking a broader viewpoint.

Business modelling enables managers to understand and simulate the effect of changes, both internal (e.g. pricing) and external (e.g. competition), on trading.

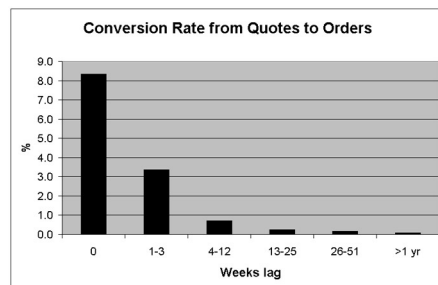
Startup business Polycool ([www.polycool.co.uk](http://www.polycool.co.uk)) provided a case study illustrating the value of a range of techniques to aid its business planning.

Founded in 2000 with a unique solar insulation product which is sold exclusively via mail order and user-applied to polycarbonate conservatory roofs. Ordering channels comprise its website, a fulfillment company, national advertising and telephone. Polycool was experiencing:

- Very strong seasonal demand pattern.
- Erratic but positive year on year growth
- Indeterminate response to advertising

## Turning enquiries into orders.

The Polycool management knew that the lag time between initial customer enquiry and order generation varied widely. Some customers returned (unprompted) to Polycool after more than a year had elapsed. Polycool's perception was that these 'longer-lag' returnees were becoming more significant. A detailed analysis of the 'quote-to-order' conversion process for the 18,000 enquiries taken since the business inception showed that most of the conversion takes place within 1 quarter of the original enquiry.

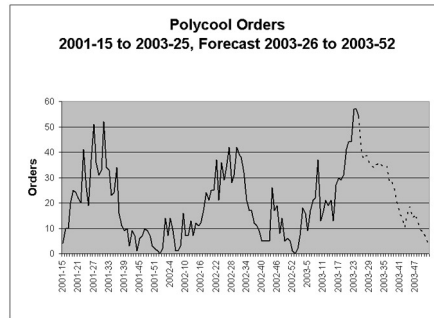


The longer-lag orders were shown to result from Polycool's own call-back prompting during the quieter winter season. Polycool were advised not to look to older enquiries for incremental orders but to adopt an alternative prompting policy to convert older enquiries.

## Identifying and quantifying the business drivers.

Because of the nature of Polycool's business (conservatory roof insulation) it was relatively straightforward for its management to anticipate highs and lows in demand. A hot sunny spell at a weekend set the phones ringing off the hook on the following Monday and website enquiries flooded in. Beyond this perception however there was little appreciation of what was causing longer-term overall growth in demand or how they could influence it.

An econometric model was developed relating the levels of orders to both external and internal factors. The model revealed that demand on Polycool in a given week is driven mainly by a) sunshine hours (UK average) in the previous week, b) advertising spend in the past month and c) number of call-backs made by Polycool to dormant enquirers. A final model equation related all these factors together and provided a forecast.

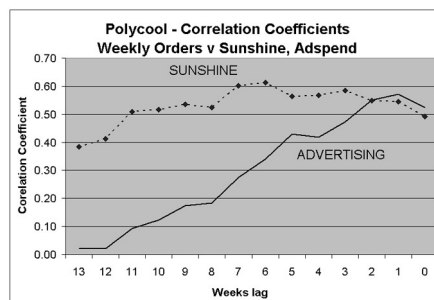


This model described past order levels with better than 70% accuracy. Furthermore it provided management the facility to test different scenarios to forecast future order levels under a range of different advertising and prompting levels and assuming 'average sunshine' (compiled from a trawl of past Met. Office records).

With the advent of the early August 2003 heat wave the Polycool model reliably anticipated the impact on short-term demand and enabled Polycool to adjust promotional levels to cope with demand, thereby spending more cost-effectively on promotion.

This model had other benefits. The preliminary analysis of sunshine and advertising levels on demand enabled Polycool to see just how long the effect of e.g. a step-change in advertising spend would affect order levels. The answers were illuminating and a little surprising:

- Changes in sunshine level tended to persist in order levels for many weeks. This was unexpected as Polycool believed the effect was short-lived.
- Advertising spend was shown to have its maximum impact one week after the spend was made and then decayed steadily so that by week 6 its effect on demand had halved. By week 12 it had disappeared.



This insight into the main drivers behind demand showed Polycool how much of the demand was under their control and how much was (literally) in the lap of the gods!

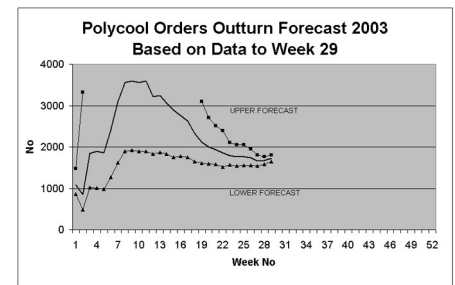
## Forecasting the short to medium-term.

Once a business has sufficient time series data of its activities it is possible to develop outturn indicator models which project the likely outcome some months ahead. Typically this is used for a full-year estimator as that is a key indicator for any management. Because of Polycool's dominant share position in its chosen market some of the uncertainties (market share, competitor reaction) which underlie most businesses were less important and a full-year outturn model was constructed and embedded into Polycool's enquiry database.

As the weeks passed this model delivered both an expected full-year volume result and also turned that into monthly order totals. This enabled management to plan for staffing levels, material purchasing etc with some confidence.

The result was also turned into a graphical representation with expected upper and lower outcome limits to the full-year

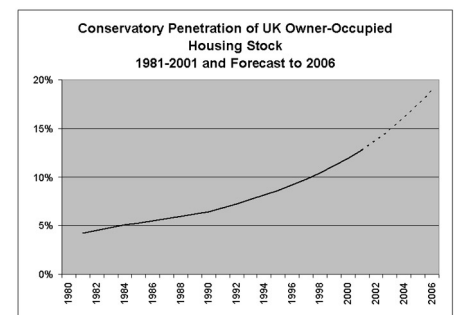
forecast. As time passes the 3 lines draw closer, pointing with ever greater certainty to the forecast full-year result.



## What is the ultimate marketplace and the limits to growth?

Polycool sells almost exclusively to the end-user - the conservatory owner who makes use of their conservatory as an extension to their house. With higher usage frequency the owner becomes more aware of the heating effect of sunshine on a polycarbonate roof. Empirical evidence from sales enquiries is that the target population is the older age category, possibly retired, in an income bracket and with sufficient discretionary spending power to find a Polycool installation an acceptable solution.

Quantifying this target population involved researching statistics and disparate information sources on housing stock growth, demographics, income distribution and conservatory placement/additions. Determining the limits to growth was partly a matter of projecting market penetration levels (in this case penetration of the Polycool product into the non-flat, owner-occupied housing sector) and extrapolating asymptotes to judge likely saturation levels.



Based on this detailed analysis of the housing sector it was possible to conclude that there remains significant untapped potential for the Polycool product in the UK market. The S-curves show no point of inflection (the point in time where the rate of climb of the penetration curve slows) and Polycool sales will not be limited in the foreseeable future by market saturation.

## The value of the business model.

This case study shows the potential for useful analysis and modelling in even the most recent of start-up ventures. All data is useful. There is no set way to approach any problem. The business analyst and modeller brings an array of techniques and experience to bear on a situation and delivers a view which is specific and tailored to the business under review. Finally, those findings which are capable of being continuously updated and are required by management can be enabled in a software/IT/systems solution to provide an ongoing benefit to the client.

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