

The Role of Companion during the Disciplinary and Grievance Process

Introduction

1. Employees who raise a grievance or who are the subject of the Authority's disciplinary procedure are entitled to be accompanied at appropriate stages of the procedure (see procedure for details).
2. Employees must be advised of this right and given the appropriate time to locate and brief a companion.
3. The companion will receive copies of all correspondence, reports, etc relating to the disciplinary or grievance process unless the employee indicates otherwise.

When does the right apply?

4. Employees have the statutory right to be accompanied by a companion where the disciplinary meeting could result in:
 - a formal warning being issued to the employee (i.e. a warning that will be placed on the employee's record);
 - the taking of some other disciplinary action (such as demotion or dismissal) or other action; or
 - the confirmation of a warning or some other disciplinary action (such as an appeal hearing).
5. Employees have a statutory right to be accompanied by a companion at a grievance meeting which deals with a complaint about a duty owed by the employer to the employee, for example, if there is a breach of legislation or a contract term.
6. Informal discussions, counselling sessions or investigatory meetings do not attract the statutory right to be accompanied. Meetings to investigate an issue are not disciplinary meetings. If it becomes apparent that formal disciplinary action may be needed then this should be dealt with at a formal meeting at which the employee will have the statutory right to be accompanied.
7. The Authority will however extend the right to request to be accompanied to an employee who is the subject of an informal investigation provided this does not unduly delay the process.

Who can be a companion?

8. The companion may be:
 - A work colleague
 - An official employed by a trade union
 - A workplace trade union representative, as long as they have been reasonably certified in writing by their union as having experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings. Certification may take the form of a card or letter.

Unless there are exceptional circumstances, only one companion will be allowed at a hearing.

9. Employees may ask an official from any trade union to accompany them at a disciplinary or grievance hearing, regardless of whether the union is recognised or not. However, where a union is recognised in a workplace, it is good practice for employees to ask an official from that union to accompany them.
10. Work colleagues or trade union officials do not have to accept a request to accompany an employee, and they should not be pressurised to do so.

What is a reasonable request?

11. When choosing a companion an employee should bear in mind that it would not be reasonable to insist on being accompanied by a colleague whose presence would prejudice the hearing or who might have a conflict of interest. Nor would it be reasonable to ask to be accompanied by a colleague from a geographically remote location when someone suitably qualified is available on site. The request to be accompanied does not have to be in writing.

Training and Time off for acting as a Companion

12. Trade unions should ensure that their officials are trained in the role of acting as an employee's companion. Even when a trade union official has experience of acting in the role, there may still be a need for periodic refresher training.
13. A worker who has agreed to accompany a colleague employed by the same employer is entitled to take a reasonable amount of paid time off to fulfil that responsibility. This should cover the hearing and it is also good practice to allow time for the companion to familiarise themselves with the case and confer with the worker before and after the hearing. A lay trade union official is permitted to take a reasonable amount of paid time off to accompany a worker at a hearing, as long as the worker is employed by the same employer. In cases where a lay official agrees to accompany a worker employed by another organisation, time off is a matter for agreement by the parties concerned.

Applying the Right

14. The authority should allow a companion to have a say about the date and time of a hearing. If the companion cannot attend on a proposed date, the employee can suggest an alternative time and date so long as it is reasonable and it is not more than seven calendar days after the original date.
15. Before the hearing takes place, the employee should tell the authority who they have chosen as a companion. In certain circumstances (for instance when the companion is an official of a non-recognised trade union) it can be helpful for the companion and a representative from the authority to make contact before the hearing.

APPENDIX A

16. The companion should be allowed to address the hearing in order to:
 - put the employee's case
 - sum up the employee's case
 - respond on the employee's behalf to any view expressed at the hearing.

17. The companion can also confer with the employee during the hearing. It is good practice to allow the companion to participate as fully as possible in the hearing, including asking witnesses questions. The authority is, however, not legally required to permit the companion to answer questions on the employee's behalf, or to address the hearing if the employee does not wish it, or to prevent the authority from explaining their case.

18. In the same way that employers should cater for a worker's disability at a disciplinary or grievance hearing, they should also cater for a companion's disability, for example providing for wheelchair access if necessary.

19. Employees should not be disadvantaged for using their right to be accompanied or for being companions.