



EMPLOYEE REPRESENTATION - THE RIGHT TO BE ACCOMPANIED

1 Principles

- 1.1 This procedure sets out the agreed arrangements for the right of employees to be accompanied at formal meetings. This applies to all employees of the Council, except those employed in schools under the control of Governing Bodies, for whom procedures adopted by the Governing Body will apply.
- 1.2 The right extends to employees and workers (as defined in sections 13(1) to (3) of the Employment Relations Act 1999 and s.230 of the Employment Rights Act 1996, or any substituting or amending legislation). This therefore includes employees, agency workers, contractors and trainees. However, managers must ensure that any formal action relating to the engagement of agency workers is immediately referred to the employing agency. It is for the agency, as the employer, to initiate and address any form of management action.
- 1.3 This procedure sets out how the right to be accompanied is to be applied, ensuring consistency and fairness in approach.
- 1.4 There is no qualifying period of service for the right to be accompanied.

2 When does the right to be accompanied apply?

- 2.1 Employees have a statutory right to be accompanied, either by a work colleague or a trade union official/representative, where they are required or invited by their employer to attend formal meetings under disciplinary and grievance policies.
- 2.2 Good employment practice extends this right to other types of **formal** management meetings/hearings that might arise between an employer and employee. This right to be accompanied is therefore incorporated into many of the Council's employment policies e.g. management of absence, capability. Each policy clearly states whether and in what circumstances an employee has the right to be accompanied.
- 2.3 This right does not apply to routine supervisory meetings. Nor does it extend to any informal stage of an employment policy being used either by a manager or an employee.
- 2.4 Managers must ensure that, when writing to invite employees to any formal meeting, the employee is informed of their right to be accompanied.

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- 2.5 A refusal to allow an employee the right to be accompanied or represented at a meeting/hearing, which results in their dismissal, could lead to a finding of unfair dismissal at an employment tribunal.

3 Who can accompany an employee?

- 3.1 The statutory right entitles employees to be accompanied either by a work colleague or a trade union official. It is for the employee to decide who they wish to accompany them and to make the necessary arrangements.

Trade Union

- 3.2 Trade Union representatives can be either a full-time employed official or a trade union representative. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker.
- 3.3 The Council formally recognises a number of different trade unions which represent the interests of the various Staff Groups. These unions are listed in the Council's Employee Relations Machinery, which can be accessed via the intranet.
- 3.4 Employees seeking representation from their union should contact them direct. This is normally through the departmental trade union representatives, or via the Staff Side Secretary, or the Branch Secretary.
- 3.5 Recognised trade union representatives receive paid facilities time for carrying out trade union duties e.g. accompanying and representing a member. Trade union representatives are however required to seek prior approval from their management for this purpose and should do so in good time.
- 3.6 There is no obligation on a trade union to provide a representative.
- 3.7 Where the employee being accompanied is a union representative, the Council will inform the appropriate Branch Secretary of the management action. If the employee is the Branch Secretary and / or Staff Side Secretary, the Regional Official will be notified by the Council.

Work Colleague

- 3.7 The work colleague must be a worker engaged by the London Borough of Hounslow.
- 3.8 A work colleague is under no obligation to act as a representative on another employee's behalf. Anyone who chooses to do so will be

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allowed reasonable paid time off to accompany the employee should the meeting be held during their normal working hours and will not suffer any detriment as a result of doing so.

- 3.9 The work colleague must get their manager's agreement to the time off before agreeing to accompany an employee. They are not expected to divulge confidential details concerning either the employee or the case but sufficient information about the purpose of their request and the amount of time required.
- 3.10 The work colleague should make any request in good time to allow their manager to make an informed decision.
- 3.11 When agreeing to accompany an employee, a work colleague should also consider whether there is any possible conflict of interest which might arise from their attendance.

4 Requests to be accompanied by others

- 4.1 There is no statutory obligation on an employer to allow staff to be accompanied by anyone other than a trade union representative or a work colleague.
- 4.2 The position at Hounslow Council is that employees should seek representation either from their trade union or a work colleague and therefore requests to be accompanied by for example a family member or a member of a professional body will not be agreed unless there are exceptional circumstances.
- 4.3 If a manager has any doubt about the appropriateness of any such request they should seek advice from HR.

5 Can an employee be accompanied by a Legal Representative?

- 5.1 Employees have no right to be accompanied by a legal representative in any internal employee matter.
- 5.2 In certain exceptional circumstances, where the outcome of a disciplinary hearing could result in a permanent ban on the employee working in that profession, the employee may have a right to legal representation.
- 5.3 Managers will need to consider any such request on a case by case basis and determine whether it is appropriate for an employee to be accompanied by a legal representative. Advice should be sought from the HR Advisory team.

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6 Reasonable Request

- 6.1 The reasonableness of a request will depend on the circumstances of each individual case. It would not normally be reasonable, however, for employees to insist on being accompanied by a companion whose presence would prejudice the hearing or who might have a conflict of interest. Nor would it be reasonable for an employee to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing is available on site.
- 6.2 Where this arises the employee will be asked to arrange alternative representation.

7 Role of the trade union representative/ work colleague

- 7.1 The primary role of the work colleague or trade union representative is to support the employee. In doing so the representative may address the meeting to present and sum up the employee's case, make representation on the employee's behalf to any views expressed at the meeting, confer with the employee during the meeting and ask questions on their behalf.
- 7.2 The representative may not, however, answer questions on behalf of the employee, address the hearing if the employee does not wish it or prevent the employee from explaining their case.
- 7.3 It is the role of the Chair of a Panel to ensure that the employee's representative acts within their remit.

8 Unavailability of a representative

- 8.1 If the employee's chosen representative is unavailable to attend a scheduled meeting, an alternative time and date, which is within five working days of the original date, should be suggested and arranged.
- 8.2 It should be made clear to the employee that the rescheduled meeting will go ahead on the alternative date. The employee should therefore arrange for their chosen representative or an alternative representative to be present at that day. Further meetings will not be arranged.

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