

Having a representative at a disciplinary hearing

The thought of attending a disciplinary hearing on your own can be daunting, so it is a good idea to get somebody to go along with you. The law gives all workers the right to be accompanied at a disciplinary hearing by a work colleague or trade union representative. A disciplinary hearing is a hearing that could result in a formal warning or some other action. The right to be represented is provided under section 10 of the Employment Relations Act 1999.

You do not have a legal right to take a relative, friend or solicitor with you to a disciplinary hearing. Your employer may allow you to bring somebody other than a work colleague or a trade union representative but most employers are likely to say no. However, you won't know unless you ask.

If you have a disability which means you require support at the disciplinary hearing then it might be reasonable for your employer to make an adjustment and allow somebody other than a work colleague or a trade union representative to attend with you. For example, this might be because you have a mental health issue and have difficulty in explaining your case or responding to questions.

Your representative can play an important role in the hearing and you should think carefully about who to ask to accompany you. Unfortunately, it can sometimes be difficult to get a work colleague to go with you because they don't want to get involved or they fear that it might create problems for them in the future. **If you have nobody to go with you please contact us so we can help you prepare.**

CONTACT US

If you have any questions about the contents of this factsheet or you would like more information please contact us. We can be contacted by phone on 07972 437396 or 0121 6631224, email trevor@bhampc.co.uk, via our website www.bpcentre.org.uk or in person at Room 118 Gazette Buildings, 168 Corporation Street, Birmingham B4 6TF (please ring beforehand to ensure we are available).

Your representative can confer with you during the hearing, address the hearing, respond on your behalf to any views expressed, put forward your case and sum up at the end. The one thing they can't do is answer questions on your behalf. You can ask for a break if you want to speak to your representative in private.

You should try to meet with your representative before the hearing and show them the evidence your employer has and explain your case. You should agree with your representative what they are going to do during the meeting. If you plan to put forward your case yourself you can ask your representative to take notes of what is said at the hearing to ensure that an accurate record is made. Your employer must allow your representative to take time off during work to attend the hearing. If they are unable to attend at the proposed time the hearing should be postponed to any reasonable time you suggest within 5 working days of the original date.

If your employer does not allow you to be accompanied or refuses to change the date of the hearing to accommodate your representative contact us for advice.

If you need our help with a disciplinary hearing it is important that you contact us as soon as possible, so there is enough time to properly prepare. Don't wait until you have been given a hearing date. It is best if you contact us during the investigation stage.