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Right to be accompanied at disciplinary/appeal/grievance hearings

Under the Employment Relations Act 1999, employees have the right to be accompanied by a fellow employee or a trade union official (including a lay official who has been properly trained by his union in such matters of representation) when asked by the employer to attend a disciplinary hearing that could result in any of the following:

- the issue of a formal warning
- other action including suspension without pay, demotion or dismissal
- confirmation of a warning or some other action already taken.

An employee is also entitled to be accompanied if he/she wishes, if invited to attend a grievance or an appeal hearing. There is no legal right, however, to be accompanied if the meeting is investigatory, or of a counselling nature. If such an 'informal' meeting shows signs of becoming a disciplinary meeting, then it should immediately be adjourned and a formal disciplinary meeting called at which the employee would have the right to be accompanied.

Note that:

- the trade union official does not have to be an official of a union of which the employee is a member.
- the representative can speak for the employee during the hearing if the employee so wishes **but not answer any questions** put to the employee during the course of the hearing.
- these rights to be accompanied also apply to meetings held under the Statutory Dispute Resolution Procedures.

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