

Knowing Your Rights and Responsibilities When Attending a Meeting

Interviews with your employer should follow accepted protocols

Whilst 'chats' with your employer in most workplaces are collegial and productive, occasionally an employee is invited to chat about 'concerns' the employer may have about their conduct, capacity, or performance in relation to their continued employment.

Situations have arisen in the past, where members have been asked to:

- Respond to community or client complaints
- Respond to allegations about incidents at work or their conduct, and/or
- Undertake a performance review for unsatisfactory work performance.

The following guide has been produced to assist members in these situations.

Within your hours of duty your employer has every right to call you to a meeting but if the subject of this meeting is to identify concerns and/or to seek a response from the employee in relation to matters which could threaten their employment, there are certain protocols which need to be observed.

Employees' rights and responsibilities

You as an employee have certain rights and responsibilities, but this applies equally to your employer. Your individual actions when you are called to the meeting are critical in creating a climate for amicable resolution of the issue if it has any proven substance.

The following actions should be taken to ensure your rights are upheld:

- Contact your union as soon as you suspect there might be a problem with your employment or disciplinary action may be taken against you.

Our Union will not take any action without your authorisation and your contact is confidential to the officer with whom you speak.

- If you are called to a meeting with your employer, you can request to be provided with a detailed agenda to assist with preparation. If you are provided with detailed information/allegations prior to the meeting, your union representative can assist you to prepare a detailed, written response. Make sure you seek your union's industrial advice before submitting any written materials.

- We encourage you to take a "support person" with you to the meeting. It is likely your employer will have a witness. A support person is particularly important if the meeting could be job threatening. Ask your union representative, trusted friend, or colleague to accompany you.

Your "support person" plays a crucial role in the process.

To be courteous, it is important to inform your employer that you are bringing a support person to the meeting. If you have a union representative, this should be identified to your employer.

- If your employer insists on a "one-to-one" meeting in your normal hours of duty, express your concern and reiterate your request for a "support person". You can also request to postpone the meeting while you consult with your union. If these requests are denied you should then:

- i) Take detailed notes.

ii) Seek further clarification from the employer if you are not sure about any detail of the issue.

iii) State you are not in a position to give a considered reply because you were not given notice of the issue(s) raised; and

iv) Indicate you will respond when you have obtained industrial advice from your union and have had time to consider the issue(s).

- Avoid making statements which could be used against you without advice from your union.

Attendance at meetings

Your employer should call investigative meetings during work hours. If they do, it is expected that you attend. Meetings scheduled outside of work hours, however, are only mandatory when a reasonable request is made for your attendance. Your union can assist you to determine whether a meeting request is reasonable.

If you cannot attend an investigative meeting due to illness, you will need to provide a medical certificate stating that you are unfit for normal duties. Be aware that when you are deemed medically fit to return to work, you will need to be available to meet with your employer to recommence the investigation.

Unsatisfactory Performance

For any number of reasons, you, as an employee, may experience significant difficulties in performing your duties to the standard required by your employer.

Employers may exercise a right to conduct a review where they consider there is a case of unsatisfactory performance on the part of an employee. Such situations could include deficient or diminished performance due to the impact of taking on other duties, lack of

application, ineffective behaviour management, lack of preparation and unprofessional conduct.

Where unsatisfactory performance occurs over a continuing period and, despite assistance given by the management, the situation does not improve, a formal process may be implemented.

Many workplaces have a formal unsatisfactory performance policy which they follow in these circumstances. It is important to obtain a copy of your employer's specific policy upon the commencement of a formal process.

If your employer has indicated their intentions to commence a Formal Process, contact your union immediately to ensure timely advice can be provided.

Your union does not always agree with the need for a formal process. However, if one is initiated the following considerations should be observed.

What is a 'Formal Process'?

'Formal Process' is a set of sequenced actions, the purpose of which is to mediate the situation and to avert the possibility of termination of employment.

What are these actions?

The 'Process' is usually in four stages and each stage has a bearing on the next. As previously identified, every workplace is different and may not necessarily follow these guidelines.

The four stages are:

- Investigation
- Interview
- Outcome of the Interview
- Review and action

Stage One: Investigation

A proper investigation of the circumstances should be carried out. It is insufficient to merely rely on the fact that allegations have been made although, unfortunately, some employers do.

An investigation by an employer may include the following:

- i) Assessing any relevant documentation including personnel file.
- ii) Interviewing persons who may have (or should have) knowledge of the employee's performance.
- iii) Assessing statistical information if that is an appropriate method of assessing performance in the case.

Whichever method is used, the investigation must be carried out promptly and the employee informed in writing what the problem is and that it is being investigated.

Stage Two: Interview

If, after an appropriate investigation has been carried out, the employer is satisfied that there is substance to the allegation of unsatisfactory performance and wishes to investigate it further, an interview might be arranged with the employee concerned as soon as practicable.

The employee should be notified in writing of the interview. You should provide this correspondence to your union for further advice.

The written notification should include:

- i) The time and place of the interview.
- ii) The specific nature of the matter(s) to be discussed.
- iii) The employee's right to have a support person of their choice (including a union representative) present.

If you have not been given notification of the above details, you should contact your employer immediately for more information. Alternatively, you may request that your union make this contact on your behalf.

At the interview:

- i) Notes of the meeting should be taken by your support person.
- ii) Details of the deficient or unsatisfactory performance should be provided to you. This should be in sufficient detail to enable you to respond and address the issues raised adequately, including documentation the employer has relied on when determining their course of action against you.
- iii) You should be given the opportunity to respond to the allegations and to raise any matters which you consider to be relevant. If you want reasonable time to consider the matters raised, it should be allowed. This includes being able to respond to the concerns in writing.
- iv) Any timelines regarding outcomes should be the subject of negotiation with the employer.

NB. At this interview it is important to be represented as your employer will usually have their own witness present. We strongly recommend that you take a support person as what occurs at these interviews can be crucial to the process and outcome.

If you feel bullied or harassed at a meeting, make a clear statement to that effect, and request the meeting be terminated. Should an employer refuse, your union can advise you about the correct action to take following the meeting.

Stage Three: Outcome of Interview

If, having regard to all matters raised at the interview and to your response, the employer

considers that no action is required, you should be advised in writing accordingly.

Should action be deemed necessary, you should be advised in person with written confirmation, including?

- i) That the employer believes your performance is deficient. In such a circumstance you should be provided with details of the alleged deficiencies.
- ii) The standards which need to be met and the agreed timeframe within which those standards must be achieved.
- iii) A date when a review of your performance against those standards will be conducted, or notification that there will be an ongoing review.
- iv) The potential consequences of failing to achieve the standards within the timeframe.
- v) The name of a nominated contact within the organisation (e.g. employee's supervisor) with whom the employee can discuss any matters which are unclear and from whom any required assistance will be provided; and
- vi) Details of counselling and/or professional development (where applicable) available to you.

You may receive a formal written warning at this stage. Regular meetings should be held with your employer or their representative to monitor your progress.

If your employer is not satisfied, they must state specifically what the problem is and how the employee might meet their expectations.

Stage Four: Review

The review should occur whether or not your performance has improved.

If your performance has improved, you should be informed of this in writing.

If it is considered that there are sufficient grounds for disciplinary action, you should be advised in writing that a failure to improve is likely to lead to termination. The interview and review process should be repeated prior to the implementation of disciplinary action.

Getting your union involved at the commencement of the process ensures procedural fairness for you. Our Union can intercede, on your behalf, if they feel there is a flaw in the process.