

Role of a Support Person

Commissioner's Guideline

This guideline provides employees and employers with contemporary advice about the role of a support person during discussions between employers and employees.

This guide does not relate to the role of professional advocates or representatives engaged in advocacy meetings.

This a guideline only. There may be circumstances where the role of a support person may vary.

A support person should not advocate for the employee during the meeting.

1. A support person should:

- Support but not advocate for an employee.
- Provide the employee with support during the meeting and take notes.
- The employee will be required to do most of the speaking, as the support person cannot advocate for the employee during the meeting.
- Ensure the meeting is fair for the employee. Employees must be given an opportunity to respond to and ask relevant questions.
- Intervene and stop the meeting if the employee is too upset to continue, or the employee needs a break.
- Play a more active role during meetings if the employee has a significant disability or for whom English is an additional language. The employee or support person should advise of this at the start of the meeting so that everyone is aware of what the situation is.

2. Role of a support person, professional advocate and union representative differ.



An advocate is someone who represents the employee such as a lawyer, industrial advocate or union representative. Advocates are generally paid support while support persons are unpaid. They are not the same as a support person and their roles will differ.



A union delegate is a union member and an employee of the NTPS. The key difference is that a union delegate has training, tools, and protections to assist other members solve problems at work. They can attend meetings in the role as a support person.



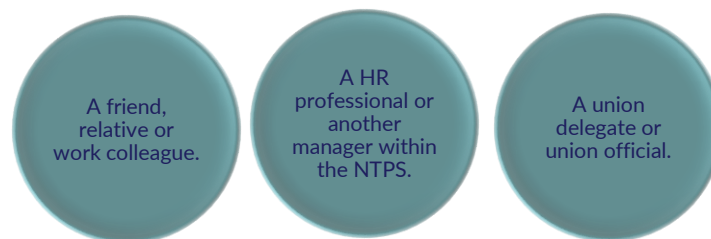
A union official works for a union. If a union official attends a workplace meeting, they generally play the role of an advocate (like lawyers and other paid industrial advocates). However, they can also attend meetings with an employee in the role of support person.

3. A support person is permitted to contribute (talk) during meetings

- The role of the support person is to support the employee in the process.
- The support person may ask questions or clarify facts if the employee is uncertain.
- The support person may provide assistance with the story telling if necessary, but not be the story teller. The support person should not answer questions about facts that only the employee will know.

- Support persons should also ensure that the employee is prepared for the meeting. They should encourage the employee to make notes before a meeting to ensure they don't forget anything they wish to say before the meeting is closed.
- Short breaks can be offered to allow the employee and support person to confer.
- A support person should not take over the meeting. The meeting is not about the support person.
- Employees are encouraged to speak for themselves during the meeting.

4. A support person may be:



5. An employee has the right to bring a support person to a meeting.

- Employees must be provided the opportunity (invited) to bring a support person to any discussion that may give rise to inability or disciplinary proceedings, in ability or unsatisfactory work performance discussions in the future, or a meeting that may be difficult or challenging for the employee.
- An unreasonable refusal to allow a support person during a discipline meeting may impact on procedural fairness requirements and may result in an adverse finding against the agency in any appeal process that may arise or other employment law action.

6. Employers should only refuse a particular support person in exceptional circumstances.

- If there is a potential conflict of interest or specific concern about confidentiality an employer can ask an employee to choose a different person to support them during a meeting. This might occur where the support person also works in the same area or has a vested interest in the outcome of the meeting.
- An employer should not influence or unreasonably refuse the request of an employee to choose their own support person.
- It is not expected that a support person be involved in the everyday 'business as usual' processes for example.
- If an agreement cannot be reached on who a support person should be then the employee or employer may human resources for assistance.

7. Managing overly enthusiastic or obstructive support persons.

- It is important that all participants in a meeting or interview clearly understand the support person's role and the nature of the interaction that should occur between the parties.
- The support person should be acknowledged and reminded of their role and that they are not an advocate.
- It is important to remind everyone involved of the need for confidentiality.

7.1 Tips for conducting an effective meeting.

- Remind all persons attending of their responsibilities to follow the guideline.

- Take an active listening approach to the meeting.
- If the support person is answering for the employee, remind the support person that the employee needs to respond where possible. Wait for the employee to engage.
- Offer a short break to allow the employee and support person to confer.
- If a support person is a union official or delegate, acknowledge that they have a role to support their member's interests but that in this meeting, they are attending in the role of a support person not advocate.
- If a support person becomes obstructive they should be warned that if they continue that behavior they will be asked to leave. If the employee does not wish to continue the meeting without a support person, then the meeting should be terminated with an option to provide another support person or address the matters of concern in writing.

8. An employer must give reasonable notice of a meeting relating to discipline, potential discipline, inability or unsatisfactory work performance.

- It is recommended that 48 hours' notice is provided to an employee in relation to a meeting (unless a genuine and serious urgency can be demonstrated).
- Meetings may need to be rescheduled if an employee is unable to secure a support person within a reasonable period.
- Employees should receive notice of what the meeting is about. If an agenda is prepared, the employee should be given a reasonable amount of time to view the agenda in advance of the meeting.
- An employee must be given an opportunity to secure a support person to attend the meeting if they so wish. Failure to give adequate notice of a meeting may have consequences for the employer and supervisor including during any potential industrial matters.
- Employees should be advised of who will be attending the meeting.

9. Meeting notes should be provided to the employee.

- A summary of the meeting notes should be provided to the employee for review, prior to being finalised or provided to any third party. It is not necessary for the agency to provide the support person with a copy of the notes. However, the employee is permitted to share the notes with a support person if they wish.
- If the parties disagree on the written summary notes, dissenting views should be noted in writing and included in the finalised summary notes.

10. An employee may request a meeting with their employer and bring a support person and/or an advocate.

More commonly, it is the employer who requests to meet with an employee about a work related matter. However, an employee may instigate a meeting and bring with them support.

An employee can request a meeting with their employer at any time. The employee should advise their employer whether they intend to bring a support person or an advocate. Meeting requests are best made in writing outlining matters to be raised.

It is up to the employer whether or not they accept the meeting request. However, every attempt to meet with an employee should be made.