

HR Guide: Representation (Maximising Attendance)

Version: 2.1

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North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

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Version Number	Effective Date	Details of Last Revision
2.1	18.07.14	Updated onto new policy template

Section 1: Introduction

- 1.1 Employees have a statutory right to be accompanied by a companion where a meeting could result in a formal warning being issued, or action could be taken that could ultimately led to dismissal.
- 1.2 Under the Maximising Attendance Procedures, the 3 Stages of the procedure are triggered by both long and short term absences. The expectation is that the employee will be able to improve their attendance targets with support and other appropriate interventions. If this is not possible and the levels of absence continue to be unsustainable, then it is possible that the culminations of the stages of the procedure can lead to a Stage 3 which can result in dismissal due to incapability. This is a fair reason for dismissal, if all reasonable steps have been taken to try and improve attendance.
- 1.3 It is important that employees understand the potential serious outcome of the Maximising Attendance Procedure and representation at the stage meetings is encouraged.

Section 2: Who can represent me?

- 2.1 An employee may represent him/herself or chose to be represented at any of the stages of the Maximising Procedure where an employee is required or invited to attend a Stage 1/2/3 interview or Stage 1A/1B/2/3 interview for teachers.
- 2.2 If a representative is chosen, the representative can only be one of the following in accordance with the Employment Relations Act, 1999:-
- a fellow employee; who is another North Ayrshire Council employee; or
 - a full time trade union officer or a lay trade union representative (but not necessarily of a union recognised by the Council) with experience of or has received training in acting as a worker's companion at a disciplinary hearing.
- 2.3 Reasonable time off should be given to allow the employee, fellow employee or lay representative to prepare before the interview and for the actual interview.

Section 3: Employee Responsibilities

- 3.1 The employee shall provide to the manager concerned, verbal or written confirmation beforehand of the intention to be represented. The employee shall, wherever possible, also provide the name of that representative.
- 3.2 Where that representative is a fellow employee, the employee being interviewed should consider any possible conflicts of interest that may arise through their choice of representative. The manager, however, can object to the chosen representative if a conflict of interest arises.

- 3.3 The employee is expected to ensure their representative has all the necessary information in respect of the date, time and location of the meeting, including provision of any relevant documentation.
- 3.4 An employee can offer an alternative interview date where the representative cannot attend on the date proposed by management. However, the interview shall normally be re-arranged within five working days beginning with the working day after the day proposed by the manager.

Section 4: The Representative's Role

- 4.1 The employee or representative should be allowed to address the hearing, to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing.
- 4.2 The employee or representative does not, however, have the right to answer questions on the employee's behalf (who should respond to questions asked directly of him/her), address the hearing if the employee does not wish it or prevent the employer from explaining their case.

Section 5: Appeals

- 5.1 **An employee will have a right to appeal at the First Stage (Stage 1A/1B for teachers), Second Stage and Third Stage of both the short and long term procedure.**
- 5.2 The appeal can be against either the facts (which led to their being seen under this procedure) or the outcome of their interview under this procedure. An employee shall also have an appeal against their dismissal, such an outcome only being possible at the Third Stage of the procedure. There shall only be one level of appeal within North Ayrshire Council.