

BRINGING A REPRESENTATIVE/SUPPORT PERSON INFORMATION SHEET

Purpose

The purpose of this Information sheet is to provide staff members with information and guidance about the University's obligations to enable a support person or a representative to attend a meeting with a staff member under the [University of Adelaide Enterprise Agreement 2017 – 2021](#) (the 'Enterprise Agreement').

Q1 What is the University's responsibility?

The University is required to provide staff members with a reasonable opportunity to arrange for a **representative** or **support person** to participate in internal processes. A balance must be struck between affording staff members procedural fairness and ensuring internal procedures take place reasonably efficiently and effectively. For example, the Fair Work Commission found in one case that a 5 day timeframe between notification of a meeting and the meeting taking place was reasonable to arrange for a **support person**, notwithstanding the weekend in between those dates.

Q2 What is the difference between a support person and a representative?

Under clause 1.3 of the Enterprise Agreement, a **representative** means a person chosen (including a **union representative**) by a staff member to represent them in any internal process arising out of the application of the Agreement, provided that the chosen person is not a practising solicitor or barrister. Clause 1.3 is a definition clause and is applied where the term "**representative**" or "representation" appears throughout the Enterprise Agreement.

A **support person** provides a staff member with emotional support during a process; they may not attend a meeting as an advocate and should not act or speak on behalf of the staff member. A **support person** may take notes on a staff member's behalf and may act as their sounding board however their role does not extend further than that.

Q3 When is a staff member entitled to a representative?

A staff member is entitled to a representative when required to attend a meeting as part of a process under the following clauses of the Enterprise Agreement:

- 2.2 Hours of Work – Professional Staff
- 3.9 On-Call and Standby Allowances
- 3.12 Recovery of Overpayments
- 6.6 Incapacity to Perform Duties
- 6.7 Redundancy
- 7.10 Major Organisational Change
- 7.11 Consultation about Changes to Rosters or Hours of Work
- 8.1 Unsatisfactory Performance

- 8.2 Disciplinary Procedures for Misconduct and Serious Misconduct
- 8.3 Review of Decisions
- 8.5 Dispute Settlement Procedures
- 33.16 Dispute Settlement Procedures (under Schedule 8)

The University should advise a staff member of their entitlement to a representative when the entitlement arises.

Q4 When is a staff member entitled to a support person?

Where a meeting is not part of an internal process under the Enterprise Agreement which makes specific reference to a right to a **representative** or representation, a manager may offer a staff member the opportunity to have a **support person** attend the meeting with them. Alternatively, a staff member may ask to bring a **support person** with them.

Q5 Can the University refuse a staff member's request for a representative?

The University can say no to a staff member's request for a **specific representative** when that request unreasonably prolongs internal processes. For example, where the University arranges for a staff member to attend a misconduct meeting within 3 business days and the staff member refuses to attend on the basis that their preferred **representative** isn't available to attend a meeting for at least 7 days, the University can require the staff member to make alternate arrangements to ensure their attendance at the scheduled meeting.

*A staff member is not entitled to bring a **representative** to meetings which do not form part of an internal process enlivening the right to one under the Enterprise Agreement.*

1. Planning Development and Review ('PDR') meetings

PDR is a process outlined in clause 5.2 of the Enterprise Agreement which does not entitle a staff member to a **representative** as there is no reference to "**representative**" within the relevant clause.

If a staff member asks to have a union representative present at their PDR meeting as a **representative**, the University should give genuine consideration to the staff member's reasons for the request.

A manager may choose to accept a staff member's request for a **representative** (whether a union representative or otherwise) to attend a PDR meeting, but in doing so they are providing that staff member with a right over and above their entitlements under the Enterprise Agreement

The preferable alternative may be to allow the staff member to bring a **support person** to the meeting. This may assist the conduct of the meeting. A support person may or may not be a union member.

Where a staff member brings a **support person or a representative** to a PDR meeting, the manager may elect to invite the relevant HR Advisor to attend to provide them with support.

2. Regular Group Staff Meetings

A regular group staff meeting does not form part of a process which gives rise to a right to a **representative** under the Enterprise Agreement.

If it does not suit the University to have a **union representative** attend the staff meeting and if the **union representative** does not have a permit from the Fair Work Commission to attend, the University can refuse the request.

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Q6 Can the University refuse a staff member's request for a support person?

The University can say no to a staff member's request for a **specific support person** when that request unreasonably prolongs internal processes. For example, where the University arranges for a staff member to attend a PDR meeting and the staff member refuses to attend on the basis that their preferred **support person** isn't available, the University can require the staff member to make alternate arrangements to ensure their attendance at the scheduled meeting.

Q7 What represents good practice for the University?

- Providing staff members with a reasonable period of notice for meetings to allow them to arrange for a **representative** or **support person** to be present;
- Not refusing a staff member's reasonable request to have a **representative** attend a meeting where it is part of an internal process which gives staff a right to a **representative** under the Enterprise Agreement;
- Not refusing a staff member's request to have a **support person** present so long as the request is reasonable;
- Clarifying the role of the person as a **representative** or a **support person** at the outset of any meetings or discussions (including the obligation to keep processes confidential); and
- Suggesting that breaks be taken during any meetings or discussions for the **representative** or **support person** to consult with or have frank and private discussions with the staff member as required or appropriate.

For further information

Please contact the HR Service Centre 831 31111 or email [HR Service Centre](#).

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