

SDA MEMBER SUPPORT CONTACTS

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A MESSAGE FROM SDA SECRETARY

Chris Gazenbeek

Counselling is supposed to be a positive action designed to improve an employee's performance and their understanding of the employer's policies and procedures.

Unfortunately, some members may find themselves in a situation where their rights are not being upheld and may be counselled in a manner which may be regarded as harsh or unjust.

Knowing the correct procedure in relation to counselling and warnings will ensure that members are treated fairly.



KNOW YOUR RIGHTS

Counselling & Warnings

The SDA accepts that an employer may legitimately interview and counsel an employee to assist them in their work. Counselling is a positive action designed to raise an individual's performance and ensure that they understand relevant policies and procedures.

A counselling session is a two-way discussion, not an interrogation session for alleged breaches of policies or procedures. The member must be informed before the session as to what issues are to be discussed.

An employee can terminate a session or adjourn a counselling session at any time. Appropriately, an employee may terminate a session where the employer has raised something that the employee did not expect.

Possible Outcomes of a Counselling

- **Educate and inform** - It may be that the employee has not been properly informed of the employer's policy or procedure as it relates to an issue(s) that has been raised in counselling. It could also be that the employee may not be aware that there has been a change to that policy or procedure. In all such cases, the employee may be given instructions on the nature and effect of the policy or procedure as it relates to the issue(s) raised in counselling.
- **Re-train** - There may be instances where the employee may have an interpretation of the employer's policy or procedure that is inconsistent with the employer's interpretation. In such instances, it will be appropriate for the employer to provide re-training in line with their interpretation.

Warnings

A warning is different from a counselling. An employee may be warned for alleged breaches of the employer's policies or procedures. However, the number, form and appropriateness of a warning will depend on the circumstances of the issue. An employee must be warned before they can be dismissed. The exception is where the allegation is for serious or wilful misconduct.

Where the employer moves to terminate the employment of an employee, it is very important to obtain copies of all documents shown or held out to the member during the counselling session. Importantly, where a member has been terminated, they should contact the SDA office immediately.

Employees' Rights

The right to have a witness of their choice. An employee has a right to a witness of their choice. The counselling can be scheduled or re-scheduled at a time when a witness of the employee's choice is available. SDA members should always have a witness of their choice present for all counselling or warning sessions. The most appropriate choice of witness is a Shop Steward.

The right to remain silent.

It is illegal to force anyone to answer questions. An employee can choose which, if any, questions to answer.

If the employee is being terminated and does not wish to answer any questions, they should inform the employer representative that they will consider their questions and provide a response after consulting with their Union.

The right to not be forced to enter or remain in the employer's office.

An employee can adjourn the counselling at any time, if they feel they need to. Importantly, an employee cannot be required to go into or remain in an office, unless they are under arrest.

The right not to sign anything.

An employee cannot be compelled to sign documents, including counselling forms. Where an employee feels obliged to sign a document they should write, "I have read the document, but I do not agree with its contents". An employee should never sign a document just to say that they were present.

More Information

If you have any questions about counselling procedures, please speak to your workplace Shop Steward, Organiser or contact the SDA office.