

## **WHAT WE WILL DO FOR YOU- A GUIDE TO INDIVIDUAL AND COLLECTIVE REPRESENTATION**

- 1.0 As a trade union and professional body the Society of Radiographers is committed to provide the most effective and cost efficient representation for members. Local, Regional and National Officers are equipped to deal with a wide variety of problems members can experience in the workplace. In addition we have a team of Full Time Officers who are skilled in representing members before the Health Professions Council, Employment Tribunals and during investigations conducted by DH into incidents involving radiation.
  - 2.0 We are often asked to represent members in situations that are contentious and require a high degree of tact and diplomacy. It is important that members recognise and accept that the SoR as a trade union will ensure that any investigation or disciplinary process is fair and transparent. In all cases it is important that the full facts are known to all parties and that a written or oral submission by an employer or the member is the truth. Where facts are not in contention, we will advise the member to be honest in all that they say and do so that an employer or regulatory body can reach a reasonable, proportionate and just conclusion.
  - 3.0 This guide will assist members to understand how we will represent your interests and how we determine representation should be provided. All cases are assessed on merit and therefore the following information will always depend on the particular circumstances of any case and the facts as they arise.
  - 4.0 We have compiled a sample list of questions and answers below that should help you to understand what the SoR will do for you and explain some of the parameters for representation.
- Q 1 How long do I have to be a member of the SoR before I can expect representation?
- A. Members must be in membership before representation is provided. However if the need for representation occurred before membership

commenced the SoR may not provide assistance. Each case will be treated separately and it will be for the prospective member to explain why they were not in membership at the time of the incident and why the SoR should now support them.

Q 2 I have been told by my employer that there has been a complaint made against me by a Patient and/or another member of staff, how do I get SoR representation?

A. All members should consult with the local SoR representative in the first instance. Where there is no elected representative available the member should contact the SoR on 020 7740 7234 for further advice and assistance. Until advice is given the member should not produce a written statement for the employer or admit any blame or culpability.

Q 3 Our SoR local representative is young and I think they are inexperienced. They are also friendly with the Manager and do not like me, can I have another representative or the Full Time Officer to represent me?

A. The SoR expects that the local representative will provide representation in the first instance. If there is a conflict of interest or the representative does not feel they are able to provide assistance they will discuss this with the Full Time Officer who will decide how best to proceed.

Q 4 The local representative is only Band 5 and I am the Manager. How can they represent me when I am responsible for managing them?

A. We have found that the best representation for managers will be the local representative as they are aware of the issues and the local politics. If this is a problem then please refer to the answer to question 4 above.

Q 5 The Full Time Officer is representing the staff. I am the manager, who represents me?

A. This will depend on the case and the issues under discussion. If the Manager is seeking to re-organize the department/discipline a member of staff or change working practices, they will seek advice and assistance from the employer as they are acting on behalf of the Trust, PCT or

independent company. If the action is against the manager for a decision they have taken and the staff have entered a grievance, the manager should seek assistance from Human Resources as they are acting on behalf of the employer. In all cases the manager may discuss their concerns with the Full Time Officer who may advise them accordingly.

Q 6 I am not happy with the advice given to me by the Full Time Officer and want the Director of Industrial Relations [DIR] or another officer to represent me.

A.If the member is not happy for the Full Time Officer to continue to represent their interests they must write to the Director of Industrial Relations and explain the reasons for their concern as soon as possible. The general rule that will be applied is that only where there has been, or will be, a clear conflict of interest, will another officer be allocated to represent the member.

Q 7 Why can I not have a lawyer with me at the investigation?

A Members who wish to instruct legal counsel may do so. In the majority of cases the employer is not obliged to allow a member to have legal representation present at an internal investigation and hearing. Once the member instructs or seeks assistance from legal counsel the SoR is no longer obliged to represent the member. Whilst SoR representation is free, legal representation is likely to attract a fee that will be met by the member and not by the SoR.

Q 8 The employer has told me that they will report my conduct to the Health Professions Council, will the SoR provide legal representation?

A. See 4 above. The SoR has a number of trained Full Time Officers who are skilled in representing members before the HPC. Only in extreme cases will the SoR instruct legal counsel to represent a member. Should we instruct counsel the SoR will compile the brief and will be responsible for any instruction and direction at the hearing.

Q 9 I have been told by the employer that the matter will now progress to a full hearing and may be reported to the HPC. I have heard that where my

future registration is in jeopardy I am entitled to legal representation – is this true?

- A. Currently and only in exceptional circumstances where it is clear that the member's ability to work may be at risk, can there be a right to legal representation. The right to legal counsel is currently under review and on appeal at the High Court.

In any event where the member is of the view that they must have legal representation they will be responsible for any fee or instruction. The SoR can provide free representation of the required standard and does not believe that Solicitors or equivalent are necessary or as effective as a local SoR trained representative or Full Time Officer.

Q 10 My friend has told me that the union is obliged to provide me with a lawyer if I want one, is this true?

- A. No it is not. The SoR is obliged to consider the most appropriate advice and representation for the member in the circumstances. It is for the member to accept the advice and representation offered by the SoR, or seeks alternative representation at their own expense.

Q 11 Am I not entitled to legal representation through the insurance provided by the SoR?

- A. The SoR Professional Indemnity Insurance will only provide representation where the member is accused of professional misconduct and this is the subject of civil proceedings. In any event it is for the Insurance Underwriter, in discussion with the SoR, to determine if there is a need to instruct legal counsel (see 4 above).

Q 12 If I get a lawyer to represent me will the SoR pay the Bill?

- A. Only where the SoR instructs a Solicitor will the SoR be responsible for payment. In instances where the member instructs a Solicitor of their choice the member will always be responsible for **all** costs associated with representation. (See also Question 8.)

Q 13 If during the course of the investigation I obtain free legal advice that conflicts with that given by the SoR what should I do?

A. You may discuss your information with the local representation or Full Time Officer. This may be considered further with the Director of Industrial Relations and we will advise you of our decision.

Q 14 If I employ a lawyer will the SoR still provide representation if I change my mind?

A If the member decides from the outset that they do not want the SoR to represent them the SoR will take no further action. If the member decides that they no longer want legal assistance and wish that the SoR continue with representation, they must advise us in writing as soon as possible. All correspondence should be sent to the Director of Industrial Relations and include the reasons why the SoR should now be involved.

Q 15 I was told that other unions provide legal representation to all members when they ask for it- why does this not happen with the SoR?

A. This is not true. Many unions only provide legal assistance in extreme cases and within strict limits. No unions, to our knowledge, automatically instruct Solicitors rather than rely on local representation

Q 16 Who will decide that legal assistance will be provided and who will be responsible for my case?

A. This will be determined by the facts of the case and the stage you reach in proceedings. Each case will be considered separately and on investigation by the Director of Industrial Relations.

Q 17 If I lose my job and cannot pay my SoR subscription will the SoR still represent me at subsequent hearings?

A. Only in extreme cases would the SoR cease representation for a member who is in such dire need that they cannot pay subscriptions. We may ask the member to go onto reduced subscription, seek help from the Benevolent Fund or provide them with a subscription holiday.

