

Extract from a letter: 'Support person' in relation to ACC matters

From: Office of the Ombudsmen

Our Ref W48172

24 June 2002

"Role of a support person

The relevant legislation provides little guidance on what role a "*support person*" may play. The term is not used, let alone defined, in the Accident Insurance Act 1998. The Injury Prevention, Rehabilitation and Compensation Act 2001 provides for the elaboration of a Code of Claimants' Rights and I understand that it is proposed that that Code will include a right for claimants generally to be accompanied by a support person in dealings with the Corporation. But neither the Act nor the Code say or will say what a support person may or may not do.

I can only turn therefore to the common law. In the case *McKenzie v McKenzie* [1970] 3 All ER 1034, it was held that:

"Any person, whether he be a professional man or not may attend as a friend of either party, may take notes, may quietly make suggestions and give advice; but no one can demand to take part in the proceedings as an advocate, contrary to the regulations of the court as settled by the discretion of the justices. "

It would seem to me that the "*friend*" of a litigant in a Court proceeding is analogous to the "*support person*" of a claimant in meetings with the Corporation and may play the same kind of role. In other words a support person may attend meetings, take notes, quietly make suggestions to the claimant and give advice but he or she may not act as an advocate or representative and speak instead of or on behalf of the claimant."

Yours sincerely

Mel Smith
Ombudsman