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RIGHT TO LEGAL REPRESENTATION DURING THE DISCIPLINARY PROCESS

The Court of Appeal has handed down its decision in *R (on the application of G) v X School and others*. The Court of Appeal has confirmed that Article 6 of the European Convention on Human Rights (right to a fair trial) requires that a Claimant (in *R v X*, a teaching assistant accused of sexual misconduct with a child) should be afforded an opportunity to have legal representation at a disciplinary hearing/appeal where it was determinative of a right to practise a profession.

The Court of Appeal found that (1) the right to practise a profession was a "civil right or obligation", (2) an ISA listing would fundamentally limit G's ability to practise his profession and (3) the school's internal process would have a "substantial influence or effect" on the decision-making of the ISA. G was therefore entitled to legal representation at the disciplinary and appeal hearings.

We would strongly advise that in any disciplinary proceedings where the employee's right to practise his/her profession is in jeopardy you must consider whether he/she should be given the opportunity to have legal representation.

If you have any doubts or queries on the above, or any employment issues, please contact Judith Ellery on 0117 9453080.