



Fair and Transparent Decision Making

Many University committees and staff individually make decisions that impact significantly on other staff and students. Decisions that relate to students (and to a limited extent staff) can be reviewed by the Victorian Ombudsman, who can investigate to ensure a decision has been reached fairly and reasonably.

To assist staff in reaching fair and transparent decisions, the following information should be considered:

University Legislation and Policy

In many instances, the University's legislation and/or policy determines the procedures for reaching decisions including:

- authorising a particular body or individual to make the decision;
- specifying timelines and how to communicate with the student or staff member;
- providing parameters on what should be considered;
- detailing penalties that can be applied or types of decisions that can be reached.

Staff should ensure they are familiar with University legislation and policy and the types of decisions that the legislation/policy governs (available for download from <http://www.ballarat.edu.au/vco/legislation> and <http://www.ballarat.edu.au/govext/policies>).

If a particular decision is governed by University legislation/policy, staff should follow the procedural process as detailed in the relevant legislation/policy.

Procedural Fairness (Principles of Natural Justice)

In following the relevant procedural process (ie as outlined in University legislation) the decision maker must also adhere to the principles of procedural fairness (also known as Natural Justice).

Procedural fairness is about ensuring the procedure for making a decision is fair and proper. Procedural fairness applies to the exercise of a power which affect the rights, interests or legitimate expectations of an individual.



The rules of procedural fairness are of variable application and depend on the particular circumstances of the case. The following elements make up procedural fairness:

(i) *Access to relevant information being considered and a right to respond*

Individuals about whom a decision is to be made are entitled to know what case is to be met. They should know the nature of the decision to be made, be given access to relevant information that is being considered in forming a decision and be given any criteria for making a determination (such as a copy of the applicable legislation).

Similarly, individuals must be given a right to respond and state their case prior to the decision maker making a decision.

(ii) *Sufficient notice of hearing*

Sufficient notice will depend on the complexity of the situation. If an oral hearing is to be held, an individual should be provided with written information on where and when the hearing is to be held, who will be present and the subject matter of the hearing.

Please note, University legislation may provide specific hearing requirements – such as how many days notice is required prior to a hearing – these requirements must be strictly observed.

(iii) *Support person*

The University does not allow an individual to be represented by a lawyer, and in many circumstances does not allow an individual representation by an advocate (although legislation and policies should be followed where representation is allowed ie advocates are permitted for international students using the Student Grievance Procedure).

However an individual should be permitted to be accompanied by a support person.

(iv) *Unbiased decision maker*

It is important to note that bias may be actual or perceived. An example of bias is someone who has prior involvement in the subject matter or has a close personal relationship with someone with prior involvement. An alternative decision maker should be appointed where bias may occur by the original decision maker.

(v) *Decision that is based solely on relevant evidence*

A decision maker should discard any irrelevant information and base a decision solely on evidence that is relevant to the subject matter at hand.



(vi) *Decision communicated with reasons*

The individual should be communicated the decision in writing, together with reasons for the decision.

Appeal Notification

Many decisions that affect an individual's rights or expectations have an appeal process under University legislation (eg. There are appeal processes against a penalty imposed under student discipline, against a final grade and against unsatisfactory progress etc). If an adverse decision is made and a right of appeal exists within the University, the individual should be informed of that right of appeal in writing (together with all relevant information such as how many days they have to appeal, who the appeal is lodged with etc).

If there is no internal avenue of appeal, and the decision is adverse to a student, the student should be notified in writing of their right to complain to the Victorian Ombudsman who has the right to review administrative decisions of the University.

For further information or assistance in making fair and transparent decisions, please contact the Legal Office.