

Natural justice

Liability

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Introduction to natural justice

Natural justice applies to all government decision making and requires that you adhere to a fair decision making procedure.

Natural justice applies to decisions that may adversely affect the rights, interests or legitimate expectations of an individual or organisation.

Natural justice can be enforced by courts, administration tribunals, and the Commonwealth Ombudsman. If there has been a breach of natural justice in reaching a decision, a court can declare the decision to be invalid.

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The 'hearing rule'

The hearing rule requires that a person who could be adversely affected by a decision be notified that the decision is to be made.

The notice should provide sufficient information to allow the person to make effective use of the right to respond and present their case. The nature of the decision and its possible consequences should be described, and details of where and how a submission can be made should be given.

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The 'bias' rule

The bias rule will be breached if there is a conflict of interest involving a personal interest in a matter that may prevent you from performing your duty impartially.

Not every conflict of interest can be foreseen, and sometimes a conflict becomes known only after a decision making process has started. For example, in the course of dealing with a matter, you might become aware that a friend or family member is a party, a witness or an applicant.

To avoid a breach, you must promptly disclose your interest and, in consultation with your Assistant Director, take reasonable steps to resolve the conflict.

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Natural justice in Comcare

When managing a claim for compensation, you should keep the following natural justice principles in mind:

- employees should be kept up to date with what is happening on their claim
- decision makers should be unbiased and act in good faith
- each party involved in any determination being made is entitled to ask questions and present their case
- decision makers should focus on relevant considerations and extenuating circumstances, and
- justice should be done and seen to be done.

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