

QUICK TIPS

ESSENTIALS OF PROCEDURAL FAIRNESS

Generally, when a decision is being made that directly impacts a person or group of people, public decision makers have a duty of procedural fairness. The two elements of the duty of procedural fairness are: the right to participate and be heard in the decision making process, and the right to an impartial decision maker.

Provide an opportunity for people to participate in the process

1

Provide advance notice of the decision

Tell the person what type of decision you will be making in advance, with reasonable notice to enable them to prepare a response.

2

Share information about the decision to be made

Provide information about the decision, which may include:

- the rules and criteria (e.g. legislation and/or policy) being used to make the decision;
- any information you require from the person in order to make the decision; and
- information relevant to the decision you already have, particularly where it may be adverse to the person's interests.

3

Provide an opportunity to be heard

The person impacted by the decision should be provided an opportunity to tell their side of the story and present their case. The person should also have a chance to challenge information or evidence being used to make the decision and to present contrary information.

4

Offer clear and meaningful reasons for your decision

Explain to the person how and why the decision was made. Make sure you have explained how the applicable rules were applied to reach a decision. Your reasons should also demonstrate the affected person's information was heard and considered.

5

Give information about any available appeal or review procedure

Inform the person about any available appeal or review procedure and any specific time limits.

Be an impartial decision maker

To be an **impartial decision maker**, you must have an open mind, be free from bias and have not prejudged the case.

- You must be impartial about the issues you are deciding and the people affected by your decision.
- Your decisions must be based on the decision making criteria and information and evidence relevant to the decision.
- Irrelevant considerations and factors, such as your personal belief systems or prior knowledge of the issue you are addressing or those involved, should not influence your decision.

