Introduction

University committees and staff members have the power to make decisions that may have a significant impact on staff, students and other members of the University community.

The University is committed to ensuring that this decision making process is fair and transparent at all times.

University legislation, policies and procedures

In most cases, the decision-making framework will be determined by industrial instruments, University legislation, policies or procedures. These documents may, among other things:

• authorise a particular body or individual to make the decision;
• specify timelines and methods of communication with the relevant student or staff member(s);
• provide parameters on the information and subject matter that should be considered; and
• detail types of decisions that may be reached and penalties that may be applied.

Staff should ensure that they are familiar with the relevant industrial instrument, University legislation, policy or procedure and the decisions governed by them. The relevant procedural and approval processes must be followed when making a decision.

For a decision to be valid and effective, the decision must be one that the decision maker is authorised to make.

Privacy and confidentiality

Warning - Uncontrolled when printed! The current version of this document is kept on the FedUni website.

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Any use of an individual’s personal information must comply with the University’s Privacy Policy and the University’s Information Privacy Statement – Collection, Use and Disclosure of Personal Information. Appropriate levels of confidentiality should be maintained throughout all decision making processes.

**Procedural fairness**

The University will comply with the principles of natural justice (also known as procedural fairness) to ensure that the decision making process is fair and proper.

Not all University decisions are subject to these principles. The principles will only apply to the exercise of a power which affects the rights, interests or legitimate expectations of an individual associated with the University.

The principles of natural justice (procedural fairness) are outlined below.

**Disclosure of relevant information**

When the University makes a decision about an individual, the individual will be informed of the case against or regarding them, including:

- allegations or accusations made against the individual;
- information upon which the decision will be based;
- criteria for making the decision;
- the nature of the decision that may be made; and
- potential penalties that the University may impose.

If the decision in question is governed by an industrial instrument, University legislation or policy, a copy of the applicable instrument, legislation or policy should be made available to the individual.

**Sufficient notice of hearing**

What is considered sufficient notice of the hearing will depend on the complexity and urgency of the matter. If an oral hearing is to be held, the individual will be informed in writing of:

- The date and time of the hearing;
- The location of the hearing;
- Those who will be present at the hearing;
- The subject matter of the hearing; and
- Any right to a support person.

Where the applicable instrument, legislation or policy contains specific requirements, such as time frames, these requirements should be strictly observed. If the relevant legislation or policy does not prescribe specific requirements, the decision maker will give notice that is fair and appropriate in the circumstances.

**Right to be heard**

An individual is entitled to the opportunity to reply to a case against them, and to the receipt and consideration of the reply prior to the decision being made.

A hearing does not necessarily mean a formal oral hearing. It may include an informal meeting or mediation and may be conducted by telephone or video link. If an oral hearing is not specifically required by an industrial
instrument or University legislation or policy, and it is appropriate in the circumstances, a person may be heard in writing (for example, by the University’s consideration of documents or correspondence).

The relevant industrial instrument, University legislation or policy may permit the individual to be accompanied by a support person. However, generally these do not allow an individual to be represented by a person with legal qualifications, and in most circumstances, will not allow an individual to be represented by an advocate. There are some exceptions to this – for example, advocates are permitted for international students under the Student Grievance Policy and Procedure, and for staff and the University under the University Collective Agreement.

Unbiased decision maker

Any decision maker appointed by the University or under an agreement or legislation must be impartial and have no interest in the matter being decided.

The decision maker must not bring a biased or prejudiced mind to making the decision. Even in circumstances where no actual bias exists, the decision maker must be careful to avoid any appearance of bias. The appearance of bias may arise, for example, when the decision maker has had prior involvement in the matter or has a close association with a party involved.

Decision based on relevant evidence

The decision maker will not base their decision on mere speculation or suspicion. All irrelevant information must be disregarded.

The decision will be based solely on evidence that is relevant to the matter at hand.

Communicating the decision

Once a decision is made, it will be communicated to all affected individuals. University legislation or policy or an industrial instrument may prescribe a time within which a decision must be made or communicated, and/or require the decision maker to provide a written statement of the reasons for the decision.

No penalty will be imposed unless it is authorised by an industrial instrument, University legislation or policy.

Decision makers are required to keep detailed written records of all decisions and the processes followed in reaching those decisions.

Urgent decisions

In very rare circumstances, the University may make a decision that does not comply with the principles of natural justice, in response to extreme time constraints or exceptional circumstances where the gravity of the matter requires it. Any decision made in this situation should be authorised by University legislation or policy or Commonwealth or State legislation (for example, a decision to exclude a person from a campus under University Regulation 6.1, section 10 or section 9 of the Summary Offences Act 1966).

Appeal notification

Many decisions that affect an individual’s rights or expectations have an appeal process under the relevant industrial instrument, University legislation or policy.
If an adverse decision is made regarding an individual, and a right of appeal exists, the individual will be informed in writing of the right to appeal and the relevant procedure or method.

Decisions that relate to students (and staff, to a limited extent) can be reviewed by the Victorian Ombudsman, who can investigate to ensure a decision has been reached fairly and reasonably. If there is no internal avenue of appeal, the individual should be notified of any right of complaint to the Victorian Ombudsman.

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