

This Guideline will assist in ensuring the principles of natural justice are applied in administrative decision making. The Guideline is to be read in conjunction with Employment Instruction Number 3 (Natural Justice), but does not form part of the legislation.

### ***1. Natural justice requires that a person is afforded a fair hearing***

The exact requirements of a fair hearing will vary depending on the circumstances, including the seriousness of the foreshadowed action and the extent to which the person will be adversely affected by the decision. In general, the more serious the consequences of a decision for an employee the more rigorously the principle of natural justice should be applied.

It is generally best practice to foreshadow a pending decision in writing and to invite written submissions in response, as this leaves no doubt as to the information or allegations put to an employee, and his or her response.

Notwithstanding the above, it may be sufficient in some circumstances to put information or allegations to a person orally and invite his or her oral response prior to making a decision. In such cases, it is strongly recommended that:

- a file note documenting the content of the discussion be prepared as soon as possible following the meeting;
- a copy of the file note be provided to the employee; and
- another person be present to act as a witness in relation to the discussion.

Where practicable, it is also recommended that both parties to the discussion agree on the content and sign the file note. However, an employee's refusal to sign the file note does not prevent the file note from being used in the decision making process.

### ***2. Decision***

It is best practice to advise the employee of the final decision in writing.

The advice should contain concise reasons for the decision along with details of any appeal rights.