

OVERVIEW OF PROCEDURAL FAIRNESS

Bias Rule

- A decision-maker should be impartial, and free from actual or apparent bias.
- A decision-maker must be objectively impartial and not pre-judge the outcome.
- A decision-maker should not have a close personal or family relationship with any parties who have an interest in the outcome.
- A decision-maker should not have a direct or indirect financial or other interest in the outcome of the decision.

Hearing Rule

A person whose interests affected by a proposed decision is to be given a fair hearing, including being provided with:

- reasonable notice of the case to be met, including sufficient information (e.g. particulars of each charge) about the matter to be decided.
- reasonable time to prepare and the opportunity to respond, including calling any relevant evidence in relation to any adverse material that could influence the decision.
- the opportunity to appeal the decision that has been made.

Evidence Rule

- Findings / decisions are based on evidence that is relevant and logically capable of supporting the findings / decision made.



Case scenario – allocation of court proceedings

To date, Shane has filed with your court 18 separate proceedings alleging bribery, fraud and corruption-related breaches against numerous politicians and government officials.

Shane represents himself in each proceeding and each proceeding attracts significant media attention.

Each proceeding has not been successful and the Court has issued costs against Shane. Shane has not paid any of the cost orders.

Judges, registrars and court staff who have dealt with Shane's previous proceedings have found Shane to be difficult to deal with and the proceedings to be require significant resources. Shane has not been declared a vexatious litigant.

Today, Shane attends at the registry and seeks to a new application alleging fraud and corruption against numerous politicians and government officials.

Shane's application also includes a request that all judges and registrars who have previously been involved in his previous proceedings not be allocated or have any dealings with his current application as he alleges that they are biased and have a conflict of interest.

GROUP DISCUSSION

Applying the principles of procedural fairness, assign a person on your table to record your group's views. Discussion should focus on:

- How should the Court respond to Shane request to have new judges and registrars deal with his new application?
- Should Shane's new proceeding be case managed and allocated any differently to any other proceedings in your Court?
- Are there any other considerations that are important when allocating these types of proceedings?
- Should Shane be declared a vexatious litigant? If so, does your court have clearly documented procedures for declaring a person such as Shane a vexatious litigant?

