

THE CONCEPT OF PROCEDURAL FAIRNESS

The RSLWA disciplinary processes must meet basic standards of notice, fairness and transparency, or risk being overturned on appeal. Procedural fairness requires, at a minimum:

1. informing the individual with sufficient notice in advance of the hearing as per RSLWA By-Laws of the nature of the proceedings, what they are accused of and by whom. The alleged conduct must be clearly stated together with the specific breaches of RSLWA By-Laws;
2. conducting a hearing at which the individual has an opportunity to put their case (including presenting evidence and making submissions); and
3. affording a fair hearing in which the decision-maker hears evidence and submissions from both sides before making findings, and acts without bias. The findings should identify clearly the By-Law(s) breached and how they were breached.

To find a person guilty of the offence(s), the hearing must find on the **balance of probabilities** that the defendant had engaged in the alleged conduct.

Balance of Probabilities

- **Where it applies:** Civil and family cases (e.g., divorce, negligence, breach of contract, compensation claims).
- **What it means:** The party making the claim must prove that their version of events is "more likely than not" to have occurred.
- **Level of certainty:** Anything strictly greater than a 50% likelihood (e.g., a 51% chance). If the scales tip even slightly in favour of the plaintiff, the standard is met.