



SPORT | Issue No. 19 | *Natural Justice/Procedural Fairness*

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In the administration of Sport and member based organisations, the cry of deprivation of natural justice (procedural fairness) can be heard almost daily.

They say that the remarkable thing about common sense is that it is not that common. Perhaps the same thing could be said about natural justice. Perhaps it is not that natural. Some individuals seem to think that natural justice is the defence to everything.

The decision of Justice Stevenson in the New South Wales Supreme Court in hearing the application from the five Parramatta officials made clear that organisations need to comply with their Rules, but in this case the officials weren't deprived of their right to natural justice.

In this case the Rules provided that the opportunity to be heard was after the preliminary decision was made. The argument by the Parramatta officials was that they were entitled to be heard first prior to any decisions or announcements being made. The Judge determined very clearly that the process adopted by the NRL was lawful and it allowed natural justice to the Parramatta officials and that the determination and announcement prior to allowing them to be heard was lawful.

In most cases individuals are given the opportunity to be heard prior to any determination being made. I would personally be of the view that this would appear, in most circumstances and to most people, a fairer way of dealing with matters.

A rugby league journalist recently commented on television, from what he understood, there would not be any changes to the penalty. One of the principles of natural justice is that there be no pre-judgment. Accordingly, those sort of comments by the journalist are unhelpful and fundamentally incorrect.

If in fact the submissions to be made by Parramatta were not to be considered and were incapable of changing the initial decision, there would be a deprivation of procedural fairness. I am certain if you ask the people making the decision they would confirm that that is not the case and they will consider the submissions made by Parramatta.

To create public confidence in this, that body has already indicated that it will not be rushing to make a decision and a decision is still pending. This is what you would expect and this will certainly re-affirm that due consideration is given to the Parramatta submissions.

The NRL integrity unit would appear to be working overtime at the moment with the recent scandalous story about match fixing. It will be very interesting to see how this investigation pans out and what (if any) are the consequences to individuals, teams or the game.

Match fixing is a criminal activity. The burden of proof for disciplinary matters and criminal matters is of course different. We have seen the difficulty in obtaining criminal convictions for match fixing on an international scale. To obtain a criminal conviction it has to be proved beyond reasonable doubt.

Some of my recent articles have focused on the nature of professional Sport in Australia. If match fixing has occurred and the players/teams are disciplined, that will change the face of Australian Sport forever.

In 1919, the Chicago White Sox allegedly threw the World Series, players were banned but there were no criminal convictions.

Up until now, whilst individuals have been punished for various illegal activities, there has been no proof of any team throwing matches in Australia.



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