

## Natural Justice and Procedural Fairness

In the western world where the principles and ideals of democracy are established and followed, it is expected that in any disciplinary hearing, the rules and process of natural justice will apply. In this case, the possibility of what is so termed as a Kangaroo court is unlikely to be a matter of concern.

The Department of Education and Children Services of Australia determined that at the heart of the rules of natural justice and procedural fairness is the opportunity to be heard by an impartial decision maker. The substantive point remains that the rules of natural justice apply whenever the rights, property or legitimate expectations of an individual are affected by a decision.

It is important to recognize that this will negate behaviours or actions that could be deemed inappropriate. These generally emerge where there is a semblance of a matter being addressed where there are preconceived notions that can lend to some level of bias emerging as a matter of genuine concern. If it is accepted that natural justice and procedural fairness are common law concepts that can only be varied by way of legislation, then it stands to reason that the so called kangaroo must be outlawed.

Notwithstanding that in satisfying the rules of natural justice and procedural fairness these may vary according to specific circumstances which prevail, this does not mean that it allows for rules to be made up for convenient purposes. It is trumpeted that the three basic principles employers must follow/adhere to are the hearing rule, the bias rule and the no evidence rule.

The important point to note is that a kangaroo court is a self-appointment or mob operated tribunal that disregards the existing principles of law and / or human rights, or any arranged trial that is intended not to render a fair trial.

Management and the head of organizations retain the right to take disciplinary action if and where there are grounds to prefer charges for a breach of rules, regulations, procedures and policies. They must however be mindful that in proceeding to take action, of the possibility of infringing the legal rights and legitimate expectations of the individual. Employers and leaders of organization should always focus on evidence, as this is fundamental to any intended action to be taken. Logical evidence which speaks to the fact that the allegation is more likely to have some foundation rather than not, is what remains fundamentally important.

It has been recommended to managers and other leaders that they take into account relevant considerations, not take into account irrelevant considerations, act for a proper purpose, and that the decision is not unreasonable in the sense that no reasonable decision maker could have reached such a decision. By following the correct procedures and practices, managers can guard against being accused of arbitrary behavior.

Given the facts, it is seemingly best to avoid a kangaroo court. This type of court can basically be defined as a judicial tribunal or assembly that blatantly disregards recognized standards of law or justice, and often carries little or no official standing. The point must be underscored that a kangaroo court is generally held to give the appearance of a fair and just trial, even though the verdict has in reality already been decided before the trial has begun.