

How to manage hearings remotely

Hearings are an important process for business - they allow for conflict resolution and can mitigate risk for employee and organisation alike. However, the past 18 months have not been ideal for organisations undertaking hearings. Lockdowns, restricted office engagements and social distancing have put many hearings online. But, as Nicol Myburgh, Head: HCM Business Unit at CRS Technologies, points out, this requires that the company make a concerted effort to ensure fairness, embed ethics and dodge some unexpected obstacles.



Nicol Myburgh, Head: HCM Business Unit at CRS Technologies

“There is no real difference between doing a hearing in person or doing it remotely but there are certain factors to consider to ensure that the hearing is fair for all parties,” he explains. “Most important is to ensure that everyone has the right technology. If one person can’t access the hearing, or doesn’t have access to the same evidence as everyone else, this will infringe on their rights and the validity of the hearing.”

Companies engaging in a remote hearing must ensure that everyone has adequate technology, the relevant information and evidence, and that they all start from the same place. This will significantly reduce the risk of the hearing’s ethics being called into question. On the flip side, employees could hire lawyers to sit with them in remote sessions – something they would not be able to do in a physical hearing if this is against the company’s disciplinary code. Nobody would know that someone was advising them off screen, and this could give them a significant advantage that would not be allowed to other employees. It can potentially introduce inequalities that the business needs to address. That said, there is no legislation that enforces the need for a hearing. Although it’s widely seen as the preferred method, a company can bypass it completely if need be.

“The Labour Relations Act doesn’t state that organisations need to conduct disciplinary hearings, it outlines rights as a code of best practice,” says Myburgh. “A company doesn’t necessarily need a remote hearing; it can undertake the process over email – right up to the point of dismissal. And this can be a good way to bypass problems around connectivity or lack of access to technology.”

Ultimately, the business needs to ensure that it has the right policies in place and that hearings, remote or otherwise, are clearly outlined within these policies. There are challenges that come with hearings, regardless of their location, so by ensuring that everyone starts on the same page, the business will minimise the risks while ensuring the fair treatment of employees.

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