

## LETTER OF TERMINATION OF EMPLOYMENT NOTES (WITH NOTICE)

Generally, employers must not terminate an employee's employment unless the employer has given the employee written notice of the day of the termination of the employment (which cannot be before the day the notice is given).

You can use this letter when terminating an employee's employment because of unsatisfactory performance or conduct.

The information you need to fill in includes:

- the steps you've taken to counsel the employee about their performance/conduct
- the reasons for the termination of the employment
- the length of the notice period (or amount of payment in lieu of that notice period), and
- the date the employment will end.

For more information on notice periods and unfair dismissal, visit

[www.fairwork.gov.au/termination](http://www.fairwork.gov.au/termination).

### **Are you a small business owner?**

If you operate a small business it is important that you follow the [Small Business Fair Dismissal Code](#) when terminating an employee's employment.

### **Suggested steps for preparing a letter of termination**

Before terminating an employee's employment because of unsatisfactory performance and/or conduct, you should make every attempt to address the issues. An employer operating at best practice may follow the steps below before terminating the employment of an employee.

**If at any time you need more information or assistance, call the Fair Work Infoline on 13 13 94 or visit [www.fairwork.gov.au](http://www.fairwork.gov.au).**

#### **Step 1: Highlight expected performance and behaviour standards**

Performance and conduct issues often arise because employees do not understand what is expected of them.

An employer should:

- make sure the employee clearly understands their role, the expected level of output or performance, and the expected conduct at work
- provide the employee with regular performance feedback and inform him or her of any changes needed to his or her work or conduct
- make sure managers and supervisors are equipped to handle unsatisfactory performance or conduct. This includes recognising the reasons for underperformance and providing feedback and training to employees.

For more information on addressing and managing underperformance, read the [Best Practice Guide: Managing underperformance](#).

## **Step 2: Identify and address the issue**

Speak to the employee about any performance or conduct issues to avoid making assumptions about the situation. Identify exactly what the employee did or does that is unacceptable and what impact this has on the business.

Explain your intention in relation to continuing their employment and importantly set clear plans for the employee to follow in order for him or her to improve. This might include providing training.

In any formal meeting, the employee should be allowed to be represented or accompanied by a support person. When reviewing unfair dismissal claims, the Fair Work Commission may consider whether an employer unreasonably refused to allow an employee to have a support person at any discussion relating to their dismissal.

You should keep a written record of any meetings that you have with employees about their performance and/or conduct. You may wish to use the [Recording details of a meeting template](#) to do this.

## **Step 3: Provide written warnings**

Consider providing the employee with a written warning (or warnings) about the unsatisfactory conduct and/or performance. Providing the employee with a warning letter is useful because it:

- sets out clearly what the issue is
- guides the employee about what to do to improve
- sets out the consequences should things not improve, and
- becomes a formal record of the counselling you have done with the employee.

Template letters of warning are available at [www.fairwork.gov.au/templates](http://www.fairwork.gov.au/templates).

## **Step 4: Create your termination of employment letter**

If the issues in question are not or can not be resolved after the employee has had a reasonable opportunity to rectify the situation, you may decide to end the employment relationship. If you decide to terminate the employee's employment, you need to give the employee written notice of his or her termination.

The letter of termination should:

- outline the reasons for the termination of the employee's employment
- specify the notice period or if the employee will be paid in lieu of that notice, and
- advise the employee of the last day of work.

This letter of termination template has been colour coded to assist you to complete it accurately. You simply need to replace the red < > writing with what applies to your employee and situation. Some of the sections are optional because they might not apply to your employee and can simply be deleted. Explanatory information is shown in blue italics to assist you and should be deleted once you have finished the letter.

## **Step 5: Meet with the employee to provide the letter of termination of employment**

The reasons for termination of employment should be explained to the employee and he or she should be given an opportunity to ask questions.

It is important to carefully explain the information in the letter of termination of employment and ensure that the employee understands.

You should keep a copy of the letter of termination of employment for your records.

**Important:** An employee may choose to submit a complaint or claim against you (e.g. unfair dismissal, discrimination) even if you follow these steps.