

# Letter of termination of employment (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.

*The Fair Work Ombudsman is committed to providing you with advice that you can rely on.*

*The information contained in this template is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or a workplace relations professional.*

<Print on your business letterhead>

<Date>

**Private and confidential**

<Insert employee's full name>

<Insert employee's residential address>

Dear <insert name>

**Termination of your employment**

I am writing to you about the termination of your employment with <insert company/partnership/sole trader name and the trading name of business>.

*The next part of this letter sets out an example of best practice performance/conduct counselling prior to termination. It is not prescribed by law. You may not have done all the things in the three paragraphs below so you should delete what is not relevant to your situation.*

*If you are a small business it is very important that you ensure that you have complied with the Small Business Fair Dismissal Code before you terminate an employee's employment. Visit [www.fairwork.gov.au](http://www.fairwork.gov.au) for a copy of the Code.*

On <insert date> you met with <insert name of others at the meeting>. In that meeting, you were advised that <insert advice given to employee regarding improvement of performance or conduct, for example any deadlines for improvement, new targets set etc>. You were issued with a formal <warning/counselling> letter on <insert date>.

On <insert date> you had a second meeting with <insert names of other people at the meeting> and you were advised that your <performance/conduct> had not improved to the level required. You were issued with a second <warning/counselling> letter on <insert date>.

You also attended a meeting with <insert name of others at the meeting> on <insert date>. In that meeting you were issued with a final <warning/counselling> letter. This letter indicated that your employment may be terminated if your <performance/conduct> did not improve by <insert date>.

<I/We> consider that your <performance/conduct> is still unsatisfactory and have decided to terminate your employment for the following reasons:

- <Insert reasons relating to performance or conduct>
- <Insert reasons relating to performance or conduct>

*Option A: Use this option if you want the person to work his or her notice period.*

Based on your length of service, your notice period is <insert number> weeks. Therefore your employment will end on <insert future date to cover all of the weeks you need to give notice>.

*Check the National Employment Standards and your relevant industrial instrument (e.g. award or enterprise agreement) for how much notice you need to provide the employee. If there is an applicable industrial instrument or contractual arrangement (e.g. contract of employment, workplace policy) that provides different notice amounts than the National Employment Standards, you need to provide whichever is more generous to the employee. Need help? Call the Fair Work Infoline on 13 13 94.*

*Option B: Use this option if you want the person to be paid in lieu of notice.*

Your employment will end immediately. Based on your length of service, your notice period is <insert number> weeks. In lieu of receiving that notice, you will be paid the sum of \$<insert amount>.

*Check the National Employment Standards and your relevant industrial instrument (e.g. award or enterprise agreement) for how much notice you need to provide the employee. If there is an applicable industrial instrument or contractual arrangement (e.g. contract of employment, workplace policy) that provides different notice amounts than the National Employment Standards, you need to provide whichever is more generous to the employee. Need help? Call the Fair Work Infoline on 13 13 94.*

You will also be paid your accrued entitlements and outstanding remuneration, including superannuation, up to and including your last day of employment.

Employees and employers may seek information about minimum terms and conditions of employment from the Fair Work Ombudsman. If you wish to contact them you can call 13 13 94 or visit their website at [www.fairwork.gov.au](http://www.fairwork.gov.au).

Yours sincerely,

<Insert name>

<Insert position>

PLEASE KEEP A COPY OF THIS LETTER FOR YOUR RECORDS