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Notice of Employment Termination (with notice)

Employers are generally not allowed to terminate employment without giving the relevant employee an adequate amount of written notice. What constitutes the right amount of notice differs depending on circumstances, including the type of employee (casual, part-time, full-time etc.) and their length of service with the employer.

The written notice given to an employee ought to be clear in what it states, and should give an explanation. This template has been designed to give employers a tool to work with when creating a notice of employment termination, but keep in mind that the information contained in this template should be used as a guide only and may not suit your specific circumstances. The information contained in this written notice is not a substitute for legal advice as employment matters can be complex and termination of employment is often wrought with legal problems and disputes. Other factors which may be relevant when considering termination are the terms of the employment agreement, including the notice period set out in the employment agreement, representations made before employment was offered and during employment, as well as any applicable awards. Dismissing an employee in some circumstances may amount to a breach of general protections and legal advice ought to be sought.

If you choose to use our template to assist you in writing a letter of termination, you may choose to fill in the gaps with:

- Steps you have taken to notify the relevant employee of their conduct/performance, and advice you have given them so that they had a chance to improve
- The reason that you are terminating their employment
- The length of the period of notice required for the employee in question, or a payment to be made in lieu of this notice, and



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- The final date on which the employment relationship will end.

Preparing to terminate an employee

If termination is a result of unsatisfactory conduct, it may be necessary to first take steps to address an employee's unsatisfactory conduct or poor performance before you decide to terminate their employment. Here we will outline some information regarding steps that you can take to address conduct or performance issues.

Step 1 - Clearly inform employees of expected conduct and performance standards

Issues with employee conduct or performance can arise when employees are not adequately aware of what they are expected to achieve as part of the employment relationship.

For this reason, an employer should always:

- Ensure that employees clearly understand what is required of them in their role, including expected levels of performance or output and any restrictions on conduct
- Provide employees with performance feedback on a regular and consistent basis to inform them of any aspects they can improve upon
- Ensure that supervisors and managers are trained and equipped to manage cases of poor conduct or unsatisfactory performance. This may include finding ways to identify the cause of underperformance, and training management to give feedback and training to employees under their supervision.

Step 2 - Identify the issue and address it accordingly

If you have been made aware of a conduct or performance issue regarding a specific employee, you should make an effort to speak to that employee face to face. Tell them directly of the conduct or performance issue you are concerned

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about, but try to do so without making assumptions as to the cause of the issue. Identify and explain exactly what it is that the employee has done which is not acceptable and the impact this could have on your operations, but give the employee a chance to explain themselves.

Try to explain your intentions regarding the continuation of employment, and create a plan for the employee to follow so that they can improve their conduct or performance. For example, you may request that they report to you on a weekly basis for a certain period of time, or that they undergo a training or counselling session.

Remember, it is always advisable that you allow the employee to be accompanied by a supporting party should they request this. Legal bodies such as the Fair Work Commission take this in to account when considering unfair dismissal claims, and as a result they tend to look poorly on employers who refuse employees' requests for support.

Important – Keep written records of any conduct or performance issues, as well as records of any meetings held with relevant employees. You might need to refer to these records later should a legal dispute arise as a result of the termination.

Step 3 – Provide the employee with written warnings

If you are dealing with full or part time employees, you must provide them with clear, precise, written warnings in the event of unsatisfactory conduct or performance on their part. Consider giving casual employees written warnings as well. Not only will this reduce your liability upon termination, it also gives the employee a stern reminder about what is at stake should they fail to improve their conduct or performance.

When writing a written warning, try and include the following:

- A clear explanation of the issue you are having with the employee's conduct or performance

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- Things that you expect the employee to consider in order for them to improve
- An explanation of the potential consequences should they fail to improve, and
- A note which states that the warning constitutes a formal record of your attempts to counsel and manage the employee.

Step 4 - Write a termination of employment notice

If you have carried out the previous three steps and the employee has failed to improve their conduct or performance, you may be entitled to end the employment relationship. When ending an employment relationship you are usually required to give written notice and it is a good idea to do so in most circumstances.

This notice is given in the form of a termination letter, or termination notice. The termination notice you give to the employee should in most circumstances:

- Identify and explain the reason/s for ending the employment relationship,
- Identify the relevant notice period for that employee, or the payment that will be made in lieu of this notice,
- State the date on which employment will end, and
- Notify them that termination payments can result in a waiting period for Centrelink assistance.

Our **termination notice template** can be found below. Simply fill in the [brackets] with the required information applicable to your employee. Some sections are optional, as they may not apply to your specific circumstances and they can be deleted if this is the case. We have also included some explanatory information, which is typed in bold. Delete this if you are using the template.



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Step 5 - Meet the employee and provide them with the termination of employment notice

Upon meeting with the employee in question, provide them with an explanation as to why you are terminating their employment and give them the opportunity to ask questions.

Walk the employee through the information contained in the termination of employment notice, and ensure that you keep a copy for your records.

Keep in mind that an employee may decide to take legal action against you even if you have followed these steps. In this event, contact a legal professional for assistance and advice.

The information above is not a substitute for legal advice and may not be applicable to your circumstances as every employment situation is different. If you are unsure whether the above information applies to your circumstances please seek legal advice.

[Type on your business's letterhead]

[Date]

Private and confidential

[Insert the full name of the employee]

[Insert the residential address of the employee]



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Dear [insert employee's name]

Notice of employment termination

We are writing to you in regards to the termination of your employment with [insert your business name].

You met with [insert name of management staff or boss] on [insert date]. At this meeting, you were advised that [insert any advice you gave to the employee in regards to their conduct or performance, and any deadlines or new targets for improvement]. Following this, you were given a written warning on [insert date].

You later met with [insert name of management staff or boss] on [insert date] for a second meeting regarding [performance or conduct], which had not improved to a satisfactory standard. On [insert date], you were issued a second written warning.

On [insert date], you again met with [insert name of management staff or boss]. This meeting constituted a final attempt by [insert your business name] to assist you in improving your [conduct/performance] to the required level. On this occasion you were also provided with a final written warning. This warning indicated that you may face termination of employment should your [conduct/performance] fail to improve by [insert date].

[Insert name or business name] have come to the unfortunate conclusion that your [conduct/performance] has failed to reach the satisfactory standard and as a result we are required to terminate your employment with us for the following reasons:

- [Insert explanation of conduct/performance issues].

According to the National Employment Standards, your length of service requires that you be given [insert weeks] notice. In compliance with these



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requirements, your employment with [insert your business name] will end on [insert date].

Optional - in lieu of this notice, you will be paid \$[insert amount] as a lump sum.

You will also receive any and all entitlements you have accrued during your service with us, as well as any outstanding pay up to your final employment date.

Should you have already acquired your annual leave, any annual leave remaining will be deducted from the final amount you will receive.

If you wish to find out more information about the minimum conditions and terms regarding your employment, you can contact the Fair Work Ombudsman. Contact information can be found at www.fairwork.gov.au.

Please keep in mind that termination payments received following the end of your employment can give rise to certain waiting periods on any Centrelink payments you may be applying for. If you would like to make a claim with Centrelink, contact them immediately to see if there is any applicable waiting period.

Yours sincerely,

[insert name]

[insert position]

[insert business name]

KEEP A COPY OF THIS NOTICE FOR YOUR RECORDS