


TERMINATION CHECKLIST

1. Treat dismissal as a last resort. It is costly to replace employees and recruit and train new ones, and there is no guarantee that the new ones will be better.
2. Check the 'termination of employment' provisions in the employee's award, enterprise agreement or contract. Make sure you comply with these provisions.
3. Check which legislative provisions apply. You cannot dismiss an employee based on a prohibited reason (e.g. age, gender, family responsibilities) If the employee is covered by the 'unfair dismissal' provisions of any legislation, you need to implement the dismissal in a procedurally fair manner, or you may face a legal claim. 'Unfair dismissal' protections will definitely apply if the employer is a corporation with at least 15 employees, or a non-corporation that is not covered by the federal Fair Work Act 2009 (Cth), and the employee is not of a type excluded from the relevant Act's provisions.
4. Consult your business's Termination Policy and make sure you comply with the procedures outlined in the policy. Obtain legal advice if you intend to depart from the policy.
5. Notify the employee of his/her dismissal in writing, briefly stating the reasons. Include the precise date on which the termination will take effect. Take into account any 'notice period' provisions in the employee's contract of employment, award, enterprise agreement or other applicable legislation (e.g. the minimum notice requirements in the Fair Work Act (Cth)), you must comply with. If the employee does not have an up-to-date contract of employment the issue of notice may be in question. Seek legal advice before going ahead with the termination.
6. Where immediate dismissal is a possibility, (e.g. for serious misconduct), fully investigate before making a decision whether or not to summarily terminate. Given the seriousness of the issue in question and the possibility of immediate termination, you should not require the employee to attend work during the investigation period. You will, however, need to continue paying the employee during this time. Make sure to provide the employee with the opportunity to respond to all allegations. Consider their responses before making your final decision. If a full investigation finds immediate dismissal is justified, pay the employee up until the date of termination. Include any accrued unpaid entitlements. If you're unsure whether the employee's actions warrant immediate dismissal, seek legal advice.
7. If you are concerned about the employee remaining in the business during any relevant notice period, and the employee's contract of employment, award or enterprise agreement, allows you to make a payment to the employee in lieu of notice, do so. Alternatively, you may have the employee work out their notice from home (commonly known as placing the employee on gardening leave during their notice period).
8. Notify other parties affected by the termination, (eg. the employee's superannuation fund, workers compensation and other insurers (where relevant), other employees and managers, pay office, key customers etc). Only advise them that the employee is leaving/has left the job, not the reasons for it. It is important to avoid any allegations of defamation being made by the dismissed employee.
9. Calculate the employees' payout entitlements as at the date the termination of employment will take effect and prepare a detailed statement to issue to the employee.
10. Double check the amount of all monetary payout entitlements outlined in the statement to make sure they are correct, before giving the statement to the employee. If you have over-calculated the entitlements owed and



present the faulty statement to the employee, you may in some circumstances be bound to pay the additional amounts offered, despite the miscalculation.

- 11.** Arrange the return of any business property in the employee's possession, such as mobile telephones, laptops, business cards, office keys, security passes etc. Change all passwords and security measures that allow the employee to gain access to the business or its systems.
- 12.** Provide a statement of service if requested by the employee. If the employee has asked for a written reference, seek legal advice before agreeing to such a request. Legal action can arise if the reference you provide is not a true reflection of the employee's time at your business, and a new employer employs your former employee based on your reference. Likewise, any reference you provide should not be defamatory.
- 13.** Prepare an Employment Separation Certificate if Centrelink or the employee requests one.
- 14.** Update the employee's records to show all details related to the termination.
- 15.** Issue a Group Certificate to the relevant employee within the required time period after termination.