



TERMINATION PROCESS

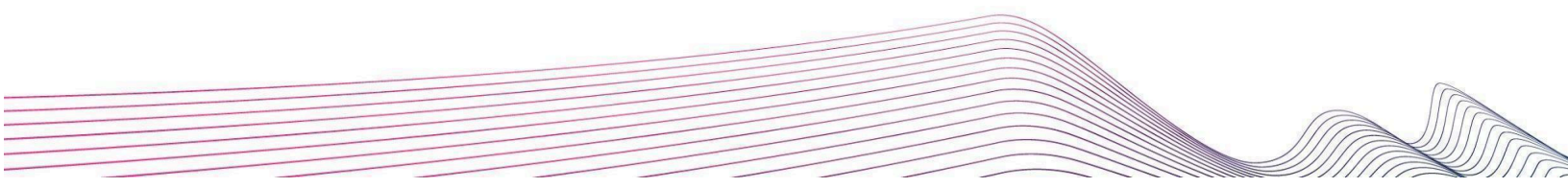
Terminating an employee is a significant decision that requires careful attention to legal and procedural matters.

For small businesses, understanding the legal implications and following best practices can help ensure a fair and compliant process.

This fact sheet outlines key legal considerations, necessary steps before termination, effective documentation strategies, best practices for conducting termination meetings, and guidance on communicating with remaining staff.

Steps Before Deciding to Terminate

1. **Review Employment Documentation:** Examine the employee's contract and company policies on termination and performance management.
2. **Document Performance Issues:** Keep detailed records of performance reviews, feedback, and disciplinary actions.
3. **Provide Opportunities for Improvement:** Offer coaching or training and implement Performance Improvement Plans (PIPs) as needed.
4. **Investigate Complaints or Allegations:** Conduct a thorough investigation of any complaints, documenting the process and findings.



Key Legal Considerations

Employment Standards Legislation

- **Notice or Pay in Lieu:** It's crucial to comply with provincial or federal employment standards laws regarding the required notice period or pay in lieu of notice. This ensures that employees are treated fairly and are compensated appropriately during the transition.
- **Termination with Cause:** If the termination is for just cause (e.g., serious misconduct or failure to meet job expectations), gather sufficient evidence to support the reason for dismissal. This documentation may include performance reviews, incident reports, or witness statements. Proper evidence is essential to defend against potential claims of wrongful termination.
- **Termination without Cause:** Even if there is no cause for dismissal, employers must still provide reasonable notice or pay in lieu of notice. Understanding the legal requirements for notice periods is vital, as failure to comply can result in costly legal disputes.

Human Rights Legislation

- **Prohibited Grounds:** Avoid any form of discrimination based on protected characteristics such as race, religion, gender, age, or disability. Discriminatory practices can lead to significant legal repercussions and damage the organization's reputation.
- **Harassment:** Maintain a harassment-free workplace by addressing any complaints promptly and effectively. This includes taking appropriate action when allegations arise to demonstrate the organization's commitment to a safe and inclusive environment.

Employment Contracts

- **Contractual Terms:** Review the employee's employment contract carefully for specific termination provisions, including notice periods and severance pay. Understanding these terms can help ensure compliance and mitigate the risk of disputes.
- **Severance Pay:** If applicable, consider any contractual obligations regarding severance payments. Even if not legally required, providing severance can be beneficial for maintaining goodwill and reducing the likelihood of litigation.



Workplace Safety and Health

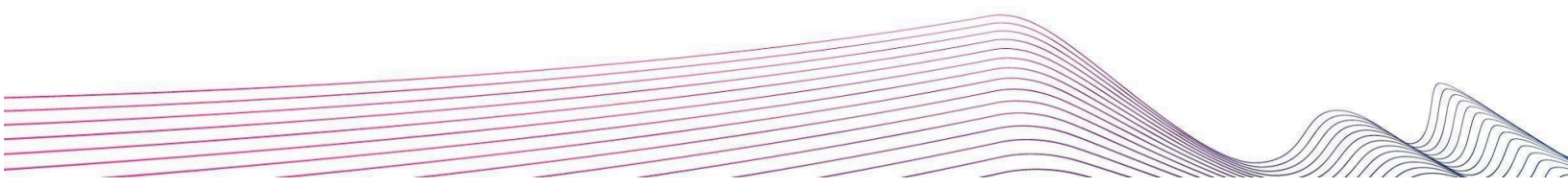
- **Termination for Refusal to Work:** If terminating an employee due to safety concerns or their refusal to comply with safety protocols, ensure you document the employee's compliance or non-compliance. This is crucial for complying with workplace safety and health laws and helps protect both the employee's rights and the organization's legal standing.

Documentation

- **Performance Reviews:** Maintain accurate records of performance reviews and disciplinary actions to support termination decisions. This documentation serves as a valuable reference in case of disputes and demonstrates a fair process was followed.
- **Termination Documentation:** Document the entire termination process, including the reasons for dismissal, notice provided and any severance payments. This thorough documentation will be essential in the event of legal challenges, providing evidence of compliance with employment laws and fair treatment of the employee.

Best Practices for Conducting a Termination Meeting and Writing a Termination Letter

1. **Choose a Neutral Location:** Conduct the meeting in a private, disruption-free environment.
2. **Prepare in Advance:** Draft an outline of what to say, including reasons for termination and any severance details.
3. **Be Direct and Clear:** State the reason for termination concisely, avoiding emotional language. Listen to the employee but do not engage in debates.
4. **Document the Meeting:** Take notes or have a witness present to record the conversation.
5. **Follow Up with a Termination Letter:**
 - a. **Clarity:** Restate the reason for termination, severance details and end date.
 - b. **Support:** Offer resources for job search assistance or unemployment benefits.
 - c. **Record Keeping:** Retain a signed copy of the termination letter for your records.





Communicating Termination to Remaining Staff

1. **Prepare a Clear Message:** Outline key points, including the effective date and any relevant changes.
2. **Emphasize Support:** Reassure employees about their job security and provide resources for coping with the transition.
3. **Address Concerns:** Allow employees to ask questions and express their concerns.
4. **Maintain Confidentiality:** Respect the privacy of the terminated employee and follow legal guidelines.
5. **Focus on the Future:** Emphasize the company's plans for growth and the importance of teamwork.

Acknowledgements

This resource was developed with the support of Gavin Dsouza, Founder and Principal Consultant, XcellencePlus

