

northern territory workplace advocate

employers

Managing the termination of employment

Terminating a person's employment is a serious business decision. Significant costs are associated with terminating employment and these costs should be carefully considered before making the decision to terminate. Costs associated with terminating employment include but are not limited to:

1. cost of lost productivity;
2. cost of recruitment and retraining and the risk of not being able to recruit appropriate people;
3. cost of lower morale and possibly productivity among other staff;
4. risk of reduced service to customers resulting in loss of customer loyalty.

Given the cost to business of high staff turn over, it is important for business to consider alternatives to termination, which is often a reaction an employer may have to a problem in the workplace.

The Northern Territory Government believes that all employees should be treated fairly. Ensuring employees are treated fairly and given the opportunity to improve performance will play an important role in ensuring they deliver the best, most efficient service to your clients and customers, thereby improving profit. Good performance and human resource practices and policies will help you create a fair and harmonious workplace. The Northern Territory Workplace Advocate can assist you to develop such policies.

Unfair Dismissal

As a result of the Work Choices reforms the rights of employees to bring an unfair dismissal application in the Australian Industrial Relations Commission has been significantly reduced. If the employee:

1. is a casual employee with less than 12 months of regular and systematic employment; or
2. has only been working for 6 months or less when dismissed (being a statutory qualifying period of service, unless you have agreed to a shorter period of probation with that employee); or
3. works for an employer that employs less than 100 employees;
4. is employed on a contract for a specific period of time or for a specific project;
5. is engaged on a seasonal basis (such as mango pickers);
6. is a trainee; or



7. is dismissed for genuine operational reasons, regardless of the size of the business;

then the employee will not be able to bring an unfair dismissal application in the Australian Industrial Relations Commission.

If you would like to discuss how best to manage your employees, please contact the Northern Territory Workplace Advocate On **1300 852 899** to speak to an advisor.

Unlawful dismissal

Unlike unfair dismissals, where an employee is sacked for an unlawful reason, they can bring an action against their employer regardless of the size of the employer, or their status of employment. An unlawful dismissal occurs where an employee is sacked on the basis of:

1. race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin (sometimes referred to as discriminatory reasons);
2. refusing to negotiate, make, sign, extend vary or terminate an Australian Workplace Agreement;
3. temporary absence from work due to illness or injury;
4. trade union membership or participation in trade union activities outside working hours or, where your employer has consented, to such activity during work hours;
5. non membership of a trade union;
6. seeking office as, or acting or having acted as, a representative of an employee;
7. the filing of a complaint, or involvement in proceedings against the employer regarding an alleged breach of the law (such as discrimination law);
8. absence from work during maternity leave or other parental leave;
9. temporary absence from work because of carrying out voluntary emergency management activities (such as fire fighting) where the absence is reasonable in all the circumstances.

As an employer you must ensure that you do not discriminate against an employee not only in the area of termination, but also in recruitment and their general treatment. You are also responsible for ensuring that your staff do not discriminate against other employees.

Anti-Discrimination Commission

The Northern Territory Anti-Discrimination Commission provides training and assistance to employers in the area of discrimination. The Commission can also assist you to develop and implement effective anti-discrimination policies in your workplace. For further information contact the Anti-Discrimination Commission on 8999 1444.

Further information

You can also contact the contact Northern Territory Workplace Advocate on **1300 852 899** to speak to an advisor.

