

The logo for JobWatch, featuring the name 'JobWatch' in a bold, white, sans-serif font. Below it, the words 'Employment Rights Legal Centre' are written in a smaller, white, sans-serif font. The logo is set against a dark blue rectangular background with green diagonal accents in the top-right and bottom-left corners.

**JobWatch**  
Employment Rights Legal Centre

A photograph of a woman with blonde hair and blue eyes, wearing a dark blue blazer over a white button-down shirt. She is looking slightly to her right with a serious expression. The background is blurred, showing what appears to be an office setting with other people and a bright light source.

**UNFAIR  
DISMISSAL**  
CONCILIATION  
SELF-REPRESENTATION  
TOOLKIT

## Why was this Toolkit published?

A core organisational value of Job Watch Inc (JobWatch) is **access to justice for workers**.

We recognise that the cost of legal representation can deter some people from pursuing their legal rights.

This Toolkit is designed to assist national employment system employees in Victoria, Tasmania and Queensland who are capable of conducting their own matter up to the initial stage of conciliation.

We always encourage workers to contact our Telephone Information Service (TIS) for initial legal information relevant to their situation - (03) 9662 1933 for Melbourne metropolitan callers or 1800 331 617 for regional Victorian, Queensland and Tasmanian callers.

## Who can use this Toolkit?

If you are a **Victorian** employee, you can use this Toolkit unless you were employed in a sector that provides essential services of core government functions, including state infrastructure services such as electricity and gas, and your employer is not covered by a nationally registered collective agreement.

If you are a **Tasmanian** employee, you can use this Toolkit unless you were a state public sector employee not covered by a nationally registered collective agreement.

If you are a **Queensland** employee, you can use this Toolkit unless you were a state public sector or local government employee not covered by a nationally registered collective agreement.

## Further resources

This Toolkit includes references to a number of different forms from the Fair Work Commission. To access the current version of these forms, visit the Fair Work Commission website at [fwc.gov.au/apply-or-lodge/forms](https://www.fwc.gov.au/apply-or-lodge/forms).

For more detailed information about unfair dismissal in general, see the Fair Work Commission's Unfair Dismissals Benchbook: [fwc.gov.au/benchbook/unfair-dismissals-benchbook](https://www.fwc.gov.au/benchbook/unfair-dismissals-benchbook).

## Important disclaimer

This Toolkit provides general information only. It is not intended to be comprehensive and is not a substitute for professional legal advice.

Readers should not act on the basis of any information contained in this Toolkit without first obtaining professional legal advice that takes into account the particular facts and circumstances of their legal case.

Job Watch Inc. disclaims any liability in respect of any action taken or not taken in reliance upon the contents of this Toolkit.

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## Terms used in this Toolkit

### Applicant

The person (usually the employee) that has made an unfair dismissal application at the Fair Work Commission.

### Arbitration

The formal stage of the unfair dismissal process at the Fair Work Commission where a Commissioner hears your unfair dismissal application. It is a public hearing (similar to a court hearing) with formal 'rules of evidence' and often involves lawyers. A legally binding decision will be made on your unfair dismissal application after the arbitration.

### Conciliation

The preliminary stage of the unfair dismissal process. It is an informal private and confidential discussion between the parties to the unfair dismissal application at Fair Work Commission.

The conciliation will usually be held as a joint telephone conference, or as a face-to-face meeting, and is conducted by a Fair Work Commission appointed conciliator. This private and confidential discussion is not bound by formal rules of evidence and the conciliator has no formal decision-making power.

The conciliator can assist the parties to resolve the matter and to formalise the agreement made between the parties in what is commonly referred to as a Terms of Settlement or Deed of Release document.

### FWC

The Fair Work Commission.

### Notice Period

The period of notice that an employer (or an employee) will usually have to give the other party when seeking to end the employment relationship. This notice period may be expected to be worked out, or paid in lieu if both parties agree that it need not be worked out.

### Parties

A commonly used term to indicate either or both sides of a legal dispute.

### Private and Confidential

Generally means that whatever is said between the parties within the conciliation cannot be used in evidence at some later point of the proceedings (including at arbitration) so far as the law allows.

### Representative

Being assisted by a person that is not a lawyer/legal practitioner i.e. a union representative, an industrial advocate, a human resource person etc.

### Respondent

The employer that is defending the allegation of unfair dismissal.

### Small Business

A business that employs less than 15 employees.

### Serve

A formal process for delivering documents on other parties in a legal dispute.

### Terms of Settlement (or Deed of Release)

A formal document that establishes the 'terms of settlement' or 'terms of agreement' that have been identified and agreed upon by both parties to resolve the claim.

**Note:** This document usually allows either the Applicant or the Respondent to take action in court if the other party is in breach of this agreement.

## How can this Toolkit assist you?

This Toolkit can assist you by providing information and insight into the unfair dismissal **conciliation\*** process so you are able to represent yourself.

Provided that you are confident in your ability to present your own matter, and you use this Toolkit as a guide, then you should be well placed to participate in a conciliation without the need for **legal representation\*** – particularly as it is you, the employee/**Applicant\*** who usually has full knowledge and understanding of the circumstances that led to your unfair dismissal.

### You can use this Toolkit if you:

- Have lodged, or are about to lodge an unfair dismissal application with the Fair Work Commission (the FWC); or
- Have already lodged and been given a time and date for a conciliation; and
- Have explored the possibility of legal representation but have chosen to represent yourself, at least up to the conciliation stage of the process; and
- Have the capacity to represent yourself in an unfair dismissal conciliation; and
- Have sought legal advice (if applicable) to confirm that your unfair dismissal claim is the appropriate course of action for you in the context of other potential legal claims such as alleged discrimination, workplace injury, General Protections Dispute, and/or underpayment or contractual actions, that may be in a different legal jurisdiction. See JobWatch's Fact Sheets on these topics for further information.

## What is unfair dismissal?

If you have been dismissed from your job and you believe it was unfair, you may have grounds to make an unfair dismissal claim at the FWC. If eligible, you have **21 days** from the date your dismissal took effect to file your claim.

For more information about the definition of unfair dismissal, see [the JobWatch 'Unfair Dismissal' Fact Sheet](#).

## What is an unfair dismissal application?

An unfair dismissal application is lodged by you (the **Applicant\***) to initiate an unfair dismissal claim against your former employer (the **Respondent\***) provided that:

- You are eligible to lodge an unfair dismissal application; and
- You lodge your unfair dismissal application within **21 days** of the date of your dismissal.

### The key steps in the unfair dismissal application process are:

1. You lodge an unfair dismissal application;
2. The application is checked by the FWC to ensure that it is complete and valid;
3. Your employer is notified of the application;
4. The FWC conciliates to try and resolve the matter by agreement of the **parties\***; and
5. An unresolved application is then determined by the FWC following a conference or hearing unless you decide to discontinue your matter.

# Stages of the unfair dismissal conciliation process



## Note

The timeframe for lodging an unfair dismissal application is **21 days** from the date that the termination took effect. This is the date that you **last worked**, regardless of whether you were required to work out your **notice period\*** or not, unless you were on authorised leave at the conclusion of your notice period.

## Stage 1: Before the conciliation

As soon as you become aware of your termination of employment, you should contact the FWC to check your eligibility to lodge an unfair dismissal application.

Applications may also initially be made by telephone to the FWC.

There is a small unfair dismissal application lodgment fee which may be waived in some instances by completing *Form F80 - Application for Waiver of Application Fee*. See the FWC website: [fwc.gov.au](http://fwc.gov.au). The lodgment fee will be refunded if the matter settles at conciliation after you file a *Form F50 - Notice of Discontinuance*.

Upon receipt of your F2, the FWC will check the application and send a copy to the Respondent, who in turn will likely complete one or both of the following two (2) forms:

- *Form F3 - Employer's Response to Application for Unfair Dismissal Remedy* where the Respondent wishes to respond to the allegations by participating in a conciliation; or
- *Form F4 - Objection to Application for Unfair Dismissal Remedy* where the Respondent believes that the matter should not be heard by the FWC and wishes to lodge an objection, usually on the grounds that you may not be eligible to lodge an unfair dismissal application.

Where the Respondent completes a F3 or F4 they are required to **serve\***/forward you a copy.

## Action

Complete *Form F2 - Application for Unfair Dismissal Remedy*. See the FWC website: [fwc.gov.au](http://fwc.gov.au).

It is also at this stage that the Respondent may engage a lawyer. If a lawyer is representing the Respondent, this will usually be indicated on the F3.

If representation is arranged after the forms are lodged, or immediately prior to the conciliation, the Respondent's lawyer should complete the *Form F53 - Notice of Representative Commencing to Act*. The F53 should be filed at the FWC before the conciliation as well as served on you, however the F53 is not required for the conciliation to proceed.

If you wish to confirm the Respondent's representation prior to the conciliation, you can contact the FWC.

If the Respondent does have legal representation, try not to let this overwhelm or intimidate you as it may actually assist the conciliation process. A legal representative is likely to understand the applicable laws and be able to advise their client (the Respondent) about the merits of your application and the benefits of making a suitable offer to resolve your unfair dismissal claim.

Next you will receive the *Notice of Listing*. This confirms the date, time, and type of conciliation (i.e. by telephone or face to face).

The Notice of Listing will also list the parties that have been notified. These are often (but not always) the same parties that will participate in the scheduled conciliation. For example, a human resource manager may represent the Respondent instead of the person involved in your dismissal.

The conciliation will usually be conducted within a few weeks of the date you lodged your application with the FWC.

## Action

If you do not receive a copy of the F3 / F4, contact the FWC before the conciliation to get a copy as it may contain information that is useful in preparing for the conciliation.



## Stage 2: At conciliation

The conciliation is the initial stage of your unfair dismissal application. It is **private and confidential\*** in nature, and confidentiality applies in so far as the law allows.

Conciliations are usually conducted as a phone conference with all three parties, including the FWC conciliator.

Whilst most conciliations are conducted as phone conferences, it is possible for either party to request the FWC to have the conciliation conducted as a face to face meeting at the FWC offices. This request may be granted by the FWC in some circumstances provided both parties agree and where the FWC is satisfied there are substantial grounds.

The conciliation aims to see whether there is any prospect of the matter being resolved prior to the matter being heard at **arbitration\***.

### The parties to a conciliation are usually:

- The Applicant (you) and your **representative\*** or support person (if applicable); and
- The Respondent (your former employer) and their human resource person and/or their representative/lawyer (if applicable); and
- The FWC conciliator.

The conciliator is impartial and independent. Their role is to facilitate the conciliation and assist both sides in reaching an agreement so as to avoid a formal hearing by way of arbitration.

The FWC may grant an adjournment request when satisfied there are substantial grounds for doing so. Adjournment requests must be made in writing.

Not all conciliations follow the same process as each conciliator will usually have their own unique style and/or approach to each conciliation.

### Generally the conciliation process is as follows:

- Introduction of the parties;
- Conciliator's opening statement;
- Opening statements of both parties;
- Identification and exploration of major issues;
- Private sessions for both parties with the conciliator;
- Negotiation - conciliator will convey proposals for settlement options between the parties; and
- Agreement and/or close.

**The time allocated for conciliation is 1.5 hours.**

## The conciliation process:

- On the date and time indicated on the *Notice of Listing* the conciliator will contact you on the number provided and will coordinate the phone conference so that all three parties (including the conciliator) can hear each other by phone;
- The conciliator will then check if there are any other individuals listening in or in attendance;
- The conciliator will usually clarify the involvement of any other person(s) and confirm that all parties are comfortable with the nature of their involvement in the conciliation;
- If you wish to have a support person with you in the conciliation, you should indicate this to the conciliator as early as possible. If your support person is not a lawyer or a representative, then they should not participate in the conciliation as your representative;
- The conciliator will then usually clarify their particular role in the conciliation and will indicate that the conciliation is private and confidential and that, for example, sworn evidence will not be given;
- In the absence of sworn evidence, the conciliator will at times hear two different versions of the same event. The conciliator does not have the authority to make findings on which version of events are to be preferred;
- The conciliator will usually clarify that they are unable to make a decision that is binding upon the parties as this can only happen at arbitration. However, in private, they may indicate to each party the respective 'strengths and weaknesses' of each party's position; and
- Having defined their role, the conciliator will then usually ask you to explain why you have lodged your unfair dismissal application i.e. present your version of the relevant events.

## Your presentation:

It is a good idea to make your presentation using scripted notes, or 'bullet point' guidance notes, that present the relevant facts in chronological order.

As a general rule and where applicable, your presentation should:

- Be presented in date/event order, starting with confirmation of your commencement date, your length of employment, your role, and the key events that led to your dismissal;
- Make reference to any performance issues (positive or negative) including any promotions, pay rises based on performance, the absence of any prior warnings (and if there have been previous warnings, the date and context of any warnings received from the Respondent);
- Be concise (around 5 minutes long);
- Be relevant to your unfair dismissal claim;
- Avoid raising rumours or gossip;
- Present in such a way as to be respectful to all parties involved in the conciliation;
- Be accurate and honest and present in a calm manner that avoids personal threats and/or remarks of a personal nature that may only result in the conciliation being unsuccessful and prematurely concluded (which is rarely in the best interests of either party);
- Acknowledge issues that you believe the Respondent is likely to mention in their later presentation, so as to maintain your credibility in the eyes of the conciliator; and
- If you think the reason the Respondent gave you for terminating your employment is a sham or untrue, you should make this clear at the end of your presentation, and state what you believe was the true reason for the termination of your employment.

## Sample Presentation

I began working with UVW Pty. Ltd. as a permanent full time employee back in January 2018.

My role was that of a Clerical Assistant, and included processing invoices and taking phone calls on the administration line.

I enjoyed my job and working with my colleagues, and I believe that I was very good at my job. In fact I was given a pay rise in the middle of 2020 based on my good performance at work.

In August of 2021 my then manager left, and XY began as my new manager.

I got to know XY reasonably well over the next month or so and continued to perform my role to the best of my ability. However in the middle of October 2021 I happened to be late to work on two separate occasions. The first was a train cancellation, and I rang the office and said that I would be 20 minutes late.

The second time was only a week later and was an unfortunate morning where I must have forgotten to set my alarm and was 15 minutes late.

I again rang XY on this day and said that I would be late and apologised and XY told me to "Just hurry up and get in here will you" and abruptly hung the phone up on me.

During the month of November and early December 2021 I noticed that XY seemed to treat me differently. Sometimes she would ignore me when I said 'good morning' and at other times she would seem to get annoyed and frustrated with me for reasons I didn't understand.

On the morning of December the 5th 2021 I was on my break in the kitchen talking to a colleague about my weekend, and XY came in and told me words to the effect that if I didn't hurry up and get back to work 'there would be a problem'.

I probably 'rolled my eyes' at this point, which in hindsight I should not have done, and XY told me to go straight to her office (which I did) and

she proceeded to terminate my employment because of what she said was insubordination (as XY put it) on my part, and I was told to leave the workplace immediately and not come back.

I did not get paid my two weeks pay instead of notice as XY said my behaviour was 'serious and wilful misconduct'. However I am strongly of the view that it was not. I did get paid my accrued annual leave by cheque in the mail.

I note that I had never had any problems with being late before October of 2021 and had never received any warnings (written or verbal) about anything across the entire four years of my career at UVW Pty. Ltd.

Despite this, my two days of being late back in October 2021 upset my new manager in such a way that she seemed to target me thereafter regardless of my genuine attempts to be polite and amicable with her across that time.

So I have lodged my unfair dismissal application as I believe that my termination was unfair, in that it was 'harsh, unjust and/or unreasonable' and that the loss of my job (which was important to me and my family) occurred without me being given any 'procedural fairness'.

By that I mean that if my manager had a problem with me back then, I would have thought that she could have spoken to me about any of these issues. This would have given me a chance to respond to her in a way that may have resolved whatever the issue was, or at least I could have fixed anything that she felt I needed to do better or differently.

However XY didn't do this for reasons I still do not understand and instead she just decided to terminate my employment which I think was unfair given the circumstances and the fact that I had been a good and loyal employee.

I am genuinely open to resolving this matter today in this conciliation. I am seeking my two weeks pay instead of notice plus compensation for being unfairly dismissed. If my matter cannot be resolved today, I have no option but to continue to pursue this matter.

## After your opening statement

Once you have made your opening statement, and answered any further questions, the conciliator will ask the Respondent to make their presentation in response.

You should take notes where necessary during this time and remain quiet and respectful during the Respondent's presentation. Be prepared to hear things that you don't like or you do not think are true.

When the Respondent finishes their presentation you can ask them questions (usually through the conciliator) to clarify any points raised that were inaccurate or exaggerated in your view. The conciliator will possibly also ask questions to clarify any points they feel are relevant to the matter.

At the end of the exploration of the major issues and after any questions and answers, the conciliator will adjourn the joint session and speak with the parties privately. It is at this time that options for settlement of the dispute will be discussed in private with the conciliator. Usually, the conciliator will convey proposals and offers between the parties.

At this stage, the conciliator will ask you what you are seeking as a remedy for your unfair dismissal claim. The conciliator will not make any recommendations or give advice regarding settlement proposals. However, the conciliator will answer any questions you have regarding the law as it applies to your application.

Around this time it will usually become clear whether a settlement is either:

- **Not possible:** in which case the matter will be sent back to the FWC by the conciliator whereafter your matter will be given a date for arbitration; or
- **Possible:** in which case the conciliator may persist in seeking resolution between the parties; or
- **Agreed upon:** in which case the conciliator may assist the parties to prepare a **Terms of Settlement\*** (or Deed of Release) that identifies the basis upon which both parties agree to settle the matter.

## What do I ask for at conciliation?

This is a very difficult question to answer due to the fact that unfair dismissal matters can settle for anything to which the two parties agree, including all or any of the following:

- a handshake and an apology;
- a written reference;
- reinstatement (with or without back pay);
- monetary compensation up to and even beyond the maximum that the FWC may award at arbitration; and/or
- anything else to which the parties can agree.

## There are some important factors you should consider, including:

- What the FWC may award you if your claim was successful at arbitration, taking into account the following:
  - How harsh, unjust and/or unreasonable was the termination of your employment;
  - Whether your performance or conduct contributed to your dismissal;
  - Your actual financial loss taking into account any period of new employment following your termination and any ongoing financial loss after you started a new job. For example, if you went on to obtain a lower-paid job, the FWC may take this into account when calculating compensation;
  - The circumstances of the parties, i.e. your length of tenure, service record, future employability, etc;
  - That the maximum you may be awarded is 26 weeks wages as compensation (with a wage cap which changes every year), if you earned more than this amount in the 6 months prior to the termination of your employment.
- Whether or not the offer and/or counter offer is 'in the ballpark' (i.e. whether the offer or counter offer is realistic or something you can accept to avoid arbitration;
- Any risk of an 'order for costs' being made against you later in the proceedings;
- How much time and energy you are prepared to commit to the process of representing yourself; and
- Any legal costs associated with pursuing your application to the arbitration stage.

## Other things to keep in mind:

- Consider making an opening offer of settlement that is possibly higher than what you are willing to accept;
- Know what your bottom line is (i.e. what you are not prepared to go under) to settle your claim;
- Think of an upper and lower range of settlement possibilities;
- As the conciliation process unfolds, and you get a sense as to how the conciliation is progressing, you may wish to reassess your settlement goal within that range;
- Remember that the Respondent's offer or counter-offer may not be their best or last offer. It is possible that their offer will improve with time but this cannot be guaranteed. Keep in mind that the Respondent may also withdraw an unaccepted offer, and/or refuse to make a counter-offer;
- If you get to the point of signing a Terms of Settlement (or Deed of Release) document, you should first read it carefully and make sure that you understand it. Ask for assistance from the conciliator if you do not fully understand the document. You should pay particular attention to:
  - what you will get from the Respondent;
  - when you will get it; and
  - what you will be giving up in terms of future claims against the Respondent if you agree to the Terms of Settlement.
- Ask yourself if you still want to pursue any other matters against the Respondent (e.g. for discrimination or for underpayment of wages etc). If so, does this document stop you from pursuing those matters?; and
- If you do have other claims and you want to continue to pursue them, you should make it clear from the outset that you are only negotiating to resolve your unfair dismissal claim and any documents signed should reflect this fact.

## Additional tips for phone conciliations

- Use a 'hands free' phone (e.g. mobile phone on speaker mode) on the day of the conciliation so that you can have both hands free to write notes or find documents;
- Have all relevant documents and writing materials with you;
- Avoid distractions around you prior to and during the conciliation (remember conciliations often go for an hour to an hour and a half);
- If waiting for the conciliator's call ensure that you are ready and available to take the call on time;
- Have a constant awareness that you (and any support person) can likely be heard by the conciliation participants in a joint phone conference; and
- Have a glass or jug of water with you.

## Additional tips for face to face conciliations

- Attend the conciliation on time. You should arrive early and locate the room the conciliation is going to take place in. This information is available on the Hearing List located at the entrance to the FWC lifts.
- You may consider arriving at the allocated room early and if it is vacant, take a moment to get a 'feel' for the environment before the conciliation commences and then go and get a drink nearby and prepare accordingly.
- If going to a local café (or similar) before or after a conciliation, always be aware of the people that are around you at that time, particularly if/when discussing your matter with a support person in that environment.
- If attending the FWC in the city, consider using public transport as parking and parking fines can be expensive.

## Stage 3: After the conciliation

Once the Respondent has done what it said it would do in the Terms of Settlement agreement (i.e. they have reinstated you or paid you compensation etc) you should complete and file a *Form F50 – Notice of Discontinuance*, which will formally conclude your unfair dismissal application at the FWC.

Upon receipt of the F50, the FWC will refund the filing fee, where it was paid.

**Note:** It is a good idea that any monies sent to you by cheque or money order be 'cleared' by the bank before you complete this form.

### Action

Complete the *Form F50 – Notice of Discontinuance*. See Appendix.

## What happens if the employer has not made an offer, or an acceptable offer, and the matter is going to arbitration?

At this point JobWatch strongly recommends that you seek further legal advice and assistance. See Key Contacts on the following page.

## Key Contacts

JobWatch's Telephone Information Service  
03 9662 1933 / 1800 331 617

[www.jobwatch.org.au](http://www.jobwatch.org.au)

*For legal information regarding workplace issues, including a wide range of Fact Sheets.*

Fair Work Commission

1300 799 675

[www.fwc.gov.au](http://www.fwc.gov.au)

*For unfair dismissal forms and general assistance in lodging an unfair dismissal application and/or obtaining further information to do with a possible General Protections Dispute - Termination application.*

The Fair Work Infoline (Fair Work Ombudsman)

13 13 94

[www.fairwork.gov.au](http://www.fairwork.gov.au)

*For assistance in figuring out and recouping wages and entitlements and general employment information.*

Australian Council of Trade Unions

1300 486 466

*For assistance in joining a union.*

Australian Tax Office

13 28 61

*For assistance with any tax implications on any unfair dismissal 'settlement' offer.*

Legal Referral Service (Law Institute of Victoria): 03 9607 9311

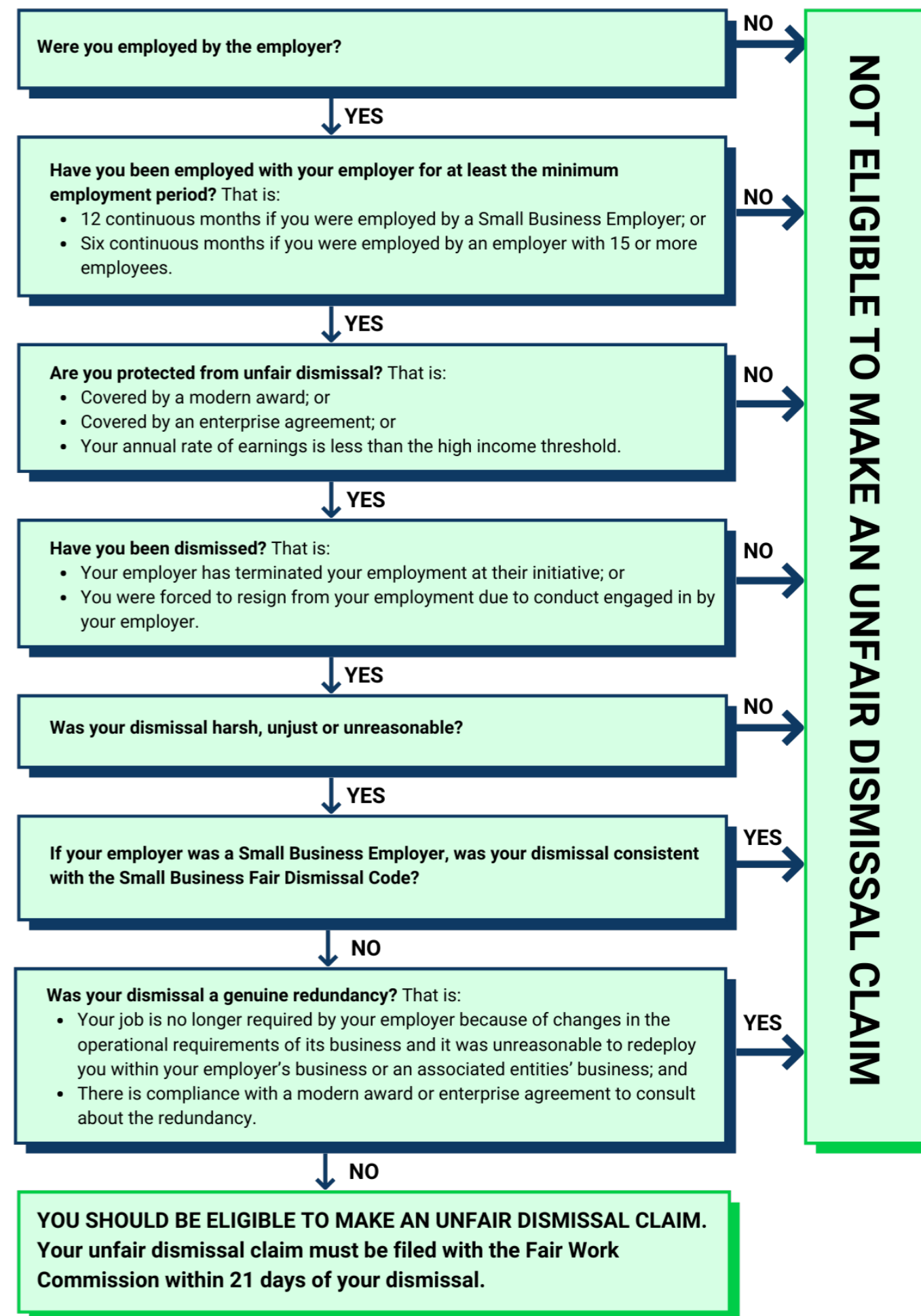
Queensland Law Society: 1300 367 757

Law Society of Tasmania: 03 6234 4133

*For referral to a lawyer.*



## Eligibility Chart



This is an example of a common unfair dismissal settlement document that may be provided at conciliation by the conciliator when you and your former employer agree to settle your unfair dismissal claim. The purpose of this document is to help you better understand the meaning of terms that are usually used in unfair dismissal settlement documents. **Note** - This is an example only, it is not an exhaustive settlement document as terms may be added, removed, or amended as agreed between the parties.

## Draft Terms of Settlement

[Your details and your former employer's details go here]

### 1. The Applicant has made an application to Fair Work Commission for a remedy alleging the Applicant was protected from unfair dismissal and was unfairly dismissed.

*(This means that you have made an unfair dismissal application that claims that you were unfairly dismissed by your employer).*

### 2. The Respondent denies the allegations.

*(This means that your former employer doesn't necessarily believe that they unfairly dismissed you but is willing to compromise to settle your unfair dismissal claim to avoid the cost and inconvenience of further legal proceedings).*

### 3. The Applicant and the Respondent agree to fully and finally settle the matter on the following bases:

*("Fully and finally" means that you can't continue your unfair dismissal claim or make another unfair dismissal claim against your former employer).*

#### 3.1 The Respondent will pay the Applicant the amount of \$X,XXX (gross) taxed according to law within 14 days of receiving this document signed by or on behalf of the Applicant.

*(This means that you have to sign this 'Terms of Settlement' document before an adult witness and send the original to your former employer, preferably by registered post (Note: Keep a copy for yourself). The payment to you will usually be 'taxable'. Contact the Australian Tax Office to check the tax related issues of any payment offered).*

#### 3.2 The Respondent will, within 14 days of receiving this document signed by or on behalf of the Applicant, provide the Applicant with a Statement of Service with the Respondent, outlining the Applicant's period of service with the Respondent, the Applicant's position with the Respondent and the Applicant's duties for the Respondent.

*(A statement of service is a neutral statement by your former employer, usually on its letterhead, outlining your length of service, duties and position. You may ask your former employer to provide you with a positive reference instead of a neutral statement of service. However, some employers may not be prepared to do this. If this is the case, it can be a good idea to have a personal reference from a co-worker to help you get a new job).*

#### 3.3 On the Respondent complying with clauses 3.1 and 3.2 above, the Applicant releases and forever discharges and releases the Respondent, its Directors, employees, assignees or successors from any liability past, present or future from all claims, suits, demands, actions or proceedings arising out of or connected with the Applicant's employment with the Respondent, including but not limited to the cessation of the employment.

*(This means that, in agreeing to accept a payment/settlement from your former employer to resolve your unfair dismissal claim, you are also agreeing not to make any further claims (e.g. take legal action) in relation to your employment whatsoever against your former employer, its owners and its staff etc and to discontinue any other claims you have already started).*

*If you think you may have other claims against your former employer that you wish to pursue such as, for example, an underpayment of wages claim or an unlawful discrimination claim, then you may not want to agree to this clause. Instead, you may only want to settle your unfair dismissal claim and nothing else. If your former employer doesn't comply with clauses 3.1 or 3.2 you may be able to continue your claim/s but obtain legal advice first).*

#### 3.4 The Respondent releases and forever discharges and releases the Applicant from any liability past, present or future from all claims, suits, demands, actions or proceedings arising out of or connected with the Applicant's employment with the Respondent, including but not limited to the cessation of the employment.

*(This means that your former employer agrees not to take any legal action against you in relation to your employment. This can be important where your former employer has made allegations against you such as, for example, that you still have its property or that you have somehow harmed its business causing it loss and damage).*

#### 3.5 Nothing in the provisions of these terms of settlement affects any entitlement the Applicant has under workers compensation legislation or superannuation legislation.

*(Regardless of paragraph 3.3, you are still entitled to make a WorkCover and/or an unpaid superannuation claim. If you have other claims in relation to personal injury or otherwise e.g. common law, you should obtain legal advice before agreeing to any terms of settlement).*

#### 3.6 The Applicant and the Respondent will keep the provisions of these terms of settlement, and any information relating to the employment, confidential, provided that they may disclose the provisions to their legal or financial advisers or any other person that by law must be informed of the provisions.

*(This means you have agreed to not tell anyone, especially other employees or former employees of your former employer, anything about your unfair dismissal claim and its outcome. If you break this agreement, your former employer may take legal action against you. However, you can tell your legal and financial advisors).*

#### 3.7 Neither the Applicant nor the Respondent will disparage or denigrate the other.

*(This means that you and your former employer have agreed not to say or write anything to any other person that is insulting or critical of each other. This can help you if you are concerned that your former employer may disparage or denigrate you in the context of any future/prospective employer's contact with them).*

#### 3.8 Within 7 days of the Respondent complying with clauses 3.1 and 3.2, the Applicant will file a Notice of Discontinuance.

*(This means that you agree to file a Notice of Discontinuance (Form F50) at the Fair Work Commission within 7 days of you receiving the payment, your statement of service, and anything else that has been agreed upon herein. It is a good idea to make sure any payments made are 'cleared' prior to completing the Form F50. Completion of this form will finalise your unfair dismissal claim).*

#### 4. This agreement will be taken as being executed when each party holds a copy signed by the other party, even though the signatures of both parties do not appear on the same copy.

*(This means that, if you have a copy of this document signed by your former employer and you have sent your former employer a copy signed by you, then the document has been completed).*

[Signatures go here]

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