# **Document outlineFinal warning letter template**

## Who is this template for?

This template is for employers wanting to provide their employes with a final written warning. It also contains a checklist with best practice steps for employers to follow before giving a final written warning.

## When do I use this template?

Warning letters are useful to confirm and address a performance or conduct issue with an employee. You usually issue an employee with a warning letter after meeting to discuss the problem.

## **Briefcase with solid fill Are you a small business owner?**

If you operate a small business, it is important that you follow the Small Business Fair Dismissal Code when terminating an employee’s employment. To view the code, visit [fairwork.gov.au/fair-dismissal-code](https://www.fairwork.gov.au/fair-dismissal-code)

Using this letter may help you to comply with the code.

## When should I issue a final warning letter?

Final warning letters are usually issued to an employee after you have warned them about a particular performance or conduct issue and their conduct or performance has not improved. You can use the Warning letter template for this, available at [fairwork.gov.au/templates](https://www.fairwork.gov.au/templates)

Final warning letters should be issued to an employee after you have warned them about a particular performance or conduct issue and provided a written warning, and their conduct has not improved.

## Do I need to give a final warning letter?

There is no legal requirement to provide employees with a written warning before ending their employment or a certain number of warnings. However, to determine whether an employee was unfairly dismissed, the Fair Work Commission will consider if the employee was:

* warned about performance or conduct issues, and
* provided a reasonable opportunity to improve their performance and conduct.

 **Serious misconduct**

A final warning may not be appropriate for serious misconduct. For more information about how to manage serious misconduct, see our Notice and final pay page at [fairwork.gov.au/notice](https://www.fairwork.gov.au/notice)

## Where can I go for more help?

You can find more information on termination of employment and managing underperformance by:

* visiting our webpage at [fairwork.gov.au/termination](http://www.fairwork.gov.au/termination)
* reading our Managing underperformance best practice guide at [fairwork.gov.au/bestpracticeguides](https://www.fairwork.gov.au/bestpracticeguides)
* completing our Managing performance online course at [fairwork.gov.au/learning](http://www.fairwork.gov.au/learning)

## Checklist with solid fillChecklist: Best practice steps for issuing a final warning letter

### Step 1: Identify the problem and consider your options

* Clearly identify the performance or conduct issue.
* Think about how serious the problem is, how long it has existed, what steps you have already taken to address it and what you are going to do next.

### Step 2: Meet with the employee

* Meet with your employee before issuing a written warning to discuss the issue
* Try identifying and resolving the issue before the situation becomes worse
* Clarify your expectations of the employee at the meeting
* Seek agreement from your employee on a solution to improve the situation.
* Let your employee know they can bring a support person of their choice to the meeting if they want one.
* Document the details of any performance or conduct meeting held with the employee using the Record of meeting template, available at [fairwork.gov.au/templates](https://www.fairwork.gov.au/templates)

### Step 3: Create your letter of warning

* Use our template below to create your warning letter. If you’re using another template, make sure your warning letter includes:
* details of the performance or conduct issue of concern
* what has been discussed with the employee about the issue
* what the employer will do to assist
* an action plan of what steps the employee needs to take
* a reasonable timeframe in which the changes or improvements need to occur.

### Step 4: Provide the final warning letter to the employee

* Ensure that the employee receives the warning letter and document the details of providing the letter (e.g. the time, date, who was there, what was said, etc.).
* Confirm your employee reads and understands this letter. This could include:
	+ asking the employee to sign a copy of this letter and return it to you, or
	+ following up with the employee to make sure they received it and keep a note that you did this.

**Note:** Employees are not required by law to sign a copy of the letter.

* You should also keep a copy of the letter for your records.

|  |
| --- |
|  **IMPORTANT**The template on the following page has been colour coded to assist you to complete it. You simply need to replace the **<red writing inside the angle brackets>** with what applies to your situation. Example information is shown in **[purple writing inside square brackets]** to assist you and should be deleted once you have finished.When you’ve finished the letter, make sure you change all the text to **black**. |

#

<Print on your business letterhead>

<Date>

Private and confidential

<Insert employee’s full name>
<Insert employee’s residential address>

Dear <insert name>

Final warning letter

I am writing to you about your <performance/conduct> during your employment with <name of business>.

[The next part of this letter sets out an example of a best practice approach to dealing with a performance issue. You may not have done all these things, or they may not be relevant in your situation, so you should delete what is not relevant.]

[Using this letter also assumes you have already provided the employee with a prior written warning about this issue. If you have not done this already, we recommended you use our warning letter template to do this. It’s available at [fairwork.gov.au/templates](https://www.fairwork.gov.au/templates) ]

[If you’re a small business it’s very important that you comply with the Small Business Fair Dismissal Code if you’re considering terminating an employee. You can get a copy of the code from [fairwork.gov.au/fair-dismissal-code](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.fairwork.gov.au%2Fsites%2Fdefault%2Ffiles%2Fmigration%2F715%2FSmall-Business-Fair-Dismissal-Code-2011.docx&wdOrigin=BROWSELINK) ]

On <insert date> you attended a meeting with <insert name of others at the meeting>. At this meeting you were advised that your <performance/conduct> has been unsatisfactory. You were issued with a formal warning letter dated <insert date>, which stated that if your <performance/conduct> did not improve your employment may be terminated.

[Remove the below section if you are going straight from a first to a final warning letter.]

At our meeting on <insert date>, your <performance/conduct> was again reviewed and you were advised that improvement had not been achieved to the level required by the employer. You were provided with a second warning letter dated <insert date>.

As I advised at our meeting on <insert date>, your performance has not improved and continues to be unsatisfactory.

This is a final warning letter. If significant improvement in your <performance/conduct> is not achieved by <insert date> your employment may be terminated. To reiterate, our expectation is that you <insert details of expected outcomes>.

[It is very important that you do not set requirements that are discriminatory, unlawful, or otherwise unreasonable. If you are unsure how to manage a performance or conduct issue, seek advice from a lawyer or your employer association.]

I propose that we meet again on <insert date> to review your progress. If you wish to respond to this final warning letter, please do so by contacting me on <insert phone number> or by replying in writing.

Yours sincerely,

<Insert name>

<Insert position>