



Ending Employment Mutually

Ending an employment relationship doesn't always need to be contentious. In some situations, both the employer and employee may agree that it's time to part ways. This is referred to as a mutual separation.

A mutual separation can be an effective and respectful way to bring closure to an employment relationship—but it needs to be handled carefully to mitigate risk.

Why you might need to end employment

There are a few reasons why employment may come to an end, even when things aren't necessarily "going wrong."

For example:

- The role is no longer required, and redeployment isn't an option
- The employee's personal circumstances have changed
- There's a mismatch in expectations or long-term goals
- A breakdown in working relationships that cannot be resolved
- Performance concerns that have been ongoing despite support
- The business is changing direction, and the role no longer fits

Mutual separation allows both parties to exit on respectful terms, avoiding prolonged performance management or unnecessary conflict.

Different ways to end employment

There are several lawful ways an employment relationship can end:

- **Resignation:** initiated by the employee
- **Termination:** initiated by the employer
- **Redundancy:** when the role is no longer required
- **Mutual Agreement:** both parties agree to end the relationship

A mutual agreement should always be documented in writing. This might include a deed of release or a mutual separation agreement to clearly outline the terms, including any notice period, final payments, and handover expectations.

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Risk factors to consider

Even when separation is mutual, there are still risks that need to be managed. These include:

- 01 | Coercion or perceived pressure**
An agreement must be genuinely mutual.
- 02 | Discrimination claims**
Ensure decisions aren't influenced by protected attributes (e.g., age, gender, disability).
- 03 | Unfair dismissal claims**
If the agreement wasn't truly mutual, the employee could still lodge a claim.
- 04 | Non-compliance with the Fair Work Act**
Particularly around notice, redundancy, or entitlements.
- 05 | Poor documentation**
If the arrangement isn't recorded properly, disputes can arise later.

Always allow the employee an opportunity to seek independent advice before signing any agreement.

What could happen if you get it wrong?

Poorly handled exits—even mutual ones—can lead to:

- Unfair dismissal or general protections claims
- Reputational damage to your business
- Low morale or fear among remaining staff
- Costly legal disputes
- Lost trust between employer and employee

That's why it's essential to approach any mutual separation with care, professionalism, and proper advice.

Doing it right: Mutual Separations

Mutual separation can be a practical and dignified way to end employment when both parties agree it's the right move. But like any termination, it must be managed correctly to reduce risk and ensure compliance with workplace laws.

If you're considering a mutual separation, speak to your HR Partner first to make sure it's handled the right way.

