



FACT SHEET

Termination of a training contract without apprentice consent

Following the expiry of the probation period, an employer is required to obtain consent from the apprentice* (and the parent/guardian if applicable) or approval from the Department of Training and Workforce Development (the Department) in order to terminate a training contract.

Alternatives to termination

If the apprentice does not agree with the employer to terminate the training contract, the employer and/or apprentice may seek assistance from their nominated Australian Apprenticeship Support Network (AASN) provider for advice and guidance. The AASN provider may facilitate a meeting between the parties in an attempt to resolve the matter. Where resolution of the matter is unlikely, the AASN may present alternatives to termination; for example, suspension of the training contract.

If the matter remains unresolved after considering the alternatives to termination, the AASN will refer the matter to the Department for consideration. The Department will make contact with the employer, the apprentice and the parent/guardian (if applicable) to organise and undertake a conciliation meeting.

Lodging an application for approval to terminate

If parties fail to reach an agreement following a conciliation meeting, the employer may lodge an application for approval to terminate the training contract without the apprentice's consent. In the application, the employer should set out the reasons for the termination. The employer is also required to provide a copy of their application to the apprentice.

The Department will also invite the apprentice to make a submission about why the training contract should not be terminated. The apprentice should provide a copy of their submission to the employer.

Grounds for approving termination application

The Department must approve an employer's application to terminate a training contract if:

- the employer has ceased or is about to cease business;
- there has been a substantial change of circumstances that resulted in the employer not being able to fulfil their obligations. For example; an employer has a fully equipped warehouse when the trainee was signed up for a warehousing traineeship. Due to significant downturn in business, the employer has to sell the warehouse and is therefore unable to provide the appropriate facilities for on the job training, which is an obligation under the training contract;
- the apprentice has engaged in serious misconduct; or
- the apprentice's acts or omissions have resulted or will result in the apprentice not being able to achieve the qualification stated in the training contract. For example; an apprentice fails to attend off the job training despite repeated reminders.

Department's decision

Upon assessing the application and submissions by parties, the Department may approve or refuse the employer's application to terminate a training contract.

If an employer's application to terminate the training contract is approved, the training contract is terminated on the date of the decision and ceases to have effect. The employment under the contract of the apprentice by the employer also ceases.

If the Department refuses the employer's application, the training contract continues and the employer and apprentice continue to be bound by the obligations of the training contract.

A party who is dissatisfied by a decision made by the Department may appeal against it to the Western Australian Industrial Relations Commission.

**The term 'apprentice' includes apprentices, trainees, cadets and interns.*