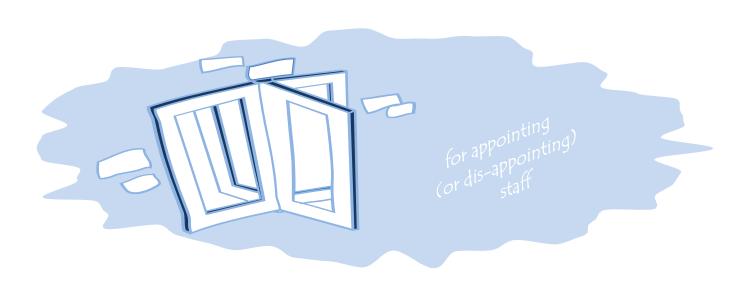
# Baptist Churches Appointment Guide

an aid for churches in the process cycle of staff appointments



## This Appointment Guide has been produced by Baptist Churches of South Australia Inc.

On behalf of

**Baptist Insurance Services Inc** 

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## For assistance or more information contact your local State Baptist Office.

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#### **Foreword**

Welcome to the Baptist Churches Appointment Guide.

This document has been designed to provide your church with some guidance and resources to help you through the important process of appointing a new staff member and, when the time comes, to help the working relationship between your church and the exiting staff member end well.

This guide has been separated into two parts:

- 1. Appointing Staff
- 2. Conclusion of an Appointment

Each part has then been broken into three sections:

#### 1. Process Chart

Choose the path that will meet the needs of the process for your church.

#### 2. Guidelines

Each heading in the Process Chart links to further information and suggestions on how you can manage each activity.

#### 3. Appendices

Some samples and templates for you to refer to and use.

As always, your State Baptist Office is available to provide assistance when required, to walk alongside and encourage you as your church goes through the process, and to be a sounding board for your questions and concerns. Our heart is to serve our member churches and to help you as much as possible.

Our one request is that **prayer** be the cornerstone in each and every step of the process, no matter which path you choose. As individuals, as a team and as a church we encourage you to ensure prayer has a central place in seeking wisdom, discernment and clarity as you go through this journey.

We trust that this guide is a useful and valuable resource to your church. If you have any concerns in dealing with a matter we are only a phone call away. It is far preferable to be proactive in avoiding an issue before it becomes a problem, than to resolve a dispute that has already arisen.

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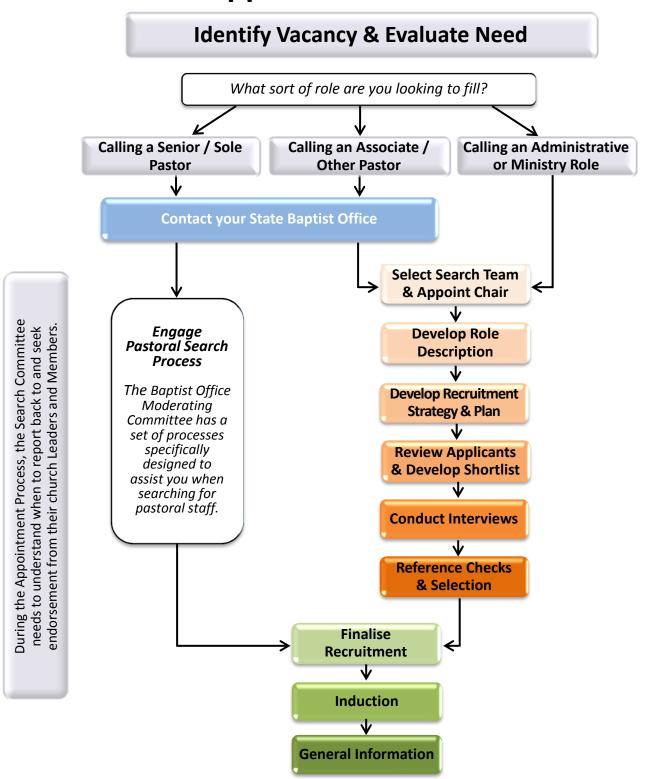
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# Part 1: Appointing Staff

an aid for churches when appointing a new staff member

## Part 1 Section 1: Process Chart

## **Appointment Process**



## Part 1 Section 2: Guidelines

## **Identify Vacancy & Evaluate Need**

Recruitments provide opportunities for churches to align staff skill sets to initiatives and goals, and for church and individual growth. Proper planning and evaluation of the need is more likely to lead to appointing the right person for the role and team.

#### **Newly Created Role**

When it is determined a new role is needed, it is important to:

- Understand and take into consideration strategic goals for the church/ministry.

  Are there any upcoming changes that may impact this role?
- Conduct a quick analysis of core skills required.

Are there any gaps? What core skills are missing from the church/ministry? Evaluate the core skills required now and those which may be needed in the future.

Conduct an analysis of the role if it will be new to your church/ministry.
 This will also help to identify gaps.

#### Replacement

When someone leaves the church, replacing the role is typically the logical step to take. Before obtaining approval to recruit for the role, consider the following:

- As with a newly created role, it may be helpful to conduct an analysis of the role in order to tailor the role to what is currently required and to ensure proper classification.
- Review the role and decide if there are any changes required as certain tasks and
  responsibilities performed by the previous person may not, or should not, be performed
  by the new person.

Carefully evaluate any changes needed for the following:

- Level of skill required for performing these tasks.
- Tasks carried out by the previous staff member.
- Tasks to be removed or added if any of the work will be transferred within the church.
- Supervisory or lead responsibility.
- Budget responsibility (if any).
- Work hours.
- Is there still a requirement for this role at all?

Supporting Documentation:		
Sample Role profile	See Part 1 Appendix 1	
Role Description template	See Part 1 Appendix 2 – Templates [2. Job description template]	

## **Contact your Baptist Office for Support**

The seeking and appointing of a senior/sole and/or associate pastor is a critical event in the life of a church.

To facilitate good process from the beginning of the search for a pastor, we strongly recommend the appointment of a moderator as early as possible.

Your State Baptist Office can provide support for your Church through their team of Moderators. A Moderator will bring a wealth of experience and a clear, thorough, timely and customisable process to your Pastoral Search Team.

When a Moderator is engaged, they will:

- Discuss with the church leadership how to construct a Pastoral Search Team.
- Outline the recommended process.
- Conduct a church review.
- Assist with creating a pastoral ministry profile.

A Moderator will listen to and coordinate the responses of the Pastoral Search Team in relation to the candidates.

To request a moderator, contact your State Executive Minister/Director of Ministries at your Baptist Office.

Supporting Documentation:	
Recommended Pastoral Search Process	Available from your Baptist Office

## **Select Search Team & Appoint Chairperson**

To ensure applicants selected for interview and final considerations are evaluated appropriately, a Search Team needs to be formed.

The team will consist of members who have the following attributes:

- Spiritual maturity.
- Knowledge and understanding of the required role.
- Competence to follow the process.

Who is in the Search Team will depend on the role that is being sought. For example, the Search Team for a Pastoral role would be selected by the church leadership and be representative of the church community. The church leaders will appoint a Chairperson to coordinate the whole process. The Search Team Chair should ensure that all members of the team are thoroughly familiar with their role in this process.

In other instances team members would be selected by someone who has been delegated the authority to do so. For example, the Search Team for a roster co-ordinator may be led by the Office Manager with the Treasurer.

Search Team members must ensure no conflict of interest in relation to the applicants under consideration and must never be individuals who may have an interest in applying for the role.

To understand the relationship between the Search Team, Church Leadership, Church Members and how the final recommendation is made, please refer to your church's Constitution.

## **Develop Role Description**

A Role Description is the core of a successful recruitment process. It is used to develop interview questions, interview evaluations and reference check questions.

A well-written role description:

- Provides an impression of the church to candidates.
  - Points for consideration would include:
    - the key theological positions of your church which are foundational.
    - the top 3-5 values of your church.
- Clearly outlines responsibilities and qualifications to attract the best suited candidates.
- Provides an opportunity to clearly articulate the role.
- Serves as documentation to help prevent, or defend against, discrimination complaints by providing written evidence that employment decisions were based on specific church needs.
- Improves retention as turnover is highest with new appointees (appointees tend to be dissatisfied when they are performing duties they were not originally appointed to perform or different to what they understood the role to be).
- Identifies tasks, work flow and accountability, enabling the church to plan how it will operate and grow.
- Assists in establishing performance objectives.
- Is used for career planning and training by providing clear distinctions between levels of responsibilities and competencies required.

Although some roles, by nature, will be appointed from within the congregation, the development of a Role Description will still help all people involved in the process to gain a clear understanding of what is required.

#### **Identify Duties and Responsibilities**

The Search Team should identify the following:

- 1. General Information
- 2. Role Purpose
- 3. Essential Role Functions
- 4. Minimum Requirements
- 5. Preferred Qualifications

#### 1. General Information

Basic role and pay information will need to be determined to assist with the development of the role description and role classification. This information will be different for each role being recruited. It will include:

- Title.
- Award or Contract/Stipend.
- Church/Church ministry name if applicable.
- Reporting lines.

- Special Requirements and Conditions:
  - Specific requirements role seekers must possess or complete in order to be appointed (e.g. Police check, valid driver's license, medical check, etc.).
  - o Occupational qualifications (e.g. physical or mental requirements).
  - Tax benefit exemptions.

#### 2. Role Purpose

The role purpose describes how the role fits within the church's hierarchy and functions. The statement should summarise the role's essential functions and its place in relation to supporting, administering, or managing the activities of the church/department.

It is important to ensure that the Role Purpose:

- Includes a description of the role and its relation to the church.
- Includes the estimated duration (i.e. Limited 6-9 months or Contract 2.5 years) for short term/temporary roles.
- Describes any pre-employment assessments if applicable.

#### 3. Essential Role Functions

Essential role functions describe the duties and responsibilities of a position. Typically, an essential function occupies a significant amount of time of the employee's time and requires specialised skills to perform.

By accurately describing the essential functions of the role, potential applicants will have a clear understanding of the role and your expectations for performing them.

When developing essential functions for the role, the following should be noted:

- Functions which are critical for the role are arranged by importance and percentage of time spent.
- Essential tasks listed should be inter-related to the accomplishment of the essential function.

#### 4. Minimum Requirements

The minimum requirements or "basic qualifications" are those qualifications or criteria which were established in advance and advertised to potential applicants.

- These must be relevant and relate to the duties and responsibilities of the role (e.g. should not list driving requirement if not part of responsibilities or duties of the role).
- "Soft skills" can be required qualifications (e.g. communication/collaboration) and will:
  - Vary among applicants.
  - Not be absolutely ascertained in resume.
  - Be evaluated in interview.
- Minimum requirements can be assessed by reviewing the resume. They must be objective, non-comparative and role related (if applicable):
  - Objective
    - Correct: Bachelor of Theology/Cert IV Business Administration
    - Incorrect: A degree from a "good school".

#### Non-comparative

- *Correct*: 3 to 5 years of experience working in a church environment.
- Incorrect: Must be one of the top five among the applicants in years of experience.

#### Role Related

- *Correct*: 3+ years of experience in ministry/administration/accounting.
- Incorrect: Must have experience with volunteering for Habitat for Humanity.
- The minimum requirements should support the accomplishment of the essential function. For example, the essential function of event planning could require:
  - o Organisational skills (to ensure all details are cared for).
  - o Communication skills (to interact with those hiring/using the facilities and guests).
  - Prior event planning experience.

Listing too many skills as requirements significantly limits your applicant pool and selection. It is recommended no more than 3-5 "hard" role skills (e.g. Bachelor's degree, 5 years accounting experience, experience in accessing and retrieving data from financial systems using PC based tools and other "technical role skills") in addition to the "soft skills" be listed depending upon the level of the position.

#### 5. Preferred Qualifications

Preferred qualifications are skills and experience required in addition to basic qualifications and can be used to narrow down the pool of applicants. These preferred skills, knowledge, abilities and competencies can describe a more proficient level at which the essential functions can be performed.

Applicants who meet some or all preferred qualifications tend to settle into their role and become more productive sooner, reach full role competence faster and are able to take on advanced responsibilities sooner.

#### **Review**

Once you have identified the role purpose, essential functions and qualifications, you will want to go back and review the description. Is it written to attract someone who has a call and the skills necessary for the role? Does it describe the inclusive culture and mission of your church?

<b>Supporting Documentation:</b>	
Current Pastors Stipend/Allowance	Available from your Baptist Office
Recommendations	
National Employment Standards	Available from the Fair Work Ombudsman website
Your State Baptist Code of Conduct	Available from your Baptist Office
Templates:	
Role Description	See Part 1 Appendix 2 – Templates [2. Job description
	template]
Modern Award Documentation	Available from the Fair Work Ombudsman website
	(fairwork.gov.au)

## **Develop Recruitment Strategy & Plan**

Each role requires a documented Recruitment Plan which is approved by the Church Leaders. A carefully structured recruitment plan maps out the strategy for attracting and appointing the best qualified candidate and helps to ensure an applicant pool which includes under-represented groups.

In addition to the role's placement goals, the plan contains advertising channels to be used to achieve those goals. The recruitment plan is typically developed by the Church Search Team.

Your Baptist Church office and moderating committee will also have a list of potential candidates who are looking for new opportunities.

#### Recruitment plan elements

#### **Posting Period**

Minimum and maximum posting requirements are decided by Search Team.

#### **Advertising Strategies**

A variety of recruiting sources (both internally and externally) should be used to attract candidates. Every effort should be made to conduct a thorough search by advertising widely before filling a role.

#### Methods of advertising

#### Include:

- Internet Role Boards.
- Church newsletter.
- State Baptist Churches Magazine and/or e-newsletter.
- Church Web site.
- Bible Colleges.
- Denominational and wider church networks.

## **Review Applicants & Develop Short List**

Once the appointment vacancy has been advertised, candidates who wish to apply will need to complete an application. This could be electronic or paper based and may include a cover letter and resume. Candidates will be considered "Applicants" or "Expressions of Interest".

All applications must be reviewed and considered. Candidates who apply after the initial application period may be considered by the Search Team at their discretion.

It is recommended that all Search Team members review all applications to ensure more than one person assesses their qualifications and that individual opinion or biases are avoided. Each team member may provide comments to each applicant's qualifications as they relate to the minimum requirements of the role.

While prayer should underpin all processes regarding church appointments, we would see this moment as a critical time for prayer in seeking wisdom, discernment and clarity.

Upon the Search Team's review of the applications, the applicants can then be contacted for interviews.

#### **Conduct Interviews**

The interview is the single most important step in the selection process. It is the opportunity for the Search Team and potential employee to learn more about each other and validate the information provided. By following these interviewing guidelines, you will ensure you have conducted a thorough interview process and have all necessary data to properly evaluate skills and abilities.

#### Preparing for the Interview

Once the short list is approved (typically 1-3 identified for interview), the interview process can begin. It is important to properly prepare for the interview as this is the opportunity to evaluate the skills and competencies and validate the information the applicant has provided in their application and resume.

Choose one, or maximum of two, questions from each minimally required skill and competency to develop your interview questions. Review the applicant's application or resume and make note of any issues that you need to follow-up on. The interview is also your opportunity to clarify anything contained in the applicant's cover letter, curriculum vitae or request further information.

The Search Team Chair should facilitate discussion with the team on the following:

- Format of the interview and order of questions.
- Questions to be asked of all applicants and the weight assigned.
- Who is going to ask which questions.
- Whether a work sample should be submitted.
- The optimum start date for the position.
- Any other details applicants may need to know about the role that were not noted in the role description.
- Consideration of location (your church, a coffee shop, a home). If using your church facilities make sure the room you choose is comfortable and the seating layout appropriate. The location should be quiet and private to avoid interruptions and to encourage the applicant to speak freely.

Prior to conducting interviews, the Search Team Chairperson will provide the team with interview questions and evaluation tools.

#### **Search Team Interviews**

Before the person arrives for the interview, the Search Team Members should come together for a time of prayer.

Prior to the Search Team interview, team members should ensure they know which interview questions each will ask.

At the start of the interview, introductions of the Chairperson and team members, including names and roles within church (if applicable) are given. Next, the Chairperson should outline the format of the interview so that the candidate is aware of what is going to happen.

#### A typical format might be:

- Introductions of each Search Team member.
- Prayer.
- A brief description of the role the person is being interviewed for.
- Description of how the Search Team will conduct the interview (e.g. each alternates questions and all will take notes).
- The candidate gives an overview of their experience.
- Each Search Team member asks their questions.
- The interviewee is given time at the end to ask questions.
- The interviewee is informed of the next step (e.g. will be contacted either by phone or in writing of the outcome).
- Thank the candidate for coming and ensure someone shows the candidate out.

#### Welcoming the Interviewee

Interviewing can be a very stressful experience for some and the more at ease an interviewee is, the better you are able to identify true attributes.

The following should be considered:

- Search Team interviews can be an intimidating environment for an interviewee, so remember to break the ice if possible.
- When organising interviews, it is best to assign a person who will ensure the interviewees have proper directions to the place of interview.
- Allow enough time for the interview so the interviewee does not feel rushed. Let the interviewee do most of the talking. Remember the 80/20 rule. The interviewee should be doing 80% of the talking. While it is important to articulate the needs of your ministry and the role, this time should be used to gather as much data to evaluate the interviewee's experience and ensure a proper fit.
- Be sure the Search Team reviews the interviewee's resume in advance to assess skills and background. Take notes and ask for clarification on responses if needed.
- Be sure to avoid any inappropriate or unlawful interview questions (see Inappropriate Interview Questions following).
- o Provide church literature (if available) to the applicant at the conclusion of the interview.

#### **During the Interview**

Search Team members may find it helpful to use the Interview Evaluation Rating Sheet which would be given to the Team Chairperson along with any relevant interview notes.

Candidate evaluations should include only those comments which are relevant to the requirements of the role.

#### Virtual Interviews

To reduce travel costs and time associated with interviewing out-of-area applicants, virtual interviews via Skype, telephone or video conferencing can provide an alternative method to an in-person interview. It is recommended that you always conduct a face to face interview prior to making a senior appointment.

#### **Interview Questions**

Questions should be relevant to the role and seek information on specific skills and abilities to perform the role such as "describe your experience working with church members".

The use of behavioural and/or competency based interview questions is strongly encouraged as, when properly crafted, they allow the interviewer to obtain more meaningful data to determine the applicant's ability to carry out the duties and responsibilities of the role.

#### **Inappropriate Interview Questions**

Questions should be asked that ascertain a candidate's "alignment" with the faith culture of the church.

It is unlawful to ask applicants questions that are not role related and/or personal in nature or that would otherwise solicit protected information. A question considered unlawful would be one relating to their race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, political opinion, national extraction, social origin, or membership of an employee association.

If an applicant is asked such a question, and they are later informed that they did not get the position, it is open to them to lodge a general protections claim under the Fair Work Act 2009 on the basis they did not receive an offer for the position on the basis of one of the factors listed above.

Religious institutions have an exception under the Fair Work Act 2009 whereby an action may be taken against a prospective employee (i.e. by not awarding them the position) if the action taken is conducted in accordance with the doctrines, tenets, beliefs, or teachings of that particular religion. Therefore it is acceptable for churches to ask questions relating to the candidate's religious beliefs in these circumstances but questions should be crafted carefully to avoid straying into territory covered by the other protected areas.

All interviewers should be aware of any appropriate and or inappropriate interview questions prior to conducting the interview to ensure unlawful questions are avoided.

Supporting Documentation:	
Interview Evaluation Rating Sheet	See Part 1 Appendix 3

## **Reference Checks & Selection**

#### **Final Applicant**

Once the interviews have been completed, the Search Team will meet to discuss the interviewed candidates. Team members will need to assess the extent to which each one met their selection criteria.

While prayer should underpin all processes regarding church appointments, we would see this moment as another critical time for prayer in seeking wisdom, discernment and clarity.

Your documentation should demonstrate your selection decision.

As one of the most critical steps in the process, it is important to keep the following in mind:

- The best candidate for the role should be chosen based on skills and qualifications.
- The candidate will help to carry out the church's mission.

#### **Reference Checks**

The purpose of a reference check is to obtain information about a candidate's behaviour and work performance from current and/or previous employers that could be critical to your decision, regardless of their skills, knowledge, and abilities.

As past performance is the best predictor of future success, it is recommended references be obtained from current and previous employers who can speak to the candidate on their role performance.

A mistake in choosing the right candidate is costly in time, energy, and money. Failure to check references can have serious legal consequences. If a staff member engages in harmful behaviour during their employment, which would have been revealed through a properly conducted reference check prior to their appointment, the church can be found to be negligent and held legally responsible for exposing the members of the church to a high risk person.

You may consider conducting reference checks on all finalists before the final selection is made.

#### When to Conduct Reference Checks

Reference checks should be conducted on the finalist(s) prior to making an offer. All applicants are to be informed (during or after the interview), should they be a finalist, that an offer would be contingent on a reference check.

You should advise the candidate if you intend to look at any social media tool they use.

The candidate should be informed that all aspects of their candidacy, including their interview and reference checks, will be taken into consideration.

#### **References in the Overall Decision Process**

Information that is obtained through the reference check should be considered as part of the overall decision making process and should carry considerable weight. Additionally, if available, obtaining copies of signed past performance reviews is also recommended. Should a reference from the candidate's current employer not be obtained, it is recommended to go to the next most recent employer.

The same process (on-line or phone as described below) is to be followed for each recruitment.

#### **Phone Reference Checks**

Churches conducting references by phone should ensure:

- 1. Prepare carefully.
  - Familiarise yourself thoroughly with the information the applicant has already provided, including the application, resume, work sample (if applicable) and interview responses.
  - o Identify areas that require elaboration or verification.
  - Set up a telephone appointment with one or more reference providers listed by the applicant.
  - Write down your questions before you call, highlighting the information you want verified or expanded upon.
- 2. Set up an environment that encourages the reference to respond willingly, cooperatively, and honestly.
  - Begin your conversation on common ground by referring to information that has already been provided by the applicant. For example: "John Doe has asked us to speak with you regarding information he has already shared with us during the interview process." Or "I'm calling to verify information provided by Mary Roe."
- 3. Describe the role.
  - Describe the responsibilities, duties, and working environment of the role for which the individual has applied.
  - After describing the role, ask, "Given our requirements, what is your assessment of the individual's qualifications for the role?"
- 4. In addition to your prepared questions, ask follow-up questions.
  - If you get a general response ("She/He's great!"), follow up with a specific question ("What did he/she do to merit that compliment?" or "Why did she/he leave?" or "How have things changed since he/she left?").
  - o If the reference provider declines to answer a question, ask if someone else might be able to share information about the topic.
- 5. Ask questions that are specifically role-related.
  - Do ask about interpersonal skills and relational ability/warmth.
  - Do not ask about race, colour, national or social origin, religion, sex, physical or mental disability, medical condition, marital status, age, sexual orientation, family/carer's responsibilities, pregnancy, political opinion, or membership of employee association.

It is important to ask the same basic questions about all applicants for whom you obtain references to ensure consistency. Weigh information you receive in the same manner for all applicants.

Social network tools such as Facebook, Twitter and LinkedIn should **not** be used to conduct reference or background checks but can, nonetheless, be useful in considering character, etc.

#### **Selecting the Final Candidate**

Once a final check of the selection process has been completed and the final applicant has been determined, the Search Team Chairperson will notify the Church leadership of the preferred candidate's name for endorsement.

The Church Leadership may be able to make a final decision or may need to call a special members meeting to nominate and vote on preferred candidate.

Your church's Constitution should outline the process for making the decision.

Note: A verbal offer of employment and the finalist's verbal acceptance creates a contractual relationship – therefore, ensure that the offer has been approved and that it is **made subject to the parties signing a written contract of employment**.

#### Notes taken during the recruitment process

It is vital that detailed notes are taken during the selection process (including details of references) and are collated and kept by the Church in the event that there is a dispute about the process or the offer made to successful candidate.

It is important to recognise that in the event of a dispute about who is selected for a role, all of the notes taken and other documents created (including private emails) may be discoverable in legal proceedings, even if the person taking the notes/creating the document did not intend for the note/document to have a broader audience.

Therefore it is important that all notes and correspondence are factual and do not contain information that could be interpreted as discriminatory. A candidate may gain access to those notes/emails in the future.

Notes and other documents that relate to unsuccessful candidates may also be covered by the *Privacy Act (Cth)* and an unsuccessful candidate may seek to access documents relevant to the recruitment process via privacy processes.

<b>Supporting Documentation:</b>	
Reference Checking template	See Part 1 Appendix 2 – Templates [4. Reference
	checking form for hiring new employees]

## **Finalise Recruitment**

Upon completion of the recruitment process, the offer to the selected finalist is made. Prior to initiating the offer, it is recommended that one more check of the selection process be completed as follows:

- Review the duties and responsibilities of the role and ensure they were accurately described and reflected in the role description and interview process.
- Review selection criteria used to ensure they were based on the qualifications listed for the role.
- Confirm interview questions clearly matched the selection criteria.
- Confirm all applicants were treated uniformly in the recruitment, screening, interviewing and final selection process.

Do not make an offer until all pre-appointment checks have been completed. This includes reference checks and any working with children/police checks relevant to the role. Withdrawing an offer after it has been made because of a negative check is far more likely to result in a dispute.

#### **Initiating the Offer**

Whenever possible, it is recommended your best offer be made the first time as this displays proper market and internal equity practices and demonstrates good faith to the applicant. It must be clear that any offer is subject to the parties entering into a written contract of employment.

When offering the finalist the position, be sure to discuss the total compensation package (in addition to salary) such as paid time off, etc. Be excited and enthusiastic about the offer and let them know you are excited about them joining your team.

Discuss the opportunities which may be available to them in achieving their own personal and professional goals. Most individuals value this just as much, and in some cases more, as the base salary being offered. Be aware that you cannot make promises of advancement or future opportunities without the risk of being accused of misleading and deceptive conduct if those opportunities do not eventuate.

#### **Countering the Offer**

Despite your best offer, there may be instances where the applicant declines.

Discuss the reasons for the offer being declined with the applicant – and look beneath the surface. Applicants decline offers for various reasons and not always due to the salary being offered.

If an offer is declined due to salary, the church may make a counter offer provided the amount is within the appropriate guidelines for the role.

#### **Finalising the Offer**

It is important that each recruitment be properly closed, **including the notification of those interviewed and not selected**, as well as all documentation associated with the recruitment be filed safely and securely, whether electronically or paper based.

To ensure proper closure, the church should complete a checklist to ensure the following actions are conducted:

- Once an offer has been accepted, the Church prepares and sends a letter of appointment to the successful applicant.
- Once offer is accepted and signed, the Search Team Chairperson contacts those individuals interviewed and not selected by phone or letter. If contact is made by phone, ensure the conversation is documented.
- The letter of appointment must be signed and returned prior to the new staff member starting work.
- All legally required paperwork (eg. superannuation, tax, emergency contacts, etc) can be completed by the new staff member on day one.

#### **Employment Contracts**

To be consistent with the Fair Work Act, NES and National Awards, we have used the terms employee, employer, employment and employment contract throughout this section. These terms are intended to be interchangeable with words such as staff member, church, appointment and letter of appointment found in other sections of this document.

Please use whatever terminology that is most appropriate to your situation.

An employment contract outlines the terms and conditions of the appointment in addition to any underlying modern award conditions and the National Employment Standards under the Fair Work Act 2009 which set minimum terms and conditions of employment.

Once an employment contract has been agreed it cannot be changed without both parties consent. Getting the contract right before the employee starts is therefore vital. A template employment contract is available from your State Baptist Office. If you need to depart from this template, you should seek advice.

#### A contract must:

- At least meet the National Employment Standards requirements.
- Outline which entitlements are applicable from the relevant award, and which are above the minimum conditions in the award.
- Contain a clause dealing with how the contract can be terminated by either party. While ending the relationship is far from the first thing in your mind at the point of engaging a new staff member, termination is the matter most likely to give rise to a dispute.
- Outline any other items that are agreed to by the church and the appointee which do not conflict with the NES or the relevant award including for example, clauses about confidential information.

The National Employment Standards (NES) are 10 minimum employment entitlements that have to be provided to all employees. The national minimum wage and the NES make up the minimum

entitlements for employees in Australia. An award, enterprise agreement or employment contract, can't provide for conditions that are less than the national minimum wage or the NES. They can't exclude the NES. For more information, including the 10 minimum entitlements of the NES, go to http://www.fairwork.gov.au

If an appointee is award covered, the relevant award must be consulted in formulating an employment contract.

An employment contract is an additional instrument which applies to an employee on top of the award (if they are award covered) and the NES (if they are non-award covered).

If you are unsure whether a staff member is covered by a modern award, you can contact your State Baptist Office. It may be necessary for the church to obtain independent legal advice in some circumstances.

Supporting Documentation:				
To be given to	successful a	oplicant:		
Letter of offer		See Part 1 Appendix 2 – Templates [Letter of engagement template for hiring new employees: 6. Casual, and 7. Full-time/part-time]		
Employment of	contract	Available from your State Bap	otist Office	
Fair Work Info	rmation	Available from the Fair Work Ombudsman website –		
Statement		http://www.fairwork.gov.au		
Employment o	details form	form See Part 1 Appendix 2 – Templates [12. Record of employee details]  • Create appropriate form for volunteers from the Fair Work  Ombudsman template.		
		In the case of volunteers at your church it would be prudent to obtain their permission to collect and safely store their personal information and contact details in case of an emergency.		
Superannuation	on Standard	Information about Superannuation and mandatory forms are		
Choice Form		available from the Australian Tax Office website.		
Bank account	details form	form See Part 1 Appendix 2 – Templates [10. Payslip template template]  You may wish to create your own form from this template.		
Tax file numbe	er	Included on Employment details form (see above). Information		
declaration		about tax file numbers and forms are available from the Australian Tax Office website.		
To be provide	d as required	:		
Information:	Child Protect	tion Training Dates	Contact your Baptist Office for details	
Police Check		Procedure	Contact your Baptist Office for details	
Documents: Code of Cond Child Protecti		duct and Complaints Protocol	Contact your Baptist Office for details	
		tion Policy	Contact your Baptist Office for details	
Child Protection Check List Contact your Baptist Office for deta			Contact your Baptist Office for details	

## Induction

Induction of a new staff member is not a short, sharp, structured introduction to a church; it is an ongoing process that may last up to a year or so. Even so, the treatment the staff member receives on the first day/week often strongly influences his/her perceptions of the church.

For those reasons, preparing for the first day needs to consider the staff member's individual needs, the needs of particular types of staff member, and who should be involved. Also, make sure all the administrative matters are sorted out in advance, so that they run smoothly on the day.

#### What are the staff member's needs?

In many churches, a standardised induction program only works up to a point. Some information and procedures can be generic, but it is important that the program also suits the staff member's role/ministry and the position within the organisation. Small churches are more able to use a standard approach, but even they will need to take individual needs into account.

Another important guideline is: quality, not quantity. There will be plenty of time later for an extensive guided tour of the church site and introductions to people in other parts of the church. The induction should focus on getting the staff member started on the role, completing basic administrative requirements and other immediately essential things (e.g. amenities and kitchen facilities).

Importantly, give attention to alleviating the new staff member's anxiety by making her/him feel welcome and accepted, and confident that he/she has made a good choice in your church.

The following areas are the new staff member's main priorities:

- To meet their immediate senior Pastor (if applicable).
- To meet their co-workers.
- To meet the people who report to them (where the new staff member is a senior/lead/ sole/significant Pastor).
- To be introduced to the role itself.
- To learn how the role fits into the church's mission/purpose.
- To learn the churches policies, rules, etc., but only the 'basic survival' tips on the first day. You need to go back to this within a fairly short period of time and ensure that the employee understands all of the policies and procedures and signs a document to acknowledge that they have read and understood the policies and procedures
- To actually start working on the first day, and where possible, to do something productive that day.

Those steps need to be backed up by a few things:

- As mentioned above, reassurance and acceptance in relation to the church in general.
- Reassurance that the role itself is regarded as important.
- Communication of realistic expectations.

- Provision of accurate back-up information.
- An outlet to communicate any concerns and disappointments without threat.
- Survival tips that include undocumented information about church culture, communication patterns, workplace norms, etc.

To summarise, information provided on the first day should be confined to:

- Information that is immediately relevant to the role
- Information that is essential for legal compliance
- Information that is essential for the employee to comply with organisation policies and rules and to protect his/her own role.

#### Sort out the administrative arrangements before the day

No matter how well-designed an induction program is, you can still create a bad impression if administrative arrangements come unstuck on the first day.

The main issues to cover are:

- Everyone who deals with the new staff member must know when she/he will arrive.
- Give the staff member specific instructions on where to go, what time, where to park, who to ask for, etc.
- Ensure the work station is ready, IT issues are resolved, and a first work task is ready to proceed.
- Ensure you have adequate supplies of back-up resources, such as information kits.
- If applicable, ensure all amenities are organised, such as keys, lockers, laptops, parking space, etc.
- Don't pick a starting date or time when there is a chance that induction staff may be called away to deal with a crisis. For example, if Monday is usually a busy day, avoid it.

The church has an obligation to provide the Fair Work Information Statement to each staff member before, or as soon as practicable after, the employee starts employment.

<b>Supporting Documentation:</b>	
Induction checklist	See Part 1 Appendix 2 – Templates [9. Induction checklist]
Fair Work Information Statement	Available from the Fair Work Ombudsman website

## **General Information**

Congratulations!! You have now successfully appointed a new staff member to your church. We hope this becomes a fruitful partnership for you both.

As an employer you now have a number of responsibilities to fulfil, and under the Fair Work Act 2009 both the staff member and the church have protections and rights.

#### **General Protections**

All staff members have protected rights at work. These protected rights include:

- Workplace rights.
- Taking or not taking part in industrial activities or belonging or not belonging to an industrial association.
- Being free from discrimination.

#### **Workplace Rights**

A staff member has a workplace right if they:

- Have a benefit, role or responsibility under a workplace law, instrument (e.g. an award or enterprise agreement) or an order made by an industrial body (e.g. the Fair Work Commission).
- o Can start or take part in a process or proceeding under a workplace law or instrument.
- Can make a complaint or inquiry about their employment to a body.
- Are a staff member and can make a complaint or inquiry about their employment, e.g. a staff member making an enquiry about their pay to the church.

Workplace rights consist of three elements:

- Entitlements, roles and responsibilities.
- Processes and proceedings under workplace laws and industrial instruments.
- Complaints and enquiries in relation to the employment.

Staff members can't be treated differently or less well because they have exercised a right. Staff members are protected from:

- Adverse action (i.e. termination of employment or demotion).
- o Coercion.
- Undue influence or pressure.
- Misrepresentation.

#### Record Keeping

Under the Fair Work Act and additionally as part of the church's basic management systems, you are required to keep accurate and up-to-date records in the following areas:

- Specific records of staff member information:
  - Appointment details (including position and nature of employment, e.g. casual, part time or full time).
  - Termination of employment details.
  - The staff member's rate of remuneration (including any bonuses, penalties allowances and deductions to be made each pay cycle).
  - The number of hours worked including overtime. If the employee is paid by the hour, covered by an award/enterprise agreement or entitled to overtime then a record must also be kept of the start, finish times and meal breaks taken on each day of work.
  - Leave entitlements.
  - Superannuation contributions.
  - Averaging of hours arrangements.
  - Individual flexibility arrangements.
  - o Guarantees of annual earnings.
- Payment records:
  - The period of time to which the pay relates.
  - o The date on which the payment is made.
  - The gross amount of pay.
  - The net amount of pay.
  - Any amount paid to the employee that is a bonus, loading, allowance or penalty.
  - The amount of the superannuation contribution made with respect to the pay period (including the name of the fund to which the contribution is paid).
  - Any deductions made.
  - o The ABN of the employer.
- Work injury records.
- Income tax records.
- Work Health and Safety records.

Records can be made and stored either electronically or in paper-based form. As per the requirements of the Privacy Act 1988, all records are to be stored securely and only accessed by authorised people.

As per the Commonwealth Fair Work Regulations 2009, staff records:

- Must be in a legible form and in the English language.
- Must be in a form that is legible and readily accessible to a staff member or Fair Work Inspector if requested.
- Are not false or misleading, to the best of the church's knowledge.
- Must be corrected as soon as an error is found, and contains a notation of the nature of the corrected error with the correction.
- Must not be altered, or allowed to be altered, by the church (except for the correction of a discovered error).
- Must be kept for seven years.

#### **Appraisals and Reviews**

Each staff member should have their role and performance reviewed on a regular basis. The way this is managed is up to your own church policies and procedures.

A typical review schedule could be:

- Initial review 3 months.
- Formal review 12 months.
- Ongoing review/performance management 12/24 months.

In between formal review periods regular informal discussion where encouragement can be given and any issues can be raised and dealt with quickly.

Churches should ensure that an accurate written record of these performance appraisals and reviews are kept with the staff member's employment records.

#### Why manage performance?

Performance management recognises that the effective operation of the church depends on the knowledge, skills and performance of its staff. It is about working in a way that will enable continuous performance improvement in line with the churches' direction, and will at the same time increase staff innovation and satisfaction.

Effective performance management creates a harmonious and productive workplace which is beneficial for both staff members and churches.

By implementing an ongoing performance management system, expectations by both the church and staff can be met and the opportunity for large issues or poor performance can be reduced.

High performance in churches means:

- o Increased ministry effectiveness.
- Engaged and committed staff members.
- Retaining good staff members.

Poor performing staff members can have a negative effect on a church, which might mean:

- Unhappy members.
- Decreased attendance.
- High turnover of staff.
- Unmotivated and underperforming staff members.
- Reduced ministry effectiveness.

In order to make an unfair dismissal claim under the Fair Work Act 2009, a staff member must have completed 6 months continuous service (for churches with 15 or more employees), or 12 months continuous service (for churches with less than 15 employees). By regularly reviewing the performance of a staff member in the early stages of their appointment, you have a chance to identify any performance issues which may be a bar to on-going employment before the unfair dismissal provisions become a factor.

Where poor performance becomes an issue, please refer to Part 2 Section 2 Termination Underperformance and Misconduct for guidance on managing an underperforming staff member.

#### **Functional Capacity Assessment**

What does the church do when a staff member who has been capable of doing their role takes some significant time off work due to a chronic/severe injury or other major personal/medical issue? The church's duty of care is such that it is required to ensure that the person can perform the requirements of the role without risk to themselves or others before allowing them to return to work.

A Functional Capacity Assessment (FCA) can be used by a church to provide an evidence-based platform and report to determine a workers current functional capacity and future work potential. An FCA is usually conducted by an independent set of specialists, outside the church's usual medical support. These specialists use a variety of assessment tools to evaluate the staff member's abilities and limitations against specific and clearly defined work related criteria (position profile, job description, etc).

An FCA can be used as part of a return to work (RTW) program, to assist with medical upgrades and to help achieve agreed RTW goals. It can also be used as a part of the review process to assess an employee's ability to perform their work related duties in the future.

<b>Supporting Documentation:</b>	
Record-keeping – what records have to	Available from the Fair Work Ombudsman website –
be kept and what needs to be in them	search for Record-keeping

# Part 1 Section 3: Appendices

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#### Part 1 Appendix 1: Sample Role Profile

Use and amend this <u>Sample</u> Role Profile to suit your church's requirement. Headings and texts are suggestions only and are not meant to be comprehensive.

Moderator: Click here to enter text. (insert Moderator's name here)

Click here to enter text. (insert church name here) is looking for a Pastor to build on our strengths and develop our community of faith. We have a strong belief in our need to reach our community and want a person who will not only lead us, but will work/walk alongside us in this; encouraging and empowering the congregation to glorify God in our lives and to share the love of Jesus with others.

## Pastoral Characteristics HEART

- Is a practical servant leader with a willingness to learn and grow alongside the church as we mature in our Christian walk.
- Has maturity in faith and character.
- Is prayerful and has a worshipping heart that desires to see Jesus glorified in our church.
- Has a strong pastoral focus and will foster a caring community within the church.
- Has a desire for people to meet Jesus.
- Is self-aware and open to feedback.
- ? Click here to enter text.

#### **HANDS**

- Has experience in biblical preaching and evangelism.
- Is an effective leader who values teamwork and is able to equip and support church leaders.
- Is able to develop ministries and build community within the church.
- Has skills to ensure that the church is cared for pastorally; respects diversity, and values an atmosphere of acceptance.
- Is an effective communicator with the desire to shape church life to be relevant and meaningful in today's cultural context.
- Has a missional approach, networks amongst churches and community, and encourages the church to continue to reach out.
- Is able to embrace and positively manage change.
- Aware of the importance and relevance of spiritual gifts within the church community.
- ? Click here to enter text.

#### **HEAD**

- Believes that the scriptures are in the inspired word of God and has an in depth understanding and working knowledge of God's holy word
- Has completed at least an undergraduate degree in Christian Ministry
- Is either accredited as a Baptist pastor or willing to pursue accreditation

- Is committed to ongoing learning and ministry development
- Has an understanding of the concept of the scattered community of our congregation and a willingness to work within it
- Demonstrates a sound knowledge of culture and diversity in contemporary Australian society and how Christians can engage in our community
- Has an understanding of effective pastoral care
- ? Click here to enter text.

## Ministry Roles and Outcomes "HANDS ON"

- 1. Preaching so that the church is taught, motivated and equipped to live out the gospel. Preferably Click here to enter text. of Sundays, and planning series for strong teaching and continuity. Utilising and developing our congregation's preachers and arranging guests for the other Sundays. The pastor will also oversee the coordination of Sunday worship services and take responsibility for the planning or scheduling of communion and children's talk portions of our church service roster.
- 2. Local Mission so that many people in the local area will have opportunities to discover God's salvation in Christ in a personal way. This is emerging as the ministry priority of the church, and we look to the pastor to ensure that significant resources (of all kinds) are appropriately allocated to this task.
- 3. Leadership and Equipping so that the abilities of others will be activated to follow the call and the vision God has for His church at Click here to enter text. (insert church name here). We are looking for a team-building and equipping pastor who will effectively lead the church elders and deacons. He/She will also encourage the congregation to discover their gifts and mentor and equip them for service of the Lord.

- **4. Ministry development and involvement** *so* that the ministries of the church may expand and become even more fruitful. We are looking for a pastor who will lead by example in getting involved in various ministries of the church (such as men's ministry, prayer ministry, youth, and children's ministry).
- 5. Community Involvement so that the congregation is led into a deeper and renewed engagement with the community of Click here to enter text. (insert church name here) and its surrounds. We are looking for a pastor who will lead by example in making strong community connections in a variety of ways and who will meet with other local church leaders.

#### "EYES ON"

- 1. Pastoral Care so that every person in the church family is personally nurtured with the care of Christ. We seek for the pastor to oversee a plan for personal discipleship and spiritual guidance as well as having personal involvement in the pastoral care for members of the congregation.
- 2. Gathered Worship so that our weekly services are kept glorifying to God, edifying to the body of believers and accessible to enquirers. We expect the pastor to have oversight over the shaping of services as a whole. The pastor is not necessarily expected to be involved in the week-to-week planning of or leading of worship.
- 3. Age-Specific Ministries and Small groups/Bible study groups so that the different generations of the church have access to ministries edifying to their particular stage of life. We value each generation in our church family and their various contributions. The pastor is not expected to run or attend all these ministries, but to nurture their healthy development.
- **4.** Support for Wider Missions so that our strong focus on local mission sits rightly in the context of God's global mission. We would like our pastor to grow and encourage our missions team and to ensure that this remains a healthy aspect for our church.

#### **Support in Ministry**

- 1. Ministry Development the pastor will be encouraged to take 1 week per year (pro rata) in paid leave for ministry development and/or spiritual direction according to a Professional Development Plan. There is also a budget line allocated for expenses in this area.
- 2. Personal the pastor and pastoral family can expect the love, care, and prayer support of the congregation (and particularly the leadership) as valued members of the church family. The extended family of Baptist Churches also provide support for the pastor through a Regional Minister and many other services.
- **3. Financial** the role is advertised as initially a Click here to enter text. (insert position FTE hours). FTE according to the recommended rates and terms and conditions of the Baptist Office.
- 4. Leave the health of the pastor and pastoral family is a priority for our church and we encourage the taking of all leave entitled according to the recommended conditions of the Baptist Office. This includes one weekend off per quarter, in addition to annual leave taken.
- 5. Mutual Reviews informal reviews will be undertaken by the church leadership after each year of ministry. These reviews will give the pastor opportunity to also review the church and leadership, and will be simple, loving, frank, encouraging, and specific in identifying work areas. At the end of the first year of ministry, and every 3 years thereafter, a more formal review will be undertaken with a view to reappointment by the members.

#### **Conditions of Appointment:**

- 1. Agreement to uphold the Baptist Office Foundational Values
- 2. Agreement to abide by the Baptist Office Code of Ethics
- Agreement to abide by the Baptist Office Child Protection Policy
- 4. Presentation of a current National Police Certificate

# Part 1 Appendix 2: Templates available from Fair Work Ombudsman – http://www.fairwork.gov.au/

The following templates are available from the Fair Work Ombudsman website – http://www.fairwork.gov.au/ (search for "templates"). You are encouraged to make use of this material and adapt them to suit your church.

#### **Employing staff**

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Reference checking form for hiring new	1
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Letter of engagement template for hiring	5
new employees - casual	)
Letter of engagement template for hiring	6
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Notice to unsuccessful applicants	7
Starting a new job checklist (for the	8
appointee)	٥
Induction checklist	9

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Staff meeting records template	14

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Timesheet template	19

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The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained in these templates is general in nature. If you are unsure about how it applies to your situation you can call the Infoline on 131394 or speak with a union, industry association or a workplace relations professional.

## Part 1 Appendix 3: Interview Evaluation Rating Sheet

Church name: Click here to enter text.  Interview Questions for the position of: Click here to enter text.	Instructions: Chair: assigns each question to a Search Team member and assigns the weighting of each question.	
Applicant Name: Click here to enter text.  Chair Name: Click here to enter text.  Search Team Member: Click here to enter text.	Rating Scale:  0 = No expertise  1 = Low expertise  2 = Average expertise	Weight Scale: 1 = Low importance 2 = Medium importance 3 = High importance
Search Team Member: Click here to enter text.	3 = High expertise	5 – High importance

	Assigned to	Question	Rating 0-3	Weight 1-3	Total (rating x weight)	Comments
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
	Total	Rating				

Candidate Evaluation	Rating 0-3	Weight 1-3	Total (rating x weight)	Comments
Knowledge of Specific Skills for Position				
Related Experience				
Related Education or Training				
Initiative				
Communication/Listening Skills				
Interest in Position				
Total Rating				
Overall Assessment: (e.g. Interviewed well, confident, succinct in responses, work examples relevant to position)				
Key Strengths:				
Developmental Areas:				
Recommendation:				

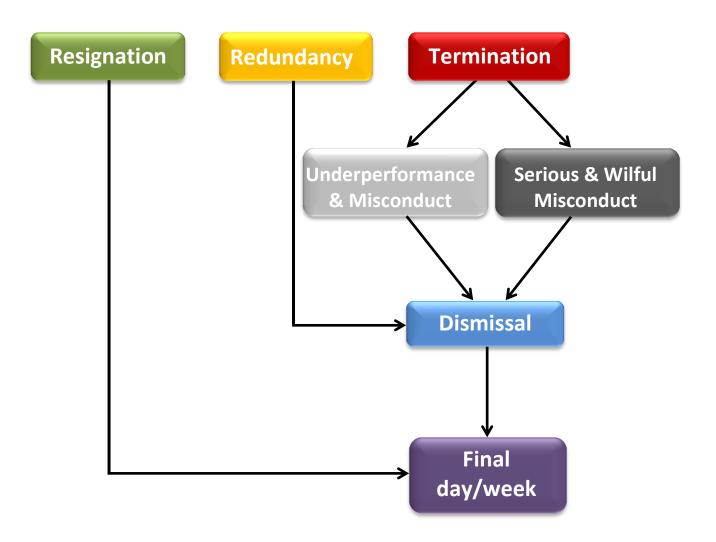
# Part 2: Conclusion of an Appointment

an aid for churches when the appointment of a staff member is concluded

## Part 2 Section 1: Process Chart

## **Conclusion of an Appointment Process**

What type of conclusion will occur?



## Part 2 Section 2: Guidelines

## Resignation

When a staff member resigns, they will need to give notice to their church leadership. Unless the award, enterprise agreement or employment contract covering the staff member requires written notice, a staff member may give notice of their resignation verbally.

#### The notice period:

- Starts when the staff member gives notice that they want to end their employment.
- Ends on the last day of employment.

For a staff member with award coverage, the relevant award will set out:

- How much notice (if any) they have to give when they resign.
- When an organisation can withhold money if they don't give the minimum notice period.

Where there is an employment contract for either an award covered or non-award covered employee, the contractual terms in relation to termination of employment should be consulted first.

Likewise, if the staff member is covered by a registered agreement, check the terms of their agreement for information.

Where an employment contract or enterprise agreement is silent on the matter of notice to be given by a staff member, they are required to give "reasonable notice". The issue of what is reasonable in particular situation is a complicated legal question and you should seek advice from your State Baptist Office if faced with this situation.

As a matter of practice, it is generally accepted that Pastors within the Baptist Churches Association provide 3 months' notice to their church when they are resigning from their position.

Other positions such as administration positions are required to give notice as per their contract of employment or respective award and/or agreement.

#### Giving more notice than required

A staff member can give more notice than required in the award, registered agreement or employment contract. A church doesn't have to accept this and can choose to only let the staff member work for the minimum notice period.

When the staff member resigns, the church should tell the staff member if they accept the full notice period or if they only want them to work the minimum notice period under their award, registered agreement or contract. See Part 2 Appendix 4: Minimum Notice Period Tables.

#### Taking leave during a notice period

A staff member can take annual leave during a notice period if the church leadership agrees to the leave.

A staff member can take sick leave during a notice period if they give:

- notice of the leave as soon as possible
- evidence if the church asks for it (e.g. medical certificate).

A church cannot force a staff member to take leave as part of the notice period.

#### No paid sick leave left

Unless unpaid sick leave is an entitlement under the award, enterprise agreement or employment contract, unpaid leave is not an automatic right. Therefore the church can decide whether or not to allow a staff member to take a period of unpaid leave.

It is general practice within the Baptist Churches Association to allow a staff member who has used up all their sick leave to take unpaid sick leave. They have to give the church notice and evidence.

#### Payment in lieu of notice

A church may elect to pay all or part of a notice period in lieu of the person working out their notice period. Effectively the appointment concludes prior to the end of the notice period and the balance is paid out.

This is entirely at the discretion of the church and an employee cannot require an employer to pay out notice.

Any amount paid in lieu of notice must be at least equal to the amount that the person would have earned had they worked for the period. This means that the payment in lieu must also include superannuation, allowances, penalty rates or other entitlements.

## Redundancy

Redundancy can happen when a church either:

- no longer needs a staff member's role to be done by anyone; or
- ceases to operate; or
- restructures or reorganises because they merge with or enter into a partnership with another church.

#### What is a genuine redundancy?

A genuine redundancy is when:

- the staff member's role no longer needs to be performed by anyone because of operational requirements in the church; and
- the church has followed all consultation requirements in the award or enterprise agreement.

When a staff member's dismissal is a genuine redundancy the staff member isn't able to make an unfair dismissal claim. The staff member may however make other claims in relation to the redundancy about the consultation requirements, redeployment or payment of severance money.

Notwithstanding that the employee cannot bring an unfair dismissal claim, discrimination and adverse action requirements still apply if the employee can argue that they were chosen for redundancy due to discriminatory reasons or a reason that contravenes the adverse action provisions in the Fair Work Act. For example, an employee chosen for redundancy over another employee because the redundant employee was pregnant.

A dismissal is not a genuine redundancy if the church:

- still needs the staff member's role to be done by someone (e.g. hires someone else to do the role); or
- has not followed relevant requirements to consult with the staff members about the redundancy under an award or registered agreement; or
- could have reasonably, in the circumstances, redeployed the staff member to another role within the church.

#### Consulting with staff members about major workplace changes

All awards and registered agreements have a consultation process for when there are major changes to the workplace, such as redundancies.

The consultation process sets out the things the church needs to do when they decide to make changes to the structure or direction that are likely to result in redundancies. This has to be done as soon as possible after the decision has been made to make these changes.

Consultation requirements include:

- Notifying the staff members who may be affected by the proposed changes.
- Providing the staff members with information about these changes and their expected effects.
- Discussing steps taken to avoid and minimise negative effects on the staff members.
- Considering staff members' ideas or suggestions about the changes.

#### Redundancy pay and entitlements

When a staff member's role is made redundant, the church needs to be aware of their responsibilities regarding redundancy pay (also known as severance pay) and to whom it applies.

#### Redundancy pay

The amount of redundancy pay the staff member gets is based on their continuous service with the church. Continuous service is the length of time they are employed by the business and doesn't include unpaid leave.

If the staff member is covered by an enterprise agreement, check the terms of the agreement for information about how much redundancy needs to be paid out and other entitlements such as notice.

If the staff member is covered by an award, the award may address the notice requirements for redundancy and the amount of redundancy pay which must be provided to the staff member.

The church must not terminate a staff member's appointment unless they have:

- Given the minimum period of notice as per the NES or award, or the notice set out in the employment contract if that period is longer than the minimum.
- Paid the staff member in lieu of notice the full rate of pay for at least the hours the staff member would have worked had the employment continued until the end of the minimum period of notice.

A full rate of pay is the rate payable to a staff member including the following:

- Incentive-based payments and bonuses.
- Loadings.
- Monetary allowances.
- Overtime or penalty rates.
- Any other separately identifiable amounts.

#### Who is not eligible for redundancy pay?

Some staff members are not eligible for redundancy payments when their role is made redundant.

The following staff members are not eligible for redundancy pay:

• Staff members whose period of continuous service with the church is less than 12 months.

- Staff members employed for:
  - o A fixed period of time.
  - o An identified task or project.
  - o A particular season.
- Staff members terminated because of serious misconduct.
- Casual staff members.
- Trainees engaged only for the length of the training agreement.
- Apprentices.
- Any employee of an organisation that employs less than 15 people.

## **Termination**

## Underperformance & Misconduct

Throughout the working life of a staff member, performance needs to be managed. This section gives guidance if underperformance or misconduct occurs.

Performance may need to be managed for two reasons. The first is that a staff member might be underperforming and not fulfilling the requirements of their role. The second is that the staff member may be behaving in an unacceptable or inappropriate way while performing their duties (misconduct).

#### What is underperformance?

Underperformance, or poor performance, is when a staff member isn't performing their role to the standard required by the church.

#### It includes:

- Not carrying out their work to the required standard or not doing their role at all.
- Not following workplace policies, rules or procedures.
- Failing to attend required meetings or perform tasks in a timely manner.

#### What is misconduct?

Misconduct occurs when a staff member's behaviour falls below the standard expected and required by a workplace Code of Conduct. If there is no code of conduct, misconduct can still occur if the behaviour falls below what is generally expected by the church (being either the church congregation in general, or by other staff members specifically).

#### Examples include:

- Unacceptable behaviour at work, e.g. telling inappropriate jokes.
- Disruptive or negative behaviour at work, e.g. constantly speaking negatively about the church and its members.
- Breach of Code of Conduct or other inappropriate behaviour.

There is a difference between misconduct and serious misconduct (refer to the section: Termination— Serious and Wilful Misconduct).

#### Preventing underperformance and misconduct

The best way to manage underperformance and misconduct is to make sure it doesn't happen in the first place. Communication is the key.

Steps that a church can take to help prevent underperformance and misconduct include:

- Listing behavioural and outcome expectations in position descriptions.
- Addressing any issues as soon as possible.
- Having regular performance reviews to outline expectations from the beginning.
- Encouraging staff members to talk to their Pastor/Church Leader if they have any questions or concerns.

#### **Best practice tip**

Churches should consider writing a performance management policy that outlines how underperformance and misconduct will be managed and the possible consequences of behaviour which has not met the standard under the policy. This would be presented and discussed during the induction process.

Being open about what could occur can help make it clear to the staff member what their responsibilities are. It can also help prevent staff members feeling victimised if an issue does arise.

#### What to do when underperformance or misconduct occurs

If a staff member is underperforming or has been involved in misconduct, a private meeting should be arranged for the staff member and church leadership to discuss the situation. The church leader/s must advise the staff member what the meeting is about and ask them if they want a support person with them.

In this meeting:

- Be clear about what the issues or concerns are and provide specific examples and details rather than generalisations and listen to the other person.
- Make sure both parties have discussed the expectations moving forward, including clear and reasonable steps for improvement.
- Document the meeting and outcomes in writing and place on the staff member's employment record.

#### Following up after discussions

After a church has explained their concerns to a staff member and provided them with strategies on how to improve performance, regular follow up meetings should be held. They can be used as an opportunity to talk about progress and see if there is any further help or support the staff member needs, such as formal or informal training. Where performance has improved, the leaders should make sure they recognise this and document it in writing.

By implementing the above guidelines it is hoped that the staff member will have improved their performance and no further action is required.

#### If performance hasn't improved

If the staff member hasn't changed their behaviour and continues to underperform, or engage in misconduct, church leaders must consider:

- If another meeting with the staff member would be useful.
- If changing the staff member's duties or providing additional training is appropriate.
- They should issue a first or additional warning.
- If they have clearly explained the possible consequences of not improving, termination is a possibility.

Termination should only be considered as a final resort. If a staff member's employment is terminated, the church needs to make sure the staff member:

- Isn't being unfairly dismissed.
- Isn't being dismissed due to a matter covered by the general protections (refer to the section: General Information—General Protections).
- Is given the correct notice of termination.
- Is given the correct final pay.

Details regarding termination notice and final pay will be found in the employment contract/modern award/enterprise agreement/National Employment Standards.

#### Warnings

Warnings are an integral part of fairness in any disciplinary procedure and should be used by churches where a staff member's performance or conduct has become, or continues to be, unsatisfactory or inappropriate.

Both verbal and written warnings can be used.

If a verbal warning is used, it should be:

- In the presence of witnesses for both the church and the staff member.
- Recorded in writing to:
  - Verify that it occurred.
  - Provide detail of the warning.
  - Provide detail of the agreed outcome.

If a written warning is used, it should contain:

- Details of why the performance is unsatisfactory.
- Reference to any relevant policies or procedures.
- Clear expectations of what should be done differently.
- A time frame for when the performance will be reviewed.
- The date the warning was issued.
- Signatures of the church leadership/representative, staff member and witnesses.

In the case of performance management, there is no specific number of warnings that need to be issued from the church to the staff member before dismissal can occur. The seriousness of the staff member's actions and willingness/ability to improve will determine if a "first and final" or multiple warnings are given. Only in the case of serious misconduct should instant dismissal occur. (Please see "Termination/Serious and Wilful Misconduct" for further information.)

All written details must be stored in a secure place.

For a general discussion about the appropriate use of warnings and terminating staff appointments, you can contact your State Baptist Office. It may be necessary for the church to obtain independent legal advice in some circumstances.

Further resources on managing performance can be found at fairwork.org.au

#### **Supporting Documentation:**

See Part 1 Appendix 2 – Templates available from Fair Work Ombudsman under the headings "Managing performance", "Managing underperformance", and "Ending employment".

## **Termination**

# Serious & Wilful Misconduct

#### **Serious misconduct**

Serious misconduct is when a staff member:

- Causes serious and imminent risk to the health and safety of another person or to the reputation of their church.
- Breaches the Baptist Churches Code of Conduct policy in a serious manner.
- Deliberately behaves in a way that's inconsistent with continuing their employment.

Examples of serious misconduct include:

- Inappropriate relationships with church members.
- Fraud.
- Theft.
- Inappropriate use of church resources.
- Refusing to carry out work duties without reasonable cause.

Legally, churches and church agencies may be found to be vicariously liable for wrongs (including abuse) perpetrated by ministry staff and other staff members, as well as those appointed to a position of leadership responsibility and trust. The church must take responsibility for providing a safe environment for those being served. Subject to particular exemptions, State and Commonwealth Acts dealing with issues of discrimination and equal opportunity apply generally to the church.

In some situations both the staff member and the church may be found in breach of applicable legislation. Liability is likely to be greater in cases where offences have been inadequately handled by an employer; liability is likely to be lessened where approved standards and procedures have been effectively implemented.

Refer to your State Code of Conduct which will outline who the code is applicable to and the actions and processes that need to be followed.

Your State Baptist Office should be contacted immediately if your church believes a serious breach of the Code has occurred such that it amounts to serious and wilful misconduct.

## **Dismissal**

Once it has been determined that the church needs to dismiss a staff member due to poor performance or a breach of the Code of Conduct (being misconduct or serious and wilful misconduct), every effort must be made to ensure that the dismissal process is followed.

#### Dismissal Due to Redundancy, Poor Performance or Misconduct

If a dismissal is due to other than a serious breach of the Code of Conduct, the church needs to ensure that staff members are treated fairly.

The church will also need to ensure the appropriate notice period, or payment in lieu of notice, if provided to the staff member.

A staff member's appointment may be terminated during a period of leave, but the correct amount of notice still needs to be given.

If a dismissal is not correctly undertaken, the former staff members can make an unfair dismissal or a general protections claim relating to the termination of their appointment.

#### Dismissal Due to Serious and Wilful Misconduct

If there has been a breach of the Code of Conduct which amounts to serious and wilful misconduct, contact your State Baptist Office for assistance on how this can be managed.

In these cases, a church will not need to provide a period of notice, or payment in lieu of notice, to the staff member who has engaged in serious and wilful misconduct; the staff member is summarily dismissed and the dismissal takes immediate effect.

#### **Unfair Dismissal**

Unfair dismissal occurs when a staff member is dismissed from their role in a harsh, unjust or unreasonable manner as defined by the Fair Work Act 2009, or due to a breach of general protections, or through unlawful termination.

The Fair Work Commission (the Commission) decides on cases of unfair dismissal.

#### Applying for unfair dismissal

Staff members have to apply to the Commission within 21 days after their dismissal takes effect.

#### Minimum employment period

- Staff members have to be employed for at least 6 months before they can apply for unfair dismissal in churches with 15 or more employees.
- Staff members working for a small business (churches with less than 15 employees) have to be employed for at least 12 months before they can apply.

A church with 15 or fewer staff members (defined as a "small organisation") can use the information and resources provided through the Small Business Fair Dismissal Code.

#### **Factors to consider**

The Fair Work Commission is directed by the Fair Work Act 2009 to consider the following factors in deciding whether a dismissal was harsh, unjust or unreasonable:

- Whether there was a valid reason for the dismissal related to the person's capacity or conduct (including its effect on the safety and welfare of other employees).
- Whether the person was notified of that reason.
- Whether the person was given an opportunity to respond to any reason related to the capacity or conduct of the person.
- Any unreasonable refusal by the employer to allow the person to have a support person present to assist at any discussions relating to dismissal.
- If the dismissal related to unsatisfactory performance by the person—whether the person had been warned about that unsatisfactory performance before the dismissal.
- The degree to which the size of the employer's enterprise would be likely to impact on the procedures followed in effecting the dismissal.
- The degree to which the absence of dedicated human resource management specialists or expertise in the enterprise would be likely to impact on the procedures followed in effecting the dismissal.
- Any other matters that the FWC considers relevant.

#### The General Protections

Staff members who can't lodge an unfair dismissal claim can still use what is known as the general protections provisions of the Fair Work Act which deal with any "adverse action" by a church.

If the adverse action is taken due to the staff member exercising a workplace right, or on a discriminatory basis, the dismissal will be unlawful.

The Commission will also decide on cases under the general protections provisions.

#### Making a general protections claim

Staff members have to apply to the Commission within 21 days after their dismissal takes effect if they seek to lodge a general protections claim that deals with dismissal.

#### Onus of proof in general protections matters

Unlike other types of employment disputes, in the case of general protections claim the onus of proof falls with the employer to provide that the reasons for dismissal did not include any protected reasons.

In such a case it is important for the church to be able to provide evidence of the legitimate reasons for dismissal. This could be evidence of the poor performance or misconduct or in the case of a redundancy, evidence of the financial/operational reasons for the dismissal and the criteria used to select who should be made redundant.

#### Minimum employment period

There is no minimum employment period required for a general protections claim. This makes it an option for those former staff members who have not met the minimum employment period for an unfair dismissal claim.

Terminating the employment of a staff member is considered adverse action and will be unlawful if the action occurred due to the staff member's race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, political opinion, national extraction, social origin, or membership or activity in an employee association, or due to a query or complaint lodged relating to the staff member's terms and conditions of employment.

If a claim is made against your church for Unfair Dismissal or under a General Protections provision, we would encourage you to seek independent legal advice.

Supporting Documentation:	
Small Business Fair Dismissal Code	See Part 2 Appendix 1 (also available from the
	Fair Work Ombudsman website)
Small Business Fair Dismissal Code Checklist	See Part 2 Appendix 2 (also available from the
	Fair Work Ombudsman website)

## Final day/week

During the conclusion of a staff member's appointment at the church, the following areas need to be addressed.

#### Final pay payments

Final pay is what a church owes a staff member when their appointment ends. An award, employment contract, enterprise agreement or other registered agreement can specify when final pay must be paid. If it doesn't, then it is best practice for a staff member to be paid on their last day of work or on the next scheduled pay day.

A staff member should get the following entitlements in their final pay:

- Outstanding wages for hours they have worked, including penalty rates and allowances.
- Any accumulated annual leave.
- If it applies:
  - Annual leave loading.
  - Accrued or pro rata long service leave.
  - Redundancy pay.

Sick and carer's leave is not paid out when an appointment ends.

#### **Notify your IT and Communications Administrator**

As soon as you know that a staff member is leaving, notify your network administrator or other appropriate staff member of the date and time on which to disable the staff member's access to computer and telephone systems.

Make arrangements for how these accounts will be re-routed to ascertain that your church will not lose any important information, including any church specific data that is stored on personal devices.

#### Disable staff member building or property access

Effective by the end of the last day if the staff member is leaving the church, you need to disable the staff member's building access. Depending on your access methods, you will need to disable/cancel the staff member's building entry code, disable the entry swipe card, or collect the staff member's keys. If staff member is staying at church as member, this may not apply. Your church leadership will need to determine if this access is still required or appropriate.

#### Return of church property

Exiting staff members are required to turn in all church books and materials, keys, ID badges, computers, mobile phones and any other church-owned items.

#### **Passwords**

Staff members should provide their church leaders with passwords and other information pertaining to accessing computer files and telephone messages.

#### Handover

The days, weeks (or months in some cases) between the decision for the staff member to leave and their actual departure date offer a crucial opportunity for the church to gather important information and knowledge from the staff member.

This is especially relevant in roles where the staff member has accumulated a significant amount of knowledge and personal connections, as typically applies in pastoral roles.

The knowledge of the departing staff member commonly has immense value, and the recovery of it is often overlooked altogether by the church, until the staff member has departed.

#### **Exit interview**

Exit interviews are interviews conducted with a departing staff member at, or around, their time of departure. From the church's perspective, the primary aim of the exit interview is to learn reasons for the person's departure, on the basis that feedback provides helpful information for church improvement.

#### Exit interviews aims and outcomes

Exit interviews:

- Are a sign of positive culture.
- Express the caring and compassionate nature of the church and provide opportunity for constructive feedback.
- Provide valuable information on how to improve recruitment and induction of new staff members.
- Provide an opportunity to 'make peace' with potentially disgruntled staff members, who might otherwise leave with adverse intentions.

Whenever possible, exit interviews are best conducted face-to-face. However, skype, phone, or questionnaires are an option, if face-to-face exit interviews are not possible.

It is good practice to remind departing staff members of their ongoing obligations in relation to confidential information acquired during the course of their appointment.

#### References

From time to time you may be contacted to provide a reference for a former staff member, you should consider carefully before doing so. Each church should consider establishing a policy in relation to references for former staff members.

Any reference given in writing or verbally must make clear whether it is a personal reference given by the referee or a reference given on behalf of the church (subject to whether the church

has a policy about giving references). References given on behalf of the church must only be given by persons authorised to do so.

Matters to consider in providing references (both verbal and in writing) include:

- If the reference contains negative information, this may give rise to a dispute about defamation and/or misleading information.
- The person who is the subject of the reference may gain access to the information at a later date.

Supporting Documentation:	
Final Week Checklist	See Part 2 Appendix 3

## Part 2 Section 3: Appendix

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#### Part 2 Appendix 1: Small Business Fair Dismissal Code

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#### **Application**

The Fair Dismissal Code came into operation on 1 July 2009 and applies to small business employers with fewer than 15 employees (calculated on a simple headcount of all employees including casual employees who are employed on a regular and systematic basis). Small business employees cannot make a claim for unfair dismissal in the first 12 months following their engagement. If an employee is dismissed after this period and the employer has followed the Code then the dismissal will be deemed to be fair.

Employees who have been dismissed because of a business downturn or their position is no

longer needed cannot bring a claim for unfair dismissal. However, the redundancy needs to be genuine. Re-filling the position with a new employee is not a genuine redundancy. The requirements for determining whether a dismissal was a genuine redundancy are contained in section 389 of the Fair Work Act. The Small Business Fair Dismissal Code Checklist below can assist in determining whether a redundancy is a genuine redundancy.

Further information on the application of the Code, genuine redundancy and unfair dismissal is available at www.fairwork.gov.au or by contacting the Fair Work Infoline on 13 13 94.

#### The Code

#### **Summary Dismissal**

It is fair for an employer to dismiss an employee without notice or warning when the employer believes on reasonable grounds that the employee's conduct is sufficiently serious to justify immediate dismissal. Serious misconduct includes theft, fraud, violence and serious breaches of occupational health and safety procedures. For a dismissal to be deemed fair it is sufficient, though not essential, that an allegation of theft, fraud or violence be reported to the police. Of course, the employer must have reasonable grounds for making the report.

#### **Other Dismissal**

In other cases, the small business employer must give the employee a reason why he or she is at risk of being dismissed. The reason must be a valid reason based on the employee's conduct or capacity to do the job.

The employee must be warned verbally or preferably in writing, that he or she risks being dismissed if there is no improvement.

The small business employer must provide the employee with an opportunity to respond to the warning and give the employee a reasonable chance to rectify the problem, having regard to the employee's response. Rectifying the problem might involve the employer providing additional training and ensuring the employee knows the employer's job expectations.

#### **Procedural Matters**

In discussions with an employee in circumstances where dismissal is possible, the employee can have another person present to assist. However, the other person cannot be a lawyer acting in a professional capacity.

A small business employer will be required to provide evidence of compliance with the Code if the employee makes a claim for unfair dismissal to Fair Work Ombudsman, including evidence that a warning has been given (except in cases of summary dismissal). Evidence may include a completed checklist, copies of written warning(s), a statement of termination or signed witness statements.

## Part 2 Appendix 2: Small Business Fair Dismissal Code Checklist

See: http://www.fairwork.gov.au/ and search for Small Business Fair Dismissal Code Checklist. The Checklist is a tool to help small business employers comply with the Small Business Fair Dismissal Code. Completing the Checklist does not mean that the Code has been complied with, nor is it a requirement of the Code that the Checklist be completed. However, completing the Checklist will help small business employers assess and record their reasons for dismissing an employee. It is in the interests of the employer to complete this checklist at the time of dismissal and to keep it in case of a future unfair dismissal claim.

Employers should read the Code before completing the Checklist, ensuring they understand their procedural obligations under the Code. Meeting these obligations is an important factor in complying with the Code.

L.	How many employees are employed in the business? (Include the dismissed employee employee dismissed at the same time).  Under 15 employees [If under 15 employees, the Fair Dismissal Code applies.]  15 employees or more	·	other
,	Has the employee been employed in this business as a full-time, part-time or regular	cacual om	nlovoo
٠.	for 12 months or more?	Lasuai eiii	pioyee
	$\square$ Yes No $\square$ [If No, the employee cannot make an unfair dismissal cla	im.]	
3.	Did you dismiss the employee because you didn't require the person's job to be done by anyone because of changes in the operational requirements of the business?	□ Yes	No □
	If Yes		
	a. Did you comply with any requirements to consult about the redundancy in the modern award, enterprise agreement or other industrial instrument that applied to the employment?	□ Yes	No □
	b. Did you consider if the employee could have been redeployed in your business or the business of an associated entity?	☐ Yes	No □
1.	Do any of the following statements apply?		
	I dismissed the employee because I believed on reasonable grounds that:		
	a. The employee was stealing money or goods from the business.	$\square$ Yes	No □
	b. The employee defrauded the business.	☐ Yes	No □
	<ul> <li>The employee threatened me or other employees, or clients, with violence, or actually carried out violence in the workplace.</li> </ul>	☐ Yes	No □
	<ul> <li>The employee committed a serious breach of occupational health and safety procedures.</li> </ul>	☐ Yes	No □
5.	Did you dismiss the employee for some other form of serious misconduct?	☐ Yes	No □
	If Yes, what was the reason?		

## If you answered Yes to any question in parts 3, 4 or 5, you are not required to answer the following questions.

6.	In any discussion with the employee where dismissal was possible, did the employee request to have a support person present, who was not a lawyer acting in a professional capacity?	□ Yes	No □
7.	If Yes, did you agree to that request?	☐ Yes	No □
8.	Did you dismiss the employee because of the employee's unsatisfactory conduct, performance or capacity to do the job?	□ Yes	No □
	If Yes		
	a. Did you clearly warn the employee (either verbally or in writing) that the employee was not doing the job properly and would have to improve his/her conduct or performance, or otherwise be dismissed?	☐ Yes	No □
	<ul><li>b. Did you provide the employee with a reasonable amount of time to improve his/her performance or conduct?</li><li>If yes, how much time was given?</li></ul>	☐ Yes	No □
	c. Did you offer to provide the employee with any training or opportunity to develop his or her skills?	☐ Yes	No □
	d. Did the employee subsequently improve his/her performance or conduct?	☐ Yes	No □
	e. Before you dismissed the employee, did you tell the employee the reason for the dismissal and give him/her an opportunity to respond?	☐ Yes	No □
	f. Did you keep any records of warning(s) made to the employee or of discussions on how his/her conduct or performance could be improved? Please attach any supporting documentation.	☐ Yes	No 🗆
9.	Did you dismiss the employee for some other reason? If Yes, what was the reason?	□ Yes	No □
10.	Did the employee voluntarily resign or abandon his or her employment? If Yes, what was the reason?	□ Yes	No □
_	ARATION lare that I believe every statement or response in this checklist to be true.		
<u>Signature</u> Date			

### Part 2 Appendix 3: Final Week Checklist

Staff Member name: last day of work:		
Conducted on:	Final pay payments, taking into account:	
Signed:	<ul> <li>□ outstanding wages for hours worked, including penalty rates/ allowances</li> <li>□ any accumulated annual leave</li> <li>□ annual leave loading (if applicable)</li> <li>□ accrued or pro rata long service leave (if applicable)</li> <li>□ redundancy pay(if applicable)</li> <li>□ other</li> </ul>	
Conducted on:	The IT and Communications Administrator has been notified:	
Signed:	☐ of the date and time on which to terminate the staff member's access to computer and telephone systems.  Including: ☐ File access ☐ Email access ☐ Email groups/distribution lists ☐ Church internet/wi-fi ☐	
	<ul> <li>□ arrangements have been made for how these accounts will be re-routed to ascertain that the church will not lose any important information.</li> <li>□ Update church website details/church handbooks.</li> </ul>	
Conducted on:	Disable staff member building or property access	
Signed:	<ul> <li>□ building entry code/security code</li> <li>□ disable the entry swipe card</li> <li>□ collect the staff member's keys</li> <li>If staff member is staying at church as member, this may not apply.</li> </ul>	
Received on:	Return of church property	
Signed:	Exiting staff member/s has returned:  church books and materials keys ID badges computers any other church-owned items	
Conducted on:	Passwords	
Signed:	Exiting staff member has provided passwords and other information pertaining to accessing computer files and telephone messages.	
Conducted on:	Handover	
Signed:	Appropriate handover has occurred.	
Conducted on:	Exit interview	
Signed:	Exit interview has taken place.	