

Checklist: Writing agreements and settlements

You can print this checklist as it may help you when you are writing an agreement or settlement document.

This checklist relates specifically to agreements and settlements. For tips on writing skills and things to think about when writing any type of legal document, see [Checklist- Writing](#).

Tick on each box as you go.

Writing agreements and settlements

Do you need to write a deed of release?

A deed of release provides details about what each party must do to settle the dispute, as well as releasing each party from any further obligation. You can use a deed of release if:

- No court case has been started
- A court case has been started but you want to avoid any future legal action being taken against you.

If a court case has been started but neither party wants to release the other party from any other legal obligations, then you can settle your case by:

- an agreement to settle often called 'terms of settlement'
- Consent Orders or a Notice of Discontinuance.

Do you need to file Consent Orders?

Consent Orders are usually used when:

- a court case has been started
- the parties want the agreement to be enforceable in the same way as a court order
- both parties want the details of their settlement to become part of the court record.

Do you need to file a Notice of Discontinuance?

- A Notice of Discontinuance will usually be used where:
- no defence has been filed or no appearance has been entered by the defendant or respondent, and the plaintiff or applicant doesn't want to continue their case
 - a defence has been filed or appearance by the defendant has been entered, but the plaintiff has agreed not to continue their case for the time being.

Include the parties names

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- If it is a deed of release, put the parties names at the start, stating that the deed of release "is between [Party A] and [Party B].
 - If it is Consent Orders or a Notice of Discontinuance, the parties names will go on the area indicated in the form to be used.

Include details necessary to identify the case

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- In a deed of release, you would include a brief description of the case in the 'recitals'.
 - In Consent Orders or a Notice of Discontinuance, you would include the court details and court case number in the place indicated on the relevant form.

Write what each party is expected to do

- In a deed of release, consent orders or a settlement agreement, the obligations placed on the parties need to be clear. For example:
- if one party has to pay the other, write how much and by what date
 - if one party has to do work for, or return property to, the other, write by what date
 - if one party has to file a Notice of Discontinuance, write the date it should be filed by.

Write what will happen if either party doesn't meet its obligations

- In consent orders, you can write that there will be judgment for one side if the other side doesn't do what it agreed to do by a certain date.
 - In a deed of release, you can write that if one party doesn't meet its obligations, the other can sue for the full amount they say is owing.

Sign the documents

- A deed of release needs to be signed and witnessed if signed by an individual. If signed on behalf of a company, it may not need to be witnessed.
 - A Notice of Discontinuance should be signed by the plaintiff or applicant (or their lawyer) and may also have to be signed by the defendant or respondent.
 - Consent orders should be signed by the parties or their lawyers.
 - An agreement to settle should be signed by the parties, and it is good practice to have those signatures witnessed.

Keep a copy

- Make sure you keep a copy of the agreement or settlement signed by you and the other party for your records.