

Leave	
The worker is entitled to paid leave (e.g. personal leave, annual leave, compassionate leave).	The worker is not entitled to any paid leave.
Disciplinary Action	
The company has the right to suspend or dismiss the worker.	The contract with the worker may be terminated for breach.
Commercial risk	
The company remains liable for remedying any faulty work of the worker.	The worker is responsible for work that does not go as planned (e.g. takes longer, is more expensive, any faulty work) in their own time and at their own expense.
Direction and Control	
Company to determine when, how and where the services of the worker are performed.	The worker controls or exercises discretion over how, when and where the task or service is performed.

B. HOW THE CONTRACT IS ACTUALLY BEING PERFORMED IN PRACTICE

Now that you have considered the terms of any written agreement between your company and the worker, the next step is to consider how things are actually operating in practice.

In completing this assessment, we are interested in the day-to-day arrangements that operate with the contractor (even if in practice this differs from the terms of any written agreement or contract in place).

FACTORS THAT INDICATE

When the worker is sick the business simply waits for the worker to recover.	When the worker is sick the work is performed by somebody else.
Direction and Control	
The company exercises, or has the right to exercise, control over <u>how, when and where</u> work is performed by the worker etc. This might be evidenced by: • the worker reporting into someone at the workplace • the worker being directed to complete tasks by someone employed by the company • the worker being provided instructions either in writing or by training or supervision.	The worker possesses a large degree of autonomy, control, and discretion as to how, when and where their work is performed.
The company monitors/supervises the worker's work.	The worker performs their work/service without supervision/monitoring by the company.
The worker works solely for the company.	The worker performs work for other businesses.
The company can determine what work of the worker can be delegated or sub-contracted out and to whom.	The worker actually delegates, or sub-contracts work to other persons to complete.
The company monitors and provides feedback to the worker during the performance of work e.g. performance review process or similar.	The company provides feedback on completion of work to the worker.

