

Do Your Independent Contractor Agreements Measure Up?

Business owners need to classify workers correctly to minimise the risk of being penalised later for wrongly classifying workers as contractors when they should be employees.

It's a common area of concern for business owners who engage contractors. Many Fair Work Ombudsman cases have resulted in severe penalties and back payments imposed for engaging someone as a contractor when they should have been paid as an employee.

What's Required in Contractor Agreements?

You should have a comprehensive agreement with every independent contractor.

The contract should include:

- Details of the nature of the working relationship to demonstrate that a genuine contractor relationship exists.
- All rights and obligations of both the contractor and the business.
- Terms and conditions of the agreement.
- Whether superannuation applies.
- The main factors used to assess the worker as a contractor such as independence, ability to delegate work, the basis of payment, the use of tools and equipment, the degree of control or the ability to take on other work.
- The date of the next review of the contract.

Many factors are involved in assessing whether a worker is

deemed to be an employee or contractor, and the relationship can change over time. There is no single overriding factor in deciding if a worker is truly an independent contractor. Therefore, each working relationship must be assessed separately and individually.

Time to Upgrade Contractor Agreements

If a lawful agreement clarifies the terms of engagement and addresses all aspects of the working relationship, this will reduce the risk of later being penalised because of wrongly classifying a worker. But for the contract to be relied upon in court, it must address all aspects of the working relationship in enough detail that there is no room for misinterpretation of terms.

Now is a great time to review and upgrade any agreements you have in place with contractors. Do they measure up?

Talk to us about getting reliable agreements in place for all your independent contractors so you can trust in the terms of the engagement.