

# EMPLOYEE OR AN INDEPENDENT CONTRACTOR?

## A Questionnaire for Families Engaging Support Workers

Questions	Employee Status	Independent Contractor Status
Will the Family train the person?	Yes	No
Will the person be required to comply with rules, instructions, supervision or guidelines of the Family?	Yes	No
Will the person have fixed hours (determined by the Family)?	Yes	No
Will the person have to clear vacation time with the Family?	Yes	No
Will the person decide how the work will be done (for example, what activities would be engaged in to complete the assigned work)?	No	Yes
Will the Family determine where the work would be performed?	No	Yes
Will the person operate in the individual or Family's home?	Yes	No
Will the person use Family resources (vehicle, phone, computer, cleaning tools, other resources supplied by the Family)?	Yes	No
Will the person use his/her own tools (vehicle, phone, computer, other resources) to perform the services?	No	Yes
Will the person incur costs not covered by the Family (such as gas, meals, mobile costs, resources etc.)?	No	Yes
Will the Family have employees performing the same work as the person?	Yes	No
Will the Family have the right to discipline or dismiss for cause?	Yes	No
Will the person be required to attend meetings with the Family's staff, delegate work to staff or otherwise integrate service with persons who are employed by the Family?	Yes	No
Will the person be treated the same as employees of the Family, aside from the manner of payment?	Yes	No
Could the person hire others to do the work for the Family on behalf of the person (i.e. fill in or cover shifts)?	No	Yes
Will the person be permitted to work for other agencies or families and have other clients?	No	Yes
Will the work be supervised by the Family?	Yes	No
Will the person be paid a salary?	Yes	No
Will the rate of pay be set by the Family as opposed to negotiated between the Family and the person?	Yes	No
Will the person receive any benefits?	Yes	No
Will the person receive pay for vacation or public holidays?	Yes	No
Will the person work regularly for the Family on an ongoing basis?	Yes	No
Will the person work a substantial number of hours per week for the Family?	Yes	No
Will the person be dependent on the Family for their livelihood due to then portion of the work week spent engaged in work for the Family?	Yes	No
How long is the person expected to perform the service for the Family?	Long term	Short term
Is the work essential, relied upon and integral to the Family or Individual's functioning?	Yes	No
Will the person be required to have and maintain insurance (automobile, accident, general liability)?	No	Yes
Will the person be required to have an HST number?	No	Yes
Did this person apply for the job through an employment advertisement or job posting?	Yes	No
Does the person's contract include terms consistent with employment?	Yes	No
Does the contract clearly communicate that the parties agree the person is an independent contractor, along with other factors indicating an independent contractor relationship?	No	Yes

\* This questionnaire summarizes some of the factors that courts and tribunals consider in determining whether a worker should be classified as an independent contractor or employee. No single factor is determinative and each case will be determined on its specific facts. This questionnaire does not constitute legal advice and **PooranLaw Professional Corporation** expressly recommends that you obtain legal advice before entering contractual relations with any worker.