

Appendix 1 – Indicative Factors to Consider

Indicative Factors	Employee	Contractor
Control over work	The University has an implied right within employment law to direct and control the work of an employee. The employee works in the business of the employer and the employer is free to manage their business as they see fit.	The University has a right to specify how the contracted services are to be performed. However, such control must be specified in the terms of the contract, otherwise the contractor is free to exercise their own discretion
Independence	An employee performs work for the University in accordance with an employment contract or enterprise agreement.	A contractor performs services as specified in a contract with the University and provides additional services only by agreement.
Payment	Payment is often based on the period of time worked, but an employee can also work on 'piece rates' or commission.	Payment is dependent on the performance of the contract services.
Commercial Risk	An employee generally bears no legal risks in respect of the work; since the employee works in the business of the University, the University is legally responsible for any work performed by the employee.	A contractor bears legal risk in respect of the work. They have the potential to make a profit or loss, and must remedy any defective work at their own expense.
Ability to Delegate	An employee performs the work personally and generally cannot subcontract the work to someone else.	Unless otherwise specified in the contract, a contractor can subcontract or delegate the work.
Tools & Equipment	The University, except when specifically agreed otherwise, usually provides tools and equipment.	Generally, a contractor provides their own tools and equipment.
Manner of Performance	An employee performs work at request of University and work is an integral part of business of the University.	Contractor maintains a degree of discretion as to how work is performed, although there may be requirements as to materials used and method of performance. Although work of contractor is done for the University's business, it is not integrated into it.

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Place of Performance	Employee usually performs work on the University's premises using University assets and equipment.	Contractor generally provides all their own assets and equipment. Work can be performed anywhere.
Hours of Work	Worker works set hours usually determined by the University.	Worker sets their own hours.
Expenses	Generally reimbursed for expenses in course of performing the work.	Generally incurs own expenses.
Appointment	Generally recruited through an advertisement by University, except for casuals and some fixed term employees.	Worker likely to advertise services to public at large.
Termination	University reserves right to dismiss worker in accordance with the enterprise agreement or employment contract.	University may only terminate contract without penalty if worker has not met conditions of contract. Contract contains terms dealing with breaches by either party.
Taxation	An employee pays PAYG tax which the employer pays on behalf of the employee.	A contractor usually deals with their own tax. A contractor must have an ABN (or exemption from the ATO).
Relationship to University	An employee is an integral part of the University.	A contractor's work is usually an accessory to the University's business.
Ability to accept other work	A full-time employee is usually restricted to work for the one employer during normal business hours.	A contractor can accept as many contracts as they wish.
Right to refuse work.	An employee does not have the right to refuse a reasonable task.	A contractor usually agrees to the tasks beforehand. The contract governs the tasks that must be performed.