How to Create a Gig Worker Policy: A Guide for Canadian HR Managers and Employers



As the gig economy continues to reshape Canada's labour landscape, HR professionals and business owners find themselves navigating uncharted territory. From rideshare drivers and food delivery couriers to freelance designers and contract-based tech workers, gig workers are a growing part of the modern workforce.

But while the flexibility of gig work offers benefits to both employers and workers, it also presents real legal, operational, and reputational risks – especially when businesses fail to set clear policies or cross the legal line into employee misclassification.

So, how do you engage gig workers without stumbling into compliance traps? This article walks you through everything you need to know to develop a practical, legal, and fair gig worker policy for your organization.

What Is a Gig Worker?

In simple terms, a gig worker is someone who performs short-term, project-based, or freelance work, usually without a guaranteed schedule or long-term commitment. These individuals are typically classified as **independent contractors** rather than employees.

But classification isn't always that straightforward.

For example, a "freelancer" working under tight deadlines, using your equipment, under your direct supervision, may in fact be considered an employee under the law—even if you both call it contract work.

Why You Need a Gig Worker Policy

A formal gig worker policy is not just good practice—it's a risk mitigation tool.

Without a policy, you expose your company to:

- Misclassification claims, where a contractor is deemed an employee and becomes eligible for back pay, benefits, and termination entitlements.

- Tax liabilities, including unpaid CPP, EI, and payroll deductions.
- Workplace safety violations, especially if gig workers perform hazardous tasks without training or protection.
- Ethical issues around equity, inclusion, and fair treatment.

Having a well-drafted policy signals that your organization values transparency, fairness, and legal compliance – qualities that also help with employer branding and recruiting.

Key Elements of a Gig Worker Policy

A good gig worker policy should be clear, fair, and tailored to your business model. Here's what it should cover:

1. **Purpose and Scope**

Start by explaining why the policy exists and who it applies to. Make clear distinctions between employees and gig workers and state the kinds of roles, projects, or business units the policy applies to.

2. **Classification Guidelines**

Spell out the criteria your organization uses to determine whether a worker is an independent contractor or an employee. You can reference legal definitions but should also explain your internal evaluation process (e.g., control, tools, integration).

3. **Contract Terms**

Outline what must be included in every contractor agreement, such as:

- Scope of work
- Payment terms
- Duration of engagement
- Termination clauses
- Confidentiality and IP ownership
- Insurance and liability coverage

Require all agreements to be in writing and approved by legal or HR.

4. **Expectations and Conduct**

Even if gig workers are not subject to employee policies, you can—and should—set behavioral expectations related to:

- Health and safety.
- Respect in the workplace.
- Data protection and confidentiality.
- Reporting misconduct or hazards.

5. **Compliance with Laws**

Your policy should reference applicable employment, tax, privacy, and occupational

health and safety laws, making it clear that your organization complies with all relevant provincial and federal statutes.

Canadian Compliance Landscape: What the Law Says

Unfortunately, there's no single Canadian law that governs gig work. Instead, companies must look to a combination of federal and provincial regulations — plus common law principles that vary based on the specifics of each working relationship.

Here's a breakdown of some key jurisdictional differences:

Province/Territory	Worker Classification Guidelines	Notable Gig Worker Precedents or Laws
Federal	Follows common law tests (control, tools, chance of profit).	Applies to federal industries only (e.g., airlines, telecom).
Ontario	Employment Standards Act; recently expanded rights for gig workers in digital platforms (Working for Workers Act).	Digital platform workers get basic rights like minimum wage.
British Columbia	Common law tests; Employment Standards Branch may review classification disputes.	BC is reviewing gig economy standards under its Fair Work initiative.
Québec	Uses "contract of enterprise" vs. "contract of employment" tests (Civil Code).	Stronger contractor rights in certain industries.
Alberta	Common law and CRA guidelines.	Employers bear risk for misclassification.
Nova Scotia	Employment Standards Code; no specific gig worker rules.	Follows general independent contractor tests.
Manitoba & Others	Common law and CRA tests.	No gig-specific legislation yet.

Note: The Canada Revenue Agency (CRA) and provincial ministries may apply different criteria when determining worker status, which complicates compliance.

Frequent Mistakes to Avoid

Creating a gig worker policy is only helpful if it's followed consistently and legally. Here are some of the most common and costly errors to avoid:

Mistake 1: Misclassifying Employees as Contractors

This is the #1 compliance risk. If a gig worker:

- Works fixed hours.
- Uses your tools or equipment.
- Reports to a manager.
- Receives regular payments like a salary.
- Can be disciplined or terminated like an employee…

…then they are likely an employee in the eyes of the law, regardless of what the contract says.

Misclassification can result in orders to pay unpaid EI, CPP, vacation pay, overtime, termination notice, and more. In some cases, directors can be personally liable.

Mistake 2: One-Size-Fits-All Agreements

Using a boilerplate contract for all gig workers is risky. A freelance graphic designer doing project work remotely has vastly different legal needs than a temporary warehouse worker using your forklift.

Customize contracts based on the role, risk level, and jurisdiction.

Mistake 3: Lack of Oversight or Tracking

Without a system for tracking gig workers, contracts, or renewals, HR and legal may lose control over compliance. This is particularly dangerous when:

- Contracts lapse and work continues.
- Project creep turns into long-term employment.
- Multiple short contracts mask a full-time relationship.

Implement centralized tracking for all gig arrangements, with periodic audits.

Mistake 4: Ignoring Health and Safety Obligations

You may still be responsible for the health and safety of gig workers on your premises or job sites, even if they're independent. In high-risk industries like construction, logistics, or food delivery, you must ensure:

- Proper onboarding and hazard communication.
- PPE availability.
- Incident reporting systems.

Otherwise, you could face liability under OHS laws.

Mistake 5: Inconsistent Policy Application

Allowing managers to "hire a contractor" ad hoc without policy review or legal sign-off leads to inconsistent practices and legal exposure.

Make your policy mandatory across all departments and ensure procurement, operations, and legal are aligned.

Best Practices for Implementing a Gig Worker Policy

If you're creating a policy from scratch or updating an old one, here's how to ensure it sticks:

1. **Involve Key Stakeholders Early**

Include input from HR, legal, finance, and line managers. Each team will offer important perspectives, from budgeting and compliance to operational needs.

2. **Review Contracts Regularly**

Don't "set and forget" your independent contractor agreements. Review them at least annually or sooner if roles change or new laws are introduced.

3. **Train Hiring Managers**

Give front-line leaders the tools to identify when a role should be employee vs. contractor. Equip them with FAQs, checklists, and access to HR for guidance.

4. **Stay on Top of Legal Changes**

As the gig economy evolves, so do the laws. Ontario's recent minimum wage protections for app-based gig workers are a sign of what's to come.

Subscribe to compliance updates, industry alerts, or platforms like HR Insider to stay informed.

Final Thoughts: Treat Contractors with Respect, Too

Just because someone isn't an "employee" doesn't mean you can ignore their experience. Gig workers may be the first or only representatives of your brand that clients interact with.

A fair, transparent, and respectful gig worker policy:

- Enhances your company's reputation.
- Reduces compliance risk.
- Attracts better-quality talent.
- Sets the foundation for long-term partnerships.

Remember: what protects your organization also protects your people and vice versa.

1. Gig Worker Classification Checklist (Employee vs Contractor)

Use this checklist to help determine whether a worker should be classified as an employee or an independent contractor.

If most of the boxes under "Employee" are checked, the worker is likely an employee. If most are under "Contractor," they're likely an independent contractor.

- Control over how/when work is done
- Uses company tools and equipment
- Can work for other clients
- Has a written contract for services
- Integrated into company operations
- Bears risk of loss/profit
- Receives regular salary or wages
- Invoiced for completed work
- Paid vacation/sick leave
- Covered by company benefits

When in doubt, consult legal counsel or refer to CRA guidelines and employment standards in your jurisdiction.

2. Contract Template for Independent Contractors

[Your Company Name]

Independent Contractor Agreement

This Agreement is made on [Date] between [Company Name] (“Company”) and [Contractor Name] (“Contractor”).

1. Scope of Work: Contractor will perform the following services: [Description of Services].
2. Payment: Company will pay Contractor [Rate] upon completion/milestones as defined.
3. Duration: This Agreement begins on [Start Date] and ends on [End Date], unless terminated earlier.
4. Independent Status: Contractor is not an employee and is responsible for their own taxes and benefits.
5. Confidentiality: Contractor agrees to maintain the confidentiality of all proprietary information.
6. Intellectual Property: All work produced shall be the sole property of the Company.
7. Termination: Either party may terminate this agreement with [X] days’ notice.
8. Compliance: Contractor agrees to comply with applicable laws and regulations.

[Company Representative Name] _____

[Contractor Name] _____

3. Onboarding Checklist for Gig Workers

Use this checklist to onboard independent contractors or gig workers:

□ Signed contract and NDA

□ Completed classification checklist

□ Submitted tax and banking information

□ Assigned project manager or supervisor

□ Provided access to necessary tools/software

□ Completed safety or compliance training (if applicable)

□ Understood confidentiality/IP expectations

□ Provided project scope and timeline

□ Set up payment and invoicing procedures

□ Defined performance expectations and feedback schedule

4. Sample Compliance Clause Language

Include the following clause in all independent contractor agreements to address legal compliance:

“The Contractor shall perform the Services in accordance with all applicable federal, provincial, and municipal laws and regulations, including but not limited to occupational health and safety laws, privacy laws, and tax reporting requirements. The Contractor shall ensure that all work is carried out in a safe and professional manner and shall not be entitled to any benefits or protections

provided to employees under employment standards legislation.”

5. Gig Engagement Tracker

Contractor Name	Project Title	Start Date	End Date	Contract Signed (Y/N)	Hourly/Flat Fee	Rate	Total Payment	Manager	Department	Last Compliance Review	Renewal Due