Care Navigators
Helping you find the right support for you

Employing a personal assistant
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Employing a personal assistant (or PA) can give you more control over how your needs are met, receiving support in a way that you choose. You can choose to meet your outcomes in a way that best suits you.

There are lots of things to think about when you employ someone, but also many benefits such as:
- They work for you
- You choose the tasks they do
- You agree the times they work

Most direct payments run very well and this guide is aimed to help you to make the most of your direct payment when employing a PA. Here is some guidance on how to recruit a PA and the things you will need to do legally, plus other things you might want to consider carefully.

Job description

You will need to create a job description to enable you to recruit to the role. You will need to make a list of the tasks you would like your PA to do. You will also need to think about the skills, knowledge or training they will need to complete these tasks. For example, you may find it essential for someone you employ to drive, cook light meals, be patient and have a sense of humour. These attributes will be essential to enable them to meet your outcomes or needs.

Advertising

There are many ways you can choose to advertise for your PA but you need to think how best to let people know you are looking for someone to work for you. The cost for advertising can be used from your direct payment. Keep Safe – we don’t recommend you give out your personal details. You can advertise by using:
- Word of mouth
- Connect to Support
- Local Newspaper or shop window
- Jobcentre
- On line
- Local College or university.

You will also need to consider:
- A Closing date for the applications
- A return address or PO box – it’s not a good idea to give out your personal details
- Where the interview will take place
- How you will shortlist the applications for people to interview
- Someone to interview with you
- Contacting the candidates to attend the interview
- What questions will you ask at the interview

You must make sure that your selection is fair and you don’t discriminate against anyone (Equalities Act)

At the interview

You will need to base the questions on the job description to ask the candidate about their experience, skills, qualifications and knowledge. Also, you might like to know why they want to work for you, the times they will be available to work and if they have the legal right to work in the UK. It’s important you take notes as it will help you decide and judge their performance.

Choosing the PA

Once you have chosen who you want to employ you will need to contact them to offer the job subject to DBS (Disclosure and Barring Scheme) and references checks. Once your candidate has accepted the job you will need to have a contract. You might want to inform the unsuccessful candidates by sending them a letter and be prepared to give feedback.

DBS (Disclosure and Barring Scheme)

Kirklees Council recommend you carry out a DBS check (once known as a CRB) on the person you want to employ. It’s your decision or as to whether you have a DBS carried out on your personal assistant or not unless there is anyone under 18 living in your home. If you have children living with you the law states a DBS check MUST be done.

You can arrange a DBS check and get the paperwork from Kirklees Council. There are two types of checks, Standard or Enhanced. Kirklees Council recommend that you have an Enhanced DBS check on everyone you want to employ. An Enhanced DBS checks cost £59 and usually takes from 4 to 6 weeks.

The Person you are employing will receive the results and you will need to ask to see the original. You cannot keep a copy but you may decide to keep a record you have seen it and when you need perform another check if you employ them for 3 years or more.

If they have any convictions you will need to decide if this will affect your trust in them to perform their role and if you want to employ them or not. You can find out more information about DBS Checks on line www.gov.uk/disclosure-barring-service-check/overview

To arrange for a DBS check Contact:
2nd Floor, High Street Buildings
High Street
Huddersfield
West Yorkshire
HD1 2NQ
Email: dbs@kirklees.gov.uk
Telephone: 01484 225213
Fax: 01484 225126
Website: http://professionalservices.kirklees.gov.uk

Keep a record

It’s important to record the interviews and keep these for a period of time. ACAS (Advisory, Conciliation and Arbitration Service) recommends a 6 month period in case of any discrimination challenges. ACAS is the place to go for both employers and employees who are involved in an employment dispute or are seeking information on employment rights and rules. They provide clear, confidential, independent and impartial advice to assist the caller in resolving issues in the workplace. You can call their helpline on 08457 47 47 47 for free and confidential advice.
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You might want to encourage your employee to join a union. This could help both of you if you have a grievance, help you to comply with working regulations, give you both access free training or mediation may be available.

The Contract of Employment

This is an agreement between you and your employee. It’s a very important document because it lays out the terms of the person’s employment detailing the rights, responsibilities and duties.

You will both need to sign 2 copies and each keep one for your own records. This MUST be done within 2 months of starting their employment.

The contract should include:
- Your name and the name of your Personal Assistant
- The job title and place of work
- The date the employment begins
- The period of notice required for both of you to terminate the contract (end the employment)
- The length of probationary period
- The wage and frequency of payment
- Working time/s, holiday entitlement and sick pay
- Pensions and pensions scheme, if eligible
- Disciplinary and grievance procedures
- What happens when you are away
- Confidentiality
- Dismissal.

You can download a useful guide from ACAS at www.acas.org.uk or telephone 08457 47 47 47 minicom 08456 06 16 00

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Contracting with a Self Employed Personal Assistant

Kirklees Council does not recommend that you contract with a self-employed PA. If you decide to go ahead then you need to very carefully consider:
- Ensure the individual is registered as self-employed. HMRC could decide that they are not self-employed and you are liable for any tax and national insurance owed to them. The PA will have a Unique Tax Reference number (UTR)
- Your PA should provide you with a contract with their terms and conditions of employment such as notice to terminate or to change arrangements, tasks that will be included and the hourly rate.
- You will need to be invoiced by your PA and this should contain certain and sufficient details
- The number of hours worked and when, the amounts charged, task carried out so that you can verify that it is accurate
- The name and address of the self-employed personal assistant

The personal assistant should give you their invoice for you to check and authorise payment and ask them to sign to agree they have received payment
- You will need to consider your own cover arrangements as a self-employed PA must NOT send someone in their place or arrange cover for you as this requires registration with the Care Quality Commission (CQC) and without this they would be acting illegally.

You will need to decide the how, what, where and when. It’s also an opportunity to agree the process of how your PA will inform you they are sick, unable to attend work or are going to be late. You must not ask your PA to work more than 48 hours per week unless they voluntarily agree to do so in writing.

Probationary period

This is a pre-defined trial period where both you and your PA get a chance to see if you like it without committing yourself. It’s a good idea to meet with your PA to review what is working well and not so well so you can look at any training that might be needed.

Period notice

This is the amount of time needed for you or the PA to leave the employment. The notice period can be different in cases of dismissal, for serious breaches of terms of employment, gross misconduct or gross negligence.

Salary

It’s important that you tell your PA how much you are going to pay them and how you will pay them. As an employer you have a legal responsibility to deduct National Insurance and Income Tax.

You may choose to employ a payroll agency to do this on your behalf as they will work out the amounts and make payments for you.

You can find out more information about national insurance and income tax at www.hmrc.gov.uk or call 0845 60 70 143

PA’s working hours and times

You will need to agree or decide your PA’s working time. This is important as you will need to meet your outcomes from your assessment and this is where you will decide the how, what, where and when. It’s also an opportunity to agree the process of how your PA will inform you they are sick, unable to attend work or are going to be late. You must not ask your PA to work more than 48 hours per week unless they voluntarily agree to do so in writing.

Your PA will also need:
- Regular rest periods
- A continuous rest period of 11 hours between shifts
- A 20 minute break if working more than 6 consecutive hours
- One day off per week
- Paid time off for training.

Different rules apply when employing someone under the age of 18, if they are pregnant or have a disability. Employees also have different rights for adopting, caring and parental responsibilities.

For more information visit www.businesslink.gov.uk or call 0845 600 9006.
Timesheets
You and your PA will need to have and keep a record of the hours that have been worked so your PA needs to complete a timesheet. A timesheet can be in any form that shows what dates, days and hours they have worked. The timesheet should be signed by both of you as an agreed record and will be needed for audit purposes.

If you use a payroll company or someone else manages your direct payment, the timesheet must be sent to them. They will use the timesheet to calculate the PA wages, tax and national insurance. Your payroll provider will inform you how much National Insurance contributions are.

Holidays
All workers are legally entitled to a minimum of 5.6 weeks paid holiday per year with statutory paid holiday pay (bank holidays) capped at 28 days if they work full time.

If the PA works a flexible pattern or part time it might be easier to work out and agree their entitlement in hours. You will also need to agree how and when holidays are going to be taken and you will need to think about who or how you are going to meet your needs during this time.

You can count any days off for public or bank holidays towards your PA’s statutory entitlement, but only if you pay them for those days off. You do not need to give them paid time off for bank or public holidays, but you need to be clear about this in their contract of employment.

Sick leave and sick pay
Statutory Sick Pay (SSP) is paid to employees who are unable to work due to illness. SSP is paid in the same way as their wages. Here are some points to remember:

- You must pay SSP if your PA is unable to work 4 or more days in a row
- Your PA must tell you they are sick within the terms of their contract
- They must be earning enough to make National Insurance contributions (NIC’s)
- They can self-certify for the first 7 days
- After 7 days your PA will need to produce a statement of fitness or fit note from their doctor
- You must keep a record of all sickness for periods lasting 4 days or longer plus all the SSP payments you make - HMRC provide a form to keep these records.

Employees can choose to opt out at any time but you must refund all contributions made by your PA. For more information visit www.thepensionregulator.gov.uk

Open a bank account
You will need to open a separate bank account which is just for direct payments with no other money going in or paid out. This will help you to keep a record of how you have used the money and you will need to produce these records for audit purposes.

Disciplinary and grievance procedures
You will need to contact your insurance before taking any steps. It is essential that when you experience problems you let them know as you may not be covered if you act without taking their advice.
Temporary layoffs or redundancy
Redundancy is a form of dismissal. If your circumstances change in the future, you might need to consider your obligations to the PA you employ.
• Redundancy pay
• A notice period
• Consultation
• Alternative employment
• Time off to find a new job.
Your employee can claim statutory redundancy pay, if they’re eligible and you’ve laid them off for either:
• More than 4 weeks in a row
• More than 6 non-consecutive weeks in a 13 week period.
Your contract with your PA will need to advise the statutory minimum notice period or more.
• At least 1 weeks’ notice if employed between 1 month and 2 years
• 1 weeks’ notice for each year employed between 2 and 12 years
• 12 weeks’ notice if employed 12 years or more.
You will need to pay either through the notice period or in lieu depending on the circumstances. For more information about redundancy visit https://www.gov.uk/redundant-you-rights

Paying your PA
You can choose to do it yourself or use a payroll provider. If you decide to do it yourself you will need to contact HMRC to register.
You can find out more information at www.hmrc.gov.uk or call 0845 60 70 143. You will need to pay your PA at least the minimum wage. You can find out the current rates at www.gov.uk or ring the national mininm wage helpline on 0845 600 678

Payroll Providers
If you choose to use a payroll provider such as a local account or user led organisation they will make sure that your PA’s national insurance and tax contributions are deducted correctly. They will also work out for you how much employer’s national insurance you will need to pay. There will be a charge for this service and each provider will charge differently depending on your needs.
You can find out more about payroll companies, insurance and PA agencies at www.connecttosupport.org or by contacting the Care Navigation Team on 01484 414774 or care.navigation@kirklees.gov.uk

Insurance
You will need to consider different types of insurance to be fully protected. The cost of this can be taken from your Direct Payment.
• Employers liability and/or public liability insurance is essential
• Comprehensive house insurance
• Travel and/or care insurance.

Health and safety
You have a responsibility as an employer to make sure that you have taken due care over your employees health and safety.
• Do risk assessments on your home and any pets you have
• Plan your PA training needs. The cost of this can be taken from your Direct Payment.
• Tell your PA about health and safety including fire safety
• Record any accidents that take place in your home and report if required
• Inform your insurers if needed.
For more information visit: www.hse.gov.uk or call 0845 345 00 55.

Recording and records
By law, as an employer you will need to keep records including:
• Tax and NI information
• Timesheets
• Holidays
• Pay
• Sickness and SSP
• Accidents, injuries, diseases and dangerous occurrences.

Being a good employer
Once you know the start date you will need to think about how you will induct your PA during the probationary period. Write a plan of the training, meetings or supervisions and then how you would like them to perform the tasks.

Duty of care
Personal assistants have a duty of care towards you. They may need to talk to someone if they have concerns regarding your safety. They should do this with your consent but this is not always necessary particularly if you or another person is at high risk perhaps from a family member or another PA. You might want to consider safeguarding training as part of their induction along with Health & Safety, Moving and Handling or First Aid
For more information on inductions, training and managing your PA visit www.logontocare.org or www.skillsforcare.org.uk or call 0113 245 1716.

Stopping or ending your direct payment
You will need to inform the people who are involved in your direct payment. This may include a payroll service, your social worker or assessor and your financial assessment department. This will ensure that all the contributions are paid, your PA receives their P45 and any money that has been over paid or owed is dealt with.
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Useful tips

- Always take advice from your insurance company before dismissing staff
- Keep every bit of paperwork
- Ask for help when you need it
- Plan your budget
- Don’t use self-employed workers
- Make it work for you!

More information

For more information contact the Care Navigation team.
Call: 01484 414933
Email: gatewaytocare@kirklees.gov.uk
Visit: www.kirklees.gov.uk/carenavigation