

# All PAE Handbook

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## Disclaimer

Please note that the information contained in this Handbook is provided for guidance purposes only. Every reasonable effort is made to make the information accurate and up to date, but no responsibility for its accuracy and correctness, or for any consequences of relying on it, is assumed by Self Directed Support Scotland or any other contributing party.

The information does not, and is not intended to, amount to legal advice. You are strongly advised to obtain specific, personal and professional advice from a lawyer about employment law matters, or an accountant/ tax specialist about taxation matters, and from HMRC and your insurers. You should not rely solely on the information in this Handbook. Support organisations listed in this Handbook can help you find appropriate sources of advice.

# All PAE Handbook

## An Introduction to Self-directed Support (for PA Employers)

The law in Scotland ensures that everyone who is eligible for social care funding has the right to choose how their social care support is delivered. The law is called the Social Care (Self-directed Support) (Scotland) Act 2013.

Self-directed Support (SDS) is available to anyone who meets the eligibility criteria that their Local Authority (council) has set. It is available to children, young people, adults and older people.

A person can apply for support for themselves and a parent can apply for their child or young person. Someone with active Power of Attorney, Welfare Guardianship or Financial Guardianship can apply on behalf of the person they are Guardian for.

### The 4 options for SDS

#### Option 1

Known as a Direct Payments, this is where the supported person receives the money they need to pay for their support, directly from their Local Authority (Council). This allows them to arrange their own support or purchase a service from a support provider. This is the only option under which Personal Assistants (PAs) can be employed.

#### Option 2

This option involves the supported person asking someone else to manage the money on their behalf. This could be their council or another organisation. This is sometimes called an Individual Service Fund or ISF. The supported person decides how they want their support to be provided, and the organisation arranges the support and manages the money.

#### Option 3

With the supported person's agreement, their council finds a service that meets their needs and arranges their support.

#### Option 4

A mixture of any of the other 3 options can be used to arrange care and support.

### Next steps

You can get help with Self-directed Support from local Independent Support Organisations. Search for your nearest one using the Find Help search tool below.

You can also take a look at the video resources below.

## Resources

Search for a local organisation using Find Help

<https://handbook.scot/find-help/>

Video of Your Support Your Choice Easy Read SDS Booklet

<https://www.youtube.com/watch?v=me0F9qurqY0>

SDSS Video FAQ: How to access SDS and where to start

<https://vimeo.com/302851048>

SDSS Video FAQ: How does SDS work?

<https://vimeo.com/302850923>

Video FAQ: What is an "Outcome"?

<https://vimeo.com/302851270>

SDSS Video FAQ: What is Independent Support and how can it work for you?

<https://vimeo.com/302852325>

SDSS Video FAQ: What is an assessment?

<https://vimeo.com/302851101>

SDSS Video FAQ: What does SDS mean for individuals?

<https://vimeo.com/302850846>

## Budget Considerations



Here is what potential employers should be aware of when working out how much is needed in a budget to pay for the costs of employing Personal Assistants. Independent SDS Information and Support Organisations can assist with this.

The easiest way to stay on top of employee costs is to use a payroll service or accountant. Search for a payroll service using the [Find Help](#) search tool.

Budgets are broken up into **regular costs** and **contingency costs**.

**Regular costs** are things like:

- Personal Assistants' wages (including their holidays and pension)
- insurance
- a payroll service (if you choose to use one).

**Contingency costs** are things like:

- emergencies
- training
- sick pay.

## Personal Assistant Wages

Each April the Scottish Government sets the minimum rate for social care workers including Personal Assistants. You can find out what the current rate is here: [Minimum hourly rate for PAs](#)

This is the amount paid to a PA before taking out tax or other deductions. This is a specific rate that only applies to PAs that support adults (people 18+). Please note, this rate does not apply to PAs of children and young people, although they should still be paid at least the national living wage. You can find out more about this here: [National Minimum Wage and Statutory Payment Rates](#)

Wages usually increase with time, so this should be considered in the budget process. If there is no increase in the planned budget then the contingency budget would need to factor this in.

## **Pensions**

If you use a payroll company or an accountant, they can usually help you set up a pension for your Personal Assistants. Most companies charge a set up fee for arranging pensions. The charge for this can be between £50 and £150. This money should be factored into the contingency budget, because you might not know exactly how many employees might want this option.

Some Local Authorities provide the pension set up fees as part of the start up costs for recruiting PAs.

Employers must currently contribute at least 3% of annual wage into a pension for each employee. Find out more about pensions here: [Pensions and Auto-Enrolment \(Workplace Pensions\)](#)

## **Payroll**

If you choose to use a payroll company, allow around £6 to £15 per week to pay for their services.

This is dependent on what service provider is chosen and is also based on the number of payslips produced, for example if casual workers are used.

## **Insurance**

Insurance for PA Employers can cost around £60 to £130 per year, however there are lots of different levels of insurance cover available.

As an Employers, you must be insured to protect you and others from issues that might arise, like an accident. The insurance required is Public and Employer's Liability Insurance and this is often sold with Indemnity Cover which will cover an employer for financial losses from a claim.

Find out more about insurance here: [Employers'™ Liability Insurance for PA Employers](#)

## **PA Holidays**

The current statutory holiday entitlement for employees is 28 days (5.6 Weeks).

PAs must be paid while on holiday. The maximum statutory holiday entitlement is capped at 28 days, although employers may give more contractual holiday than that.

A replacement worker would need to be paid during the holiday, so calculating the additional contingency is based on the PA wages for the period of the holiday entitlement.

## Contingencies

### Emergencies

This is a budget that is set aside for things that may or may not happen. Below are examples of what this can be used for, but this is not everything you could face by way of an emergency.

### Statutory sick pay

If a PA is off sick, they may be eligible for statutory sick pay. Find out the rules about statutory sick pay and how much you will need to factor into your budget here: [National Minimum Wage and Statutory Payment Rates](#)

### Training

Some training for PAs may be required by your insurance provider, for example moving and assisting training. Costs can vary but you can expect to pay around £100 per PA with an annual refresher of £100.

### Additional hours

If the person being supported is unwell or has a family crisis, they may require extra hours of support. You may be able to build this into your contingency budget.

### Redundancy and long term sick leave

Statutory Sick Pay (SSP) and Redundancy payments (subject to eligibility criteria) are a legal requirement. Either of these may be more than a typical budget contingency may allow, and it is likely that additional money would need to be paid into the package to meet these costs. How the Local Authority manages these costs varies, and should be included in the package for clarity.

### Next steps

Take a look at the resources available below to guide you in more detail.

### Resources

Sick Pay - UK Government Guidance  
<https://www.gov.uk/employers-sick-pay>

## Case Study: How an Independent Support Organisation Assisted Paul to Recruit



Paul requires support from his Personal Assistants (PAs) to help maintain a family life as well as assisting him to contribute to, and access, society. With the assistance of an independent support organisation, Paul developed the job description which includes both personal and domestic duties within the household as well as providing support so he can access the community, to work etc. Paul was supported through the recruitment process and was signposted to organisations for specialist information, such as employment information and payroll organisations. He also inquired about training for his employees and the support organisation provided Paul with relevant training sources that would deliver the specific training he felt was important for his employees. With the support and advice he received, Paul has now been employing staff for many years; consequently Paul enjoys his citizenship rights and is respected as an equal player in society:

"Having control over when and how my support is delivered enabled me to fit more with my family rather than them fit around me."

### **Next steps**

Take a look at the article on case studies where you can find further case study examples.

### **Resources**

Case Studies

This section contains real life examples of how people decided to become a PA Employer and how they were able to do this.

It includes information on the support they received to set things up and how they managed different issues as a PA employer.

### Next steps

Take a look at the case studies below.

## Case Study: Mary Takes on a PA for her Father with Dementia



Mary's dad has Dementia and after the loss of her Mum, and then unexpectedly her brother, she was determined to keep Dad at home. Her Social Worker suggested Option 1 of Self-directed Support. Mary was worried about all the paperwork and regulations this would involve. However, after receiving free information and advice from an Independent Support Organisation (ISO), she

decided to try it. With the support of the ISO, she devised a care plan using PAs.

Since hiring Personal Assistants (PAs) Mary's Dad has regained both his confidence and his independence. He attends Country and Western nights on a Saturday, attends day centres during the week and has such a strong relationship with his PA that he goes with her when she does voluntary work and helps out too! Mary says, "SDS has meant I can return to my normal work hours. This is improving my family's quality of life and I'm completely confident that Dad is happy, socialising and being cared for properly".

### **Next steps**

Take a look at the article on case studies where you can find further case study examples.

### **Resources**

#### Case Studies

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### **Next steps**

Take a look at the case studies below.

## **Changing an Employment Contract**

Before you make a change to an employee's conditions or contract, this section tells you what you need to be aware of. Change is best undertaken when all options have been considered with the employee's involvement and agreement.

*Free advice is available from ACAS (see resources below) or your insurance indemnifier and should be taken, even if you are confident in this area, as employment law can change.*

### **If an employer needs to make a change**

An employer can make a change ('variation') to an employment contract if:

- There's something in the contract that allows the change (usually called a 'flexibility clause') but this must still be exercised reasonably
- The employee agrees to the change

- The employee's representatives agree to the change (for example, where there is an agreement with employee representatives (from trade unions or staff associations) that allows negotiations on terms and conditions)

An employer can force a new contract on employees, although this should be a last resort as it is not without risk and could lead to legal action.

### **If there has been a TUPE transfer**

There are additional considerations when changing an employment contract after a TUPE transfer. TUPE stands for Transfer of Undertakings (Protection of Employment). The purpose of TUPE is to safeguard employee rights (which includes terms and conditions of employment) in certain circumstances where there is a change of employer. Find out more about changing an employment contract after a TUPE transfer in the resource links below

### **Consult employees to agree changes**

Open discussion with employees about changes to their contract helps:

- Employers and employees work together to agree changes
- Prevent potential disagreements or legal disputes

### **Consulting employees**

If an employer needs to change a contract, the first step is to talk with employees (or where relevant employee representatives like a trade union).

#### **Before consultation**

Before consulting employees, it's a good idea for employers to think about:

- Why they need to make a change
- What they need to achieve by making a change

#### **During consultation**

Consultation should be a two-way process where ideas are shared and worked on together.

#### **The employer should:**

- Explain the reason behind making the change
- Invite employees to talk about their concerns and suggest ideas for alternatives
- Listen to employees' concerns and consider their ideas
- Do everything they can to resolve any employee concerns

#### **The employee should:**

- Consider the proposed change and reason for the change

- Share their views, concerns and any ideas for alternatives with the employer
- Continue to talk to the employer about any concerns
- Make sure they have tried all options to reach an agreement

## Consulting trade unions

Consulting with trade unions or employee representatives where relevant, openly and honestly can help to:

- Have meaningful discussions with employees
- Get a better understanding of employee concerns Sometimes there is also a legal obligation to consult trade unions ( this is called collective consultation where there are more than 20 employees affected)

## Consider all alternatives

Considering all options and asking employees for ideas can help agree a change. Employees might suggest something the employer had not thought of.

Depending on the proposed change, employers might consider:

- Asking for volunteers (if the change might suit some employees more than others)
- Offering incentives to employees
- Taking on some of the employees' ideas

Incentives do not have to be pay-related, for example, an incentive could be:

- Extra leave or time off
- help with travel costs for a time if employees will have to travel further to get to work

When a trade union can agree changes Trade unions can agree contract changes for employees when:

- It's written in the employee's contract that the trade union can agree changes ('incorporated' into the contract)
- It's not written in the employee's contract but the employer normally agrees contract changes with the trade union (an 'implied' term of the contract)

## Check for existing trade union agreements

Sometimes there's an agreement between the employer and trade union ('collective agreement') that says the trade union can agree changes for employees. This could be for changes to specific contract terms like pay or holiday.

A collective agreement can only be enforced if it's included ('incorporated') in the employment contract.

An employee does not have to be a member for a trade union to agree changes for them.

### **When changes are agreed**

Changes can be agreed verbally or in writing.

Agreed changes do not always have to be in writing, but it's a good idea to prevent any misunderstandings. It can also help to say when changes will take effect.

### **When changes must be in writing**

If a change relates to anything that must legally be in the employee's written terms ('written statement of employment particulars'), the employer must notify the employee of the change in writing within a month of the change taking effect.

For example, the employer should do this if the change relates to:

- The job title
- The job description
- The job location
- Pay
- Working hours
- Holiday entitlement
- Changes to collective agreements with a trade union

### **Written terms provided before 6 April 2020**

If the employee's written terms were provided before 6 April 2020 and need to change, the employer must give all the following in writing to the employee:

- Any changes to the existing written terms
- Extra information required for new written terms since 6 April 2020 (particulars of the days of the week the worker is required to work and whether or not such hours or days may be variable and, if they may be, how they vary or how that variation is to be determined; any terms and conditions relating to any paid leave (other than holiday or sick leave); any other benefits not covered elsewhere in the written statement; details of any probationary period; details of any training entitlement provided by the employer; any part of that training which is compulsory and particulars of any other compulsory training which the employer will not pay for.

### **When changes are not agreed**

If an employer and employee cannot agree a change, it's often best for them to keep talking for as long as possible and make every effort to reach a compromise.

It can help both the employer and employee if they:

- Keep talking
- Consider all options
- Follow their workplace's policies, for example, employees should use the employer's grievance procedure if they are not happy with the proposed change

If there's no flexibility clause and changes cannot be agreed, the employer might still be able to make a change.

### **Forcing a change by dismissing and rehiring someone**

If agreement cannot be reached, an employer might decide to dismiss and rehire ('re-engage') the same employee under a new contract. This should be a last resort, and only after consulting the employee.

If you're an employer considering this option, first think about:

- Whether you've done everything you can to reach agreement
- Whether the changes are absolutely necessary
- The risk to employee engagement and morale
- The risk of legal action

If deciding to dismiss and rehire, the employer should:

- Follow a fair dismissal procedure
- Give the employee enough notice (statutory notice or what's in the contract — whichever is longest)
- Offer the employee a right of appeal against their dismissal

Changes should not take place until the employee has been fairly dismissed and then rehired under the new contract.

The employee keeps continuous service if the new contract starts immediately after the old contract ends. Find out more about dismissing someone fairly.

### **Risks for employers who dismiss and rehire**

If an employee feels they've been unfairly dismissed from the original contract, they might be able to make a claim to an employment tribunal. They would usually need to have worked for 2 years for the employer to make a claim.

If 20 or more employees are being dismissed and rehired, the employer can face legal action if they do not hold 'collective consultation' with any recognised trade unions or employee representatives.

Employers can be fined up to 90 days' pay per affected employee for failing to collectively consult.

**If you are an employer considering dismissing and rehiring employees, it is best to get legal advice first to check you are making the right decision.**

### **When forcing a change might break a contract**

An employer might be breaking a contract's terms and conditions (in 'breach of contract') if they:

- Force a change without the employee's agreement or a flexibility clause in the contract
- Dismiss and rehire an employee without notice

Breach of contract could lead to legal action.

Forcing a change without discussion or agreement could also lead to:

- Disputes
- Lower levels of engagement and performance in the workplace
- Employees working under protest

If there has been a breach of contract, an employee could make a claim against the employer for:

- Damages at a civil court (an employment tribunal's jurisdiction to consider breach of contract claims is subject to certain restrictions)
- Unlawful deduction from wages at an employment tribunal, if the change affects pay
- Constructive dismissal at an employment tribunal, if they have at least 2 years' service and the breach is fundamental and significant. For example, an employee felt forced to leave a job because the employer made their pay a lot less

Making changes to employment contracts can be a complex legal matter. You can also speak to an Acas helpline adviser who will explain possible next steps and the risks and benefits of each. Acas advisers cannot tell you what to do or give legal advice.

### **Employees who do not agree to changes**

Employees with concerns about contract changes proposed should start by speaking to you.

It can help if they:

- Check if their contract e.g. to look at any flexibility clauses
- Explain how the proposed changes will affect them
- Listen to their your reasons for proposing the change
- Take part in any consultation, if you offer it
- Think about any compromises they are willing to make
- Talk to their trade union or employee representative if they have one
- They may think about making a formal complaint ('raising a grievance')

### **Try to reach a compromise**

If they do not agree with proposed changes, it's usually best to keep talking to see if you can find an arrangement that suits you both.

They should consider:

- Your reason for the proposed changes
- The effect of the changes on you both
- Any other options that you could look at
- What could happen if you cannot reach an agreement

The more you discuss the changes, the more likely you are to reach an agreement.

## Formal complaint

An employee can make a formal complaint to you ('raise a grievance').

This can be a useful way to keep talking with the employer about the proposed changes.

A formal complaint can help to:

- Raise concerns about the changes
- See how the changes might affect the employee
- Share ideas for alternatives
- See what compromises might be made

## Working under protest

If you impose a change the employee doesn't agree to, they can choose to stay and temporarily work to the new terms and conditions 'under protest'.

This should only be for a short time so they can formally raise concerns, or take legal action.

They should make it clear to you that they are working under protest (usually in writing on a routine basis, for example every time you get paid).

If they don't raise objections and start to work under the new terms and conditions, this could be seen as accepting the change.

## Options for making a legal claim

If they feel you have broken the terms and conditions of their employment contract, or dismissed them unfairly, (including constructive dismissal) they might be able to make a legal claim.

If they have been with you for less than 2 years, there are fewer options for making a claim.

## If employees want to change their contract

Employees can ask to have their contract updated if their job has changed.

They can ask you for changes to be put in writing. For example, if they have:

- Been doing work that is different to your original agreement
- Started a new job in the same organisation

You do not always have to put changes in writing, but it's a good idea to.

Even if employees do not have anything in writing, they still have certain employment rights and protections by law, from when they started working for you.

## When changes must be in writing

If changes affect your employees written terms ('written statement of employment particulars') they can ask you to provide an updated copy. You must provide this within a month of the changes being made.

## Next steps

Take a look at the ACAS resource below on changing an employment contract.

## Resources

ACAS Information on changing an employment contracts for Employees

Find out more about what should happen if your employer proposes changes to your employment contract here

<https://www.acas.org.uk/changing-an-employment-contract/advice-for-employees/if-your-employer-proposes-employment-contract-changes>

Example Contract of Employment for PAs [34 KB]

This is an example of a written Contract of Employment that a PA Employer could use when employing a new PA. This comes from Disability Rights UK.

<https://handbook.scot/wp-content/uploads/2022/09/Example-of-a-written-contract-when-hiring-a-Personal-Assistant-Disability-Rights-UK.docx>

An example of a Contract for a PA [34 KB]

<https://handbook.scot/wp-content/uploads/2022/04/Personal-Assistant-Example-Contract-20240320.docx>

## Changing Your SDS Option

### The 4 Options of Self Directed Support (SDS)

There are 4 Options under Self Directed Support. These are about how a person's care and support can be arranged and how the money that is needed to pay for this is managed. They are:

- Option 1: the person receives the money from their local authority (council), known as a Direct Payment. They can use this to pay for support from an organisation, to employ their own Personal Assistants (PAs) or contract self-employed PAs, and to pay for other goods and services to help them meet their outcomes.
- Option 2: the person asks their council to pay the money for their support to someone they trust and would like to look after the money. This could be the council itself, or another organisation. This is sometimes called an Individual Service Fund. The council or organisation will then work with the person to work out how to use the money to pay for their support.
- Option 3: The council will arrange the person's support for them, either providing their own

services or commissioning services from another provider they have a contract with.

- Option 4: This is a mixture of any of the above three options, where for example, a person could take some of their support budget as a Direct Payment (under Option 1) and some of the budget is managed by the council under Option 3. This is a 'mix and match' option.

A PA employer can change their SDS Option at any time. However, each Option might change the way in which support is arranged for them, so it is important to understand how each Option relates to their own personal circumstances.

It might be helpful for the PA employer to speak to their Social Work Practitioner and Independent Support Organisation before making a decision.

One thing to be aware of, is that each SDS Option might cost different amounts of money. So for example, it might cost more for an agency to provide a care worker to support someone, as they have other additional costs to pay for, such as for management and premises. The important thing is that the amount of money allocated by the Council for each SDS Option should enable a person's needs to be met in full.

## Next steps

Take a look at the at the article on Independent SDS Information and Support Service for additional support.

## Resources

Where to get support as a PA

There are a number of organisations that provide a range of information, advice and support to Personal Assistants (PAs) across Scotland. Some of these are specifically focussed on PAs' needs whilst other are more generic for any worker.

### Personal Assistant Network Scotland

The Personal Assistant Network Scotland is the only specialist organisation in Scotland, dedicated to supporting PAs.

Membership is free and the PA Network Scotland offers a range of benefits and support to PAs.

Find out more on their website: <https://www.panetworkscotland.org.uk/>

### ILG PA

ILG PA is a UK-wide membership platform which offers support, wellbeing advice, training, guidance and rewards

There is a cost for membership although some Employers may cover the cost of this.

Find out more on their website: <https://www.ilg-pa.com/>

## Online SDS forum

SDS Scotland host an online forum dedicated to discussions around Self Directed Support. It's free to join and you can use the forum to ask questions, share information or start a conversation.

You can access the Forum here: <https://forum.sdsscotland.org.uk/>

## Help with employment issues

There are other organisations who can give advice specifically on employment issues. Check out the article in the Resources section below.

## Next steps

You can find further information at the resources found below.

# Contract of Employment for a PA

As an employer, you are legally required to give your employees (your Personal Assistants) a document stating their main conditions of employment, when they start work.

This document is often known as a 'written statement of employment particulars'.

We also recommend you have your insurance company check your employment paperwork as you may not be covered by your insurer if you don't do this.

Your local independent support organisation may be able to help you to write a person-centred job description to go with the contract of employment. The contract of employment contains the legally required information, and the job description describes what you want your PA to do. You can find your local Independent Support Organisation using the [Find Help search tool](#).

## Next steps

Take a look at the resources below, including a sample contract of employment which contains all the elements that are legally required.

## Resources

An example of a Contract for a PA [34 KB]

<https://handbook.scot/wp-content/uploads/2022/04/Personal-Assistant-Example-Contract-20240320.docx>

Scottish Government Model Contract for PAs (with guidance) [108 KB]

<https://handbook.scot/wp-content/uploads/2022/04/Contract-of-Employment-Scot-Gov-Model-for-PA-s.pdf>

PA Contract Builder (beta)

Create a basic employment contract for your PA

<https://sdsscotland.formtitan.com/ftproject/ft269fec9bd89349078534295c86deb0b7>

Disability Rights UK Employment Contract Information

Local Authority Areas Applicable:

Aberdeen City; Aberdeenshire; Angus; Argyll and Bute; City of Edinburgh; Clackmannanshire; Dumfries and Galloway; Dundee City; East Ayrshire; East Dunbartonshire; East Lothian; East Renfrewshire; Falkirk; Fife; Glasgow City; Highland; Inverclyde; Midlothian; Moray; Na h-Eileanan Siar; North Ayrshire; North Lanarkshire; Orkney Islands; Perth and Kinross; Renfrewshire; Scottish Borders; Shetland Islands; South Ayrshire; South Lanarkshire; Stirling; West Dunbartonshire; West Lothian

<https://www.disabilityrightsuk.org/employment-contracts>

Guidance on Completing a Statement of Employment Particulars and Contract of Employment for a PA [225 KB]

<https://handbook.scot/wp-content/uploads/2022/04/Guidance-on-completing-a-Contract-of-Employment.pdf>

Gov.uk Employment Contracts: Written Statement of employment particulars

<https://www.gov.uk/employment-contracts-and-conditions/written-statement-of-employment-particulars>

## Covid-19 guidance for PA Employers

Following the pandemic, there are now no official Covid-19 rules or restrictions in Scotland. However, this page includes some things you may wish to consider around Covid-19 as an Employer of Personal Assistants.

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### General hygiene measures

The Scottish Government have recognised that we are now living with COVID-19 as a respiratory illness like cold or flu.

They advise following simple hygiene measures to avoid the risk of infection, like:

- trying to stay at home if you have symptoms
- if you have symptoms and do need to go out, wear a well-fitting face covering
- get the vaccine if offered to give you the best possible protection
- wash your hands regularly
- meet in well-ventilated spaces.

You can find more suggestions for how to stay well at the link at the bottom of this page.

## Isolating

'Self-isolating' (staying at home) is no longer a legal requirement. If one of your PAs tells you they suspect they have Covid-19, or have tested positive, but they feel fit to work, it is usually up to you to decide if you want them to work for you.

You may have included a clause in your PAs' contracts to set out under what circumstances you have the right to decide if a PA is fit to work. Speak to your insurance provider or get legal advice if you do not have this clause and want to include it — you will need to follow a process to change any contracts.

## Face masks

Personal Protective Equipment (PPE), including face masks, is no longer available for free to people working in social care.

You may have a Covid-19 policy in place that describes the measures your PAs should take to reduce the risk from Covid, including the use of PPE. You may also want to conduct a Covid-specific risk assessment to demonstrate what the risks are from Covid and what measures PAs should take to reduce risks, eg. wearing face masks and disposing of them in agreed ways.

If your Covid-19 policy says that your PAs are required to wear PPE, it is your responsibility to provide this. Speak to your Local Authority about including the costs for PPE for your PAs in your budget.

If you need advice about how to discuss the issue of face coverings with your PA(s), you can contact the ACAS helpline: 0300 123 1100. The helpline is open Monday to Friday, 8am to 6pm.

You can find more advice from ACAS at the link at the bottom of this page.

A Face Covering Exemption Card scheme, delivered by Disability Equality Scotland, closed on 22 September 2023. Cards already in circulation can continue to be used, with no time limit on their use.

## Testing

Routine testing for Covid-19 is no longer available.Â

You can buy Covid-19 tests from pharmacies, supermarkets and online if you suspect you have Covid-19 and want to check.Â

If you have done a risk assessment for Covid-19, you may have decided that asking your PAs to test for Covid regularly is an appropriate method of reducing risk. If so, it is up to you to provide the tests they need. Speak to your Local Authority about including the costs for tests for your PAs in your budget.Â

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## VaccinesÂ

Only certain groups of people are eligible for the Covid-19 vaccine on the NHS, and who is eligible may change from time to time.

If you are eligible for a vaccine, you will receive an invitation to book a vaccine directly. You can find out more about who will be invited to get a vaccine [on the NHS Inform website](#).Â

As an employer, you cannot make your Personal Assistants get a Covid-19 vaccine. There may be reasons your PA cannot or does not want to be vaccinated — for example, pregnancy, religious beliefs or a disability, so including this in a contract of employment may lead to a claim of discrimination.Â

Check out the factsheet from the Independent Living Group, 'Can I insist that my PA gets the coronavirus vaccine'? at the bottom of this page for more information. Â

If your PAs are happy to be vaccinated, you can support them to take up the vaccine by giving them paid time off work to get it.Â

You can check if you, or your Personal Assistant(s), are eligible for the vaccine, [at the NHS Inform website](#). Â Â

Some local health boards are offering drop-in clinics for people eligible for the vaccine. You can find more information [on the NHS Inform website](#). Â

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## Long covidÂ

Some people who have had Covid-19 continue to experience symptoms that last for a long time after the infection. This is known as 'long covid'.Â

If one of your PAs has long covid, you may need to consider what support they need to be able to continue in their job.Â Â

You can find advice from ACAS in the link at the bottom of this page.Â

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## Next steps

Take a look at the resources available below to guide you in more detail.

## Resources

Respiratory infections: staying well and protecting others - Scottish Government

<https://www.gov.scot/publications/coronavirus-covid-19-staying-safe-and-protecting-others/>

ACAS COVID-19 employer responsibilities

ACAS has produced a range of information on COVID-19 for employers and employees, which you can find here

<https://www.acas.org.uk/coronavirus>

Can I insist that my PA take the Covid-19 vaccine? Factsheet from Independent Living Group [166 KB]

<https://handbook.scot/wp-content/uploads/2023/11/QA-Can-I-insist-that-my-PA-take-the-vaccine.pdf>

Sickness and absence from work - long covid - ACAS

<https://www.acas.org.uk/long-covid>

## Employers' Liability Insurance for PA Employers

### What is Employers' Liability Insurance?

Employers' liability insurance covers the cost of compensating employees who are injured at work or become ill through their work. If you are a PA employer, this includes people you employ as your Personal Assistant.

### If I employ a PA do I need to have Employers' Liability Insurance?

If you are an employer of a Personal Assistant you are legally obliged to have employers' liability insurance. You can be fined up to £2,500 for every day you do not have appropriate insurance.

Employers' liability insurance usually covers:

- the cost of compensation
- any associated legal fees.

However, you need to check to see exactly what any policy covers.

### Buying employers' liability insurance

You can buy employers' liability insurance directly from an insurance company or from a specialist broker. There are some insurance companies who specialise in employer's liability insurance for people who employ Personal Assistants.

There are often different levels of insurance cover available. A typical insurance policy will cost anywhere between £59 a year to £95 a year. However, there is a lot of variation in what is covered by different policies and this will affect the final cost of the insurance. You are obliged to have cover for compensation of at least £5 million, but most policies offer cover for at least £10 million.

A typical policy might provide cover for:

- Employer Liability
- Public liability
- Legal expenses
- Personal accidents
- Redundancy cover
- Financial loss

If you want to discuss what level of Insurance might be right for you, you can contact your local Independent SDS Information and Support Service, or local payroll provider. You can find their details by doing a Search in [the Find Help tool in this Handbook](#).

## **Exemptions**

Some PA Employers are not required to have employers' liability insurance, including:

- PA employers with no employees
- PA employers who only employ family members.

## **What insurance does my PA need if they're self-employed?**

If your PA is self-employed (they pay their own tax and national insurance) and if you are contracting with them for their support, you do not need to have Employers' Liability Insurance. However, you may still wish to be covered for Public Liability. Public Liability Insurance provides cover against accidental injury and property damage claims.

The cost of Insurance for self-employed PAs can also vary, depending on the level of cover needed. Costs can range between £75 — £115 a year with a policy typically providing cover for:

- Public Liability
- Personal Accident
- Personal Possessions
- Legal Expenses.

## **Next steps**

Find more information by looking at the resources below.

## Resources

Q&A on Insurance for Individual Employers and Personal Assistants



Skills for Care have produced a short document answering questions on the different types of Insurance that PA Employers might need. This has an English SDS focus.

<https://www.skillsforcare.org.uk/resources/documents/Recruitment-support/Support-for-Individual-employers/IE/Information-for-individual-employers/3-Before-your-PA-starts/Insurance/Q-and-A-on-insurance-for-individual-employers-and-PAs.pdf>

Mark Bates Ltd: Employer Liability Insurance Costs [909kb]



# Mark Bates Ltd

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Insurance you can trust

Mark Bates Ltd is an Employer Liability Insurer with a range of policy choices and costs available to PA employers

<https://handbook.scot/wp-content/uploads/2023/05/Mark-Bates-Employer-Liability-Insurance-Costs-Chart-20-July-2022.pdf>

## Employing Family Members



It is possible to employ a family member as a Personal Assistant (PA) to provide care and support. However, this is still seen as an 'exceptional circumstance', which means it would not normally happen unless it is for specific reasons.

The law highlights the circumstances where it would be possible to employ a family member, provided the Local Authority (council) — usually the professional judgement of a Social Worker — also agrees to this. These circumstances are:

- The family member, direct payment user and the Council all agree to the family member providing the support
- The family member is capable of providing the support, and
- There are specific reasons why a family member is best placed to provide the support.

### **When you might think about employing a family member**

- There is a limited choice of service providers who could provide the support
- The person needing care and support has specific communication needs which mean it will be difficult for another person to provide the support
- The support is required at times at which the family member will be available to provide it and where other people would not reasonably be able to
- The intimate nature of the support required makes it preferable for a family member to provide this
- The person needing support has religious or cultural beliefs which it preferable for support to be provided by a family member
- The person needing support requires palliative care
- The person needing support has an emergency or short-term need for care
- There are other factors in place which make it appropriate, in the opinion of the Council, for that family member to provide the support.

### **Who counts as a family member?**

The law defines who counts as a family member when it comes to the rules around employing them as a Personal Assistant:

- the spouse or civil partner of the supported person
- a person who lives with the supported person as their spouse or civil partner
- the supported person's parent, child, brother or sister, aunt or uncle, nephew or niece, cousin, grandparent, grandchild
- the spouse or civil partner of any person listed in (3)
- a person who lives with any person listed in (3) as if their spouse or civil partner.

### **Employing a family member and Guardianship/ Power of Attorney**

There are some circumstances when you may wish to employ a family member, but they already hold a Guardianship or Power of Attorney for the supported person. This can create difficulties as it means the person who is legally responsible for making some decisions on the person's behalf would essentially be employing themselves.

If this is the case, your council should still take the wishes of the supported person into consideration and be creative in finding solutions that manage and mitigate risk.

It may also be possible to explore options around changing a Guardianship to enable a family member to become a Personal Assistant. For example, if the family member holds a Financial Guardianship to enable them to manage a Direct Payment, they may ask a different family member to take on this responsibility and relinquish the Financial Guardianship to enable them to become employed as a Personal Assistant. It is worthwhile speaking to an Independent SDS Support Organisation or Carer's Centre if you are considering this option. Find your local organisation using the [Find Help](#) search tool.

## Questions to think about before employing a family member

- Is the family member willing and able to provide the support needed?
- Would employing the family member change the relationship with them?
- What if something went wrong, would you be able to raise any issues with the family member?
- If the family member was not able to provide the support needed, will you be able to end their employment if you want to do this?

## Steps you can take

- Check with your council and ensure they would agree to employment of family members
- Speak to your local Independent Support organisation for guidance
- Ensure a contingency plan, a plan to manage unexpected changes, and budget is in place.

## Next steps

Take a look at the resources available below to guide you in more detail.

## Resources

SDS Direct Payments Legislation

[https://www.legislation.gov.uk/ssi/2014/25/pdfs/ssi\\_20140025\\_en.pdf](https://www.legislation.gov.uk/ssi/2014/25/pdfs/ssi_20140025_en.pdf)

Part 3 of Direct Payment Legislation on Employing Family Members

<https://www.legislation.gov.uk/ssi/2014/25/part/3/made>

Statutory Guidance for the Social Care (Self-directed Support) (Scotland) Act 2013: November 2022

<https://www.gov.scot/publications/statutory-guidance-accompany-social-care-self-directed-support-scotland-act-2013-2/>

## Ending a PA's Employment

There are certain things an employer must do to comply with employment law, if they decide that they would like to bring someone's employment to an end, including giving notice and dismissal.

### Dismissal

Occasionally, a PA Employer will need to ask their PA to leave their role. This means they will need to sack or dismiss them. In law there are different conditions that need to be met before you can safely sack or dismiss an employee. For example, when dismissing staff, you must do it fairly.

Dismissal is potentially fair if an employer can show that it is for one of the following reasons:

- A reason related to an employee's conduct
- A reason related to an employee's capability or qualifications for the job
- Because of a redundancy
- Because a statutory duty or restriction that prevents the employment being continued
- Some other substantial reason of a kind which justifies the dismissal.

Even if the PA Employer has a fair reason, the dismissal is only fair if you also act reasonably during the dismissal and disciplinary process.

Even if they have acted reasonably, some reasons for dismissal are classed automatically unfair, such as those relating to:

- Pregnancy: including all reasons relating to maternity
- Family reasons: including parental leave, paternity leave (birth and adoption), adoption leave or time off for dependants
- Representation: including acting as an employee representative
- Trade union membership grounds and union recognition
- Part-time and fixed-term employees
- Pay and working hours: including the Working Time Regulations, annual leave and the National Minimum Wage
- Whistleblowing.

An employee can complain to an Employment Tribunal if they think they have been dismissed unfairly. In most circumstances employees need to have completed a minimum period of service before they can make a complaint to an employment tribunal about an unfair dismissal, which is:

- Two years for employees starting employment on or after 6th April 2012.

However, there is no length of service requirement in relation to automatically unfair grounds (see above).

It is important to get professional legal advice if a PA Employer is thinking about dismissing their PA. It is essential that PA Employers also speak to their insurance company before any action is taken against a PA, to ensure this is done legally.

## **Notice periods**

Both the employee and employer are normally entitled to give and receive a minimum period of notice on termination of employment. This will be the amount stated in the contract or the statutory minimum notice period, whichever is longer.

The notice period is the amount of time between the decision to terminate an employment contract and the date that the contract actually ends. This is regardless of who actually makes the decision to terminate, whether it's the employee because they want to leave or whether it's because you want the employee to leave.

If a Personal Assistant (PA) Employer does not wish their PA to work their notice period, they could give them a payment in lieu of notice. This represents pay they would have received during the notice period.

A PA Employer may not be obliged to give their PA a notice period or payment in lieu of notice if they decide to dismiss them straight away, such as in cases of gross misconduct.

## Next steps

Take a look at the resource available below on 'SOSR Dismissal Breakdown in Relationship — PA' guidance notes.

## Resources

SOSR Dismissal Breakdown In Relationship - PA [270 KB]

<https://handbook.scot/wp-content/uploads/2022/04/FISH-SOSR01-Guidance-breakdown-in-relationships.pdf>

## Equality and Diversity Considerations

Personal Assistant (PA) employers need to treat their PAs fairly, without discrimination on the basis of a personal or 'Protected Characteristic', such as their sex, age, sexual orientation, ethnicity or marital status.

Employers have a legal duty not to discriminate before, during and after employment, according to the law (the Equality Act 2010).

### The Equality Act

The Equality Act 2010 came into effect to protect people from harassment, discrimination and victimisation. There are nine protected characteristics covered within the Equality Act which protect people from being discriminated against. The protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Marriage and civil partnership
- Sex
- Sexual orientation

This means that discrimination under any of these characteristics could result in a claim being made against the PA Employer. There is no minimum length of service required for workers to be able to bring a claim for unlawful discrimination. For the employer, a claim for discrimination can be made in respect of a job advert, during employment, or post employment (for example in a reference given for a former employee).

Therefore, as an employer, it is important to understand the importance of equality in the workplace before employing someone.

In some circumstances, it will be lawful to require that a person possesses a particular protected characteristic in order to do a particular kind of work, for example advertising for female-only candidates to be a PA. But certain conditions have to be satisfied first to ensure this is done legally — you should always take advice on this.

When interviewing potential candidates, it is important to ensure the candidate is not asked any questions which could be seen as discrimination or which relate to their protected characteristics. In particular, it may be unlawful to ask questions about disability or health during a recruitment process or until a formal job offer has been made, unless the question is to establish whether reasonable adjustments are required for the interview.

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## **Next steps**

Take a look at the resources available below to guide you in more detail.

## **Resources**

Equality & Diversity Handout [213 KB]

<https://handbook.scot/wp-content/uploads/2022/04/Equality-and-Diversity-Handout.pdf>

Handbook: The Recruitment Process

<https://handbook.scot/article/the-recruitment-process/>

'See Me' E-learning: tackling stigma in work

See Me have produced a range of on-line resources to help people learn about how mental health stigma and discrimination affects people at work. Using dramas and real life experiences, people can learn more about rights and good practice at every stage of their working life — from recruitment, when in work and when returning to work following a period of ill-health.

<https://www.seemescotland.org/workplace/resources-and-e-learning/e-learning/>

## **Finishing with Being an Employer**

There might be a number of reasons why someone no longer wants to be a Personal Assistant (PA) employer. This could be because the employer's circumstances have changed and they would prefer not to be an employer anymore, or their needs have changed and they require a different type of support.

Whatever the reason might be, there are a number of things the PA Employer needs to be aware of and manage when bringing the PA's employment to an end.

### **Changes to a PA Employer's circumstances**

It might be that a PA Employer's circumstances have changed and they no longer wish to continue to be an employer. If this is the case, there are a number of things the PA employer needs to think about and plan for.

If the PA employer still needs care and support of some kind, but it would not be possible for their PA(s) to provide this support, then the PA employer may have to consider making their PA(s) redundant. This might happen if the PA employer has to go into residential care or a nursing home, or if they are moving away to another Local Authority (Council) area. There are specific rules about redundancy and the PA employer would need to check these first before making any decision. Find a link to more information about redundancy at the bottom of this page.

### **The PA Employer changes Self-directed Support (SDS) Option**

If the PA employer decided that they did not want to continue to be an employer and would prefer to change to another Option under SDS, for whatever reason, then there are other rules around employment that have to be checked.

For example, if the PA employer decides to choose an agency to provide their support, they may need to check if TUPE regulations apply. TUPE refers to the Transfer of Undertakings (Protection of Employment) Regulations 2006. This is where an employee may have the right to continue their employment, but for this to be transferred to another employer. This protects the employee's rights and employment status. So for example in this case, where a PA employer has chosen an agency to provide their support instead, there will need to be a discussion to see if their PA employees have to be transferred to the employment of the agency and to continue to provide support to the PA employer.

### **A PA Employer, or supported person, becomes ill or passes away**

There may be a situation where the PA employer becomes ill and is unable to continue to manage their PAs effectively, even with the support of other people. If this is the case, it might be possible to find someone else to take on the role of the PA employer, such as another family member or friend. The PA employer will need to have a discussion with their Local Authority (council) about this, as the Local Authority can only pay a direct payment to someone who is able to manage this effectively, even with appropriate support. If there is another person who is able to become the PA employer, they may need the appropriate legal status to do this, such as being granted a Power of Attorney or Welfare and Financial Guardianship.

If the PA employer or person being supported passes away, then their PA(s) employment comes to an end. In this situation, the rules around redundancy apply, and whoever is managing the person's estate will need to consider this.

## Next steps

Take a look at the articles on 'Redundancy' and 'What Happens if there's a change in my Employer's Status' to guide you in more detail.

## Resources

### Redundancy for PAs

If your employer is making you redundant, they must:

- Tell you why they are making you redundant and discuss the situation with you
- Tell you how long your notice period is
- Keep paying you until the end of your notice period.

If you are made redundant, you will usually carry on working until the end of your notice period. How long your notice period is depends on how long you have worked for the employer.

Sometimes your employer may want to pay you instead of having you work out your notice period.Â

If your employer is making you redundant, it is good practice for them to put in writing:

- The length of the notice period
- The date the notice period starts
- If you can leave before the end of your notice period
- If you need to take any unused holiday before you leave
- If you still get contractual benefits, for example a fuel card or mobile phone, during your notice period.

## How much redundancy pay can a PA get?Â

You only have the right to redundancy pay if you are legally classed as an employee, and you have worked for your employer for more than 2 years.Â

If you're not sure if you are classed as an employee, it's a good idea to check your employment status. Read the article at the bottom of this page, 'What's the difference between employed and self-employed PAs' for more information.

How much redundancy pay you could get depends on:

- your ageÂ
- how long you have worked for your employer
- your weekly pay (before tax).

The law says that if you are are classed as an employee and you've worked for your employer for more than 2 years, you should get a minimum amount of redundancy pay. This is called Statutory

Redundancy Pay.

You might not be eligible for statutory redundancy pay if your employer offers a suitable alternative job and you turn the offer down.

You might get more than the statutory redundancy pay if it says you are entitled to more redundancy pay in your contract of employment.

### Limits on redundancy pay

There are limits and caps on how much statutory redundancy pay you may be eligible for. Check out the Resource at the bottom of this page, 'Redundancy: Your Rights', for more information.

### If your employer does not give you a redundancy payment

If you do not get the redundancy pay you expect, you should:

- Write to your employer as soon as you can. The date you should get your redundancy pay should be no later than your final pay date, unless you and your employer agree another date in writing.
- Tell the employer what you are entitled to and include any evidence to back this up. For example, you could include a letter that states your first day at work, or an email confirming a recent pay increase.

If you need to claim for any unpaid redundancy money, you need to do this within 6 months of your job ending.

You may wish to get advice if you are being made redundant.

PAs who are members of ILG PA can access free legal advice. [Find out more on their website.](#)

You can contact the Personal Assistant Network Scotland for advice around redundancy. [Find out more on their website.](#)

### Next steps

Ask your employer about their policy on redundancy and take a look at the resources below for further guidance.

### What Happens if There's a Change in my Employer's Personal Circumstances?

There may be a change in your employer's life that could affect your employment in some way. These could include:

- A change in the person's health and well-being. This could be a deterioration in their health or an improvement
- A change in family circumstances, such as moving home to another area
- A change in a carers circumstances, where they might not be able to continue to provide the support they have previously
- The person needing to move into residential or nursing care

- The person being admitted to hospital with the result that they cannot return home
- The person no longer having capacity to manage the employment relationship
- An adult protection concern being raised
- The person not wishing to be an employer anymore and wanting to receive support under a different SDS option.

The effect on a PA of such a change could be:

- Reduction in the number of hours employed
- Redundancy — as assistance or support is no longer required
- A change in the type of assistance or support that is required, such as use of specific medical equipment.

If there is a change in your employer's circumstances, they may wish to change the terms and conditions in your contract. If they want to do this, they must inform you and other employees who might be affected.

### **Reduction in the number of hours employed**

If your employer is looking to reduce the number of hours you work, this may mean a change in the terms and conditions of your employment. The employer needs to follow the requirements of employment legislation in relation to changing an employment contract.

### **The person you assist or support goes into residential care**

If the person you support is moving into a residential or nursing home, your PA role might no longer be needed. If this is the case, you might be made redundant from your PA role and the employer would be expected to follow the requirements of employment legislation around redundancy.

### **If a PA employer chooses a different SDS Option**

If your employer decides that they do not want to continue to be a PA employer and would prefer to change to another Option under Self-directed Support, then there are rules around employment that have to be checked.

If your employer decides to choose an agency to provide the support instead, they may need to check if TUPE regulations apply. TUPE refers to the Transfer of Undertakings (Protection of Employment) Regulations 2006. This is where an employee may have the right to continue their employment, but for this to be transferred to another employer. This protects the employee's rights and employment status. So in this case, where a PA employer has chosen an agency to provide the support instead, there will need to be a discussion to see if their PAs can be transferred to the employment of the agency.

### **The person being supported moves to a different area**

If the person being supported decides to move home, whether that be in the same Local Authority area or not, this might affect their PAs' ability to continue to provide support. In this case there should be a discussion about possible changes to the contract of employment, or it may lead to the PA being made redundant due to a change in the location of the workplace.

## Where an employer becomes ill and is unable to continue as an employer

There may be a situation where the PA employer becomes ill and is unable to continue to manage their PAs effectively, even with the support of other people. If this is the case, it might be possible to find someone else to take on the role of the PA employer, such as another family member or friend. In the case of an employer's capacity diminishing, it may require another person to have the legal authority to manage that person's financial and welfare needs. They might therefore need to apply for Financial and/or Welfare Guardianship. This person may then become the PA's employer, which would require a change to the contract of employment.

## If the person being supported passes away

If the person being supported passes away, then their PAs' employment comes to an end. In this situation, the rules around redundancy apply, and whoever is managing the person's estate will need to consider this issue.

## Next steps

Take a look at the resources available below to guide you in more detail.

## Getting help to sort out problems

Having a strong working relationship is important for any Personal Assistant and their Employer.

There may unfortunately be times when PAs and PA Employers run into problems and need help to sort them out.

There are many places you can get help — find out more below.

## Support for PA Employers

There are local Independent Support Organisations in many parts of Scotland who can help with all aspects of being a PA Employer, including any difficulties you face in the role.

If you have problems with your Personal Assistants and need advice on how to deal with this, speaking to your local Independent Support Organisation is a good place to start. You can search for details of an organisation near you [using the Find Help search tool](#).

Your insurance provider may also be able to give you advice and support around any difficulties you are having with your Personal Assistants.

## Support for Personal Assistants

The Personal Assistant Network Scotland is the only specialist organisation in Scotland, dedicated to supporting PAs. A Membership is free and the PA Network Scotland offers a range of benefits and

support to PAs. Find out more on their website: <https://www.panetworkscotland.org.uk/>

ILG PA is a UK-wide membership platform which offers support, wellbeing advice, training, guidance and rewards. There is a cost for membership although some Employers may cover the cost of this. Find out more on their website: <https://www.ilg-pa.com/>

You can also find out where you can get advice on employment issues in the Resource at the bottom of this page.

## **Mediation**

Mediation is a flexible process that can be used to settle disputes in a whole range of situations. Mediation involves an independent third party, the mediator, who helps people to agree a solution when there is a disagreement. The mediator helps parties work out what their issues and options are, then use those options to work out an agreement.

If there are problems between a PA Employer and their Personal Assistants, asking for help from a mediator may be a good solution. There are often costs involved in using a Mediation service, so a good place to start may be contacting the Scottish Mediation Helpline first. Find out more on the Scottish Mediation website below.

## **Next steps**

Take a look at the Resources below for more information.

## **Resources**

Managing your Working Relationship



As a Personal Assistant (PA) you'll have a unique relationship with your employer.

In some cases, your employer will be the person you're providing support for. In other cases your employer might be a parent, guardian or family carer, who is employing you on behalf of the person who needs support.

In either case, you are supporting someone to do the things they're not able to do and although this can feel like a personal relationship, it's not. Remember you're the employee and you need to remain independent and professional.

It's important to understand the impact that certain circumstances may have on your employer or the person you support, for example, if you don't or can't turn up to work.

There are times when being a personal assistant could be personally difficult or emotional, particularly if it involves working with a person at the end of their life. It may feel like you're supporting the person's family as well. As such, there may, from time to time, be challenges with the relationship between you and your employer.

You should discuss how issues can be addressed early on in your relationship with your employer.

Any problems should be addressed properly and as laid out within the terms of your employment documents (which should include your contract of employment, statement of particulars and job description, which may be presented as one or more documents). This information must include what do if you want to raise a grievance.

## Be clear from the start

At the start of your employment, you, your employer and the person you support should establish boundaries about how you'll relate to each other, and discuss how you'll deal with any problems, for example, if boundaries have become blurred or if any of you are unhappy with something.

This might include how your employer and the person you support wishes you to support them and 'house rules' (eg. there may be areas of the home that they wish to keep private from you).

## Talk to your employer

Just as your employer will expect you to fulfil your employment duties, you have a right to expect your employer to treat you fairly. This includes not asking you to do anything which puts you in danger, is breaking the law, or which breaches your terms and conditions of employment.

If you feel that your employer is asking you to do something that's risky or goes against what you've been trained or agreed to do, you should speak with them.

## Next steps

In all cases, it's recommended that you raise any concerns directly with your employer in the first instance so that any issues or concerns can be sorted out informally. Your employer should provide you with a mechanism to raise a formal grievance, if necessary.

However, if you're unable to resolve the issue directly and need employment advice you can contact the Advisory, Conciliation and Arbitration Service (ACAS). You can also speak to the Personal Assistant Network Scotland for advice. Their details can be found in the link below.

Search for a local organisation using Find Help

<https://handbook.scot/find-help/>

Where to Get Advice on Employment Issues

If you find yourself facing employment issues in your work as a PA, here is where you can get advice and support.

- ACAS (the Advisory, Conciliation and Arbitration Service) gives free employment advice and is a great place to start if you need to resolve a major issue at work. They also have a helpline you can call.

[Find out more on their website.](#)

- PAs who become a member of ILG PA can access free legal advice. You can find out more [on the ILG PA website.](#)

- You can contact the Personal Assistant Network Scotland for help and advice on employment issues.

[Find out more on their website.](#)

- You can also search for solicitors that specialise in employment legal advice on the [Law Society of Scotland](#) website, who may give you some initial guidance for free.

## Next Steps

Take a look at the Resources below.

Scottish Mediation website

<https://www.scottishmediation.org.uk/find-a-mediator/>

## Independent Living Fund (ILF) Scotland Information

Following the closure of the UK Independent Living Fund (ILF) on 30 June 2015, the Scottish Government established a new organisation, the Independent Living Fund (ILF) Scotland, to administer payments for existing recipients of ILF in Scotland and in Northern Ireland.

ILF Scotland is a public body, governed by a Board of Directors, appointed by and accountable to Scottish Ministers. ILF Scotland operates as a discretionary fund providing financial awards to more than 2,300 disabled people in Scotland and Northern Ireland to help them live independently. Â

The funding recipients receive is used to purchase social care support to help them meet independent living outcomes that are important to them. Recipients are supported in their own homes and within their own communities, and the funding helps overcome barriers they might face to independent living.Â Independent living means: "Disabled people have the same freedom, choice, dignity and control as other people at home, at work and in the community. It does not mean living by yourself or looking after yourself on your own. It means the person has rights to practical assistance and support to participate in society and live an ordinary life." (Independent Living in Scotland Project, 2008).Â

Depending on when recipients joined ILF Scotland, the Fund categorises recipients into different groups, which determines the maximum amount that ILF Scotland can pay in annual awards.

### The Independent Living Fund re-opened to new recipients in April 2024

You can apply for the fund if you meet the following Access Principles:

- You live in Scotland.
- You are aged 16 years or over at the time of application.
- You access Self-Directed Support.
- You receive a net weekly budget of at least £800 per week.

Applications to the Independent Living Fund are made by your local council's social work department, on your behalf.

Visit theÂ [Independent Living Fund website](#)Â for more information on the fund and how to apply.

### How the Independent Living Fund Scotland operates

The Fund makes payments of different amounts for different social care support services on an individual basis as part of the ILF Scotland reviews that take place every two to three years, which are person centred and outcomes focused.Â Â

For disabled adults with a self-directed support (SDS) budget, ILF Scotland complements the funding and services in place. ILF Scotland funding is additional to the responsibility of the person's Local Authority/ Health and Social Care Partnership, and recipients use their ILF Scotland funding to meet additional independent living outcomes.Â

Co-production, collaboration with, and involvement of disabled people is at the heart of the organisation and is in every facet of its operations. ILF Scotland works in partnership with recipients to provide relevant information, services and support in a format and method that works for them so that they have full choice and control of their ILF funding.Â

ILF Scotland encourages recipients to use their funding flexibly to achieve independent living outcomes in a way that suits their individual needs and helps overcome barriers they might face to independent living. This may be different for each recipient and there can be a variety of different ways to use the funding, such as engaging social care support agencies or employing Personal Assistants.Â

## **Next steps**

ILF Scotland provide a range of information and support to enable people receiving ILF funding to recruit and employ their own Personal Assistants (PAs). Further information on the support provided can be found in the resources below.

## **Resources**

Re-opening ILF

<https://ilf.scot/independent-living-fund/re-opening-ilf/>

ILF Scotland - A Brief History and Current Context [176 KB]

<https://handbook.scot/wp-content/uploads/2022/04/A-Brief-History-and-Current-Context-ILF-Scotland.pdf>

ILF case studies

<https://ilf.scot/all-case-studies/case-studies-2015-fund/>

Policy 17 Financial Management Support (ILF Scotland) [160 KB]

<https://handbook.scot/wp-content/uploads/2022/04/Policy-17-Financial-Management-Support-July-2015ILFS-1.pdf>

Policy 20 ILF Payments (ILF Scotland)

<https://ilf.scot/wp-content/uploads/2022/10/Policy-20-ILF-Scotland-Payments.pdf>

## **Inducting your PAs**



When you recruit a Personal Assistant, it is a good idea to do a formal induction on the first day. Some things can be introduced as and when appropriate, but there are some basic things that all PAs should know right from the start.

This article gives you suggestions for things you could include in your PA's induction.

### **Written statement of employment or contract of employment**

You should give your PA a written statement that sets out the terms and conditions of their employment. You can find out more about what you should include in a contract, and how to get help to write one, in the link at the bottom of this page.

### **Regular work meetings with your PA**

It is good practice for both parties to meet regularly to discuss how things are going and where either party can raise any work issues. Notes should be taken at these meetings that both parties should sign as being accurate.

Both parties should be confident that they are able to raise any issues that arise and that the other party will listen to them. It is a good idea to discuss with your PA how you will communicate with each other in case any difficulties or disagreements arise.

### **Values**

When you induct your PA it is a good opportunity to help them understand your values and what is important to you.

### **Shift changes**

If your PA is on a regular shift pattern, you should let them know how much notice they need to give you if they need to change their shift.

### **House rules**

When you induct your PA, it is a good idea to go over any house rules you have if they are supporting you in your home, for example when they are allowed to take personal calls. You should also explain what you want them to do if equipment or belongings are accidentally damaged.

### **Driving your vehicle and insurance**

If your PA is required to use your vehicle (or a vehicle that belongs to someone else), explain any procedures for this during their induction. You also need to make sure your PA is fully insured to use the vehicle.

### **Team work**

If you have a team of PAs, you should discuss how you want them to work together as a team. It's a good idea to involve other PAs from the team in the new PA's induction, if you can.

### **Breaks**

Explain to your PA the procedures for taking breaks during work.

### **Care plan or work notebook**

If you would like your PA to use a care plan or work notebook to note down anything significant that occurs while they are working, explain how to do this during their induction, and the type of things you want them to record.

### **Absence procedure**

Explain to your PA what they should do if they are unwell, and what documents they need to give you if they are off for an extended period, eg. a sick note from their doctor. You should also explain how your PA can book holidays and days off.

### **Training**

It is your responsibility to ensure that your PAs receive any mandatory training required so they can do their job safely. You should discuss with your PA during the induction how the training will be provided and when. You can find out more about training in the link at the bottom of this page.

### **Emergency plan**

It is good practice to have a plan in place in the event of an emergency, particularly if your PA will be working on their own at any time. In the induction, make sure your PA knows where any emergency

plan is kept and who to contact in an emergency. It is also a good idea to explain what to do if you, or the person being supported, is unexpectedly admitted to hospital and how this could affect the PA's employment.

## **Health and safety**

When you induct your PA, you should go over any health and safety measures you have in place. It's a good idea to discuss and agree your PA's responsibilities if an emergency eg. a fire occurs when they are at work. It is worthwhile to work with your PA on a personal evacuation plan that you both can become familiar with.

If you have an accident book where all accidents or near misses are recorded, let your PA know where this is and how to use it.

## **Confidentiality**

Induction should cover how you expect your PA to treat any information they may become party to in their work. If you have a confidentiality policy, share this with your PA and check they understand it. You should also explain how you will treat your PA's information, for example their address and bank details. Find out more about confidentiality and data protection at work in the link to the article 'GDPR' at the bottom of this page.

## **Next steps**

Check out the articles below for more information on each of the topics. A local Independent Support Organisation may be able to help you think about and plan an induction process for your PAs. Search for their details using the Find Help search tool below.

## **Resources**

### Contract of Employment for a PA

As an employer, you are legally required to give your employees (your Personal Assistants) a document stating their main conditions of employment, when they start work.

This document is often known as a 'written statement of employment particulars'.

We also recommend you have your insurance company check your employment paperwork as you may not be covered by your insurer if you don't do this.

Your local independent support organisation may be able to help you to write a person-centred job description to go with the contract of employment. The contract of employment contains the legally required information, and the job description describes what you want your PA to do. You can find your local Independent Support Organisation using the [Find Help search tool](#).

## **Next steps**

Take a look at the resources below, including a sample contract of employment which contains all the elements that are legally required.

## Training for PA Employers

There is some training available to PA Employers from Â Centres for Inclusive Living, Disabled Peoples' Organisations (DPOs), and other local Independent Support Organisations. You can find your local organisation using the [Find Help](#) search tool.

Information and training for PA Employers can include:

- Safe recruitment
- Staff induction
- Health & safety
- Being a good employer
- Employer administration responsibilities
- Understanding basic employment rights
- Payroll and related topics.

ACAS also offer free online e-learning on employment issues, although this is general training and not specifically for people employing Personal Assistants. Visit the ACAS website link at the bottom of this page.

## Next steps

Search for a local organisation to provide PA Employer training, or visit the ACAS e-learning website below.

## Keeping information about your PAs safe

Personal Assistant (PA) employers must comply with the law around keeping information about their PAs safe.

The law around data protection is called GDPR — The General Data Protection Regulation, and it came into force in 2018.

## What is GDPR?

The General Data Protection Regulation (GDPR) is there to protect the rights of individuals when their personal information is handled and processed.

As a PA Employer, GDPR says you must be open and honest with your PAs about how you use their information, and you must follow good data handling procedures.

All PA Employers that deal with personal data must comply with GDPR. Even if you only employ one PA, you are likely to hold information about them such as their home address and phone number. As an employer you must take steps to make sure you are holding this data safely.

## What information can I keep about my PAs?

You must have a good reason for asking for and keeping information about your PAs. The information you may need in order to employ them includes things like:

- Name
- Address
- Date of birth
- Education and qualifications
- Work experience
- National Insurance number
- Tax code
- Details of any known disability (but only if you need this, for example you need to make adjustments to their role)
- Emergency contact details
- Their employment history with you
- Employment terms and conditions (e.g. pay, hours of work, holidays, benefits and absence)
- Any accidents connected with work
- Any training taken
- Any disciplinary action.

## How should I keep information about my PAs safe?

You need to take steps to make sure that any information you keep about your PAs is safe and cannot be accessed by other people.

For example, if you have your PAs' contact details written in an address book, think about how you can keep this secure — perhaps in a locked cabinet.

If you keep information about your PAs on a computer or phone, is this password protected?

## What should I tell my PAs about the information I have on them?

As an Employer, you should be open and transparent with your PAs about what information you keep on them and how you handle it. You should tell them:

- What information you kept and how you use it
- How you keep the information confidential and secure.

## Next steps

You can find further information about managing information on employees at the link below. This information has been written for small businesses, but the same guidance applies to you as a PA Employer.

Search for a local organisation using Find Help

<https://handbook.scot/find-help/>

## Introduction to Employer Responsibilities

Becoming a PA Employer brings with it a lot of responsibilities, but there is also a lot of support to help you.

Here is a breakdown of each of the roles and responsibilities around employing PAs, and who can help.

### **Social Worker**

The social worker has most important responsibility because, as soon as someone has been assessed as having an eligible need, the social worker has a duty of care to that person. The social worker will always be an integral part of whichever option a person chooses. They provide support with the care package including budgeting and reviewing needs. If the individual has a health condition which is deteriorating or improving, the social worker would review this on a regular basis and amend the package of care accordingly.

### **Managed Payroll Service**

Many PA Employers choose to use a managed payroll service to help them take care of wages and payslips for PAs. A typical payroll service will register you as an employer, and your employees, with HMRC, process payslips, and arrange bank transfers of the PAs' wages, arrange P60s and provide financial returns for the local authority (council). They may hold an account in your name as the employer, so you may not need to open a bank account. You can find a list of payroll providers in Scotland in the resource at the bottom of this page.

### **An Independent Support Organisation**

Many local Independent Support Organisations can provide bespoke help and advice with being a PA Employer. They often cover every stage, from giving initial help and advice, to setting up paperwork, recruiting PAs and support with ongoing management of PAs. Find your local Independent Support Organisation by clicking ['Find Help'](#) at the top of this screen (or in the menu if you are using a mobile).

### **Indemnifier (insurance provider)**

The indemnifier is the organisation that manages the insurance you are required to have as an employer. As well as an Independent Support Organisation, they can advise on constructing contracts for PAs. They will ensure PA holiday entitlement, disciplinary procedures, and other processes are all administered legally. Find out more about the insurance you need as a PA Employer in the link at the bottom of this page.

If you have to deal with any employment law issues with PAs, it's very important to get legal advice first, and some insurance companies can help with this. You may wish to ensure that your insurance company also provides, as part of the policy with you, access to an employment law indemnity cover. This will provide access 24/7 to someone to speak with about any employment law issues concerning your PAs.

When speaking to your insurance company for advice it is important that you let them know

everything about your situation as the advice they give will be based on the information you provide.

## The PA Employer

The PA Employer has the remaining responsibility. This involves the daily management of and the relationship with staff. Independent Support Organisations can often help you with this too if you need advice or support.

## Next steps

Take a look at the resources below.

## Resources

Is being a PA Employer for me?



Being a PA Employer allows people to choose who delivers their support. People can decide when they want support, what they need people to do and how flexible they need people to be. Whilst this gives a great deal of choice, control and flexibility over support, this comes with certain responsibilities.

## Doing it for the right reasons

Choosing to become a PA employer can be a really positive choice. However, it's best to be sure that this will be right for you by taking time to think about it without any pressure.

## Areas you need to be careful with

There are areas where care should be taken, like if you are wanting to employ a family member or use a self employed Personal Assistant. In some Local Authority (council) areas, you need to have formal powers, such as Power of Attorney or Guardianship to be an employer on behalf of another adult.

It is a good idea to contact your local Independent Support Organisation for advice with these issues. Find your local organisation using the [Find Help](#) search tool.

## Allowing time to organise and recruit

It may take time and effort to get set up and recruit the right PA. Sometimes this can happen reasonably quickly, but it might be helpful to take the time you need to find the right person or people to be your PA. If urgent support is required, your local authority (council) can provide support until the right PA is recruited.

## A new relationship with your PA(s)

As an employer, your relationship with your PA employee might be different to support workers you've had in the past.

To help ensure that becoming a PA employer is a choice open to most people, there are Independent Support Organisations covering almost every area of Scotland. They provide support with becoming a PA employer, what this involves and they also provide ongoing support.

## Next steps

Take a look at the articles below on 'The Recruitment Process'. Also take a look at the case studies. They will help provide perspective because they are the stories of people who have experienced the process and they share what life is like for them now.

A list of Payroll Providers across Scotland [29 KB]

A list of Payroll providers, with contact details and where they are available in Scotland (Updated 3rd March 2023)

<https://handbook.scot/wp-content/uploads/2022/04/Payroll-Services-in-Scotland-8-March-2023.docx>

Employers' Liability Insurance for PA Employers

## What is Employers' Liability Insurance?

Employers' liability insurance covers the cost of compensating employees who are injured at work or

become ill through their work. If you are a PA employer, this includes people you employ as your Personal Assistant.

### **If I employ a PA do I need to have Employers' Liability Insurance?**

If you are an employer of a Personal Assistant you are legally obliged to have employers' liability insurance. You can be fined up to £2,500 for every day you do not have appropriate insurance.

Employers' liability insurance usually covers:

- the cost of compensation
- any associated legal fees.

However, you need to check to see exactly what any policy covers.

### **Buying employers' liability insurance**

You can buy employers' liability insurance directly from an insurance company or from a specialist broker. There are some insurance companies who specialise in employer's liability insurance for people who employ Personal Assistants.

There are often different levels of insurance cover available. A typical insurance policy will cost anywhere between £59 a year to £95 a year. However, there is a lot of variation in what is covered by different policies and this will affect the final cost of the insurance. You are obliged to have cover for compensation of at least £5 million, but most policies offer cover for at least £10 million.

A typical policy might provide cover for:

- Employer Liability
- Public liability
- Legal expenses
- Personal accidents
- Redundancy cover
- Financial loss

If you want to discuss what level of Insurance might be right for you, you can contact your local Independent SDS Information and Support Service, or local payroll provider. You can find their details by doing a Search in [the Find Help tool in this Handbook](#).

### **Exemptions**

Some PA Employers are not required to have employers' liability insurance, including:

- PA employers with no employees
- PA employers who only employ family members.

### **What insurance does my PA need if they're self-employed?**

If your PA is self-employed (they pay their own tax and national insurance) and if you are

contracting with them for their support, you do not need to have Employers' Liability Insurance. However, you may still wish to be covered for Public Liability. Public Liability Insurance provides cover against accidental injury and property damage claims.

The cost of Insurance for self-employed PAs can also vary, depending on the level of cover needed. Costs can range between £75 — £115 a year with a policy typically providing cover for:

- Public Liability
- Personal Accident
- Personal Possessions
- Legal Expenses.

## **Next steps**

Find more information by looking at the resources below.

## **Introduction to Health and Safety**

Health and safety is an important aspect of employing Personal Assistants. The moment a person is employed as a Personal Assistant, their Employer is responsible for their health, safety and welfare at work.

Health and safety also applies to people who work in the home such as self-employed PAs, agency staff or contractors.

### **What do PA Employers need to do?**

- Firstly, you need to do a risk assessment. Employers have a legal duty to protect their Personal Assistants from harm. A risk assessment should identify what could cause injury or illness (hazards), decide how likely it is that someone could be harmed and how seriously (the risk) and take action to eliminate the hazard, or if this isn't possible, control the risk
- Secondly, you must make your Personal Assistant(s) aware of the risk assessment through the induction process
- Thirdly, you must make sure that your Personal Assistant(s) are trained to use equipment, to enable them to work in a safe manner.

Normally your Employer's Liability Insurance will require that you do a risk assessment, to minimise the risk that a Personal Assistant could make a claim against you.

### **Risk Assessments**

To help you do a risk assessment, you can take a look at the leaflet 'Steps Needed to Manage Risk' link in the Resources section below.

The five steps are:

- identify the hazards
- decide who may be harmed and how
- think about the risks and how you can reduce or prevent them
- record your findings and implement them
- review your risk assessment and update if necessary.

In identifying the hazards you should consider the following:

- in what areas of your home will the PA work?
- will the PA need to assist you to move around your home?
- are there hazards outside the home?
- will the PA work outside the home?
- will the PA be using your car or their car to transport you?
- will the PA be assisting you with mobility inside or outside the home?
- will the PA be expected to lift anything heavy?
- what type of equipment will the PA use — is this mechanical or electrical?
- will the PA be cooking for you?
- are there any pets or animals in your home that may present a risk to your PA?
- don't forget to include smoking as a hazard if you are a smoker.

When you are thinking about who may be harmed, this could include:

- the PA(s)
- the person being supported (if this is someone different from yourself)
- any other members of your family and friends who may be affected by what the PA does
- any other visitors who may come to the home, eg. social work, support providers etc.

Once the risks are identified, write these on a risk assessment form so you can show what action is in place to prevent any harm from the hazard and also what precautions need to be taken to minimise the risk.

You will have to show how the risks can be reduced, and who by. Normally the aim is to eliminate the risk by removing it from the premises. But where this is not possible you will have to make sure that the people affected by the hazard are trained in how to avoid the risk of injury or harm.

You will have to keep training records to provide evidence that training has taken place and the PA is aware of their responsibility to work in a safe manner.

## **Health and Safety Training**

Health and safety training is an important responsibility for PA Employers.

You must show that you have trained your PA(s) in Health and Safety matters on their first day of employment. It is not a task which can be done later, because if that person has an accident on their first day and training has not been carried out, you could be liable for prosecution depending on the seriousness and likelihood of the accident.

As well as general training on Health and Safety you will need to have some simple documents

listing all the equipment the PA will be required to use. This is to demonstrate that training has been given, and that the PA is able to use the equipment safely.

### Next steps

Check out the Resources below for further guidance on Health and Safety and completing a risk assessment.

### Resources

Steps needed to manage risk

Five steps to help complete a risk assessment, from the Health and Safety Executive (HSE)  
<https://www.hse.gov.uk/simple-health-safety/risk/steps-needed-to-manage-risk.htm>

Further reading: Health and Safety Executive detailed guidance  
<https://www.hse.gov.uk/>

What Employers need to know about Health and Safety Law [153 KB]  
<https://handbook.scot/wp-content/uploads/2022/04/lawleaflet.pdf>

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### **Doing it for the right reasons**

Choosing to become a PA employer can be a really positive choice. However, it's best to be sure that this will be right for you by taking time to think about it without any pressure.

### **Areas you need to be careful with**

There are areas where care should be taken, like if you are wanting to employ a family member or use a self employed Personal Assistant. In some Local Authority (council) areas, you need to have formal powers, such as Power of Attorney or Guardianship to be an employer on behalf of another adult.

It is a good idea to contact your local Independent Support Organisation for advice with these issues. Find your local organisation using the [Find Help](#) search tool.

### **Allowing time to organise and recruit**

It may take time and effort to get set up and recruit the right PA. Sometimes this can happen reasonably quickly, but it might be helpful to take the time you need to find the right person or

people to be your PA. If urgent support is required, your local authority (council) can provide support until the right PA is recruited.

### **A new relationship with your PA(s)**

As an employer, your relationship with your PA employee might be different to support workers you've had in the past.

To help ensure that becoming a PA employer is a choice open to most people, there are Independent Support Organisations covering almost every area of Scotland. They provide support with becoming a PA employer, what this involves and they also provide ongoing support.

### **Next steps**

Take a look at the articles below on 'The Recruitment Process'. Also take a look at the case studies. They will help provide perspective because they are the stories of people who have experienced the process and they share what life is like for them now.

### **Resources**

The Recruitment Process



Recruiting the right people as your Personal Assistants is very important.

This article talks you through each step of the process to give you the best chance of attracting the right people to work for you.

How you recruit is also very important. You need to make sure you are not discriminating against anyone in the way you advertise for PAs and the questions you ask at interview, as this could potentially lead to someone taking legal action against you. You can find more information on preventing discrimination in the Resource at the bottom of this page.

### **Support with recruitment**

There are many local organisations who can support Employers with recruitment. Some can help with every step of the process, including thinking about what skills your PA needs, placing job adverts for you, helping you interview and supporting you with all the paperwork.

You can search for organisations in your area [using the Find Help search tool](#).

### **Writing a job advert**

When advertising for a PA, consider what skills and experience you need your PA to have.

It is a good idea to write a job description and person specification to give people a better idea of what you are looking for and what skills and experience you want them to have.

You can find a template to help you write a job advert and person specification in the Resource at the bottom of this page below, Templates for PA Employers.

### **Advertising**

There are many places you could consider advertising for PAs:

- Job sites eg. Indeed (some of these will charge for placing an advert)
- Local Facebook groups
- Putting up posters in local shops.

Some areas have a local organisation which advertises for PAs on their website. Find out if there is an organisation that does this in your area using the [Find Help search tool](#).

You may also want to ask family, friends and other people in your community if they know someone who would be interested in being your PA.

### **Interviewing**

The interview is an opportunity to find out more from the people who have applied for the job.

You can choose to carry out interviews yourself, or with someone helping you.

Write down some questions you want to ask the candidates, and ask the same questions to all the candidates. This will help you conduct the interviews fairly and make sure you give the candidates

equal opportunity to tell you about their skills and experience for the job.

The interview is a two-way process and allows the applicant to find out more about you and the PA role you have advertised.

### **Good practice for interviews**

To get the most out of the candidates, here is some good practice to follow when doing interviews:

- When the candidate arrives for interview, help them relax — maybe ask how they travelled to the interview
- Explain that the purpose of the interview is to learn more about the candidate and for them to learn more about the role
- Ask the candidate the questions you have prepared, and take notes
- At the end of your questions, ask the candidate if they have any questions they want to ask you
- Tell the candidate what will happen next — when can they expect to hear back?
- Thank the candidate for applying and coming for the interview.

Another useful point to remember is that the candidate should do most of the talking.

When interviewing for potential PAs, you cannot ask about things which could count as discrimination. The following list is not exhaustive but is helpful to remember:

- Do not ask questions about childcare
- Do not ask if they are married
- Do not ask if they plan on having children
- Do not ask about their sexual orientation
- Do not ask about their religion.

You can find more information about preventing discrimination in the Resources at the bottom of this page.

### **After the interview**

Hopefully you will have found a good candidate and want to offer them the job. Let them know either over the phone or in writing.

You need to have a contract of employment ready for your new PA's first day in the job. Find out more in the article [Contract of Employment for a PA](#).

### **Pre-Employment Checks**

Before your PA starts work you may want to carry out pre-employment checks. Asking for references are a very common pre-employment check. References can be written or verbal, with one normally being from the applicant's most recent job. It is important to get the applicant's permission before you ask anyone for a reference.

You should also check the applicant has the right to work in the UK. You can ask for proof of this during the interview stage.

You may also wish to check if the applicant is a member of the Protecting Vulnerable Groups (PVG) scheme. From April 2025, it will be mandatory for any Personal Assistant to be a member of this scheme. Find out more in the article '[Protecting Vulnerable Groups \(PVG\): For PA Employers](#)'.

## Offer

You should send a written offer of employment to the successful applicant as soon as you can. The offer of employment should contain the following information:

- Any conditions that apply to the offer (for example that it is dependent on getting satisfactory references)
- Terms of the offer, for example, salary, hours, benefits, pension arrangements, holiday entitlement and place of employment
- The start date and details of probationary period
- What action the candidate needs to take, for example, returning a signed acceptance of the offer.

## Next steps

Take a look at the Resources below for further information.

Case Study: How an Independent Support Organisation Assisted Paul to Recruit 4 PAs



Paul requires support from his Personal Assistants (PAs) to help maintain a family life as well as assisting him to contribute to, and access, society. With the assistance of an independent support organisation, Paul developed the job description which includes both personal and domestic duties within the household as well as providing support so he can access the community, to work etc. Paul was supported through the recruitment process and was signposted to organisations for specialist information, such as employment information and payroll organisations. He also inquired about training for his employees and the support organisation provided Paul with relevant training sources that would deliver the specific training he felt was important for his employees. With the support and advice he received, Paul has now been employing staff for many years; consequently Paul enjoys his citizenship rights and is respected as an equal player in society:

"Having control over when and how my support is delivered enabled me to fit more with my family rather than them fit around me."

**Next steps**

Take a look at the article on case studies where you can find further case study examples.

Case Study: Mary Takes on a PA for her Father with Dementia



Mary's dad has Dementia and after the loss of her Mum, and then unexpectedly her brother, she was determined to keep Dad at home. Her Social Worker suggested Option 1 of Self-directed Support. Mary was worried about all the paperwork and regulations this would involve. However, after receiving free information and advice from an Independent Support Organisation (ISO), she decided to try it. With the support of the ISO, she devised a care plan using PAs.

Since hiring Personal Assistants (PAs) Mary's Dad has regained both his confidence and his independence. He attends Country and Western nights on a Saturday, attends day centres during the week and has such a strong relationship with his PA that he goes with her when she does voluntary work and helps out too! Mary says, "SDS has meant I can return to my normal work hours. This is improving my family's quality of life and I'm completely confident that Dad is happy, socialising and being cared for properly".

### **Next steps**

Take a look at the article on case studies where you can find further case study examples.

Search for a local organisation using Find Help  
<https://handbook.scot/find-help/>

## Jury Service for PA Employers and PAs

Jury service is an important public duty. The role of the jury is to reach a verdict in a court case, having heard and considered the facts according to the evidence and the instructions given by the judge.

Jurors are selected at random from the electoral register and can be cited for criminal trials or for civil cases.

### **How does Jury Service affect PA Employers and PAs?**

It is possible that both a PA Employer and a PA could be called up for Jury Service. If your name is on the Electoral Register, there is a chance you could be called up.

Anyone called for Jury Service will be expected to attend the Court, unless there is a good reason why you can't. It is not a question of whether you want to serve in a Jury or not, this is a requirement for anyone selected (unless you meet one of the reasons outlined below, such as you're over the age of 70).

If you are a PA Employer, you may need support to attend the Court if you are called up and you might want your PA to support you with this. If your PA is called up, you may need to arrange replacement care and support, either from another PA if you have one, or from a agency.

As a PA, you may need to take time off work to undertake Jury Service and you will need to inform your employer about this. Although you are not paid for attending jury service, you can claim expenses including for loss of earnings. You can find out more about what you can claim, and how, in the Resource 'Expenses for Jury Service' at the bottom of this page.

It is important for both PA Employers and PAs to be aware of a number of issues when called up for Jury Service, including what the rules are, and how you can request to be excused from Jury Service.

### **How will you know if you've been called for Jury Service?**

If you're selected for Jury Service, you'll receive a Summons about 10 days before the first day you're due in court. You must respond to your Jury Summons within 7 days of getting it.

The Jury Summons tells you the court, date and time at which you have to be there.

You can either:

- reply to the Jury Summons online
- complete and return the form by post.

You can be fined up to £1,000 if you do not return the form or do not turn up for your Jury Service.

The Summons letter will also give you further instructions about what to do next.

## Eligibility and excusal from Jury service

If you would like to apply for excusal from Jury service, you should review the information provided in the 'Guide to Eligibility and Excusal' in the Resources below.

The guide sets out who is entitled to request to be excused from Jury service, as this is possible in certain, specific circumstances. If you wish to apply for excusal on the basis of ill-health or physical disability, then you must enclose a medical certificate along with your application for excusal. This can normally be obtained free of charge from your GP.

You can also apply for excusal due to another special reason, for example:

- commitments at work
- holiday plans which would be difficult or expensive to rearrange
- you're over 70 years old.

If you wish to apply for excusal, you should provide evidence to support your request, for example a holiday booking confirmation or letter from your employer. Applications for excusals are dealt with sympathetically by the courts, however, it must be understood that in some circumstances, the court may not be able to excuse individuals.

**PAAs will need to ask their PA employer for a letter if they wish to request to be excused from Jury service due to commitments at work.**

## Medical certificates

If you need to request a medical certificate from your GP, you cannot be asked to pay for this. You should therefore tell the GP surgery why you are asking for the certificate, ie. for excusal from jury service.

## Accessibility

If you are a disabled person, or have accessibility or support requirements, please contact the court when you get your Summons letter to discuss what arrangements can be made for you.

In most courthouses there will also be access for those with mobility impairments. Courtrooms generally are sound-enhanced and some have an Induction Loop fitted for the benefit of those with hearing difficulties.

## Next steps

You can find a range of guides to Jury service in the resources below.

## Resources

Expenses for jury service

<https://www.scotcourts.gov.uk/coming-to-court/jurors/expenses-for-jury-service>

Guide to Jury Service Eligibility and Applying for Excusal

A Guide to Jury Service Eligibility and Applying for Excusal by the Scottish Courts and Tribunal Service

[https://www.scotcourts.gov.uk/docs/default-source/coming-to-court/jurors/1-guide-to-jury-service-eligibility.pdf?sfvrsn=fe3f0ad2\\_5](https://www.scotcourts.gov.uk/docs/default-source/coming-to-court/jurors/1-guide-to-jury-service-eligibility.pdf?sfvrsn=fe3f0ad2_5)

Jury service discussion on the SDS Forum

A link to discussion of jury service for Personal Assistants on the SDS Forum.

<https://forum.sdsscotland.org.uk/t/pas-and-jury-service/492>

## Keeping information about your PAs safe

Personal Assistant (PA) employers must comply with the law around keeping information about their PAs safe.

The law around data protection is called GDPR — The General Data Protection Regulation, and it came into force in 2018.

### What is GDPR?

The General Data Protection Regulation (GDPR) is there to protect the rights of individuals when their personal information is handled and processed.

As a PA Employer, GDPR says you must be open and honest with your PAs about how you use their information, and you must follow good data handling procedures.

All PA Employers that deal with personal data must comply with GDPR. Even if you only employ one PA, you are likely to hold information about them such as their home address and phone number. As an employer you must take steps to make sure you are holding this data safely.

### What information can I keep about my PAs?

You must have a good reason for asking for and keeping information about your PAs. The information you may need in order to employ them includes things like:

- Name
- Address
- Date of birth
- Education and qualifications
- Work experience
- National Insurance number
- Tax code
- Details of any known disability (but only if you need this, for example you need to make adjustments to their role)
- Emergency contact details
- Their employment history with you

- Employment terms and conditions (e.g. pay, hours of work, holidays, benefits and absence)
- Any accidents connected with work
- Any training taken
- Any disciplinary action.

### **How should I keep information about my PAs safe?**

You need to take steps to make sure that any information you keep about your PAs is safe and cannot be accessed by other people.

For example, if you have your PAs' contact details written in an address book, think about how you can keep this secure — perhaps in a locked cabinet.

If you keep information about your PAs on a computer or phone, is this password protected?

### **What should I tell my PAs about the information I have on them?**

As an Employer, you should be open and transparent with your PAs about what information you keep on them and how you handle it. You should tell them:

- What information you kept and how you use it
- How you keep the information confidential and secure.

### **Next steps**

You can find further information about managing information on employees at the link below. This information has been written for small businesses, but the same guidance applies to you as a PA Employer.

### **Resources**

Beginner's guide to data protection

<https://ico.org.uk/for-organisations/advice-for-small-organisations/your-beginner-s-guide-to-data-protection/>

## **Local Authority Agreements**

When you choose Option 1 of SDS and would like to receive a Direct Payment from the Local Authority (Council), the Local Authority will give you a Contractual Agreement for you to sign. This is sometimes called a Direct Payment Agreement.

It is important to check that you understand the agreement and are happy to sign it. If there is anything you are not sure about, you can speak to your Local Authority further, or get advice from

an independent organisation. You can search for an independent organisation in your area using the Find Help search tool in the resources below.

The agreement is a legal contract between you and the Local Authority, so it is important that you understand and agree with the content. Once you have signed the agreement, the Local Authority will give you a copy signed by all parties.

### Next steps

Take a look at the example below of a Local Authority Direct Payment to guide you in more detail.

### Resources

An example of a local authority direct payment contract [219 KB]

<https://handbook.scot/wp-content/uploads/2022/04/Direct-Payment-Agreement-form-effective-1st-March-2018-update-Highland.pdf>

Search for a local organisation using Find Help

<https://handbook.scot/find-help/>

## Minimum hourly rate for PAs



Each year, the Scottish Government sets the minimum hourly rate of pay for Personal Assistants.

The minimum rate of pay for Personal Assistants is **£12 an hour from April 2024**.

Before April 2024 the minimum rate was £10.90 an hour.

The £12 an hour rate applies to all hours worked, including sleepover hours.

If a Personal Assistant is already paid more than £12 an hour, local councils have been instructed that they should use the funding which has enabled this uplift, to increase Direct Payments paid to Employers. This will allow Employers to increase their PAs' wages above £12 an hour.

### **Who does the minimum rate apply to?**

A PA is eligible for the minimum rate if they are directly employed by someone receiving social care support, or a person who is acting on behalf of the person receiving the support.

To be eligible for the minimum rate, the funding for the PA's wages needs to come from either a Local Authority through Option 1 of Self-directed Support, or from the Independent Living Fund Scotland.

Previously, the minimum rate of pay only applied to PAs who support adults. But in June 2024 the Scottish Government announced would also apply to PAs who support children from April 2024, and payments would be backdated to this date.

PAs who are employed privately by their employer (rather than through funding from the Local Authority or Independent Living Fund) are not included in the minimum rate of pay. In this case, these PAs should still be paid at least the [National Living Wage](#). This is £11.44 for people aged 21 and over, from April 2024.

### **When will the uplift to the minimum rate for PAs be applied?**

The £12 rate should apply for hours worked from 1st April 2024. The Scottish Government have said it may take a short time for the change to filter through to all employers.

Local Authorities and ILF Scotland have written to PA employers to advise them of the change.

### **What should a PA employer do if they haven't received increased funding to pay the minimum rate?**

PA employers should contact their Local Authority or ILF Scotland.

### **What should a PA do if they aren't being paid the minimum rate?**

PAs should speak to their employer to ensure they are paid the minimum rate of £12 an hour for all hours worked.

## **Moving and Assisting Support**

Many people supported by Personal Assistants (PAs) will need support at various times during their day, to move from one place to another. This will be particularly important for people who cannot bear their own weight and will need to use an aid to help them move safely. Part of a PA's role might be to support the person they are working for to move safely. To do this, PAs need relevant and appropriate training and support.

There are certain legal requirements when it comes to supporting someone to physically move from one place to another. This is often referred to as 'manual handling'. However, PAs, employers and the person being supported (if they are not the employer) might prefer people to use the term 'moving and assisting', which is more respectful of the person.

The types of activity that people might need support with include:

- Moving from a wheelchair onto a bed or shower chair using a ceiling or freestanding hoist
- Moving from a chair to a wheelchair using a Turning Stand.

Any activity that requires an individual to lift, move or support a person is classified as a manual handling task. The Manual Handling Operations Regulations 1992 are the main piece of legislation dealing with manual handling. It sets out the main duties for employers and employees.

The regulations explain that first of all you need to avoid manual handling where possible. When this is not possible you need to assess and reduce the risk. There isn't a weight limit for manual handling within the regulations. Instead an assessment of the tasks required should be carried out to ensure the safety and health of both employees and the employer.

### **Employers are required to**

- Avoid manual handling, wherever possible
- Assess the risks of any handling tasks that can't be avoided
- Reduce the risk of injury as far as possible.

### **Employees also have responsibilities**

- To follow safe working guidance provided
- To use equipment correctly
- To inform the employer of any handling risks they identify
- To take care not to put others at risk through their activities
- To cooperate with their employer on health and safety.

It is important that PA Employers identify appropriate training for PAs to undertake and to give them time to complete this training. It might also be necessary to undertake refresher training at a later date.

### **Next steps**

Talk to your employer about training or updates to your training that you may need. Also take a look at the resources below.

## Resources

Getting to Grips with Hoisting People

<https://www.nhsggc.org.uk/media/237442/getting-to-grips-with-hoisting-people.pdf>

Aidacare Training Video - Manual Handling - Sit To Stand

<https://www.youtube.com/watch?v=L914lkoub6E>

Moving from a chair to a wheelchair using a Standing Turner

<https://www.youtube.com/watch?v=OyhLbt99jts>

## National Minimum Wage and Statutory Payment Rates

Personal Assistants have a minimum rate of pay set by the Scottish Government each year. [The rate from April 2024 is Â£12 per hour.](#)

However, Personal Assistants who are employed privately by their employer (rather than with funds from the Local Authority or Independent Living Fund) are not included in this minimum rate of pay.

In this instance, employers must still pay the legal National Minimum Wage/ National Living Wage.

This article explains what the latest rates are.

### National Minimum Wage and National Living Wage rates

Every year the UK Department for Work and Pensions publishes changes to the National Minimum Wage and National Living Wage.

From April 2024, the new rates are:

- National Living Wage (aged 21+) = £11.44 (previously £10.42)
- 18-20 year old rate = £8.60 (previously £7.49)
- 16-17 year old rate = £6.40 (previously £5.28)

### Statutory Maternity, Paternity and Adoption Pay

The rate for statutory maternity, paternity, adoption, shared parental and parental bereavement pay is **£172.48 per week**, or 90% of the employee's average weekly earnings (whichever is lower).

### Statutory Sick Pay

From 6 April 2024, the rate for statutory sick pay is **£116.75 per week** (previously this was £109.40).

## Next steps

Take a look at the resource available below on 'National Minimum Wage Rates' to guide you in more detail.

## Resources

National Minimum Wage Rates

The DWP National Minimum Wages Rates

<https://www.gov.uk/national-minimum-wage-rates>

## PA Employer Forms and Templates

There will be lots of different types of documents you need to use when employing Personal Assistants.

If you are getting help from an Independent Support Organisation or payroll service, they will be likely to have templates or documents you can use.

This page also has links to where you can find example and template documents, including:

- Job description and person specification
- Job adverts
- Job application form
- Letter inviting people to interview
- Letter telling people that they have not got an interview
- Letter offering the job
- Letter telling people that they have not got an interview
- Letter turning down an applicant
- Contract of employment
- Holiday request form
- Sickness and absence record
- Safety in the home checklist
- Risk assessment
- Training needs form
- Disciplinary form
- Grievance policy.

## Contract of employment

There is a link below to the PA contract builder tool, which is being tested at the moment. This tool makes it easier to create a bespoke contract for your PA(s).

## Next steps

Take a look at the Resources below to find templates for various documents.

## Resources

Templates for PA Employers - Skills for Care

<https://www.skillsforcare.org.uk/Recruitment-support/Support-individual-employers-PAs/Individual-employers/Employing-a-PA-Toolkit/Templates.aspx>

Example Contract of Employment for PAs [34 KB]

This is an example of a written Contract of Employment that a PA Employer could use when employing a new PA. This comes from Disability Rights UK.

<https://handbook.scot/wp-content/uploads/2022/09/Example-of-a-written-contract-when-hiring-a-Personal-Assistant-Disability-Rights-UK.docx>

PA Contract Builder (beta)

Create a basic employment contract for your PA

<https://sdsscotland.formtitan.com/ftproject/ft269fec9bd89349078534295c86deb0b7>

## PA Employer's Employment Responsibilities

Personal Assistant (PA) employers have a number of responsibilities relating to their employees, from recruitment and on-going support of PAs, to keeping their information safe.

### Responsibilities as an employer include

- To recruit people fairly and do not discriminate against anyone. This includes taking up of references and applying for a PVG check
- Having a contingency plan in place to cover for staff annual leave and sickness
- To have Employer's Liability Insurance in place before staff start their employment, and to update this every year
- To make sure that PAs have a written statement on their first day of employment that outlines their main terms and conditions of employment such as their job title, hours of work, pay, annual leave and sickness entitlement
- To have a Job Description in place that details the role and tasks that a Personal Assistants will undertake
- To pay your PAs' wages, tax, National Insurance and pension (if applicable). Or to ask a payroll company to do this on your behalf.
- To register with the Pensions Regulator and HMRC, or ask a payroll company to do this on your behalf
- If you use a payroll company, to provide them with any information they need, such as copies of timesheets and any changes to staff details
- To have a dedicated bank account, solely for the purpose of Self Directed Support funding received. You will need to provide bank statements for this account to the Local Authority Finance

Team for monitoring purposes. If you use a pre-payment card, you do not need to have a bank account

- To meet any Health and Safety requirements in the workplace so you do not put yourself or your PAs at risk
- To provide any relevant training to your PAs to make sure they can do their job well. This includes training on using specific equipment, such as a hoist.
- To make sure that your PAs have an induction into the workplace
- To support your PAs through supervision and ongoing training and development
- To make sure you comply with the law about protecting your PAs' personal details (GDPR).

## Next steps

You can find further information on these topics by visiting the articles below.

## Resources

The Recruitment Process



Recruiting the right people as your Personal Assistants is very important.

This article talks you through each step of the process to give you the best chance of attracting the

right people to work for you.

How you recruit is also very important. You need to make sure you are not discriminating against anyone in the way you advertise for PAs and the questions you ask at interview, as this could potentially lead to someone taking legal action against you. You can find more information on preventing discrimination in the Resource at the bottom of this page.

### **Support with recruitment**

There are many local organisations who can support Employers with recruitment. Some can help with every step of the process, including thinking about what skills your PA needs, placing job adverts for you, helping you interview and supporting you with all the paperwork.

You can search for organisations in your area [using the Find Help search tool](#).

### **Writing a job advert**

When advertising for a PA, consider what skills and experience you need your PA to have.

It is a good idea to write a job description and person specification to give people a better idea of what you are looking for and what skills and experience you want them to have.

You can find a template to help you write a job advert and person specification in the Resource at the bottom of this page below, Templates for PA Employers.

### **Advertising**

There are many places you could consider advertising for PAs:

- Job sites eg. Indeed (some of these will charge for placing an advert)
- Local Facebook groups
- Putting up posters in local shops.

Some areas have a local organisation which advertises for PAs on their website. Find out if there is an organisation that does this in your area using the [Find Help search tool](#).

You may also want to ask family, friends and other people in your community if they know someone who would be interested in being your PA.

### **Interviewing**

The interview is an opportunity to find out more from the people who have applied for the job.

You can choose to carry out interviews yourself, or with someone helping you.

Write down some questions you want to ask the candidates, and ask the same questions to all the candidates. This will help you conduct the interviews fairly and make sure you give the candidates equal opportunity to tell you about their skills and experience for the job.

The interview is a two-way process and allows the applicant to find out more about you and the PA

role you have advertised.

## Good practice for interviews

To get the most out of the candidates, here is some good practice to follow when doing interviews:

- When the candidate arrives for interview, help them relax — maybe ask how they travelled to the interview
- Explain that the purpose of the interview is to learn more about the candidate and for them to learn more about the role
- Ask the candidate the questions you have prepared, and take notes
- At the end of your questions, ask the candidate if they have any questions they want to ask you
- Tell the candidate what will happen next — when can they expect to hear back?
- Thank the candidate for applying and coming for the interview.

Another useful point to remember is that the candidate should do most of the talking.

When interviewing for potential PAs, you cannot ask about things which could count as discrimination. The following list is not exhaustive but is helpful to remember:

- Do not ask questions about childcare
- Do not ask if they are married
- Do not ask if they plan on having children
- Do not ask about their sexual orientation
- Do not ask about their religion.

You can find more information about preventing discrimination in the Resources at the bottom of this page.

## After the interview

Hopefully you will have found a good candidate and want to offer them the job. Let them know either over the phone or in writing.

You need to have a contract of employment ready for your new PA's first day in the job. Find out more in the article [Contract of Employment for a PA](#).

## Pre-Employment Checks

Before your PA starts work you may want to carry out pre-employment checks. Asking for references are a very common pre-employment check. References can be written or verbal, with one normally being from the applicant's most recent job. It is important to get the applicant's permission before you ask anyone for a reference.

You should also check the applicant has the right to work in the UK. You can ask for proof of this during the interview stage.

You may also wish to check if the applicant is a member of the Protecting Vulnerable Groups (PVG) scheme. From April 2025, it will be mandatory for any Personal Assistant to be a member of this scheme. Find out more in the article '[Protecting Vulnerable Groups \(PVG\): For PA Employers](#)'.

## Offer

You should send a written offer of employment to the successful applicant as soon as you can. The offer of employment should contain the following information:

- Any conditions that apply to the offer (for example that it is dependent on getting satisfactory references)
- Terms of the offer, for example, salary, hours, benefits, pension arrangements, holiday entitlement and place of employment
- The start date and details of probationary period
- What action the candidate needs to take, for example, returning a signed acceptance of the offer.

## Next steps

Take a look at the Resources below for further information.

Employers' Liability Insurance for PA Employers

### What is Employers' Liability Insurance?

Employers' liability insurance covers the cost of compensating employees who are injured at work or become ill through their work. If you are a PA employer, this includes people you employ as your Personal Assistant.

### If I employ a PA do I need to have Employers' Liability Insurance?

If you are an employer of a Personal Assistant you are legally obliged to have employers' liability insurance. You can be fined up to £2,500 for every day you do not have appropriate insurance.

Employers' liability insurance usually covers:

- the cost of compensation
- any associated legal fees.

However, you need to check to see exactly what any policy covers.

### Buying employers' liability insurance

You can buy employers' liability insurance directly from an insurance company or from a specialist broker. There are some insurance companies who specialise in employer's liability insurance for people who employ Personal Assistants.

There are often different levels of insurance cover available. A typical insurance policy will cost anywhere between £59 a year to £95 a year. However, there is a lot of variation in what is covered by different policies and this will affect the final cost of the insurance. You are obliged to have cover for compensation of at least £5 million, but most policies offer cover for at least £10 million.

A typical policy might provide cover for:

- Employer Liability
- Public liability
- Legal expenses
- Personal accidents
- Redundancy cover
- Financial loss

If you want to discuss what level of Insurance might be right for you, you can contact your local Independent SDS Information and Support Service, or local payroll provider. You can find their details by doing a Search in [the Find Help tool in this Handbook](#).

## Exemptions

Some PA Employers are not required to have employers' liability insurance, including:

- PA employers with no employees
- PA employers who only employ family members.

## What insurance does my PA need if they're self-employed?

If your PA is self-employed (they pay their own tax and national insurance) and if you are contracting with them for their support, you do not need to have Employers' Liability Insurance. However, you may still wish to be covered for Public Liability. Public Liability Insurance provides cover against accidental injury and property damage claims.

The cost of Insurance for self-employed PAs can also vary, depending on the level of cover needed. Costs can range between £75 — £115 a year with a policy typically providing cover for:

- Public Liability
- Personal Accident
- Personal Possessions
- Legal Expenses.

## Next steps

Find more information by looking at the resources below.

### Contract of Employment for a PA

As an employer, you are legally required to give your employees (your Personal Assistants) a document stating their main conditions of employment, when they start work.

This document is often known as a 'written statement of employment particulars'.

We also recommend you have your insurance company check your employment paperwork as you may not be covered by your insurer if you don't do this.

Your local independent support organisation may be able to help you to write a person-centred job description to go with the contract of employment. The contract of employment contains the legally required information, and the job description describes what you want your PA to do. You can find your local Independent Support Organisation using the [Find Help search tool](#).

## Next steps

Take a look at the resources below, including a sample contract of employment which contains all the elements that are legally required.

### Payroll services for PA Employers

Payroll services support people who employ Personal Assistants.

A **payroll service** can provide the following types of support:

- Make calculations and do paperwork like calculate PAs' take-home pay, including any holiday pay, and National Insurance, Tax and pension contributions
- Calculate any statutory payments, such as statutory sick pay, parental leave, etc.
- Prepare documents required of employers, eg. P60 and P45 when employees start or leave
- Act as your agent with HMRC, including registering you as an employer. If acting as your agent with HMRC, the payroll service deals with all HMRC administration on your behalf although you may have to make payments to HMRC directly.

Some may also carry out the following on your behalf as an employer:

- Make payments on your behalf to PAs, HMRC and a pension provider
- Deal with the management of a workplace pension scheme, including auto-enrolment, opt-in and opt-out employees.

There are a range of payroll providers offering services across Scotland.

### How do payroll services manage PAs' wages?

If you are using a payroll service, either you or your PA(s) will complete a timesheet for the days and times they have worked. Your payroll service will advise you how often this should be done (eg. weekly, 4-weekly, monthly). You then send the completed timesheets to the payroll service. Best practice is for both you and your PA(s) to sign the timesheet when you send it to the payroll service.

The payroll service will either send payslip direct to your PA(s), or give you the payslips to pass on to your PA(s) yourself. Your PA's payslip will tell them how much they will be paid after deductions (the amount that will be paid into their bank account) and if any deductions have been made, what these are and how much for.

If your PA(s) have a problem with their pay or payslip, they should speak to you first. If you use a payroll service they can help you sort out any issues.

## Next steps

You can find out more about Payroll Services and what they do by looking at their websites. Use the [Find Help](#) search tool to find contact details for different payroll services. Some only work in some areas of Scotland and others work all across Scotland.

## Introduction to Health and Safety

Health and safety is an important aspect of employing Personal Assistants. The moment a person is employed as a Personal Assistant, their Employer is responsible for their health, safety and welfare at work.

Health and safety also applies to people who work in the home such as self-employed PAs, agency staff or contractors.

## What do PA Employers need to do?

- Firstly, you need to do a risk assessment. Employers have a legal duty to protect their Personal Assistants from harm. A risk assessment should identify what could cause injury or illness (hazards), decide how likely it is that someone could be harmed and how seriously (the risk) and take action to eliminate the hazard, or if this isn't possible, control the risk
- Secondly, you must make your Personal Assistant(s) aware of the risk assessment through the induction process
- Thirdly, you must make sure that your Personal Assistant(s) are trained to use equipment, to enable them to work in a safe manner.

Normally your Employer's Liability Insurance will require that you do a risk assessment, to minimise the risk that a Personal Assistant could make a claim against you.

## Risk Assessments

To help you do a risk assessment, you can take a look at the leaflet 'Steps Needed to Manage Risk' link in the Resources section below.

The five steps are:

- identify the hazards
- decide who may be harmed and how
- think about the risks and how you can reduce or prevent them
- record your findings and implement them
- review your risk assessment and update if necessary.

In identifying the hazards you should consider the following:

- in what areas of your home will the PA work?
- will the PA need to assist you to move around your home?
- are there hazards outside the home?
- will the PA work outside the home?
- will the PA be using your car or their car to transport you?

- will the PA be assisting you with mobility inside or outside the home?
- will the PA be expected to lift anything heavy?
- what type of equipment will the PA use — is this mechanical or electrical?
- will the PA be cooking for you?
- are there any pets or animals in your home that may present a risk to your PA?
- don't forget to include smoking as a hazard if you are a smoker.

When you are thinking about who may be harmed, this could include:

- the PA(s)
- the person being supported (if this is someone different from yourself)
- any other members of your family and friends who may be affected by what the PA does
- any other visitors who may come to the home, eg. social work, support providers etc.

Once the risks are identified, write these on a risk assessment form so you can show what action is in place to prevent any harm from the hazard and also what precautions need to be taken to minimise the risk.

You will have to show how the risks can be reduced, and who by. Normally the aim is to eliminate the risk by removing it from the premises. But where this is not possible you will have to make sure that the people affected by the hazard are trained in how to avoid the risk of injury or harm.

You will have to keep training records to provide evidence that training has taken place and the PA is aware of their responsibility to work in a safe manner.

## **Health and Safety Training**

Health and safety training is an important responsibility for PA Employers.

You must show that you have trained your PA(s) in Health and Safety matters on their first day of employment. It is not a task which can be done later, because if that person has an accident on their first day and training has not been carried out, you could be liable for prosecution depending on the seriousness and likelihood of the accident.

As well as general training on Health and Safety you will need to have some simple documents listing all the equipment the PA will be required to use. This is to demonstrate that training has been given, and that the PA is able to use the equipment safely.

## **Next steps**

Check out the Resources below for further guidance on Health and Safety and completing a risk assessment.

Keeping information about your PAs safe

Personal Assistant (PA) employers must comply with the law around keeping information about their PAs safe.

The law around data protection is called GDPR — The General Data Protection Regulation, and it came into force in 2018.

### **What is GDPR?**

The General Data Protection Regulation (GDPR) is there to protect the rights of individuals when their personal information is handled and processed.

As a PA Employer, GDPR says you must be open and honest with your PAs about how you use their information, and you must follow good data handling procedures.

All PA Employers that deal with personal data must comply with GDPR. Even if you only employ one PA, you are likely to hold information about them such as their home address and phone number. As an employer you must take steps to make sure you are holding this data safely.

### **What information can I keep about my PAs?**

You must have a good reason for asking for and keeping information about your PAs. The information you may need in order to employ them includes things like:

- Name
- Address
- Date of birth
- Education and qualifications
- Work experience
- National Insurance number
- Tax code
- Details of any known disability (but only if you need this, for example you need to make adjustments to their role)
- Emergency contact details
- Their employment history with you
- Employment terms and conditions (e.g. pay, hours of work, holidays, benefits and absence)
- Any accidents connected with work
- Any training taken
- Any disciplinary action.

### **How should I keep information about my PAs safe?**

You need to take steps to make sure that any information you keep about your PAs is safe and cannot be accessed by other people.

For example, if you have your PAs' contact details written in an address book, think about how you can keep this secure — perhaps in a locked cabinet.

If you keep information about your PAs on a computer or phone, is this password protected?

### **What should I tell my PAs about the information I have on them?**

As an Employer, you should be open and transparent with your PAs about what information you keep on them and how you handle it. You should tell them:

- What information you kept and how you use it
- How you keep the information confidential and secure.

## **Next steps**

You can find further information about managing information on employees at the link below. This information has been written for small businesses, but the same guidance applies to you as a PA Employer.

## **Equality and Diversity Considerations**

Personal Assistant (PA) employers need to treat their PAs fairly, without discrimination on the basis of a personal or 'Protected Characteristic', such as their sex, age, sexual orientation, ethnicity or marital status.

Employers have a legal duty not to discriminate before, during and after employment, according to the law (the Equality Act 2010).

## **The Equality Act**

The Equality Act 2010 came into effect to protect people from harassment, discrimination and victimisation. There are nine protected characteristics covered within the Equality Act which protect people from being discriminated against. The protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Marriage and civil partnership
- Sex
- Sexual orientation

This means that discrimination under any of these characteristics could result in a claim being made against the PA Employer. There is no minimum length of service required for workers to be able to bring a claim for unlawful discrimination. For the employer, a claim for discrimination can be made in respect of a job advert, during employment, or post employment (for example in a reference given for a former employee).

Therefore, as an employer, it is important to understand the importance of equality in the workplace before employing someone.

In some circumstances, it will be lawful to require that a person possesses a particular protected characteristic in order to do a particular kind of work, for example advertising for female-only candidates to be a PA. But certain conditions have to be satisfied first to ensure this is done legally — you should always take advice on this.

When interviewing potential candidates, it is important to ensure the candidate is not asked any questions which could be seen as discrimination or which relate to their protected characteristics. In particular, it may be unlawful to ask questions about disability or health during a recruitment process or until a formal job offer has been made, unless the question is to establish whether reasonable adjustments are required for the interview.

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### Next steps

Take a look at the resources available below to guide you in more detail.

### Inducting your PAs



When you recruit a Personal Assistant, it is a good idea to do a formal induction on the first day. Some things can be introduced as and when appropriate, but there are some basic things that all PAs should know right from the start.

This article gives you suggestions for things you could include in your PA's induction.

### Written statement of employment or contract of employment

You should give your PA a written statement that sets out the terms and conditions of their employment. You can find out more about what you should include in a contract, and how to get help to write one, in the link at the bottom of this page.

### **Regular work meetings with your PA**

It is good practice for both parties to meet regularly to discuss how things are going and where either party can raise any work issues. Notes should be taken at these meetings that both parties should sign as being accurate.

Both parties should be confident that they are able to raise any issues that arise and that the other party will listen to them. It is a good idea to discuss with your PA how you will communicate with each other in case any difficulties or disagreements arise.

### **Values**

When you induct your PA it is a good opportunity to help them understand your values and what is important to you.

### **Shift changes**

If your PA is on a regular shift pattern, you should let them know how much notice they need to give you if they need to change their shift.

### **House rules**

When you induct your PA, it is a good idea to go over any house rules you have if they are supporting you in your home, for example when they are allowed to take personal calls. You should also explain what you want them to do if equipment or belongings are accidentally damaged.

### **Driving your vehicle and insurance**

If your PA is required to use your vehicle (or a vehicle that belongs to someone else), explain any procedures for this during their induction. You also need to make sure your PA is fully insured to use the vehicle.

### **Team work**

If you have a team of PAs, you should discuss how you want them to work together as a team. It's a good idea to involve other PAs from the team in the new PA's induction, if you can.

### **Breaks**

Explain to your PA the procedures for taking breaks during work.

### **Care plan or work notebook**

If you would like your PA to use a care plan or work notebook to note down anything significant that occurs while they are working, explain how to do this during their induction, and the type of things you want them to record.

## **Absence procedure**

Explain to your PA what they should do if they are unwell, and what documents they need to give you if they are off for an extended period, eg. a sick note from their doctor. You should also explain how your PA can book holidays and days off.

## **Training**

It is your responsibility to ensure that your PAs receive any mandatory training required so they can do their job safely. You should discuss with your PA during the induction how the training will be provided and when. You can find out more about training in the link at the bottom of this page.

## **Emergency plan**

It is good practice to have a plan in place in the event of an emergency, particularly if your PA will be working on their own at any time. In the induction, make sure your PA knows where any emergency plan is kept and who to contact in an emergency. It is also a good idea to explain what to do if you, or the person being supported, is unexpectedly admitted to hospital and how this could affect the PA's employment.

## **Health and safety**

When you induct your PA, you should go over any health and safety measures you have in place. It's a good idea to discuss and agree your PA's responsibilities if an emergency eg. a fire occurs when they are at work. It is worthwhile to work with your PA on a personal evacuation plan that you both can become familiar with.

If you have an accident book where all accidents or near misses are recorded, let your PA know where this is and how to use it.

## **Confidentiality**

Induction should cover how you expect your PA to treat any information they may become party to in their work. If you have a confidentiality policy, share this with your PA and check they understand it. You should also explain how you will treat your PA's information, for example their address and bank details. Find out more about confidentiality and data protection at work in the link to the article 'GDPR' at the bottom of this page.

## **Next steps**

Check out the articles below for more information on each of the topics. A local Independent Support Organisation may be able to help you think about and plan an induction process for your PAs. Search for their details using the Find Help search tool below.

## **The Law for PA Employers**

You will have received a lot of information regarding the role and responsibilities of becoming a PA employer (see resources at the bottom of this page). This can feel overwhelming at times and you may feel it is too much to take on, especially if you have many other commitments in your life.

However, there is support available from both an Independent Support organisation and your local authority (council).

When someone becomes a PA employer they will also have the support of their Employment Liability Insurer. It is important to follow their advice whenever this is provided. This will help to make sure that the employer follows the law as required.

There are certain things that a PA employer has to do, which cover such areas as:

- Health and Safety
- Recruitment and employment
- Wages, Pensions, Tax and National Insurance
- Training for PAs
- Record keeping and GDPR
- Using your SDS budget for the things you have agreed with your Council

Here is a list of a few things that a PA Employer has to do by law:

- Register as an employer with HMRC
- Purchase Employers Liability Insurance
- Pay the wages, Tax, National Insurance and pension of each PA employee. (You can ask a payroll company to do this on your behalf)
- Provide appropriate training for each PA(s) from an appropriate training provider. This is especially important if a PA is required to use equipment, such as a hoist, or give medication
- Keep all relevant information and correspondence relating to the employment of any PA(s) confidential and secure
- Undertake appropriate risk assessments on your property if the PA(s) supports you at home, as well as any risk assessments on any relevant activity that the PA will undertake in the home
- Letting the Council know how you have spent your SDS budget and how this is meeting your needs
- Issue a statement of particulars of employment on day 1

This is not a full list and it might be helpful to talk through relevant areas of the law for PA employers with an Independent Support Organisation or your Council.

The other things to be aware of as a PA employer is how you communicate and develop the relationship you have with your PA(s). The day-to-day relationship you have will make a big difference to how successful the support works for you.

### **Next steps**

Take a look at the resources below on information regarding the role and responsibilities of becoming a PA employer.

## **PA Employment Costs**

There are costs that relate to employing Personal Assistants that it's important to be aware of as an Employer.

As well as the minimum wage, there are other costs which may change each year.

This may look complicated, but as a PA Employer you can use a Payroll Company to keep on top of these changes and make sure you are paying your PAs the correct rates.

You can find out more about Payroll Companies in the Resources at the bottom of this page.

### Which costs may change from year to year?

The costs that may change from year to year are:

- The National Minimum Wage for Personal Assistants.
- Tax rates
- National Insurance
- Statutory Maternity, Paternity, Adoption, Shared Parental and Parental Bereavement Pay
- Statutory Sick Pay (SSP)
- Student loan payments
- Mileage allowance payments for employee vehicles.

### Next steps

Take a look at the Resource below from the HMRC to guide you in more detail, or read about how a Payroll company can help you manage all the costs for your PAs.

### Resources

HMRC Website for rates and thresholds for employers

<https://www.gov.uk/guidance/rates-and-thresholds-for-employers-2024-to-2025>

Payroll services for PA Employers

Payroll services support people who employ Personal Assistants.

A **payroll service** can provide the following types of support:

- Make calculations and do paperwork like calculate PAs' take-home pay, including any holiday pay, and National Insurance, Tax and pension contributions
- Calculate any statutory payments, such as statutory sick pay, parental leave, etc.
- Prepare documents required of employers, eg. P60 and P45 when employees start or leave
- Act as your agent with HMRC, including registering you as an employer. If acting as your agent with HMRC, the payroll service deals with all HMRC administration on your behalf although you may have to make payments to HMRC directly.

Some may also carry out the following on your behalf as an employer:

- Make payments on your behalf to PAs, HMRC and a pension provider
- Deal with the management of a workplace pension scheme, including auto-enrolment, opt-in and opt-out employees.

There are a range of payroll providers offering services across Scotland.

### **How do payroll services manage PAs' wages?**

If you are using a payroll service, either you or your PA(s) will complete a timesheet for the days and times they have worked. Your payroll service will advise you how often this should be done (eg. weekly, 4-weekly, monthly). You then send the completed timesheets to the payroll service. Best practice is for both you and your PA(s) to sign the timesheet when you send it to the payroll service.

The payroll service will either send payslip direct to your PA(s), or give you the payslips to pass on to your PA(s) yourself. Your PA's payslip will tell them how much they will be paid after deductions (the amount that will be paid into their bank account) and if any deductions have been made, what these are and how much for.

If your PA(s) have a problem with their pay or payslip, they should speak to you first. If you use a payroll service they can help you sort out any issues.

### **Next steps**

You can find out more about Payroll Services and what they do by looking at their websites. Use the [Find Help](#) search tool to find contact details for different payroll services. Some only work in some areas of Scotland and others work all across Scotland.

Minimum hourly rate for PAs



Each year, the Scottish Government sets the minimum hourly rate of pay for Personal Assistants.

The minimum rate of pay for Personal Assistants is **£12 an hour from April 2024**.

Before April 2024 the minimum rate was £10.90 an hour.

The £12 an hour rate applies to all hours worked, including sleepover hours.

If a Personal Assistant is already paid more than £12 an hour, local councils have been instructed that they should use the funding which has enabled this uplift, to increase Direct Payments paid to Employers. This will allow Employers to increase their PAs' wages above £12 an hour.

### **Who does the minimum rate apply to?**

A PA is eligible for the minimum rate if they are directly employed by someone receiving social care support, or a person who is acting on behalf of the person receiving the support.

To be eligible for the minimum rate, the funding for the PA's wages needs to come from either a Local Authority through Option 1 of Self-directed Support, or from the Independent Living Fund Scotland.

Previously, the minimum rate of pay only applied to PAs who support adults. But in June 2024 the Scottish Government announced would also apply to PAs who support children from April 2024, and payments would be backdated to this date.

PAs who are employed privately by their employer (rather than through funding from the Local Authority or Independent Living Fund) are not included in the minimum rate of pay. In this case, these PAs should still be paid at least the [National Living Wage](#). This is £11.44 for people aged 21

and over, from April 2024.

**When will the uplift to the minimum rate for PAs be applied?**

The £12 rate should apply for hours worked from 1st April 2024. The Scottish Government have said it may take a short time for the change to filter through to all employers.

Local Authorities and ILF Scotland have written to PA employers to advise them of the change.

**What should a PA employer do if they haven't received increased funding to pay the minimum rate?**

PA employers should contact their Local Authority or ILF Scotland.

**What should a PA do if they aren't being paid the minimum rate?**

PAs should speak to their employer to ensure they are paid the minimum rate of £12 an hour for all hours worked.

**PAs' Role in Helping to Administer Medication**



This guidance is based on that given by Care Inspectorate, Royal Pharmaceutical Society of Scotland and Social Work Scotland in 'Prompting, assisting and administration of medication in a care setting: guidance for professionals.' The full document can be accessed below in resources.

If a Personal Assistant (PA) is required to help with medication, this should be clearly documented in the support plan agreed between the supported person, employer (if this is someone different) and their local authority.

Decisions on the support required around medication should be made, wherever possible, by the person who needs to take the medication. Sometimes, they will need the assistance of others to help with the decisions and these people may include their carer, their guardian or a health professional.

### **Prompting, assisting and administration of medicine**

There are different levels of support a person may require from their PA to help them with their medication:

- Prompting
- Assistance
- Administering.

### **Prompting**

This is when the PA reminds the person about their medication. It may be to alert them to the time so that the person can choose whether or not to take their medication. The person is in full of control about the choice they make about taking their medication. The PA offers no further advice or intervention.

## **Assistance**

The person remains in control of their medication but requires the help of their PA with mechanical tasks, for example:

- Ordering and collecting repeat prescriptions
- Making packs of medication available to the person eg. passing the pack to the person
- Opening bottles or packets of medication including multi-compartmental compliance aids (eg. dosette boxes)
- Reading the label on the medication to the person
- Making a drink available to the person to take with their medication.

## **Administration**

When a person cannot take responsibility for managing their medication, the PA may be responsible for ensuring that the person gets offered or is given the correct medication, at the correct time, in the correct way.

Administration of medication involves the PA doing the one or a combination of the following:

- Deciding which medicine(s) have to be taken or applied and when this should be done
- Being responsible for selecting the medicines
- Giving a person medicines to swallow, apply or inhale, where the person receiving them does not have the capacity to know what the medicine is for, or identify it
- Giving medicines (even at the request of the person receiving care) where a degree of skill is required to be exercised by the PA to ensure it is given in the correct way
- Following instructions on the container when administering medication.

## **Medicines not routinely given by PAs**

This includes giving medicines via an 'invasive' technique, for example:

- Via the rectum eg. suppositories
- Insulin via injection
- Via Percutaneous Endoscopic Gastrostomy (PEG) tubes.

PAs can be trained by an appropriate health professional to administer medication via invasive routes.

The person being supported (or someone who makes decisions on their behalf, if they do not have capacity), can decide whether they consent to the PA providing this treatment.

If administering medication via invasive routes is required as part of a PA's job, this needs to be clearly explained in the job description and the PA needs to be in agreement with carrying out this

role.

### When something goes wrong

The PA must follow appropriate action in the event of the person reacting badly to their medication. This might include seeking medical advice (eg. calling 999 if the reaction appears to be life threatening). The PA must record such incidences and advise their employer of them at the earliest opportunity.

Should the PA make an error with assisting or administering medication, the above steps must also be taken.

### Training and good practice

PAs must be trained to prompt, assist or administer medication. Local independent support services and Local Authorities should be able to advise on appropriate training.

PAs must liaise with their employer, and health and social work professionals, to ensure good practice is adhered to.

Employers should ensure their insurance provider is aware of the requirement for the Personal Assistant to provide assistance with or administer medication.

Employers should work with their Local Authority to ensure appropriate paperwork is in place to record the administration of medication.

### Next steps

Take a look at the additional resource below on prompting, assisting and administration of medicines.

### Resources

Prompting, assisting and administration of medication in a care setting: guidance for professionals <https://hub.careinspectorate.com/media/1595/prompt-assist-administer-medication-in-a-care-setting-guidance.pdf>

## Payroll services for PA Employers

Payroll services support people who employ Personal Assistants.

A **payroll service** can provide the following types of support:

- Make calculations and do paperwork like calculate PAs' take-home pay, including any holiday pay, and National Insurance, Tax and pension contributions

- Calculate any statutory payments, such as statutory sick pay, parental leave, etc.
- Prepare documents required of employers, eg. P60 and P45 when employees start or leave
- Act as your agent with HMRC, including registering you as an employer. If acting as your agent with HMRC, the payroll service deals with all HMRC administration on your behalf although you may have to make payments to HMRC directly.

Some may also carry out the following on your behalf as an employer:

- Make payments on your behalf to PAs, HMRC and a pension provider
- Deal with the management of a workplace pension scheme, including auto-enrolment, opt-in and opt-out employees.

There are a range of payroll providers offering services across Scotland.

### How do payroll services manage PAs' wages?

If you are using a payroll service, either you or your PA(s) will complete a timesheet for the days and times they have worked. Your payroll service will advise you how often this should be done (eg. weekly, 4-weekly, monthly). You then send the completed timesheets to the payroll service. Best practice is for both you and your PA(s) to sign the timesheet when you send it to the payroll service.

The payroll service will either send payslip direct to your PA(s), or give you the payslips to pass on to your PA(s) yourself. Your PA's payslip will tell them how much they will be paid after deductions (the amount that will be paid into their bank account) and if any deductions have been made, what these are and how much for.

If your PA(s) have a problem with their pay or payslip, they should speak to you first. If you use a payroll service they can help you sort out any issues.

### Next steps

You can find out more about Payroll Services and what they do by looking at their websites. Use the [Find Help](#) search tool to find contact details for different payroll services. Some only work in some areas of Scotland and others work all across Scotland.

## Pensions and Auto-Enrolment (Workplace Pensions)

Every employer with at least one member of staff now has a responsibility for putting those who meet certain criteria into a workplace pension scheme and contributing towards it. This includes those who employ Personal Assistants (PAs).

This process is called automatic enrolment. This is because it is automatic for staff — they do not have to do anything to be enrolled into the pension scheme. They can choose to opt-out. However, it is not automatic for a PA Employer and there are several things that you will have to do to set this up for your PAs.

As a PA Employer you will need to:

- tell your PA(s) about pension auto-enrolment
- check whether they're eligible
- if they are eligible, set up a pension, enrol them and make the correct contributions.

You will also need to complete an online form to declare your compliance with the rules.

### **Where can I get help to set up a pension for my PA(s)?**

Many PA Employers choose to use a payroll service to manage wages, tax and National Insurance payments for their PAs.

Many payroll services can also help you set up pension schemes for your PAs. You can find out more about payroll services in the Resources section at the bottom of this page.

The Pensions Regulator (which is in charge of auto-enrolment) also has lots of help available for employers to guide and support you through the process.

### **What criteria must a PA meet to be auto-enrolled?**

The rules say that a PA Employer must automatically enrol all staff who on their start date are:

- aged between 22 and state pension age, and
- are working under a contract of employment and
- have 'qualifying earnings' of over £10,000 a year (the limit will be frozen at £10,000 for the foreseeable future).

On the first day a PA starts working for the PA Employer (known as their duties start date), the PA Employer should formally assess them to see if they meet the criteria to be put into a pension scheme.

### **Can a PA Employer postpone auto-enrolment?**

It is possible for an employer to legitimately postpone assessing an employee for auto-enrolment purposes for up to three months. If the PA Employer wishes to postpone their staff, they must write to their PAs individually (within six weeks) to explain this.

### **How much will a PA Employer have to contribute?**

There is a minimum total amount that has to be contributed by the PA Employer, the PA and the government in the form of tax relief.

If a PA is automatically enrolled, Employer contributions must be at least 3% of qualifying earnings (QE).

Qualifying earnings are anything a PA earns over £6,240 up to a limit of £50,270.

### **Next steps**

Take a look at the Resources below to guide you in more detail.

## Resources

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### Next steps

You can find out more about Payroll Services and what they do by looking at their websites. Use the [Find Help](#) search tool to find contact details for different payroll services. Some only work in some areas of Scotland and others work all across Scotland.

The Pensions Regulator: resources for employers  
<https://www.thepensionsregulator.gov.uk/en/employers>

The Pensions Regulator: earnings thresholds  
<https://www.thepensionsregulator.gov.uk/en/employers/new-employers/im-an-employer-who-has-to-provide-a-pension/declare-your-compliance/ongoing-duties-for-employers-/earnings-thresholds>

Automatic enrolment into a workplace pension: Key facts [2 MB]  
<https://handbook.scot/wp-content/uploads/2022/04/Auto-Enrolment-into-Workplace-Pension-Key-FactsDWP.pdf>

## Personal Outcomes and PA Employers

As a PA Employer you may come across the term 'Outcome' or 'Personal Outcome'.

Simply put, an outcome is something that matters to you, that you want your support to help you achieve.

### Personal Outcomes for PA Employers

As a PA Employer, you are likely to identify your Personal Outcomes in your Personal Outcomes Plan (or Support Plan).

These will focus on what's important to you and what you would like to achieve. You can see some examples in the picture below:

## What are personal outcomes?



When we talk about personal outcomes we mean the things that are important to people in their lives.

“I want help with getting my confidence back in the kitchen. Home cooking makes a house into a home and the smell of soup on the stove makes me feel I am making a home for my husband and me.”

**Iris, 82**

Home from hospital after breaking her leg in a fall

Personal outcomes often relate to maintaining or improving wellbeing.



### Why Outcomes are important to PA Employers

As a PA Employer you may want to help your PAs to understand the Personal Outcomes you are trying to achieve. This will help your PAs understand how the support they provide makes a difference to your quality of life.

You could do this by:

- Including information on your Personal Outcomes in your PA's Job Description
- Talking with prospective PAs about your Personal Outcomes at the interview stage
- Providing further information to your PAs on Personal Outcomes, including the sharing your Personal Outcomes Plan
- Provide opportunities for your PAs to undertake further training or development on Personal Outcomes
- If you contract with self-employed PAs, to ask that information on meeting your Personal Outcomes is included in that contract.

### Next Steps

Find some more Resources below for further information on Outcomes.

## Resources

An Introduction to Self-directed Support (for PA Employers)

The law in Scotland ensures that everyone who is eligible for social care funding has the right to choose how their social care support is delivered. The law is called the Social Care (Self-directed Support) (Scotland) Act 2013.

Self-directed Support (SDS) is available to anyone who meets the eligibility criteria that their Local Authority (council) has set. It is available to children, young people, adults and older people.

A person can apply for support for themselves and a parent can apply for their child or young person. Someone with active Power of Attorney, Welfare Guardianship or Financial Guardianship can apply on behalf of the person they are Guardian for.

## The 4 options for SDS

### Option 1

Known as a Direct Payments, this is where the supported person receives the money they need to pay for their support, directly from their Local Authority (Council). This allows them to arrange their own support or purchase a service from a support provider. This is the only option under which Personal Assistants (PAs) can be employed.

### Option 2

This option involves the supported person asking someone else to manage the money on their behalf. This could be their council or another organisation. This is sometimes called an Individual Service Fund or ISF. The supported person decides how they want their support to be provided, and the organisation arranges the support and manages the money.

### Option 3

With the supported person's agreement, their council finds a service that meets their needs and arranges their support.

### Option 4

A mixture of any of the other 3 options can be used to arrange care and support.

## Next steps

You can get help with Self-directed Support from local Independent Support Organisations. Search for your nearest one using the Find Help search tool below.

You can also take a look at the video resources below.

An Open Badge on Understanding Personal Outcomes

An Open Badge that explains what Personal Outcomes are

<https://www.badges.sssc.uk.com/badges/understanding-personal-outcomes/>

Talking Points: Personal Outcomes Approach [1.5MB]

A Practical Guide to understanding what Personal Outcomes are

[https://handbook.scot/wp-content/uploads/2022/10/talking\\_points\\_-\\_practical\\_guide\\_-\\_21\\_june\\_2012.pdf](https://handbook.scot/wp-content/uploads/2022/10/talking_points_-_practical_guide_-_21_june_2012.pdf)

Outcomes and Co: Conversation Openers (Iriss)

Outcomes & CO are conversation openers that were created to support practitioners and managers across social care to reflect on their views, values and experiences of a personal outcomes approach.

<https://www.iriss.org.uk/resources/tools/outcomes-co>

## Protecting Vulnerable Groups (PVG): For PA Employers

The Protecting Vulnerable Groups (PVG) scheme has existed in Scotland since 2011.

It is managed by Disclosure Scotland and helps make sure that people who are unsuitable to work with children and protected adults cannot work with these vulnerable groups.

If you offer someone a job as a Personal Assistant, you may ask them to join the PVG scheme. If they are already in the PVG scheme for another reason, you may still ask them for a statement confirming their PVG scheme membership.

Disclosure Scotland carries out criminal record checks when a Personal Assistant applies to the PVG scheme. It shares the results of these checks with the Personal Assistant and, in some circumstances, with you directly as their employer.

### **Upcoming changes to the PVG scheme for Personal Assistants**

A new law will come into force in April 2025 that will make it a legal requirement for Personal Assistants to join the PVG scheme.

This page gives you everything you need to know to help prepare for the changes.

### **What do the changes mean for Personal Assistants?**

Currently, many Personal Assistant employers ask potential Personal Assistants to join the PVG scheme as it is good employer practice. At the moment, the PVG scheme is not mandatory.

A new law in Scotland, the [Disclosure \(Scotland\) Act 2020](#), means that from 1 April 2025, Personal Assistants will be legally required to join the PVG scheme.

This is because Personal Assistants — from 1 April 2025 — are doing what is called a 'regulated role' in supporting someone who may be vulnerable, for example, an elderly or disabled person, or a child.

It ensures that Personal Assistants who are unsuitable for a 'regulated role' are not given the opportunity to continue working with children or protected adults.

### **Do all Personal Assistants have to join the PVG scheme?**

From 1 April 2025, most people working in Scotland as a Personal Assistant will be legally required to join the PVG scheme.

This includes Personal Assistants who are employed by an individual employer, and self-employed Personal Assistants.

The only exceptions are:

- Where the Personal Assistant is carrying out the role as part of a family relationship. A 'family relationship' includes a relationship between two people who live in the same household and treat each other as though they were members of the same family.
- Where the Personal Assistant is carrying out the role as part of a personal relationship and where there is no commercial gain for the Personal Assistant, for example, they are not paid to work as a Personal Assistant.

### **When do the changes come into force?**

It will be a legal requirement for Personal Assistants, who are not exempt, to join the PVG scheme from 1 April 2025. Many Personal Assistants will already be members of the PVG scheme so the change will not affect them.

### **What do I have to do as a Personal Assistant employer?**

You do not have to do anything. A Personal Assistant can join the PVG scheme, or apply as an existing PVG scheme member, without you being involved in the application process.

However, when the Personal Assistant applies for a PVG scheme membership, you can (if you wish) complete a part of the application form to add your own details and countersign the application. This means that you will get a copy of the results from Disclosure Scotland directly. There is no additional cost if you countersign the application.

### **What happens to me as the employer if my Personal Assistant doesn't join the PVG scheme by 1 April 2025?**

It is the Personal Assistant's legal responsibility to join the PVG scheme if they want to continue in a 'regulated role'.

As an employer, you cannot be held accountable if your Personal Assistant doesn't join the PVG

scheme.

If someone continues to work as a Personal Assistant (who do not meet the exceptions) after 1 April 2025 without joining the PVG scheme it is them, and not you as the employer, who will be breaking the law.

The onus is on the Personal Assistant to ensure that they are a member of the PVG scheme. They will be breaking the law if they work in a 'regulated role' after 1 April 2025 without being a member of the PVG scheme.

Ensuring your Personal Assistant is a member of the PVG scheme confirms that you are not employing someone who has been deemed unsuitable for work with children and/or protected adults. This helps to safeguard you and/or the person receiving support.

Your Personal Assistant must join the PVG scheme by 1 April 2025 to prevent them from committing a criminal offence.

### **When do Personal Assistants need to apply to join the PVG scheme?**

From 1 April 2025, Personal Assistants must be a member of the PVG scheme to carry out this role, unless they are exempt from this requirement due to a family or personal relationship as detailed above.

Personal Assistants should not wait until 1 April 2025 to join the PVG scheme if they are eligible to do so — they can join any time prior to 1 April 2025.

### **How do Personal Assistants join the PVG scheme or apply as an existing PVG scheme member?**

Personal Assistants can apply to join now [via the Disclosure Scotland website](#).

### **What results will be shared with the Personal Assistant or me directly?**

The Personal Assistant will receive a statement advising if they are barred from doing a regulated role, or if they are under consideration for listing, which means that Disclosure Scotland has been notified that they may be unsuitable for a 'regulated role'.

You will only receive a copy of the results if you have countersigned your Personal Assistant's application to join the PVG scheme or apply as an existing PVG scheme member.

### **How much does it cost to join the PVG scheme?**

Applying to join the PVG scheme costs £59. However, if your Personal Assistant is already in the PVG scheme for another reason, to take on a Personal Assistant role they should apply for a Scheme Membership Statement, at a cost of £18.

You can find full details of PVG scheme fees on Disclosure Scotland's [website](#).

### **Who should pay for the PVG scheme check?**

Either the employer or the Personal Assistant can pay Disclosure Scotland. The new law about the

PVG scheme does not state who is responsible for paying the fee.

If you receive funding from your local authority or Independent Living Fund (ILF) Scotland to employ Personal Assistants, you should discuss with your social worker, or ILF Scotland, whether the cost of carrying out a PVG check on your Personal Assistant is included within your budget.

### **How long does it take to process a PVG scheme application?**

14 days.

### **What if my Personal Assistant is already a member of the PVG scheme?**

If your Personal Assistant is already in the PVG scheme for another reason, you can still ask them for a copy of their Scheme Membership Statement confirming their PVG scheme membership.

Your Personal Assistant can apply for a Scheme Membership Statement via [Disclosure Scotland's website](#).

### **Where can I get more information?**

You can keep up to date with the changes [on the Disclosure Scotland website](#).

If you have any questions about the PVG scheme or Personal Assistants, you can contact Disclosure Scotland by phone or email, contact details can be found [on their website](#).

There are local organisations in Scotland who can support Personal Assistant Employers to understand and manage the PVG process. Find your local organisation [using the Find Help search tool](#).

## **Resources**

Search for a local organisation using Find Help  
<https://handbook.scot/find-help/>

## **Redundancy for PAs**

If your employer is making you redundant, they must:

- Tell you why they are making you redundant and discuss the situation with you
- Tell you how long your notice period is
- Keep paying you until the end of your notice period.

If you are made redundant, you will usually carry on working until the end of your notice period. How long your notice period is depends on how long you have worked for the employer.

Sometimes your employer may want to pay you instead of having you work out your notice period.

If your employer is making you redundant, it is good practice for them to put in writing:

- The length of the notice period
- The date the notice period starts
- If you can leave before the end of your notice period
- If you need to take any unused holiday before you leave
- If you still get contractual benefits, for example a fuel card or mobile phone, during your notice period.

### **How much redundancy pay can a PA get?**

You only have the right to redundancy pay if you are legally classed as an employee, and you have worked for your employer for more than 2 years.

If you're not sure if you are classed as an employee, it's a good idea to check your employment status. Read the article at the bottom of this page, 'What's the difference between employed and self-employed PAs' for more information.

How much redundancy pay you could get depends on:

- your age
- how long you have worked for your employer
- your weekly pay (before tax).

The law says that if you are classed as an employee and you've worked for your employer for more than 2 years, you should get a minimum amount of redundancy pay. This is called Statutory Redundancy Pay.

You might not be eligible for statutory redundancy pay if your employer offers a suitable alternative job and you turn the offer down.

You might get more than the statutory redundancy pay if it says you are entitled to more redundancy pay in your contract of employment.

### **Limits on redundancy pay**

There are limits and caps on how much statutory redundancy pay you may be eligible for. Check out the Resource at the bottom of this page, 'Redundancy: Your Rights', for more information.

### **If your employer does not give you a redundancy payment**

If you do not get the redundancy pay you expect, you should:

- Write to your employer as soon as you can. The date you should get your redundancy pay should be no later than your final pay date, unless you and your employer agree another date in writing.
- Tell the employer what you are entitled to and include any evidence to back this up. For example, you could include a letter that states your first day at work, or an email confirming a recent pay

increase.Â

If you need to claim for any unpaid redundancy money, you need to do this within 6 months of your job ending.

You may wish to get advice if you are being made redundant.

PAs who are members of ILG PA can access free legal advice. [Find out more on their website.](#)

You can contact the Personal Assistant Network Scotland for advice around redundancy. [Find out more on their website.](#)

## Next steps

Ask your employer about their policy on redundancy and take a look at the resources below for further guidance.

## Resources

Redundancy: your rights

<https://www.gov.uk/redundancy-your-rights>

Redundancy Payment Helplines

The helpline numbers for ACAS and UK Government

<https://www.gov.uk/redundancy-payments-helpline>

What's the difference between Employed and Self-Employed PAs?

When someone is considering taking on a Personal Assistant (PA) it is important to understand their potential employment status, which will affect the legal relationship and financial responsibilities between both parties.

For example, a PA Employer would be responsible for paying the tax and National Insurance for the PA(s) they employ, but a self-employed PA would be responsible for paying this themselves.

This is something that everyone considering taking on a PA needs to be aware of. To help understand this, there are some basic definitions of different employment statuses that a PA could have. These include:

### When a PA is an employee

- A PA who has a Contract of Employment is an employee
- The PA employer is required to offer the PA work under the terms of the contract
- The PA is required to accept the work offered under the terms of the contract
- The PA must perform their work personally and cannot send someone else to do this instead of them

- The PA will be working under the control and direction of the PA Employer
- The PA will be provided (by the PA Employer) with any equipment they need to enable them to fulfil their role as a PA
- The PA pays tax through Pay As You Earn (PAYE), and National Insurance payments will be made on their behalf by the PA Employer
- The PA will receive statutory benefits, such as statutory sick pay
- The PA be entitled to holiday pay
- The PA will be subject to the disciplinary procedures set up by the PA Employer.

It may be that the relationship the PA Employer intends having with the person is better described under a casual work agreement.

### **Casual worker**

The term casual or relief worker applies to PAs who work with a supported person on a temporary basis or ad hoc basis.

Temporary work or ad hoc work is defined as being:

- Work which occurs only once, and for a short period of time
- Work which occurs more often but in an unpredictable or irregular way
- Work where there is no obligation on the part of the PA Employer to offer the work
- Work where there is no obligation on the part of the PA to accept the offer of work
- Workers are entitled to be provided with a statement of the terms that cover their engagement
- The Contract of Employment uses wording like 'casual' or 'as required'.

In situations where you're asking a PA to work now and again at different times on a casual basis, there may be no requirement for the PA Employer to offer work, and no requirement for the PA to accept any work.

Casual and relief workers have the right to receive holiday pay, the National Minimum Wage and to be auto enrolled into a pension scheme (if eligible).

If however, a casual/relief worker's working pattern becomes, over time, set and regular, then this arrangement would have to be reconsidered as they may be regarded as a permanent employee. A casual worker's working periods should consist of short, irregular work with gaps in between so that a continuity of employment is not established.

Having casual/relief workers available can really help a PA Employer manage their rota, such at times of sick leave or holidays. However, it is important to understand when casual work becomes a permanent and what a PA Employer's responsibilities are if this happens. It is helpful for some PA Employers to have several casual/relief workers available for them to approach to cover holidays and unscheduled emergencies.

### **Working out if a PA is self-employed or not**

There are two areas to consider when trying to work out whether a PA is a self-employed worker or not. These relate to:

- Employment status for tax purposes and

- Employment status for work purposes

HMRC have outlined certain questions to help decide if a worker is self-employed for tax purposes. More information and a tool to help determine employment status, called "Check Employment Status for Tax" can be found in the link at the bottom of this page.

We cannot freely choose our employment status and it is determined by how our work is set up.

When it comes to the PA role, here are some helpful comparisons:

**Employed (including casual/relief workers) Self-employed**

The person with the direct payment\* determines when the PA will work.

The PA chooses when they will work.

The person with the direct payment\* provides all equipment to enable the person to do their job.

The PA provides their own equipment.

The PA must agree time off for annual leave with the person with the direct payment\*. The PA informs the person with the direct payment\* of when they will take holiday.

The person with the direct payment\* determines the rate of the pay.

The PA determines their own rate of pay and informs the person with the direct payment. They may raise their rate without notice.

The PA has employment rights eg. to Statutory Sick Pay, paid holiday and the right to request flexible working. The PA must make their own arrangements to ensure they can cover their finances in the event of sickness absence or holiday.

The person with the direct payment\* supervises the PA.

The PA is not under direct supervision.

The person with the direct payment\* lays out the terms of the arrangement in the form of a Contract of Employment and Statement of Particulars (written for those not working on a casual or relief basis). There is not a written agreement, or the PA operate under a contract (sometimes known as a 'contract for services') that uses terms like 'self-employed.'

\*or a nominated 'other' eg. guardian or a person with power of attorney

## Next steps

You can find out more information using the links below.

ILG PA

<https://www.ilg-pa.com/>

PA Network Scotland Website

Further information on ID Badges for PAs can be found at the PA Network Scotland website <https://www.panetworkscotland.org.uk/>

## Smoking in the home: a guide for PAs and Employers

Smoking or vaping is a health, safety and wellbeing issue for Personal Assistants, the people they assist, and their employers. Sometimes the legal employer is the person being assisted and sometimes it is someone else acting on their behalf.

Either a PA or the person they are assisting may be a smoker, and this could affect the health and wellbeing of other people, including other PAs.

This article sets out key considerations that both PAs and their employers need to be aware of when it comes to the issue of smoking in a person's home environment.

### **If the PA employer/ person being supported is a smoker**

Whilst anyone coming into the home of a smoker will need to respect their decision to smoke, people who are legal employers have responsibilities towards their employees when it comes to their health and safety.

If an employer asks someone (such as a Personal Assistant) to carry out work within a home environment, they have a general responsibility for them under civil law.

If an employer lives in a private house and employs a PA to carry out **solely domestic activities** (for example, cleaning, gardening or general personal care), it is unlikely that they will have any responsibilities under the Health and Safety at Work Act 1974 (HSWA).

However, if they employ a PA to **carry out tasks that go beyond what may be considered to be ordinary domestic service**, for example:

- Hoisting, moving and assisting
- Dealing with challenging behaviour
- Using complex medical equipment.

In these cases, they may have responsibilities under the law.

Under the law, a PA employer needs to consider their PAs' and their own safety. PA employers need to protect, so far as is reasonably practicable, the health and safety of their employees, including any risks that arise from exposure to smoke.

### **Considering risk around smoking**

The employer needs to undertake a risk assessment, to establish how much of a risk smoking in the home may have on their PAs and how they will mitigate any risks. Whilst it is for the employer to decide how they tackle the problem of second-hand smoke, this needs to be based on the findings of their risk assessment.

It is important to look for sensible, practical solutions and compromises that protect the wellbeing of PAs as well as respecting the rights of the employer (or person being supported) to smoke in their own home.

When doing a risk assessment, the employer may want to focus on the effects of smoke on those most at risk, such as:

- PAs with respiratory complaints
- PAs who may be pregnant
- PAs subjected to the greatest level of exposure.

To mitigate any risks, the employer may consider things like:

- Deciding not to smoke/ vape when PAs are present
- Warning PAs before lighting a cigarette/ vaping, so they can leave the room
- Opening doors and/ or windows when smoking/ vaping
- Putting on an extractor fan when smoking/ vaping
- Smoking/ vaping next to an open door or window
- Designating certain parts of the house as a smoking area, eg. the kitchen.

### **If a PA is a smoker**

If the employer/ person being supported doesn't want anyone smoking in their home, they have the right to expect a smoke free home environment. If a Personal Assistant is a smoker, their employer should discuss with them the best way for them to manage this at work. They could consider:

- Making time for the PA to take smoking breaks while they are working
- Agreeing where the PA is allowed to smoke/ vape eg. outside the house only, or next to an open door/ window.

If an employer employs more than one PA, they need to consider the effect of one PA smoking on the other PAs too. They should include this when they do a risk assessment.

### **Next steps**

Take a look at the Resources below for more information.

### **Resources**

Introduction to Health and Safety

Health and safety is an important aspect of employing Personal Assistants. The moment a person is

employed as a Personal Assistant, their Employer is responsible for their health, safety and welfare at work.

Health and safety also applies to people who work in the home such as self-employed PAs, agency staff or contractors.

### **What do PA Employers need to do?**

- Firstly, you need to do a risk assessment. Employers have a legal duty to protect their Personal Assistants from harm. A risk assessment should identify what could cause injury or illness (hazards), decide how likely it is that someone could be harmed and how seriously (the risk) and take action to eliminate the hazard, or if this isn't possible, control the risk
- Secondly, you must make your Personal Assistant(s) aware of the risk assessment through the induction process
- Thirdly, you must make sure that your Personal Assistant(s) are trained to use equipment, to enable them to work in a safe manner.

Normally your Employer's Liability Insurance will require that you do a risk assessment, to minimise the risk that a Personal Assistant could make a claim against you.

### **Risk Assessments**

To help you do a risk assessment, you can take a look at the leaflet 'Steps Needed to Manage Risk' link in the Resources section below.

The five steps are:

- identify the hazards
- decide who may be harmed and how
- think about the risks and how you can reduce or prevent them
- record your findings and implement them
- review your risk assessment and update if necessary.

In identifying the hazards you should consider the following:

- in what areas of your home will the PA work?
- will the PA need to assist you to move around your home?
- are there hazards outside the home?
- will the PA work outside the home?
- will the PA be using your car or their car to transport you?
- will the PA be assisting you with mobility inside or outside the home?
- will the PA be expected to lift anything heavy?
- what type of equipment will the PA use — is this mechanical or electrical?
- will the PA be cooking for you?
- are there any pets or animals in your home that may present a risk to your PA?
- don't forget to include smoking as a hazard if you are a smoker.

When you are thinking about who may be harmed, this could include:

- the PA(s)

- the person being supported (if this is someone different from yourself)
- any other members of your family and friends who may be affected by what the PA does
- any other visitors who may come to the home, eg. social work, support providers etc.

Once the risks are identified, write these on a risk assessment form so you can show what action is in place to prevent any harm from the hazard and also what precautions need to be taken to minimise the risk.

You will have to show how the risks can be reduced, and who by. Normally the aim is to eliminate the risk by removing it from the premises. But where this is not possible you will have to make sure that the people affected by the hazard are trained in how to avoid the risk of injury or harm.

You will have to keep training records to provide evidence that training has taken place and the PA is aware of their responsibility to work in a safe manner.

## **Health and Safety Training**

Health and safety training is an important responsibility for PA Employers.

You must show that you have trained your PA(s) in Health and Safety matters on their first day of employment. It is not a task which can be done later, because if that person has an accident on their first day and training has not been carried out, you could be liable for prosecution depending on the seriousness and likelihood of the accident.

As well as general training on Health and Safety you will need to have some simple documents listing all the equipment the PA will be required to use. This is to demonstrate that training has been given, and that the PA is able to use the equipment safely.

## **Next steps**

Check out the Resources below for further guidance on Health and Safety and completing a risk assessment.

Health and Safety Executive: Health and Social Care - Frequently asked Questions

These FAQs help illustrate the nature of some of the issues that the Health and Safety Executive routinely gives advice on. The list is not exhaustive and further questions and answers may be added at a later date. The FAQs cover:

- Lifting equipment and manual handling
- Health and Safety training
- Second hand tobacco smoke
- Health and safety responsibilities when employing PAs to work in your own home

<https://www.hse.gov.uk/healthservices/faqs.htm#q2>

## Thank you

With thanks to the organisations involved in the development of this resource:

Scottish Government

Ayrshire Independent Living Network (AILN)

Community Contacts

Cornerstone SDS

Dundee Carers Centre

Lothian Centre for Inclusive Living (LCIL)

PA Network Scotland

SDS Forth Valley

To all the PA Employers who gave their time and expertise as part of the PA Employer Reference Group.

To all Local Authority, Independent Living Fund (ILF) Scotland and Disclosure Scotland colleagues who gave their time and expertise as part of the Local Authority Reference Group.

## The law around Self-directed Support, Direct Payments and employing PAs

There are various laws and pieces of guidance that govern how someone can access a Direct Payment through Self-directed Support, in order to employ Personal Assistants.

The main law is called the Social Care (Self-directed Support) (Scotland) Act 2013. This is the law that sets out how Self-directed Support works and how someone can access a Direct Payment (also known as a SDS Option 1) to employ Personal Assistants.

There is another law called the Self-directed Support (Direct Payments) (Scotland) Regulations 2014. This sets out the rules around:

- The calculation and payment of Direct Payments under Option 1
- When it's possible for a Local Authority to stop a Direct Payment
- The employment of family members
- When someone is not eligible for a Direct Payment
- When the Local Authority don't have to offer the choice of a Direct Payment to someone.

You can find links to these laws in the Resources section below.

As well as these laws, the Scottish Government have published Statutory Guidance. This is not law, but is written to help Local Authorities (councils) understand how they should manage Self-directed Support and Direct Payments.

The latest version of the Guidance was published in November 2022 and can be accessed at the Resource link at the bottom of this page.

### How can I use the laws and guidance?

If you have any issues when it comes to accessing a Direct Payment (SDS Option 1) or using one to employ Personal Assistants, it may be helpful to find out what the law and Statutory Guidance says about your rights.

You may also find it helpful to visit the SDS Handbook which has examples of what the law and Statutory Guidance says about Direct Payments: [Option 1 \(SDS Handbook\)](#)

### Next steps

Take a look at the Resources below to guide you in more detail.

### Resources

Social Care (Self Directed Support)(Scotland) Act 2013  
<https://www.legislation.gov.uk/asp/2013/1/contents/enacted>

An Easy Read guide to the Social Care (Self-directed Support) (Scotland) Act 2013 [655 KB]  
<https://handbook.scot/wp-content/uploads/2022/04/An-Easy-Read-Guide-to-the-Social-Care-Self-dir>

[ected-SupportScotland-Act-2013.pdf](#)

SDS Direct Payments Legislation

[https://www.legislation.gov.uk/ssi/2014/25/pdfs/ssi\\_20140025\\_en.pdf](https://www.legislation.gov.uk/ssi/2014/25/pdfs/ssi_20140025_en.pdf)

Statutory Guidance for the Social Care (Self-directed Support) (Scotland) Act 2013: November 2022

<https://www.gov.scot/publications/statutory-guidance-accompany-social-care-self-directed-support-scotland-act-2013-2/>

## The Law for PA Employers

You will have received a lot of information regarding the role and responsibilities of becoming a PA employer (see resources at the bottom of this page). This can feel overwhelming at times and you may feel it is too much to take on, especially if you have many other commitments in your life. However, there is support available from both an Independent Support organisation and your local authority (council).

When someone becomes a PA employer they will also have the support of their Employment Liability Insurer. It is important to follow their advice whenever this is provided. This will help to make sure that the employer follows the law as required.

There are certain things that a PA employer has to do, which cover such areas as:

- Health and Safety
- Recruitment and employment
- Wages, Pensions, Tax and National Insurance
- Training for PAs
- Record keeping and GDPR
- Using your SDS budget for the things you have agreed with your Council

Here is a list of a few things that a PA Employer has to do by law:

- Register as an employer with HMRC
- Purchase Employers Liability Insurance
- Pay the wages, Tax, National Insurance and pension of each PA employee. (You can ask a payroll company to do this on your behalf)
- Provide appropriate training for each PA(s) from an appropriate training provider. This is especially important if a PA is required to use equipment, such as a hoist, or give medication
- Keep all relevant information and correspondence relating to the employment of any PA(s) confidential and secure
- Undertake appropriate risk assessments on your property if the PA(s) supports you at home, as well as any risk assessments on any relevant activity that the PA will undertake in the home
- Letting the Council know how you have spent your SDS budget and how this is meeting your needs
- Issue a statement of particulars of employment on day 1

This is not a full list and it might be helpful to talk through relevant areas of the law for PA employers with an Independent Support Organisation or your Council.

The other things to be aware of as a PA employer is how you communicate and develop the relationship you have with your PA(s). The day-to-day relationship you have will make a big difference to how successful the support works for you.

## Next steps

Take a look at the resources below on information regarding the role and responsibilities of becoming a PA employer.

## Resources

Handbook: PA Employer Responsibilities

<https://handbook.scot/article/pa-employer-responsibilities/>

An Employer's Responsibilities to their PAs During COVID-19

Employers have a legal duty to make the workplace safe for their Personal Assistants (PAs). It's the employer's responsibility to regularly carry out workplace risk assessments and take steps to protect employees from harm, which includes reducing the COVID-19 risk. Employees also have a responsibility to follow safe working practices.

It's a good idea to involve employees when carrying out a workplace risk assessment, as they may have suggestions/ideas.

There is a range of information and advice available for employers on COVID-19. These cover such areas as:

- Who can go into the workplace
- Self isolation and sick pay
- PAs protecting themselves, their employer and others
- Government Guidelines and employer requirements
- Getting the vaccine
- Access to PPE and testing
- Long COVID
- Other financial support
- Standard Infection Control Precautions (SICPs)

COVID-19 still remains a concern for public health and therefore employers are encouraged to continue with all protective measures identified by their risk assessment, to make appropriate adaptations to workplace practises and to maintain a vigilant approach to managing COVID-19.

Employers are encouraged to continue following the advice in the COVID-19: Fair Work Statement. It states that **no worker should be financially penalised by their organisation for following medical advice**, and any absence from work relating to COVID-19 should not affect future sick pay entitlement, result in disciplinary action or count towards any future sickness absence related action.

## Face coverings when in close contact with people

For close contact treatments provided to the face, mouth or nose area, people must follow any advice given. Individuals who have received two doses of the COVID-19 vaccination and a booster are still required to follow any current rules on face coverings.

## Risk assessments

Staff are at the highest risk of exposure to COVID-19 when working in close proximity to the face, nose or mouth of another person. For this reason, risk assessments should be carried out to consider what measures need to be implemented to protect the health and safety of all staff and PA employers, including whether or not to carry out the support required.

## Risk assessments and COVID-19

The requirement for every employer to explicitly consider COVID-19 in their risk assessment was removed on 1 April 2022.

The most important thing is **what is actually done to manage and control risk associated with COVID-19 in the workplace.**

Public Health Scotland has published guidance on how to carry out risk assessments that sets out further detail on managing workplace public health risks

The Scottish Government are encouraging employers to take the needs of those on the Highest Risk List into consideration when completing a risk assessment.

For those PAs returning to the workplace it is advised that employers carry out an **individual risk assessment** to look at your individual risk. This can help individuals and employers to discuss any additional changes that may be needed to make the workplace and duties safer.

Employers are encouraged to consult closely with employees on the Highest Risk List.

## Managing risk in the workplace

Employers can manage risks to their PAs by:

- Encouraging staff to **wear face coverings** in enclosed, busy areas, or places which are less well ventilated
- **Maximising ventilation** and the use of outside space if possible
- **Reinforcing enhanced cleaning**, particularly of frequently touched surfaces, and hygiene measures such as providing alcohol based hand sanitiser
- Supporting the distance aware scheme
- Encouraging staff to **travel safely when going to and from the workplace**
- PAs should not travel to work or car share if you have symptoms of coronavirus
- Vehicle sharing at work involving close contact with other individuals. PAs should wear face

- coverings, ensure vehicles are well ventilated by opening windows and clean after each journey
- Protecting those at highest risk via conducting an individual risk assessment
  - Continue to support workers to follow self-isolation guidance. From the end of April 2022 anyone experiencing COVID-19 symptoms will be advised to stay at home
  - Reducing the overall contacts between people
  - Regularly communicating with employees
  - Developing plans to adjust shift patterns to protect the workforce
  - Reducing the need for travel at peak times and providing opportunities for flexible working
  - Continuing to work with staff on health and safety matters such as providing training around any new processes and protocols introduced
  - Considering available resources to support the welfare and mental health of staff
  - Encouraging the uptake of vaccination

## **Vaccination**

Employers can help encourage vaccine take up by:

- Supporting staff to get the COVID-19 vaccine once it is offered to them. This may require paid time off to attend the appointment
- Encouraging vaccine take up by sharing the benefits of being vaccinated with staff. It could help to display material from the NHS COVID-19 vaccination marketing toolkit which includes information leaflets in a number of languages

## **Standard Infection Control Precautions (SICPs)**

SICPs are the basic infection prevention and control measures necessary to reduce the risk of transmission of infectious agent from both recognised and unrecognised sources of infection.

The Scottish Government has set out the SICPs that are to be used by all staff, in all health and care settings, at all times, for all service users, whether infection is known to be present or not to ensure the safety of those being cared for, staff and visitors in the care environment.

As PA employers have the responsibility for health and safety of their staff members, it will be the responsibility of PA employers to assess risk for COVID-19 and to put in place appropriate Infection Control Precautions.

## **Next steps**

Take a look at the resources available below to guide you in more detail.

## **The PA Employer Pathway**

There are seven steps to becoming a Personal Assistant (PA) employer.

### **Step 1: Contact a local Independent Support Organisation**

Before applying for support you can speak to someone from a local organisation who understands how to access social care in the area. There are Independent Self-directed Support (SDS) Information and Support organisations in all areas of Scotland. Most will be able to talk about what it means to become a PA Employer and how this happens locally. You can use the [Find Help](#) service on this site to find them.

### **Step 2: Ask for a Social Work assessment**

To access Self Directed Support, a Social Work Assessment is required to assess eligibility for funding from the Local Authority (Council). Following an assessment, if eligible for support, the Council and the supported person will discuss the four options of Self Directed Support to find the best option for the supported person. Option 1 (a Direct Payment) would possibly involve becoming a PA Employer. The Local Authority will explain the SDS budget prior to support planning.

### **Step 3: Create a support plan**

Think about how you want to live your life and what support you need to do this. This can include support to help you maintain your independence at home, as well as being able to access opportunities in your local community. This is where you decide on the Personal Outcomes you want to achieve and put these ideas into a Support Plan. You can get help from a local Independent Support Organisation to do this. Once you have completed your Support Plan you need to agree this with your Social Worker.

### **Step 4: Request an Option 1 SDS budget**

Talk through your support plan with your Social Worker. If you would like to employ your own staff (Personal Assistants) to help meet your needs, talk through what this involves in detail. If this looks of interest to you, ask for an Option 1 SDS budget to be worked out by your Local Authority.

### **Step 5: Planning to be an employer**

Before employing a PA, decide what you want your PA(s) to help you with and when. Some local Independent Support Organisations provide training and information sessions to help you as a new Employer (which may be available online).

### **Step 6: Recruitment**

Get help to put together the information you need to advertise for your PA(s), such as a Job Description and list of qualities and experience that you are looking for in a PA. Start to recruit your PA(s) — you can find out more about how to do this here: [The Recruitment Process](#)

### **Step 7: Review**

Once you have recruited your PA(s), review how things are working. Check to see that your Support Plan continues to meet your Personal Outcomes in the future. Know where to go if you need further information, advice or support with managing your PA(s) or meeting your needs. If anything changes and you need more support in the future, you can ask your Social Worker or the Council to review

your support with you.

### Next steps

Take a look at the resources available below to guide you in more detail.

### Resources

Further reading: Register as an employer with HMRC

<https://www.gov.uk/register-employer>

Contingency Plan Example [15 KB]

<https://handbook.scot/wp-content/uploads/2022/04/Contingency-Plan-Blank.pdf>

Handbook: Understanding employment status

<https://handbook.scot/article/pa-employment-status/>

## The Recruitment Process



Recruiting the right people as your Personal Assistants is very important.

This article talks you through each step of the process to give you the best chance of attracting the right people to work for you.

How you recruit is also very important. You need to make sure you are not discriminating against anyone in the way you advertise for PAs and the questions you ask at interview, as this could potentially lead to someone taking legal action against you. You can find more information on preventing discrimination in the Resource at the bottom of this page.

### **Support with recruitment**

There are many local organisations who can support Employers with recruitment. Some can help with every step of the process, including thinking about what skills your PA needs, placing job adverts for you, helping you interview and supporting you with all the paperwork.

You can search for organisations in your area [using the Find Help search tool](#).

### **Writing a job advert**

When advertising for a PA, consider what skills and experience you need your PA to have.

It is a good idea to write a job description and person specification to give people a better idea of what you are looking for and what skills and experience you want them to have.

You can find a template to help you write a job advert and person specification in the Resource at the bottom of this page below, Templates for PA Employers.

### **Advertising**

There are many places you could consider advertising for PAs:

- Job sites eg. Indeed (some of these will charge for placing an advert)
- Local Facebook groups
- Putting up posters in local shops.

Some areas have a local organisation which advertises for PAs on their website. Find out if there is an organisation that does this in your area using the [Find Help search tool](#).

You may also want to ask family, friends and other people in your community if they know someone who would be interested in being your PA.

### **Interviewing**

The interview is an opportunity to find out more from the people who have applied for the job.

You can choose to carry out interviews yourself, or with someone helping you.

Write down some questions you want to ask the candidates, and ask the same questions to all the candidates. This will help you conduct the interviews fairly and make sure you give the candidates equal opportunity to tell you about their skills and experience for the job.

The interview is a two-way process and allows the applicant to find out more about you and the PA role you have advertised.

### **Good practice for interviews**

To get the most out of the candidates, here is some good practice to follow when doing interviews:

- When the candidate arrives for interview, help them relax — maybe ask how they travelled to the interview
- Explain that the purpose of the interview is to learn more about the candidate and for them to learn more about the role
- Ask the candidate the questions you have prepared, and take notes
- At the end of your questions, ask the candidate if they have any questions they want to ask you
- Tell the candidate what will happen next — when can they expect to hear back?
- Thank the candidate for applying and coming for the interview.

Another useful point to remember is that the candidate should do most of the talking.

When interviewing for potential PAs, you cannot ask about things which could count as discrimination. The following list is not exhaustive but is helpful to remember:

- Do not ask questions about childcare
- Do not ask if they are married
- Do not ask if they plan on having children
- Do not ask about their sexual orientation
- Do not ask about their religion.

You can find more information about preventing discrimination in the Resources at the bottom of this page.

### **After the interview**

Hopefully you will have found a good candidate and want to offer them the job. Let them know either over the phone or in writing.

You need to have a contract of employment ready for your new PA's first day in the job. Find out more in the article [Contract of Employment for a PA](#).

### **Pre-Employment Checks**

Before your PA starts work you may want to carry out pre-employment checks. Asking for references are a very common pre-employment check. References can be written or verbal, with one normally being from the applicant's most recent job. It is important to get the applicant's permission before you ask anyone for a reference.

You should also check the applicant has the right to work in the UK. You can ask for proof of this

during the interview stage.

You may also wish to check if the applicant is a member of the Protecting Vulnerable Groups (PVG) scheme. From April 2025, it will be mandatory for any Personal Assistant to be a member of this scheme. Find out more in the article '[Protecting Vulnerable Groups \(PVG\): For PA Employers](#)'.

## Offer

You should send a written offer of employment to the successful applicant as soon as you can. The offer of employment should contain the following information:

- Any conditions that apply to the offer (for example that it is dependent on getting satisfactory references)
- Terms of the offer, for example, salary, hours, benefits, pension arrangements, holiday entitlement and place of employment
- The start date and details of probationary period
- What action the candidate needs to take, for example, returning a signed acceptance of the offer.

## Next steps

Take a look at the Resources below for further information.

## Resources

Templates for PA Employers - Skills for Care

<https://www.skillsforcare.org.uk/Recruitment-support/Support-individual-employers-PAs/Individual-employers/Employing-a-PA-Toolkit/Templates.aspx>

Employers: Preventing Discrimination

<https://www.gov.uk/employer-preventing-discrimination/recruitment>

Recruiting a Personal Assistant - Easy Read (Skills for Care)

<https://www.skillsforcare.org.uk/resources/documents/Employ-your-own-care-and-support-staff/Easy-Read/ISL205-19-ER-PA-Booklet-1-FINAL-WEB-ACC-easy-read-020920-new.pdf>

Contract of Employment for a PA

As an employer, you are legally required to give your employees (your Personal Assistants) a document stating their main conditions of employment, when they start work.

This document is often known as a 'written statement of employment particulars'.

We also recommend you have your insurance company check your employment paperwork as you may not be covered by your insurer if you don't do this.

Your local independent support organisation may be able to help you to write a person-centred job description to go with the contract of employment. The contract of employment contains the legally required information, and the job description describes what you want your PA to do. You can find

your local Independent Support Organisation using the [Find Help search tool](#).

## Next steps

Take a look at the resources below, including a sample contract of employment which contains all the elements that are legally required.

### Protecting Vulnerable Groups (PVG): For PA Employers

The Protecting Vulnerable Groups (PVG) scheme has existed in Scotland since 2011.

It is managed by Disclosure Scotland and helps make sure that people who are unsuitable to work with children and protected adults cannot work with these vulnerable groups.

If you offer someone a job as a Personal Assistant, you may ask them to join the PVG scheme. If they are already in the PVG scheme for another reason, you may still ask them for a statement confirming their PVG scheme membership.

Disclosure Scotland carries out criminal record checks when a Personal Assistant applies to the PVG scheme. It shares the results of these checks with the Personal Assistant and, in some circumstances, with you directly as their employer.

## Upcoming changes to the PVG scheme for Personal Assistants

A new law will come into force in April 2025 that will make it a legal requirement for Personal Assistants to join the PVG scheme.

This page gives you everything you need to know to help prepare for the changes.

## What do the changes mean for Personal Assistants?

Currently, many Personal Assistant employers ask potential Personal Assistants to join the PVG scheme as it is good employer practice. At the moment, the PVG scheme is not mandatory.

A new law in Scotland, the [Disclosure \(Scotland\) Act 2020](#), means that from 1 April 2025, Personal Assistants will be legally required to join the PVG scheme.

This is because Personal Assistants — from 1 April 2025 — are doing what is called a 'regulated role' in supporting someone who may be vulnerable, for example, an elderly or disabled person, or a child.

It ensures that Personal Assistants who are unsuitable for a 'regulated role' are not given the opportunity to continue working with children or protected adults.

## Do all Personal Assistants have to join the PVG scheme?

From 1 April 2025, most people working in Scotland as a Personal Assistant will be legally required

to join the PVG scheme.

This includes Personal Assistants who are employed by an individual employer, and self-employed Personal Assistants.

The only exceptions are:

- Where the Personal Assistant is carrying out the role as part of a family relationship. A 'family relationship' includes a relationship between two people who live in the same household and treat each other as though they were members of the same family.
- Where the Personal Assistant is carrying out the role as part of a personal relationship and where there is no commercial gain for the Personal Assistant, for example, they are not paid to work as a Personal Assistant.

### **When do the changes come into force?**

It will be a legal requirement for Personal Assistants, who are not exempt, to join the PVG scheme from 1 April 2025. Many Personal Assistants will already be members of the PVG scheme so the change will not affect them.

### **What do I have to do as a Personal Assistant employer?**

You do not have to do anything. A Personal Assistant can join the PVG scheme, or apply as an existing PVG scheme member, without you being involved in the application process.

However, when the Personal Assistant applies for a PVG scheme membership, you can (if you wish) complete a part of the application form to add your own details and countersign the application. This means that you will get a copy of the results from Disclosure Scotland directly. There is no additional cost if you countersign the application.

### **What happens to me as the employer if my Personal Assistant doesn't join the PVG scheme by 1 April 2025?**

It is the Personal Assistant's legal responsibility to join the PVG scheme if they want to continue in a 'regulated role'.

As an employer, you cannot be held accountable if your Personal Assistant doesn't join the PVG scheme.

If someone continues to work as a Personal Assistant (who do not meet the exceptions) after 1 April 2025 without joining the PVG scheme it is them, and not you as the employer, who will be breaking the law.

The onus is on the Personal Assistant to ensure that they are a member of the PVG scheme. They will be breaking the law if they work in a 'regulated role' after 1 April 2025 without being a member of the PVG scheme.

Ensuring your Personal Assistant is a member of the PVG scheme confirms that you are not employing someone who has been deemed unsuitable for work with children and/or protected adults. This helps to safeguard you and/or the person receiving support.

Your Personal Assistant must join the PVG scheme by 1 April 2025 to prevent them from committing a criminal offence.

### **When do Personal Assistants need to apply to join the PVG scheme?**

From 1 April 2025, Personal Assistants must be a member of the PVG scheme to carry out this role, unless they are exempt from this requirement due to a family or personal relationship as detailed above.

Personal Assistants should not wait until 1 April 2025 to join the PVG scheme if they are eligible to do so — they can join any time prior to 1 April 2025.

### **How do Personal Assistants join the PVG scheme or apply as an existing PVG scheme member?**

Personal Assistants can apply to join now [via the Disclosure Scotland website](#).

### **What results will be shared with the Personal Assistant or me directly?**

The Personal Assistant will receive a statement advising if they are barred from doing a regulated role, or if they are under consideration for listing, which means that Disclosure Scotland has been notified that they may be unsuitable for a 'regulated role'.

You will only receive a copy of the results if you have countersigned your Personal Assistant's application to join the PVG scheme or apply as an existing PVG scheme member.

### **How much does it cost to join the PVG scheme?**

Applying to join the PVG scheme costs £59. However, if your Personal Assistant is already in the PVG scheme for another reason, to take on a Personal Assistant role they should apply for a Scheme Membership Statement, at a cost of £18.

You can find full details of PVG scheme fees on Disclosure Scotland's [website](#).

### **Who should pay for the PVG scheme check?**

Either the employer or the Personal Assistant can pay Disclosure Scotland. The new law about the PVG scheme does not state who is responsible for paying the fee.

If you receive funding from your local authority or Independent Living Fund (ILF) Scotland to employ Personal Assistants, you should discuss with your social worker, or ILF Scotland, whether the cost of carrying out a PVG check on your Personal Assistant is included within your budget.

### **How long does it take to process a PVG scheme application?**

14 days.

### **What if my Personal Assistant is already a member of the PVG scheme?**

If your Personal Assistant is already in the PVG scheme for another reason, you can still ask them for a copy of their Scheme Membership Statement confirming their PVG scheme membership.

Your Personal Assistant can apply for a Scheme Membership Statement via [Disclosure Scotland's website](#).

### Where can I get more information?

You can keep up to date with the changes [on the Disclosure Scotland website](#).

If you have any questions about the PVG scheme or Personal Assistants, you can contact Disclosure Scotland by phone or email, contact details can be found [on their website](#).

There are local organisations in Scotland who can support Personal Assistant Employers to understand and manage the PVG process. Find your local organisation [using the Find Help search tool](#).

## The Role and Responsibilities of a PA (for PA Employers)



One of the main reasons people choose to employ their own staff is the flexibility it offers in terms of

how and when their support is given, to best meet their outcomes.

The Personal Assistant (PA) role involves much more than personal care. There are many potential roles and responsibilities for a PA; supporting an employer at work, at college, or in social activities. Some PAs may be only asked to provide a low level of personal care. There may be a team of PAs with different roles based on their skills, with each team member having a different role. The tasks required of each role should be decided before the PA is recruited.

The tasks carried out by the PA will generally be set by their employer and should be set out in the job description.

PAs have the same responsibilities as other employees in relation to attendance and performance at work. As with other members of the social care workforce, PAs should meet the following requirements of the Scottish Social Services Council (SSSC) Code of Practice:

- Protect the rights and promote the interests of supported individuals and carers
- Work to establish and maintain the trust and confidence of supported individuals and carers
- Promote the independence of supported individuals while protecting them as far as possible from danger or harm
- Respect the rights of supported individuals while making sure that their behaviour does not harm themselves or other people.

## **Regular Conversations**

Good communication between PA Employer and PA is essential. It is good practice to have regular meetings to discuss work issues and to give both parties the opportunity to raise any issues around work. Both parties should be confident that they are able to raise any issues and will be listened to by the other.

## **PA Training**

It is a PA Employer's responsibility to ensure that their PAs receive all mandatory training so that they can carry out their job safely. It is the PAs responsibility to work as trained. More information about training can be found in the resource section below.

## **Absence Procedure**

PA Employers should let their PAs know what is expected of them if they are unwell and unable to come to work. This should include information around letting them know they are unwell and what documentation has to be produced during an extended absence period.

## **Care Plan or Work Notebook**

It is good practice for a PA to note down anything significant that has occurred during their shift, especially if their employer has other PAs who should know what has been done before they start their shift. This helps with continuity of care and keeps everyone informed.

## **Emergency Plan**

It is good practice for PA Employers to have a plan in place in the event of an emergency. It is

important that their PA knows where this plan is and what is expected of them in an emergency.

### Next steps

Independent support and guidance is available to PAs from the Personal Assistants Network Scotland who can be contacted via resource link below.

### Resources

Personal Assistants Network Scotland  
<http://www.panetworkscotland.org.uk/>

## The Role of Information and Support Organisations

Independent Support Organisations are organisations which support people who employ their own Personal Assistant (PA).

They can also provide information to people considering becoming a PA employer, so that they can make an informed choice about their support.

They support PA employers with the responsibilities and requirements of their role, at all stages of the process including:

- considering options around support
- recruiting PAs
- dealing with any problems that arise.

Many of them also offer advice and practical support with PA contracts, insurance, payroll and so on.

Setting up a Direct Payments and becoming a PA Employer can be daunting and, at times, complicated. An Independent Support Organisation will help you to make the process as smooth as possible. They will offer their knowledge and experience of what is involved and aim to give you as much, or as little, help as you need.

### When and how to get in touch with an Independent Support Organisation

Independent Support Organisations are independent from the council, although many will work alongside you and your social work team to help you organise your social care support. In some

areas you need to be referred to an Independent Support Organisation by your social work team, in other areas you can contact your local Independent Support Organisation yourself.

Getting help from an Independent Support Organisation can help you as a PA employer feel more confident in your role and better able to manage any difficulties that arise. If you are thinking about employing Personal Assistants, we recommend you make contact with your local Independent Support Organisation as soon as possible. Find the details of your local organisation using the [Find Help](#) search tool.

## **What an Independent Support Organisation can help you with**

Here are some examples of the support that might be available from an Independent Support Organisation:

- Information about the responsibilities of being a PA employer
- Pre-assessment support before meeting with a social worker
- Help in navigating the journey to managing a Direct Payment and organising support
- Support with recruitment and employment of PA(s)
- Support with managing any difficulties you may have as a PA employer
- Details of local support organisations and help in setting up support
- Payroll services
- Financial management
- Training on becoming a PA employer
- Peer support.

Many of these organisations have staff and volunteers who have personal experience of care and support services. This means they understand the processes because they have been through it themselves, and can give you the help and advice you are looking for.

### **Advocacy services**

As well as Independent Support Organisations, PA Employers may also get help from Advocacy services. Advocacy is a way to help people have a stronger voice and to have as much control as possible over their own lives.

You can search for an Advocacy Service in your area [on the Scottish Independent Advocacy Alliance website](#).

## **Next steps**

Further information about local Independent Support Organisations is available in the resources below.

## **Resources**

Case Study: How an Independent Support Organisation Assisted Paul to Recruit 4 PAs  
<https://handbook.scot/article/case-for-support-paul/>

Search for a local organisation using Find Help

<https://handbook.scot/find-help/>

## The Role of Local Authorities (Councils)

Local Authorities have the responsibility to implement Self-directed Support in their area. To support them in doing this, there are specific laws that have been passed that outline their legal duties, responsibilities and powers.

When meeting their legal duties, Local Authorities also have to take into consideration the underlying principles contained within the law about Self-directed Support. These principles are:

- Participation and dignity
- Involvement
- Informed choice
- Collaboration.

These principles form the basis of an equal partnership between someone looking for support (or their carer) and the Local Authority.

### **Making sure that Self-directed Support works well**

It is Local Authorities' responsibility to make sure that SDS works well in their area. This means making sure that the systems and procedures they have in place enable people to get the support they need, when they need it.

These systems support key activities that Local Authorities undertake, such as:

- Responding to people's requests for support
- Signposting people to other sources of information and support
- Referring people to other organisations for support
- Assessing people's need for support
- Applying eligibility criteria to see if someone is entitled to support
- Once eligible, allocating resources to meet people's needs
- Supporting people to develop Support Plans
- Supporting carers to develop Adult Carers Support Plans or Young Carers Statements.

When you are allocated a Social Work Practitioner they will work with you to make sure the following happens:

- They will make sure you and people involved in your support are included in discussions and decisions as much as you wish to be
- They will complete the assessment of your care needs and establish if your needs meet the current eligibility criteria in their area
- They will complete a Support Plan of how your needs will be met and agree the plan with you
- They will make sure that you know about the services of a local Independent SDS Information and

Support organisation, who can provide further information about support available in your local area

- They will calculate and allocate a budget that will meet the cost of the support needed
- They will make sure that you know about the 4 Options of SDS and how they relate to your circumstances
- They will complete any necessary paperwork
- They will review your support package with you to make sure that everything is working well and your needs are still being met.

## **The role of the Local Authority with PA Employers**

Local Authorities have to make sure that people receiving social care (and carers) understand their rights and choices under SDS, as well as the responsibilities that come with this. These responsibilities include:

- Accounting for how you spend your SDS budget, so that it is meeting your identified needs as agreed with the Local Authority
- That if you are employing your own PAs, that you meet all legal requirements related to this (eg. having Employer Liability Insurance in place).

The Local Authority also has to be sure that anyone becoming a PA Employer is clear about their responsibilities and is 'willing and able' to take these on, even with any support that is available to the person.

## **Next steps**

Take a look at the article on 'The Role of the Local Authority and ILF Scotland as Funders of Self-directed Support. You can also look at the SDS Statutory Guidance, which is legal guidance written for councils to tell them how to implement Self-directed Support.

## **Resources**

The Role of the Local Authority and ILF Scotland as Funders of Self-directed Support

There are 32 Local Authorities (councils) in Scotland and they are responsible for providing a range of public services.

## **The Local Authority and Self-directed Support**

The Local Authority (council) is the organisation responsible for delivering Self Directed Support in their area. They have the responsibility to assess a person's need for social care support.

If a person meets local eligibility criteria, this may result in the council offering the person further support, either by allocating money to give the person to pay for their support, or by identifying a service that the person can use.

The council has certain legal duties and responsibilities to enable them to do this.

The Local Authorities' responsibilities for delivering Self-directed Support are described in the law. The law is called the Social Care (Self-directed Support) (Scotland) Act 2013.

The Local Authority has a duty to consider certain general principles under the Act:

- Collaboration
- Informed choice
- Involvement
- Participation
- Dignity

The Local Authority has a duty to offer the 4 options of SDS when someone has been assessed as being eligible for Self-directed Support. The 4 options outline the different ways that the money made available by the Local Authority, can be paid for the support that people need.

### **The Independent Living Fund Scotland**

Following the closure of the UK Independent Living Fund (ILF) on 30th June 2015, the Scottish Government established a new organisation, Independent Living Fund (ILF) Scotland, to administer ILF for existing recipients of the fund in Scotland.

ILF Scotland operates as a discretionary fund providing financial awards to over 2,300 disabled people in Scotland and Northern Ireland to help them live independently.Â Â

The funding recipients receive is used to purchase social care support to help them meet independent living outcomes that are important to them. Recipients are supported in their own homes and within their own communities, and the funding helps overcome barriers they might face to independent living.

Find out more about the ILF in this article: [Independent Living Fund \(ILF\) Scotland information](#)

### **Self funders or people who pay for their own care**

Some people pay for the care and support they need without receiving any money from their Local Authority or ILF Scotland. They might do this because the cost of receiving support, in the form of a charge (Care Charge) that is levied by the Local Authority, is the same as the cost of purchasing the support yourself, directly from a care agency for example.

Some people might also not wish to go through the assessment process that the Local Authority uses to decide if people have eligible needs that they need to fund.

However, it is helpful for self-funders to know that everyone in Scotland who is assessed as needing support for Personal Care and Personal Support, can receive this type of service free of charge, regardless of the person's age, income or financial position.

It might be possible that as a PA, you are employed by someone who is not funded by their Local Authority, which gives the employer greater flexibility over what support they might ask you to provide. However, the employer is still covered by the expectations of employment law in the UK.

### **Next steps**

You can find further information on ILF at the websites found below.

Statutory Guidance for the Social Care (Self-directed Support) (Scotland) Act 2013: November 2022  
<https://www.gov.scot/publications/statutory-guidance-accompany-social-care-self-directed-support-scotland-act-2013-2/>

## The Social Model of Disability

### **Traditional Models of Disability**

The Social Model of Disability was developed by disabled people to identify and take action against disabled people's oppression and exclusion. It was developed as a direct challenge to the prevailing models of disability. These often viewed disability as an individual, medical problem that needed to be prevented, cured or contained, or as a charitable issue that viewed disabled people as needing to be pitied and catered for by segregated, charitable services.

### **The Social Model of Disability**

## The Social Model of Disability



The Social Model of Disability states that the oppression and exclusion people with impairments face is caused by the way society is run and organised.

The Social Model of Disability, developed over the last 40 years by disabled people, is a radically different model to the medical and charitable approach to disability described above. It states that people have impairments but that the oppression, exclusion and discrimination people with impairments face is not an inevitable consequence of having an impairment, but is caused instead by the way society is run and organised.

The Social Model of Disability holds that people with impairments are 'disabled' by the barriers operating in society that exclude and discriminate against them.

The Social Model not only identifies society as the cause of disability but, equally importantly, it provides a way of explaining how society goes about disabling people with impairments. Sometimes referred to as a "barriers-approach", the Social Model provides a "route map" that identifies both the barriers that disable people with impairments and how these barriers can be removed or minimised by other forms of support.

### Next steps

Take a look at the resources available below for additional reading about the Social Model of Disability.

## Resources

Social Model of Disability Factsheet [2 MB]

Inclusion Scotland's Factsheet on the Social Model of Disability

<https://handbook.scot/wp-content/uploads/2022/06/Inclusion-Scotland-Factsheet-Social-Model-of-Disability.doc>

Social Model of Disability (Easy Read) [867 KB]

Inclusion London's Factsheet: Social Model of Disability Easy Read

<https://handbook.scot/wp-content/uploads/2022/06/Social-Model-of-Disability-Easy-ReadInclusion-London.pdf>

Sticks and Stones: The Language of Disability

Spectrum's Guide to empowering language when talking about Disability and Disabled People

<https://spectrumcil.co.uk/wp-content/uploads/2018/02/ULO19-The-Language-of-Disability.pdf>

## Training for PA Employers

There is some training available to PA Employers from Â Centres for Inclusive Living, Disabled Peoples' Organisations (DPOs), and other local Independent Support Organisations. You can find your local organisation using the [Find Help](#) search tool.

Information and training for PA Employers can include:

- Safe recruitment
- Staff induction
- Health & safety
- Being a good employer
- Employer administration responsibilities
- Understanding basic employment rights
- Payroll and related topics.

ACAS also offer free online e-learning on employment issues, although this is general training and not specifically for people employing Personal Assistants. Visit the ACAS website link at the bottom of this page.

## Next steps

Search for a local organisation to provide PA Employer training, or visit the ACAS e-learning website below.

## Resources

Search for a local organisation using Find Help

<https://handbook.scot/find-help/>

ACAS free e-learning for employers

<https://www.acas.org.uk/online-training>

## Using this handbook

### Welcome to the PA Employer Handbook

For someone learning about becoming a Personal Assistant (PA) employer this guide is structured to provide the information you need at each stage of the journey.

By choosing your stage, the content will change. The articles you see will be an introduction to what you need to know before progressing, but you can start and finish where you choose.

Sections of the Handbook, or the whole Handbook, can be downloaded or printed. If you are printing the Handbook, please be aware that some information can become out of date. We would recommend you check the online version regularly for updates.

The PA Employer Handbook is a live resource, meaning people are contributing to its content all the time. You can contribute too by telling us if you found sections useful or if you think they need improvement.

You can also get support with any aspect of being an employer. There are local organisations across Scotland who can provide information or support relevant to and your stage of being a PA employer.

Click '[Find Help](#)' at the top of this page (or in the menu if you are using a mobile) to find a local organisation who can support you.

## What's the difference between Employed and Self-Employed PAs?

When someone is considering taking on a Personal Assistant (PA) it is important to understand their

potential employment status, which will affect the legal relationship and financial responsibilities between both parties.

For example, a PA Employer would be responsible for paying the tax and National Insurance for the PA(s) they employ, but a self-employed PA would be responsible for paying this themselves.

This is something that everyone considering taking on a PA needs to be aware of. To help understand this, there are some basic definitions of different employment statuses that a PA could have. These include:

### **When a PA is an employee**

- A PA who has a Contract of Employment is an employee
- The PA employer is required to offer the PA work under the terms of the contract
- The PA is required to accept the work offered under the terms of the contract
- The PA must perform their work personally and cannot send someone else to do this instead of them
- The PA will be working under the control and direction of the PA Employer
- The PA will be provided (by the PA Employer) with any equipment they need to enable them to fulfil their role as a PA
- The PA pays tax through Pay As You Earn (PAYE), and National Insurance payments will be made on their behalf by the PA Employer
- The PA will receive statutory benefits, such as statutory sick pay
- The PA be entitled to holiday pay
- The PA will be subject to the disciplinary procedures set up by the PA Employer.

It may be that the relationship the PA Employer intends having with the person is better described under a casual work agreement.

### **Casual worker**

The term casual or relief worker applies to PAs who work with a supported person on a temporary basis or ad hoc basis.

Temporary work or ad hoc work is defined as being:

- Work which occurs only once, and for a short period of time
- Work which occurs more often but in an unpredictable or irregular way
- Work where there is no obligation on the part of the PA Employer to offer the work
- Work where there is no obligation on the part of the PA to accept the offer of work
- Workers are entitled to be provided with a statement of the terms that cover their engagement
- The Contract of Employment uses wording like 'casual' or 'as required'.

In situations where you're asking a PA to work now and again at different times on a casual basis, there may be no requirement for the PA Employer to offer work, and no requirement for the PA to accept any work.

Casual and relief workers have the right to receive holiday pay, the National Minimum Wage and to be auto enrolled into a pension scheme (if eligible).

If however, a casual/relief worker's working pattern becomes, over time, set and regular, then this

arrangement would have to be reconsidered as they may be regarded as a permanent employee. A casual worker's working periods should consist of short, irregular work with gaps in between so that a continuity of employment is not established.

Having casual/relief workers available can really help a PA Employer manage their rota, such at times of sick leave or holidays. However, it is important to understand when casual work becomes permanent and what a PA Employer's responsibilities are if this happens. It is helpful for some PA Employers to have several casual/relief workers available for them to approach to cover holidays and unscheduled emergencies.

### **Working out if a PA is self-employed or not**

There are two areas to consider when trying to work out whether a PA is a self-employed worker or not. These relate to:

- Employment status for tax purposes and
- Employment status for work purposes

HMRC have outlined certain questions to help decide if a worker is self-employed for tax purposes. More information and a tool to help determine employment status, called "Check Employment Status for Tax" can be found in the link at the bottom of this page.

We cannot freely choose our employment status and it is determined by how our work is set up.

When it comes to the PA role, here are some helpful comparisons:

#### **Employed (including casual/relief workers) Self-employed**

The person with the direct payment\* determines when the PA will work.

The PA chooses when they will work.

The person with the direct payment\* provides all equipment to enable the person to do their job.

The PA provides their own equipment.

The PA must agree time off for annual leave with the person with the direct payment\*. The PA informs the person with the direct payment\* of when they will take holiday.

The person with the direct payment\* determines the rate of the pay.

The PA determines their own rate of pay and informs the person with the direct payment. They may raise their rate without notice.

The PA has employment rights eg. to Statutory Sick Pay, paid holiday and the right to request flexible working. The PA must make their own arrangements to ensure they can cover their finances in the event of sickness absence or holiday.

The person with the direct payment\* supervises the PA.

The PA is not under direct supervision.

The person with the direct payment\* lays out the terms of the arrangement in the form of a Contract of Employment and Statement of Particulars (written for those not working on a casual or relief basis). There is not a written agreement, or the PA operate under a contract (sometimes known as a 'contract for services') that uses terms like 'self-employed.'

\*or a nominated 'other' eg. guardian or a person with power of attorney

## Next steps

You can find out more information using the links below.

## Resources

Low Income Tax Reform Group: Is your PA employed or self-employed?

How to work out if a PA is employed or self-employed

<https://www.litr.org.uk/sites/default/files/files/LITRG-factsheet-PA-employed-self-employed.pdf>

Check Employment Status for Tax

<https://www.gov.uk/guidance/check-employment-status-for-tax>

HMRC Factsheet Employed or Self-Employed for tax and National Insurance contributions [93 KB]

Working out your employment status

<https://handbook.scot/wp-content/uploads/2022/04/Employed-or-self-employed-for-tax-NI-Cont.pdf>

## Your Agreement with Your Local Authority (Council)

### Agreement with the Council to receive a budget under Option 1

Once someone has decided to receive a direct payment under Option 1 of SDS and to employ Personal Assistants, the Council will provide a Direct Payment Agreement. This is a contract for agreeing to manage the direct payment as set out in the council's policy.

The agreement will explain in detail the responsibilities that both the PA Employer and Council have. The agreement is likely to cover areas such as:

- Using the direct payment to pay for things that only meet your identified needs, as they have been written in your Support Plan
- What you can't use the direct payment for
- How often payments are made by the Council

- Whether your direct payment will be paid into a bank account or if you will get a pre-payment card, which is like a credit card with money loaded on to it
- How you will report their use of your direct payment and how much you have spent on employing your PA(s)
- If the Council can reclaim any money that is not spent
- Information about when payments may be stopped
- If there is a Contingency Budget available to use and when you can make use of this
- How often reviews will take place
- That your PAs will be enrolled in the PVG scheme and an updated check undertaken before they are employed
- Whether you can employ a family member as a Personal Assistant and what permission might be needed
- That all tax and financial requirements will be met by you, or by a Payroll Service on your behalf
- That you have Employer Liability Insurance before employing any PAs
- The period of notice that can be given by you and your Council to end the agreement
- Where you can get help to manage your direct payment, and where you can get independent advice.

## **What to do when you get a Direct Payment Agreement**

When you are sent a Direct Payment Agreement, before signing you should check information is accurate. It may be a general agreement, but it could have detail that you have not yet talked about with your social work professional.

Make sure you have everything you need to be a good employer. You might want to ask more questions to find out about anything you are not sure of. For example:

- is there money in your direct payment for training your PAs?
- is there any money to help with recruitment costs?
- what happens if you have to make a PA redundant?

## **Next steps**

It is a good idea to speak to an Independent Support Organisation in your area who can help you understand your Direct Payment Agreement. Some also provide practical help with managing a Direct Payment. You can find details of a local organisation using the Find Help search tool.

## **Resources**

An example of a local authority direct payment contract [219 KB]

<https://handbook.scot/wp-content/uploads/2022/04/Direct-Payment-Agreement-form-effective-1st-March-2018-update-Highland.pdf>

Search for a local organisation using Find Help

<https://handbook.scot/find-help/>