

Using Direct Payments to pay a Personal Assistant/carer and COVID-19

June 2020

This factsheet contains advice for people using direct payments from Suffolk County Council to employ a personal assistant or carer.

If you would like to speak to someone about any of the information in this factsheet please contact:

ACS Direct Payments team: 01473-264853

Suffolk Coalition of Disabled People (SCODP) : enquiries@scodp.org.uk

Why do I need to read this?

The government has introduced new measures to reduce the spread of COVID-19, caused by the coronavirus. Some of these changes affect your responsibilities as an employer. Some of the measures provide extra support to people who cannot work because they are ill or self-isolating, or because their employer has asked them not to come into work. All of these measures are temporary and will be reviewed in future.

If you use your direct payment to employ a personal assistant, you have responsibilities as an employer. Some of these responsibilities have recently changed.

These changes do not affect personal assistants who are self-employed in the same way. If you are unsure whether your personal assistant is employed or self-employed, see our leaflet [Using a Direct Payment to Employ a Personal Assistant](#). You can also use the HMRC checker here:

<https://www.gov.uk/guidance/check-employment-status-for-tax>

What do I need to do first?

Give your personal assistant a key worker letter

Your personal assistant is a 'key worker' or 'critical worker'. This means their children are still allowed to attend school even if they are not in the year groups that are now allowed to attend. Your workers will be allowed to travel to work whilst any movement restrictions are in place.

It is important that you give your personal assistant a letter to prove they are a key worker. You can use the template letter. You can download this at www.suffolk.gov.uk/directpayments

What can I do if I don't want my personal assistant to work for me because of COVID-19?

Government advice is that visits from people who provide essential support to you such as healthcare, personal support with your daily needs or social care should continue. Carers and care workers must stay away if they have any of the symptoms of COVID-19. This advice even applies to staff who are at very high risk of severe illness from COVID-19 due to an underlying health condition but not those who have been advised by the NHS that they should be 'shielded'. Any staff who fall into the shielded group should stay at home.

Personal assistants should follow the government's COVID-19 guidance on [home care](#). If you tell your personal assistant you do not want them to work for you during the COVID-19 outbreak, this is your decision and you still have to pay them their normal wage. You may be able to get some assistance towards these costs from the Government's furlough scheme if necessary, but your direct payment should still be paid as normal to enable you to pay your staff..

Suffolk County Council will continue to pay your direct payment to you. However, if you are unable to meet your care and support needs through your network of family and friends and you have no contingency available to use in your direct payment account, please contact your Social Worker to discuss your need for additional money for a temporary period. You can also ring the ACS direct payment team or your Social Worker if you want some advice about how you can use the contingency funds that you have.

ACS Direct Payments team: 01473-264853 Customer First: 0808 800 4005

What can I do if my personal assistant is sick or self-isolating?

If your personal assistant is concerned they have COVID-19, they should follow [NHS advice](#). They should use the NHS test and trace system to book themselves a test and should not come back to work for you until the end of their isolation period, or they have a confirmed negative test result.

<https://www.nhs.uk/conditions/coronavirus-covid-19/testing-and-tracing/nhs-test-and-trace-if-youve-been-in-contact-with-a-person-who-has-coronavirus/>

Do I have to pay them Statutory Sick Pay?

If your personal assistant's average weekly earnings are £118 or more (£120 or more from April 2020), you must pay them Statutory Sick Pay if they are too sick to work or if they are following government guidance to self-isolate. From 13 March 2020, people who are self-isolating or shielding do not have to be sick or unfit for work to claim Statutory Sick Pay.

From 13 March 2020, Statutory Sick Pay is paid from the first day a person is sick with COVID-19 or self-isolating. The 3 waiting days are abolished.

What is the government guidance to self-isolate?

They need to self-isolate for 14 days if they live with someone who has symptoms of COVID-19 or if they are notified by the NHS tracers that they have been in contact with a person with COVID-19.

A person is self-isolating if they:

- Have symptoms of COVID-19 and have used the [111 online COVID-19 service](#) and
- They have been told by a healthcare professional they have symptoms of COVID-19
- They have had a COVID-19 test and are waiting for the result or have tested positive.
- They live with someone who has symptoms of COVID-19 and the above applies
- They have been contacted by a NHS contact tracer and have been told to self-isolate

A person is not self-isolating if they are only following government advice on social distancing, by avoiding unnecessary travel, or if they are looking after children who are off school (unless a child has symptoms of COVID-19).

If your Personal Assistant or carer tells you that they are unable to work for you because they are social distancing, it is up to you, and anything that you may have in their contract of employment, whether you pay them or not.

Does my personal assistant need to give me a fit note?

A person does not have to provide a fit note for the first 7 days of sickness or self-isolation. After 7 days, people with COVID-19 symptoms and people who are self-isolating can get an isolation note online at <https://111.nhs.uk/isolation-note/> which they can send to you.

Will I be able to claim the Statutory Sick Pay back?

You must keep a record if you pay Statutory Sick Pay to a personal assistant, who has COVID-19 symptoms or who is self-isolating. The government has said that you will be able to reclaim up to 14 days of Statutory Sick Pay for each person who has been off work due to COVID-19 from 13 March 2020. They have not yet set up the system for reclaiming sick pay.

Will my personal assistant be able to claim benefits?

If their earnings are too low to qualify for Statutory Sick Pay, they may be able to claim New Style Employment and Support Allowance, if they have worked enough and paid sufficient national insurance in the relevant tax years. For most people claiming now, these will be 2017/18 and 2018/19. From 13 March 2020, Employment

and Support Allowance is can be paid from the first day of sickness or self-isolation to people affected by COVID-19. The 7 waiting days without benefit have been abolished for these claimants. People affected by COVID-19 no longer have to provide fit notes or isolation notes to Jobcentre Plus to support their claim.

If they are receiving Working Tax Credit, this can continue for 28 weeks while they are off sick or self-isolating, if they make a claim to Statutory Sick Pay or New Style Employment and Support Allowance.

They may be entitled to Universal Credit. This can be claimed on top of Statutory Sick Pay or New Style Employment and Support Allowance. If the personal assistant is already receiving benefits or tax credits, they should seek a 'better off calculation' from an independent advice agency, such as Citizens Advice, before claiming Universal Credit, in case they are worse off.

They may be entitled to help with their Council Tax through their local authority's Council Tax Reduction scheme.

What can I do if I am sick or self-isolating with COVID-19?

If you have symptoms of COVID-19, then the risk of transmission should be minimized through safe working procedures. You can find the latest advice here. <https://www.gov.uk/government/publications/covid-19-residential-care-supported-living-and-home-care-guidance/covid-19-guidance-on-home-care-provision>

Personal protective equipment (PPE)

Please note if your Personal Assistant/carer is self-employed then it is their responsibility to provide the PPE they need to look after you safely.

You can use your direct payment money to purchase any PPE needed for people who you employ.

You should be following the guidance about the use of PPE by your carers when they are providing any care to you that includes:

- any activities that bring them into close personal contact with you, such as washing and bathing, personal hygiene and contact with bodily fluids. Aprons, gloves and fluid repellent surgical masks should be used in these situations
- If there is a risk of splashing, or exposure to respiratory droplets then eye protection will minimize risk

You should be continuing to maintain your own stocks of equipment, through your existing supply arrangements.

If you are unable to secure supplies through your usual channels Suffolk County Council should be able to help you. You need to complete a Request Form through the following link [PPE Request Form](#)

Please state that you employ staff using a direct payment.

What can I do if my personal assistant refuses to come into work?

Speak to your personal assistant to find out why they are refusing to work. If they are ill or self-isolating, follow the guidance on pages 2 and 3. If they are looking after school-age children, explain that they may be able to use their key worker letter to allow their children to attend school. If they are worried about the risk of infection, refer them to the [government guidance on home care](#).

If they still refuse to work, you do not have to pay them.

Can I pay someone else to help me?

While the COVID-19 outbreak is going on, Suffolk County Council will be more flexible around how you use your Direct Payments. If you are not able to access your normal care and support, we want to help you find alternative support quickly and easily.

If there is a care organization providing you with a service, they may be able to increase the care and support they give you. You may be able to get informal care from family, friends or from your support network. If they need a one-off payment to provide this support, we may agree to let you use your Direct Payment for this. You must contact us about this first.

If you need to pay a family member or friend to give you care and support for a temporary period, you must speak to us about this first. If we allow this, you will become their employer and the money you pay them may affect any benefits they receive.

If your direct payment includes money for things like exercise or social activities and you are unable to currently access these, you could use the money you have in a different way. For instance, if you have to pay for activities online such as exercise classes that help you to meet the same outcomes that you would normally use the money for. Please keep copies of any receipts for payments you make in case you are asked to produce these later on.

What can I do if my personal assistant is self-employed?

Self-employed personal assistants are not entitled to Statutory Sick Pay if they are ill or self-isolating. They may be able to claim benefits instead, such as New Style Employment and Support Allowance and Universal Credit (see page 3).

If you do not want a self-employed personal assistant to work for you because of COVID-19, you do not have to pay them, unless you are contracted to do so. You cannot apply to the Coronavirus Job Retention Scheme for a grant to pay 80% of a self-employed personal assistant's wages.

Self-employed personal assistants, who are in receipt of Working Tax Credit, do not have to notify the Tax Credit Office if their hours reduce because of COVID-19, so their tax credits will continue. This information is available to them on their online tax credit account.

The government has announced a scheme to help some self-employed people whose business is affected by the coronavirus outbreak. The [self-employment income support scheme](#) will start at the beginning of June 2020 and will provide people with a grant of 80% of their average monthly profit over the last 3 years, capped at £2,500 a month. The scheme has now been extended and they will be able to claim a second grant payment in August 2020.

A self-employed personal assistant can apply to the scheme if they:

- Have submitted an Income Tax self-assessment tax return for the tax year 2018- 19
- Worked as a self-employed person in the tax year 2019-20
- Are working as a self-employed person when they apply to the scheme, or would be working except for COVID-19
- Intend to continue working as a self-employed person in the tax year 2020-21
- And have lost earnings due to COVID-19

The applicant's self-employed trading profits must be less than £50,000 per year and more than half of their income must come from their self-employment.

The scheme will cover the March, April and May 2020 and the grant will be paid in one lump-sum payment, covering these three months.

HM Revenues and Customs has opened a new helpline for self-employed people and people who run businesses affected by COVID-19: **0800 024 1222**

Self-employed personal assistants can make claims to Universal Credit and Council Tax Reduction.