

Using your

Direct Payment

**to Employ a
Personal Assistant**



If you use your Direct Payments to employ someone, you will need to take on responsibilities as an employer. That means you'll have to think about things like tax, national minimum wage, sickness and holiday pay, pension, and liability insurance. Whether you employ someone for a few hours a week or full time, or employ someone you know or a relative the same rules apply.

This can seem a bit daunting but there is information and there are organisations that can help.

It is important that you use the information or help available to ensure that you employ a personal assistant in a way that protects both you as an employer and them as an employee and that complies with legal requirements.

There is a range of useful information to help you on the **Suffolk County Council** website.

www.suffolk.gov.uk and search for employing a personal assistant.

The purpose of this booklet is to offer advice and information to anyone employing a personal assistant or for people considering employing a personal assistant via a direct payment. The information in this guide is to help you decide if employing a personal assistant is the right option for you. The information is intended solely for guidance and is not financial advice; if you are in any doubt we would recommend you seek further advice from an independent financial advisor. This is general guidance about employing a personal assistant, should your query be more specific you should contact

Customer First on **0808 800 4005** to discuss further or one of the more specialist employment organisations highlighted within this guidance.

This guidance was written about employing a personal assistant in Suffolk and is correct at the date of writing.

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1 What is a direct payment?

- A direct payment is money paid to you to meet your care and support needs and it lets you choose and buy the services you need yourself, instead of the Council arranging them. This may include you deciding to employ someone yourself to provide care and/or support.
- Having a direct payment means that some, or all, of your Personal Budget from Suffolk County Council or Norfolk and Suffolk Foundation Trust is paid directly to you.
- Your personal budget is the money that we have worked out is available for you to spend on your care and support.
- A direct payment is one of the options for you to manage your personal budget. The other options are:
 - an Individual Service Fund
 - the Council manages your budget and arranges care and support for you
 - it is possible to use a combination of options.



- A direct payment is different from other welfare benefits that you may get which are paid by the Department of Work and Pensions (DWP.) Direct Payment money remains the property of The Council even after it has been paid in to your direct payment account and can only be used to purchase goods and services that have been agreed in your care and support plan.

See the leaflet **“Information about Direct Payments”** which explains more about Direct Payments.

2 What is a personal assistant (PA)?

- A personal assistant (PA) is someone you employ to help you live independently and to support you with things like cooking, shopping, personal care and getting out and about.
- A personal assistant may also be referred to as a home care assistant, a paid carer or a support worker.

3 Why would I want to employ my own personal assistant?

- People who employ someone using a direct payment often do so because there can be many advantages, such as:
 - you are in control
 - you have independence
 - you have flexibility and freedom over your care and support
 - you choose who supports you
 - you are not reliant on the Local Authority or an agency
 - you can change things.

4 Where do I start?

- On the Skills for Care website you can find out about employing a personal assistant, what to do once someone is working for you and your responsibilities as an employer. www.skillsforcare.org.uk
- The Disability Tax Guide web site also has a really helpful guide. called **“Taking on a Personal Assistant”**.
- Disability Rights UK has a free telephone and email advice line for self-directed support. This can include general advice about employing personal assistants You can contact them on **0300 555 1525** or email selfdirectedsupport@disabilityrightsuk.org
- www.disabilityrightsuk.org/being-control-getting-personal-assistants-pas
- There are organisations who can help you get started. We can give you a list called **“Help with Direct Payments”** with details of what is available and contact details.

5 If I take on a personal assistant are they employed by me or self-employed?

- Someone is employed by you if:
 - you decide the hours that they work and what they do for you
 - you provide them with the equipment that they need to do their job (this might be things like protective gloves or aprons for instance)
 - you are the person who is responsible for arranging a replacement if they are absent from work
 - They are just working for you.
- The HMRC Employment Status Indicator is useful in deciding if your assistant is employed or self-employed.
www.gov.uk/guidance/employment-status-indicator



- Even if someone tells you that they are self-employed it is your responsibility to check and be sure. If you don't and they do not have self-employment status you could be liable for paying backdated tax and national insurance payments to HMRC.
- If you have checked and you are satisfied that the person is self-employed you should expect as a minimum:
 - a "contract" to be agreed between you to set out the terms of the services they will be providing for you
 - detailed invoices so that you can pay for the services provided
 - to see their liability insurance document.
- If you use your direct payment to employ and pay someone to help you on a regular basis, it is important to remember that the person will be treated as being in work for the hours that you pay them. This may affect some benefits and tax credits they may be getting. You and they must tell the DWP and/or HMRC if you employ someone.
- To tell HMRC about a new employee go to:
www.gov.uk/new-employee

6 Can I employ a family member or a friend or a neighbour?

- Yes, you can but you cannot use your direct payment to pay a member of your family who you live with, for care that they give you unless the Council agrees this is necessary.
- There may be a special reason why you consider there is a need to pay a member of your family who you live with for care that they give you for short period of time or because of exceptional circumstances. If you think this is the case, you should discuss this with the Social Care Assessor who will be able to advise and check if an exception may be made.
- If a family member is helping you to be an employer, for example by helping you to manage your payroll system, they are able to make a reasonable charge for helping you. If they are helping you with your employer responsibilities, they should not also be paid by you to provide other care and support.
- You will need to pay them from your Direct Payment and you will be employing them to provide this service so the rest of the information in this booklet will apply.

7 What sort of things do I need to plan for if I am employing a personal assistant?

You will need:

- to have a plan about how you will manage when your personal assistant is on holiday or off work sick. Make sure that you plan how you will cover their absence and that your personal budget will allow you to cover these situations
- to work out the cost of employing someone and include the employer's national insurance costs as well as their actual pay

- to plan for what will happen if you are away or in hospital and on Bank holidays
- to think about your employees rights to redundancy payments once they have worked for you for two years
- to make sure that any costs that you may incur in the future such as redundancy or maternity/paternity are planned for and included in your care and support plan. You will need to make sure that you keep money aside in your direct payment account to cover these possible costs
- to understand your personal assistant's legal rights
- to make sure that you have employers' liability insurance in place
- to think about what you will do and where you will go for help if you have any dispute with your employee(s)
- to consider if your employee(s) should be enrolled into a pension scheme. www.Disabilityrightsuk.org has a useful Factsheet F61 called – "Individual employers and workplace pension schemes for personal assistants"
- to consider any training needs the personal assistant may have to enable them to care for you safely
- to consider any equipment that you need to purchase for them to care for you safely.

The Skills for Care Web Site has an information hub for individual employers and personal assistants which brings together really useful information from different places.

www.skillsforcare.org.uk/Employing-your-own-care-and-support/Being-an-employer/Being-an-employer.aspx

8 What checks should I do before I employ someone?

- You need to check that they are legally able to work in the UK.
- You are strongly advised to have a Disclosure and Barring Service (DBS) check done for any staff that you employ.
- A DBS check is what used to be called a Criminal Records Bureau (CRB) check.
- This will help you to make a decision about whether someone you are thinking of employing is suitable if you know if they have a criminal record.
- Once you have done a check it is still your decision about employing the person or not.
- The Council may be able to help you with the cost of this check as part of your set up costs to recruit. Please ask the Social Care assessor.



- For more information, go to www.gov.uk/disclosure-barring-service-check/overview
- You should also take up references for the person you are to employ and check what they were doing if there are gaps in their employment history.
- The GOV.UK web site has a useful guide to the essential checks when employing staff. www.gov.uk/employing-staff

9 How can I find a personal assistant to employ?

- There are a number of options available to you to advertise for a personal assistant.
- You can advertise on the Council's web site, go to www.suffolkjobsdirect.org and click on "[**Advertise with us**](#)" and "[**Direct employers**](#)".
- You can also go to the web site infoink.suffolk.gov.uk and search for "[**PA Finder**](#)"
- The Skills for Care Web site "[**Recruiting a personal assistant**](#)" also has some other suggestions

10 How much would I pay a personal assistant?

- You must pay at least the minimum wage or the National Living Wage as appropriate. These changes every year so call the Pay and Work Rights Helpline on **0300 123 1100** for the latest rate or go to the web site www.gov.uk/national-minimum-wage
- There is comprehensive advice available on the following web site www.disabilityrightsuk.org/how-much-do-i-pay-my-personal-assistant

11 I have never recruited anyone before, where can I get advice and help?

- The Skills for Care website has a Toolkit to help you with all aspects of being an employer including a step by step guide to recruiting a personal assistant www.employingpersonalassistants.co.uk
- There are organisations that you can go to who offer a range of services to purchase to help with Direct Payments including recruitment.

The Social Care Assessor helping you to set up your direct payment can give you a list of these organisations and the services they offer. The list is called **“Help with Direct Payments”**.

12 Can I get any help with the cost of recruiting personal assistants?

- If you are going to employ a personal assistant there may be some costs such as advertising or paying for insurance up front or having a DBS check. You should discuss this with the Social Care assessor who is helping you to arrange your care. They can ask for some additional funding to help you with these costs.



13 Training and Development for employers and personal assistants

- When you employ a personal assistant you will want to consider what training and development they might need to help you in the most skilled and safe way. It will also help them to feel supported, valued and confident in their role.
- For more information, contact the Suffolk Brokerage
Tel **01449 720400**.
www.suffolkbrokerage.co.uk
- Suffolk Brokerage can advise about what financial help may be available to meet the cost of training.

14 Where can I get help from once I have taken someone on as an employee

- ACAS has a free helpline and web based advice service for employers.
- Tel. **0300 123 1100**. Or web site **www.acas.org.uk**

15 Useful Web Sites

- **www.suffolk.gov.uk/adult-social-care-and-health/money-advice-and-funding-support-services/employing-a-personal-assistant-to-help-you/**
- **www.disabilitytaxguide.org.uk/**
- **www.skillsforcare.org.uk**
- **www.moneyadvice.service.org.uk/en/articles/using-a-personal-assistant-to-provide-your-care**
- **www.gov.uk/employing-staff**

- www.disabilityrightsuk.org/being-control-getting-personal-assistants-pas
- <http://www.beingtheboss.co.uk>. This is a peer support web site for disabled people who employ PAs however they are funded.

16 There are also organisations who you can purchase services from. These services are specifically to help people to employ a personal assistant using a direct payment.

- The Social Care assessor can give you a list with details of what they offer and their contact details. This list is called **“Help with Direct Payments”**
- Some of the organisations will help with all aspects of being an employer. You may feel that there are things you or your family can do and specific things you need help with. You will be able to check out what is on offer, how much it costs and decide which service suits your needs best.
- The cost of the services from these organisations will need to be met from your direct payment.

Example: Jane employs a personal assistant with her direct payment

When she started her direct payment she had a person in mind to be her PA and this person wanted to work in care and support.

She carried out a DBS check which showed a driving ban 2 years ago but this did not affect her decision to employ the person. She also spoke to a couple of people who the person had worked for before were given as referees.

Jane wanted to employ her own PA so that she could plan with her PA exactly how and when her care would work and so that she could get out and about to pursue her interests and voluntary work.

Jane used the Toolkits on the Skills for Care web site to do things like draw up a job description and contract of employment and sort out the necessary insurances. She found the toolkits helpful to make sure the relationship started on the right footing and in an appropriate way.

She also used the GOV.UK web site to make sure she had done the right checks and had registered her employee. A friend had said that the person could be self-employed but when she checked Jane realised this wouldn't be the case. Jane did not want the worry of "risking it" for herself and her employee.

Jane puts money aside each week to cover holidays and sickness. She uses this money she has set aside to buy the care she needs from an agency for holidays and sickness. She spoke to Suffolk Brokerage about accessing training for her PA. She was able to access First Aid, Moving and Handling, Safeguarding, Food Hygiene and other courses that are relevant to her care and support and her employee's health and safety.

Jane decided that she wanted help with payroll and HMRC for her employee and so she looked at what was on offer and purchased a payroll service to ensure that her PA pay goes directly into their bank account. This payroll service means that her employee receives pay slips and their tax and National Insurance contributions are recorded paid and kept up to date.

Jane has used this service to get advice about what she needs to put aside to cover any future situations such as maternity/paternity leave or redundancy.

Customer First

Tel: **0808 800 4005**