



Employing your own personal assistants can give you great freedom and independence but it also brings responsibilities and legal duties as an employer. Some of these are quite difficult, which is why many support services are available to provide some or all of the necessary employer tasks. The legal responsibilities are explained briefly below.

1. Register and comply with Her Majesty's Revenue and Customs

If you employ PAs then as an employer you must make sure that you tell Her Majesty's Revenue and Customs (HMRC) and register as an employer. You have a responsibility to deduct tax and national insurance from your PAs' wage and pay this to the HMRC. You will also need to file end of year returns detailing the pay, tax and national insurance paid to all your PAs. It is important to be prepared to deal with these requirements and be able to understand and respond to letters from HMRC. Further details can be found on the website: <http://www.hmrc.gov.uk/employers/index.shtml>

If your PA asks to be self employed they have to register with HMRC which has strict rules about what self employed is. They decide whether the PA is self employed and if so the PA will have a Unique Tax Reference Number. This confirms they are self employed and therefore responsible for their own tax and national insurance.

2. Provide payroll services

If you employ PAs you have to calculate their weekly / monthly pay and make the appropriate deductions for tax and national insurance. You will have to sort out how they are paid e.g. transferring money from your bank account into theirs. You must also make sure you give them a written pay statement when they are paid (known as a payslip) which states what has been paid and what deductions (for tax / national insurance etc) have been made.

3. Ensure you recruit appropriate staff

As an employer you must ensure that the staff you recruit are eligible to work in this country. If you employed illegal workers you would be breaking the law.

You are also encouraged (and may be required by your funder or insurer) to undertake Criminal Record Bureau (CRB) Enhanced Disclosure checks on anyone you wish to employ.

4. Provide employees with a written statement of employment

You have a responsibility to give your employees a written statement outlining the terms and conditions of their contract of employment. It is also important to write a clear job description which details exactly what you expect them to do. The employment statement / contract should include the following details:

- the hours and place of work
- the rate of pay and when they get paid
- holiday /other leave entitlement
- whether there is a probationary period (if so how long)
- what to do if they are sick

- what happens if e.g. you are taken into hospital and don't need them – will they still get paid?
- The expected notice period / how to give notice
- disciplinary and grievance procedures
- whether they can access a pension scheme
- what the code of conduct is that you expect from them (and them from you)

5. Pay employees a legal and reasonable wage & ensure equality of pay

You must pay at least the minimum wage which is set by law and usually changes yearly to reflect increased costs of living etc. You may wish to consider whether you are able to pay more - especially if your PA is experienced and well trained. You may want to consider increasing pay when a PA has been with you for some time. You will need to agree whether they are paid the same for working at any time or whether there are different rates for evening / weekend working.

If you have more than one PA, you must ensure that you pay equal pay for work of equal value (i.e. pay them the same for performing the same duties.)

6. Give employees the legal holiday and leave entitlement

You are required to pay Statutory Sick Pay (SSP) if your PA is off sick. Some PAs may also be entitled to Statutory Maternity, Paternity or Adoption Pay if they have time off for a baby (you can claim all or most of this back from the HMRC.)

All employees have the right to paid holiday (a minimum of 28 days annual leave for a full time worker) You must allow your PAs holiday time paid at the normal rates for this time. Holiday time starts to build up from the day your PA starts and should be calculated on the basis of the yearly entitlement (for the number of hours they work if part time) divided by the number of weeks worked so far. If you wish your PA to only take holiday at times you know you won't need them then you would have to write this into the contract. If an employee finishes their job they are entitled to be paid for any holiday they have not taken.

Although there is no legal entitlement to holiday or enhanced pay rates for bank or public holidays, it is good employment practice to recognise they are working when others aren't and shows you value them.

7. Uphold employees rights if contracts are ended

If you end a PAs contract, e.g. because you no longer need their services, this is legally classified as dismissal. Unless your PA is on a fixed term contract which expires, you must give the notice period agreed in your statement of employment after a year in your service employees have rights: a) not to be unfairly dismissed b) to receive a written statement of reasons for dismissal. (This is rising to after 2 years in your service for employees starting after 6 April 2012) After 2 years they have a right to statutory redundancy payments.

8. Have disciplinary procedures in place

At some point you may want to dismiss an employee. It is essential that you know and follow the recommended employment disciplinary procedures and have a disciplinary policy which is in the contract and discussed with your PA when you appoint them. If you do not go through the correct procedures you may put yourself in a position where your employee may take you to an

Employment Tribunal for unfair dismissal. Regular discussions about how they are doing and areas you wish them to develop could help avoid difficulties.

9. Ensure adequate insurance cover

As an employer you need to take out insurance. This is because you have a legal duty to insure against accidents or injury to your staff, or accidents or injury caused by them while they are at work for you. **Employers Liability Insurance** is the minimum requirement. This will insure you against your PA having an accident or becoming ill while working for you, where you might be held responsible and therefore liable. You may also wish to take out **Public Liability Insurance** which insures you against any damage or injury caused to someone else by you, or your PA while they are working for you. There are also other types of insurance which you may feel are needed covering e.g. house contents, personal accident or legal costs.

10. Meet health and safety requirements

There are many health and safety laws you need to comply with. Guidance on these is given by The Health and Safety Executive (HSE) which is a government organisation that works to protect the health, safety and welfare of workers by enforcing health and safety law across the country. They offer advice and support and have useful downloadable leaflets from their website <http://www.hse.gov.uk/>. You can also ring their helpline on **0845 345 00 55**.

For more details on insurance and health and safety see the health and safety factsheet.

Support and advice

Remember that there are people who can support you – such as a Direct Payment Advisor, Direct Payments Support Organisation or Centre for Independent Living. If you don't feel confident in taking on all of the responsibilities of an employer, they will be able to refer you to organisations which could help. Many agencies provide services such as recruitment, employment and safety checks and running a payroll service. You would pay them from your budget to deliver some (or all) of the employer tasks for you.