

Putting you first

Factsheet 5 Employing a personal assistant: contract of employment

The 'Putting you first' factsheets have been designed to guide you through the process of employing a personal assistant.

We know that some of the things we mention in these factsheets are quite complicated, so don't worry if you find them difficult to understand - the Adult Social Care Direct team are on hand to offer guidance, advice and information.



For help, or to discuss a referral or assessment, contact Adult Social Care Direct on **0191 433 7033**.



Contract of employment

If you employ a personal assistant, you must draw up a contract of employment or a written statement of employment. This is also sometimes referred to as 'terms and conditions' of employment and clearly outlines your responsibilities as the employer and the role and expectations of your personal assistant

By law you must do this within the first two months of their employment. It should include information about their pay, holidays notice periods, as well as disciplinary procedures. Examples of employment paperwork can be found at www.businesslink.gov.uk/writtenstatement

Things to consider:

- The contract is legally binding, and by law must be given to all employees within eight weeks of starting work.
- The contract should be written so the terms are clear and not open to interpretation.
- You can download a sample contract of employment from Skills for Care at www.skillsforcare.org.uk - they also have a free Toolkit for people employing a personal assistant.

- It is a good idea to think about having a probationary period, and you should mention this both at interview and in the contract.
- You both need to agree on and sign the contract. It can only be changed later if you both agree to it.
- You must make sure that the contract accurately reflects what will actually happen.

Probationary period

However good your interviewing skills are, the only way you can really find out what an employee is like is when they start working for you. For this reason, it is a good idea to say at interview and state in the contract, that the personal assistant will initially only be employed for a trial or "probationary" period.

You should let them know how long the probationary period is and also the amount of notice required if either of you wishes to terminate the contract. If you are both happy at the end of the trial period, the contract can be made permanent.

Personal assistant cover

What to do if your personal assistant is off sick:

- If you employ more than one personal assistant, contact the others to see if they can cover and do overtime.
- Stay in touch with other personal assistants who have worked for you in the past and contact them to see if they may be able to help.
- You can use a trusted care agency for cover whilst your personal assistant is on holiday or off sick.

Your personal assistant is also entitled to statutory holidays but they should give you adequate notice before they begin. You could also ask them to take leave at the same time as you do but you should give them notice if you intend to do this. It is advisable to discuss annual leave arrangements with your personal assistant when they start working for you and you might like to refer to this in the contract.

Your personal assistant may also request time off work for a range of reasons: e.g. to assist a family member, to go on jury duty or because of illness. Some activities such as public duties and parental or dependent responsibilities carry statutory rights - meaning your employees have a legal right to the time off and you can't refuse.

You can get a guide called 'Allowing time off work' which covers these areas from Business Link. More information on calculating holiday entitlements, notice periods for leave and other issues is available from the government's **directgov.uk** website.



Employing someone who is self-employed

If you hire someone who is self-employed (i.e. who manages their own tax and NI contributions) you need to ensure this person has a Unique Tax Reference number (UTR). You also need a written agreement between the two of you.

This person must provide you with a monthly invoice, which you will pay from your direct payment bank account. This invoice needs to include the UTR, dates and the times worked. More information on employing someone who is self-employed is available at www.hmrc.gov.uk.

Important words - and what they mean

Department for Business Innovation and Skills (BIS):

This government department has responsibility for enterprise, business relations, regional development and fair markets, along with responsibility for science and innovation, further and higher education and skills.

Employee: A person who works for another person or business in return for money.

Employer: A person or a business which pays other people for their work.

Invoice: An itemized bill for goods sold or services provided, containing individual prices, the total charge, and the terms.

National Insurance / National Insurance contributions:

Employers and employees make this payment to the government which helps provide money for the unemployed, the sick and the retired.

Probationary contract: During a probationary contract phase you can assess whether the person you've selected is suitable for the job. If they are not then you will not have to extend their contract or stick to the usual notice period.

Tax: Money taken by the government to pay for public services. For example, you can be taxed on your income and your home, and as an employer you need to make sure your employees' taxes are in order.

Useful contacts

National Centre for Independent Living www.ncil.org.uk

Government information site
www.directgov.uk

Business Link: call 0845 600 9 006
or visit www.businesslink.gov.uk

Skills for Care
Phone 0113 245 1716 or visit
www.skillsforcare.org.uk

If you have concerns

You may be vulnerable at times because of your age, illness or disability, and our advice is to try to keep yourself safe at all times.

However you may have concerns or worries that someone is harming you, abusing you, or neglecting you and the

care you need - in a physical, emotional, verbal or financial way.

We will always take your concerns seriously. We call this adult safeguarding, and you or a friend or someone you trust can contact us on **0191 433 7033** if you need help or support in dealing with a situation.

The other fact sheets in this series help you think about some of these issues so you can decide if you want to employ a personal assistant.

Other fact sheets in the the 'Employing a personal assistant' series are:

Factsheet 1 : an introduction

Factsheet 2 : pay and tax

Factsheet 3 : recruitment and selection

Factsheet 4 : choosing a personal assistant

Factsheet 5 : contract of employment

Factsheet 6 : health and safety

Factsheet 7 : being a good employer - supervision

Factsheet 8 : disciplinary and grievance

Factsheet 9 : ending the employment period

Factsheet 10 : employing a personal assistant: keeping yourself safe

Factsheet 11 : starting direct payments: what happens once your direct payment has been agreed?

