



**Your Life
Your Choice**
care and support designed with you



Direct Payments

3. Employing someone to help you

If you choose to use your Direct Payments to employ a Personal Assistant you will be responsible for the recruitment and employment process. You will be the employer and this means you will have certain responsibilities:

- Your employee must have a contract of employment that will set out their hours of work, terms and conditions of work and their rates of pay.
- Your employee is entitled to holidays so you will need to plan who will provide your care at this time. Your employee's holiday entitlement should be in their employment contract.
- Any queries surrounding sickness and maternity should be directed to your payroll company. If they are unable to help, you will have access to an employment law helpline through your employers insurance. Please contact the Direct Payments team if you need help to recruit additional or cover staff.
- You must have insurance which covers you as an employer and protects your employees in case they are hurt or injured whilst looking after you. This insurance also gives you access to employment law support and advice, e.g. maternity cover, redundancy, notice procedures, employee issues. The Direct Payments team can assist you with setting up your first Insurance Policy, this will need to be renewed yearly. If you manage your own Direct Payments funds you are responsible for making this renewal payment when prompted by the insurance company.
- When a client is under 18 years old, a Personal Assistant's employment cannot begin until the correct Disclosure and Barring Service checks (DBS) have been completed and verified. If the client is an adult they may decide they want the Personal Assistant to start prior to this check being completed or in some circumstances may not see it necessary to complete a check. In this case you need to speak to your social worker who will undertake a risk assessment. Employment should not begin until the risk assessment has been completed.

- Your employees' wages will need to be calculated along with any money due to the Inland Revenue. You will need to use a payroll company to assist with this. You will need to submit a timesheet to the payroll company in line with the payments schedule. If you manage the Direct Payments funds yourself, you may need to make payments to the Inland Revenue but you will receive information about this.

Please note:

You must ensure that you confidentially dispose of any information on any unsuccessful applicants. Please see Factsheet 12 for further GDPR/privacy information.

Due to working time directives employees must have a 24 hour rest period within 7 days or a 48 hour rest period within 14 days,

Also due to new legislation employees must be paid minimum wage even for sleepovers, however it may be possible to pay a lower rate for sleepovers if the daytime hourly rate exceeds minimum wage by a sufficient amount. If the average hourly rate for all hours worked (standard and sleepover) meets the minimum wage, then this would be acceptable.

For further legal advice please call the employment law advice service connected to your insurance company quoting your policy number.

Fish Insurance – Peninsula – Telephone 0844 8922 772

Premier Insurance – MSL – 0161 6032 167

The Direct Payments team will guide you through the employment process and are available for support and advice throughout.

Useful contacts:

Telephone: 03000 268 200

Email:

directpayments@durham.gov.uk

www.durham.gov.uk/directpayments

Skills for Care:

www.skillsforcare.org.uk

Please ask us if you would like this document summarised in another language or format.

directpayments@durham.gov.uk

03000 268 200