

BEING A GOOD EMPLOYER GUIDE

A toolkit for employing Personal Assistants



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PART ONE: INTRODUCTION

The *Being a Good Employer Guide* is aimed at people with care and support needs who have a Direct Payment and want to employ a Personal Assistant. The guide is to support you and provide guidance for employing a Personal Assistant for your care and support.

Employing a Personal Assistant gives you the choice to live an independent life. When employing your own Personal Assistant you choose your own employee, decide what tasks you want them to do and when you need them to work. This toolkit has been developed to help you to become an employer, to explain the possibility of having a managed package of support and to inform you of your responsibilities and your legal requirements.

In addition, there are organisations and services that you can contact for support, and their details can be found throughout the guide.

EMPLOYMENT ADVICE

This toolkit has been created for information purposes to provide a general understanding of employer's requirements and obligations when employing a Personal Assistant. The documents that have been included within this toolkit have been included for illustration purposes only. The toolkit is not intended to constitute legal advice and should not be treated as a substitute for legal advice.

Rotherham Council is not a firm of solicitors or connected in any way with the courts or tribunal service.

We have experience of using the court/tribunal system and the procedures involved and simply want to share some practical experience and tips. We are not in any way providing legal advice or creating any kind of legal relationship with you.

The content of this handbook relates only to the courts in England & Wales.

We recommend that appropriate legal advice should be taken from a qualified solicitor before taking or refraining from taking any legal action.

The information and opinions we provide do not address your individual

requirements and are for informational purposes only. They do not constitute any form of legal advice and should not be relied on or treated as a substitute for specific advice relevant to particular circumstances and is not intended to be relied upon by you in making (or refraining from making) any specific decision.

TERMINOLOGY GUIDE

An explanation of the terms used regularly throughout this guide.

Personal Assistant – A Personal Assistant is employed directly by a person to help them live their life in a way they choose. A Personal Assistant can be involved in many aspects of life, and will provide support in the home, at leisure or at work. The work will vary and this is dependent upon your individual needs. This guide has been created to support the employment of Personal Assistants through a Direct Payment.

Social Worker – Your individual worker. You may be familiar with one of the following; care manager, allocated worker, social worker, social work professional or case manager. Within this guide the term Social Worker is used to represent each of these roles.

Direct Payment – An amount of money which supports your eligible social care needs. The money is paid into your Direct Payment nominated bank account, in order to purchase the services you require to meet your needs.

Support Plan – Your Support Plan sets out how your needs will be met. Your Direct Payment will be allocated based upon details in your plan, to purchase the care that you require.

Direct Payment Support Service (DPSS) - Is a service that will help you with your direct payment if you cannot do this yourself. They could help with recruiting a Personal Assistant, organising DBS checks, and/or provide you with a payroll service so you can pay your Personal Assistant and ensure that national insurance and pension payments are made correctly. They could also manage your account, which means they will receive the direct payment on your behalf and pay any invoices you receive from a care company or community support service. They will also liaise with the Council and provide information on your behalf when your direct payment is audited. The DPSS

will charge you for all these services but if you are eligible for this type of support your personal budget will include an amount which you would use to pay these charges on a monthly basis.

SAFEGUARDING

You and the people you employ have a duty to report any safeguarding concerns, and this applies despite confidentiality.

Reporting concerns and suspicions should be done quickly. You are able to raise your concerns with a family doctor, your Social Worker or by contacting the Safeguarding Service.

You can contact Adult Social Care on 01709 822330 or report your concerns online at www.rotherham.gov.uk/adult-social-care/worried-adult

TYPES OF ABUSE

Abuse falls within safeguarding concerns. According to the Care Act 2014 abuse is made up of a number of groupings which includes financial abuse, physical abuse, neglect, discriminatory abuse, sexual exploitation and domestic violence. Some examples are:

- Theft
- Fraud
- Threats of harm
- Isolation
- Assault
- Misuse of medication
- Restraint
- Neglecting to care for personal hygiene
- Failing to seek appropriate medical advice
- There are signs that a person may be abused which include:
- Evidence of neglect
- Evidence of violence or unexplained injuries

- Distress
- Unusual behaviour

Any instances of abuse should be reported. If you feel that you are being abused or neglected then you should contact the Safeguarding Service or contact your Social Worker.

For urgent cases of abuse or neglect then you must contact the Emergency Services. For crimes the police must be contacted and ambulances may be needed for medical assistance. In these times of urgency ring 999 or 112.

PART TWO: BECOMING AN EMPLOYER

STEPS TO RECRUITMENT

PREPARATION

Before you advertise for a Personal Assistant you must be clear about what services you need and what you expect from them.

Think about what you would like from an employee.

When recruiting you will also have to provide equal opportunities for all applicants. This means that you cannot discriminate against any candidate based on their age, sex or race. This is part of the Equalities Act and ensures people are not treated unfairly.

You can search for a Personal Assistant to fit your requirements. For help you can contact your Social Worker or work with a Direct Payment Support Service who may have a register of Personal Assistants, or be able to assist you to recruit one.

Alternatively, you can recruit your own Personal Assistant. Once you know what you need and what you would like from an employee you can write a job description.

A job description is a list of tasks and duties which an employee will have to do. For example, helping with shopping, cooking or getting dressed. See the appendix documents for an example job description.

ADVERTISING

Once you have thought about what you want from a Personal Assistant you will have to advertise the role.

When advertising the role you must list:

- The hours
- The type of work
- The main duties
- Rate of pay

- The general location (but do not put your home address)
- Experience and qualifications required
- The closing date for applications (usually a minimum of two weeks)
- That a Disclosure and Barring Service (DBS) check is needed
- Ask for references
- Contact details
- State how you would like applications to be submitted, whether an application should be submitted or if you would accept a CV

When you advertise you should also focus on why a candidate should apply for the role, what opportunities they will have to support their career and why they should consider becoming a Personal Assistant.

There are a number of different ways to advertise your vacancy include:

- Advertising online.
- Jobcentre Plus will be able to help you advertise for free and they will provide support with writing your advertisement.
- Another option is to advertise in a newspaper, but this will involve a cost which might not be covered by your Direct Payment.
- Other methods may include using word of mouth to see if anyone you know would be interested in the role, or you might know of someone who might be interested. If this is the case you must think about your employee/employer relationship and how it might affect any personal relationships,

JOB INTERVIEWS

Once you have received applications and the closing date has passed you are able to shortlist, this means to select which applicants meet your requirements, and invite them to an interview. An interview will allow you to meet the candidate and see who will best support your needs.

When shortlisting you should compare each application and rate how they fit against the job description. You should not discriminate any candidates based on their characteristics, such as age, race, sexual orientation or gender.

After shortlisting you must prepare for the interviews. You must organise where it will take place, arrange who will be there and inform the candidates of their interview. You should have the interviews away from your home if possible. You should arrange for a friend or an advisor to do the interview with you, but remember that you have the final decision, not them. Leave a gap between each of the interviews, so that you can review each candidate and make some notes. Once all the details have been arranged you should write to the successful candidates and invite them to an interview.

Before the interviews you should be ready with a list of candidates, the time their interview is and be prepared to take notes whilst they answer your questions. You should plan your questions in advance and a sample of these have been included in the appendix documents.

After the interviews you should decide which candidate you would like to appoint. Don't rush this decision, because you must be sure that you want to offer them the job. If you are struggling to come to a decision then you can re-interview, re-advertise and look for new candidates or ask for more information.

RIGHT TO WORK

Before your employee can start work you must have completed a right to work check. It is a good idea to do these checks at the interview stage, as they must be done before an employee can start work.

This involves the candidate showing you documents which prove their right to work in the UK. The documents must be original and in-date, and the candidate themselves should bring them to you. You then have to keep a copy in your

employment records. This proves that the candidate can legally work and you are not employing someone illegally.

Documents which are acceptable are a valid passport, a birth certificate confirming they were born in the UK or the Republic of Ireland or a letter from the Home Office confirming that they have a legal right to work in the UK.

You must also have a copy of the employee's National Insurance number. This is to ensure that National Insurance contributions can be paid.

OFFERING THE JOB

Once you have selected the best candidate for you and completed all the necessary checks you need to inform all the applicants of the outcome. You should contact the successful candidate and tell them that you would like to offer them the position, dependent upon a successful Enhanced DBS check and their references.

You should also inform any unsuccessful candidates and be prepared to provide feedback on their interview performance. A sample letter for this can be found in the appendix documents.

You should contact your future employees' referees for references to check that the information you have been given is correct. You can request this either by telephone or in writing. It is a good idea to follow up a telephone reference with a written reference, as written references provide more information. If you are happy with the references and your employee, the next step is to organise a start date.

REGISTERING AS AN EMPLOYER

You must register as an employer. You have to do this with His Majesty's Revenue and Customs (HMRC) by telephoning 0300 2003211.

You cannot register more than two months before your employee starts but you must register before their first pay day.

Once you have registered you will receive reference numbers which you will need to pay taxes.

INSURANCE

To comply with the law you must have Employer's Liability insurance to the value of £5 million and Public Liability insurance to the value of £2 million.

You should also make sure that you have comprehensive house insurance, especially to cover for any accidental damage. You will need to inform your insurer that you are employing people.

Another thing to consider is whether travel or car insurance will be needed. If you will be travelling by car then your employee must be insured to use either their own car for work or your car.

You should keep a record of the policies and be aware of the dates that they need renewing.

PAY

Your Personal Assistant must be paid at least the national minimum wage. In Rotherham, we would expect the National Living Wage to be paid, as a minimum.

You should keep up to date with any changes to these rates at www.gov.uk
Your employee must receive a pay slip which provides a breakdown of their wages and must be given out every time your employee is paid. A payslip must show:

- Your employee's total earnings to date.
- The fixed deductions which get removed from every wage (payments that are the same at every pay).
- The variable deductions (payments that can change at every pay, e.g. National Insurance and tax.)
- The net pay which an employee will receive (this is the total pay for that period minus the deductions).

If you use a Direct Payment Support Service or payroll service they will organise your employees' pay slips for you.

- You must set up a procedure for paying your employee. They must be paid on the same day or date, weekly or monthly. Common examples are for employees to be paid every Friday or the 15th of every month.
- You have to pay your employee either by bank transfer, standing order or by cheque.
- You have a legal responsibility to ensure that employees are paying National Insurance and Income Tax where eligible. HMRC can help you make arrangements for these deductions.
- You have to register as an employer with HMRC.

If you use a Direct Payment Support Service they will complete these tasks for you. You can contact your Social Worker for support.

HOLIDAYS

Your employee is entitled to annual paid holidays.

The legal requirement is that you provide at least 5-6 weeks' paid annual leave for each employee every year, and this is at the normal rate of pay.

There is no law on what must happen on bank holidays. So if you do not need your employee to work on a bank holiday you can ask them to take this time as a paid holiday.

As an employer you can influence when your employee's holidays are taken. If you are aware that there are times when you will not need your employee to work you could ask them to take this time as paid holiday.

If employment is ending then your employee is entitled to the holiday pay of any they are entitled to but have not taken.

Employees should request holidays using a holiday request form. Refer to the appendix documents for an example of this form.

After receiving the form you must make a decision on the holiday request and keep it as part of your records.

All employees must take their holidays within the year. Employees cannot be

paid for working the time instead of taking their holidays.

You may want to consider hiring some casual employees, who will be able to fill in and cover holidays if your employee's holidays do not match your own needs.

PENSIONS

As an employer you have a legal obligation to provide pension schemes for all of your eligible employees. You have to automatically make payments into a pension for those employees.

Your employees have the option to opt out, and if they do then all payments are refunded.

When providing a pension you must follow these steps in this order:

1. You must be ready to put your employee(s) into a scheme on your staging date. This date can be found on your letter about automatic enrolment from The Pensions Regulator or it can be found using The Pensions Regulator's online tools.
2. Find out whether your employee(s) fit the criteria. Enrolment eligibility is based on age and pay. This criteria is available from the Pensions Regulator. You should keep up to date with this criteria as changes may result in you needing to enrol more employees.
3. You should calculate how much it will cost. When enrolling an employee into a pension scheme you will also have to pay into it. Contact your Social Worker for support with this and use The Pensions Regulator calculator to work this out.
4. You need to make sure that all your employee details are correct, for example, date of birth, contact details and National Insurance number. Pension schemes will require this information.
5. You will have to choose a pension scheme. One set up by the Government is the National Employment Savings Trust (NEST) and this is available to all employers.

<https://www.nestpensions.org.uk/schemeweb/nest.html>

6. Other schemes are also available on The Pensions Regulator online search tool.
7. When your staging date arrives you must automatically enroll your employee and begin to pay your contributions. Make sure that the information required is quickly given to the pension scheme organisation.
8. Following the staging date you must write to your employee(s) and inform them that they have been automatically enrolled or explain that they are not eligible.
9. Within five months of the staging date you must complete your online declaration of compliance. This confirms that you have enrolled your employee or explains why your employee is not eligible. Your Declaration of Compliance is completed on The Pensions Regulator.
10. Keep records of your enrolment and the details of your contributions.

If you require any additional support then contact The Pensions Regulator.

SICKNESS ABSENCE

You need to have a procedure in place which should be followed if an employee is sick.

This procedure should be explained to your employees in their induction and it should also be documented in the Contract of Employment.

If an employee is unwell and unable to work you should ask them to let you know as soon as possible so that you can try to make alternative arrangements. You must inform your Social Worker of your situation to allow them to support you.

You may want to consider hiring a number of casual employees who will be able to fill in if the sickness is likely to be long term.

If an employee is off sick they may be entitled to Statutory Sick Pay (SSP). This is paid at the same time and using the same methods as a regular wage.

To be eligible for SSP your employee must meet certain criteria, and you can find out more at www.gov.uk/employers-sick-pay.

Following the fourth day of sickness and up to seven days of sickness an employee is required to self-certificate using an Employee's Statement of Sickness form which is available from HMRC.

The maximum amount of sick pay that can be given is 28 weeks.

You must keep your Social Worker updated throughout your employee's sickness and immediately update them of any changes.

You must also make sure that your employee communicates with you regularly.

HOSPITAL ADMISSIONS

Hospital admissions vary on a case-by-case basis.

If you require your Personal Assistant to continue their role and continue assisting you whilst you are in hospital you must inform your Social Worker and the person responsible for your care in hospital.

When you first go into hospital you and your Social Worker should assess the length of time you are expected to stay. For short or specific hospital stays, you or a representative should approach your Personal Assistant and ask them to take annual leave for this time period.

If this is not possible, or for longer hospital stays, then this will be reviewed by your Social Worker. Each instance is individual, so a review is required to decide the next steps.

When going into hospital you must contact your Social Worker, they will be able to assist you and help you throughout your stay in hospital.

MATERNITY, PATERNITY AND ADOPTION PAY AND LEAVE

If your employee requires any of these arrangements your Social Worker will be able to support you and you should inform them immediately.

MATERNITY

If you have an employee who is pregnant they have rights and you have a legal obligation to support these rights.

Pregnant employees are entitled to 52 weeks maternity leave.

- The first 26 weeks are ordinary maternity leave.
- The last 26 weeks are additional maternity leave.
- Leave can begin from 11 weeks before the expected birth.
- Leave must be taken for at least two weeks after the birth.
- If the baby is born early an employee's leave must begin the day after the birth.

You must be informed of the pregnancy at least 15 weeks before the expected due date. Employees will inform you of the due date or the date that they would like to begin their maternity leave.

Once you have been informed you must confirm the maternity leave start and end date within 28 days.

If your employee would like to change their return to work date they should give eight weeks' notice.

Statutory Maternity Pay (SMP) can be paid for 39 weeks. The first six weeks' pay is 90% of the average weekly wage. Following this it is paid at the current Statutory Maternity Pay (SMP) rate or 90 per cent of the weekly wage, whichever is lowest. You can check the current SMP rates at www.gov.uk

PATERNITY

Similar to maternity entitlements employees are entitled to paternity leave and pay if their partner is having a baby, if they are having a baby through surrogacy or if they are adopting a child.

The entitlement is either one or two weeks consecutive leave. It must begin the day of the birth or an agreed number of days following the day/week of expected birth.

Statutory Paternity Pay (SSP) should be paid at either the current weekly rate or

90 per cent of the weekly wage, whichever is lowest. You can check the current rates at www.gov.uk

Unpaid leave can be granted for attending two ante-natal appointments, each up to six and a half hours.

ADOPTION

If your employee is adopting a child or having a child through a surrogacy arrangement, they may be entitled to adoption leave and pay.

If your employee is eligible, they are entitled to up to 52 weeks leave, the first 26 ordinary adoption leave and the last 26 additional adoption leave.

For surrogacy, leave is taken from the day of birth.

For adoption, leave can be taken up to 14 days before a child is placed with your employee. For overseas adoptions, leave can begin 28 days before the arrival of the child.

Statutory Adoption Pay (SAP) for employees can be paid for 39 weeks, either at the current weekly rate or 90 per cent of the weekly wage, whichever is lowest. You can check the current rates at www.gov.uk

PARENTAL

Your employee may be entitled to shared parental pay and leave if they have had a baby or adopted a child.

You must first determine whether your employee is eligible, which you can access at www.gov.uk

If eligible your employee can end their maternity or adoption leave early and then decide how they would like to split their remaining pay and leave. If your employee is eligible and decides that they would like to take this option then the leave must be taken between the baby's birth and first birthday.

You must keep records for each of these types of pay and leave. You must have thorough records of the type of pay, the day it began, all payments, any weeks unpaid and the reasons why. For pregnant employees you must also keep a record of the proof of pregnancy. These records should be kept for three years from the end of the tax year they relate to.

As you are an employer you can usually reclaim back 92 per cent of any of these types of pay.

REDUNDANCY

You may find that you have to make a member of your staff redundant. This may be because you no longer need to employ them or you need to reduce the number of staff you employ.

You must contact your Social Worker if you are thinking about making a member of staff redundant. Your Social Worker will need to assess that a redundancy is not impacting on the care and support you require. This must be reviewed and assessed in line with your support plan.

Details of what will happen in the event of redundancy should be included in your Contract of Employment.

When making staff redundant you must be considerate of your employee's rights. An employee may be entitled to redundancy pay, and this applies if they have worked for you for two years or more, but it is also dependent upon an employee's age. There are different criteria which apply to calculating this. Your Social Worker will be able to assist you with this.

In addition to redundancy pay you must also provide the following:

- A notice period
- You legally have to provide a notice period and this should be outlined in the Contract of Employment.
- Statutory redundancy notice periods are:
- At least one weeks' notice if employed between one month and two years.
- One weeks' notice for each year if employed between two and 12 years.
- 12 weeks' notice if employed for 12 years or more.

You have to pay your employee for this notice period. If you choose for your employee to finish working for you before the end of their notice period they must still be paid, through payment in lieu of notice.

- Consultation

When making an employee redundant you should inform them in a formal meeting, and provide the reasons for the redundancy.

- Time off to look for a new job

If your employee has worked for you for over two years they must be given time off to look for a new job. For this time off, regardless of its length, you are only required to pay 40 per cent of that week's wage. So if an employee takes two days off to look for work then they will be paid 40 per cent of the weekly wage, but equally if an employee takes four days off to look for work then they will be paid 40 per cent of the weekly wage.

If you have approval to make a member of staff redundant your Social Worker will be able to support you through the process.

STAFF RESIGNATION

If a member of your staff wishes to resign then you must accept it and they must provide you with a letter of resignation.

You should ensure that your employee has given you the required notice period. They will find this in their Contract of Employment and it is dependent upon the length of time they have worked for you.

- Legally notice must be at least one week if they have worked between one month and two years.
- If an employee has been employed for over two years then notice has to be two weeks legally and there is an additional week added for every extra year worked.
- The maximum length of time a notice period can be is 12 weeks.
- Usually an employer will require one weeks' notice during the probationary period and following this it will rise to four weeks' notice. This notice will extend depending on the number of years your employee has worked for you, but there is a maximum of 12.

Following this you and your employee must both decide a last day of work. You should decide whether you want your employee to work all of their notice period

or only part of it.

If an employee is retiring this is classed as a resignation.

If you have an employee who is resigning and is working their notice period you can look for another employee to replace them. You can use this toolkit to support you through the recruitment process again.

If an employee resigns then you will need to contact your Social Worker immediately to inform them.

WHAT IF YOUR PERSONAL ASSISTANT IS SELF-EMPLOYED?

If your Personal Assistant is self-employed they will work for themselves and run their own business providing support as a Personal Assistant. In this case you will have different responsibilities and they also have different responsibilities.

Your Personal Assistant must:

- Send you an invoice for the support they provide.
- Complete their own tax and National Insurance deductions.
- Have their own public liability insurance which is in date, and cannot expire.
- Ensure they have a recent Disclosure and Barring Service (DBS) for their role as a Personal Assistant, and ask to see this.
- Provide any equipment they need for their job.
- Show you their terms and conditions of services and give you a contract to sign, which includes a complaints procedure.
- Provide someone to cover their role if they are away or unable to work.
- Pay for any insurance and training which they need for the role.

You must ensure that you:

- Receive an invoice for their work.
- Keep records of all invoices that you are given.
- Are shown their terms and conditions of services.

- Sign a service contract, which includes a complaints procedure.
- Remember:
- Make sure that you check their insurance and DBS document. You need to check their insurance has not expired. You must check they have a recent DBS certificate which covers this role.
- You do not have to contribute to sick pay or holiday pay.

Most importantly you must ensure that your Personal Assistant provides you with the information you require including details of their services, how they will support you and their pay. They must also provide evidence that they are self-employed, that they have the necessary insurance, and are responsible for their own tax and National Insurance contributions. This should all be provided in writing, in a document for you to keep a record of. These records are very important as they are evidence if you are challenged.

If your Personal Assistant is self-employed or manages their own company and does not complete their responsibilities or cannot provide proof of their status then you should contact your Social Worker for support.

PART THREE: YOUR RESPONSIBILITIES AS AN EMPLOYER

DISCLOSURE AND BARRING SERVICE (DBS) CHECK

It is advisable to arrange a DBS check for any successful applicants you wish to employ as a Personal Assistant. Where there are children under the age of 18 in the household, a DBS check must be completed.

The DBS will check if an employee has any criminal convictions which prevent them from working with you, especially when working with children and vulnerable adults. There will be a cost for this, depending upon what level of check is required.

If your Personal Assistant already has a DBS check in place for a similar role that they hold, their DBS check may be transferable. It will only be transferable if it is an Enhanced DBS certificate and the check is recent. If not, your employee will need a DBS check for this Personal Assistant role. In most situations, you are responsible for completing the check.

If you are employing a family member you are not able to complete the DBS check. Prior to family members being recruited, you have to gain approval from a professional panel. Your Social Worker will support you with this process. If you receive permission to employ a family member as your Personal Assistant, your Social Worker will be responsible for completing the DBS check.

After the DBS check has been processed your employee will get a certificate. You should ask to see this certificate, to ensure that it has been received. If you have any problems with completing a DBS check you should contact your Social Worker and they will support you.

If a DBS check identified previous criminal convictions, you should discuss this with your Social Worker before employing the candidate as your Personal Assistant.

HEALTH AND SAFETY AND RISK ASSESSMENTS

As an employer you have a duty to ensure that your employees can work safely, without risks to their health.

To do this there are steps you must take. These are:

1. Complete the safety in the home checklist, an example can be found in appendix documents. This should be completed every year and repeated if there are any changes to your property.
2. Complete a risk assessment of the workplace. You will need to identify the possible risks that your employee may encounter whilst working. You must then show this to your employee and regularly update it with any changes (see the appendix
3. documents for an example risk assessment table). This risk assessment is a measure of hazards in the workplace. You must consider what the likelihood is of a risk occurring and also show what you have done to limit any risks.
4. You must consider whether your employees will need any training to work in your workplace, and if so make arrangements to ensure they receive this training.
5. Record any incidents in the home and keep records of any incidents which you have to report.
6. Inform your employee of health and safety procedures and fire safety procedures. For example, this will include information on what you must do in the event of a fire, where the emergency exits are and the location of equipment.
7. Make sure that you have insurance, see the introduction booklet for advice on this.

If you employ more than five people then you must have a Health and Safety Policy.

EMPLOYMENT RECORD KEEPING

As an employer you are required to keep records. Some of these records are necessary and others should be kept as good practice. If you use a Direct Payment Support Service they will keep most of this documentation for you.

Records that you must keep are:

- Documents from your recruitment and induction. You must keep these for at least six months in case of a discrimination challenge.

- A copy of the documentation which proves that your employee has a legal right to work in the UK.
- A copy of the contract, documenting the terms and conditions of employment.
- A copy of the P45 form your employee should bring to you. If they do not have a P45 then you must contact HM Revenue and Customs (HMRC) to complete a starter checklist form.
- Documents which relate to your employee pensions.
- Documents of pay slips, that prove that they are given to employees and show that they are paid at least the National Minimum Wage.
- Payroll details which contain records of Income Tax and National Insurance contributions.
- Details of any employee sickness that lasts for over four days, and any sick pay that you have paid.
- Any accidents, injuries and dangerous occurrences to meet health and safety standards.
- Details of your insurance policies.
- Documents and minutes of supervision meetings.
- Records of any disciplinary action.

Alongside these it is good practice for you to keep:

- Records of any training that you or your employee have undertaken.
- Employment history details, so that you have records of the employee's start date, copies of the contract and any updated contracts, change of duties, any promotion or job title changes.
- Any records of absences, any sickness and lateness.
- Records of your employee's personal details.
- Details of redundancy and any consultations.

Be aware of Data Protection when storing records. You need to keep sensitive and personal information secure.

You should also consider the time period that records are stored. Some records must be stored throughout the entire employment but others must be removed after a certain period of time has passed. For example, you should dispose of your recruitment records after six months.

GENERAL RECORD KEEPING

As part of the agreement for your Direct Payment you must keep records. If you use a Direct Payment Support Service they will keep most of this documentation for you.

The records that you need to keep are:

- A copy of your care and support plan
- Original bank or building society statements
- Receipts of any payments from your Direct Payment
- Bills
- Petty cash receipts for any payments made in cash
- Cheque stubs
- Pay slips

Your records must be able to prove that you have used your budget to pay for care and support in line with your agreed care and support plan.

You must be prepared to share these records when they are requested.

You should keep these records for at least seven financial years from the date of payment. This applies even if your payment stops.

If you are unsure of what records to keep, contact your Social Worker who will be able to advise you.

AUDIT

How you spend your Direct Payment will be reviewed at regular intervals. This review of your budget is known as auditing.

The reasons for audit are to:

- Check that the care you are receiving meets your needs, and that it has not changed
- Check that your spending has been in line with your care and support plan
- Highlight any difficulties and challenges you face. These can then be addressed and help can be provided
- Ensure that the council is completing its legal duties. By law it has to assess the spending of public money to ensure that it is achieving the intended outcomes

At the time of audit you will be asked to send your records into Rotherham Council for review.

Auditors will then check that:

- All Direct Payments are correct
- Employee wages are correct
- Payments to HMRC are correct and there have been no late payments
- Receipts are provided for spending according to your care and support plan
- Your insurance is up to date
- All invoices are paid and are up to date
- All of your client contributions are paid and are up to date

After your records have been reviewed they will be returned to you.

If you are unsure what records you must keep and send back for assessment you should contact your Social Worker.

CONFIDENTIALITY

As an employer you will have access to information which you must keep secure and it should not be available for the public to see.

The information that you must keep secure and confidential is:

- Any personal information about your employee
- Any employee's medical or disability information
- Any management issues, like grievance or disciplinary action, employee misconduct or dismissals
- Any personal details which must be kept private, for example bank account details

To keep this information confidential there are some steps that can be taken:

- Keeping all information organised
- Storing confidential information in locked rooms or filing cabinets
- Not leaving confidential information lying around or on computer screens – always tidy this information away
- Discussing confidential information in private places only

EMPLOYING FAMILY MEMBERS

Employing family members will depend upon your situation. Usually the employment of family members is not permitted for a family member living in the same house, or for what is considered a close family member. A close family member has been determined by the Care Act 2014.

A close family member could be:

- Your spouse or civil partner
- Someone who lives with you as if a spouse or civil partner
- Your parents or parents-in-law
- Your son or daughter, or son-in-law or daughter-in-law
- Your stepson or stepdaughter
- Your brother or sister
- Your aunt or uncle

- A grandparent

Only in exceptional circumstances will any close family members be able to be employed. This is only when it is the most effective and necessary way to meet your needs.

These rules do not prevent you from hiring a live-in Personal Assistant, but it does prevent you from employing someone you have a personal relationship with. If you wish to employ a family member you discuss this with your Social Worker.

CONTRACT

When your employee starts work you must complete a contract of employment. This has to be done within two months of the start date and must be signed by both you and your employee. You must each then keep a copy for your records.

This is important as it is an agreement between you and your employee. It outlines important details and the terms and conditions of the employment. Any changes to the contract must be formally discussed, and both you and your employee must agree. You must consider any suggestions from your employee. You can change the terms and conditions of the contract if your care and support plan is reviewed and your needs change. To do this you must give at least two weeks' notice.

You can refer to the appendix documents for an example contract of employment.

Within the contract you must provide details of:

1. Name of the employer (you) and the employee
2. Job title and main duties
3. Place of work
4. Start date
5. Type of contract
6. Probationary period

This is a trial period, at the start of employment. It is usually about three months. See the document on 'Being a good employer' for advice on the probation.

Following a probation, an employees performance is reviewed and if it is satisfactory, employment is continued. The employee's notice period is shorter throughout the probation, usually a week.

7. Code of conduct

You should list the expected behaviour of your employee

8. Lateness

You should give instructions for instances of lateness

9. Salary and pay dates

You must list the employee's salary and the date of payment.

10. Working time, hours and breaks

You must list working hours and also break times. Employees must have regular rest periods, they are entitled to a minimum of:

- 11 hours rest consecutively across a 24 hour period
- a minimum of 20 minutes break if they are working longer than six hours consecutively
- a minimum of one day off a week.

11. If you have a sleep-in arrangement for your employee make sure that they get the breaks they are legally entitled to.

12. Pensions

You should explain that if eligible, an employee will be automatically enrolled.

13. Timesheets

You should explain to an employee that they must keep a record of the hours they have worked on a timesheet and this should be submitted to you by a set date so they can be paid.

14. Holiday entitlement

You should list your employee's holiday entitlement and outline your bank

holiday policy.

15. Sick leave

Your procedure should be listed here and you should explain what an employee is to do when they are sick.

16. Confidentiality

You should explain that information your employee may see or hear is confidential. You should also explain that you will keep employment records of your employee.

17. Grievance and disciplinary

If you or your employee have concerns you should explain the process that you will follow. For advice and guidance you can contact the Advisory Conciliation and Arbitration Service (ACAS) or the Citizens Advice Bureau (CAB), which your Social Worker can signpost you to.

18. Dismissal

You should explain how a dismissal could occur. For advice and guidance you can contact ACAS or the CAB, which your Social Worker can signpost you to.

DIRECT PAYMENT SUPPORT SERVICE

To help you manage your Direct Payment you may receive support from a management service. This can be especially supportive in helping you to employ a Personal Assistant.

To help you employ a Personal Assistant, a management service can:

- Help you to recruit a Personal Assistant
- Support you and set up payments that you need to make to HMRC as an employer
- Provide templates and help with completing important employment documents, for example an employment contract

- Ensure that all your employment checks are complete and provide assistance with these
- Provide payroll services, which includes creating payslips for your Personal Assistant
- Help you to set up the insurance that you need to employ someone
- Manage the payments from your Direct Payment for any services and your Personal Assistant's wages
- Manage the paperwork for your Personal Assistant, making sure that it is complete and submitted on time
- Record all the transactions and payments which you have used your Direct Payment for

If you would like more information about management services you should contact your Social Worker.

PART FOUR: MANAGING YOUR PERSONAL ASSISTANT

GRIEVANCE AND DISCIPLINARY

When you become an employer you or your employee may experience problems and issues. This could be for a variety of reasons for example:

- Bullying
- Health and safety
- Work relations
- Discrimination
- Terms and conditions of employment

It is important that you have procedures in place in order to properly deal with these issues.

PREVENTING PROBLEMS

There are certain things you can do to prevent problems emerging with an employee.

These are:

- Do not lend money to or borrow money from your employee
- Keep receipts and records of every payment that gets made
- Do not leave money around the house
- Do not give an employee access to a personal bank account or pin number. If they need access to an account you should set up a separate bank account and only pay in the amount an employee can access
- Do not have an employee signing financial documents on your behalf or acting as a signatory on a bank account
- Do not pay a Personal Assistant before their pay date

GRIEVANCE AND DISCIPLINARY

If an employee has a problem or concern this is known as a grievance. As an employer there may be times when you have problems or concerns about your

employee, or your employee may raise concerns about their employment.

In these situations you should seek advice from The Advisory, Conciliation and Arbitration Service (ACAS), Citizens Advice Bureau or your Social Worker who will be able to support you and direct you to the most appropriate information and advice.

DISMISSAL

As an employer you may have to dismiss an employee if they breach their contract. This could be for gross misconduct, which is unacceptable behaviour from an employee, or it may be another form of disciplinary.

To help reduce the risk of this happening you should list your code of conduct in the Contract of Employment, so that your employee is aware of what is unacceptable and what behaviour may result in disciplinary action.

If you have to dismiss an employee then you must do it fairly and keep records. If you have issues with an employee then you should contact your Social Worker, who will advise you on the most appropriate course of action.

APPEALS

When you dismiss someone they may request an appeal of the decision. This is their right as an employee. In these circumstances you should seek independent impartial advice.

SUPERVISION AND BEING A GOOD EMPLOYER

INDUCTION

As an employer you must complete an induction with any new members of staff. This is very important to quickly help your employee settle into their new role. An induction is made up of a number of meetings and briefings between you and your employee. It is important as it allows you to provide necessary information, assess how your employee is adjusting to their new role and review any issues that emerge.

The necessary parts of an induction are:

1. On the first day

You must provide your Personal Assistant with information about the role and your expectations.

You can go over the contract, emphasising any key dates and procedures.

You can explain any rules that you have, any arrangements and explain where things are kept.

2. You should explain what they should expect when they next work.

3. Training before they work alone

Provide a thorough overview of all the tasks they should complete and by when. You may need to demonstrate some tasks.

Where it is possible they should shadow another experienced employee before they begin to work alone.

4. One month after starting

You should arrange a supervision session to review how they are feeling, how they think their work is, if they require anything and you can also bring up any issues you may have.

5. Supervision throughout the probation period

You should regularly arrange for supervision meetings with your new employee throughout their probation. Following their probation the number of supervision meetings can be reduced but at this time you should ensure that your employee knows what is expected of them and is performing well.

6. End of probation meeting

If your employee has performed well you should inform them that they have completed their probation.

If there are issues you can extend this probation period and continue to review their performance. From this point you should organise regular supervision meetings.

SUPERVISION

Supervision is a way to regularly meet with your employee in a formal environment.

You should arrange these meetings to occur at set times, for example once a month following the probationary period. The meetings may occur on a more frequent basis during the probationary period.

Holding the meetings regularly allows you to keep control of your employees and what happens in the workplace.

You should use the meetings to address whether your employee is performing well, deal with problems and find solutions.

It is also important in these meetings to give praise and constructive feedback to staff.

A helpful tip is to write down an agenda of everything that you wish to discuss. By doing this you won't forget to mention anything.

To be a good employer you should ensure that both you and your employee are able to see the other's point of view. You must be reasonable when considering any issues that your employee may raise in supervision.

You should keep a record of the meetings by taking minutes and notes, especially if poor performance is discussed.

MANAGEMENT

In order to manage your Personal Assistant there are some important tips, skills and attributes to consider. These will create a positive working environment and encourage your employee to work hard.

- **Communication**

Communication is crucial for passing on and understanding information, and also building relationships. You must tell your Personal Assistant about your preferred methods of communication.

- Create boundaries

It is important to remember that although you may not have a formal working relationship you are still their employer. You should outline boundaries clearly with your employees when they first start to work for you.

- Be considerate of your employee's preferences

Ensure that you are not demanding unreasonable hours and extra work than you specified in the contract. Also be aware of their situation, for example with families, and how it might impact them if you demand longer and unreasonable working hours in addition to their contract.

- Provide support and allow any development that he/she needs

Progression and development is important for all employees. You should provide any necessary training and development opportunities.

- Value your employees

A positive working environment and fair treatment have an influence on the retention of employees. You are more likely to keep your employee if he/she is happy at work.

TRAINING

You must consider whether your employee requires any training to be able to do their job well.

You have to make sure that:

- Your employee can work safely
- The requirements of your insurer are met
- Your employee is able to be good at their job and develop their skills
- You have kept up to date with new ways of working, the law and practice
- You can improve your employee's skills and abilities to support you

When your employee first starts you should discuss whether they require any training in order to properly do their job.

You should also consider if your employee needs any training to provide your planned and required care.

Some training will be mandatory for your employee to complete and this will be explained to you by your Social Worker.

Examples of training include moving and handling, health and safety, food hygiene, emergency first aid or infection control.

You may need to provide refresher training for your employee throughout their employment with you. This will help your employee to keep up to date and also provide support for their work.

You should keep a record of any training that is completed by you or your employee. Where possible keep a copy of any certificates you are given.

PAYING FOR TRAINING AND QUALIFICATIONS

As you are using your Direct Payment to employ your own care and support staff, you are entitled to apply for a grant from Skills for Care to fund any training that you or your employee may need.

The funding can cover:

- The cost of the training
- Travel costs
- The cost of hiring replacement support staff if your employee is away attending training

If you wish to apply for this funding you must first research and select appropriate training courses in your area.

To apply you must complete and submit an application form to Skills for Care. This application form is available on the Skills for Care website or by contacting them. www.skillsforcare.org.uk T: 0113 245 1716.

All mandatory training for your Personal Assistant will be funded for you, so you will not need to use your Direct Payment or to apply for funding for this training. If

you need help with finding training your Social Worker or your employee will be able to help you.

CODE OF CONDUCT

The Department of Health has developed a code of conduct which outlines the level of care and support that you are entitled to. This code of conduct should be followed by your Personal Assistant.

Under the code of conduct your Personal Assistant should:

1. Be accountable by making sure that they can answer for their actions or omissions.
2. Promote and uphold your privacy, dignity, rights, health and wellbeing.
3. Work in collaboration with colleagues to ensure the delivery of high quality, safe and compassionate healthcare, care and support.
4. Communicate in an open and effective way to promote your health, safety and wellbeing.
5. Respect your right to confidentiality.
6. Strive to improve the quality of healthcare, care and support through continuing professional development.
7. Uphold and promote equality, diversity and inclusion.

You can use this code of conduct to identify any training or support needs that your Personal Assistant may need in order to meet them all. If you have any concerns about the code of conduct you should contact your Social Worker.

PART FIVE: COMPLAINTS, COMPLIMENTS AND COMMENTS

Your feedback is welcome on the services that you receive. This will help us to put things right, learn from mistakes, understand when things have gone well and improve the standards of services.

COMPLAINTS WITH YOUR PERSONAL ASSISTANT

If you and your Personal Assistant are unable to resolve a complaint, then you must contact your social worker. They will be able to provide support and assistance, or they will be able to direct you to support services.

FEEDBACK ON THE SERVICES YOU RECEIVE

Rotherham Council

If you would like to feedback on the services that you receive you can contact the Rotherham Council Complaints Team.

T: 01709 382121 or E: complaints@rotherham.gov.uk

All complaints are dealt with in a fair and just way, following the appropriate procedures.

PART SIX: HELP AND ADVICE

If you require any advice and support you are able to contact your social worker. In addition we have put together some organisations details who can give help and advice.

DIRECTGOV

From this website you will find government services and information. There is even a section which guides you through employing people.

You can access the information through the website: www.gov.uk

Alternatively you can contact them through their Business Support Helpline. They are available Monday to Friday from 9am to 6pm on T: 0300 456 3565 or on enquiries@businesssupporthelpline.org

ACAS (ADVISORY, CONCILIATION AND ARBITRATION SERVICE)

This is an organisation which provides free help and support for employers and employees. You can access information and guides from their website: www.acas.org.uk

Alternatively you can get free, confidential advice by contacting them on T: 0300 123 1100 between 8am and 8pm, Monday to Friday and 9am and 1pm on Saturday.

BEING THE BOSS

The website supports disabled people who employ Personal Assistants. There are a number of guides and samples which can be accessed through the website: www.beingtheboss.co.uk

SKILLS FOR CARE

Skills for Care supports Adult Social Care organisations and individual employers, providing practical tools to ensure that they successfully and legally manage employees.

Information is available on www.skillsforcare.org.uk or you can contact T: 0113 245 1716.

Skills for Care also has an information hub to support individual employers and Personal Assistants:

www.skillsforcare.org.uk/Employing-your-own-care-and-support/Information-hub.aspx

Through the Information Hub you can download a toolkit guide for employing a Personal Assistant.

You can find this here www.employingpersonalassistants.co.uk

If you need further information email info@skillsforcare.org.uk or contact T: 0113 245 1716.

HIS MAJESTY'S REVENUE AND CUSTOMS (HMRC)

This is the UK's tax, payments and customs authority. It provides advice and guidance for employers on pay, taxes and legal requirements. They have online guides and information available on www.gov.uk/government/organisations/hm-revenue-customs.

The online helpdesk is available from 8am to 8pm Monday to Friday and 8am to 4pm on Saturdays through calling T: 08457 143 143. The organisation is unavailable for telephone Sundays, Christmas Day, Boxing Day and New Year's Day.

The employer helpline (HMRC) can be contacted on T: 0845 607 0143.

HEALTH AND SAFETY EXECUTIVE (HSE)

The HSE works to prevent death, illness and injury through work. It regulates and enforces Health and Safety across UK workplaces.

Information can be accessed through the website www.hse.gov.uk

The organisation has an online form for requests for information and advice. If you are unable to use the online form you can contact them to fill out the form for you, the hours are from 8.30am to 5pm Monday to Friday, except Wednesday when they can be contacted from 10am to 5pm on T: 0300 003 1747 and a call handler will complete the form for you.

CRIMESTOPPERS

This charity works to support communities in their right to live without crime. You are able to pass information onto them about crimes. This can be done by calling the anonymous phone line on T: 0800 555 111. Information can be found on the website www.crimestoppers-uk.org

NATIONAL MINIMUM WAGE HELPLINE

Advice and guidance for employees and employers on the National Minimum Wage is provided through the National Minimum Wage helpline. They are also available to deal with complaints.

Information is available on www.hmrc.gov.uk

You can contact them on T: 0800 917 2368 Monday to Friday from 8am to 8pm and Saturdays from 9am to 1pm. It is closed on Sunday and bank holidays.

THE PENSIONS REGULATOR

This is a service designed to support employers in upholding the law and providing all eligible employees with pension contributions. It is a UK regulator of pension schemes in accordance with legal requirements.

www.thepensionsregulator.gov.uk or you can email customersupport@autoenrol.tpr.gov.uk or call T: 0845 600 1011.

A handy tool available for employers is the Duties Checker. This allows you to check which legal duties you are required to complete as an employer. This can be accessed at www.thepensionsregulator.gov.uk/en/employers/duties-checker

CHOICES

This is a health information service which can be accessed at www.nhs.uk/pages/home.aspx is full of helpful information, lots of advice and it can direct you to services that you can access locally.

STOP HATE UK

This charity provides independent and confidential guidance to people affected by hate crime.

Information can be found at www.stophateuk.org

The charity can be contacted for information by emailing info@stophateuk.org and calling T: 0113 293 5100.

To report hate crime you can email talk@stophateuk.org, telephone 0800 138 1625, text 07717 989 025, complete the online form at www.stophateuk.org/tell or report it through a web chat at www.stophateuk.org/talk

CITIZENS ADVICE

This service is available to provide free, independent and confidential advice. A wide range of information is available at www.citizensadvice.org.uk Advice can also be received over the phone on T: 03444 111 444.

DISABILITY RIGHTS UK

This is a charity that provides information, help and support for disabled people. There is a helpline that can be contacted on T: 0300 555 1525 or on personalbudgets@disabilityrightsuk.org Tuesdays and Thursdays 9.30am to 1.30pm.

Rotherham Council shall accept no responsibility for any errors, omissions or misleading statements in this handbook, or for any loss which may arise from reliance on the handbook. Certain parts of this handbook may link to external Internet sites, Rotherham Borough Council is not responsible for the content of any external Internet sites.

We accept no liability for virus contamination of your systems as a result of using these sites.

Please note this handbook has been produced with the sole purpose of being a guide of what a good employer should be considering whilst employing Personal Assistants.

