

Understanding the employment status of personal assistants (PAs)

A guide for individual employers

This guide will explain why it's important to understand the employment status of PAs, how the wide spectrum of the PA role may influence employment status, the different ways in which you can engage a PA and where to go to find more information and advice.

This guide is for individuals who need care and support who:

- directly employ one or more PAs
- engage the services of a PA, for example through a matching service or care agency
- are thinking about either employing or engaging the services of a PA.

Others who may find this guide of interest:

- PAs
- organisations supporting individuals to employ (or engage) PAs.



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Introduction

In 2015 there were around 500,000 people receiving long term support via a personal budget. Of these 145,000 were receiving direct payments and we estimate that around 65,000 will be directly employing personal assistants (PAs) (an increase from an estimated 32,000 in 2008).

This means that more people than ever have more choice and control over the care and support that they need. As a result, the options and types of support available have also changed.

New ways (or models) for people to get the care and support they need have developed in response to individuals needs and choices. One of the implications of this is that the term PA is increasingly being used to describe anyone that could support you to live independently, no matter how they're employed.

As well as directly employing a personal assistant (PA) other models are available, for example a user-led organisation could employ them on your behalf, you could use an online introduction agency, or you could hire a PA who is self-employed, for example.

Because of recent, and widely publicised, debates around working arrangements between an individual and their employer (for example Uber and Deliveroo), Government is paying closer attention to those working on a self-employed basis. This together with the different models of employment, means that the employment status of PAs can be a complicated issue.



We have written this guide to help individuals understand how personal assistant (PA) support can be obtained and how the way in which you get that support, can determine your responsibilities as either an employer or engager of PAs.

Our intention is not to promote nor endorse any particular model, rather to attempt to clearly set out the options in what is a rapidly changing environment. Skills for Care continues to work with HMRC as a stakeholder around guidance for PAs and their employment status.

What is a PA?

A PA is someone who is (usually) employed directly by a person who needs care and support. They can also be employed by a family member or representative when the person they're supporting doesn't have the physical or mental capacity to be the employer.

A PA always works directly with the individual they're supporting, in a person centred way.

PAs are likely to be involved in many aspects of their employer's life and may be asked to provide support in the home, at leisure or at work.

The opportunity to focus directly on the needs of an individual and the diversity of the role is what often attracts people to this type of work. The role can vary from house to house, employer to employer.

What is an individual employer (IE)?

An individual employer is someone who needs care and support, who directly employs a PA to meet their needs. By employing a PA an individual can maintain choice and control over their support, which may be delivered in the home, workplace or community.

Individual employers can pay for their PAs using a personal budget (social care or health) which they choose to take as a direct payment, or their own money (self-funders) (see appendix).

By recruiting a PA, individuals become an employer and take on all the responsibilities that entails.



1

What is employment status?

Employment status is a term used to explain the working arrangement between you and your personal assistant (PA).

There are three main types of employment status for PAs:



Employed:

where you directly employ a PA using a direct payment, personal health budget (PHB) or with your own money. You might be called an individual employer.

PAs employed in this way will have more rights than those employed as 'workers'.



Self-employed:

where the PA runs their own 'business' and you contract them to provide a service such as cleaning or gardening.

Self-employed PAs don't have employment rights and responsibilities.



Worker:

where you directly employ a PA under a more casual arrangement where work may not always be guaranteed, for example to provide sickness or annual leave cover.

Resources to help you



There's lots of support available to help you understand employment status.

Employment status, Gov.uk

The Government has information about the employment status of workers.

ACAS

The ACAS website has lots of advice about employment status, employee rights and employer responsibilities.

Disability and tax: a guide, Low Incomes Tax Reform Group

This guide provides advice for individual employers about being an employer, employment status and other tax matters.

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Why is the employment status of PAs important?

Understanding the employment status of your PA helps to determine your PA's rights and your responsibilities as an employer or an engager of PAs (an engager is someone who doesn't directly employ a PA, but you pay them or an organisation to provide their services).

It also makes sure that you and your PA pays the right amount of tax and National Insurance Contributions (NIC). If the employment status of your PA is wrong, you and your PAs may have to pay unpaid tax and penalties, or you could lose your entitlement to benefits.

Because the term PA is increasingly being used to mean anyone that could be supporting you, and there are now lots of different ways you could engage a PA, employment status can be a complicated issue.

It's important to make sure you carry out your own checks to make sure that the status for the working arrangement between you and your PA is correct. The resources below can help you do this.

If you receive a social care direct payment or a personal health budget (PHB) to pay for a PA, you'll need to check with the organisation providing that budget about the rules around using a self-employed PA.

Guidance from Her Majesty's Revenue and Customs (HMRC) and Advisory, Conciliation and Arbitration Service (ACAS)

A PAs employment status is not a matter of choice; it depends on the circumstances. The most likely scenario is that your PA should be employed directly by you; it is very rare that a PA would be considered self-employed by HMRC.

A PA is likely to be employed if:

- you decide what work is done, how it's done, when it's done and who does it
- they can't send someone else to do their work.

Resources to help you



There's lots of support available to help you understand employment status.

HMRC is the UK's tax, payments and customs authority. They collect the money that pays for the UK's public services and help families and individuals with targeted financial support.

Check employment status for tax, Gov.uk

Use this service to find out if your PA should be classed as employed or self-employed for tax purposes.

Am I employed or self-employed, HMRC YouTube

This HMRC video to help your PA decide if they are employed or self-employed for tax purposes.

ACAS is an organisation that provides information, advice, training, conciliation and other services for employers and employees to help prevent or resolve workplace problems.

ACAS website

The ACAS website has lots of advice about employment status, employee rights and employer responsibilities.

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The PA role and employment status

Traditionally, a PA would be directly employed by you because you have care and support needs and you don't want those needs met by in a residential care home or a home care agency (domiciliary care).

The term 'PA' is increasingly being used by those working on a self-employed basis, workers employed by a domiciliary care agency, online care matching service and by organisations providing a bespoke arrangement.

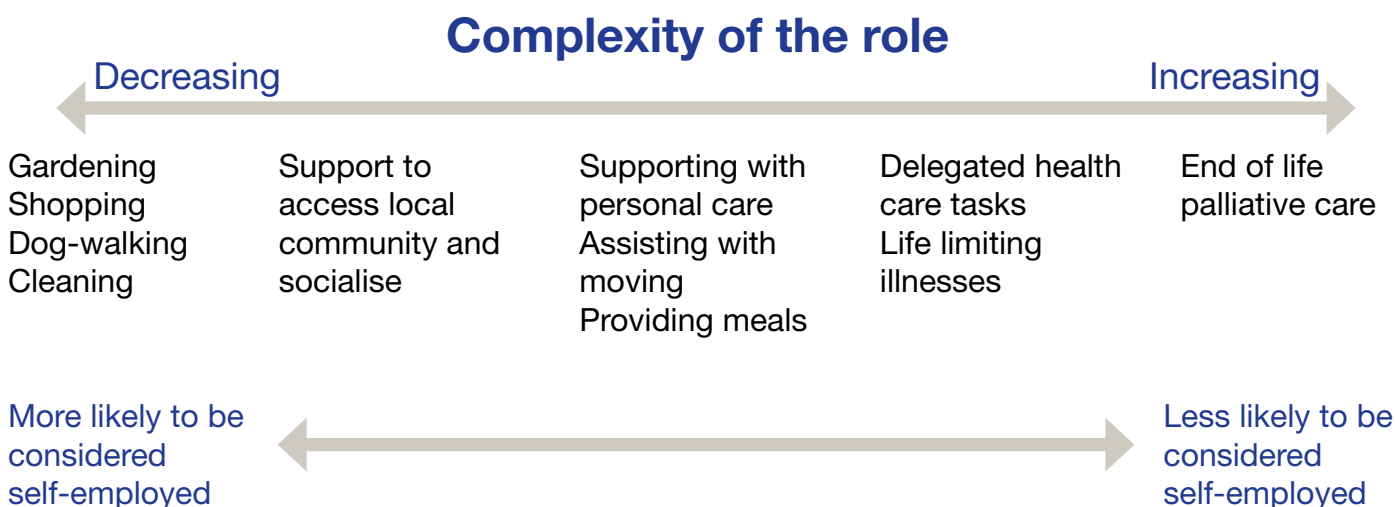
There are a wide range of tasks that individuals might need PAs to do. This can include help with household chores or getting out and about, through to supporting someone with personal care, such as bathing and getting dressed. In some cases tasks may be delegated by a health care professional, for example, deep suction or PEG feeding.

The tasks your PA carries out will be defined by what you need to live independently in a way you choose. They will be unique to you and the role of your PA and the tasks they carry out can be significantly different from other PA roles.

It's also important to recognise that over time, the tasks performed in a PA role may not always stay the same, particularly if your support needs change.

The tasks you need someone to do and the arrangement you want to have with your PA has the potential to influence their employment status.

For example, if you initially engaged a PA on a self-employed basis to carry out a specific task, like cleaning or gardening, they may become more engaged with you if your support needs intensify. This may be because you have a good and trusting relationship with your PA and you might want to them to do more for you. This will mean that the nature of the work they are carrying out for you and their role may have changed. This change could mean that their employment status is no longer considered to be self-employed.



4

Getting personalised support

The next section talks about different ways you can engage or employ a PA and what they mean for you and your PA in practice.

You can:

Directly employ a PA yourself

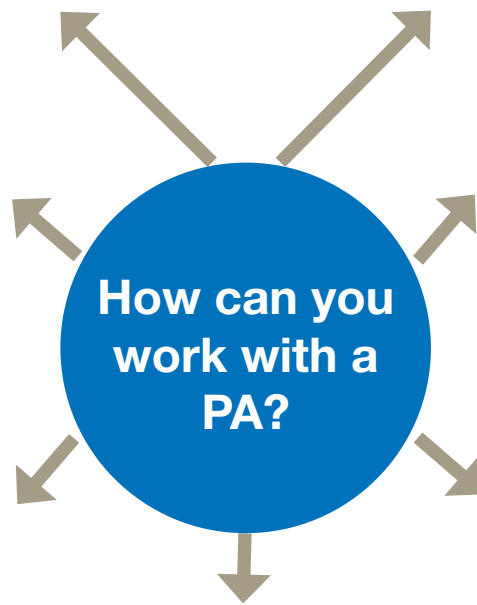
Use a ULO who employs PAs on your behalf

Use domiciliary care agency workers doing a PA role

Engage a pool of PAs who work together

Engage a self-employed PA

Use an introduction agency or matching service to find a PA



Pool your budget with other individuals to employ a PA

This table summarises the different ways you can engage or employ a PA and what this means in practice.

	Who will recruit PAs?	Who has control over what work the PA does?	Who has control over who does the work?	Who's responsible for tax, national insurance and pensions?	Who needs insurance?	Does the PA have any employee rights?	Who needs to register with CQC?
Directly employ a PA yourself	You as the employer, or you could ask a support organisation to do this	You, as the employer	You, as the employer	You as the employer, or you could ask a support organisation to do this	You'll need employer's and public liability insurance	Yes	No-one
Use a ULO who employs a PA on your behalf	You, as the employer in partnership with agency	You, as the employer in partnership with agency	You, as the employer in partnership with agency	Agency	The agency needs employer and public liability insurance and clinical indemnity insurance	Yes, through the agency	Where personal care is involved, the agency must be registered with CQC
Use domiciliary care agency workers doing a PA role	Agency	Agency	Agency	Agency	The agency needs employer and public liability insurance and clinical indemnity insurance	Yes, through the agency	Agency must be registered with CQC
Use an introduction agency or matching service to find a PA	The matching service will do a series of checks before matching you to a suitable PA	Agreed between you and the PA	You, as the employer	PA	Your PA should have public liability and any other necessary insurance	No	No-one
Employ a pool of PAs working together	PAs	PAs	PAs	PAs	The PAs need public liability insurance and clinical indemnity insurance	No	Yes, the PAs need to register with CQC as an agency
Pool your budget with other individuals to employ a PA	You, as the employer	You, as the employer	You, as the employer	You, as the employer	You'll need employer's and public liability insurance	Yes	No-one
Engage a self-employed PA	PA	PA	PA	PA	The PAs need public liability insurance and clinical indemnity insurance	No	It's unlikely that the PA will need to register with CQC for sole traders, but they should seek advice

Directly employ a PA

As a person who has social care and/or health needs, you may want to remain in control of the care and support you require. If this is the case, then directly employing a PA is a good option.

Employing a PA does involve a lot of responsibility, but there are lots of benefits.

As an employer you'll be responsible for recruiting, paying tax and National Insurance, paying into a pension, complying with employment law, knowing about health and safety, carrying out supervision and training your PAs. However there is lots of support to help you do this.

What this means for you, the individual employer

You:

- have full choice and control over who works for you and what they do
- take on the responsibilities of being an employer
- must carry out relevant checks, like making sure a PA can work in the UK, asking for a DBS check and requesting references
- must have employer's and public liability insurance
- must register as an employer with HMRC and set up and run a payroll (or get someone to do this on your behalf)
- must ensure your PAs are paid at the least the national living wage (or national minimum wage); the amount will depend on their age and if they're an apprentice
- must comply with The Pensions Regulator duties around automatic enrolment.

What this means for PAs

They:

- are entitled to certain employment rights and statutory payments
- will need to be given payslips
- can't be required to work for more than the maximum hours allowed per week
- must be paid at least the national wage they're entitled to
- will work under a contract of employment
- are protected against unfair dismissal and discrimination.



Resources to help you



There's lots of support to help you employ or engage PAs.

Employing personal assistants toolkit

This online toolkit has practical steps to help you attract, recruit and manage PAs. It includes templates to help you write job descriptions and contracts.

Find a local support organisation

Local support organisations such as user led organisations, direct payment and personal health budget support services can help with recruitment, paperwork, carrying out checks, payroll, managing PAs and support with training.

How does it work in practice

Employing PAs directly: hear from Nadia

Nadia employs a team of PAs using a direct payment, to support her to live independently at home. She uses an electric wheelchair to get around and uses British Sign Language or her communication aid, Dynavox, to communicate.

Being an individual employer means she can choose the people who support her, who have the right values and skills to provide the care she wants. She has full control over the recruitment process and says 'I would never employ someone I wasn't 100% sure about.'

Nadia has a great insight into herself; her likes, dislikes, how she wants to be treated and what is and isn't acceptable. To ensure her PAs are right for her, she writes her own job descriptions and interviews people herself, so she knows quickly who has the right attitude and values to support her. She also supports their induction and trains her PAs herself about how to use her communication aid, her personal care needs and how to develop her rota.

Nadia describes her team of PAs as the 'dream team' who are motivated, hardworking, fun and compassionate. Employing her own staff means Nadia and her family have a good relationship with her PAs and everyone works as a team.

Having a team of PAs means Nadia can live life to the full. She goes to concerts, couch surfs, festivals and has taken a world trip with two of her PAs to Hong Kong, Australia and Singapore. Nadia also attends lots of conferences to talk about employing PAs.

She says 'I have excellent emotional support from my PAs who have total respect for me; sometimes they leave but we become friends for life.'

Although employing her own PAs takes time and dedication Nadia says 'this is the only path for true independence, choice and control.'

Having a lead PA who acts as a manager on your behalf

If you have a larger package of support, you might want to employ a lead PA who takes on some of your responsibilities as an employer and helps you to manage other PAs. For example, they may carry out supervisions, manage a rota and support you with recruitment.

Whilst a lead PA might expect to receive a higher rate of pay than the PAs they manage, it can remove some of the stress for you related to being an employer and can be a great development opportunity for a PA and add real value to their role.

Having a nominated person who employs PAs on your behalf

Lynn acts as a nominated person and employs two PAs on behalf of her mother.

When Lynn's mother was in the early stages of dementia she received care through an agency. Lynn's mother was often aggressive with her carers, and they now know that this was because she had different carers each day and she was confused about who was supporting her. They later requested a direct payment from their local authority so they could employ their own PAs.

Directly employing PAs has worked so much better for them. 'Mum knows who the PAs are; she recognises them. I know who they are and I have a good rapport with them', says Lynn. As a result, her mother's aggression and agitation have disappeared and Lynn feels confident that her mother is being supported and cared for in a way they have chosen. It also means that Lynn has the autonomy to make changes to her mother's care if necessary.

The practicalities of managing a direct payment and employing PAs on behalf of her mother means taking on a lot of responsibility, however, there's lots of support available.

Get the right paperwork in place

Because of the progression of her mother's dementia, Lynn applied for lasting power of attorney at a time when her mother was still able to make decisions.

Having this kind of paperwork in place has helped with:

- liaising with the local authority social services department and
- opening up a separate direct payment bank account for her mother
- taking out personal and public liability insurance on behalf of her mother.

The insurance policy also includes some really useful benefits, like access to a HR adviser, a one off payment paid to PAs should her mother die that will support PAs whilst they look for another job, as well as template policies and procedures, including job descriptions, contracts of employment and a grievance procedure.

When they first started employing PAs, the grievance procedure came in particularly useful when one PA couldn't manage her mum's changing needs and started turning up late and talking on the phone whilst they were bathing her mum. Having the grievance procedure in place and using the insurance company's HR advice, Lynn was clear that they had gone through the proper HR processes.

Support with recruitment

A clear and detailed job description is essential so there are no misunderstandings about what the role will involve. Lynn asked for help from the local authority social services team to place the advert in a local Jobcentre Plus.

Shortlisting applications and interviewing processes will be different from employer to employer, but the approach Lynn takes is to invite those they want to consider for the role to meet with her and her mother. This way it gives potential PAs an opportunity to see the extent of her mum's condition, the environment in which they would be working and equipment that would be used. It's also a chance to see what her mum thinks of the PA.

Managing PAs

Over the years, Lynn's mum's care and support needs have changed from more social interaction and outings to support with mealtimes, cleaning the house and using a hoist to aid mobility. It's important, when re-evaluating PA duties, that you consult with them about any changes. This means that Lynn has changed PA induction and has written the terms of the induction into the PAs contract. They usually do a trial and after six weeks they review the arrangement. If it's not working out they'll end the contract.

Lynn has regular informal supervisions with her mother's PAs to sort out any issues as well as discuss other things like training needs. Training's a good way to ensure PAs feel valued and important; it's given Lynn's mother's PAs opportunities to ask questions and as a result they've become more engaged in their role.

Payroll

Lynn uses a payroll agency to pay her mother's PAs. There's usually a fee for this service and it's likely this will need to come out of any direct payment, so it's important to include them as part of PA 'on costs' like tax, national insurance and pension contributions.

PAs submit timesheets to the payroll agency who collate all the information and Lynn signs them off before they're are paid. They can also help with templates for timesheets, holiday forms and new starter and leaver forms.

It's likely that any organisation that provides a personal budget will do some monitoring to make sure that payments are being managed and used properly.

You probably want to make sure you find out what PAs are usually paid in your local area and be prepared to pay different rates of pay for evenings or overnight support. It's worth discussing this with your local authority social services department to make sure the direct payment is meeting your needs.

Contingency planning

It's also important to consider having a contingency plan in place for when the PAs may not be available, for example, during holidays or times of sickness.

You could use a domiciliary care agency or employ a PA under a more casual arrangement.

Use a ULO who employs PAs on your behalf, but you keep choice and control

If you want to keep the choice and control offered by employing a PA, without the responsibility of becoming an 'employer', using an ULO to employ them might be desirable.

Under this model, a ULO would take full responsibility for employing PAs, but you'd retain the choice and control over who's employed and what they do. This means that your needs and wishes drive the recruitment and management of any PAs employed.

ULOs supporting this way of PA working may need to be registered with the CQC.

What this means for you, the individual employer

You:

- have choice and control over who and how the care and support is provided
- don't need to take on employer responsibilities
- have the opportunity to be involved in the recruitment process
- have support available if things go wrong
- might need to pay more for agency fees on top of PA hourly rates
- might experience potential conflict between the organisation and/or PA if priorities change, for example the organisation takes on conflicting work.

What this means for PAs

They:

- are employed by an organisation but directed by you
- get the opportunity to build a relationship with you and provide support when you need it
- may be paid less compared to traditional employed PA roles
- might experience conflict between you and the employing organisation if priorities change.



How does it work in practice

ibk initiatives

ibk initiative is a family led social enterprise in Sheffield that aims to transform education and support so disabled young people and their families are included in their communities and enabled to live meaningful lives.

They do lots of work including supporting families and individuals to recruit PAs and can also be more involved in the management of and even directly employing PAs.

They feel it's important to make sure individuals have support so they can recruit and manage their PAs properly. For most, employing and managing staff opens up a whole new world to them – it can be life changing. Some enjoy the freedom of employing their own PAs, but for others it can be stressful.

ibk have been employing PAs on and off for about ten years, but has found that over the past two years, this model of employment is increasingly being requested by the families they're working with.

Whether they're supporting individuals to employ their own PAs or employing them on behalf of individuals, they always recruit PAs based on the interests and criteria set out by the individual who needs support. They've found that this results in better outcomes for both the individual and the PA.

Families and individuals have a choice about how much they want to be involved in the recruitment process. In some instances, they want to see all of the applications so they can choose who will be interviewed. Whereas others are happy for ibk to sift through the applications and do an initial interview before recommending a shortlist of potential PAs.

ibk ensures they have the correct insurance in place for the PAs they employ as well as undertaking DBS, reference and other relevant recruitment checks.

Once in post, ibk will be the employer of the PA, but will work with individuals to agree responsibilities in terms of the tasks to be undertaken by each party (PA, individual who needs care and support and ibk).

ibk initiatives believes that supervision is key and is one of the reasons this model of employment works so well. They offer supervision services and they feel it really makes a difference to support the PAs and help the individual to be a 'good employer'. It also means that issues can be addressed early on before they become a bigger problem.

When things don't work out between an individual and a PA, ibk will follow the right processes for redundancy. However, if the reasons for this were because of a personality clash, then ibk would help the PA to find work with another individual where they may be more suited.

Providing this kind of service does come at a higher cost but ibk are committed to supporting individuals in this way because they can see the difference it makes.

ibk initiatives operate this model for those individuals who do not require personal care. Where personal care is required, then they work in partnership with a CQC registered provider that understands the PA model. Over the years they have worked with domiciliary providers and others in the wider sector to help them to change their practice; they see it as their contribution to changing the views of the workforce.

Possability People

Possability People is a user-led organisation in Brighton (previously called The Fed Centre for Independent Living) who've been running their Continuing Independence Service for a couple of years. They believe this service is perfect for people who want the chance to have control over their support, but don't want the responsibility of being an employer.

As well as supporting people to directly employ their own PAs, they also provide a model of PA employment that can be considered as a bridge between a traditional domiciliary care agency and being an individual employer.

Possability People provide a bespoke service to individuals who want to employ PAs and take time to find out about them, their families and friends, discuss their needs and learn about their lifestyle and things they like. This helps them to find the right PAs for them.

When setting up this model, Possability People worked with the Care Quality Commission to ensure that they'd be compliant with their regulations and are registered as a service to carry out regulated activities. They're inspected in the same way as any other care agency and have the necessary insurances in place.

PAs are recruited in a number of ways including through their PA noticeboard, social media and recruitment sites like Indeed.

When an individual wants to employ someone, there may be a number of suitable PAs; Possability then works with the individual and the PA to find a suitable match.

As with any other agency, Possability People carry out the necessary checks (DBS, references, right to work etc.) as well as support PAs with any training needs.

Training will depend on individual's care needs and include free, online or in house training.

Possability People work with individuals to set out agreed ways of working and make sure that they and their PAs (as well as family members) understand their responsibilities and the working arrangements. This includes ensuring PAs know that individuals may direct the work they're doing, that supervisions are carried out by Possability People and they'll deal with any issues that may occur including disciplinary procedures.

Because their service is bespoke, there isn't a set price for each package of support. The cost will depend on how many PAs are needed, the individual needs, local demographics, geography and travelling time. These factors will also determine how much the PA gets paid and whether PAs are paid different rates; for example some PAs might get paid more for doing more complex tasks.

This model works for individuals because it's a way for people to choose who's helping them and offers consistency of support.

PAs also appreciate this model and they find that retention rates are good. This is likely to be because they can build the relationship with the individual and have the option to work in a flexible way.

For example, working with an individual who was a traveller, Possability People were able to find and recruit PAs who understood the lifestyle and interests of this individual. One of the positive results of this, as well as meeting the individual's care needs, the PA has enjoyed the work so much, they would like to do more.

Use domiciliary care agency workers doing a PA role

Traditional domiciliary care agencies are increasingly offering PA type services that may be delivered in different ways:

- you might use a domiciliary care agency's services to meet gaps in support; for example where you can't recruit a PA to cover a small number of hours
- you might use a domiciliary care agency who offers more 'personalised' services; for example lots of agencies are starting to provide a single named carer per client or care workers that will do tasks outside of the care plan, at your direction
- you might use an agency or organisation who take on the role of the 'employer' but you are able to direct how and when the PA works for you.

What this means for you, the individual employer

You:

- can say when and how your care is delivered
- have the same carers providing a more bespoke service at a time when you choose rather than those dictated by a traditional domiciliary care agency service
- have no employer responsibilities
- might need to pay more for agency fees on top of PA hourly rates.

What this means for PAs

They:

- are able to spend longer with clients to provide a bespoke care service
- could be paid less compared to traditional employed PA roles
- are employed by the organisation, rather than directly by you
- can be substituted
- can get cover for leave.



Use an introduction agency or online market place to find PAs

If you want the choice and control of employing a PA, but struggle to find someone, you might choose to use an introduction agency or online market place.

This is likely to be delivered online to match you to PAs in your area. Depending on the technology used and profiles of the PAs, matching is usually based on shared interests and care needs as well as location and availability.

Online market places are dedicated to providing social care services and enable you to 'shop' around for information, support, products or services you need. You can then order and pay for them as needed.

Some online sites might allow you to post vacancies and read reviews of PAs by others that have used them.

What this means for you, the individual employer

You:

- can choose from a list of PAs available to work at a time that suits you
- are assured that the PA has been checked and may have undergone a vetting process
- depending on the arrangement, you may then employ the PA directly, or enter into a contract for services
- may be bound to a minimum number of hours that a PA must work that's set by the matching service
- may need to pay additional fees like membership charges
- might need to pay more for agency fees on top of PA hourly rates

What this means for PAs

They:

- are required to undertake a vetting and/or interview process
- could work flexibly at a time when they choose
- have no guarantee of regular work
- are likely to be working on a self-employed basis, so don't have any employee rights
- must register with HMRC as self-employed and arrange own tax and National Insurance Contributions
- should enter into a contract with you
- must arrange own insurance and provide own equipment
- are supported by the agency who can manage payments and bookings
- could be paid less compared to traditional employed PA roles.



Engage a pool of PAs working together and covering each other

Sometimes a number of PAs will pool together to sell their services as a group. This means more than one PA will work for you and they work together to cover your care and support needs.

What this means for you, the individual employer

You:

- don't need to take on the employer responsibilities as the team manages itself
- could have less control about who is supporting you as a group of PAs will work together to cover your care needs
- need to check that the PAs are registered with the CQC, have the right insurance and manage their own tax and National Insurance Contributions.

What this means for PAs

They:

- may be considered as working as an agency
- need to register with the CQC
- need public liability insurance
- have no employee rights
- need to register with HMRC as self-employed and arrange their own tax and National Insurance Contributions.



Resources to help you



There's lots of support to help you employ or engage PAs.

Care Quality Commission (CQC)

The independent regulator of health and adult social care in England. The CQC makes sure health and social care services provide people with safe, effective, compassionate, high-quality care and encourage care services to improve. They do this by monitoring, inspecting and regulating services to make sure they meet fundamental standards of quality and safety and publish their reports.

Check employment status for tax, Gov.uk

Use this service to find out if your PA should be classed as employed or self-employed for tax purposes.

Am I employed or self-employed, HMRC YouTube

This HMRC video to help your PA decide if they are employed or self-employed for tax purposes.

Pool your budget with other individual employers to employ a PA

Sometimes, groups of individuals who need care and support might join together to directly employ one or more PAs. This is sometimes called 'pooling budgets'.

This may be a good option for a group of like-minded people, those that live in the same area or people who have a small budget or require minimal support.

If you're thinking about this type of arrangement, your local support organisation might be able to help you find other individual employers and advise you about how it would work practically. You'd need to put processes in place in case of conflicts in the group and plan for what would happen if the group collapsed for any reason.

What this means for you, the individual employer

You:

- would be supported by a consistent group of PAs who you could get to know and trust
- would need to agree who'll be the 'official' employer of the PA because they'll take on the legal responsibilities, including tax and National Insurance Contributions
- should employ enough PAs to cover leave such as holidays and sickness. (where there is more than one PA working in the group).

What this means for PAs

They:

- can work for more than one person and be assured of more hours of paid work
- can expect the same rate of pay as a traditional employed PA
- might experience a possible source of conflict if an employer in the group changes their plans.



Resources to help you



There's lots of support available around pooling budgets.

Disability Tax Guide from the Low Incomes Tax Reform Group contains a section on using a direct payment as part of a group

Disability Rights UK Factsheet (F32) talks about pooling personal budgets.

Richmond Users Independent Living (RUILS) Scheme developed a website about pooling budgets.

Engage a self-employed PA

If you want to have choice and control over your care and support, but don't want to take on the responsibility of being an employer or use a care agency, you could engage or contract with a self-employed PA.

People acting as self-employed PAs are in business for themselves and take responsibility for its success or failure. They offer an agreed set of services in exchange for a fee.

If you want to engage or contract with a self-employed PA, they should send you a quote for their services, send you an invoice to take payment, say when they want to work and should bring their own equipment. They're also responsible for making their own tax and National Insurance Contributions.

If you want to pay for the PAs services via a social care direct payment or personal health budget, then there may be things to consider before engaging a self-employed PA.

- You need to find out whether or not social care or health funding can be used to pay for a self-employed PA. This is because under direct payment legislation and guidance, funding authorities (in health and social care) must ensure that a direct payment is being used in a lawful and appropriate way and may take the view that PAs should not be self-employed.
- Local Authorities and Clinical Commissioning Groups should provide advice and guidance and conduct their own checks to validate employment status. For example they might ask to see the results of an employment status check for tax, ask for evidence of registration with HMRC and check national insurance numbers.
- If an employment status is determined as wrong (by HMRC), individuals and their employers may have to pay unpaid tax and penalties, or lose entitlement to benefits.

What this means for you, the individual employer

You:

- don't need to take on employer responsibilities
- are responsible for ensuring the employment status of the PA you're engaging is correct
- have no choice or control over when the PA can work beyond what has been agreed through a contract for services.



What this means for PAs

They:

- must tell HMRC that they are self-employed
- won't get paid through PAYE
- have no employee rights
- don't need to register with CQC as a sole trader
- need the correct insurance including public liability insurance and clinical indemnity insurance
- can make a profit and develop as a business
- can work flexibly but have no guarantee of regular work
- are entitled to protection for their health and safety and, in some cases, protection against discrimination
- have their rights and responsibilities set out by the terms of the contract they have with their client.

How does it work in practice

Self-employed PA directly working for one or more individuals: hear from Jen

Jen is self-employed and works with a number of individuals using the knowledge and skills she's gained working in the health and social care sector for over 40 years. In the past three years, she's been working on a self-employed basis, providing services to individuals in their own home.

Jen usually finds new clients through word of mouth but also advertises on Wiltshire CIL's PA register. When making contact with a potential client, she sends them an information sheet that tells people about who she is, her background, qualifications, what services she can provide (such as housework, laundry, shopping and being a companion), prices, and payment terms.

It's important to be clear about what's expected from both parties (including how PAs expect to be paid for their service) and what to do when things don't go to plan.

She then arranges a visit that helps both Jen and the client see if they're going to get along, 'because not everyone gets on with everyone'. If they agree they want to work together, Jen will work with the individual to find out more about their hobbies, any medical conditions, do a plan, set out procedures and share necessary information (e.g. next of kin, medication, doctors etc.).

Jen enjoys being self-employed because she's not constrained to a strict timetable; if she needs to spend more time with someone she can. She also enjoys getting to know people and building relationships with the people she supports.

She can also find sorting out tax daunting sometimes, but she has processes in place to make sure money is set aside for tax before taking her wage.

For anyone else thinking of becoming a self-employed 'PA', Jen says that it's important you have public liability and other relevant insurances, have processes in place for sorting out tax and National Insurance Contributions, keep on top of paperwork and make sure you keep up to date with your skills and knowledge.

Accreditation system for self-employed PA's

East Sussex County Council (ESCC) has an accreditation system for PAs that want to work on a self-employed basis. PAs must be trained, have an enhanced DBS check, have appropriate paper work such as contracts, have a unique tax reference and proof of insurance (including car and public liability insurance). They also make sure that any PAs have the right values to work in social care.

Most of the individuals who engage accredited self-employed PA's are self-funders i.e. individuals who pay for PAs out of their own money.

Resources to help you



There is lots of support available for self-employed PAs and individuals who engage them.

Am I Employed or Self-Employed?

This video from HMRC to help workers decide if they are employed or self-employed for tax purposes.

Check employment status for tax tool

This tool will help employers or individuals to check the employment status of any workers.

HMRC has lots of Self-Assessment support including [webinars](#) to explain, how to complete a tax return, simpler income tax for the self-employed, business expenses, and Self-Assessment help and support.

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Appendix

Personal budgets

When someone is assessed as having health or social care needs, they can be offered the option to have a personal budget. A personal budget is the amount of money to meet assessed eligible care and support needs.

This personal budget can be used in different ways, one of them is taking it as a direct payment which is managed by the person who needs care and support or by someone on their behalf so they can have more choice and control about their care and support arrangements.

They can spend the money in this budget in line with the care plan they have agreed with professionals (social care and/or health) to buy equipment, use services or to pay for someone to support them, for example, by directly employing a PA.

It is about choice and the options available to and appropriate for people. It depends what people want to do, their capacity to be able to choose, the outcomes they (or their families) want.

Whichever option is chosen, it is about having the right discussions, ensuring a good working relationship and reviewing those decisions on a regular basis to ensure the option chosen is still the right one and it meeting the agreed outcomes.

Self-funders and PAs

Individuals who have support needs (health or social care) have not always been assessed by social services. In some cases they may not want social services involved at all.

Whether to employ or use self-employed PAs is a choice that needs to be made by the individuals or their families in light of any HMRC regulations mentioned in this guide.

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Skills for Care
West Gate
6 Grace Street
Leeds
LS1 2RP

T: **0113 245 1716**
E: **info@skillsforcare.org.uk**

skillsforcare.org.uk