

Using a direct payment to employ someone (personal assistants)

All our information sheets are available on the **My Care North Tyneside** website – mycare.northtyneside.gov.uk – or you can ask your social care worker to give you a copy.

Some people use a direct payment to recruit and choose their own staff. This gives a lot of choice and control over your support, but also comes with responsibilities, as you become an employer. This information sheet lets you know what this involves.

What is a personal assistant?

A personal assistant (PA) can support you with a wide range of tasks, tailored to your needs. This might include personal care, household tasks, getting out and about, social opportunities, and developing your independent living skills.

Will I be their employer?

Yes. The council provides money towards wages – but you are the PA's employer, not the local authority. As an employer, you need to treat your staff fairly, and follow employment legislation. Don't worry if this seems daunting – Adult Social Care has accredited support organisations who can help with this.

More detail about Direct Payment Support Services is in the information sheet **Support to manage a direct payment**.



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mycare.northtyneside.gov.uk

How much should I pay my PA?

You must pay at least the National Minimum Wage, however the council will provide enough money so that you can offer the North Tyneside Living Wage. This is reviewed every year. Ask the Direct Payments Team for advice on this.

There will be enough money provided to pay this wage, plus employer National Insurance, pension contributions, and annual leave. We highly recommend you use one of our Direct Payment Support Services to handle payroll calculations and payments.

How do I recruit a PA?

You can use an accredited Direct Payment Support Services to help you through the recruitment of your PA(s), arranging employer insurance, and completing criminal records checks. The council provides money towards these costs.

When you have found a PA, you need to:

- Give them enough notice of when you need them to work
- Treat them with respect
- Ensure their health and safety (including providing personal protective equipment, like gloves and aprons, if needed)
- Meet their needs for training
- Give them breaks during shifts
- Allow them to take their rights to annual leave, with reasonable notice
- Ensure they have a right to work in the UK.

Do I need to keep records?

Direct payments include public money, so the council has a duty to make sure it is being spent properly.

The council will check that you are using your direct payment as agreed in your support plan. The Direct Payments Team will ask you to give records about how you have used the direct payment. You should keep all receipts and invoices for at least 7 years.

If you employ personal assistants, you also need to keep records of the following details:

- Your employees' names, addresses, NI numbers
- When they started and ended employment
- The hours they worked
- The amount they were paid, including national insurance, tax, pension contributions and expenses
- If you use a Direct Payment Support Services for payroll, they will do this for you.

Payments from the council

The council make weekly payments of the PA hourly rate plus 25%, so that you can accrue funds to cover personal assistant 'on-costs' (employer costs). On-costs includes:

- Holiday pay
- Sickness cover
- Maternity pay
- Redundancy pay
- Employer tax
- Employer national insurance
- Pension contributions.

What if I have extra costs?

It is important that you build up a 'contingency fund' from your weekly direct payment, to cover any extra costs. The amount of this will depend on your circumstances and should be agreed with your social care worker in advance.

You may require additional funds to cover extra costs for things such as the full cost of:

- Statutory maternity or paternity pay
- Statutory sickness pay
- Redundancy payments
- PAs' expenses as part of their work (e.g. travel expenses)
- You may also decide to 'bank' support hours to have extended support hours at certain times.

Can I employ a friend or a family member?

You can employ a friend or a family member, but you should think carefully about how this would affect your relationship, and how you would manage situations where you were dissatisfied with their work. As their employer, you still need to ensure that all health and safety and employment laws are followed.

Please note that the council does not usually allow people to employ a PA who lives in the same property. Exceptions are sometimes made in special circumstances, for example:

- Where people have complex support needs, and this makes it challenging to recruit staff
- To meet cultural needs, if there are limited staff with enough knowledge and skills locally, and
- There would be a risk of harm if someone who lives in the property were not employed as a PA.

If you want to employ someone who lives in the same property, you should discuss this in detail with your social care worker, who will consider this. They would need to get special permission from their managers.

If the council decides you cannot employ someone who lives with you, and you disagree, you can ask for the decision to be reconsidered.

The information sheet **Feedback, reconsidering decisions & complaints** gives more about this process.

Where can I find out more?

Gov.uk

Employing someone to work in your home: www.gov.uk/au-pairs-employment-law

Skills for Care information for employers of PAs

Detailed guides to recruitment, induction, management and dealing with difficulties:

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

Health & Safety Executive

Health and safety for care tasks:

www.hse.gov.uk/healthservices/domiciliary-care.htm

Alternative formats

If you need us to do anything differently (reasonable adjustments) to help you access our services, including providing this information in another language or format, please contact the Social Care Contact Centre on 0191 643 2777, or email: childrenandadultscontactcentre@northtyneside.gov.uk

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