

EMPLOYMENT FAQ's

Why choose to employ someone?

There are many reasons why you might feel that employing someone would work well for you, it could be that you:

- find it upsetting to have different people involved in providing care to you
- want someone of a similar age or similar interests to help you attend activities you enjoy
- would rather have a family member (*not living in the same home*) or someone you know well to provide support as a good relationship already exists.

What are the benefits?

Directly employing someone can enable you to receive support in a much more flexible way which is tailored towards your individual preferences and lifestyles.

The employee is guided by the person they work for with the tasks they undertake, when they happen and how these are completed. Examples may include:

- Helping you get out and about, go shopping or attend appointments and activities
- Support with housework, or managing household paperwork and the day to day support arrangements you have in place
- Assisting you to live away from home and attend college or university
- Supporting you to undertake a volunteering role
- Helping you with getting dressed and washed and maintaining your appearance
- Assisting you with preparing and cooking meals and managing a healthy diet

What are the time commitments?

Initially, thinking what a PA would be employed to do and finding the right person for the job can require some time.

Advertising and recruiting someone new can take between 4 and 6 weeks depending on responses to adverts and quality of potential candidates. Unless a PA is already identified, it can be quite difficult to recruit in Oxford.

Once someone has been employed as a PA, time may be needed for training and to guide them with how to undertake their job. Once someone has settled into their employment as a PA the time commitment substantially reduces.

Along with overseeing their day to day work and monitoring their annual leave and sick leave, if using a Payroll Service you would only need to check and agree their PA timesheets on a monthly basis and send these for processing.

The paperwork involved with being an employer should only take approximately 1 or 2 hours unless employing numerous staff to a high number of hours.

Who can be an employer?

Either the person needing support or a family member or a friend who can act as their representative.

An employer must have the capability to understand their responsibilities towards their staff – this would include managing their work schedule and performance and authorising their timesheets or have appropriate support to help them with their responsibilities.

What are the key responsibilities of an employer?

These can include:

- Finding a PA - creating job descriptions and employment contracts, budgeting for a PA
- Managing performance and absences - ensuring your PA turns up on time and having clear arrangements in place for when they are late or sick
- Dealing with disciplinary and grievance and following advice provided from the employer insurance legal advisors
- Terminating employment or redundancy and following advice provided from the employer insurance legal advisors
- Providing any appropriate equipment needed for your PA to undertake their job and arrange training where necessary.

What are my obligations as an employer?

- Register with HMRC and pay employer national insurance – as an employer this is your legal duty
- Set up a PAYE system with HMRC to pay PA wages.
- You may also have a duty to set up and contribute into a works based pension scheme for your employee if appropriate.
- Have employer liability insurance in place and renew this annually.
- PA's who are using their own vehicle to drive the person they support will need to have their car insured for 'business use'.
- DBS checks are a criminal checking system and unless the PA is a relative of the person they support employers are advised to have DBS checks undertaken with PA's. **DBS checks are required by law for anyone employed to support a child.*

How do I pay wages?

All employers need to ensure they are employing someone legally and not paying cash in hand. An employer is required by law to pay their employees at minimum wage or above. The minimum wage is presently set at £7.50 for people aged 25 and over.

You must ensure you:

- Register your employees with HMRC
- Pay employee wages under a PAYE System
- Provide payslips
- Allow your employees to take their statutory annual leave entitlement of 5.6 weeks per year pro rata, inclusive of bank holidays.
- Set up and administer a work-based pension scheme and make contributions as required.

Are there limits on the number of hours I can offer?

There is legislation known as “working time directives”. This means that your employees can't work more than 48 hours a week on average - normally averaged over 17 weeks. Your employee can choose to work more by opting out of the 48-hour week.

The general rule on breaks is that your employees are entitled to a break of 15 minutes after a 4 ½ hour work period. If your employee works more than 6 hours they are entitled to a break of 30 minutes, this can include the first 15 minute break.

Your employees are not paid whilst undertaking their breaks.

Does this change if my PA classes themselves as self-employed?

If you are using the services of a Personal Assistant who is viewing themselves as being self-employed you may be at risk of penalties and fines from HMRC if they view the PA as your employee. HMRC states: **‘The case law tests normally indicate that a careworker who looks after a client in the client’s home is likely to be an employee. In particular there will often be a significant right of control, for example the carer required to arrive at a pre-arranged time and perform tasks at the request of the client’.** It is very important to call HMRC to check if your PA is classed as employed or self-employed.

HMRC Status Team:

Telephone 0300 123 2326

Opening times:

Monday to Friday: 8:30am to 4:30pm

Closed weekends and bank holidays.

What support is available to help me to be an employer?

The **Employment Advice Service** can help you:

- Think through your individual circumstances and needs to identify if a PA is an appropriate option for you and, if it is, how it could work for you
- Discuss if a potential PA is already known or help to advertise and recruit someone if required
- Help to understand what will happen if the PA is on holiday, or cannot work for another reason at short notice
- Understand how much to pay a PA using local Direct Payment costs and pay rate rates
- Use tools and guidance to manage PA annual leave and consider alternative plans for support when these situations arise
- Understand how the Employment Support service could help you with recruiting and employing a PA for your unique circumstances

The **Employment Support service** is available to help you recruit and employ a PA and provide on-going advice and support when unexpected events occur such as a PA leaving or a change to contract arrangements or issues with performance etc. Employment Support can include helping you:

- Write adverts and job descriptions to advertise for a PA
- Receive applications, short list and interview potential candidates
- Check references
- Access the DBS checking service as required
- Create contracts of employment
- With the provision of Grievance and Disciplinary policy templates
- Find suitable training providers for PA’s if required
- Budget and cost for the employment of a PA, including the costs of any contingency arrangements
- With the provision of Employment Guides, and Skills for Care guides as required
- Access the Payroll Service
- Access an Employer Liability Insurance provider
- Provide Health and Safety in the home guides

The **Payroll Service** can register an employer and their staff with HMRC and:

- Process authorised timesheets and provide employers with payslips
- Inform employers when any HMRC payments for tax and NI are due to be paid and how to do this
- Manage on the employer's behalf communications with HMRC and the Pension Regulator
- Administer end of year HMRC employer returns and employee's P45
- Administer any works based pension scheme and any contributions into it