

3 What to do before your personal assistant starts



Before your personal assistant (PA) starts work there are some key tasks you have to carry out:

- ✓ **Contract of employment**
- ✓ **Paying your PA**
- ✓ **Providing a pension**
- ✓ **Maternity, paternity and adoption rights**
- ✓ **Health and safety**
- ✓ **Insurance**

Contract of employment

Every person you employ must have an agreement between you and them. This is a very important legal document as it gives details of employment rights, responsibilities and duties. These details are the 'terms of the contract' and mean you and your PA is clear about each other's responsibilities.

You should send two copies of the contract of employment to your new PA and ask them to sign both. They keep one copy and send the other one back to you. Keep your signed contract with your records. You must provide this within two months of taking on a new employee.



Visit www.leeds.gov.uk/personalbudgets for more downloadable factsheets.

This publication can be provided in large print, Braille and audio.

☎ **0113 247 8630** to request a copy.

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☎ **0113 222 4401**
textphone **0113 222 4410**

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What to include in the contract:

Your name and the name of the PA	The job title e.g. Personal Assistant
The place of work (your home address)	The date when the employment began/begins
Probationary period	Period of notice for both of you
Salary and when it is to be paid – weekly or monthly	Hours of work
Holiday entitlement and how much notice is required	Entitlement to sick leave and sick pay and how much notice is required
Pensions and pension schemes	Disciplinary and grievance procedures
What happens when you are away	Notice of period (termination of employment)
Confidentiality	Dismissal

NOTE: If you want to change the contract of employment after it has been signed you must get your PA's agreement. You will need to talk with your PA, explain the reasons for any changes and discuss any alternatives. If you do not, then your PA may have the right to take legal action. When any changes have been made, they must be confirmed in writing within one month of the changes being made.

You could also include:

Smoking

The employer operates a no smoking policy and smoking is not allowed anywhere on the employer's premises or near the employer when escorting the employer during working hours.

Transport

If you want your employee to drive you then check that he/she holds a current and clean UK driving licence. If the employee loses their licence it could result in dismissal.

Holidays

If there are always certain times of the year that your PA can't take leave.

What is a probationary period?

It is a trial period when you can find out what your new PA is really like and to get to know them without committing yourself completely. Set a time that suits you, for example, three months. The period is also two-way and allows your PA to decide if they are suited to the job.

During this period set a time when you can both speak about what is working well or not going so well. It is also a good opportunity to talk about any training that may be needed.

More information:

See the section on 'Supervision' in Toolkit 4: How to manage your personal assistant.

Period of notice for both of you

If your PA wishes to leave, this is the amount of time they must work after they have handed in their notice. It is also the amount of time your PA has to work if you have told them they must leave your employment. This will give you some time if you need to employ another PA.

The notice period can be different during the probationary period and in cases of dismissal for serious breaches of terms of employment, gross misconduct or gross negligence.

Salary

How much, and when the salary is paid – weekly or monthly.

This is where you say how much your PA will be paid, when and how you will pay them. As an employer you have a legal responsibility to deduct National Insurance and Income Tax.

Hours of work

A statement of the hours you want your PA to work, how you want your PA to report in late or if they are unable to come to work. A PA can only work an average of 48 hours a week, unless they have given their voluntary consent in writing. Regular rest periods are allowed in addition to any holiday entitlement.

A PA is allowed:

- ◆ **a minimum of 11 consecutive hours rest in any 24-hour period**
- ◆ **a minimum 20 minute rest break if the working day is longer than six hours**
- ◆ **one day off each week, that is one day off out of every seven**

Young people (under 18) can work a maximum of 40 hours a week, unless there are exceptional circumstances. The hours cannot be averaged out and there is no opt-out.

They are also entitled to:

- ◆ **a break of 30 minutes every four and a half hours worked**
- ◆ **a rest period of 12 hours between each working day**
- ◆ **two days off per week.**

PAs are also allowed 'reasonable' paid time off for:

- ◆ **attending ante-natal appointments**
- ◆ **training**

Your PA must be allowed unpaid time off for:

- ◆ **family emergencies**
- ◆ **public duties such as jury service or acting as a school governor**

Flexible working – If your PA has worked for you as an employee for at least 26 weeks and has not made another request during the past 12 months they can ask to work flexibly. You have to consider this if they:

- ◆ **are parents of children under 17, or of disabled children under 18.**

More information:

www.gov.uk/browse/employing-people

📞 0845 600 9006

Holiday entitlement

Don't forget to budget for any extra cover you might need while your PA(s) is away.

You have to say how much holiday your PA has per year and when the holiday starts and finishes, for example 1 January – 31 December. How your PA asks for time off and how bank holidays are treated.

All workers are legally entitled to a minimum of 5.6 weeks paid holiday a year. This is the minimum entitlement although you can offer more. Statutory paid entitlement is capped at 28 days.

Holiday pay is based on the worker's average pay. If the normal pay includes extra money for working unsocial hours so must the holiday pay.

Bank and public holidays

Public and bank holidays can be counted towards your PA's statutory holiday entitlement if you pay them for those days off. You do not have to give your PA paid time off for bank and public holidays but it must be made clear in the contract of employment.

If someone stops working for you they are entitled to be paid for any outstanding holiday.

What happens when you go away?

You should make a plan of what happens when you are away, for example, on holiday without your PA or if you have to go into hospital.

Other kinds of leave

Maternity, paternity, adoption and parental leave

Your PA is allowed to take maternity, paternity and adoption leave and pay.

Pregnant employees are entitled to paid time off for ante-natal care and 52 weeks maternity leave. This is made up of 26 weeks ordinary maternity leave and 26 weeks additional maternity leave.

Fathers and partners, including same-sex and civil partners, may be entitled to two weeks paternity leave.

When a child is adopted the same approach is taken.

Employers can get back most or all of these payments from the Income Tax and National Insurance contributions they pay.

More information:

www.gov.uk/employing-people

 0845 600 9006

Entitlement to sick leave and sick pay

Statutory Sick Pay (SSP) is paid to employees who are unable to work because of illness. SSP is paid at the same time and in the same way as wages would be.

If your PA cannot work for four or more days in a row, you must pay SSP.

Your PA must tell you when they are sick within the terms of their contract. They must be earning at least as much as the Lower Earnings Limit for National Insurance Contributions (NICs).

For up to seven days of sickness your PA can self-certificate. After seven days your PA will need to produce a statement of fitness (or fit note) from their doctor.

All periods of sickness lasting for days in a row or longer and all SSP payments must be recorded. HMRC provide a form that you can use.

More information:

www.gov.uk/employing-people

www.hmrc.gov.uk

helpline 0300 200 3200

Pensions and pension schemes

All employers are now legally required to help their employees save for retirement. To find out how this affects your and your PA(s). The Pensions Regulator website has a beginner's guide to auto enrolment www.thepensionsregulator.gov.uk/employers/the-essential-guide-to-automatic-enrolment.aspx

This site provides simple tools to help you understand your duties, such as how to automatically enrol your staff and the minimum employer contribution.

Your PA can choose to opt out of the scheme at any time. You must set a deadline before which they can opt out and if they do you must refund all the payments your PA has made.

Disciplinary and grievance procedures

Hopefully you and your PA will get along well but sometimes things don't go as smoothly as we would like and it helps to have clear procedures to follow. Before taking any action make certain that:

- ◆ **the matter cannot be resolved through informal mediation**
- ◆ **you have investigated the matter fully**
- ◆ **your PA knows an interview will take place and that they have the right to be accompanied by a fellow employee, friend or a trade union official of their choice.**

At the disciplinary interview, make sure that:

- ◆ **the employee concerned knows the details of the allegation**
- ◆ **he or she has an opportunity to give his or her side of the matter**
- ◆ **any disciplinary action is appropriate.**

If a warning is given, it should tell the employee:

- ◆ **the level of improvement required**
- ◆ **the date by which it is to be achieved**
- ◆ **what will happen if it is not**
- ◆ **how to appeal.**

Keep notes of all meetings and any actions to be taken.

More information:

Contact ACAS at www.acas.org.uk for grievance forms and procedures.

Confidentiality

Confidentiality is very important for both you and your PA.

Providing your PA with information and/or training will help them understand the importance of confidentiality and how it affects their work.

You will both hold confidential information about each other and should ask before you share any information with anyone else. This is called informed consent and means you understand the consequences of sharing the information and have not been pressurised into supplying it.

Your confidential information

In order to meet your needs and wishes your PA will have access to your personal details. It is important that your PA knows exactly who they can share the information with and when. Information cannot be shared with anyone, even family and friends, against your wishes.

There are times when your PA may have to share information about you without your agreement, if they thought you were being abused or in a medical emergency.

Your PA is also obliged to pass on information if you have broken the law or were about to break the law.

If a PA breaks a confidence this should be treated as a disciplinary matter.

Your PA's confidential information

Your PA's confidential information should be held securely so other people cannot access it.

Dismissal

You should state what circumstances will lead to your PA being dismissed, e.g. gross misconduct, e.g., violence or gross negligence such as theft.

Paying your PA

You can do this yourself or use a local payroll provider, contact Leeds Centre for Integrated Living (Leeds CIL) www.leedscil.org.uk to find out about their payroll services.

Doing it yourself

You will need to contact HM Revenue & Customs (HMRC) www.hmrc.gov.uk/employers to register as an employer. It is your responsibility to choose the correct employment status of someone who works for you but is not your carer.

More information:

www.hmrc.gov.uk/employers

☎ 0845 607 0143

text phone 0845 602 1380

Using a payroll scheme

Payroll schemes sort out your paperwork and deal with the tax office (HMRC) on your behalf. They make sure your PA's tax and National Insurance contributions are deducted properly and tell you how much Employer's National Insurance to pay.

How much does it cost?

Your social worker/care manager can give you information about local payroll providers. Or contact Leeds CIL www.leedscil.org.uk to find out about their payroll services.

How much should I pay my PA?

You should pay at least the minimum wage. As this changes every year check with the National

Minimum Wage Helpline on **0845 6000 678** for the latest rate or go to: <https://www.gov.uk/national-minimum-wage-rates>

Each local authority has standard hourly rates of pay for PA's salaries which you can check by asking your social worker or care manager.

Another information source is Skills for Care's National Minimum Date Set for Social Care (NMDS-SC) to compare rates of pay in your area.

More information:

www.skillsforcare.org.uk/nmds-sc

Leeds CIL www.leedscil.org.uk

☎ 0113 131 1125

Health and safety

You have a legal responsibility to make sure that your PA works in a safe and healthy environment when working for you.

What you must do:

- ◆ **carry out some risk assessments on your home, including any pets or animals you keep.**
- ◆ **provide any training your PA needs**
- ◆ **tell your PA about health and safety, such as fire safety**
- ◆ **record and report if necessary, any accidents that take place in your home.**
- ◆ **take out employer's liability insurance which is included in your personal budget.**

You will need a health and safety policy if you employ more than five people. A model policy, free leaflets and support is available from the Health and Safety Executive

website and helpline. To find out more visit www.hse.gov.uk/

Your social worker or care manager should also have lots of information about health and safety.

If your PA tells you she's pregnant

You'll need to make sure your PA isn't putting her health or her baby's health at risk. Are there any health and safety issues that might arise, for example, does she help you with any heavy lifting? Let your social worker or care manager know and the ACAS helpline can give you advice about maternity leave and arranging cover.

More information:

ACAS produce a useful guide which can be downloaded from www.acas.org.uk helpline **08457 474747**

Health and Safety Executive www.hse.gov.uk
 **0845 345 00 55**

Insurance

Getting Employer's Liability Insurance and/or Public Liability Insurance is **essential**.

If you receive direct payments check that your local authority has included Employer's Liability Insurance in the amount it gives you.

You should also have comprehensive house insurance to cover your property and its contents and possibly include accidental damage. You should also tell your insurer you are employing people in your house. Employers have a legal duty to insure against accidents or injury to their staff and accidents or injury caused by them.

If your PA is going to be using your car you also need car insurance and possibly travel insurance if you are travelling together. This isn't included in your personal budget.

There are some insurers who specialise in insurance for PA employers.

Keeping records

By law as an employer you need to keep the following records which are called statutory records:

- ◆ **tax and national insurance information for six years**
- ◆ **records of individual hours worked so that averaging over a period to meet the requirements of the Working Time Regulations Act 1998**
- ◆ **holidays, again for the Working Time Regulations Act 1998**
- ◆ **pay, to make sure the requirements of the Minimum Wage Act 1998 are met, and to meet the statutory requirement that workers are issued with pay statements**
- ◆ **paid sickness, more than four days, and Statutory Sick Pay**
- ◆ **accidents, injuries, diseases and dangerous occurrences The Health and Safety Executive can advise on particular requirements and necessary assessments.**

More information:

ACAS www.acas.org.uk – personal data and record keeping

Gov.uk – services and information

www.gov.uk/browse/employing-people