

Department for Communities

Direct Payments and self-employed personal assistants



Fact Sheet 30

(August 2023)

This fact sheet is for individuals who receive or are going to receive a direct payment and believe that their personal assistant is or will be self-employed. In relation to what Direct Payments are, who is eligible for the scheme, how to use it and what support is available, please see Factsheet 5.

Introduction

We do not recommend that you use a self-employed Personal Assistant (PA) as Her Majesty's Revenue and Customs (HMRC) have advised they would consider almost all personal assistants who provide care and support to be registered as employed rather than self-employed for tax purposes.

In view of this it is essential that you clarify the employment status of your worker before they begin working for you. The quickest way of getting HMRC's view on whether your personal assistant is employed or self-employed is to use the [Check Employment Status for Tax \(CEST\) tool](#). You will need to take a note of the unique reference number provided, plus retain a copy of the questions and the answers you provided.

If you are unable to use the CEST tool, or are unsure of your worker's employment status, you can telephone the HMRC Status Customer Service Team on 0300 123 2326 from 8.30am to 4.30pm, Monday to Friday, except bank holidays. Please also see [Employment status - GOV.UK \(www.gov.uk\)](#)

If you decide to use a self-employed worker, the local authority must see a copy of the following:

- confirmation from HMRC that they are registered as self-employed to work as a personal assistant, including UTR number on HMRC headed paper referred to below. Self-employment status for other job roles will not be valid.
- a copy of the self-employed personal assistant's public liability insurance, which they must provide. You should not pay for the insurance of someone who is self-employed. You are advised to check that your self-employed assistant(s) renews this each year.

- a copy of the contract agreeing the terms and conditions of the support provided, prices charged/cost of service, which would be mutually agreed by you, including when and where to undertake the work.
- The outcome of the self-employed status check through HMRC referred to above.

The fact that the local authority asks for this information in no way removes your responsibility to determine the employment status of your personal assistant.

This information must be provided before the personal assistant can be paid from your direct payment.

Please note that you are responsible for correctly deciding whether a Personal Assistant is employed or self-employed. **If HMRC decides that you are the employer (even when the worker has registered with HMRC as self-employed) you will be liable to pay the backdated tax, national insurance, and employer's national insurance. It is therefore essential that the personal assistant gives you the relevant documentation for their role as your personal assistant.**

We have set out below the differences in your responsibilities where someone is an employed personal assistant and a self-employed personal assistant? If you directly employ a personal assistant, you will be responsible for:

- The personal assistant's employment terms and conditions, including payment of wages, arranging tax, national insurance (if applicable) and holiday cover
- Providing your personal assistant with a contract of employment
- Arranging your own insurance cover for Employers liability and public liability insurance
- Paying a regular wage to the personal assistant
- Deciding and directing where, when, and how the personal assistant provides the service
- Making your own alternative arrangements for support when your personal assistant is not available
- Providing the equipment and materials for the personal assistant, where necessary

If you engage a self-employed personal assistant, they will be responsible for:

- Providing you with a Unique Tax Reference number (UTR) issued by HMRC on HMRC headed paper stating they are self-employed
- Arranging their own insurance cover to guard against public liability insurance and where needed employer's liability insurance
- Providing a contract agreeing the terms and conditions of the support provided, prices charged/cost of service, which would be mutually agreed by you, including when and where to undertake the work.
- Providing you with invoices quoting their HMRC registration number to request payment from you for the specific service(s) they have undertaken. We would advise you ask the personal assistant to sign the invoice to say you have paid them or obtain a receipt for any payments you make. We advise you do not pay the full hourly rate of Direct Payment you received from Carmarthenshire County Council as you may still need to budget for other unforeseen costs such as contingency arrangements if your personal assistant is absent. If you have more than one personal assistant, they will need to invoice and be paid separately.
- A self-employed person can choose when they work for you. You must decide if this will be suitable for you. Self-employed workers are not entitled to paid annual leave.
- Arranging their own tax, national insurance, and their general accounts
- Providing their own equipment (unless agreed otherwise in contract agreement)
- Providing other workers to support you if they are unable to provide the service themselves.

In relation to the above we will expect you as part of your direct payment contract with us to be satisfied that any genuine self-employed personal assistants have made all of the above arrangements.

If you are unsure about the employment status of your personal assistant, please contact us. However, please be aware that it is your responsibility to verify this through the methods described above.

Whilst it might appear from the above that arranging a self-employed personal assistant to meet your needs may result in less responsibilities on you, we would emphasize that we can support you with your responsibilities as an employer, and claiming someone is a self-employed personal assistant does not mean they are, and the HMRC may still consider they are your employee, and may pursue you for any backdated tax and insurance etc.. So, we would discourage you from using self-employed personal assistants.

In relation to genuine self-employed personal assistants, we will only process payment for their work upon receipt of their invoice after a service has been provided.

If you would like to find out more about Direct Payments:

Contact your Social Worker if you have one or if you would like to receive an assessment of your care needs you can contact the Information and Advice and Assistance Service via:

- phone: 0300 333 2222 or
- minicom on:01554 756741
- SMS: 0789 2345678
- making a referral through our website www.carmarthenshire.gov.uk/Socialcare

**This factsheet is also available in Welsh.
If you would like this factsheet in any
other format telephone 01267 228703 or
Email: socialcare@carmarthenshire.gov.uk**



For more information on social care services log onto:
www.carmarthenshire.gov.wales/socialcare