

Direct Payments

Factsheet – Employing a Personal Assistant

You may choose to employ your own Personal Assistant. If you do, Ideal For All can give you as much support as you need to help you use your Direct Payment. The support service is independent of the Council and has a contract with the Council to provide support to people who choose to use direct payments. The support service specialises in this advice and will provide support and information on all aspects of direct payments and how to be a good employer. They will be able to keep you up to date with changes in employment legislation and developments within independent living that may be of benefit to you when choosing to use your own staff.

City of Wolverhampton Council strongly recommends that you use the support of Ideal For All when using your direct payment to employ Personal Assistants. Should you choose not to use Ideal For All, you **MUST** inform the social worker who is supporting you. They will provide you with a factsheet pack to give you some guidance on becoming a good employer, how to keep safe and how to use Direct Payments.

The Council strongly recommends that if you choose to use a Personal Assistant to provide your support, you should employ the staff and not use people who offer a service as self-employed Personal Assistants.

When you choose to employ people, you take on significant responsibilities. You must think about all the areas of employing your own staff to ensure you are a good employer.

Employed Personal Assistants

If you employ staff this means that you become an employer. If you become an employer you **MUST** register with HM Revenue and Customs (HMRC). There are a number of things you must ensure you have in place when employing staff:

- Payroll
- Fair rates of pay – you must adhere to the minimum wage
- Written job description and person specification
- Contract of employment
- Employee rights and responsibilities must be adhered to i.e. ensuring correct income tax and national insurance contributions are deducted and that arrangements are made for holiday pay, sickness pay (SSP), maternity pay and/or paternity pay
- Plan for managing risk

Ideal For All can support you with all of this. It will make employing staff easier for you.

When you recruit your own staff you may have to apply a selection process that involves advertising and interviewing staff. The Council strongly recommends that you seek the support of Ideal For All who will advise on “Keeping Safe” when recruiting. If you choose not to have the support, we advise that you apply a number of mechanisms to ensure you keep safe and you must inform the City of Wolverhampton Council that you will not be using Ideal For All to support you.

Below are some things you will need to consider and that you will be responsible for when recruiting Personal Assistants:

- Advertising/job description/job specification
- Short listing and interviewing your staff
- Job references and appointing staff
- Criminal records check from the Disclosure and Barring Service
- Employing people legally
- Employer’s liability insurance

Ideal For All can provide all or part of this support.

Self-Employed Personal Assistants

Some people will tell you that they are self-employed.

You will need to check this with HM Revenue and Customs (HMRC). They rarely recognise a Personal Assistant as being self-employed for tax purposes. They will provide you with a leaflet, ES/FS1 and ES/FS2 to help you decide. The local inspector at HMRC will also help you with this. If HMRC decide at a later date that the person is employed, you may incur additional costs as you could become liable for tax and national insurance payments backdated from when they started working for you. Sometimes people are registered as self-employed for another job they may have but this may not apply to the job they will have when working for you, e.g. registration as self-employed to be a driving instructor does not mean they will be self-employed working for you as a Personal Assistant.

If the person is recognised as self-employed by HMRC you will not become the employer. They must provide you with insurance cover. They can choose if and when they work for you. You must decide if this will work for you.

You should always ask for references from other people the Personal Assistant tells you that they have worked for. Ideal For All can provide you with support to ensure you keep safe when using self-employed Personal Assistants.

The City of Wolverhampton Council strongly recommends that you do not use someone who is self-employed to support you as a Personal Assistant. Please seek advice from Ideal For All or the Direct Payments Team if a self-employed worker applies to work for you. Please note that your Direct Payment may be suspended or cease if we have concerns about the employment status of any of your staff.

Who to contact

HM Revenue and Customs www.hmrc.gov.uk

Employer Helpline: - Tel: 0300 200 3200

Adult Social Care - Tel: 01902 551199

Disabled Children and
Young Person's Team - Tel: 01902 550911

Direct Payments Team - Tel: 01902 551292 or 01902 551294

Civic Centre
St Peter's Square
Wolverhampton
WV1 1RT

[Email: **Direct.payments@wolverhampton.gov.uk**](mailto:Direct.payments@wolverhampton.gov.uk)

Ideal For All - Tel: 0121 558 5555 [Email: **info@idealforall.co.uk**](mailto:info@idealforall.co.uk)