

## What are the legal responsibilities when becoming an employer?



Cheshire and Merseyside

- ♣ You will need to register with the HM Revenue and Customs (HMRC) as a new employer. You will be required to pay national insurance and income tax contributions on behalf of your staff.
- ♣ You will need to ensure you have employers liability insurance. This is to cover you in case of any accident or injury that might happen to your staff at work.
- ♣ Every employee must have a contract of employment which sets out the terms and conditions of their employment.
- ♣ Employees have certain entitlements, such as annual leave, statutory holiday and sickness pay.
- ♣ You must ensure that any employee has the legal right to work in the UK.
- ♣ Redundancy – There is a right to statutory redundancy pay for any employee after two years of employment.
- ♣ Disclosed Barring Service (DBS) criminal record checks, - this is not compulsory in all circumstances but is highly recommended for any care staff you wish to employ.
- ♣ Work based pensions – all employers need to enrol their staff in a workplace pension.

You have more responsibilities when you employ your own staff but you get the greatest control and choice and chance to be creative over how you set up your care and support when you hold a direct payment.

You can be supported with all these responsibilities by your NHS team or a direct payment support service. Many people find the flexibility and control of being an employer very satisfying and with ongoing support gain confidence in this role.

***For more information on employing your own staff, speak to your NHS team or check out skills for care ([Home - Skills for Care](#)) which has lots of resources and information about personal health budgets***

# Personal Health Budgets

Information leaflet about employing your own care staff using your personal health budget.

Employing personal assistants

Personal health budgets allow you to purchase a range of different things to meet your healthcare and wellbeing needs, and to achieve the outcomes in your personal care and support plan. One option to meet your health needs may be to employ personal assistants.

### Why employ a personal assistant?

- ♣ Personal assistants can help you live independently in your own home
- ♣ Employing someone yourself gives you more choice and control over who cares for you
- ♣ You can use the support of a personal assistant more flexibly, as you decide when they work and what support they provide

### How you can organise employing personal assistants?

If you wish to use your personal health budget to employ a personal assistant, your NHS team will help you to identify the outcomes you want to achieve with the support, and begin the process of planning how you are going to manage employing a personal assistant.

There are two ways in which a personal health budget can be used to pay for an employed personal assistant/s:

- 1) **Personal health budget: direct payment.** You become the employer and receive support managing your own staff from a direct payment support service or the NHS. You need to consider whether or not you wish to become an employer and the responsibilities linked to that.
- 2) **Personal health budget: third party.** This option means that a third party organisation becomes the legal employer on your behalf and will recruit and manage the personal assistants. You can be fully involved throughout the recruitment process.



### How can I get support with my direct payment?

Your NHS team and/or a direct payment support service will help you to manage and use your direct payment in line with your agreed care and support plan.

### What is a direct payment support service?

Direct payment support services are independent organisations which specialise in providing support to individuals receiving direct payments for their health and social care needs. They can provide all or a selection of the following services:

- ♣ Help you to find personal assistants, write job adverts, employment contracts, recruitment, managing your staff etc
- ♣ Provide advice and information on the responsibilities of being an employer
- ♣ Assist with completing information in relation to employer's legal responsibilities, such as HMRC, pensions etc.
- ♣ Provide a payroll service
- ♣ On-going payroll and employment support and advice
- ♣ Set up Employers Liability Insurance

### The legal responsibilities to becoming an employer:

