

## Direct payments factsheet 10

### **Purchasing your own support: employing people, using self-employed workers, using agencies or organisations**

There are different ways for you to purchase the support you need. This factsheet points out the different areas you should think about when employing or using different kinds of staff. This may seem a lot at first, but remember that you can receive more support and advice locally about purchasing services. You can also hand over some responsibilities. It may be important for you to talk to people who currently use direct payments to find out about their experiences.

You could employ people yourself, use self-employed workers or agencies or organisations. These three options have different levels of responsibility. Employing people should give you maximum control over who supports you, but you will become an employer. If you use self-employed workers, you will have fewer responsibilities as you will not be an employer. Using an agency or provider organisation will mean you have fewer responsibilities but may have much less control over who supports you. It is important to be clear on your own and others' responsibilities from the start so that you can avoid major problems later on.

This factsheet contains four sections:

1. Employing people yourself
2. Using self-employed workers
3. Using an agency or provider organisation
4. Advertising and interviewing

#### **1. Employing people yourself**

Employing people yourself is just one way to receive the support you need. Employing people may give you the most control. Employing people does come with significant responsibilities. The National Centre for Independent Living

(NCIL) website has good information on employing people. This factsheet highlights the areas you will need to think about if you want to employ people. If you have already found someone that you would like to employ, some of this information below may not be relevant.

### **The rate of your direct payment**

You need to make sure that the amount of direct payment you receive covers all the reasonable costs of recruiting and employing staff. For more information, see Sense's factsheet 'Direct payments: making sure you receive the right amount of direct payment'.

### **Writing a job description and person specification**

You will need to write a job description and person specification. For advice on how to decide what kind of staff you want, see Sense's factsheet 'Purchasing your own support: deciding on your needs and finding support'. The job description should cover the duties and tasks that you will expect staff to carry out as well as your preferences about when you want support. The person specification will list the skills, knowledge and experience that staff should have. You may want to divide these lists into what you think is essential and what you think is desirable (non-essential qualities that you would like staff to have).

### **Contracts**

A contract is a legal agreement between you and your staff. The contract should include the following:

- names of employer and employee;
- the date employment started;
- the length of any trial (probation) period (if you want to fix this);
- whether the post is permanent or temporary (if it is temporary, you will need to put a date for the end of employment);
- the rate of pay;
- the hours of work;
- holiday entitlement;
- length of notice required (how much warning they will have to give you if they want to leave and how much you will need to give if you want them to leave);
- grievance procedures (what they should do if they are unhappy);
- disciplinary procedures (what you will do if you are unhappy);
- written terms and conditions (what the employee has to stick to);
- signatures.

### **Fair rates of pay**

There is a national minimum wage. You must make sure that you are paying workers this amount or more.

### **Becoming an employer**

If you employ staff yourself, this means that you become an employer. If you become an employer, you need to register with HM Revenue and Customs (the new name for the Inland Revenue).

### **Payroll**

Payroll covers payments to staff as well as tax and National Insurance payments. Many users of direct payments find it helpful to use a specialised payroll service. For a fee, the service will take on responsibility for paying wages, tax and National Insurance, based on information that you give. For details of payroll services in your area, ask your local council or direct payments support service.

### **Income Tax**

Income tax is a tax paid on income. It is a percentage of employees' salaries. Income tax is paid at different rates depending on how much people earn and they may be entitled to a certain amount of tax-free income.

### **National Insurance Contributions (NICs)**

National Insurance contributions are paid by employees and employers to build up employees' entitlement to certain social security benefits, including the State Pension. Employees pay National Insurance Contributions out of their earnings. Employers need to pay an additional contribution on behalf of their employees.

### **Employee rights and entitlements**

There are employee rights and entitlements that you have to provide for. Employee entitlements to holiday, maternity, paternity and sick pay and leave are subject to change. The information below was correct at the time of writing. Ask your local direct payments support service for the latest information on this.

#### **Holiday pay and leave**

If they work full-time, employees are allowed a statutory period of paid holiday per year. This is currently 4 weeks per year plus bank holidays. This is worked out pro-rata (in proportion to the amount they work) for part-time employees.

#### **Maternity pay and leave**

If you have a female employee, you should be aware that employees expecting babies are entitled to 39 weeks' statutory maternity pay (SMP). They are also entitled to 26 weeks of 'ordinary maternity leave' and 26 weeks of 'additional maternity leave', so they can take a total of one year's leave.

### **Paternity pay and leave**

Fathers-to-be may be entitled to a certain amount of pay and leave to help care for their child in the first few weeks after the birth. They can choose to have one or two weeks' pay and leave.

### **Statutory Sick Pay (SSP)**

If your employee is sick for four days or more in a row, you may be required to pay statutory sick pay.

### **Managing Risk**

As an employer, you will have considerable responsibilities to manage risk for yourself, your staff and the people around you. Employees have a responsibility too. For advice on how to manage such risks and relevant insurance, see Sense's factsheet 'Purchasing your own support: managing risk'.

### **Employing relatives or carers who receive income support and/or carer's allowance**

If you employ people who receive some benefits because they care for you on an unpaid basis, they will need to think about how this will affect their rights to benefits. The salary they receive will be taken as income and this may effect the number of hours they are providing unpaid care.

## **2. Using self-employed workers**

### **Who are self-employed workers?**

Self-employed workers agree to work with people for an agreed number of hours but are not employed by anyone. This means that they deal with their own pay related administration but you would still need to manage them.

### **Your responsibilities when using a self-employed worker**

If you are using self-employed staff, you should check that they are genuinely self-employed to avoid any possible challenge from the Inland Revenue. If they are not self-employed then you will be considered the employer. To check if they are self-employed, ask self-employed staff if they have an Individual Tax Reference number.

## **Responsibilities of self-employed staff**

Self-employed workers must have an Individual Tax Reference number from the Inland Revenue. Self-employed workers are responsible for paying their own tax and National Insurance. They should issue you with an invoice at the end of every pay period for your records. They should also have appropriate liability insurance.

## **3. Using an agency or provider organisation**

### **What are agencies or provider organisations?**

You can contact agencies or provider organisations to ask them to supply you with support. The agency or organisation takes on a lot of the responsibilities such as paperwork and checking that staff are safe to work with you.

### **Expressing your preferences to an agency or provider**

It is important to find out whether there are local agencies or providers who will be able to provide staff to meet your needs.

Here are some questions you may want to ask different agencies:

- Will they be able to provide you with consistent staff?
- What training do they give staff?
- How do they carry out checks and references on staff?
- Are they able to provide staff cover when your regular staff are ill?
- Are they registered with the Commission for Social Care Inspection (CSCI)?
- What is their latest CSCI quality rating?

### **Your responsibilities**

Be clear what it is you want from the agency. If there is more than one agency in your area that could meet your needs, it would be a good idea to contact them to see what different services are available. Find out if the price you are quoted covers all costs. If you think you might need to cancel your request for support, you will need to find out how much notice you need to give the agency. It is still your responsibility to manage your relationship with agency workers.

### **Responsibilities of agencies and provider organisations**

The agency is the employer so has all the responsibilities of employing people. Under the Care Standards Act 2000, all domiciliary care agencies are required to obtain Criminal Record Bureau (CRB) checks on all staff.

## **Case study: using a local agency**

Steven is a deafblind man who has decided to receive direct payments to pay for the communicator guide support he has been assessed as needing. He has decided that he would like to use an agency or provider organisation, so he hopes that his local association for the blind will be able to provide him with a service. He has a meeting with the service manager and asks her about the qualifications of available staff. He asks if workers' qualifications are awarded by CACDP.<sup>1</sup> He also asks how the association check out staff.

## **4. Advertising and interviewing**

If you already have someone in mind to support you, you may not need to advertise or interview for staff.

### **Advertising**

Once you have written the job description and person specification you will be ready to advertise for staff. You might want to think about the best way to recruit local staff. It can be hard to find people locally with the right skills to support deafblind people, so you may need to think about how to advertise more widely. Different places where you might want to advertise include:

- your local direct payments support scheme;
- your local disabled people's organisation;
- volunteer organisations;
- national and local online networks, forums or newsletters;
- local Job Centre (Job Centre Plus);
- local colleges;
- in local newspapers or journals;
- local supermarkets and shops.

An advertisement for a worker should be brief and include information on:

- the type of work you would like them to do;
- the hours per week you would like them to work,;
- the rate of pay (this might vary on the level of skills they have);
- how they can contact you.

It is better to just include your contact details (telephone, textphone, email or fax) and not your home address. You might prefer to use a P.O. Box number or you may be able to use the address of your local direct payment support service. An advertisement could say the general area you live in.

### **Interviews**

For advice on interviews, see Sense's factsheet 'Purchasing your own support: deciding on your needs and finding support'.

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**Resources:**

**National Centre for Independent Living (NCIL)**

4th Floor,  
Hampton House,  
20 Albert Embankment,  
London, SE1 7TJ.  
Telephone: 0207 587 1663  
Text: 0207 587 1177  
Fax: 0207 582 2469  
Email: [info@ncil.org.uk](mailto:info@ncil.org.uk)  
Web: [www.ncil.org.uk](http://www.ncil.org.uk)

**Direct Gov: Beginners' Guide to Tax**

Web: [www.direct.gov.uk](http://www.direct.gov.uk)

**Employed or self-employed? A guide to employment status for tax and national insurance (IR56)** (free)

HM Revenue and Customs  
Telephone: 0845 714 3143 (**Established employers helpline**)  
Telephone: 0845 607 0143 (**New employers helpline**)  
Textphone: 0845 602 1380  
Web: [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

**National Minimum Wage**

Telephone: 0845 600 678  
Web: [www.berr.gov.uk](http://www.berr.gov.uk)

**Citizen's Advice Bureau (CAB): information on employment**

Look up your local CAB office in the phonebook or on-line  
Web: [www.adviceguide.org.uk](http://www.adviceguide.org.uk)

**Commission for Social Care Inspection (CSCI)**

Telephone: 0845 015 0120 or 0191 233 3323  
Email: [enquiries@csci.gsi.gov.uk](mailto:enquiries@csci.gsi.gov.uk)  
Web: [www.csci.org.uk](http://www.csci.org.uk)

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**Endnotes:**

<sup>1</sup> Council for the Advancement of Communication with Deaf People