



## **Direct Payments Support Service**

# **Advice Pack**

## **Children**

**A guide to using Direct Payments**

This advice pack is a guide to the Direct Payments scheme, and the Direct Payments Support Service offered by the Fed – Centre for Independent Living.

The pack follows guidance from Her Majesty's Revenue and Customs, Brighton and Hove City Council and the Department of Health.

It also outlines certain legal rights and responsibilities as established by current legislation and case law.

**If you need this information in an alternative format please contact us:**

**01273 29 67 55**

**[directpayments@thefedonline.org.uk](mailto:directpayments@thefedonline.org.uk)**

## **Contents**

Glossary	3
How to use the Advice Pack	4
1. The Fed's Direct Payments Support Service	5
2. Direct Payments	6
3. Record keeping and monitoring	7
4. Starting Direct Payments	8
5. Payroll and Supported Bank Account	9
6. Employing Personal Assistants	10
7. Recruiting Personal Assistants	11
8. Managing Personal Assistants	15
9. Sharing information, confidentiality and safeguarding	21
10. Insurance and Direct Payments	22
11. Further information	24

## Glossary

This is a list of words and abbreviations used in the Advice Pack that you might not be familiar with. All through the pack, any word or abbreviation that you can look up in this glossary is highlighted in italics *like this*.

**assessor** This is the social worker or health professional who makes the assessment of your needs.

**BACS** Bank Automated Clearing Service – a payment is made automatically into a bank account.

**BHCC** Brighton and Hove City Council

**case manager** The social worker, care manager or health professional who is responsible for managing your case.

**DBS** Disclosure and Barring Service – the agency that deals with criminal records checks. This used to be known as the Criminal Records Bureau (CRB).

**Direct Payments Advisor** The advisor from The Fed who has been allocated to work with you.

**DPSS** The Fed's Direct Payments Support Service (see page 5)

**HMRC** Her Majesty's Revenue and Customs – what used to be known as the Inland Revenue.

**job description** A document you create to recruit a suitable Personal Assistant. It tells people essential details about being employed by you – pay, hours of work and so on - and exactly what the work is.

**NIC** National Insurance Contributions

**PA** Personal Assistant

**PAYE** Pay As You Earn – income tax you deduct from your employee's wages and pay to *HMRC*.

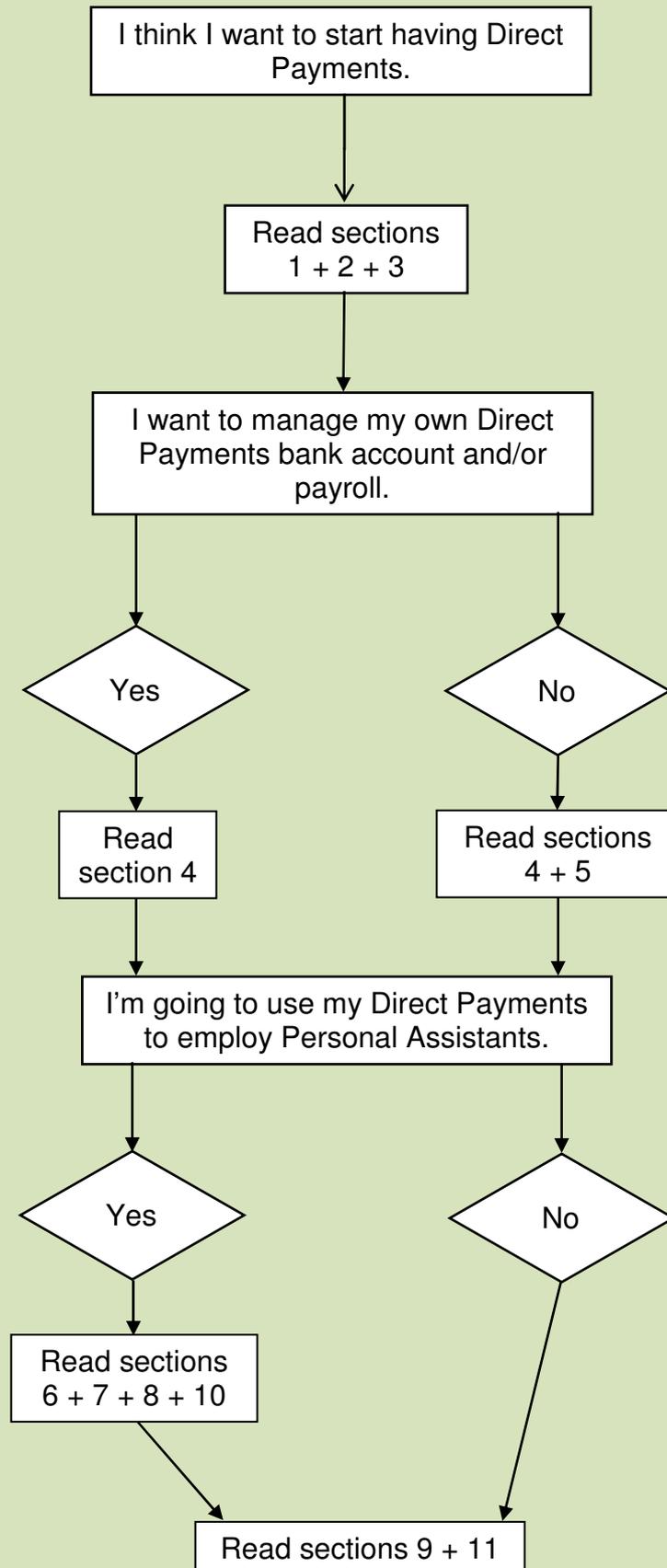
**Personal Allowance** The amount a person can earn in a year before having to pay any income tax.

**SBA** Supported Bank Account (see page 9)

**Seaside View** Seaside View Child Development Centre, the BHCC centre that deals with matters concerning Direct Payments for children. Telephone 01273 26 58 25.

**statement of terms and conditions of service** The document that sets out the main terms and conditions of the PA's employment with you. It is often referred to as 'the contract', and it is a legal requirement that the employee should be given it within eight weeks of starting work.

# How to use the Advice Pack



# 1. The Fed's Direct Payments Support Service

## 1.1 What is the Direct Payments Support Service (DPSS)?

The Direct Payments Support Service offers free, impartial advice and ongoing support to anyone interested in receiving Direct Payments.

We will explain your (legal) responsibilities and requirements under the Direct Payments scheme from employer registration to *PA* recruitment and continuing beyond.

We can assist with advertising vacancies, interviewing and vetting candidates, provide *statements of terms and conditions of service*, and provide advice on the management and supervision of *PAs*.

The service is delivered and run by the Fed – Centre for Independent Living in partnership with Brighton and Hove City Council and the Sussex Partnership Trust.

We offer advice and support regarding Direct Payments, but the ultimate responsibility belongs to the recipient of the Direct Payments (except when someone else has been appointed to take responsibility).

The Fed also has a Payroll and Supported Bank Account service that can help with the responsibilities of being an employer (see page 9).

## 1.2 What do I do next?

Once *BHCC* or the health service determines that you are eligible for Direct Payments, your needs will be assessed and a **Support Plan** will be produced. When funding has been agreed from the appropriate team, we can then help organise and implement your Direct Payments plan.

We recognise each potential Direct Payments client has a unique set of circumstances and we will not pressure any individual to rush their decision without full consideration of all factors.

Contact us:

**Direct Payments Support Service**  
**The Fed – Centre for Independent Living**  
**Montague House, Somerset Street,**  
**Brighton BN2 1JE**

**Tel: 01273 29 67 55**

**Email: [directpayments@thefedonline.org.uk](mailto:directpayments@thefedonline.org.uk)**

**You can phone *DPSS* between 10 a.m. and 4 p.m. Monday to Friday, or e-mail at any time, but *Direct Payments Advisors* are available to meet you by appointment only.**

## 2. Direct Payments

### 2.1 How much will I get?

The money you receive is based on your **assessed needs**. A financial calculation will be made and this amount will be paid into a separate bank account. Direct Payments will not be paid in cash.

You may want to use your Direct Payments to employ a Personal Assistant, buy care from an agency of your choice, or use other services or support agreed with your *assessor*. Your *Direct Payments Advisor* will give you advice on how to use your budget.

Once you are using Direct Payments, your needs will be reviewed on a regular basis. Equally, if your circumstances change you can ask for a review at any time by contacting *Seaside View* on 01273 26 58 25.

### 2.2 What can be bought with Direct Payments?

You must use your Direct Payments to meet the needs that your *assessor* has identified, and that have been agreed as part of your support plan.

### 2.3 Do Direct Payments affect my benefits?

Direct Payments are not viewed or assessed as an income; therefore they will not directly affect your benefits. They will be paid in addition to any benefits that you may be receiving.

### 2.4 Reviews

Your Direct Payments will be reviewed, every 4 months, along with your support needs. The *DPSS* will contact you within three months to check that everything is running smoothly. If you are employing a *PA*, we will prompt you to have a probationary review where you and your *PA* can discuss their progress.

If your needs change at any point you can request a review via *Seaside View* (**01273 26 58 25**).

### 3. Record keeping and monitoring

When you get Direct Payments, you have to have a separate bank account for them. This is so that you can keep everything to do with Direct Payments completely separate from your personal finances. You have to record all expenditure from your Direct Payments account to keep within budget and to show Brighton and Hove City Council (BHCC) how you are spending your money.

You **must** send a copy of your bank statement every quarter to Brighton and Hove City Council. You need to write alongside each line an explanation of what the payment is for. **This can be posted to:**

Seaside View Child Development Centre  
Brighton General Hospital  
Elm Grove  
Brighton  
BN2 3EW

Or you can email copies to: [Childrens.DirectPayments@brighton-hove.gov.uk](mailto:Childrens.DirectPayments@brighton-hove.gov.uk)

Your Direct Payments can then be audited by the Children's Disability Services at BHCC. Your support needs will also be reviewed every 4 months by the Social Work Team.

Your *Direct Payments Advisor* can advise and support you around your Direct Payments budget, in relation to your assessed needs.

You will receive regular **BACS remittance advice** from the council.

You need to keep records of:

- hours worked by your *PA*;
- wages paid to your *PA*;
- tax and National Insurance deductions made;
- annual leave taken;
- any invoices or receipts (for services as agreed in your support plan);
- any *PA* absences (i.e. sick days etc. as they may be entitled to Statutory Sick Pay).

We advise you use cheques, telephone or internet banking when making payments. **Your *PA* should not be paid in cash, and you must supply a payslip.**

You might discuss with your *PAs* how they can assist you with record keeping. You may find that once systems are set up, a routine will emerge. The Direct Payments Support Service can help establish systems, but you need to ensure yourself that your records are maintained.

Although this may seem daunting help is at hand. The Fed can provide a **payroll** service and/or a **supported bank account** service. These services will assist you with various aspects of your record keeping and monitoring requirements (please see page 9 for further details).

## 4. Starting Direct Payments

Once your funding has been approved, there are several steps to take before your payments can start.

- **Have a separate bank account for your Direct Payments.** This is required by *BHCC*, and prevents confusion over expenditure. The Fed can do this for you (see page 9).
- **Plan.** If you are employing *PA*s, you should decide what you want them to do and write a *job description* accordingly. If you prefer, you can buy in *PA* services from an agency; you will need to sort out which agency you are going to use with your *case manager*.
- **Recruit your *PA*s.** You will need to advertise for and interview potential *PA* applicants. **We strongly advise that you obtain references and carry out a Disclosure and Barring Service (DBS) check before appointing a *PA*.**
- **Insure.** You must have employer's liability insurance if you are employing a *PA*.

Once your payments have started, you need to bear the following things in mind.

- **Manage your *PA*s.** Communication is vital; clear instructions and regular meetings are essential for a healthy, honest relationship.
- **Be responsible.** Treat your employees reasonably, within the law, and ensure they are safe when they work with you.
- **Comply with the law.** All employees are entitled to a written *statement of their terms and conditions of service* and an up to date *job description*.
- **Deduct tax and National Insurance.** You need to ensure the correct deductions are made from your *PA*'s pay.
- **Check invoices carefully.** If you are using an agency to provide your support, you will need to check and approve their invoices before paying them.

**Advice is available from the Direct Payments Support Service team.**

## 5. Payroll and Supported Bank Account

### 5.1 What is a payroll service?

On your behalf our Payroll and Supported Bank Account service can register you as an employer with HM Revenue and Customs and deal with correspondence and paperwork.

#### On your behalf we will:

- file and store payroll records for you;
- provide you with blank time-sheets;
- e-mail or/and post payslips to you;
- process joiners and leavers;
- process student declaration forms;
- calculate income tax and National Insurance Contributions and statutory payments;
- make student loan deductions;
- send quarterly summary of tax and *NICs* due to *HMRC* and advise on how to make payments;
- complete year end on-line filing.

The Payroll team will keep you informed of any changes that may affect your employment responsibilities and implement these on your behalf.

### 5.2 What is a Supported Bank Account (SBA)?

It is an account, opened and administered on the Direct Payments user's behalf.

We help people to manage funds received from their Local Authority, so they can be in **control** of their own care arrangements. *SBA*s can also help with budgeting and reduce the amount of paperwork people have to handle

#### On your behalf we will:

- receive allocated Direct Payments monies from BHCC;
- pay authorised invoices directly to your care agency (if you use one);
- pay Personal Assistants' wages directly to their bank accounts;
- calculate income tax and *NICs* and make payments to *HMRC*.

BHCC will pay the charges for these services should you wish to use them. You can have either one or both of these services.

For more information including current prices;

Visit [www.bhfederation.org.uk](http://www.bhfederation.org.uk)

Email: [payroll@thefedonline.org.uk](mailto:payroll@thefedonline.org.uk)

Or call: 01273 29 67 27

Let your adviser know if you wish to receive these services and we will arrange it for you.

## 6. Employing Personal Assistants

### 6.1 What is a Personal Assistant (PA)?

A *PA* is an individual you employ who will work alongside you to meet your personal care, social, domestic and communication needs. The advantage is that you choose exactly who you want to support you, and they work for you, not an agency. Across Brighton and Hove there are hundreds of people of all ages employing *PAs*.

Anyone can work as a *PA*. Specific experience may not be needed as it is more about finding the right kind of person to assist you. Depending on your needs, however, it may be necessary to organise training for your *PA*. You may wish to discuss this with your *Direct Payments Advisor*.

### 6.2 Are Personal Assistants for me?

Employing a *PA* involves responsibility, but equally there are great benefits and rewards in return. You will need to:

- recruit and manage staff, including organising salaries, absence and annual leave;
- account for the money you receive;
- comply with employment law;
- use a payroll service or inform *HMRC* that you are employing someone;
- ensure your *PA* is not at risk, by implementing Health and Safety regulations.

If you have *PAs*, you can:

- choose the individuals who provide your care;
- choose when they visit you;
- access more opportunities that might otherwise be unavailable to you;
- involve yourself in the community;
- manage your own life.

### 6.3 Can I employ a relative?

Generally, you are not allowed to employ as your Personal Assistant your spouse or partner, or a close family member who lives with you (or their spouse or partner).

However, Brighton and Hove City Council may allow you to employ someone like this. For this to be viable, your *assessor* will have to have agreed that it is necessary to meet your needs. In this case you will be required to use supported services such as Payroll and Supported Bank Account. The Fed can provide these.

If an individual receiving Direct Payments lacks the mental capacity to be an employer, someone else (known as a 'suitable person') will be appointed to manage their employment responsibilities. This is usually a family member or close friend. Obviously it would not be appropriate for the 'suitable person' to be someone who is actually employed by the Direct Payments recipient.

## 6.6 Employing people under 18

You can legally employ someone who is 13 or over, but if you want to employ someone under 16, there are very strict rules about when and for how long they can work, and you must apply for a Work Permit from the Child Employment Officer at the Education Welfare Service.

Contact details:

Child Employment Officer  
Education Welfare Service  
Brighton and Hove City Council  
Kings House  
Grand Avenue  
Hove BN3 2SU

Tel: 01273 29 35 67

Fax: 01273 20 35 47

Website: [www.brighton-hove.gov.uk/index.cfm?request=c1165477](http://www.brighton-hove.gov.uk/index.cfm?request=c1165477)

Once people reach the end of the school year in which they become 16, they can work full-time, but they still can't work as many hours as people who are 18 and over, and they have to have longer and more frequent breaks.

## 6.9 Employed or self-employed?

Some *PA*s might say they would rather be self-employed than employed by you. This would mean that you don't have to deduct income tax or National Insurance from their pay – they pay it themselves. However, regardless of what you have agreed with your *PA*, or what's written in their *statement of terms and conditions of service*, **whether they are self-employed or not in law depends on the actual circumstances of how they work**. This is important, because if you think your *PA* is self-employed, but *HMRC* or an Employment Tribunal says they're not, you would be liable for any unpaid income tax, *NICs*, holiday pay, and various other monies.

The *HMRC* website has a useful 'Employment Status Indicator' tool, which should be used to check whether someone qualifies as self-employed for tax purposes, at [www.hmrc.gov.uk/calcs/esi-01.htm](http://www.hmrc.gov.uk/calcs/esi-01.htm).

A variety of different factors play a part in the judgement of whether or not someone is self-employed, such as the degree of control you have over the way the work is done.

As a general guide, **if the answer is 'Yes' to all of the following questions, then the worker is probably an employee.**

- Do they have to do the work themselves?
- Can someone tell them at any time what to do, where to carry out the work or when and how to do it?
- Do they work a set number of hours?
- Can someone move them from task to task?
- Are they paid by the hour, week, or month?
- Can they get overtime pay or bonus payments?

**If the answer is 'Yes' to all of the following questions, it will usually mean that the worker is self-employed:**

- Can they hire someone to do the work or engage helpers at their own expense?
- Do they risk their own money?
- Do they provide the main items of equipment they need to do their job?
- Do they agree to do a job for a fixed price regardless of how long the job may take?
- Can they decide what work to do, how and when to do the work and where to provide the services?
- Do they regularly work for a number of different people?
- Do they have to correct unsatisfactory work in their own time and at their own expense?

## 7. Recruiting a Personal Assistant

### 7.1 Recruiting a Personal Assistant

If you decide you want to use your Direct Payments to employ a *PA*, you will need to recruit somebody. As the employer, it's entirely your decision how to go about doing this, but we can support you in several ways.

Your *Direct Payments Advisor* can help you put together a *job description* and advertise the position (we have a PA Noticeboard for this (see section below)). We can also help you to budget to ensure you're paying your *PA* the right amount.

When people start to apply for the position, we can also support you in selecting the right person for you, for instance by helping you with interviewing.

Then we can help you make sure you carry out the necessary checks on a new employee (such as references, DBS checks, and eligibility to work in the UK), and properly inform them of their terms and conditions of service.

Finally, we can provide advice if you have any difficulties in managing your new *PA(s)* (though legal advice about employment will be provided by your insurance company (see page 21)).

### 7.2 What is the PA Noticeboard?

The Personal Assistant (PA) Noticeboard is a FREE and exciting project to help you, as an employer, to find *PAs* and *PAs* to find work. There are two lists:

- *PAs* looking for work; and
- employers looking for *PAs*.

It was developed as a result of requests from both employers and *PAs* for such a scheme in Brighton and Hove.

#### I'm interested, what do I do next?

Go to [www.panoticeboard.org.uk](http://www.panoticeboard.org.uk) and see the **How to Apply** section for full details of how to register and use the *PA* Noticeboard.

**Please note**, the *PA* Noticeboard is for information purposes to help *PAs* find work and to help employers find *PAs* more easily. We are not recommending anyone, nor have we vetted the applications. We advise that employers carry out the appropriate *DBS* checks and obtain references in the normal way. We also advise that *PAs* ensure that they agree terms and conditions of employment with the employer.

If you would like more information or have any queries or feedback, please e-mail [noticeboard@thefedonline.org.uk](mailto:noticeboard@thefedonline.org.uk).

There is also a list of *PAs* on the *BHCC* website's Support with Confidence page ([www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk) > Social services > Caring & carers > Personal assistants). These are people who have already had *DBS* disclosures and references checked, and who have completed a course on being a *PA*.

## 7.3 Disclosure and Barring Service (DBS) disclosure

The *DBS* was previously known as the Criminal Records Bureau (CRB). We strongly advise you to make sure *PA*s have a *DBS* check before you appoint them.

Once you have identified a potential *PA* you should notify Stuart Douglas at *Seaside View*:

[Stuart.Douglas@brighton-hove.gov.uk](mailto:Stuart.Douglas@brighton-hove.gov.uk)

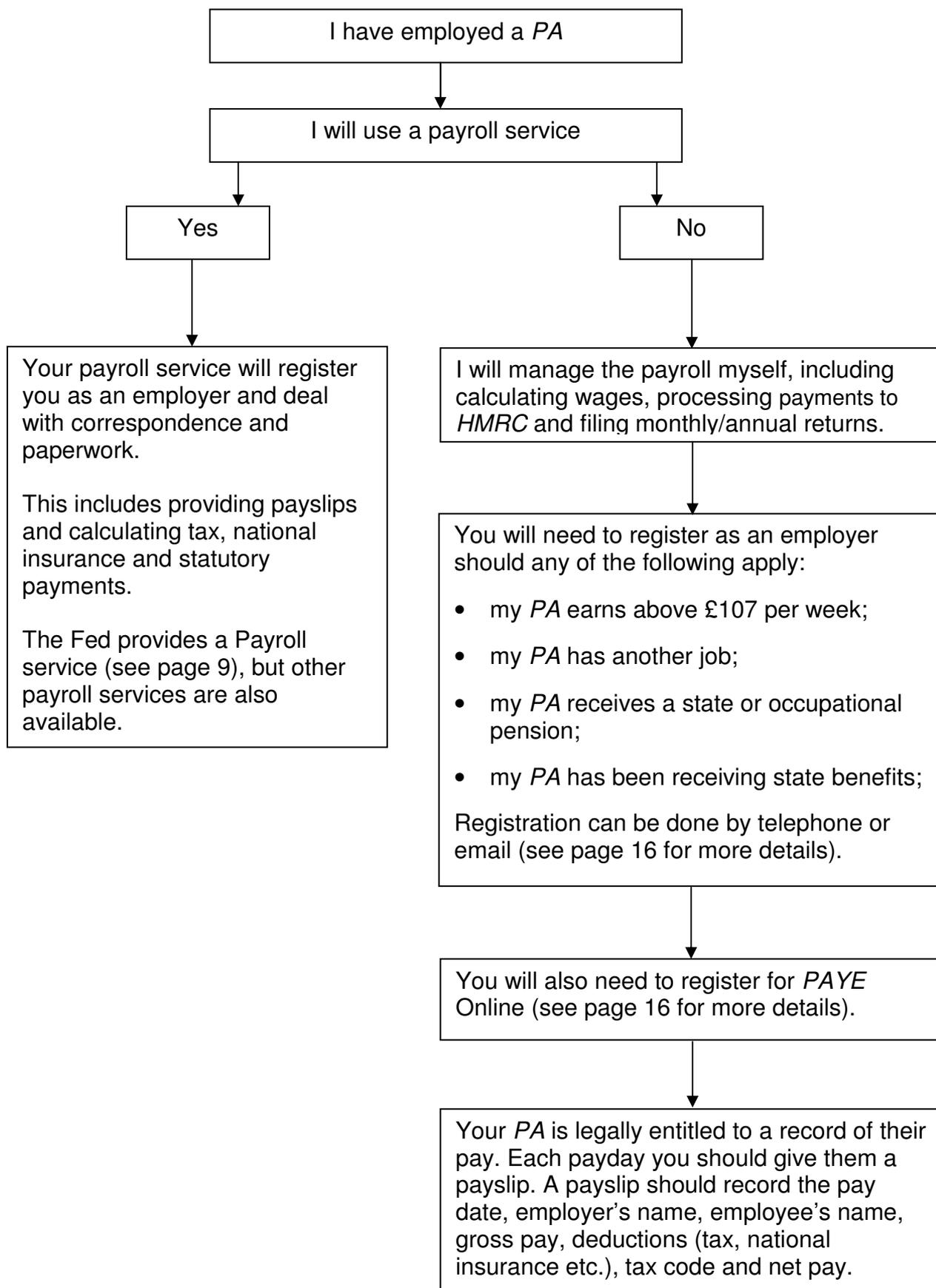
Seaside View Child Development Centre  
Brighton General Hospital  
Elm Grove  
Brighton  
BN2 3EW

01273 26 58 25

You will then be sent *DBS* and child protection registration forms. These need to be completed and signed by the *PA* and returned to Stuart. The *DBS* checks will then be processed and paid for by *Seaside View*. You will be notified of the result once the checks have been carried out.

## 8. Managing personal Assistants

## 8.1 Registering as an employer with *HMRC*



## 8.2 Tax and National Insurance – a basic guide

As an employer you have a responsibility to deduct *PAYE* and National Insurance Contributions (NICs) from your employees' pay, to give them a written payslip, and to keep adequate records of how you have done this.

### Registering as an employer

You will need to register as an employer and deal with *HMRC* directly; alternatively you may wish to use a payroll service. The Fed can provide a payroll service for a set monthly fee (see page 9).

To register as an employer please visit [www.hmrc.gov.uk/payee/intro/register.htm](http://www.hmrc.gov.uk/payee/intro/register.htm)

### Registering for *PAYE* Online

Any new employee should give you their p45 form when they begin working for you. If the *PA* does not have a p45 for the current tax year they will need to complete a p46 form.

You will need to submit these forms electronically to *HMRC* via their *PAYE* Online system. Post is no longer an option for this information in all but a few exceptional situations. You should register for *PAYE* Online straight away rather than waiting until you need to send information to *HMRC* online. This is a separate registration process which you do in addition to registering with *HMRC* as an employer. **You must carry out both registrations.**

To register for *PAYE* Online please visit [www.hmrc.gov.uk/payee/file-or-pay/fileonline/register.htm](http://www.hmrc.gov.uk/payee/file-or-pay/fileonline/register.htm)

The *Personal Allowance* for most people for 2012-13 is £156 per week. However this depends upon the individual's tax code. In most cases, if your *PA* earns more than £156 per week then income tax deductions will be required.

The lower earnings limit for national insurance contributions is currently £107 per week. This means that if your *PA*'s earnings are over £107 per week they will be entitled to statutory payments such as Statutory Sick Pay, Statutory Maternity Pay, Statutory Paternity Pay, etc..

If your *PA* earns over £144 per week you will need to pay (secondary/employers) national insurance contributions.

If your *PA* earns over £146 per week you will also need to deduct (primary/employees) national insurance contributions from their wages.

If a *PA* is **self-employed**, they are responsible for their own income tax and *NIC* deductions. See page 11 for information on whether your *PA* is self-employed or not.

**Please ask your *Direct Payments Advisor* for any further information and advice.**

## If the *PA* has more than one job

For **income tax** purposes it does not matter how many jobs your *PA* has, they are only entitled to one *Personal Allowance* in any tax year (£8105 for 2012/13).

If a *PA* starts working for you and they already have another job they should complete a p46 form. They do not have to tell you where else they work or how much they earn. You will then deduct tax at basic rate (20 per cent) from their wages. Your *PA* can, however, ask *HMRC* to split their *Personal Allowance* between their jobs. In this case they will be given a new tax code for the job with you, which will tell you how much they can earn before you have to deduct income tax.

For more information your *PA* should visit [www.hmrc.gov.uk/incometax/check-multiple-codes.htm#3](http://www.hmrc.gov.uk/incometax/check-multiple-codes.htm#3), or you can ask your *Direct Payments Advisor* for further guidance.

For **National Insurance** purposes, the earnings from each job will be treated as separate. Even if one of your employees has another job with a different employer, you should work out National Insurance contributions in the normal way on the payments you make to the employee.

## Helplines

*HMRC* have several helplines for expert advice on all aspects of Tax, National Insurance, Statutory Sick Pay, Adoption, Maternity, Paternity Pay and more.

**New Employer Helpline** 08456 07 01 43

**Employer Helpline** 08457 14 31 43

**Self Employed Helpline** 08453 00 06 27

For customers who are deaf or hearing or speech impaired: 08456 02 13 80 (Textphone)

**Fax** 0191 225 6677

**Post** Customer Operations Employer Office  
BP4009  
Chillingham House,  
Benton Park View,  
Newcastle upon Tyne NE98 1ZZ

*HMRC*'s Business Education and Support Teams offer workshops on various topics. For further information about their workshops and presentations please phone 0845 603 2691 or visit [www.hmrc.gov.uk/bst/advice-teams-area/southtraining.htm](http://www.hmrc.gov.uk/bst/advice-teams-area/southtraining.htm).

These workshops are usually held at *HMRC* Crown House, 11 Regent Hill, Brighton BN1 3ER.

## 8.3 Annual leave entitlement for your *PA*

Your *PA* is entitled to annual leave with full pay. The full-time entitlement is 5.6 weeks. This will vary according to the hours worked and is calculated **pro rata**.

For more advice on how to calculate the annual leave entitlement for your *PA*(s), Business Link can offer more advice and information [www.businesslink.co.uk](http://www.businesslink.co.uk). Our Payroll Service, on

01273 29 67 27, can also calculate annual leave for the employees of our clients, **when requested**.

However, it is the responsibility of the **employer** (when possible) to keep a record of the number of annual leave hours taken by their **employee(s)** during the financial year. Annual leave pay should only be claimed **when** annual leave is actually taken. Keep all records in your *PA* personnel file.

Your *Direct Payments Advisor* will be able to give you further support.

## 8.4 Statutory Sick Pay (SSP)

If your employee is off sick for at least four days in a row and earns at least £107 per week they may be entitled to SSP. The standard weekly rate for SSP is £85.85 a week and can be paid for up to 28 weeks.

You will need to complete the SSP1 form available at

[www.dwp.gov.uk/advisers/claimforms/ssp1.pdf](http://www.dwp.gov.uk/advisers/claimforms/ssp1.pdf).

If you use a payroll service they can calculate SSP on your behalf. Otherwise you can use the SSP calculator on the *HMRC* website available at

[www.hmrc.gov.uk/calcs/ssp.htm](http://www.hmrc.gov.uk/calcs/ssp.htm).

If your employee earns less than £107 per week they will not be entitled to SSP.

Your *Direct Payments Advisor* will be able to give you further support.

## 8.5 The Working Time Regulations

### Workers aged 18 and over

#### ***A maximum working week of 48 hours***

You must take all reasonable steps to ensure that your PAs do not work for more than an average of 48 hours per week.

#### ***A rest period of 11 consecutive hours a day***

Workers aged 18 and over should have a minimum 11 hours' rest between each working day.

#### ***A rest break when the day is longer than six hours***

Workers aged 18 or over must have a minimum 20 minute break for every shift lasting more than 6 hours.

#### ***A minimum of 1 rest day per week***

Workers aged 18 and over should not be forced to work more than 6 days in every 7, or 12 days in every 14.

It is legally permissible for the employer and an employee of 18 or over to sign an agreement opting out of the 48 hour maximum working week.

## **Workers aged 16 and 17**

(These rules apply to 16 year olds only when they are no longer required by law to attend school)

### ***Maximum working week***

If your *PA* is 16 or 17 they must not work for more than 8 hours a day or 40 hours per week. These hours worked cannot be averaged out and there is no opt-out available.

### ***Minimum rest breaks***

If your *PA* is 16 or 17 they must be given a minimum 30 minute break for every 4.5 hours worked.

### ***A rest period of 12 consecutive hours a day***

If your *PA* is 16 or 17 they must have a minimum 12 hours' rest between each working day.

### ***A minimum of 2 rest days per week***

If your *PA* is 16 or 17 they must not be forced to work more than 5 days in a week. These rest days must also be taken together with no working in between them.

**There are much stricter rules regulating workers who are 16 or under and still required by law to attend school (see page 11).**

## **8.6 The right to request flexible working - the eligibility criteria**

Any employee can ask their employer for flexible work arrangements; as an employer you should be willing to consider such requests

Certain employees have the **statutory right** to make a flexible working request. To be eligible a person must:

- be an employee;
- have worked for you continuously for at least 26 weeks on the date they make their request; and
- not have made another statutory request during the past 12 months.

The employee can only make an application to care for either:

- a child under 17;
- a disabled child who is under 18, and who is in receipt of disability living allowance; or
- certain adults who require care.

As an employer you must seriously consider these flexible working applications, and they should only be rejected if there are good business reasons for doing so.

## **8.7 Health and Safety**

An employer who employs five or more people should have a written Health and Safety policy. This need not be complex or lengthy as the *PA* environment is often jointly controlled by the employer and the *PA*.

It should state that the employer is responsible for Health and Safety. It should also state who has delegated responsibility - e.g. the *PA* has responsibility to maintain safety standards in the areas in which they are working or perform activities.

The policy should also detail who is responsible for care and maintenance of any equipment (this may well be the *PA* but it could be third party suppliers etc.).

Information about the location of the first aid box should also be on the statement. It may also include a general statement regarding training and safe working practices.

## 8.8 Pensions

If you employ 5 or more *PA*s you are required to offer access to a stakeholder pension. Please speak to your *Direct Payments Advisor* if you would like more information.

## 8.9 Contingencies and redundancies

You may have occasional difficulties as an employer, for instance if your *PA* is absent through sickness, or their personal or work circumstances change. Or it may be that your needs change and you have to make a *PA* redundant.

Your *Direct Payments Advisor* will help you at the outset with a back-up plan for these possibilities. However, if anything like this happens and you are left without a back-up, in the first instance you should contact your *case manager* if you still have one allocated to you. Otherwise contact the *Seaside View* on 01273 26 58 25 or email [Childrens.DirectPayments@brighton-hove.gov.uk](mailto:Childrens.DirectPayments@brighton-hove.gov.uk).

The *DPSS* can advise you on such occasions, but **we are not an emergency/crisis service**.

You should seek advice from your *Direct Payments Advisor* and contact your insurance provider's employment helpline with regards to redundancies. Please contact the ASC Direct Payments team on 01273 29 44 04 or email [Childrens.DirectPayments@brighton-hove.gov.uk](mailto:Childrens.DirectPayments@brighton-hove.gov.uk) if additional money is required for instance to settle a redundancy package, or maternity or paternity leave. .

## 9. Sharing information, confidentiality and safeguarding

We share information relating to Direct Payments with the Local Authority, from the perspective of the Direct Payments client. This is to aid communication and to increase your personal success in the scheme. You will be asked by your *Direct Payments Advisor* to sign a form agreeing to this.

Everyone has the right not to be abused or neglected. We at The Fed will treat adults at risk in a way that respects and promotes their rights under the Human Rights Act 1998. Whenever we take any action to protect their interests, we will aim to respect their dignity, privacy and beliefs whatever their race, religion or belief, language, gender, disability, age or sexual orientation.

If we see, or are made aware of, any abuse or suspected abuse, we may need to breach your confidentiality in order to act in your best interests. However, we will only do this if it is absolutely necessary to respond effectively to the abuse or alleged abuse. If we do, we will only share information about you with those people who need to know. Before we do this, we will ask your permission wherever possible, but if it is not possible, or we believe a child or an adult at risk is endangered, we may have to act without your consent.

## 10. Insurance and Direct Payments

### 10.1 What insurance do I need?

When you start receiving Direct Payments, you will receive an initial start up fund to cover the costs of starting up your *PA*, e.g., buying insurance and *DBS* checks, if needed. This is £150. This amount will be renewed annually to cover any additional costs.

The two main costs for you to use a *PA* are:

- **Employer's Liability Insurance** This provides cover for your *PA* having an accident or becoming ill while working for you, when you might be held liable.
- **Public Liability Insurance** This provides cover for damage or injury caused to someone, by you or your *PA*, while they are working for you.

**These both need to be renewed each year. This is a legal requirement.**

In addition to the above, you may wish to take out the following:

- **Personal Accident Cover** This provides cover for you if the *PA* should injure you. Please note that this only provides a relatively small amount of compensation. **If you require your *PA* to give you medication, we strongly advise that the *PA* should have their own personal accident insurance policy to cover personal injury to you.**

Please note: **It is important to inform your insurance company if your contact details change**

### 10.2 Insurance providers

Please note, **other insurance companies are available.**

#### **Fish Insurance**

A company used by Direct Payments clients nationwide. They offer two policy choices:

**Basic policy** covers your basic legal responsibilities – employer and public liability;

**Full policy** in addition to the **Basic** includes a 24 hour advice Employment Law and Tax Advice helpline, redundancy payment and replacement *PA* cover, cover for court, tribunal and compensation costs, personal accident cover, cover for theft by employees, and more.

You can get further details from:

#### **Fish Insurance**

2-4 Riversway Business Village  
Navigation Way  
Preston, PR2 2YP

**Tel:** 0500 43 21 41

**Website:** [www.fishinsurance.co.uk](http://www.fishinsurance.co.uk)

## **Premier Care Insurance**

A company used by Direct Payments clients nationwide. They offer three policy choices:

- Standard policy** covers your basic legal responsibilities – employer and public liability – and includes 24 hour Employment Law, Legal and Tax Advice helplines, cover for PAs' possessions, and more.
- Plus policy** in addition to the **Standard** includes personal accident cover, cover for replacement PAs, negligence and theft by PAs, hospitalisation, emergency recruitment costs, compensation awards, and more.
- Deluxe policy** in addition to the **Plus**, covers things such as damage to your home contents and cancellation of holidays.

You can get further details from:

**Premier Care**  
Mark Bates Ltd  
Premier House  
Harlaxton Road  
Grantham, Lincolnshire, NG31 7JX

**Tel:** 01746 51 44 78

**Fax:** 01476 59 15 43

**Email:** [enquiries@home-employment-insurance.info](mailto:enquiries@home-employment-insurance.info)

**Website:** [www.home-employment-insurance.info](http://www.home-employment-insurance.info)

## 11. Further information

If you would like further advice on anything to do with Direct Payments, please contact us.

**Direct Payments Support Service**  
**The Fed – Centre for Independent Living**  
**Montague House**  
**Somerset Street**  
**Brighton BN2 1JE**

**Tel: 01273 29 67 55**

**Email: [directpayments@thefedonline.org.uk](mailto:directpayments@thefedonline.org.uk)**

### 11.1 Peer Support Group

The Peer Support Group meets every six weeks and provides Direct Payments service users with information and support from their peers. It gives them the opportunity to share their own ideas, experiences and solutions with others. Refreshments are provided and funding is available to cover transport or PA support if required.

There's a Facebook page with information and updates at [www.facebook.com/brightonandhovepeersupportgroup](http://www.facebook.com/brightonandhovepeersupportgroup), and a group at [www.facebook.com/groups/brightonandhovepeersupportgroup](http://www.facebook.com/groups/brightonandhovepeersupportgroup) to join, so you can still have your say if you find it difficult to get to the meetings.

For more information about the group and future meeting dates please email the Self Directed Support team on [sds.team@brighton-hove.gov.uk](mailto:sds.team@brighton-hove.gov.uk) or call 01273 294404. We hope to see you at a meeting or on Facebook soon!

### 11.2 Get Involved Group (GIG)

The Get Involved Group is a Fed project all about improving services for disabled people in Brighton and Hove. We run regular focus groups, surveys, telephone interviews and a Facebook group for people to share their views on hot topics and help us to campaign constructively for better services for disabled people. We aren't just waving a banner - we work in partnership with local service providers to address important issues.

We look at a wide range of issues including:

- transport (taxis, buses etc.);
- outside environment (streets, parks, beaches etc.);
- healthcare (delivered by the hospital, at home or in the community);
- adult social care (including adaptations for the home, direct payments, access to PAs etc.);
- public buildings (including GP surgeries, libraries and museums);
- community safety (including hate crimes and anti-social behaviour);
- housing (including council housing, supported accommodation and council tax etc.).

If you are a local disabled person or support someone who is, and are interested in joining our group, contact us and let us know what topics you'd like to get involved with. Contact Diane Marks on 01273 296747 (Tuesdays and Wednesdays) or email [Diane.Marks@thefedonline.org.uk](mailto:Diane.Marks@thefedonline.org.uk).