

Health and Safety, Insurance and Police Checks

Health and Safety

It is your responsibility, as an employer, to make sure that you have a safe place to work in. It is also the responsibility of the PA not to do anything, which might cause you or themselves injury or harm.

This has been a difficult area and communication is the key to success in this area. There is a balance between safety for the personal assistant and getting your needs met.

At NCIL, we take the view that you are the best expert about the safest way to assist you in moving your own self and this should be at the centre of whatever arrangements are in place. It's essential to remember that employing personal assistants is about having the support you need to live your own life.

“As a general principle, local councils should avoid laying down health and safety policies for individual direct payment recipients.” (DOH guidance pg. 24)

“local councils should give recipients the results of any risk assessments” (DOH guidance pg.24)

Insurance

The first question that needs to be asked is "why do I need insurance when employing personal assistants"? The simple answer to this is that as an employer you have a legal duty to insure against accidents or injury to your staff, or accidents or injury caused by them while they are at work for you.

Accidents can happen in a number of ways. For example, your PA might fall down the stairs while doing the housework. Alternatively, they might have an accident outside your house while doing your shopping. If they are involved in a car crash they might also injure someone else. Additionally, your PA might contract an illness, which they might feel is your responsibility - food poisoning, for example, contracted from eating your food. In such cases, as their employer, you might be held responsible. Consequently, when employing a PA you must take out:

Employer's Liability Insurance.

This will insure you against your PA having an accident or becoming ill while working for you, in cases where you might be held liable.

And:

Public Liability Insurance.

This is needed to insure you against any damage or injury caused to someone else by you or your PA while they are working for you.

You also need good comprehensive house insurance to cover your property and its contents. You might want to include cover for accidental damage. Sometimes PAs can damage your property.

Sometimes 'Employer's Liability Insurance' and 'Public Liability Insurance' can be included in a comprehensive household policy. However, many standard policies do not cover this, so check carefully.

Insurance can be quite expensive. Your funding agency might help you cover the cost. If you are getting Direct Payments, the local authority must include the cost of Employer's Liability Insurance in the amount it gives you. You should also shop around to get the best terms.

Personal accident insurance

It is possible that your PA may inadvertently injure you, for example by spilling a scalding-hot drink on you. Employer's liability insurance will not cover this sort of injury. You can obtain personal accident insurance to cover misadventures of this kind, but this is likely to be very costly; we advise you to take specialist advice if you are thinking about this sort of insurance.

Legal costs insurance

If you find yourself in a dispute with your PA, it is possible that they could go to Employment Tribunal. Obtaining legal advice to defend yourself can be costly. There is free advice available from the Citizens Advice Bureau (See contact CAB [for more information](#)) and ACAS but some employers would prefer to be able to use a solicitor. (seecontact ACAS [for more information](#))

Insurance schemes for employers to pay for legal advice in these circumstances are expensive. However, it may be feasible for groups of employers to take out a policy. In some countries PA users employ their PAs through a co-operative and are able to take out a group insurance against legal costs. This may be an idea worth exploring with your local PASS or peer support group. NCIL will be looking into these areas further.

Police Checks (Criminal Records Bureau)

The government has introduced new rules in the National Care Standards which require every organisation who provide services to disabled people living in their own home, to check all of their employees with the Criminal Record Bureau. This is to check for any listed previous convictions for a Criminal offence.

As individual employers, Direct Payments users over 16 are not obliged to make these checks on their workers. However it might be advisable to make these checks to help you make decisions about the best people to employ as your personal assistant.

The way that the system works is that individuals need to contact a local organisation who can make the request for the information from the Criminal Records Bureau on their behalf.

Your local Social Services Department will certainly be able to do this or should make sure a simple process is in place. In some areas local voluntary organisations or the Direct Payments Support Schemes may be able to offer this support.

As information is passed through a third party you may not see the actual documents from the Bureau but you will get a report on the general nature of the information that the board has provided.

“the local authority may wish to consider the cost of the check so that the Direct Payment user may reimburse successful candidates” DOH guidance (pg.26)

Police Checks for people working with children.

If you are providing a service to a child the local authority has an obligation to offer a check for any person likely to be employed. Tell people as early as possible in the process that they will need to undergo such a check. The local authority can do the check on your behalf.