

# Understanding your responsibilities as an employer of PAs



# Welcome

- This webinar is being recorded for others to watch.
- Attendees are on mute.
- Please do chat, comment and ask questions via the 'Questions' function, this is monitored by facilitators.
- We will be answering some questions sent in prior to the webinar.
- There may be questions that come up during the session which we will check.
- The slides and links to resources will be sent out after the webinar.



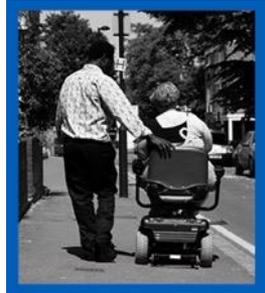
# Presenters



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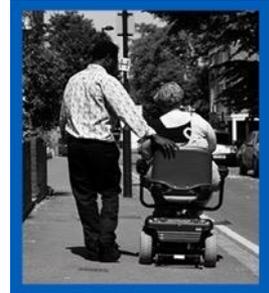
# Presenters



David Ashley  
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# What you wanted to know



# Employment status

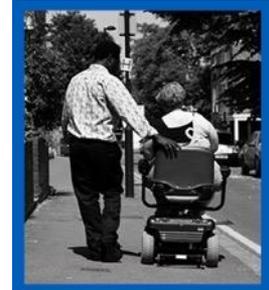
- Why is it important?
- In employment law it determines a person's rights and their employer's responsibilities.
- Worker, employee, self-employed and contractor, director and office holder are all different types of employment status.
- Each employment status has different rights and entitlements.
- A person may have a different employment status in tax law.
- Individuals and their employers may have to pay unpaid tax and penalties, or lose entitlement to benefits, if their employment status is wrong.



# Employment status

## ■ Worker

| Worker                                                                                                                                                                                                                                                                                                                                           | Rights                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Don't get                                                                                                                                                                                                                                                  | Casual/irregular work:                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"><li>• Contract or arrangement to do work for reward</li><li>• Reward is money/benefit in kind</li><li>• Limited right to send someone else to do the work</li><li>• Have to turn up for work</li><li>• Employer has work for them to do</li><li>• Aren't doing the work as part of their own company</li></ul> | <ul style="list-style-type: none"><li>• National Minimum Wage</li><li>• Protection against unlawful deductions from wages</li><li>• Paid holiday</li><li>• Rest breaks</li><li>• To not work more than 48 hours on average per week</li><li>• Protection against unlawful discrimination</li><li>• protection reporting wrongdoing in the workplace</li><li>• to not be treated less favourably if they work part-time</li><li>• Other entitlements: sick, maternity, paternity, adoption and shared parental pay</li></ul> | <ul style="list-style-type: none"><li>• minimum notice periods for dismissal</li><li>• protection against unfair dismissal</li><li>• the right to request flexible working</li><li>• Time off for emergencies</li><li>• Statutory Redundancy Pay</li></ul> | <ul style="list-style-type: none"><li>• they occasionally do work</li><li>• they only work when they want to</li><li>• their contract is 'casual', 'freelance', 'zero hours', 'as required' etc</li><li>• agree with terms and conditions to get work</li><li>• supervised</li><li>• can't send someone else to do their work</li><li>• tax and National Insurance is deducted from their wages</li><li>• materials, tools or equipment are provided</li></ul> |



# Employment status

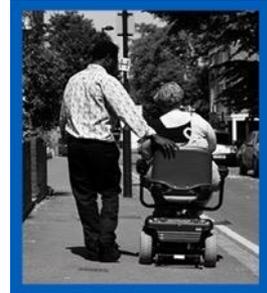
## ■ Employee – all employees are workers

### Rights

- Same rights as workers, plus the following
- Statutory Sick Pay
- Statutory maternity, paternity, adoption and shared parental leave and pay
- Minimum notice periods
- Protection against unfair dismissal
- Ask for flexible working
- Time off for emergencies
- Statutory redundancy pay

### Employee if

- Work regularly
- Minimum number of hours for pay
- Manager/supervisor is responsible for their work
- Can't send someone else to do their work
- Employer deducts tax & NIC
- Paid holiday
- SSP etc
- Join a pension scheme
- Disciplinary and grievance procedures apply
- Told where they should work
- Contract includes redundancy procedures
- Materials, tools and equipment is provided
- Have one job – or if they have another it is different
- Contract uses terms like 'employer' and 'employee'



# Employment status

## ■ Self-employed

### Self-employed

- Run their business for themselves
- Take responsibility for its success or failure
- Not paid through PAYE
- Don't have employment rights
- Don't have employment responsibilities
- They are their own boss
- Must tell HMRC

### Do have

- Protection for their H&S
- In some cases protection against discrimination
- Rights and responsibilities are set out by terms of a contract with their client

### Shouldn't be paid through PAYE if most of these are true

- In business for themselves
- Decide what work they do, when, where or how to do it
- Hire someone else to do the work
- Responsible for fixing unsatisfactory work
- A fixed price is agreed
- Use own money to buy business assets, cover running costs and provide tools/equipment
- Work for more than one client

### Self-employed, don't have employee rights and exempt from PAYE if most of these are true

- Put in bids/give quotes for work
- Not under direct supervision when working
- Submit invoices
- Responsible for paying own tax and NIC
- Don't get holiday or sick pay
- Operate under a contract that uses terms like 'self-employed', 'consultant', 'independent contractor'.



# Employment status

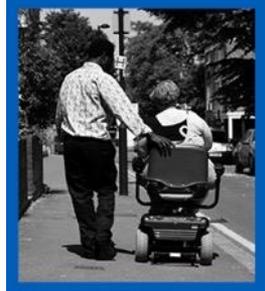


- Guidance
- Skills for Care Guide: [Understanding the employment status of PAs](#)
- Government guidance: [www.gov.uk/employment-status](http://www.gov.uk/employment-status)
- ACAS: [www.acas.org.uk/checking-your-employment-rights](http://www.acas.org.uk/checking-your-employment-rights)
- Low Incomes Tax Reform Group: Is your PA employed or self-employed? [www.skillsforcare.org.uk/employmentstatus](http://www.skillsforcare.org.uk/employmentstatus)
- Check employment status for tax: [www.gov.uk/guidance/check-employment-status-for-tax](http://www.gov.uk/guidance/check-employment-status-for-tax)



# Being an employer

- Choice and control over your support
- Legal duties
- Professional arrangement
- PAs will have rights and entitlements
- Recruitment, induction, supervision and ongoing development
- Keep records
- Sort things out when things go wrong



You are not alone, there is lots of support available



David Ashley

# Being a good employer – know your responsibilities



## What we will cover

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What is Employment Law?

Employer responsibilities & legal obligations as an employer:

Pensions, Insurance, Payroll, Paying wages, HMRC, Contracts of employment

## What is employment law?

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Employment law regulates the relationship between employers and employees.

It governs what employers can expect from employees and what employers can ask employees to do.

It also provides employees and workers with statutory employment rights at work.

## Being an employer: the legalities

You do have responsibilities as an employer and understanding them is part of your role.

Some of the main legal obligations can be seen on this graphic.

Were you aware of all of them?

**Where can you get support?**

**What about day to day staff management?**



# Insurance as an employer

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## **Employers' liability insurance is essential.**

- Employers' liability Insurance enables an employer to meet the cost of a compensation claim in the event that an employee is injured or becomes ill at work.
- Insurance policies designed for people employing PAs with Employer's liability are available. Some policies also include legal assistance for employers.
- If you receive funding to employ your PA, the cost of Employer's liability insurance will usually be paid for by the funding body. The employers' liability (compulsory insurance) Act 1969 provides that all employers in the UK must have Employers' liability cover of at least £5 million.

## **Public liability insurance is not a legal obligation (but is usually included).**

- Public liability provides cover if a third party (not an employee) suffers injury or damage to their person or property for which an employer is held legally responsible.

# Wages

The National Minimum Wage (NMW) and National Living Wage (NLW) are an hourly pay rate set by government that increase annually.

|         | 25 & over | 21-24 | 18-20 | Under 18 | Apprentice |
|---------|-----------|-------|-------|----------|------------|
| 2020/21 | £8.72     | £8.20 | £6.45 | £4.55    | £4.15      |

Information about wages paid must be recorded and in most cases submitted to HM Revenue and Customs (HMRC).

PAYE means Pay As You Earn and is the system HMRC use to collect Income Tax and National Insurance from employment.

***You must keep payroll records and in most cases should register with HMRC as an employer.***

*The Real Living Wage (RLW) is a voluntary pay rate based on the cost of living. You can find out more [here](#).*

## Health and safety

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The Health and Safety at Work Act 1974 means that all employers have a ***duty to keep their staff safe at work.*** Health and Safety in the UK is regulated by the Health and Safety executive (HSE).

By law, employers must ensure the health, safety and welfare of all their employees while at work. The most common hazards for individual employers are electrical such as sockets or wires, trip hazards such as carpet and pieces of equipment such as a hoist or wheelchair.

- ***Employees also have a duty to report hazards.***
- ***Policies and risk assessments must be documented when an employer has 5 or more employees.***

**Covid Secure** – PAs are key workers. It is essential that the appropriate infection control measures are in place to keep them safe at work. Where necessary PPE should be provided (sourced via your funding body if applicable).

Additional Covid specific risk assessments should be undertaken and documented.

## Payroll and pensions

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All employers in the UK are required to assess their staff's eligibility for a pension. You can find out more at the pensions regulator website by clicking on the image below.

***A pension must be provided to any staff who request one.***

Payroll providers with services designed to support people employing PAs are available. They can manage your pension auto-enrolment responsibilities for you.

If you receive funding to employ your PA, the cost of statutory pension contributions and using a payroll provider should be paid for by the funding body.



## Right to work documents

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***Employers are legally obliged to check a person is eligible to work in the UK before employing them.***

A right to work check means that an employer checks documents which are acceptable for showing permission to work such as a valid passport – a [complete list](#), and what to check for, is on the GOV.UK website.

Employers are responsible for seeing these documents – this has to be done face to face.

Employers place themselves at risk of a large fine if they do not carry out this check on someone. It's not an excuse to say 'I didn't know' or 'I assumed it was OK'.

**What about Brexit?**

## Employment contracts

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A written contract of employment sets out the terms and conditions of employment.

***Employers must issue a written contract of employment on the first day of employment.***

Written contracts of employment should reflect the working relationship as accurately as possible.

Support drawing up a contract of employment for your staff is available from [Skills for Care](#), your local Direct Payment (DP) support organisation and, in most cases, your insurance company.

**Any questions?**

# Information hub for individual employers and PAs

The information hub has links to practical advice, guidance and resources for:

- individual employers
- personal assistants (PAs)
- people who support individual employers and PAs.



[www.skillsforcare.org.uk/iepahub](http://www.skillsforcare.org.uk/iepahub)

# Resources

- To support employers and PAs
- employing personal assistants toolkit – [www.employingpersonalassistants.co.uk](http://www.employingpersonalassistants.co.uk)
- Funded training opportunities through disabled people's user led organisations (ULO funding) [www.skillsforcare.org.uk/ULOofunding](http://www.skillsforcare.org.uk/ULOofunding)
- Apply for funding to pay for training (individual employer funding) [www.skillsforcare.org.uk/iefunding](http://www.skillsforcare.org.uk/iefunding)



# Employing personal assistants

## ■ Toolkit

Includes information about:

- recruiting a personal assistant
- before your personal assistant starts
- managing and developing your PA
- sorting our problems
- templates.



# Toolkit: recruiting a PA

- Guides you through the process of recruiting, gives you tips and ideas to help
- Job description and person specification
- Writing an advert
- Advertising your vacancy
- Choosing who to interview
- Interviewing
- Offering the job
- Doing the checks
- Keeping a record



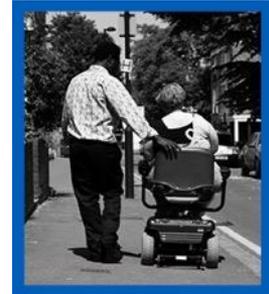
# Toolkit: before your PA starts

- Key tasks you should do before your PA starts working with you
- Employment contract
- Paying your PA
- Providing a pension
- Redundancy
- Maternity, paternity & adoption rights
- Health and safety
- Insurance
- Keeping records



# Toolkit: managing & developing your PA

- What you should do once your PA starts work, how you manage them and encourage development
- Induction
- Supervision
- Day to day management; being a good employer
- Training and qualifications
- Funding for training and qualifications
- Apprenticeships



# Toolkit: Sorting out problems

- How you sort out some of the problems that you might come across.
- If your PA is absent
- If you are not happy
- If your PA is not happy
- If you are being abused



# Templates

- To complement the separate booklets
- Recruiting a PA
- Before your PA starts
- Managing and developing your PA
- Sorting out problems



# Toolkit

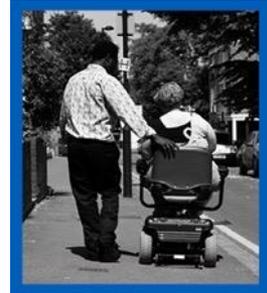
- Get a copy
- Free copy email [marketing@skillsforcare.org.uk](mailto:marketing@skillsforcare.org.uk)
- Visit: [www.skillsforcare.org.uk/PAtoolkit](http://www.skillsforcare.org.uk/PAtoolkit)



# Your questions answered

# Other places for help

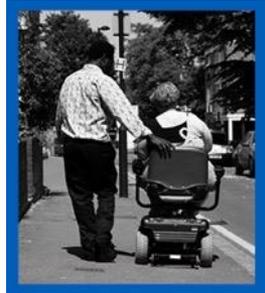
- Expert advice and guidance
- Workplace rights, rules and best practice:  
ACAS [www.acas.org.uk](http://www.acas.org.uk)
- Your insurance company
- Tax: Low Incomes tax reform group  
[www.litr.org.uk/tax-guides/disabled-people-and-carers](http://www.litr.org.uk/tax-guides/disabled-people-and-carers)
- Pensions: The pensions regulator  
[www.thepensionsregulator.gov.uk/en/employers](http://www.thepensionsregulator.gov.uk/en/employers)



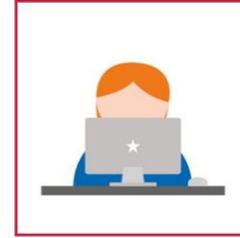
# Local support



- Skills for Care locality managers  
[www.skillsforcare.org.uk/inyourarea](http://www.skillsforcare.org.uk/inyourarea)
- Local support organisation  
[www.skillsforcare.org.uk/Employing-your-own-care-and-support/In-your-area/In-your-area.aspx](http://www.skillsforcare.org.uk/Employing-your-own-care-and-support/In-your-area/In-your-area.aspx)

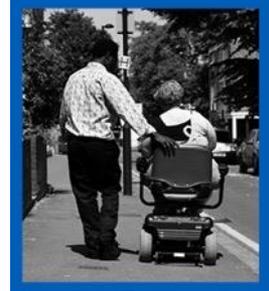


# Webinars



[www.skillsforcare.org.uk/iepahub](http://www.skillsforcare.org.uk/iepahub)

- Recruiting PAs during a pandemic
- Learning and development, opportunities and funding
- Wellbeing
- Preparing for better conversations – Wed 9 Dec at 2pm: [register here](#)



# Quarterly newsletter

Subscribe to our newsletter and to keep up to date, simply:

- create an account on the Skills for Care website
- select the **'Newsletter for individual employers and those who support them'** option under the 'Contact preferences' section.



[www.skillsforcare.org.uk/Employing-your-own-care-and-support/Sign-up-to-our-newsletter/Sign-up-to-our-newsletter.aspx](http://www.skillsforcare.org.uk/Employing-your-own-care-and-support/Sign-up-to-our-newsletter/Sign-up-to-our-newsletter.aspx)



Newsletter for  
**individual employers and  
those who support them**

August 2020



**Find out more**

[www.skillsforcare.org.uk/iepahub](http://www.skillsforcare.org.uk/iepahub)