



## **Employers' Responsibilities**

Anyone currently receiving a direct payment or other source of self directed support such as Independent Living Fund (ILF) will be aware that along with flexibility, choice and control comes an element of responsibility. If you choose to employ your own staff you are ultimately responsible for the welfare and payment of your workers. There will be a lot of things you need to organise such as job descriptions, contracts of employment and appropriate insurance cover. Please remember, that if you employ your own workers, they have a **Legal** right to written terms and conditions of employment. The following information is a basic guide to the responsibilities that you have if you employ a Personal Assistant (PA).

### **From your PA's first day at work they are entitled to the following basic rights:**

- ❖ An itemised pay statement
- ❖ To be paid no less than the national minimum wage
- ❖ Time off for holidays and breaks
- ❖ Time off for ante-natal visits
- ❖ 52 weeks maternity leave
- ❖ Written reasons for dismissal during pregnancy/maternity leave
- ❖ Freedom to join a union.

### **Some rights depend on length of service:**

<b>Right</b>	<b>Required service</b>
Written statement of terms	2 months
Statutory Maternity Pay	6 months
Paternity Leave	6 months

Unpaid Parental Leave	1 year
Written reasons for dismissal	1 year
Apply to Employment Tribunal for unfair dismissal	1 year
Redundancy payment	2 years

### **Your PA is also entitled to protection against:**

- ❖ Discrimination, harassment and victimisation on the grounds of sex, race, disability, sexual orientation, age, part-time working, asking about statutory rights including health and safety, trade union membership
- ❖ Equal pay for work of equal value
- ❖ Unlawful deductions from pay
- ❖ Dismissal because of pregnancy or whistle-blowing.

### **Working time, holidays and breaks**

Your PA has the right to:

- ❖ 28 holidays a year (including public holidays). If your PA's employment ends they are entitled to their accrued holiday entitlement
- ❖ A 20 minute break if they work 6 hours
- ❖ A rest period of 11 hours between shifts
- ❖ A rest period of 24 hours every 7 days
- ❖ A maximum of 48 hours a week on average.

### **National Minimum Wage**

- ❖ £5.73 (£5.80) aged 22 or over,
- ❖ £4.77 (£4.83) aged 18-21 and
- ❖ £3.53 (£3.57) aged 16-17.

The figures in brackets are those that will apply from October 2009.

### **Statement of written terms**

Your PA has the right to a written statement of their main contract terms and conditions after 2 months of starting work. It must include:

- ❖ Your name and the name of your employee

- ❖ Job title/brief job description
- ❖ Date employment or continuous employment began
- ❖ Place of work
- ❖ Rate and frequency of pay
- ❖ Hours of work
- ❖ Holidays and holiday pay
- ❖ Sickness and sick pay
- ❖ Notice entitlement and pension rights, if any
- ❖ Period of employment if temporary
- ❖ Note of disciplinary/grievance procedures
- ❖ Any collective agreements that apply.

### **Changing contract terms**

You can only change the terms of the contract by agreement and you must give notice of any proposed changes. The period of notice ranges from 1 week after 4 weeks service to 12 weeks after 12 years service. If you seek to force any changes your employee can lodge a grievance. Changes which result in a cut in pay may be an unlawful deduction from wages.

### **Agency services**

Alternatively, you may choose to buy in support from an agency or service provider. If you do choose this option, you need to be clear about exactly what tasks you want the agency or service provider to carry out and what this will cost before entering into a contract. For example, you will need to know if there will be an extra charge for public holidays.

### **Important Note**

Whether employing your own staff or engaging with an agency, you always need to ensure you can meet all of your responsibilities/costs from your direct payment or ILF budget.

**This information sheet is available in other formats, including large print, Braille, tape and computer disk. The information is also available to people on our website: [www.gcil.org.uk](http://www.gcil.org.uk)**

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Infosheet: Employers responsibilities – June 2009

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