Oldham cares
Health and social care for Oldham

Employer requirements

A toolkit for employing personal assistants

Disclosure and Barring Service (DBS) check

It is advisable to arrange a DBS check for any successful applicants you wish to employ as a personal assistant.

A DBS will check if an employee has any criminal convictions which prevent them from working with you, especially when working with children and vulnerable adults. There will be a cost for this, depending upon what level of check is required.

If your personal assistant already has a DBS check in place for a similar role that they hold, their DBS check may be transferable. It will only be transferable if it is enhanced and the check is in date. If not, your employee will need a DBS check for this personal assistant role. In most situations, you are responsible for completing the check.

- You have to get the application from an umbrella organisation. Oldham Council provides this for Oldham Cares, ask your key worker for the form.
- Once you have completed the form, the candidate will then be set up on the online system and he/she will be sent an online form to complete.
- After completing the form the candidate should inform the Human Resources department that it is complete and a visit to check their indetification documents (IDs) will be arranged. The candidate will attend a visit for an ID check at the Civic Centre.
- After the ID check is successful and confirmed the form is sent to DBS. The HR department will receive notice of the outcome of the check and the candidate will receive a paper copy.

If you are employing a family member you are not able to complete the DBS check. Prior to family members being recruited, you have to gain approval from a professional panel. Your key worker will support you with this process. If you receive permission to employ a family member as your personal assistant, yourkey worker will be responsible for completing the DBS check.

After the DBS check has been processed your employee will get a certificate. You should ask to see this certificate, to ensure that it has been received.

If you have any problems with completing a DBS check you should contact your key worker and they will support you.

If a DBS check identified previous criminal convictions, you should discuss this with your key worker before employing the candidate as your personal assistant.

Health and safety and risk assessments

As an employer you have a duty to ensure that your employees can work safely, without risks to their health.

To do this there are steps you must take. These are:

1. Complete the safety in the home checklist, an example can be found in appendix documents. This should be completed every year and repeated if there are any changes to your property.
2. Complete a risk assessment of the workplace. You will need to identify the possible risks that your employee may encounter whilst working. You must then show this to your employee and regularly update it with any changes. See the appendix documents for an example risk assessment table. This risk assessment is a measure of hazards in the workplace. You must consider what the likelihood is of a risk occurring and also show what you have done to limit any risks.
3. You must consider whether your employees will need any training to work in your workplace, and if so make arrangements to ensure they receive this training.
4. Record any incidents in the home and keep records of any incidents which you have to report.
5. Inform your employee of health and safety procedures and fire safety procedures. For example, this will include information on what you must do in the event of a fire, where the emergency exits are and the location of equipment.
6. Make sure that you have insurance, see the introduction booklet for advice on this.

If you employ more than five people then you must have a Health and Safety Policy.
Your key worker will be able to support you with this and direct you to helpful websites and online tools.

If you require support you can contact the Environmental Health Team on 0161 770 2244 or environmentalhealth@oldham.gov.uk.

Employment record keeping

As an employer you are required to keep records. Some of these records are necessary and others should be kept as good practice. If you use brokerage services they will keep most of this documentation for you. For information on broker managed packages see page 11.

Records that you must keep are:

- Documents from your recruitment and induction. You must keep these for at least six months in case of a discrimination challenge.
- A copy of the documentation which proves that your employee has a legal right to work in the UK.
- A copy of the contract, documenting the terms and conditions of employment.
- A copy of the P45 form your employee should bring to you. If they do not have a P45 then you must contact HM Revenue and Customs (HMRC) to complete a starter checklist form.
- Documents which relate to your employee pensions.
- Documents of wage slips, that prove that they are given to employees and show that they are paid at least the National Minimum Wage.
- Payroll details which contain records of Income Tax and National Insurance contributions.
- Details of any employee sickness that lasts for over four days, and any sick pay that you have paid.
- Any accidents, injuries and dangerous occurrences to meet health and safety standards.
- Details of your insurance policies.
- Documents and minutes of supervision meetings.
- Records of any disciplinary action.

Alongside these it is good practice for you to keep:

- Records of any training that you or your employee have undertaken.
- Employment history details, so that you have records of the employee's start date, copies of the contract and any updated contracts, change of duties, any promotion or job title changes.
- Any records of absences, any sickness and lateness.
- Records of your employee's personal details.
- Details of redundancy and any consultations.

Be aware of Data Protection when storing records. You need to keep sensitive and personal information secure.

You should also consider the time period that records are stored. Some records must be stored throughout the entire employment but others must be removed after a certain period of time has passed. For example, you should dispose of your recruitment records after six

months.

General record keeping

As part of the agreement for your cash budget you must keep records. If you use brokerage services they will keep most of this documentation for you. For information on broker managed packages see page 11.

The records that you need to keep are:

- A copy of your care and support plan
- Original bank or building society statements
- Receipts of any payments from your cash budget
- Bills
- Petty cash receipts for any payments made in cash
- Cheque stubs
- Wage slips

Your records must be able to prove that you have used your budget to pay for care and support in line with your agreed care and support plan.

You must be prepared to share these records when they are required.

You should keep these records for at least seven financial years from the date of payment. This applies even if your payment stops.

If you are unsure of what records to keep, contact your key worker who will be able to advise you.

Audit

How you spend your cash budget will be reviewed at regular intervals. This review of your budget is known as auditing.

The reasons for audit are to:

- Check that the care you are receiving meets your needs, and that it has not changed
- Check that your spending has been in line with your care and support plan
- Highlight any difficulties and challenges you face. These can then be addressed and help can be provided
- Ensure that the council is completing it's legal duties. By law it has to assess the spending of public money to ensure that it is achieving the intended outcomes

At the time of audit you will be asked to send your records into Oldham Council for assessment. Oldham Council provides the audit service for all cash budgets in the borough.

Auditors will then check that:

- All cash budgets are correct
- Employee wages are correct
- Payments to HMRC are correct and there have been no late payments
- Receipts are provided for spending according to your care and support plan
- Your insurance is up to date
- All invoices are paid and are up to date
- All of your client contributions are paid and are up to date

After your records have been reviewed they will be returned to you.

If you are unsure what records you must keep and send back for assessment you should contact your key worker. They will be able to support you and remind you when your records need to be returned for audit.

Confidentiality

As an employer you will have access to information which you must keep secure and it should not be available for the public to see.

The information that you must keep secure and confidential is:

- Any personal information about your employee
- Any employee's medical or disability information
- Any management issues, like grievance or disciplinary action, employee misconduct or dismissals
- Any personal details which must be kept private, for example bank account details

To keep this information confidential there are some steps that can be taken:

- Keeping all information organised
- Storing confidential information in locked rooms or filing cabinets
- Not leaving confidential information lying around or on computer screens – always tidy this information away
- Discussing confidential information in private places only

Employing family members

Employing family members will depend upon your situation. Usually the employment of family members is not permitted for a family member living in the same house, or for what is considered a close family member. A close family member has been determined by the Care Act 2014.

A close family member could be:

- Your spouse or civil partner
- Someone who lives with you as if a spouse or civil partner
- Your parents or parents-in-law
- Your son or daughter, or son-in-law or daughter-in-law
- Your stepson or stepdaughter
- Your brother or sister
- Your aunt or uncle
- A grandparent

Only in exceptional circumstances will any close family members be able to be employed. This is only when it is the most effective and necessary way to meet your needs.

These rules do not prevent you from hiring a live-in personal assistant, but it does prevent you from employing someone you have a personal relationship with.

If you wish to employ a family member you should contact your key worker and they will be able to advise you.

Contract

When your employee starts work you must complete a contract of employment. This has to be done within two months of the start date and must be signed by both you and your employee. You must each then keep a copy for your records.

This is important as it is an agreement between you and your employee. It outlines important details and the terms and conditions of the employment.

Any changes to the contract must be formally discussed, and both you and your employee must agree. You must consider any suggestions from your employee.

You can change the terms and conditions of the contract if your care and support plan is reviewed and your needs change. To do this you must give at least two weeks' notice.

You can refer to the appendix documents for an example contract of employment.

Within the contract you must provide details of:

1. Name of the employer (you) and the employee
2. Job title and main duties
3. Place of work
4. Start date
5. Type of contract
6. Probationary period

   This is a trial period, at the start of employment. It is usually about three months. See the document on 'Being a good employer' for advice on the probation.

   Following a probation, an employees performance is reviewed and if it is satisfactory, employment is continued. The employee's notice period is shorter throughout the probation, usually a week.

7. Code of conduct

   You should list the expected behaviour of your employee

8. Lateness

   You should give instructions for instances of lateness

9. Salary and pay dates

   You must list the employee's salary and the date of payment.

10. Working time, hours and breaks

    You must list working hours and also break times. Employees must have regular rest periods, they are entitled to a minimum of:

    - 11 hours rest consecutively across a 24 hour period;
    - a minimum of 20 minutes break if they are working longer than six hours consecutively;
    - a minimum of one day off a week.

    If you have a sleep-in arrangement for your employee make sure that they get the breaks they are legally entitled to.

11. Pensions

    You should explain that if eligible, an employee will be automatically enrolled.

12. Timesheets

    You should explain to an employee that they must keep a record of the hours they have worked on a timesheet and this should be submitted to you by a set date so they can be paid.

13. Holiday entitlement

    You should list your employee's holiday entitlement and outline your bank holiday policy.

14. Sick leave

    Your procedure should be listed here and you should explain what an employee is to do when they are sick.

15. Confidentiality

    You should explain that information your employee may see or hear is confidential. You should also explain that you will keep employment records of your employee.

16. Grievance and disciplinary

    If you or your employee have concerns you should explain the process that you will follow. For advice and guidance you can contact the Advisory Conciliation and Arbitration Service (ACAS) or the Citizens Advice Bureau (CAB), which your key worker can signpost you to.

17. Dismissal

    You should explain how a dismissal could occur. For advice and guidance you can contact ACAS or the CAB, which your key worker can signpost you to.

Broker managed packages

To help you manage your cash budget you may receive support from a brokerage service. This can be especially supportive in helping your to employ a personal assistant.

To help you employ a personal assistant, brokerage can:

- Help you to recruit a personal assistant
- Support you and set up payments that you need to make to HMRC as an employer
- Provide templates and help with completing important employment documents, for example an employment contract
- Ensure that all your employment checks are complete and provide assistance with these
- Provide payroll services, which includes creating payslips for your personal assistant
- Help you to set up the insurance that you need to employ someone
- Manage the payments from your cash budget for any services and your personal assistant's wages
- Manage the paperwork for your personal assistant, making sure that it is complete and submitted on time
- Record all the transactions and payments which you have used your cash budget for

If you would like more information about brokerage services you should contact your key worker.

Disclaimer

Oldham Cares brings together Oldham Council, NHS Oldham CCG and other health and social care providers in an alliance to share skills, experience, talent and resources to deliver a better care experience for all.

These organisations are not able to provide legal advice. Independent advice should be sought from a legal professional or the Citizens' Advice Bureau (CAB).

Oldham Cares accepts no responsibility for any loss that may arise from reliance on the information in this toolkit.

The toolkit was correct as of August 2018.

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