Taking an integrated approach to personal assistant (PA) employment and support

A guide for local authorities and NHS organisations

This guide is for local authorities, support and NHS organisations and is about how they can work together to ensure their approach to PA employment and support is aligned locally. Where organisations take a joined up approach to PA employment and support, this can improve the experience of individual employers and their PAs.

Contents

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Introduction

Key principles for establishing an integrated approach

Why is an integrated approach important?

Considerations for partnership working:

  2. Pay rates
  3. Training
  4. Redundancy
  5. The employment of family members
  6. Terms of employment
  7. Wider considerations

Useful resources

Introduction

[illegible] and NHS [illegible] PA [illegible] experience [illegible]

Key principles for establishing an integrated approach

Local authorities and NHS organisations [illegible] individual employers [illegible] PA[illegible], should [illegible] funded budgets [illegible] from [illegible] stream[illegible], should:

- start from a person-centred base. The ambitions of both [illegible] should be to enable choice and control for [illegible] individual [illegible] of care and support. Access [illegible] people receiving care, [illegible] individual employers and PAs [illegible] co-produced [illegible] practice and [illegible] enable [illegible], rather than be [illegible] a [illegible]

- establish common codes of practice, processes and guidance (for commissioners across [illegible]) b[illegible] practice, [illegible] develop [illegible] practice and [illegible]

Considerations for partnership working

The employment aspects of social care, education and NHS organisations that should be further considered in partnership working include:

1. PA employment

2. Pay rates

3. Training

4. Redundancy

5. The employment of family members

7. Wider considerations

1 PA employment status

Local funders should agree a consistent approach across the employment status of PAs, i.e. what makes a PA employed or self employed. Where a PA is self employed, funders should be clear about the implications of this for the employer. This can be supported by:

- clear messages [illegible] the [illegible] case for direct employment and the value of employment over self employment. For instance:
  - the provision of holiday and sick pay for the PA
  - access to a pension (subject to the terms of employment)
  - the increased choice and control that an employment arrangement grants the employer or their [illegible] on their behalf
- [illegible] either [illegible] called [illegible] making the right decisions with regard to employment status
- Clear employer [illegible] on the checks required and carried out to establish self-employed status, should be requested and kept on a record of:
  - someone's unique tax reference number (UTR)
  - a copy of the outcome of someone's Employment Status Indicator (ESI) check, which includes a 14 digit ESI reference number
  - checks on who provides any equipment a PA uses
  - what insurance a PA may have in place
  - the terms of service/contract used
- documents showing use of a self employed PA has been [illegible] and [illegible]
- provide this information as part of the transfer process, at the assessment meeting, detailed and shared with someone who [illegible] in relation to a PA
- provide information on the 'offer' available locally through care management, HR support, payroll and similar.

Why?

Where a different understanding between funders in the same area exists, examples are available of people changing funders, who have experienced [illegible] the service of a 'self-employed' PA being [illegible] relationship or service that PA must become an 'employee'. This may delay any proper transfer between funding streams.

There's also the [illegible] examples received to date are [illegible] practically that where a person's PA refuses to become an employee, they could have their 'employment' terminated.

Resources to help you

The employment status of PAs

This guide helps you understand more about the employment status of PAs.

Am I employed or self employed?

This short guide helps PAs understand if they're employed or self employed.

HMRC employment status indicator tool

This tool helps you assess if PAs are employed or self employed.

2

Pay rates

3 Training

Where funders do not have a consistent approach to PA training or where training need changes (as may sometimes be between funders with their PA):

- there need to be clear, agreed, guidance

4 Redundancy

Just as more people [illegible] related [illegible] funded budget [illegible] employ [illegible] a PA, many [illegible] dual employers [illegible] PA are [illegible] a clear [illegible] funding stream [illegible] PA, a [illegible] need change.

In many cases the change [illegible] source of their budget [illegible] place after they've already employed the same PA for a considerable period of time.

A redundancy payment [illegible] length of service, it's important [illegible] up a [illegible] funded care package [illegible] more [illegible] funder, [illegible] agreement [illegible] funders [illegible] responsible for meeting the cost of redundancy.

The rules [illegible] clear.

> A small number of examples have been reported where [illegible] agreed (standard) arrangements [illegible] dealt [illegible] fund [illegible] transfer [illegible] receiving funder [illegible] responsible for meeting the full cost of redundancy.

A local agreement [illegible] related [illegible] funded budget and [illegible] funder [illegible] budget [illegible] allocated [illegible].

Why?

Having an agreed approach:

- [illegible] PHB ([illegible])
- [illegible] a clear [illegible] forward [illegible] where a redundancy payment [illegible] due [illegible] at the time [illegible] employ [illegible] a PA [illegible].

Learn from others

In a number of areas, local [illegible] and CCGs are [illegible] approach [illegible] costs of redundancy, [illegible] fair [illegible].

This [illegible] approach [illegible] cost of redundancy [illegible] pro-rata basis (based on the number of years [illegible] employer [illegible] PA [illegible] funded from each [illegible]).

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1. [illegible] costs of redundancy and [illegible] agreement [illegible] redundancy [illegible] insurance. [illegible] PA. [illegible] costs of redundancy.

2. [illegible] employer [illegible] contract. [illegible]

7 Wider considerations

There are also wider considerations [illegible] about [illegible] ensure [illegible] the best [illegible] stream or a change in the source of the budget [illegible] someone [illegible] a PA [illegible].

An agreed approach to funding during transfer

It's important that [illegible] arrangements are put in place to fund and offer continuity of care during transfer. Local authorities and NHS organisations [illegible] share a responsibility to ensure the continuity of care. Clear agreements on responsibilities between organisations and individuals [illegible] important for both parties [illegible] are in place [illegible].

Example: a case study [illegible] approach to transfer [illegible] Herts Valleys CCG and their local authorities is available on page 32 of the report here.

Maintain consistency

There are a number of additional considerations local authorities and CCGs should [illegible] to maintain consistency for the PA employment and support.

- Ensure the recipient [illegible] (individual employer) [illegible] insurance and pension arrangements as employer are ready and that the funding is in place [illegible].
- If an employer already has a preferred broker or [illegible] use, where appropriate, ensure that [illegible] care [illegible] use [illegible] the [illegible] service [illegible] provider [illegible]. The family and [illegible] choice [illegible] and can [illegible].
- Make sure any issue of equipment [illegible] are [illegible] detailed and understood, and that funding during transfer would be [illegible] available if [illegible] needed.

Giving consideration to how someone might retain support from their PAs, where they can no longer act as the employer

Although [illegible] cases [illegible] people [illegible] this [illegible] from [illegible] (from social care to health) a [illegible] support [illegible] need [illegible] increase. [illegible] 'employer' role may not be able to [illegible]. Where this is the case, early [illegible] transfer [illegible] should focus on:

a) whether someone [illegible] support [illegible] receive from a PA

b) [illegible] can be achieved, such as support from a family member, another person or a third party organisation.

In these cases, the local authority and CCG should consider whether Transfer of Undertakings (Protection of Employment) regulations are applicable. You can read more about this from ACAS.

Transfer of Undertakings (Protection of Employment) (TUPE)

As [illegible] noted above, TUPE regulations may apply where someone [illegible] of a PA but [illegible] organisation [illegible] responsibility for employing the PA changes.

Whether TUPE applies [illegible] case [illegible] and [illegible] case [illegible].