



Getting the support you need

Personal assistant statutory rights and entitlements



When you employ a personal assistant using direct payments, a personal health budget or your own funds, it's important to remember that she or he has a number of rights and entitlements which are defined in law.

This Fast Fact is designed to help you understand those rights so that you can meet your obligations as an employer.

Being an employer might sound daunting but don't worry! SILC can give you the support and guidance you need every step of the way.



FAST
FACTS

13

Automatic rights

All employees are entitled to be treated fairly and with respect.
The following basic rights are set out in law.

Automatic right	What it means to you
Not to suffer unlawful discrimination	Remember that it's illegal to treat an employee less favourably because of their gender, marital status, sexual orientation, disability, race, colour, ethnic background, nationality, age, religion or belief.
Equal pay	Your PA's pay must be equivalent to their peers.
National Living Wage (or National Minimum Wage for under 25s)	The current rates can be found online at: https://www.gov.uk/national-minimum-wage-rates They are usually updated every April.
Itemised pay statements	You must provide your PA with an itemised payslip. It's illegal to deduct money without first discussing it with the person being paid.
Breaks and rest periods	Your PA's entitled to at least 20 minutes off in every 6 hour period, at least 11 hours between shifts, and 24 hours a week (or 48 hours a fortnight) away from work.
Paid holidays	5.6 weeks a year, including bank holidays (pro rata for part time employees).
Access to personal data	Your PA has a right to see any information you keep about them or their employment.
Statutory Sick Pay	The current rates and eligibility criteria can be found online at: https://www.gov.uk/statutory-sick-pay/overview They are usually updated every April.





Family-friendly rights

These are the rights of every employee in the UK, regardless of how long they've been doing a particular job.

Employee's statutory right	What it means to you
Time off for dependants	If a member of your PA's family, or someone living with them, has an emergency or needs their care, the PA is entitled to time off. The right also applies if it's a friend or neighbour who is normally dependent on the PA's support.
Time off for antenatal care	If your PA is pregnant, you must allow her time off to attend antenatal appointments.
Maternity leave (the same rights apply for someone adopting a child)	<p>Someone who has a baby is entitled to 26 weeks maternity leave, followed by an additional 26 weeks of optional maternity leave, making a year in total.</p> <p>As an employer, you're responsible for paying statutory maternity pay for 39 weeks but you can reclaim most of this from the Government.</p> <p>If your PA becomes pregnant, she must tell you at least 15 weeks before the due date. Current maternity pay rates can be found online at:</p> <p>https://www.gov.uk/maternity-pay-leave/pay</p> <p>They are usually updated every April.</p>
Paternity leave	<p>Fathers are entitled to 2 weeks leave on statutory paternity pay at the same rate as above.</p> <p>They're also entitled to a further 26 weeks' leave, which must be taken within the year following birth or adoption.</p>
Flexible working	Your PA's entitled to a change to their working hours once in 12 months. This might include asking for part time hours, different start or finish times etc.

Automatic rights based on length of service

These rights are linked to the length of time someone's been in a job.

Statutory right	What it means to you
Statement of terms of employment or contract Within 2 months of starting	You must provide your PA with a statement of terms of employment within the first month of starting work. You'll need to provide a written contract within the first 2 months.
Notice of dismissal Less than 1 month's work - no notice necessary Between 1 month and 2 years - 1 week's notice Over 2 years - 1 week for every complete year of employment, to a maximum of 12 weeks	The length of notice you have to give someone when you're ending their employment depends on how long they've worked for you. Remember, if you wish to dismiss your PA, you must give written (or email) warnings and offer them the right to appeal.

If you would like this information in large print, on audio CD, in Braille or another format, please contact us.

SILC is a voluntary organisation led and run by disabled people. To find out more about us, call [01483 458 111](tel:01483458111), text [07919 418 099](tel:07919418099), email admin@surreyilc.org.uk or look on our website www.SurreyILC.org.uk

Surrey Independent Living Council

Charity Registration No. 1146482 VAT Registration No. 733 3702 52

A company limited by guarantee Registered in England and Wales

Company No. 7877608 Registered Office Astolat, Coniers Way, Burpham, Guildford, GU4 7HL