

**Direct Payments and COVID-19.  
Frequently Asked Questions.**

Direct payments and employment law can often be very complex and a person's situation be very different. Therefore, it is not always possible to have one answer that fits all scenarios. As a result, Swansea Council highly recommends you seek advice on an individual basis, especially cases that require employment law advice. The below is for general information purposes only and is not intended to constitute legal advice.

All employers under the direct payment scheme have an individual insurance policy in place. This is specialist insurance, specifically for employers of personal assistants and each policy holder will have access to 24 hour employment law advice and support. For legal advice and support on employment law matters, we advise you to speak to your individual insurance provider and contact the Independent Living Team if any assistance is required. You can find contact details of each insurance provider at the bottom of this document.

- ❖ **More guidance can be found on the Social Care Wales Website**  
<https://socialcare.wales/service-improvement/flexible-use-of-direct-payments-during-the-pandemic#section-36261-anchor>
- ❖ **Or UK Government website.**  
<https://www.gov.uk/government/topical-events/coronavirus-covid-19-uk-government-response>
- ❖ **You can contact the Independent Living Team during office hours from 9.00am. - 5.00pm, Monday to Friday.**

**If you have any questions or queries, please do not hesitate to contact us:**

☎ 01792 636445

✉ [DPSupport@swansea.gov.uk](mailto:DPSupport@swansea.gov.uk)

## **Frequently Asked Questions**

### **Q Do we continue to pay PAs if we (as a family) decide to cancel shifts due to self-isolating?**

It depends on whether the PA is employed or self-employed and what sort of contract is in place.

- **Self – employed PAs.** Similar to agencies, there is no requirement to pay them if they are no longer providing a service, however you may be required to provide paid notice when cancelling their services. The amount of notice you need to provide a self-employed PA depends upon the terms of any agreement you have in place with them. If you signed an agreement with your self-employed PA at the beginning of your arrangement, that contract may set out a notice period. You would usually have to pay the person in full for this notice period, even if you do not want them to attend, unless the agreement states otherwise. If you do not have a written contract in place, you may find evidence of your arrangement in letters, emails or other documents. If the PA is genuinely self-employed and no agreement was made as to a notice period, then you could terminate their services immediately and only pay for the work provided.

**Employed PAs (contracted hours).** The UK Government expects that the Coronavirus Job Retention Scheme (furlough leave) will not generally be used by public sector or publicly funded organisations. As direct payments is classed as public funding, when this funding is to continue, furlough leave would be unavailable. Swansea Council has taken the stance that furlough leave should not be used during this period and therefore has decided to continue funding all direct payments where necessary.

As a result, for PAs who are on contracted hours, you will need to continue paying them in full.

- **Employed PAs.** For PAs who are on zero hour contracts, whether there is a need to continue paying them or not depends on whether the PA works regular hours and if so, how long have they been working these hours. My advice would be to seek employment law advice regarding this.

### **Q I do not want my PA working at this current time; do I have to pay them?**

It depends on whether the PA is employed or self-employed. I refer to the information above for guidance. Should you fail to continue paying your PAs in full, you might be breaching the terms of your agreement or contract, or potentially in breach of employment law rights

### **Q Can a PA still be paid a normal wage if they need to self-isolate?**

- Self-isolating employees are legally defined as being unfit to attend work. Therefore, they have the right to remain away from work for a period of 14 days from the symptoms becoming known if its someone residing in the same household, or 7 days from them suffering symptoms personally, whichever is the later.

As the employee is considered to be unfit for work, they are entitled to statutory sick pay (if eligible) from day one of the absence.

Statutory sick pay is payable to employees who:  
are employees or workers (includes zero hours and casual workers) who have earned on average £118 per week over the last 8 weeks. If the employee is not eligible, you must provide them with the SSP1 form to explain why, which will allow them to present a claim for benefits.

- For PAs who are in the extremely vulnerable category and need to be fully shielded until 16<sup>th</sup> August, the guidance is similar to when the employer decides to self – isolate. Swansea Council will continue to pay the direct payment in full and therefore, we advise that you should also continue to pay your PAs their contracted hours. Furlough leave cannot be used for organisations that are publicly funded, where funding is to continue, simply because it will be classed as double funding.

### **Q My PA does not wish to work at this current time; do I still have to pay them?**

This is a tricky question, one that we would advise for all employers to seek advice and guidance on an individual basis. It all depends on WHY the PA is choosing not to work.

Ultimately, PAs are key workers and should continue to work where possible. If they choose not to work, they need to be able to justify why they are unable to do so. If they have a good reason why they are unable to work, for example they need to be shielded themselves or they are an informal carer for someone who needs to shield, then the PA should be paid in full. An employer would be advised to remain lenient in the current context, be reasonable and show as much understanding as possible.

If the PA simply does not want to work and has no real justification other than they are being cautious, then the employer is under no obligation to continue paying them. In normal circumstances, this would be a breach of contract and probably result in a disciplinary.

Circumstances are often different, so I strongly recommend you seek legal advice before making a decision.

### **Q My PA has had to stop working to look after their family, is there any other support I can access?**

Early this year, we welcomed a new member of staff to the team. Nicola Rees is our new PA coordinator and her main role is to support people with recruitment and advertising and to promote the role of personal assistant. Should you require support with recruitment and advertising, please contact the Independent Living Team.

Receiving support from an agency may also be possible.

### **Q If a PA is unable to support a child because they or the child is self-isolating, can direct payments be used to pay a family member to provide care?**

Yes, direct payments can be used in order to pay a family member however this needs to be authorised by your social worker first. When using a direct payment to employ a family member, you still need to make sure payroll is run and the correct insurance is in place as well as DBS checks. If it is agreed for a family member to provide support, then please contact the Independent Living Team who will be able to support with this.

### **Q What if I contract Coronavirus, can my PAs access PPE? Do we need to pay for this?**

Swansea Council can provide all our direct payment recipients with the required PPE.

- If you or someone within your household has symptoms of COVID-19, whether you use an agency or employ a personal assistant, we can provide you with aprons, gloves and masks.
- If no one has symptoms, but you employ a personal assistant who supports you with personal care/ hands on tasks, you are able to purchase your own PPE using your direct payment funds. However, if you are unable to get hold of any, we will provide you with enough to get you through this difficult period.
- If no one has symptoms and you use a domiciliary care agency, then the agency should have the correct PPE in place. However, please contact us if this is not the case.

If you require any PPE, then please contact us on 01792 636445 or [DPsupport@swansea.gov.uk](mailto:DPsupport@swansea.gov.uk)

### **Q. Can I pay for my PA to travel to work in a taxi instead of using public transport?**

As an employed personal assistant, similar to any other jobs, it is their responsibility to get to their place of work and to also pay the costs of such travel. Employers are not required to fund their employees travel costs to and from their usual place of work.

### **Q Can I have my PAs work longer shifts, e.g. 30 hours in a run?**

The answer to this is complicated and there are many factors that need to be considered beforehand such as, would the PA be expected to undertake any work during the night (sleep in shift or waking night), would they be able to have uninterrupted rest during the day/night where they are free to leave the address or would they be required to remain in the household at all times. Until such questions are answered, it will be very difficult to provide an answer and therefore, we strongly advise that you seek some advice and information before allowing your PA to work longer than normal shifts.

Each employee is legally entitled to a period of uninterrupted rest, which includes a certain amount of rest during the working shift, daily rest and weekly rest. The required amount of rest is explained below:

- Rest Break at work – 20 minutes uninterrupted rest if they work more than 6 hours a day.
- Daily rest – 11 hours uninterrupted rest between working days
- Weekly rest - 24 hours rest in 1 week/ 48 hours rest in 2 weeks.

The Working Time Regulations 1998 allow employers, in limited circumstances, to require certain workers to work during periods that would otherwise be a rest period or a rest break. Where any such worker is required to work during a period that would otherwise have been a rest period or rest break, the employer shall wherever possible allow the employee to take an equivalent period of compensatory rest. For more information or advice on this, please contact your insurance provider or the Independent Living Team.

### **Q Can I pay my PAs who are providing non-contact support or virtual support?**

Yes. Virtual support is still classed as work. In fact, some day centres are providing online activities and continue to charge for this service, so there is no reason why you should not continue to pay your PAs.

### **Q Are PAs classed as key workers?**

Yes, PAs are classed as keyworkers.

PAs are able to access a keyworker card from Social Care Wales. This is a digital card stored on smart phones and is free of charge. Please contact the Independent Living Team if you would like to apply for a keyworker card.

### **Q I am a PA and the individual I support has decided to self-isolate with their family and does not require my support. Can I work as a PA for someone else?**

A PA is able to support someone else during this period, however, it is crucial that any PA seeking temporary employment gets permission from their current employer before doing so. It is also important that a return date is agreed with the employer.

### **Q Will my PA be entitled to the £500 carers bonus and how do I go about getting this for my PA?**

A The guidance on the £500 carers bonus completed by Welsh Government can be found here <https://gov.wales/social-care-workforce-special-payment-scheme>. The payment will be paid by Swansea Council direct to the employer or direct payment recipient if using a self-employed PA. Swansea Council are currently in the process of writing to all direct payment employers with information on how to get the bonus paid for their PAs.

**Q When is the deadline for the £500 carers bonus, have I missed it?**

A. The Welsh government quotes that employers should make payments to their staff as quickly as possible, ideally before the end of October 2020. Swansea Council will be sending information to Direct Payment recipients long before this date

**Q. Process for requesting COVID testing for personal assistants.**

A. Swansea Bay University Health Board is asking staff and the general public **not** to request or visit their testing units seeking an antibody test. At the moment, such tests are available to NHS staff only.

But personal assistants employed via direct payments **can** request a Coronavirus test if they are showing symptoms of the condition via the NHS Wales Test, Trace, Protect programme.

**The steps for testing and reporting are as followed:**

1. Staff who require a test are asked to request one by contacting the Swansea Bay University Health Board Testing Call Centre **on 01639 862757**.
2. When staff get through to the Call Centre
  - They are asked to select Option 1: For all staff/critical workers to arrange to be tested.
  - Staff will be triaged by the call handler and listed for testing via the Coronavirus Testing Unit as appropriate.
  - They will be advised that the Coronavirus Testing Unit will be in contact with them to arrange a date and time for an appointment.

## Useful contact numbers and websites

<b>Health and Government Guidance</b>	
NHS Wales	<a href="https://www.nhsdirect.wales.nhs.uk">https://www.nhsdirect.wales.nhs.uk</a> <a href="https://phw.nhs.wales/topics/latest-information-on-novel-coronavirus-covid-19/">https://phw.nhs.wales/topics/latest-information-on-novel-coronavirus-covid-19/</a>
UK Government	<a href="https://www.gov.uk/government/topical-events/coronavirus-covid-19-uk-government-response">https://www.gov.uk/government/topical-events/coronavirus-covid-19-uk-government-response</a>
UK Government (specifically for Direct Payment recipients.)	<a href="https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-for-people-receiving-direct-payments/coronavirus-covid-19-qa-for-people-receiving-a-personal-budget-or-personal-health-budget#personal-protective-equipment-ppe">https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-for-people-receiving-direct-payments/coronavirus-covid-19-qa-for-people-receiving-a-personal-budget-or-personal-health-budget#personal-protective-equipment-ppe</a>
Social Care Wales	<a href="https://socialcare.wales/service-improvement/flexible-use-of-direct-payments-during-the-pandemic#section-36261-anchor">https://socialcare.wales/service-improvement/flexible-use-of-direct-payments-during-the-pandemic#section-36261-anchor</a>
<b>Employment Law and Insurance</b>	
Mark Bates (Premier Care)	01476 514478 <a href="https://markbatesltd.com/products/home-employment-insurance">https://markbatesltd.com/products/home-employment-insurance</a>
FISH Insurance	0333 331 3770 <a href="https://www.fishinsurance.co.uk">https://www.fishinsurance.co.uk</a>
ACAS	0300 123 110 <a href="https://www.acas.org.uk">https://www.acas.org.uk</a>
<b>Payroll and Managed Accounts</b>	
Compass	01823 282823 <a href="mailto:info@compassindependentliving.org.uk">info@compassindependentliving.org.uk</a>
<b>Swansea Council Direct Payment Finance</b>	
Direct Payment Finance Team	01792 636511 <a href="mailto:DPFinance@swansea.gov.uk">DPFinance@swansea.gov.uk</a>
<b>Swansea Social Services</b>	
Independent Living Team	01792 636445 <a href="mailto:DPSupport@swansea.gov.uk">DPSupport@swansea.gov.uk</a>

	<a href="mailto:Andrew.rose@swansea.gov.uk">Andrew.rose@swansea.gov.uk</a> (manager)
Common Access Point (adults)	01792 636519 <a href="mailto:CAP@swansea.gov.uk">CAP@swansea.gov.uk</a>
Child and Family Information, Advice and Assistance Services	01792 635700 (if your case is open to a social worker call 01792 635180).
Emergency Duty Team (out of hours)	01792 775501