



COVID-19

Direct payments for children and young people Frequently Asked Questions – updated 27.04.2020

In response to the Covid-19 situation, and further to the Department of Health and Social Care guidance published on 21.04.2020, we have provided updated information. This includes Covid-19 testing for personal assistants, payment to personal assistants and the Government's Coronavirus Job Retention Scheme (also known as the furlough scheme).

This information is for guidance only and legal advice should be taken.

General advice is to follow the guidance:

Stay at home

- only go outside for food, health reasons or work (where this absolutely cannot be done from home)
- If you have one of the recently listed high risk conditions (<https://www.gov.uk/government/publications/covid-19-guidance-on-social-distancing-and-for-vulnerable-people/guidance-on-social-distancing-for-everyone-in-the-uk-and-protecting-older-people-and-vulnerable-adults>) you will have been written to by the NHS and you should not leave your house/garden even for exercise or provisions for 12 weeks.
- stay 2 metres (6 feet) away from other people
- wash your hands as soon as you get home
- keep everyone updated on actions being taken to reduce risks of exposure within the household.
- make sure everyone's contact numbers and emergency contact details are up to date
- make sure everyone knows how to spot symptoms of coronavirus and are clear on any relevant processes, for example sickness reporting and sick pay, and procedures in case your PA shows symptoms of the virus:

- a new continuous cough
- a temperature of 37.8°C (feeling someone's back will be hot to the touch)
- make sure there are clean places to wash hands with hot water and soap, and encourage everyone to wash their hands regularly and more frequently than usual for 20 seconds (sing happy birthday twice or develop your own song list)
- if possible provide hand sanitiser and tissues for your PA and encourage them to use them
- keep up to date with the latest government coronavirus advice on GOV.UK

Where can I get medical advice if I am concerned about the Coronavirus?

The Government are urging you to follow the NHS guidance which is being kept up to date on their website:

<https://www.nhs.uk/conditions/coronavirus-covid-19/>

At present the public are being asked not to go to the GP or even to call NHS 111 unless you cannot cope with your symptoms at home, your condition gets worse or your symptoms do not get better after 7 days. You can contact NHS 111 on line for advice and support if you are concerned about your health or the health of other family members

<https://111.nhs.uk/>

Care workers have been designated key workers in the Covid-19 response and can therefore continue to go to work, no matter what the Government guidance is for social distancing.

Coronavirus National Testing Programme – expanded to include Personal Assistants

The Coronavirus National Testing Programme has now expanded capacity to test other frontline workers who are having to self-isolate due to having coronavirus-like symptoms or because a member of their household has symptoms.

This expansion includes all personal assistants, across both health and social care, who meet the above criteria, i.e. they are self-isolating because they have

coronavirus-like symptoms, OR because someone in their household is symptomatic. Further information is available at:

<https://www.gov.uk/government/news/coronavirus-testing-extended-to-all-essential-workers-in-england-who-have-symptoms>

What do Personal Assistants and their employers need to do?

- Any PAs who think they are eligible and need to be tested are being instructed to speak to their employer first.
- Employers will need to complete the '[Confirmation of employment and eligibility for testing- letter of ID](#)' and send it to their PAs with the presentation slides.
- These [presentation slides](#) includes a list of 'drive-through' regional test site locations.
- Any PAs to be tested will need to attend a specified regional test location and must drive/be driven using their own car or a car that belongs to a member of their household.

Will my direct payments continue to be paid?

In most cases the usual four weekly payments will continue to be made to the designated DP bank account. The payment dates for funds to be paid into DP accounts for 2020 is on our website:

<https://www.cornwall.gov.uk/directpaymentsforms>

If you have asked us to stop making payments, we will do so.

We would advise that you continue with your usual support arrangements wherever possible, putting in additional precautions in relation to hygiene and infection control.

In the future we will discuss with you the balance of funds you have in the DP account, and if necessary, use our usual process to recover funds in excess of your DP contingency amount.

If it applies to your circumstances, and you apply for the Coronavirus Job Retention Scheme for your personal assistants, the direct payments that are paid

to you will be temporarily suspended and we will not continue to pay your regular DP payments into your account.

If you wish to return unused or surplus direct payment funds, please contact your Personalisation Support Adviser for details on how to do this.

Do make sure that you are using the contingency amount (eight weeks of DP funds) for support if this is needed.

Valuing your Personal Assistants

We know how much you value the outstanding support you receive from your personal assistants, and we understand the close relationships between personal assistants and the disabled child or young person, and their family.

With this in mind and knowing how important it is to you that your PA will continue to be available to provide support when the lockdown restrictions are lifted we encourage you to continue to make sure that your PAs are receiving payment, whether this is from the direct payment funds or from the furlough scheme. This is a stressful time, and we are keen that personal assistants are not disadvantaged.

Where a personal assistant has worked occasional hours or is on a flexible or zero hours contract, we advise you to contact your payroll provider who will calculate their average earnings based on their last twelve months of employment with you.

Can I change the arrangements for the care and support I pay for with my direct payments?

In the present circumstances we want to support you to use the direct payments flexibly and creatively, trying to ensure that your family is receiving the most appropriate support that is available to you at this time.

If your personal assistant is not able to provide support, please contact your Social Worker or Disabled Children's Family Worker to discuss with them how best the funds can be used to provide support. Each case will be looked at individually. If you are considering using direct payments to pay a relative or friend, you should contact your Social Worker or Disabled Children's Family Worker if your relative

lives in your own household. A decision will be made by Team Managers on an individual basis if this is appropriate.

Can I use the direct payments to buy items or equipment for my child during this period of isolation?

Please contact your Social Worker or Disabled Children's Family Worker to discuss with them. Decisions are made on a case by case basis, and they need to give agreement if you are using the direct payments differently.

All decisions will be made based on whether the item, or piece of equipment, or change in provision is clearly linked to the outcomes in the individual child plan.

Please keep all receipts or invoices relating to any such purchases so they can be checked by the Personalisation Support Advisor at direct payments reviews.

The Department of Health and Social Care issued the following guidance on 21.04.2020 - Coronavirus (COVID-19): Q&A for people receiving a personal budget or personal health budget

<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>

The guidance published by the Department of Health and Social Care states:

What is the government's expectation on furloughing of PAs?

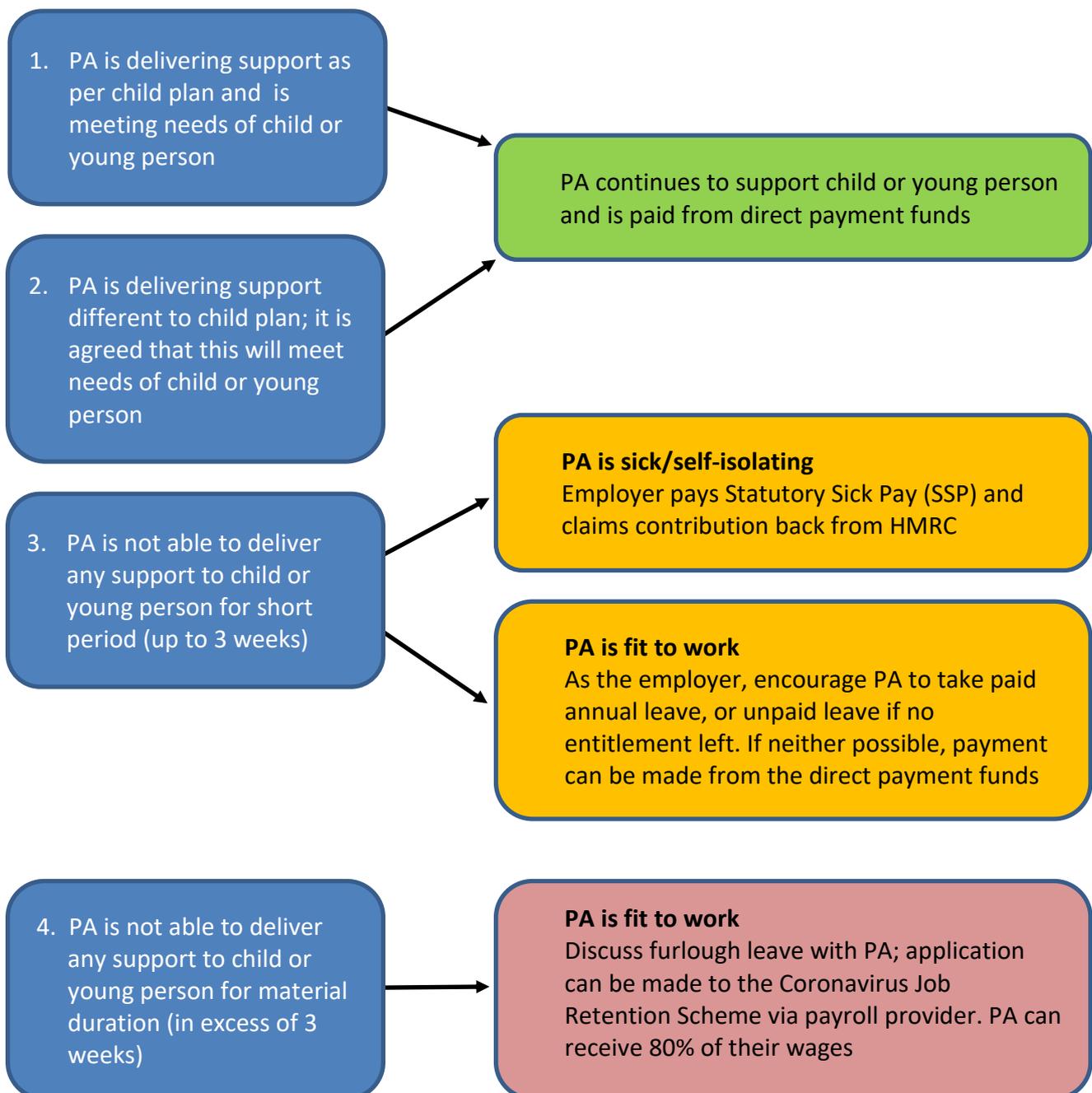
In general, the government expects that the Coronavirus Job Retention Scheme will not be used by many public sector organisations, or individuals who employ people through funding provided to them as a direct payment. This is because the majority of public sector employees are continuing to provide essential public services or contribute to the response to the coronavirus outbreak. The government considers PAs to be an essential worker, and as such, furloughing of this cohort should be minimal.

Where employers receive public funding for staff costs, and that funding is continuing, we therefore expect employers to use that money to continue to pay

staff in the usual fashion – and correspondingly not furlough them. This also applies to non-public sector employers who receive public funding for staff costs.

In a small number of cases, for example where it is not possible for your PA to deliver the care and support you require, the Coronavirus Job Retention Scheme may be appropriate. You will need to explain why this is the case when processing your claim for furlough.

The flowchart below may help in your decision making.



What is the Government's Coronavirus Job Retention Scheme?

If you would have otherwise made an employee redundant or, put them on a period of lay off, the Government have introduced a scheme to protect your employees' job instead by allowing a leave of absence with pay. The Government will pay 80% of your PA's wages to make this possible.

The Coronavirus Job Retention Scheme is available to all PAYE employers. Employees can be on any type of employment contract, including full-time, part-time, agency, flexible or zero-hour contracts. Foreign nationals are eligible to be furloughed.

To be eligible for the grant, when on furlough, an employee **cannot** undertake work for, or on behalf, of their employer or any linked or associated organisation. This includes providing services or generating revenue. While on furlough, the employee's wage will be subject to usual income tax and other deductions.

Furlough leave is only applicable if you don't need your personal assistant to attend work anymore. Care workers have been designated key workers in the Covid-19 response and can therefore continue to go to work, no matter what the Government guidance is for social distancing.

If you feel it is appropriate to apply for the furlough scheme for your personal assistants, please let us know and we will arrange to temporarily suspend your direct payments. You will also need to contact your payroll provider.

You can only claim for furloughed employees that were on your PAYE payroll on or before 19 March 2020 and which were notified to HMRC on an RTI submission on or before 19 March 2020. This means an RTI submission notifying payment in respect of that employee to HMRC must have been made on or before 19 March 2020. Employees that were employed as of 28 February 2020 and on payroll (i.e. notified to HMRC on an RTI submission on or before 28 February) and were made redundant or stopped working for the employer after that and prior to 19 March 2020, can also qualify for the scheme if the employer re-employs them and puts them on furlough.

Why would I want to put an employee on furlough leave?

Furlough leave is only required if you no longer need your PA or the need has diminished significantly.

As mentioned above, a personal assistant cannot undertake any work for you whilst they are on furlough leave.

It is expected that the numbers of PA's that will be furloughed will be minimal.

What's the difference between redundancy and lay off?

They are both legal terms with specific legal implications. Redundancy means to dismiss the employee from their position altogether because you can show that their work has diminished to such an extent they are no longer required. Lay off means that the worker is not required to work and so is put on a period of unpaid leave. Usually to do this you need to have a clear written clause in the contract of employment giving you a right to do so. It is assumed that both redundancy and lay off are collectively what the Government are referring to when they say they want to protect employees from being 'laid off'.

Can my employee insist they go on furlough leave?

No. You must agree to furlough leave and you will only do so if your need for the worker has gone or diminished significantly. Any employees who are self-isolating (must stay at home) have the right to time off work as they are considered to be unfit for work and so SSP will apply. This is totally different to Furlough leave. Self-isolating employees are those who have symptoms in the household and need to be off for approximately 14 days or are those who are in the extremely high-risk category and need to be off for 12 weeks or more.

What is the process?

You will need to discuss with your personal assistant the fact that you believe their services are not required and why. You will need to explain that you have considered a redundancy and/or a lay off without pay. You will then explain that

in light of the Government's Coronavirus Job Retention Scheme you would like to offer them the alternative of designating them a Furlough Worker.

Contact your payroll provider who can help in notifying HMRC of the employees you have designated as a furlough worker. When the details of the scheme are made clear to employers over the coming weeks there will be more information provided as to how the re-claim will operate.

I use an agency or childminder to provide support. What happens if we cannot access these services?

You should first discuss with your agency or your childminder and then contact your Social Worker or Disabled Children's Family Worker to discuss alternative ways of arranging services that would continue to meet the needs of your child.

We would advise you to keep in regular touch with your agency or childminder even if they have had to stop delivering support, as the position may change, and new ideas will emerge.

I use direct payments to employ a Personal Assistant. What happens if my PA needs to self-isolate?

All PA's must receive any Statutory Sick Pay (SSP) they are entitled to from day one if they need to self-isolate, as a result of:

- having coronavirus
- having coronavirus symptoms, for example a high temperature or new continuous cough
- coming into close contact with anybody who has coronavirus symptoms
- having been told to self-isolate by a doctor or NHS 111

If someone has symptoms, everyone in their household must self-isolate for 14 days.

If a PA cannot work, for whatever reason, they must tell you as soon as possible giving a clear reason and how long they're likely to be off work.

Statutory sick pay is paid at a rate of £95.85 from 6th April 2020.

Agency, casual and zero-hours workers can get SSP if they meet the eligibility conditions.

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 possible benefits. You can find the full eligibility for SSP at:

<https://www.gov.uk/statutory-sick-pay/eligibility>

What happens if I choose to go into self-isolation? Will my PA be paid?

An employer may decide to go into self-isolation to protect themselves or a vulnerable family member. If your personal assistant is providing any support whatsoever, for example, keeping in contact with your child by means of telephone, video-conferencing, or supporting you with shopping, etc, your PA can still be paid their usual hours from the DP funds.

If the PA works variable hours, your payroll provider will calculate their average hours over the past 12 weeks to calculate payments.

Consideration should be given to alternative tasks that the PA may be able to undertake, for example, shopping, collecting medication, posting mail, etc and they should keep in regular contact by phone, text or email.

A practical alternative may be for PAs to take some annual leave from their allowance. Employers have the right to tell PA's when to take annual leave if they need to, providing reasonable notice is given. You should explain clearly why you need the PA to take some of their annual leave, this should be clear if the employer needs to self-isolate or there is a case of coronavirus in the household.

If my Personal Assistant is not sick, should I continue to pay them?

Personal Assistants who work regular hours should continue to receive their usual pay during their absence if they are continuing to stay in regular contact by communicating with your child via telephone, social media, video calls, etc. If they are still able to, consider asking your PA to support in other ways, for example shopping for essential items.

If your personal assistant is not providing any support whatsoever, the furlough scheme may be appropriate, and they will receive 80% of their wages. You should contact your payroll provider who will make the arrangements to furlough your personal assistant.

If my family is self-isolating does that mean we have no support?

No. The Government are urging everyone to stay at home and where possible to allow employees to work from home. However, it is recognised that you may not be able to manage without PA support.

Care workers have been designated key workers in the Covid-19 response and can therefore continue to go to work, no matter what the Government guidance is for social distancing.

Where you continue to receive PA support at home you remain under an obligation to ensure that there is a safe system of work in place and that they are provided with Personal Protective Equipment (PPE) and clothing where necessary. You can choose to insist on greater standards and hygiene and care from your PA's.

If you are unsure what PPE you should purchase, or if you need to know how to access it, please contact your allocated worker.

You can use your direct payment funds to purchase PPE for your personal assistants. Please keep all receipts as these will be needed to evidence DP expenditure.

Can I use direct payments to employ and pay an adult family member who lives with me?

Considering the Government guidance and emergency steps to keep those who are vulnerable away from social interaction, this may be a sensible option, and may be agreed during the current situation. A decision will be made by Team Managers on an individual basis.

Please contact your Social Worker or Disabled Children's Family Worker to discuss whether this is a suitable use of direct payments funds under the current

circumstances, they will refer to a Team Manager for a decision and they will let you know.

Employment of a family member is likely to be temporary, so a casual contract would need to be issued so that there is no ongoing obligation. You will also need to follow the usual HMRC payroll processes and employment responsibilities.

Examples of contracts can be found on our website:

<https://www.cornwall.gov.uk/directpaymentsforms>

DBS checks for Personal Assistants paid from DP funds

Safeguarding of our children and young people is paramount, and you will know that we undertake enhanced DBS checks for all those PA's who you wish to recruit to support your child.

In the present circumstances we want to make sure that the DBS process is not a barrier to PA's supporting children.

If you are without your usual PA, and if you need to maintain support, we have set out the following parameters:

1. If a relative or friend (living outside of the child's home) is going to be paid as PA to provide support for the short term, (defined as up to one month), the PA does not need to undertake a DBS check.
2. If a relative or friend is living in the same household as the DP child, and will support for the short term, (defined as up to one month). Families should contact their Social Worker or Disabled Children's Family Worker to discuss arrangements, the allocated worker will then refer to the Team Manager who will make a decision whether this is suitable. The PA does not need to undertake a DBS check.
3. If a relative or a friend will support longer term, they will be asked to complete the DBS online application, and will provide evidence of their identity via video calling facilities, WhatsApp, etc. They can be paid from DP funds once their identity has been supplied and checked by us, and we will not wait for the DBS Bureau to issue us with their DBS notification.

It may be that your relative or friend has already signed up to the DBS status update service, if so, we will ask them to provide us with evidence of their original DBS certificate and proof of identity, via video calling facilities. They can then be paid from DP funds.

During these current circumstances, it is your responsibility to decide whether an adult is suitable to support your child.

Once the DBS Bureau has processed the application and if we are notified from the Bureau that an applicant has a positive DBS, i.e. a criminal conviction, caution, reprimand or a final warning has been issued to them, a Team Manager will discuss this with the Personal Assistant, and they may have to stop supporting the child.

National Minimum Wage & National Living Wage increases from 1st April 2020

This is the minimum amount of pay that employed workers must be paid. There are different rates, based on age. From 1st April 2020 the hourly rates are:

£8.72 for workers aged 25 and above (National Living Wage rate)

£8.20 for workers aged 21 to 24 year olds

£6.45 for workers aged 18 to 20 year olds

£4.55 for workers aged 16 and 17 year olds

The Real Living Wage set by the Living Wage Foundation has increased to £9.30 per hour.

Contact details of the Personalisation Support Advisors

We are available via our email address or mobile phone. We are currently not working from our office bases.

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