Direct Payments for children and young people

Employer update
April 2020
National Minimum Wage / National Living Wage 2020 - 2021

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 inclusive
£6.45 for workers aged 18 to 20 inclusive
£4.55 for workers aged 16 and 17

It is unlawful to pay your personal assistant(s) an amount which would equal less than the National Minimum Wage or National Living Wage, on an hourly basis.

UK Real Living Wage

This is set by the Living Wage Foundation:

- An hourly rate set independently and updated annually
- The UK Real Living Wage is calculated according to the basic cost of living in the UK
- The current UK Real Living Wage has increased to £9.30 per hour outside of London
- Employers may choose to pay the Real Living Wage on a voluntary basis

In your role as employer, it is for you to decide the hourly rate of pay for your personal assistant(s). If you set a higher hourly rate, you may be required to pay a top up contribution from your own personal funds into the Direct Payments account to ensure all on-costs can be met.

For further information on the National Minimum Wage, National Living Wage and the UK Real Living Wage, ACAS Helpline provide free support and advice, their number is 0300 123 1100.

Alternatively visit their website at: www.acas.org.uk
Income Tax & National Insurance
Rates and Thresholds for 2020 - 2021

The following information was sourced from www.gov.uk

We strongly recommend that employers should always refer to the www.gov.uk website to ensure the information they have is accurate and up to date.

Most people have a Personal Allowance; this is an annual amount of tax-free income. The rates of Income Tax that need to be paid will depend upon how much taxable income your employed Personal Assistants receive above their allowance.

Total income means all income they receive from all taxable sources. That means they also need to include things like pensions, income from property, etc, before the tax has been deducted.

Your Personal Assistant cannot claim the Personal Allowance if they are non-UK domiciled and claim the special ‘remittance’ basis of tax – whereby they only pay tax on income they bring into the UK. If this applies, you should contact HMRC.

Income Tax rates and bands

The table below shows the tax rates payable in each band for those with a standard Personal Allowance of £12,500.

<table>
<thead>
<tr>
<th>Band</th>
<th>Taxable income</th>
<th>Tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Allowance</td>
<td>Up to £12,500</td>
<td>0%</td>
</tr>
<tr>
<td>Basic rate</td>
<td>£12,501 to £50,000</td>
<td>20%</td>
</tr>
<tr>
<td>Higher rate</td>
<td>£50,001 to £150,000</td>
<td>40%</td>
</tr>
<tr>
<td>Additional rate</td>
<td>Over £150,000</td>
<td>45%</td>
</tr>
</tbody>
</table>
Transferable Marriage Allowance

If your Personal Assistant’s income is less than the standard Personal Allowance they may be able to reduce their partner’s tax.

There is further information at: [www.gov.uk/marriage-allowance](http://www.gov.uk/marriage-allowance)

National Insurance Contributions

Your Personal Assistant pays National Insurance Contributions if they are an employee or self-employed and aged 16 and over, providing their earnings are more than a certain level. Self-employed Personal Assistants are responsible for paying their own National Insurance.

They will stop paying National Insurance Contributions at State Retirement Age.

For information on state pension age please see: [https://www.gov.uk/state-pension-age](https://www.gov.uk/state-pension-age)

You can only make National Insurance deductions on earnings above the Lower Earnings Limit.

<table>
<thead>
<tr>
<th>Class 1 National Insurance thresholds</th>
<th>2020 - 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lower earnings limit</td>
<td>£120.00 per week</td>
</tr>
<tr>
<td></td>
<td>£6,240 per year</td>
</tr>
<tr>
<td>Primary threshold</td>
<td>£183.00 per week</td>
</tr>
<tr>
<td></td>
<td>£9,500 per year</td>
</tr>
<tr>
<td>Secondary threshold</td>
<td>£169.00 per week</td>
</tr>
<tr>
<td></td>
<td>£8,788 per year</td>
</tr>
<tr>
<td>Apprentice upper secondary threshold</td>
<td>£962.00 per week</td>
</tr>
<tr>
<td>(apprentice under 25)</td>
<td>£50,000 per year</td>
</tr>
<tr>
<td>Upper secondary threshold (under 21)</td>
<td>£962.00 per week</td>
</tr>
<tr>
<td></td>
<td>£50,000 per year</td>
</tr>
<tr>
<td>Upper earnings limit</td>
<td>£962.00 per week</td>
</tr>
<tr>
<td></td>
<td>£50,000 per year</td>
</tr>
</tbody>
</table>
# What counts as taxable income?
## 2020 - 2021

The following information was sourced from:

[www.hmrc.gov.uk](http://www.hmrc.gov.uk) and [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

We strongly recommend that employers should always refer to the above websites to ensure the information they have is accurate and up to date.

| Income from employment | • Includes income from full, part-time and temporary employment.  
|                         | • Perks or benefits from an employer may also be taxable. |
| Income from self-employment/partnerships | • Profits made from working for yourself as a sole trader or partner. |
| Pension income | • State Pension  
|                 | • Personal or company pensions  
|                 | • Retirement annuity  
|                 | • Pensions paid by the Industrial Death Benefit scheme |
| Interest on savings | • Every basic rate (20%) taxpayer in the UK has a Personal Savings Allowance of £1,000. This means that savings interest earned in the tax year of £1,000 or more is taxable income.  
|                 | • For higher rate (40%) taxpayers the allowance is £500. This means that savings interest earned in the tax year of £500 or more is taxable.  
|                 | • There is no savings allowance for additional rate (45%) taxpayers, all savings interest earned is taxable. |
| Investment income | • The tax-free dividend allowance is £2,000. Dividends held in an ISA are not included.  
|                 | • Basic-rate taxpayers pay 7.5% on dividends  
|                 | • Higher-rate taxpayers pay 32.5% on dividends  
|                 | • Additional-rate taxpayers pay 38.1% on dividends. |
| Some of the more common taxable state benefits | • Bereavement Allowance (previously known as widow’s pension)  
|                 | • Incapacity Benefit (from the 29th week)  
|                 | • Employment & Support Allowance (contribution based)  
|                 | • Carer’s Allowance  
|                 | • Jobseeker’s Allowance  
|                 | • Widowed Parent’s Allowance |
| Rental income | • From a lodger in your only or family home if more than £7,500 a year (Rent a Room)  
|               | • From a second property |
| Other taxable income | • Pensioner bonds  
|                     | • Trust income |
Providing a Pension - Automatic Enrolment

Under the Pensions Act 2008, every employer in the UK must put certain staff into a workplace pension scheme and contribute towards it. This is called 'automatic enrolment'. If you employ at least one person you are an employer and you have certain legal duties. This includes employers who receive a direct payment to employ personal assistants. If you employ one or more personal assistant, the duties will apply to each of them individually.

The Pensions Regulator will send you a letter advising you of your staging date. The Pensions Regulator website will help you to understand your duties as an employer. Their website is: www.thepensionsregulator.gov.uk

You may also wish to contact them at: www.tpr.gov.uk/contact-us

All employers are required to complete the Pensions Regulator’s ‘Declaration of compliance’, to tell them that you have complied with your automatic enrolment duties. You do not need to wait until your staging date to complete this. The Pensions Regulator recommends employers complete this as soon as possible.

Advice and guidance from the Pensions Regulator to support with pension auto enrolment is provided free of charge.

If you are employing a personal assistant for the first time, your legal duties for automatic enrolment begins on the day they start work. This is known as your duties start date.

Every employer has a legal duty to help their workers in the UK save for retirement. As an employer, you will have duties in relation to all personal assistants who work for you if:

- They are aged between 16 and 74
- They work in the UK
- you deduct Income Tax and National Insurance Contributions from their wages

If you do not have any personal assistants to put into a pension scheme, you still have other tasks to carry out in order to meet your legal duties. From your
duties start date you should write to your personal assistant to explain how auto-enrolment applies to them.

Employers must automatically enrol certain workers into a workplace pension scheme and make contributions towards it.

If the personal assistant you employ is aged between 22 and the state pension age and you pay them more than £833 per month (£192 per week), you will have a duty to put them into a pension scheme and pay contributions to that pension scheme. They do however have the option to opt out.

The tools on the Pensions Regulator website will help you to understand your duties, including how you automatically enrol personal assistants, what the minimum employer contribution you need to make is and when you will need to start doing this.

You must complete a re-declaration of compliance to tell the Pensions Regulator how you have met your duties. Re-enrolment and Re-declaration are your legal duties as an employer and if you don't act you could be fined.

One pension provider who has indicated an interest in working with direct payment recipients includes National Employment Savings Trust (NEST), and this is free for employers. This was set up by the Government especially for pension auto enrolment, with the obligation that it had to accept any employer. There are other providers available.

Cornwall Council is unable to provide you with any financial advice regarding any particular pension plan and it is your choice as to which provider you choose to use.

Your personal assistant can choose to opt out of your scheme at any time. If they do opt out, you must refund all payments made by your personal assistant.

The table on the following page will help you to work out if your personal assistant qualifies for automatic enrolment. Please check the Pensions Regulator website as the thresholds and your responsibilities may change.
### Automatic Enrolment Table

<table>
<thead>
<tr>
<th>Age of PA</th>
<th>£833 a month or less</th>
<th>Over £833 a month</th>
</tr>
</thead>
<tbody>
<tr>
<td>16-21</td>
<td>personal assistant does not need to be put into a pension scheme</td>
<td>personal assistant does not need to be put into a pension scheme</td>
</tr>
<tr>
<td>22-state pension age – 74</td>
<td>personal assistant does not need to be put into a pension scheme</td>
<td>personal assistant must be put into a pension scheme which you will need to contribute to. PA can choose to opt-out</td>
</tr>
<tr>
<td>state pension age – 74</td>
<td>personal assistant does not need to be put into a pension scheme</td>
<td>personal assistant does not need to be put into a pension scheme</td>
</tr>
<tr>
<td>75 and over</td>
<td>Outside legislation</td>
<td>Outside legislation</td>
</tr>
</tbody>
</table>

If any of your personal assistants fall outside of the above age and earning criteria, then you only need to put them into a pension scheme if they ask.

The law about automatic enrolment does not apply to someone listed as outside legislation.
Statutory Rights for Your Personal Assistant  
2020 - 2021

We strongly recommend that employers should contact their Home Employment Insurer for advice and information. Employers may also wish to refer to the [www.gov.uk](http://www.gov.uk) website to ensure the information they have is accurate and up to date.

Once your Personal Assistant has accepted the role, the statutory rights below are the basic automatic rights they have, even if they have not yet started working for you or have very recently commenced their employment. Almost all workers, regardless of the number of hours per week they work, have certain legal rights.

Sometimes an employee only gains a right when they have been employed by their employer for a certain length of time, and when this applies, the length of time before the employee gains the right is listed below. Unless they are in the group of workers who are excluded, they will have the following statutory rights:

- the right to a **written statement setting out the basic of terms of employment** on the first day of starting work.
- the right to an **itemised pay slip**. This applies from the day the employee starts work.
- the right to be paid at least the **national minimum wage or national living wage**. This applies from the day the employee starts work.
- the right **not to have illegal deductions made** from pay. This applies from the day the employee starts work.
- A right for all employees and workers to request a **more stable working pattern** (subject to having acquired at least 26 weeks’ service).
- the right to **paid holiday**. Employees are legally entitled to 5.6 weeks paid holiday per year. An employer can include bank holidays as part of the statutory annual leave. Part-time employees are entitled to a pro rata amount. The pay reference period will be 52 weeks or, for those workers who have been working for less than 52 weeks, the total number of weeks they have worked. This is designed to avoid workers losing out
where their working hours are subject to fluctuations such as seasonal variations.

- The government has committed to increasing the gap required to break continuity of service to four weeks, making it easier for employees with irregular working patterns to accumulate continuity of service.

- the right to paid time off to look for work if being made redundant. This applies once the employee has worked for two years for that employer.

- the right to time off for study or training for 16-17-year olds. This applies from the day the employee starts work.

- the right to paid time off for ante-natal care. This applies from the day the employee starts work.

- the right to paid maternity, paternity or adoption leave, provided statutory requirements are met.

- the right to ask for flexible working to care for children or adult dependents. Employees can apply for flexible working if they’ve worked continuously for the same employer for the last 26 weeks. There can be only 1 application in a 12-month period.

- the right to take unpaid parental leave for both men and women (if they have worked for the employer for one year) and the right to reasonable time off to look after dependents in an emergency (applies from the day the employee starts work).

- the right under Health and Safety law to work a maximum 48-hour working week. This applies from the day the employee starts work. An employee cannot work more than 48 hours a week on average – normally averaged over 17 weeks. This law is sometimes called the ‘working time directive’ or ‘working time regulations’. An employee can choose to work more by opting out of the 48-hour week.

- the right under Health and Safety law to weekly and daily rest breaks. This applies from the day the employee starts work. There are special rules for night workers.

- the right not to be discriminated against. This applies from the day the employee starts work.

- the right to notice of dismissal, provided they have worked for their employer for at least one calendar month.
• the right to **written reasons for dismissal** from their employer. Employees have the right to ask for a written statement from their employer giving the reasons why they have been dismissed if they have completed 2 years’ service. Employers must supply the statement within 14 days of being asked for it.

• the right to **claim redundancy pay** if made redundant. In most cases they will have to have worked for two years to be able to claim redundancy pay.

• the right **not to suffer detriment or dismissal for ‘blowing the whistle’** on a matter of public concern (malpractice) at the workplace. This applies from the day the employee starts work.

• the right to **time off for trade union duties** and activities. Trade union reps are entitled to paid time off to complete training and do their work as reps (as shop stewards, health and safety or union learning reps or other trade union officials). Employees also have the right to be accompanied by a trade union representative to a disciplinary or grievance hearing. If an employee takes part in official industrial action and is dismissed as a result, this will be an automatically unfair dismissal.

• the right of a **part-time worker to the same contractual rights** (pro-rata) as a comparable full-time worker.

• the right of a **fixed-term employee to the same contractual rights** as a comparable permanent employee.

Your employee may also have additional rights which should be set out in their contract of employment.
Statutory Sick Pay 2020 - 2021

We strongly recommend that employers should always refer to the [www.gov.uk](http://www.gov.uk) website to ensure the information they have is accurate and up to date.

You can access the Statutory Sick Pay (SSP) employer guide at: [www.gov.uk/employers-sick-pay](http://www.gov.uk/employers-sick-pay)

If your employee is unable to work because they are ill, they may be able to receive Statutory Sick Pay. As an employer, you may be responsible for paying the Statutory Sick Pay and it can be paid for up to 28 weeks.

Who can receive Statutory Sick Pay

If you have an employee under a contract of service (even if they have only just started and undertaken some work) they are entitled to Statutory Sick Pay but only if the following apply:

- The employee is sick for at least four days in a row (including weekends and bank holidays, and days that they do not normally work); and
- Earn an average of at least £120 per week.

The average weekly earnings are calculated by using the eight-week period before the sickness began.

Please Note:

All Personal Assistants must receive any Statutory Sick Pay 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.
How to receive Statutory Sick Pay

To claim SSP the employee must:

• Tell you that they are sick
• If asked, provide some form of medical evidence, from the eighth day of their illness.

How much should be paid for Statutory Sick Pay

From April 2020, the standard weekly rate of SSP is £95.85 per week. If necessary, a daily rate can be worked out for the number of days in a week the employee usually works. For the purpose of SSP, the week runs from Sunday to Saturday.

How is Statutory Sick Pay Paid?

SSP should be paid on the normal payday in the same way that you usually pay your Personal Assistant.

SSP is subject to Income Tax and National Insurance contributions. However, if the Personal Assistant is only receiving SSP it may be that they are not earning enough to need to pay tax.

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: www.gov.uk/statutory-sick-pay/eligibility

Employers must fill in the SSP1 form when an employee is not entitled to Statutory Sick Pay or when their SSP is ending: www.gov.uk/government/publications/statutory-sick-pay-employee-not-entitled-form-for-employers
Statutory Maternity, Paternity and Adoption Pay 2020 - 2021

The following information was sourced from www.gov.uk and we strongly recommend that employers should always refer to this website to ensure the information they have is accurate and up to date.

Statutory Maternity Pay (SMP)

Please refer to the Statutory Maternity Pay and Leave: employer guide at: www.gov.uk/employers-maternity-pay-leave/entitlement

Eligible employees can take up to 52 weeks’ maternity leave. The first 26 weeks is known as ‘Ordinary Maternity Leave’, the last 26 weeks as ‘Additional Maternity Leave’.

The earliest that leave can be taken is 11 weeks before the expected week of childbirth, unless the baby is born early. Employees must take at least 2 weeks after the birth.

How much should be paid for Statutory Maternity Pay?

SMP for eligible employees can be paid for up to 39 weeks, usually as follows:

- the first 6 weeks: 90% of their average weekly earnings before tax
- the remaining 33 weeks: £151.20 or 90% of their average weekly earnings (whichever is lower)

Tax and National Insurance need to be deducted.

Employees must:

- be on your payroll in the ‘qualifying week’ - the 15th week before the expected week of childbirth
- give you the correct notice
- give you proof they’re pregnant (known as an MATB1 certificate)
- have worked for you continuously for at least 26 weeks up to any day in the qualifying week
- earn at least £120 a week (gross) in an 8-week ‘relevant period’

Employers may wish to use the www.gov.uk/maternity-paternity-calculator to check an employee’s eligibility and work out their relevant period, notice period and maternity pay.
Statutory Maternity Leave

Your employees must give you 28 days’ notice of the date they want to start their SMP. This can be the day they want to start their Maternity Leave. You can refuse to pay SMP if your employee doesn’t give you this notice and they don’t give you a reasonable excuse.

At least 15 weeks before the baby is expected, your employees must tell you the date that:

- the baby is due
- they want to start their maternity leave - they can change this with 28 days’ notice.

You must then confirm their leave start and end dates in writing within 28 days.

Employees can change their return to work date if they give 8 weeks’ notice.

You can’t refuse maternity leave or change the amount of leave your employees want to take.

Proof of Pregnancy

You must get proof of the pregnancy before you pay SMP. This is usually a doctor’s letter or a maternity certificate (known as an MATB1 certificate). Midwives and doctors usually issue these 20 weeks before the due date.

The employee should give you proof within 21 days of the SMP start date. You can agree to accept it later if you want. You don’t have to pay SMP if you haven’t received proof of the due date 13 weeks after the SMP start date.

You must keep records of the proof of pregnancy.

You must keep records for HM Revenue and Customs (HMRC).

How will the employee claim Statutory Maternity Pay?

- You will need to provide your employee with an SMP1 form for them to complete.
- They will need to tell you when they want the SMP to start. However, if they become ill with a pregnancy related illness four weeks before the due date, maternity leave will begin automatically.
- Your employee will also need to provide medical evidence of the due date.
How is Statutory Maternity Pay paid?

SMP should be paid on the normal payday in the same way that you usually pay the PA.

What if you cannot pay Statutory Maternity Pay?

Unless you have become insolvent you will be expected to pay SMP, please contact your Personalisation Support Advisor if you are experiencing problems managing your Direct Payments account. HMRC may pay on your behalf as you will be deemed a ‘small employer’.

Statutory Paternity Pay

Statutory Paternity Pay for eligible employees is either £151.20 a week or 90% of their average weekly earnings (whichever is lower). Paternity pay can only be paid while the employee is on paternity leave. Tax and National Insurance need to be deducted.

Statutory Shared Parental Pay

Statutory Shared Parental Pay for eligible employees is either £151.20 a week or 90% of their average weekly earnings (whichever is lower). Shared parental pay can only be paid while the employees are on parental leave. Tax and National Insurance need to be deducted.

Statutory Adoption Pay

Statutory Adoption Pay (SAP) for employees is:
• 90% of their gross average weekly earnings for the first 6 weeks
• £151.20 a week or 90% of their gross average weekly earnings (whichever is lower) for the next 33 weeks

Tax and National Insurance need to be deducted.

Employees must:
• have worked for you continuously for at least 26 weeks by the week they were matched with a child
• be on your payroll and earn at least £120 a week in an 8-week period - the ‘relevant period’
• give you the correct notice
• give you proof of the adoption or surrogacy

You must not pay Statutory Adoption Pay without this evidence. If you have any concerns about the evidence you are given, you can get advice by calling HMRC's Employer Helpline.