

Direct Payments Factsheet

Redundancy

Introduction

As an employer, there may be an occasion that gives rise to having to make your PA redundant. This will be because your circumstances have changed and you no longer need a PA. Examples are:

- You are moving to residential care and you no longer need a PA
- Your care package has been reviewed and you no longer receive Direct Payments to employ a PA
- Your care package has been reviewed and your PA does not have the skills to meet the requirements of the new role
- You are moving house and therefore changing the location of the job

Also, you may be reading this because you are acting on behalf of a Direct Payment recipient who has died and therefore the job has ceased to exist.

Such situations are unusual and KDC's Direct Payments Support Service will normally be involved from the outset to take the worry away. This FACT sheet has been designed to give guidance should the unexpected arise.

Frequently asked questions

Here are the answers to some common questions asked which you may find helpful.

What is redundancy?

Redundancy is when you dismiss a PA because you no longer need them to do their job. This is what is known as compulsory redundancy.

For a redundancy to be genuine, you must demonstrate that the PA's job will no longer exist.

Section 139 Employment Rights Act 1996 describes redundancy:

"... an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to:

- *the fact that his employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him, or has ceased, or intends to cease, to carry on that business in the place where the employee was employed, or*
- *the fact that the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he was so employed, have ceased or diminished or are expected to cease or diminish".*

My PA needs to be made redundant, what should I do?

If you believe that you may be involved in a redundancy situation, the first thing you should do is **contact the KDC Direct Payments team** (unless they are already involved) to inform them of the situation and get their help and guidance. Simply phone **0151 480 8873**

What is redundancy pay?

All employees have certain rights and may be entitled to redundancy pay if they are made redundant. To be eligible, your PA must:

- be an employee working under a contract of employment, and
- have at least 2 years' continuous service, and
- have been dismissed, laid off or put on short-time working

If you are making your PA redundant and they are eligible, they will be entitled to what is called a 'statutory redundancy payment'.

My PA is a close member of my family. Are they still entitled to a statutory redundancy payment?

Yes. If a member of your family is working for you as a PA under a contract of employment, then they have the same entitlement to redundancy pay as anyone else.

What is the rate for statutory redundancy payments?

Calculations of the amount of statutory redundancy payments due based on an employee's age and length of employment and are counted back from the date of dismissal.

Your PA will get:

- 1.5 weeks' pay for each year of employment after their 41st birthday
- 1 week's pay for each year of employment after their 22nd birthday
- half a week's pay for each year of employment up to their 22nd birthday

A redundant employee also has the right to a written statement setting out the amount of any redundancy payment and how you worked it out.

The redundancy payment will be taken care of as part of the KDC Payroll Service so you don't need to worry. You will receive a pay slip setting out the amount you need to pay your PA.

Does my PA have to pay tax on their redundancy payment?

Redundancy pay is not taxable if it is less than £30,000. Nor will the payment be subject to National Insurance.

Other termination payments, like payment in lieu of a holiday or notice, must have tax and National Insurance deducted.

What if I have to make a statutory redundancy payment but don't have enough money in my Direct Payments account?

The Council will not make any additional direct payments to cover redundancy costs, however, the team at KDC will make sure that the statutory redundancy payments are funded properly. There are two ways for this to happen:

1. KDC will contact the provider of your home employment insurance to make a claim on your behalf against your policy. Typically your policy provides additional cover for redundancy situations (provided the circumstances of the redundancy are genuine and the PA qualifies for a statutory redundancy payment). Claims are limited to the following maximum amounts:
 - Single redundancy issue - £1,600.
 - Multiple employee redundancies - £3,200.
 - Notice period cover - £500.
2. In most cases, the circumstances that give rise to making PAs redundant usually mean that you will be ceasing to act as an employer. This means that you are eligible for help for your redundancy costs from the Government. KDC will contact HM Revenue and Customs to ensure that you receive all entitlement due.

What period of notice of redundancy must I give my PA?

You will need to give your PA notice of redundancy and agree a leaving date. You should give your PA at least the statutory notice period, based on how long they have worked:

Length of service	Notice you must give
1 month to 2 years	At least a week
2 years to 12 years	A week's notice for every year employed
12 or more years	12 weeks

Do I need to pay the PA their wages for the period of notice?

Yes, you must give staff notice pay - based on their pay rate and notice period.

You can allow PAs to leave earlier than the planned leaving date, i.e. without notice, by offering payment in lieu of notice.

When you make payments in lieu of notice, you have to pay your PA the basic pay they would have got during the notice period and these payments will be subject to deductions for tax and National Insurance contributions.

You must make the payment in lieu of notice when you dismiss the PA, or soon after. The KDC Payroll Service will take care of this for you and the amount due will be included on the final pay slip.

Your PA will also be entitled to pay in lieu of annual leave/holidays which they are entitled to at the time of their dismissal. Again this will be worked out by the KDC Payroll Service and will show on the final pay slip.

Where do I go for help?

In the first instance you should contact the Direct Payments team here at KDC on 0151 480 8873. We will give you all the help you need. We understand that the situation may be very difficult for you, particularly if the circumstances giving rise to the redundancy are about the death of the service users. KDC has lots of experience in such situations and aim to guide you through the process and take away the worry.

Help for your PA who is being made redundant can be accessed via your local Jobcentre Plus. They can provide support and advice through their Rapid Response Service. Support could include:

- helping people facing redundancy to construct CVs and find jobs
- providing general information about benefits
- helping people identify their transferable skills and training needs
- providing training to help people develop vocational skills
- helping with costs like travel to work expenses

To find out how you can use the Rapid Response Service, email rrs.enquiries@jobcentreplus.gsi.gov.uk

KDC also operates a special website called KDC Connections which helps PAs to find jobs. They can register the details so that people seeking to employ a PA can get in touch with them. They can also search the jobs advertised on the website and get in touch to apply for them. Go to www.kdc-connections.org.uk

ACAS has an on line redundancy helpline. Go to www.acas.org.uk and click on Advice and Guidance.

Remember, if you are unsure, have any queries or need additional support; please contact the Direct Payments Team here at KDC.

Telephone: 0151 480 8873

Email: andy.gilbert@kdc.org.uk

You can find this Factsheet along with others covering a variety of topics by visiting us at www.kdc.org.uk/factsheets

