



Directly engaging my own staff

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Introduction

The purpose of this document is to provide you with general information about some of the considerations that may be relevant to employing your own staff.

Choice and control with the NDIS

As a participant of the NDIS who is thinking about employing staff directly, you are doing something that many people across the country do when they directly employ a housekeeper, gardener or babysitter (for example).

Note: The information contained in these documents is general in nature and further guidance and information may be necessary regarding individual arrangements for engaging support workers. If you require further advice, please talk to your NDIA contact.

Why would I choose to directly employ my own staff?

Direct employment of staff may give you the ultimate control over the people who work with you, the hours they work and the tasks that they perform. Direct employment is only an option if you self-manage your NDIS funding.

You do not need to directly employ all of the staff who deliver your NDIA funded supports. You may use this option on its own or in combination with using self-employed contractors, or other service providers including service providers registered with the NDIA.

A great website to have a look at to find out more about direct employment of staff and help you decide if you want to do this is: [Providing people with a disability and their support staff information on a direct employment arrangement \(http://mydirectsupport.com.au\)](http://mydirectsupport.com.au)

There is also the booklet 'A Guide to Engaging Your Own Support Workers' (created by an external organisation) that is available for download from the [Self-managing budgets in your plan page](#) on the NDIS website.

Your responsibilities

Being an employer or engaging an independent contractor requires you to accept responsibilities and meet certain legal and regulatory responsibilities, such as:

- taxation
- superannuation
- insurance and
- work health and safety

When you choose to establish yourself as an employer you will need:

- Withholding Payer Number from the Australian Taxation Office
- Insurance
- Appropriate work health and safety arrangements

In compliance with applicable laws you will be responsible for:

- Negotiating the rate of pay and conditions of the people who work for you
- Withholding their tax and paying it to the ATO
- Meeting superannuation requirements

- Having appropriate workers compensation insurance
- Paying wages on the due date, and issuing group certificates at the end of the financial year
- Reporting to the ATO
- Ensuring that your workers have a current National Police Clearance and Working with Children/Working with Vulnerable People Screening

It is recommended that you speak with an accountant or business advisor before you start. You may choose to use a bookkeeper. The NDIS will consider whether it is reasonable and necessary to include this cost as part of your Plan if you want to do this.

Withholding PAYG (Income) Tax

As an employer, you will be responsible for withholding tax from payments made to your staff. You do not need an ABN in order to do this. You do, however, require a Withholding Payer Number from the Australian Taxation Office.

Action Item: Register for a Withholding Payer Number

Submit form NAT3377 to Australian Taxation Office.

Time Required: 28 days for the ATO to process the form.

1. Obtain form NAT3377 from the Australian Taxation Office. You can call 132866 and the ATO will send it to you, or download the form from the ATO's [Application to register a PAYG withholding account page](#).
2. Complete the form.
3. Post or Fax the form to the ATO (address details are provided at the end of the form).
4. Wait for your Withholding Payer Number to be issued.

The ATO has said that support workers directly employed by participants of the NDIS are classified as “household employees”. More information on determining when you need to withhold tax from the wages that you pay can be found on the ATO's [PAYG withholding and household employees page](#).

Superannuation Guarantee

You are not required to pay the Superannuation Guarantee for employees who perform work of a “private” or “domestic” nature and work for you less than 30 hours per week.

Work is deemed to be of a “private” nature if it relates to the employer as a private person. This would include if you employed a person to support you outside of your home.

Work is deemed to be of a “domestic” nature if it relates to the employers house, home or family.

For more information and to help you understand whether your support worker is an employee or contractor for tax and superannuation purposes, see the [Employee/contractor decision tool](#) on the ATO website.

Superannuation Guarantee (SG) is payable for: Employees you pay to do work of a domestic or private nature for more than 30 hours per week. A person is paid to do work of a 'domestic or private nature' if you engage them to perform work relating personally to you (not to a business of yours), or work relating to your home, household affairs or family organisation.

- For example, you may have an obligation to pay SG for carers or other domestic help you employ. Under the NDIS, participants have the option to either self-manage their plan, or have it managed on their behalf by a nominee, registered plan management provider, or the NDIA.
- Participants who choose to self-manage or appoint a nominee may use the support funds received under their plan to directly employ a carer or other domestic help if this service has been approved in their plan. Where you employ a person to perform work of this nature for more than 30 hours per week and pay them \$450 or more (before tax) in a calendar month, you may need to make SG payments for them.

It is advisable that you use the ATO's [Superannuation Guarantee eligibility tool](#) for each of your employees and keep a copy of the decision.

Even if you are not legally obliged to pay the superannuation guarantee, you may still choose to do so as an added benefit to your employees.

Please speak to your accountant, professional business advisor or the Australian Taxation Office for further advice.

Insurance – Workers Compensation

You require a Workers Compensation Insurance Policy to protect your employees. This Policy pays for medical expenses and loss of wages if your employee injures themselves while working for you.

WorkCover (NSW, SA, QLD, WA, TAS) and Worksafe (VIC, NT, ACT) are the authorities who run the workers compensation schemes in each state and insurance policies are only sold by certain, authorised insurance companies.

Premiums are typically based on the total amount you pay in wages in a 12 month period, and in some jurisdictions, if you pay wages below a certain threshold then you do not need to purchase a policy upfront.

As the obligations are slightly different for each state, you should talk to your local WorkCover or Worksafe authority, or a business advisor, accountant or lawyer. Please refer to the relevant contact details below for the WorkCover or Worksafe authority in your state/territory.

Table 1: Workers Compensation Insurance contact details

State or territory	Name of organisation	Telephone number	Website
ACT	Worksafe ACT	(02) 6207 3000	Email WorkSafe ACT: worksafe@act.gov.au
NSW	WorkCover Authority of New South Wales	13 10 50	WorkCover NSW website: www.workcover.nsw.gov.au/Pages/default.aspx
NT	NT Worksafe	1800 250 713	NT WorkSafe website: www.worksafe.nt.gov.au/home.aspx
QLD	WorkCover QLD	1300 362 128	WorkCover Queensland website: www.workcoverqld.com.au
SA	WorkCover SA	13 18 55	Return to Work SA website: www.rtwsa.com
TAS	WorkCover Tasmania	1300 366 322	WorkCover Tasmania website: www.workcover.tas.gov.au
VIC	Victorian WorkCover Authority	1800 136 089	Worksafe Victoria website: www.worksafe.vic.gov.au
WA	WorkCover WA	1300 794 744	WorkCoverWA website: www.workcover.wa.gov.au

Insurance – Public Liability

Just like Comprehensive Car Insurance, Life Insurance, Health Insurance, Home and/or Contents Insurance, Public Liability is not a mandatory insurance for employers.

Public Liability Insurance for incidents that occur within your own home may be included in your Home and/or Contents Insurance Policy – it is advised that you check with your insurer.

Damage to your motor vehicle while it is being driven by a paid support worker may be included in your Comprehensive Car Insurance Policy – it is advised that you check with your insurer.

Public Liability Insurance for incidents caused by your employee outside of your home may not be covered under any pre-existing policy. It is suggested that when participants take out their insurance, they request a package that includes public liability and workers compensation insurance from their insurance broker or insurance company.

Pay rates

The maximum or benchmark prices of the supports in your NDIS Plan are published in the [Pricing and Payment section of the NDIS website](#).

You are able to negotiate the pay rate that you pay your staff, however it is worth keeping in mind the rate of pay for a support worker as outlined in the [Social, Community, Home Care and Disability Services Industry Award 2010](#).

As an employer, you are responsible for covering the cost of protective equipment (e.g. gloves), as well as ensuring that all of your overhead costs are covered. Overhead costs include, and are not limited to insurances and a bookkeeper if you choose to use one.

Employer responsibilities to the ATO

Refer to the [Employers page on the Australian Taxation Office website](#), which outlines all the responsibilities that you have as an employer from your employees first day working with you through to their last day.

Compliance calendar

It is advised that you keep a compliance calendar – this can be as simple as a list of tasks to be completed each month/fortnight such as:

- Paying wages
- Sending withholding tax payments to ATO
- Issuing Group Certificates.

National Police Clearance and Working with Children/Working with Vulnerable People Screening

Before employing a support worker there are several important steps to undertake:

- You should check references. The best reference is from someone you know and trust.
- It is advisable to obtain a:
 - National Police Clearance
 - Working with Children/Working with Vulnerable People Screening.

If the person you are considering employing does not have a clearance/screening, you are responsible for paying the fee for the application.

If you employ someone who provides you with details of their National Police Clearance or Working with children/Working with Vulnerable People screening, it is your responsibility to ensure that the clearance/screening is still current.

Please refer to the relevant state and territory websites in the tables below.

Table 2: Contacts for obtaining National Police Clearance

State or territory	Agency and website address
ACT	Australian Federal Police: http://www.afp.gov.au/what-we-do/police-checks/national-police-checks.aspx#national-police-certificates
NSW	NSW Police: http://www.police.nsw.gov.au/about_us/structure/specialist_operations/forensic_services/criminal_records_section
QLD	QLD Police: http://www.police.qld.gov.au/services/purchase/polcert.htm
SA	SA Police: http://www.police.sa.gov.au/sapol/services/information_requests/police_checks.jsp
VIC	VIC Police: http://www.police.vic.gov.au/content.asp?Document_ID=274
WA	WA Police: http://www.police.wa.gov.au/Ourservices/InformationAccess/NationalPoliceCertificates/tabid/1339/Default.aspx
NT	NT Police: http://www.pfes.nt.gov.au/Police/Publications-and-forms.aspx
TAS	TAS Police: http://www.police.tas.gov.au/services-online/police-history-record-checks/

Table 3: Contacts for obtaining Working with Children Screening

State or territory	Agency and website address
ACT	<u>Justice and Community Safety:</u> http://www.ors.act.gov.au/publication/view/1804
NSW	<u>NSW Office of the Children's Guardian:</u> http://www.kidsguardian.nsw.gov.au/Working-with-children/working-with-children-check
QLD	<u>QLD Government Blue Card:</u> http://www.bluecard.qld.gov.au/about.html
SA	<u>Department of Communities and Social Inclusion:</u> http://www.dcsi.sa.gov.au/services/screening/what-kind-of-screening-do-i-need#CRES
VIC	<u>Department of Justice:</u> http://www.workingwithchildren.vic.gov.au/
WA	<u>Department of Child Protection:</u> http://www.checkwwc.wa.gov.au/checkwwc
NT	<u>SAFE NT:</u> http://www.workingwithchildren.nt.gov.au/
TAS	<u>Department of Justice:</u> http://www.justice.tas.gov.au/working_with_children

Useful documents

- [Module 1: Understanding and self-directing my Plan](#)
- [Module 2: Self-managing budgets in my plan](#)
- Directly engaging my own staff (this document)
- [Starting a small business as a support worker \(becoming a self-employed contractor\)](#)
- ["A Guide to Engaging your own Support Workers"](#)

If you need any assistance, please contact your local NDIA office.