# Cover page of guide to 'Directly engaging with my own staff'Directly engaging your own staff16 April 2019

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## Executive summary

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 in 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 other supports.

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.

#### 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 Disability Loop, through the [Australian Federation of Disability Organisations](https://www.disabilityloop.org.au/resources.html).

#### Your Responsibilities

Being an employer 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 payment summaries 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 (more information below).

It is recommended that you speak with an accountant or business advisor before you start. You may choose to use a bookkeeper. The [NDIS Guide to Self Management](https://www.ndis.gov.au/participants/using-your-plan/self-management) on page 4 describes what supports are available to help you successfully self-manage

### Withholding PAYG (Income) Tax

As an employer, you will be responsible for withholding tax from payments made to your staff. You are not required to have 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](https://www.ato.gov.au/forms/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 [Withholding from payments to household employees](https://www.ato.gov.au/Business/PAYG-withholding/In-detail/Withholding-from-payments-to-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](https://www.ato.gov.au/Calculators-and-tools/Employee-or-contractor/) 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.
* Only participants (or Nominee/Child Representative) who choose to self-manage 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](http://www.ato.gov.au/Calculators-and-tools/Super-guarantee-eligibility/) 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. Anecdotal evidence from NDIS participants shows that paying Superannuation Guarantee helps encourage loyalty from employees and is believed to help reduce employee turnover.

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 (see below).

**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](http://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 |

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### 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](http://www.ndis.gov.au/providers/pricing-and-payment). It is important to note that the maximum pricespayable do not apply to any services purchased by a self-managing participant (irrespective of whether the provider is registered or not with the NDIS).

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](http://www.fwc.gov.au/documents/modern_awards/pdf/MA000100.pdf).

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.

## Employer responsibilities to the ATO

Refer to the [Business](https://www.ato.gov.au/Business/Single-Touch-Payroll/Get-ready-for-Single-Touch-Payroll/Single-Touch-Payroll-exemptions/) 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](https://www.afpcheck.com/apply)  |
| NSW | [NSW Police](https://www.police.nsw.gov.au/online_services/criminal_history_check/criminal_history/resources_and_fact_sheets)  |
| QLD | [QLD Police](https://www.police.qld.gov.au/corporatedocs/purchase/national-police-certificate/) |
| SA | [SA Police](https://www.police.sa.gov.au/services-and-events/apply-for-a-police-record-check) |
| VIC | [VIC Police](https://www.police.vic.gov.au/national-police-records-checks) |
| WA | [WA Police](https://www.police.wa.gov.au/Police-Direct/National-Police-Certificates) |
| NT | [NT Police](http://www.pfes.nt.gov.au/Police/Community-safety/SAFE-NT.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 | [Working with vulnerable people registration](https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1804/~/working-with-vulnerable-people-%28wwvp%29-registration) |
| NSW | [NSW Office of the Children’s Guardian: http://www.kidsguardian.nsw.gov.au/Working-with-children/working-with-children-check](http://www.kidsguardian.nsw.gov.au/Working-with-children/working-with-children-check) |
| QLD | [QLD Government Blue Card: http://www.bluecard.qld.gov.au/about.html](http://www.bluecard.qld.gov.au/about.html) |
| SA | [Department of Human Services Screening](https://screening.sa.gov.au/)  |
| VIC | [Department of Justice: http://www.workingwithchildren.vic.gov.au/](http://www.workingwithchildren.vic.gov.au/)  |
| WA | [Working with Children Check](https://workingwithchildren.wa.gov.au/) |
| NT | [Working with children clearance](https://www.nt.gov.au/emergency/community-safety/apply-for-a-working-with-children-clearance)  |
| TAS | [Department of Justice: http://www.justice.tas.gov.au/working\_with\_children](http://www.justice.tas.gov.au/working_with_children) |

## Useful documents and more information

* [NDIS Guide to: Self Management](https://www.ndis.gov.au/participants/using-your-plan/self-management)
* [Participant booklets. Booklet 1 – Understanding the NDIS, Booklet 2 – Planning and Booklet 3 – Using your NDIS Plan](https://www.ndis.gov.au/about-us/publications/booklets-and-factsheets)
* Directly engaging my own staff (this document)
* [“A Guide to Engaging your own Support Workers](https://www.myplace.org.au/downloads/MyPlace_EngagingBooklet_Web.pdf)”. A resource from WA provider My Place (not to be confused with the participant Portal)
* [Engaging your own supports](http://waindividualisedservices.org.au/resources/engaging-your-own-supports/). A resource from WA Individualised Services
* [Be a Boss](http://waindividualisedservices.org.au/online-courses/be-a-boss/). A free online course from WA Individualised Services
* [Self managed supports website](https://www.selfmanagedsupports.org.au/about). A resource put together by six capacity building organisations across Australia

If you need any assistance, please contact your *ECEI Coordinator, Local Area Coordinator (LAC) or Support Coordinator.*