

Directly engaging your own staff

1. Who should use this guide?

This guide will be most relevant if you [self-manage](#) your funding, or use a [registered plan manager](#). If you self-manage or use a registered plan manager you can:

- directly employ your own staff
- use a self-employed contractor
- buy your supports from NDIS registered and unregistered providers.

This guide will help you understand your responsibilities when you directly engage your own staff.

Some things to note first:

- Directly engaging your staff can give you more control over who works with you, but you have more responsibilities.
- We refer to your staff as ‘employees’ and ‘workers’ throughout this guide.
- The information in this guide is general. You may need more advice for your situation.
- Some words we use in this guide are explained in the [glossary](#) on the NDIS website.

Directly employing your own staff is different to hiring a contractor. For example, when you directly employ a support worker, the support worker has a primary relationship with you, not another employer. Contractors can run their own business or they may work for other businesses. Contractors don't have a primary relationship with you.

As an employer:

- you set the terms and conditions for the engagement (at or above the minimum legal standards)
- employees work in and are part of your business (or under a Pay as you go (PAYG) withholding account)
- you have a range of legal and regulatory responsibilities.

This guide can help you to learn more about direct engagement and understand if it is something that you think will deliver a better outcome for you.

Learn more about:

- the difference between employees and contractors on the [Australian Taxation office website](#) and the [Fair work ombudsman website](#)
- self-managing the funding in your plan in our [Guide to self-management](#).

2. What are your responsibilities?

When you directly engage your own staff, you become an employer. As an employer you have certain legal and regulatory responsibilities.

You'll have legal responsibilities related to:

- [record keeping](#)
- your employees' [pay and conditions](#)
- [tax](#) and [superannuation](#)
- [work health and safety](#)
- [insurance](#)
- [screening and clearances](#) for workers.

2.1 Record keeping

When you directly engage your own staff, you are responsible for keeping accurate and up to date records. This is so you can match your claim and show how you have used the funding in your plan.

If you directly employ your own staff you need to keep records of the payment requests you make, for example rosters, payroll records and insurance receipts. You must also keep up to date payroll records with the dates and hours your staff work and the amount you pay them.

If you use a self-employed contractor you need to keep copies of invoices and receipts.

You should keep records for a minimum of 5 years.

You can use your funding to get supports to help you self-manage your funding and engage your own staff. For example:

- bookkeeping and accounting services
- employment services including support to recruit and manage staff and meet your responsibilities as an employer
- legal advice to make sure you are meeting your responsibilities when arranging your supports
- software applications
- capacity building supports to self-manage.

You may need to speak with an accountant or business advisor before you become an employer.

2.2 Pay and conditions

If you directly employ your own staff you are responsible for paying for tax, superannuation, insurances, leave and other entitlements from your plan budget. When you work out how much you pay your employee, you'll need to consider these costs and how many hours of support you can afford within your budget. Learn more about [pay rates](#).

Employment conditions are set by legislation and awards. There are different awards for different types of work, industries and states. Awards set employment conditions that you must meet, including:

- minimum pay rates
- leave entitlements and public holiday arrangements
- maximum work hours
- providing payslips
- ending an employee's employment fairly.

For example, the [Social, Community, Home Care and Disability Services Industry Award 2010](#) or in Western Australia (WA) they have their own state award, the [WA award](#). These awards help make sure employees are treated fairly and paid appropriately for their work.

You can learn more about modern federal awards on the [Fair Work Ombudsman website](#), including the [Find my award tool](#).

If you are unsure about which award applies to your situation, we recommend you speak with an accountant.

The prices for the supports in your NDIS plan are in the [NDIS Pricing Arrangements and Price Limits](#). We use the [Disability Support Worker Cost Model](#) to work out the price limits for supports delivered by disability support workers. You can use the Disability Support Worker Cost Model estimates costs to help you consider:

- **Base Salary costs**, including shift loadings
- **Direct On-costs**, including superannuation and employee allowances
- **Operational and corporate overheads**, including workers compensation insurance and accounting and legal services, and information technology functions.

Price limits are the maximum prices that registered NDIS providers can charge for specific supports. They can be helpful when you're working out what you're willing to pay for a support. If you [self-manage](#) your NDIS funds, you can negotiate prices that are lower than the prices in the [NDIS Pricing Arrangements and Price Limits](#). You can also choose to pay for supports at a higher price. It's your responsibility to make sure the funding in your plan lasts for the duration of your plan.

You'll also need to consider the cost of tax, super, insurances, leave, and any other entitlements within these maximum prices. You can negotiate the rate you pay your staff, as long as it's not less than the [award rate](#) for their type of work.

The support worker rate of pay listed in the price limits can guide you when you set your rates.

Other costs you are responsible for as an employer include the cost of work health and safety equipment, for example, gloves or cleaning equipment, and any other overhead costs.

2.3 Tax and superannuation (super)

As an employer you have responsibilities to the Australian Taxation Office (ATO), from your employee's first day through to their last day.

To help you keep track of, and meet your tax responsibilities, you can keep a calendar or schedule. It could be as simple as a list of tasks that reminds you to:

- pay wages
- send withholding tax payments to the ATO
- issue payment summaries at the end of the financial year.

Learn more about your tax responsibilities on the [ATO business page](#), including about [Single Touch Payroll](#).

2.3.1 Pay as you go (PAYG) withholding

As an employer, you are responsible for withholding tax from payments you make to your employees. If you engage a contractor, you generally don't need to withhold tax from payments unless they request this in their agreement with you.

The ATO classifies support workers directly employed by NDIS participants as 'household employees'. Learn more about [withholding from payments to household employees](#).

Before you make your first payment, you need to register for pay as you go (PAYG) withholding. You don't need an Australian Business Number (ABN) to do this. If you don't have an ABN, the ATO will give you a withholding payer number (WPN) when you register for PAYG withholding. Learn more about [registering for PAYG withholding](#).

To register for a withholding payer number (WPN)

1. Download form NAT 3377 from the ATO's [Application to register a PAYG withholding account](#) page or, call 13 28 66 and ask the ATO to send the form to you.
2. Send the completed form to the ATO as an attachment using Online services for business or post or fax. You can find details at the end of the form.
3. Wait for the ATO to issue your WPN. This can take up to 28 days.

2.3.2 Super payments

As an employer, you need to make super contributions for your workers if they are eligible for super guarantee. This is regardless of how much you pay them, or how many hours they work (if they are 18 years old or over).

Learn more about when you must pay super, and how to pay it, on the [ATO website](#).

You should use the ATO's [Super guarantee eligibility decision tool](#) for each of your workers. You should keep a copy of this decision.

We recommend you speak to your accountant, professional business advisor, or the ATO for advice about paying super for your employees.

2.4 Work health and safety

As an employer, you have a duty to provide a safe place if someone is working for you, regardless of whether you have engaged them directly or as a contractor. This includes physical and psychological safety. It also includes when your home is the workplace.

What makes a healthy and safe workplace depends on your worker's tasks and the related hazards. For example, a slippery floor could be a hazard if a worker is providing you with personal care supports in your bathroom.

Some examples of the things you can do to make a workplace safe include:

- talk to your workers about the health and safety risks of their tasks
- regularly check floors are not slippery, and keep floors clear of trip hazards like shoes or toys
- maintain a complete and in date first aid kit in your home
- maintain fire protection and firefighting equipment, such as working smoke alarms, a fire extinguisher and fire blanket in the kitchen
- provide suitable lifting equipment to move people or do other manual tasks like lifting a heavy medical device
- provide non-toxic chemicals or substances for workers to use
- regularly maintain equipment workers need to use
- keep any pets or animals in a secure place
- give workers information, training, supervision and instruction on how to do tasks safely.

You must regularly talk to your workers about things which can affect their health and safety at work. You may be responsible for upskilling a new or existing worker about work health and safety changes. You might also need to provide personal protective equipment. Personal protective equipment can be claimed from your NDIS plan.

Learn more about what we pay for on the [NDIS website](#).

If you self-manage your funding it is likely you are a **Person Conducting a Business or Undertaking (PCBU)** under your state or territory Work Health and Safety (WHS) laws.

A PCBU is a legal term used to describe a person, employer, business or organisation that has WHS responsibilities.

A PCBU has a primary duty of care to make sure the health and safety of workers while they're at work, as much as they reasonably can. A PCBU also has a duty of care for other people the work may affect, like visitors.

It's unlikely you are a PCBU in any of these situations:

- family or friends provide supports to you on a social and ad hoc basis
- you have limited control over the way work is done. For example, when you engage an Australian Health Practitioner Regulation Agency registered professional, or have a tradesperson modify your home or vehicle
- you engage workers to do ad hoc home maintenance and repairs, or other domestic work like cleaning or lawn mowing
- you are buying aids or equipment from someone or a business.

Note: The term PCBU is not used in Victoria. But you will have similar responsibilities if you employ or contract workers in Victoria.

Learn more about PCBU on the [Safe Work Australia website](#), or contact your local Work Health and Safety regulator for advice.

Work Health and Safety regulators

There are different WHS regulators in each state and territory. It is important that you check with the WHS regulator in your state or territory to help you understand what you are responsible for. They have a range of useful tools available on their websites.

As a starting point you can find the relevant contact details for your local WHS regulator's contact details in **Table 1**.

Table 1: Work Health and Safety regulators

State or territory	Name of organisation	Phone number	Website
ACT	WorkSafe ACT	(02) 6207 3000	WorkSafe ACT website
NSW	SafeWork NSW	13 10 50	SafeWork NSW website
NT	NT WorkSafe	1800 250 713	NT WorkSafe website
QLD	WorkSafe QLD	1300 362 128	WorkSafe QLD website
SA	SafeWork SA	1300 365 255	SafeWork SA website
TAS	WorkSafe Tasmania	1300 366 322	WorkSafe Tasmania website
VIC	WorkSafe Victoria	1800 136 089	WorkSafe Victoria website
WA	WorkSafe WA	1300 307 877	WorkSafe WA website

2.4.1 Workers compensation insurance

If you directly employ workers you need a Workers Compensation Insurance Policy. This pays for medical expenses and loss of income if your employee is injured while working for you.

Only certain authorised insurance companies or agents sell workers compensation policies. Premiums are typically based on the total amount you pay in wages in a 12-month period.

There are different workers compensation regulators in each state and territory.

We recommend you talk to your local regulator, business advisor, accountant or lawyer to help you choose the correct policy for you and your workers.

As a starting point you can find the relevant contact details for the workers compensation regulator in your state or territory in **Table 2**.

Table 2: Workers Compensation Insurance regulators

State or territory	Name of organisation	Phone number	Website
ACT	WorkSafe ACT	(02) 6207 3000	WorkSafe ACT website
NSW	State Insurance Regulatory Authority (SIRA)	13 10 50	SIRA website
NT	NT WorkSafe	1800 250 713	NT WorkSafe website
QLD	WorkSafe QLD	1300 362 128	WorkSafe QLD website
SA	Return to Work SA	13 18 55	Return to Work SA website
TAS	WorkSafe Tasmania	1300 366 322	WorkSafe Tasmania website
VIC	WorkSafe Victoria	1800 136 089	WorkSafe Victoria website
WA	WorkCover WA	1300 794 744	WorkCover WA website

2.4.2 Public liability insurance

Public liability insurance covers employers in case they're found legally responsible for someone getting hurt, or for damaging property. For example, if your employee injures a visitor while working for you or breaks something in a shop, you might be considered legally responsible. Public liability insurance could cover the legal fees and compensation costs involved.

Public liability insurance is not mandatory for employers. This is just like comprehensive car insurance, life insurance, health insurance, and home and contents insurance.

Other insurance policies can include public liability insurance. For example, your home and contents insurance policy may include public liability insurance for incidents that happen in your home. Or your comprehensive car insurance policy may include damage to your vehicle while a paid support worker is driving it. We recommend you talk with your insurer to confirm what's included in your policy.

Pre-existing policies might not cover public liability insurance for incidents caused by your employee outside of your home. For example if they are helping you out in the community.

When you take out insurance, we suggest you request a package which includes public liability and workers compensation insurance if you can. Talk to your insurance company or lawyer about your situation.

2.5 Clearances and screening checks

Before you employ a support worker, it's recommended you have their current:

- National Police Clearance
- Working with Children/Working with Vulnerable People Screening
- NDIS Worker Screening Check.

When engaging a worker for a participant younger than 18, a Working with Children check is strongly advised. In some states and territories, it is a requirement for a person to have a working with children check before they can start working with children. You can find the relevant contacts to check your state or territory requirements in Table 4.

You should also check their references. Make sure you talk to current and recent past employers where you can. Don't just rely on written references.

Table 3 below includes the National Police Clearance contact in your state or territory.

Table 4 below includes links to information about worker screening in your state or territory.

To reduce the risk of harm to people with disability, all states and territories have NDIS worker screening arrangements for workers in certain roles. The arrangements differ between the states and territories for when a worker must apply for an NDIS Worker Screening Check.

Learn more about the NDIS Worker Screening Check on the [NDIS Quality and Safeguards Commission website](#) or for information in your state or territory go to Table 4.

When you recruit someone, you can ask for evidence they have the appropriate clearance or screening checks. If they don't have the appropriate clearance or screening checks, you can arrange them yourself and pay for the application fee.

If they do have a clearance or screening, it's your responsibility to make sure it's current. If it's not, you'll need to ask them to reapply.

Table 3: Contacts for National Police clearance

State or territory	Agency and website
ACT	Australian Federal Police
NSW	NSW Police
QLD	QLD Police
SA	SA Police
VIC	VIC Police
WA	WA Police
NT	NT Police
TAS	TAS Police

Table 4: Information and contacts for worker screening

State or territory	Government screening unit website
ACT	Working with vulnerable people registration
NSW	NSW Office of the Children's Guardian
QLD	QLD Government Blue Card QLD disability worker screening
SA	Department of Human Services Screening
VIC	Vic Working with Children Check
WA	Working with Children Check WA
NT	Working with children clearance NDIS Worker Screening Check NT Police, Fire & Emergency Services

State or territory	Government screening unit website
TAS	Tasmanian Government – Registration to work with vulnerable people

2.6 Ways to manage engaging your own staff

There are different ways to manage engaging your own staff. Options you may want to consider include:

- Using a microboard – a microboard is a group of people in an unpaid relationship with a person with disability who meet regularly to support that person to make plans, decisions and have the life they want.
- Using an ABN – learn more about [applying for an ABN](#).

We recommend you speak with an accountant or solicitor or lawyer to understand what's best for your situation.

3. Useful resources

- [NDIS participant information](#)
- [NDIS Guide to self-management](#)
- [NDIS Quality and Safeguards Commission – Self-managed NDIS participants](#)
- [NDIS Quality and Safeguards Commission – NDIS Workforce Capability Framework](#)
- [NDIS Quality and Safeguards Commission – Recruitment and selection guide](#)
- [NDIS Quality and Safeguards Commission – Position description tool](#)
- [My Place WA – Guide to Engaging your own Support Workers](#)
- [WA Individualised Services – Engaging your own supports](#)
- [WA Individualised Services – Be a Boss](#)
- [Workforce Innovation through self-managed supports](#)
- [SafeWork NSW – Easy to do work health and safety toolkit](#)
- [WorkSafe Qld – Guide to working safely in people's homes](#)

If you need any help, please contact your my NDIS contact or support coordinator.

National Disability Insurance Agency

[ndis.gov.au](https://www.ndis.gov.au)

Telephone 1800 800 110

Webchat [ndis.gov.au](https://www.ndis.gov.au)

Follow us on our social channels

[Facebook](#), [Instagram](#), [YouTube](#), [LinkedIn](#)

For people who need help with English

TIS: 131 450

For people who are deaf or hard of hearing

TTY: 1800 555 677

Voice relay: 1800 555 727

National Relay Service: relayservice.gov.au