

## User Policy information sheet 1 Employer Support policies

This information sheet is correct at the time of issuing but the ILFS reserves the right to update this policy at any time.

### About this information sheet

This policy information in this sheet is primarily intended to support Users who directly employ their own Personal assistants however the Protecting Vulnerable Groups policy may also be applied **where a PA is self-employed**.  
**ILFS staff should not act as advisors on matters of employment.**

Policy guidance is provided on the following subjects:

- **Payroll costs**
- **National Insurance Costs (NIC) and Pay As You Earn (PAYE) tax**
- **Holiday Pay**
- **National Minimum Wage**
- **Statutory Sick Pay**
- **Contributions towards redundancy and related costs**
- **Employer's Liability Insurance**
- **Protecting Vulnerable Groups checks**
- **Parental leave**
- **Health and safety training**
- **Task training**
- **Legal costs**
- **Workplace pensions**
- **Advertising costs**

## Source information

ILFS has a general power to make payments to cover costs that in their reasonable opinion have been or will be properly incurred as a consequence of purchasing qualifying support and services. Policies listed below are allowed as a result of this general power (further source information is provided alongside individual policies in some cases). ILFS Directors can make decisions on the individual matters of policy detailed below.

## Payroll Costs

ILFS can pay towards the cost of payroll services where a user who directly employs their own PA or their representative requests this.

ILFS can normally consider a payroll charge of up to £12 per week. Inclusion of this additional cost within an award must not take the overall funding above the annual group maximum sum (see ILFS payment policy) applicable to the user.

Payroll costs can be paid in addition to financial management support costs (see separate policy)

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## National Insurance Contributions (NIC) and Pay As You Earn (PAYE) Tax

ILFS will include an additional amount for employers NIC within every offer that is calculated where a user is to directly employ their own PA and where the earnings threshold is met. To avoid duplicate payments ILFS will not normally allow this inclusion where a direct payment is being matched or an inclusive rate is to be applied, as it will be assumed that this cost has been factored into the rate.

An additional amount will not be included within the offer for the employees NIC, this will be deducted from the PA gross wage.

ILFS will not include any extra money within offers for PAYE tax. This should be deducted from the PA salary.

Inclusion of this additional cost within an award must not take the overall funding above the annual group maximum sum applicable to the user. Other elements of the care plan should be re-arranged to accommodate these costs.

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## Holiday Pay

ILFS will ensure that an amount of money for statutory holiday pay is included within all offers made to users who directly employ PA's. This is to enable the user to give their regular PA paid annual leave whilst employing alternative care. This will be the equivalent of 5.6 weeks of the care costs within the offer on an averaged basis. ILFS will not make a contribution towards costs required to cover individual contractual agreements that exceed statutory entitlements.

This contribution will not be included where the PA is self-employed. Where ILFS are matching a Direct Payment (DP) or using an inclusive rate to calculate an offer it will be assumed that provision exists within this rate for holiday pay. Where it is confirmed that an amount for holiday pay is not included within the DP or inclusive rate ILFS should then add in an amount to the offer in line with the policy detailed above.

Where a PA is to take maternity, adoption, extended paternity or sick leave for a period of time they will still accumulate annual leave as will any PA whose hours are increased or who is recruited to cover the gap in the care. If a User attends respite and requests that a retainer payment is made, provision to cover Holiday Pay should still be included within the offer.

Inclusion of this additional cost within an award must not take the overall funding above the annual group maximum sum applicable to the user. Other elements of the care plan should be re-arranged to accommodate these costs.

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## National Minimum Wage

ILFS should ensure National Minimum Wage (NMW) rates are applied to all offers where appropriate. Details of current rates and who these apply to can be found on the [direct.gov](https://www.direct.gov) website.

Workers do not necessarily have to be paid the National Minimum Wage if they are considered self-employed for NMW purposes. It is the responsibility of the User to establish the correct employment status of a Personal Assistant.

During night periods the NMW must be paid for every hour of work actually provided however it does not necessarily need to be paid during night periods when work is not provided, so for example when a PA is resting or sleeping. However this may be different depending on the type of contract that a PA has.

It is the responsibility of the user to establish whether NMW should be paid during night periods and where ILFS is asked to pay an extra amount to enable NMW regulations to be complied with for a night period ILFS may consider allowing extra monies to be paid, particularly if legal advice has been obtained to indicate this is required.

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## Statutory Sick Pay

Where a user has paid Statutory Sick Pay (SSP) to a directly employed PA but has only been able to recover some of this under the Percentage threshold scheme the ILFS can consider paying the shortfall. ILFS will not make such a payment where a PA is self-employed.

Inclusion of this additional cost within an award must not take the overall funding above the annual group maximum sum applicable to the user.

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## Contributions towards redundancy and related costs

ILFS can consider making a contribution towards costs a user has incurred as a result of ending the employment of a directly employed Personal assistant (PA).

Two types of costs can be considered, those which are to allow for pay in lieu of notice (PILON) and also statutory redundancy pay.

These costs can be considered in circumstances where a user becomes ineligible for funding (a group 3 payment), or where payments will continue but where one or more PA has been made redundant.

ILFS will not make a payment where the PA is self-employed.

ILFS will not make a payment for PILON where a user who was the employer has died but may consider a contribution towards redundancy costs. Where a user dies and another individual, such as the User's Mother or friend etc, directly employs the PA PILON costs can still be considered.

### Other costs

In addition ILFS can consider contributing towards outstanding costs related to the previously employed PA such as payroll costs, Holiday pay etc, in line with normal policy. Any such payments can only be made in line with normal maximum sum and group 3 restrictions (see below for more details of restrictions). Users or their representatives should make requests to ILFS for such costs to be covered in line with ordinary procedures.

### Requests for payment

Prior to ILFS considering a payment the user will need to check the terms of their Employers Liability Insurance and will be expected to claim against the insurance where redundancy related costs are covered. ILFS will only consider a contribution towards costs not covered by the user's insurance.

Where a user receives a direct payment they should check if any ELI policy purchased from this money covers any redundancy costs.

The user will then need to submit a request to ILFS detailing the reason for the payment request and the amount required (separating PILON and redundancy costs), and provide a brief overview of how this has been calculated.

ILFS will consider any payment within the limitations as set out below.

### **Limitations for users who remain in payment**

Payments are capped by the average weekly maximum sum for the relevant group within a given financial year.

Group 1 user's average weekly payment within a financial year cannot exceed £815.00

Group 2 user's average weekly payments within a financial year cannot exceed £475.00

This means that where a user already has payments at or near the relevant maximum sum ILFS will not be able to contribute towards redundancy costs, or may only be able to contribute in part.

There is no requirement for any Available Income to be deducted from such a payment as Available Income is already deducted from the user's offer.

### **Limitations for users who are no longer in payment (group 3 users)**

Payments can be made to former group 1 and group 2 users, provided that the total payment does not exceed 12 weeks of the maximum sum of the relevant group.

This means that the combined contribution towards PILON and statutory redundancy costs for a former group 1 user cannot exceed £9,780 and for a group 2 user £5,700.

There is no requirement for available Income to be deducted a from a group 3 payment.

Also see the ILFS Run off payments (group 3) policy and payments policy.



## Jointly funded support

Where the PA care costs are shared with the Local Authority, ILFS will consider whether the notice and compensation costs should be shared with the Local Authority.

## Advice and support

ILFS is unable to advise a user regarding specific redundancy situations or costs. Where support is needed this should be obtained from an external source for example ACAS.

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## Employer's Liability Insurance (ELI)

ILFS can pay for ELI costs, where the user directly employs a PA. There are 2 levels of insurance cover available and ILFS can pay for either of these. ILFS will not cover these costs where the PA is genuinely self-employed or where the care is provided by an agency. (See process guide)

Inclusion of this additional cost within an award must not take the overall funding above the annual group maximum sum applicable to the user.

Where a user has an ELI policy this factor will be considered if a request is made to pay for Legal or redundancy related costs to be covered.

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## Protecting vulnerable groups

ILFS can pay for the cost of disclosures/PVG scheme record and any associated umbrella costs for anyone who will be providing care to an ILF user, providing there is scope within the ILFS maximum sum. These costs may be covered by ILFS whether the PA is directly employed by the user or where the PA is self-employed.

Inclusion of this additional cost within an award must not take the overall funding above the annual group maximum sum applicable to the user.

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## Parental leave

ILFS will not make any financial contribution towards statutory Maternity, Paternity or Adoption leave payments. This is because users should be able to claim back all monies paid to a PA from HMRC.

ILFS will not contribute towards any other (contractual) payments that a user may have agreed to make.

ILF monies can be used to pay for a replacement carer that is required while the usual PA is taking Maternity, Paternity or Adoption leave and any associated employer costs for the replacement PA.

An employed individual still accrues annual leave entitlements during periods of Maternity, Adoption and extended Paternity leave. ILFS can meet the costs of annual leave for a PA who is taking Maternity, Paternity or Adoption leave assuming the annual maximum sum will allow for this. Where there is insufficient scope within the maximum sum to accommodate these costs the care arrangements may need to be rearranged to allow for the costs to be met.

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## Health and Safety training

ILFS may assist users to be compliant with health and safety law by providing financial support to help pay either in full or in part for health and safety training, such as moving and handling that is identified as being required within an employee's risk assessment. ILFS can assist where such costs are not due to be met by social services or another source.



Such costs can only be met as and when they are incurred and should not be included within the normal ILF offer. ILFS will not cover these costs where the PA is self-employed.

Inclusion of this additional cost within an award must not take the overall funding above the group maximum sum applicable to the user.

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## Task training

In circumstances where a User needs an existing PA to provide 'on-the-job' training for a new PA to perform specific tasks ILFS can consider paying for the extra time that is needed for this. Where the LA share joint package costs with ILFS such training costs should be shared with the LA.

ILFS will not pay for a PA to attend formal training to expand their skill base or attain educational qualifications.

Inclusion of this additional cost within an award must not take the overall funding above the group maximum sum applicable to the user.

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## Legal costs

ILFS may consider paying for legal costs incurred that relate directly to the users role as an employer. The decision to pay such costs may only be made by the ILFS Directors and all requests will be considered in line with the current financial position. The decision to agree to pay for such costs may be affected if the user has obtained an [Employers Liability Insurance](#) (ELI) policy that offers to cover legal costs.

Inclusion of this additional cost within an award must not take the overall funding above the group maximum sum applicable to the user.

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## Workplace Pensions

Currently small employers are not required by law to make contributions to employee pensions. ILFS will not make any payments towards employer pension contributions.

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## Advertising and recruitment Costs

ILFS can consider covering advertising costs that are incurred when a user needs to recruit a new directly employed PA. A decision to fund recruitment costs other than advertisement costs must be considered by the ILFS senior management panel.

Advertisement and recruitment costs may be paid as and when they occur on production of evidence and should not be included within the offer calculation.

Advertisement and recruitment costs may only be met where there is scope within the maximum sum limits to do so.

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## Useful Links

It may be useful to also read the following policy documents: -

- Financial management support
- ILF payments
- Run-off payments (group 3)

Queries relating to the policy can be emailed to the ILFS mailbox or alternatively see the Frequently Asked Questions (FAQ) document.

## Administration section

Document owner

Corporate affairs

Version	Last Review	Next Review	Changes	Made by	Date
1					
2					
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