

# Personal Assistants Returning From Shielding

**For a reminder and update of who was advised to Shield and the latest key dates see following link**

**<https://www.gov.uk/government/publications/guidance-on-shielding-and-protecting-extremely-vulnerable-persons-from-covid-19/guidance-on-shielding-and-protecting-extremely-vulnerable-persons-from-covid-19>**

## **Shielding and disability**

People who fall under the category of extremely vulnerable set out above could in most cases demonstrate that they are disabled under the provisions of the Equality Act 2010.

## **How do the provisions of the Equality Act 2010 impact on a PA's return to work?**

A disabled employee is entitled to have reasonable adjustments made in order to overcome a substantial disadvantage as compared to someone who is not disabled. These adjustments are in relation to:

- A provision, criterion or practice of the employer
- Physical features of the work place
- An auxiliary aid or service

Yes, we know that the shielding measures are being lifted by the Government on 1st August, however don't let your provision, criterion or practice be an automatic assumption that your PA is capable and safe to return to work just because of this change to the guidance.

Your work place may need a little extra adjusting to make sure the PA is not facing a substantial disadvantage or you may need to provide additional aids to a vulnerable worker to assist them in their return to work.

## **Why shouldn't I assume that my PA can return to work because the Government are lifting shielding measures?**

There are many reasons that could make it difficult for the PA to return, here are some examples:

- **The PA has been stuck at home for many weeks through lockdown and is now experiencing acute anxiety at the idea of leaving their home when Coronavirus is still present in the UK**

It's understandable that someone who is vulnerable to the Coronavirus risk would feel nervous about returning to normal when some risk is still present. If after exploration the PA is found not to be well enough to return to work, in this case SSP may continue – not on the grounds of shielding, but on the grounds of ill health. The normal sickness absence procedures would apply.

- **The PA is a family carer for a child with a medical condition, that makes them more at risk from Covid and therefore isn't able to return to using their normal support provider**

Grandparents may not feel confident to yet take risks, parents may be working on the NHS frontline so distancing from their child or child care centres may not yet be fully operational. In cases like these it may be that the PA needs to go on emergency leave for dependants with no pay.

- **Certain areas of the UK are operating under different rules**

Local Authorities have new powers to try and prevent the spread of the virus locally and local lockdowns remain a possibility where required

- **PA is now self-isolating as they (or someone in their household) has symptoms**

SSP would run from the date that shielding ends until the end of the isolation period

- **PA is self-isolating under a track and trace notification**

SSP would run until the end of the period the notification requires

- **Insufficient risk assessments and/or safety measures have been addressed to ensure the PA can return safely**

It is important to remember that additional measures might be required to ensure a disabled person is kept safe at work.

Although every effort has been made to ensure all information provided is correct, this factsheet is provided for information purpose and should not be considered legal advice. If you require further information you should seek professional legal advice.

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## How do I handle this now?

To make sure that you can be confident of your PA's ability to return to work, we recommend that you follow our DREAM employer approach:

<b>Discuss</b>	Make sure you have good communication with your PA, one to one
<b>Recognise</b>	Allow yourself to be fully aware of and responsive to their own situation
<b>Explain</b>	Tell them what you need and how you've handled coronavirus risks so far
<b>Assess</b>	Considering your new information, assess the risks for your PA and their needs
<b>Measures</b>	Implement measures and take action to avoid risks

## What if I still can't find a way of avoiding the risk?

If you've followed the dream employer approach and you still can't agree a safe return to work that the PA can manage, it would be sensible to take further legal advice from the Premier Care legal helpline (or equivalent if insured elsewhere). This will enable you to further explore your PA's rights and any pay that may or may not be applicable to an extended period of absence.



## As I have been shielding my PA has been on leave. I now want them to return to work, how do I manage this?

Follow the DREAM employer approach above to make sure that your PA is able to return to their duties and that you have put in place safe systems of work to reduce any risk.

For further information on how to stay safe in a care setting please see the Government guide:

<https://www.gov.uk/government/publications/covid-19-how-to-work-safely-in-domiciliary-care>

HSE guidance here:

<https://www.hse.gov.uk/coronavirus/working-safely/index.htm>

## I haven't had PA support whilst I have been shielding. I am still nervous about risk and don't feel comfortable with my PA returning just yet. What should I do now the Government are lifting shielding measures?

As the Government are lifting measures in many areas of the UK, the general view is that your risk of contracting the virus is greatly reduced, subject to having safe systems of work in place. You should not assume that your budget will continue to allow you to pay the PA for leave beyond 1st August 2020

Before making any decisions, it is recommended that you carefully consider how you may be able to put in place safe systems of work by following the Government guidance and risk assessing your care practices. If you still feel that there are risks that cannot be managed, for example by following sound hygiene practices, changing systems of work and/or using PPE, you should talk to your social worker/support team/funding body to explain why you feel it is unsafe for your PA to return to work from August.

What you communicate to your PA will depend on the outcome of your conversation with your support team. If funding is to continue for a short period of time, you can notify your PA. If however, you are looking to make more permanent changes to the way your care is managed, it is very important to take legal advice on how to communicate the changes to your PA.