

Providing
Support

Working with an Assistant

Contents

What is an assistant?	3
Things to consider	3
How do I add an assistant to my registration?	3
Recruiting an Assistant	4
Employed Assistants	6
Unpaid Assistants	8
Self-Employed Assistants	9
Joint Registrations	9
Your Employer's Liability Insurance Policy	10

What is an assistant?

A childminding assistant is someone who is named on your registration certificate and helps you within your childminding service.

Assistants can either be employed by you or unpaid (i.e., a family member).

Where and when assistants can be left to work on their own will depend on your registration, any conditions and variations and would be looked at on an individual basis. This will be stated, alongside the terms of your childminding service, on your registration certificate from the Care Inspectorate.

If you have an assistant named on your registration certificate - including unpaid assistants - you must ensure that you have **Employer's Liability Insurance** (see page 10).

Things to consider

1. Be aware that if you employ an assistant this will not automatically increase the number of children which can be cared for in your service. This is up to the Care Inspectorate to decide.
2. In some local authority areas, when you employ an assistant, planning permission might be needed. If you require planning permission, you will need to get this before the Care Inspectorate can approve your assistant.
3. As an employer, you normally have to operate PAYE (Pay As You Earn) as part of your payroll. PAYE is HMRC's system to collect income tax and National Insurance from employment. You must register for PAYE if your employees are paid £120 or more a week, get expenses and benefits, have another job or get a pension. In all circumstances for all employees, you must keep payroll records.

For further information visit [gov.uk/pay-for-employers](https://www.gov.uk/pay-for-employers).

4. It is also your responsibility to comply with employment law, e.g. minimum wage, workplace pensions, holiday and sick pay.
5. You will also need to comply with Health and Safety legislation to provide a safe working environment for your assistant. This will include carrying out regular risk assessments, and keeping an accident/incident book to ensure your environment is a safe space for your employees/assistants.

How do I add an assistant to my registration?

To include a new assistant within your childminding service, you must complete the variation process with the Care Inspectorate. When considering a variation, we recommend you contact your Inspector or the Care Inspectorate National Enquiries Line on **0345 600 9527**. The variation application process can take up to three months.

Recruiting an assistant

The role and responsibilities of an assistant must be evidenced in a job description. There is a sample childminder job description in the Strong Foundations booklet (available to download from the Membership Dashboard at childminding.org) which may help you when writing this.

You are responsible for ensuring your recruitment procedures are robust and your childminding assistant is a fit person to be working with you to meet the needs of children and families.

It is your responsibility, and will assist your recruitment process, to produce a recruitment and selection policy and procedure and a whistle blowing policy (details how the assistant can raise concerns about how the childminder cares for children) and provide a copy of this paperwork to the Care Inspectorate.

Your recruitment procedures must remain rigorous whether you are recruiting someone to be a full-time assistant who would have responsibility for minded children or a part-time assistant who is only there to help at lunch time with the preparation of lunches or to help out with transport for the school/nursery run, for example.

The Care Inspectorate will enrol your assistant on the Protecting Vulnerable Groups (PVG) Scheme. You are responsible for the cost of this.

Does your procedure include an application form, CV or letter of application?

If you are going to recruit someone to help with your service, you will have to decide which of the above best suits your requirements.

Does your procedure include seeking two references for candidates; one of which is from the immediate previous employer?

When considering using an assistant you should consider how best you can ensure that they are the right person for the job and you can let them know that you will be asking for references and checking them. If you are using your partner as an assistant, then you may want to put a personal statement into your records.

Does your procedure include written information about whether the candidate is fit for the role?

You will need to decide how to gain this information. It may be that you need to ask for information from their doctor though it will be helpful if the doctor understands what it is that you want the person to do (you may consider providing the doctor with a copy of the assistant's job description).

The Care Inspectorate does not provide a form for doctors to complete - this is your responsibility.

Does your procedure provide a secure recording system for checks undertaken?

All information pertaining to the children in your care should be stored securely and any information relating to assistants should be treated in the same way.

How do you identify whether your assistant has the necessary skills required to carry out their role?

Under the Scottish Social Services Council (SSSC) Code of Conduct you have a responsibility to ensure that your assistant's knowledge is kept up-to-date and you take account of any training needs. You can use your assistant's job description, which sets out the skills and knowledge required for the job, as a starting point to identify any gaps in knowledge they may have.

As you are a member of SCMA, your assistants are welcome to take part in Learn with SCMA courses and other learning opportunities. Booking is essential. Please call the Learn with SCMA team on **01786 445377**.

Does your recruitment process ensure that prospective assistants understand the aims and values of your service?

You will need to decide how best to share information about your aims and objectives and be able to evidence that the person understands them.

Employed Assistants

There is advice and guidance on the UK Government website on how to set up an employee on PAYE (Pay As You Earn) gov.uk/payee-for-employers.

When you employ an assistant, you are required to pay their salary plus the Class 1 employer National Insurance contributions which can both be claimed as a business expense. You should also contact HMRC for advice on workplace pension payments.

Insurance for Assistants

If you employ an assistant or another childminder, by law you need to hold Employer's Liability Insurance (ELI). You will also need Employers Liability Insurance if you are going to be working with a student or unpaid volunteer.

If you are a member of SCMA and hold Public Liability Insurance with us this is included free of charge with your policy but must be activated by calling SCMA on **01786 445377**. However, you must also call SCMA every time you renew your insurance to activate your ELI for the coming year.

Our PLI policy covers a childminder working with two assistants at any one time. If the childminder has more than two assistants, SCMA can provide a top up policy. Please call us on **01786 445377** to discuss your requirements.

When purchasing your Employers Liability Insurance you will be asked by SCMA if you pay your employee more than £120 per week. If you pay more than this you will be required to provide SCMA with your Employee Reference Number (ERN also commonly referred to as the Employer PAYE reference). This ERN number is issued by HMRC and can be found on your yellow PAYE payment booklet (P30BC), or on the electronic PAYE reminders that HMRC sends you each year.

Please also advise SCMA if you do not have an ERN number, as this will ensure we are complying with the insurance industry standards. If you do not pay your employees over the threshold, you are exempt from supplying this. However, you are still required to keep payroll records. If you are exempt you will receive cover under your SCMA policy for Employers Liability Insurance.

To register your ERN number, call SCMA on **01786 445377**.

Why do SCMA need an ERN number?

Insurance companies are regulated by the Financial Conduct Authority (FCA). Rules introduced by the FCA require insurance and brokers to collect additional information from their clients who are insured for Employers Liability including their ERN Number.

This information is given to the Employers Liability Tracing Office (ELTO) and is used by employees to help trace their former employer's Employers Liability insurer in the event that they need to make a claim for illness or injury at work.

It is important that you supply the correct information to your insurer as it may affect your cover in the event of a claim if you supply false information. If you are unsure, please contact SCMA on **01786 445377**.



Unpaid Assistants

Even if your assistant is unpaid i.e. family member, volunteer you still require Employers Liability Insurance.

If you are a member of SCMA and hold Public Liability Insurance with us this is included free of charge with your policy but must be activated by calling SCMA on **01786 445377**. However, you must also call SCMA every time you renew your insurance to activate your ELI for the coming year.

Student/Volunteer Assistants

You will still require Employers Liability Insurance if you have students or volunteers working with you at your setting and you should call SCMA on **01786 445377** to get this cover in place.

Can a school pupil take part in work experience with me in my childminding setting?

Yes of course; however, there are a few things to think about before the placement begins.

It's important to inform the Care Inspectorate of this temporary arrangement within your childminding service. You must remain in control and supervise the individual at all times, complete the necessary risk assessments and under no circumstances should the student or pupil be left alone with the children.

You would also be expected hold Employers Liability Insurance (ELI). Even though the Care Inspectorate would not class the student or pupil as an 'assistant', for insurance purposes the definition of an employee includes those undertaking study or work experience, therefore ELI cover is recommended.

In some cases, the school or college will expect to see confirmation of ELI and completed risk assessments to ensure everything is in place before the student arrives.

For reassurance, it's a good idea to inform the families using your service of the arrangement - just to ensure they are aware and happy with the situation. This also applies to your minded children, making sure they are prepared for the change.

It's also useful to give the school pupil or student an 'introduction' to your service, explain your aims, expectations and the ground rules. Take time to explain your daily routines and the role they will play throughout the placement.

Self-Employed Assistants

It is most likely that your assistant would be employed by you but in some cases, they may be classed as Self-Employed. It is your responsibility to check the status of anyone working at your setting.

HMRC lay out guidelines for self-employed individuals, and you can read more at [gov.uk/working-for-yourself](https://www.gov.uk/working-for-yourself).

A self-employed individual is classed as:

- Running their own business and taking responsibility for its success or failure.
- Having several customers at the same time.
- Deciding how, where and when to work.
- Able to hire other people at their own expense to help or do work for you.
- Providing the main items of equipment for the work.
- Responsible for finishing any unsatisfactory work in their own time.
- Charging an agreed fixed price for their work.
- Selling goods or services to make a profit (including through websites or apps).

Many of these also apply if you own a limited company but you're not classed as self-employed by HMRC. Instead you're both an owner and employee of your company.

You can be both employed and self-employed at the same time, for example if you work for an employer during the day and run your own business in the evenings.

You can check whether you're self-employed with HMRC and find information at [gov.uk/guidance/check-employment-status-for-tax](https://www.gov.uk/guidance/check-employment-status-for-tax).

If your assistant is self-employed you are not required to provide Employers Liability Insurance for them. Your self-employed assistants will still be covered under the SCMA policy to work with the children under the Public Liability element if they have met the Care Inspectorate requirements but will not be covered if they themselves have an accident.

Joint Registrations

Joint registrations come into a different category as they are considered to be partners running a business who have equal responsibility for their business.

Your Employer's Liability Insurance Policy

What does the policy cover?

The policy will provide indemnity to any person entitled to indemnity:

- against legal liability for damages in respect of injury of any person employed caused during any period of insurance arising out of and in the course of employment by the policyholder in the business.
- against legal liability for claimant's costs and expenses in connection with the above.
- in respect of costs of legal representation at:
 - 1) any coroner's inquest or inquiry in respect of any death.
 - 2) proceedings in any court arising out of any alleged breach of statutory duty resulting in injury which may be the subject of indemnity under this section.
- all other costs and expenses in relation to any matter which may form the subject of a claim for indemnity under the above incurred with the company's written consent.

How much does it cost?

If you are a member of SCMA and hold Public Liability Insurance with us, Employers Liability Insurance is included free of charge with your policy.

However, you must ensure that you notify SCMA of any changes to your assistants and your Employers Liability Insurance must be activated by calling SCMA on **01786 445377**.

Who do I contact to make a claim?

Please contact SCMA in the first instance on **01786 445377** or email **information@childminding.org**.

Where can I find full policy details?

You can request full policy details by contacting SCMA on **01786 445377**.



**BEST
SELLER**

SCMA Merchandise

All the tools you need for your professional childminding business.

MUST-HAVE!

scma Scottish
Childminding
Association
committed to quality childcare

Providing
Support

Stock up on all the tools you need for your professional childminding business with SCMA.

Our exclusive range of business tools, children's records and stationery are designed specifically for childminders in Scotland.

Shop online 24/7 at childminding.org or call SCMA on 01786 445377 to find out more.



scma

Scottish
Childminding
Association

committed to quality childcare

Scottish Childminding Association
Argyll Court, Castle Business Park, Stirling, FK9 4TY
Tel: **01786 445377**
Email: **information@childminding.org**
childminding.org

SCMA is an appointed representative of PACEY which is authorised and regulated by the Financial Conduct Authority (FCA). Registered at Argyll Court, Castle Business Park, Stirling, FK9 4TY, registered charity number SC010489. Underwritten by Royal & Sun Alliance Insurance plc. (No. 93792) at St Mark's Court, Chart Way, Horsham, West Sussex RH12 1XL. Authorised and regulated by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA).

© Scottish Childminding Association, May 2021



Scottish Government
Riaghaltas na h-Alba
gov.scot

We acknowledge the support of the
Scottish Government through a
CYPFEIF and ALEC Fund Grant.