



Care Act 2014

2014 CHAPTER 23

PART 1

CARE AND SUPPORT

Direct payments

32 Adults without capacity to request direct payments

- (1) This section applies where—
 - (a) a personal budget for an adult specifies an amount which the local authority must pay towards the cost of meeting the needs to which the personal budget relates, and
 - (b) the adult lacks capacity to request the local authority to meet any of those needs by making payments to the adult, but
 - (c) an authorised person requests the local authority to meet some or all of those needs by making payments to the authorised person.
- (2) If conditions 1 to 5 are met, the local authority must, subject to regulations under section 33, make the payments to which the request relates to the authorised person.
- (3) A payment under this section is referred to in this Part as a “direct payment”.
- (4) A person is authorised for the purposes of this section if—
 - (a) the person is authorised under the Mental Capacity Act 2005 to make decisions about the adult’s needs for care and support,
 - (b) where the person is not authorised as mentioned in paragraph (a), a person who is so authorised agrees with the local authority that the person is a suitable person to whom to make direct payments, or
 - (c) where the person is not authorised as mentioned in paragraph (a) and there is no person who is so authorised, the local authority considers that the person is a suitable person to whom to make direct payments.

Status: This is the original version (as it was originally enacted).

- (5) Condition 1 is that, where the authorised person is not authorised as mentioned in subsection (4)(a) but there is at least one person who is so authorised, a person who is so authorised supports the authorised person's request.
- (6) Condition 2 is that—
- (a) the local authority is not prohibited by regulations under section 33 from meeting the adult's needs by making direct payments to the authorised person, and
 - (b) if regulations under that section give the local authority discretion to decide not to meet the adult's needs by making direct payments to the authorised person, it does not exercise that discretion.
- (7) Condition 3 is that the local authority is satisfied that the authorised person will act in the adult's best interests in arranging for the provision of the care and support for which the direct payments under this section would be used.
- (8) Condition 4 is that the local authority is satisfied that the authorised person is capable of managing direct payments—
- (a) by himself or herself, or
 - (b) with whatever help the authority thinks the authorised person will be able to access.
- (9) Condition 5 is that the local authority is satisfied that making direct payments to the authorised person is an appropriate way to meet the needs in question.