

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

Direct payments

Section 31 – Adults with capacity to request direct payments

209. As section 8 sets out, a direct payment is one of the ways in which needs may be met. A direct payment is a payment that a local authority can make to an adult to enable that person to arrange care and support to meet assessed eligible needs. This section specifies conditions which must be met to receive a direct payment. It relates to adults who have the capacity to request a direct payment.
210. *Subsection (1)* makes clear that a direct payment may not be made unless the local authority is required to contribute towards the costs of meeting the adult's needs and the adult requests a direct payment to be made to the adult or to someone who is nominated by the adult to receive the direct payment.
211. *Subsection (2)* states that the local authority must agree to the request for and make a direct payment if the four conditions specified in *subsections (4) to (7)* are met (unless provisions in regulations made under section 33 provide otherwise). The four conditions are:
- in *subsection (4)* that the adult must have capacity to make the request for a direct payment, and that any person nominated to receive a direct payment of their behalf must agree to doing so;
 - in *subsection (5)* that the local authority is not prohibited by regulations made under section 33 from meeting the adult's needs by making direct payments to the adult (or person nominated). For example, these regulations may specify that some people will not be able to receive a direct payment, such as those undergoing some types of drug treatment;
 - in *subsection (6)* that the local authority must be satisfied that the adult (or anyone nominated on their behalf) is capable of managing a direct payment, either on their own or with whatever help is available to them (for instance from family members); and,
 - in *subsection (7)* that the local authority is satisfied that making direct payments (either to the adult or someone nominated) is an appropriate way of meeting the needs for care and support.