



Care Act 2014

2014 CHAPTER 23

PART 1

CARE AND SUPPORT

Direct payments

31 Adults with 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 requests the local authority to meet some or all of those needs by making payments to the adult or a person nominated by the adult.
- (2) If conditions 1 to 4 are met, the local authority must, subject to regulations under section 33, make the payments to which the request relates to the adult or nominated person.
- (3) A payment under this section is referred to in this Part as a “direct payment”.
- (4) Condition 1 is that—
 - (a) the adult has capacity to make the request, and
 - (b) where there is a nominated person, that person agrees to receive the payments.
- (5) 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 adult or nominated 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 adult or nominated person, it does not exercise that discretion.

Status: This is the original version (as it was originally enacted).

- (6) Condition 3 is that the local authority is satisfied that the adult or nominated person is capable of managing direct payments—
 - (a) by himself or herself, or
 - (b) with whatever help the authority thinks the adult or nominated person will be able to access.
- (7) Condition 4 is that the local authority is satisfied that making direct payments to the adult or nominated person is an appropriate way to meet the needs in question.

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.
- (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.

33 Direct payments: further provision

- (1) Regulations must make further provision about direct payments.
- (2) The regulations may, in particular, specify—
- (a) cases or circumstances in which a local authority must not, or cases or circumstances in which it has the discretion to decide not to, meet needs by making direct payments;
 - (b) conditions which a local authority may or must attach to the making of direct payments;
 - (c) matters to which a local authority may or must have regard when making a decision of a specified type in relation to direct payments;
 - (d) steps which a local authority may or must take before, or after, making a decision of a specified type in relation to direct payments;
 - (e) cases or circumstances in which an adult who lacks capacity to request the making of direct payments must or may nonetheless be regarded for the purposes of this Part or the regulations as having capacity to do so;
 - (f) cases or circumstances in which an adult who no longer lacks capacity to make such a request must or may nonetheless be regarded for any of those purposes as lacking capacity to do so;
 - (g) cases or circumstances in which a local authority making direct payments must review the making of those payments.
- (3) A direct payment is made on condition that it be used only to pay for arrangements under which the needs specified under section 25(2)(a) in the care and support plan or (as the case may be) the support plan are met.
- (4) In a case where one or more of conditions 1 to 4 in section 31 is no longer met or one or more of conditions 1 to 5 in section 32 is no longer met, the local authority must terminate the making of direct payments.
- (5) In a case where a condition specified under subsection (2)(b) or the condition mentioned in subsection (3) is breached, the local authority—
- (a) may terminate the making of direct payments, and
 - (b) may require repayment of the whole or part of a direct payment (with section 69 accordingly applying to sums which the local authority requires to be repaid).