



## Direct Payments Factsheet – Acting as an Authorised Person

### What is the difference between a nominated person and an authorised person?

A **nominated** person is someone you choose to help you manage your direct payment. This could be a friend or family member. If you nominate someone to manage the direct payment on your behalf, you still maintain the legal responsibilities that go with it.

*For example, Mrs Smith is 92 years of age. She feels that she will have difficulty paying her personal assistant and fully understanding the contracts that are involved. With his agreement, she ‘nominates’ her son to manage the financial and legal aspects on her behalf.*

### Nominated Person

Where the local authority is satisfied that the person has capacity to make a request for direct payments to cover some or all of their care needs, it must consider each of the four conditions in **Clause 31 of the Care Act**. These conditions need to be met in their entirety; a failure in one would result in the request to receive a direct payment being declined:

- The adult has capacity to make the request, and where there is a nominated person, that person agrees to receive the payments
- 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
- The local authority is satisfied that the adult or nominated person is capable of managing direct payments either by himself or herself, or with whatever help the authority thinks the adult or nominated person will be able to access
- 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

The Care Act provides a power to enable direct payments to be made to the person in need of care and support, or a nominated person acting on their behalf if agreed by the person with care needs and that person has capacity.

The authority must clarify at the earliest stage possible where the request originates from. Where a nominated person has been requested to receive the direct payment,



the local authority should consider whether to involve the nominated person in the care and support planning process.

The local authority should consider when to involve the nominated person in the care planning journey. So that the nominated person understands their legal obligations to act in the best interests of the person requiring care and support the nominated person should receive and need to know:

- Information regarding the local authorities direct payments processes
- Information and advice on using and managing the direct payment

### **Authorised Person**

An **authorised** person is someone who manages the direct payment on your behalf, because you are not mentally able to do so. This might be because you have a mental health illness. This could be a friend or family member. If you have an authorised person managing your direct payment, then they become legally responsible for everything that goes with it.

***For example: Mr Toms has a cognitive impairment and deemed to lack capacity regarding his finances and care needs in his most recent assessment. He responds well with a private carer which improves his quality of life. Mrs Toms will act in her husband's best interest to manage the finances and legalities of the direct payment to improve his quality of life.***

In cases where the person in need of care and support has been assessed as lacking capacity to request the direct payment, an authorised person can request the direct payment on the person's behalf. In these cases, the local authority must satisfy itself that the person meets the five conditions as set out in section 32 of the Care Act. As with direct payments for people with capacity, each of these conditions must be met in their entirety. Failure to meet any of the conditions would result in the request being declined.

An authorised person can request the direct payment on the person's behalf, and for this to be agreed all of these five conditions must be met:

- Where the authorised person is not authorised under the Mental Capacity Act 2005, a person who is so authorised supports the authorised person's request.
- 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.
- 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.
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- The local authority is satisfied that the authorised person is capable of managing direct payment by himself or herself, or with whatever help the authority thinks the authorised person will be able to access.
- The local authority is satisfied that making direct payments to the authorised person is an appropriate way to meet the needs in question.

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