

# **SOCIAL SERVICES AND WELL- BEING (WALES) ACT 2014**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 50 - Direct payments to meet an adult's needs***

187. **Section 50** provides the Welsh Ministers with a power to make regulations that require or allow a local authority to make payments (direct payments) towards the costs associated with meeting an adult's needs for care and support so as to allow the adult to make his or her own arrangements to purchase the care required.
188. Subsections (3) and (4) set out the preconditions for any such payments to be made. A person with capacity must consent to receiving payments instead of services. Where a person does not have capacity then consent to the making of direct payments can be given in a number of ways. If there is a person authorised under the Mental Capacity Act 2005 (through an appropriately worded lasting power of attorney or through appointment as a deputy by the Court of Protection) then that person can consent, as the recipient of the payments, or can consent to the payments being made to another person who must also consent. If there is no-one authorised under the 2005 Act then a person willing to be the recipient of the payments can give consent so long as the other relevant conditions of this section are met.
189. In the case of an adult with capacity or without capacity, payments can be made if the recipient of the payment might not be able to manage the payment him or herself but is capable of doing so with support which is available. In both cases there is a need for a local authority to be satisfied that making the payments is an appropriate way of meeting the adult's care needs. Additionally, where the adult does not have capacity the local authority must be satisfied that the recipient of the payment will act in the adult's best interests.