

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

Next steps after assessments

Section 28 – Independent personal budget

194. This section establishes the concept of independent personal budgets for adults who have eligible needs, and who choose not to have these needs met by their local authority. Such persons will not have personal budgets under section 26 because the local authority is not under a duty to prepare a care and support plan for them, so a separate mechanism is needed to record their care costs for the purposes of measuring progress towards the costs cap.
195. The independent budget is a statement recording how much of the adult's spending on care will count towards the cap. This amount will be equivalent to what it would cost the local authority to purchase care and support that meets their eligible needs.
196. *Subsection (1)* defines the independent personal budget as a statement that shows the amount that it would cost the local authority to meet the adult's eligible needs. The independent personal budget is equivalent to what it would cost the local authority to purchase the care for the individual, if it were doing so under section 18.
197. *Subsection (2)* requires the independent personal budget to specify how much of the total represents daily living costs (see section 15) and the remaining amount of the independent personal budget that is for care costs and therefore contributes towards someone's progress towards the cap. Local authorities are required to keep the independent personal budget under review, and if the person asks for it to be reviewed, must do so if the request is reasonable (*subsection (4)*).
198. If the local authority considers the adult's circumstances to have changed in a way that might affect the independent personal budget, then they must, if appropriate, carry out a new needs assessment and revise the independent personal budget (*subsection (6)*).
199. If an adult refuses a reasonable request to be re-assessed, then their independent personal budget will cease counting towards their accrued costs and the local authority will not have to keep their care account up to date (*subsection (7)*).
200. Following a review, the local authority must notify the adult of the outcome and if the independent personal budget has changed, must explain why (*subsection (8)*).