

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

Provider failure

Section 49 – Section 48: cross-border cases

310. This section applies in the cases mentioned in subsections (2) and (3) and imposes certain duties and confers certain powers on local authorities in England in such cases.
311. *Subsection (1)* sets out that section 49 applies where, in cases falling within section 48, the service provider whose business has failed was meeting an individual's needs under arrangements made by a local authority in Wales or Scotland or a Health and Social Care trust in Northern Ireland under the legislative provisions referred to in paragraphs (a) to (c) of subsection (1).
312. *Subsection (2)* sets out that section 49 applies where the failed service provider was meeting the individual's needs in return for payment made with direct payments made by a local authority in Wales or Scotland or a Health and Social Care trust in Northern Ireland under the legislative provisions referred to in subparagraphs (i) to (iii) of paragraph (b) of subsection (2).
313. *Subsection (3)* provides that the local authority in England must, in meeting needs under section 48, cooperate with the authority or trust which made the arrangements or the direct payments and may recover from that authority or trust the cost it incurs in respect of meeting needs which were being met pursuant to those arrangements or purchased with the direct payments. It also allows the authority in England to recover the cost of meeting other needs from the adult – for example needs which the service provider was meeting under separate arrangements made by the adult.
314. *Subsection (4)* provides that any dispute between a local authority in England and an authority in Wales or Scotland or a trust in Northern Ireland must be resolved in accordance with the dispute resolution procedure in paragraph 5 of Schedule 1.