



Care Act 2014

2014 CHAPTER 23

PART 1

CARE AND SUPPORT

Provider failure

48 Temporary duty on local authority

- (1) This section applies where a person registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (a “registered care provider”) in respect of the carrying on of a regulated activity (within the meaning of that Part) becomes unable to carry on that activity because of business failure.
- (2) A local authority must for so long as it considers necessary (and in so far as it is not already required to do so) meet those of an adult’s needs for care and support and those of a carer’s needs for support which were, immediately before the registered care provider became unable to carry on the regulated activity, being met by the carrying on of that activity in the authority’s area by the provider.
- (3) A local authority is accordingly required to meet needs under subsection (2) regardless of—
 - (a) whether the relevant adult is ordinarily resident in its area;
 - (b) whether the authority has carried out a needs assessment, a carer’s assessment or a financial assessment;
 - (c) whether any of the needs meet the eligibility criteria.
- (4) Where a local authority is meeting needs under subsection (2), it is not required to carry out a needs assessment, a carer’s assessment or a financial assessment or to determine whether any of the needs meet the eligibility criteria.
- (5) A local authority may make a charge for meeting needs under subsection (2) (except in so far as doing so involves the provision of information or advice); and a charge

Status: This is the original version (as it was originally enacted).

under this subsection may cover only the cost that the local authority incurs in meeting the needs to which the charge applies.

- (6) Subsection (5) does not apply if section 49 (cross-border cases) applies (see subsection (3) of that section).
- (7) If the relevant adult is not ordinarily resident in the area of the local authority which is required to meet needs under subsection (2), that authority—
 - (a) must, in meeting needs under that subsection which were being met under arrangements made by another local authority, co-operate with that authority (in so far as it is not already required to do so by section 6);
 - (b) must, in meeting needs under that subsection which were being met under arrangements all or part of the cost of which was paid for by another local authority by means of direct payments, co-operate with that authority (in so far as it is not already required to do so by section 6);
 - (c) may recover from the other local authority mentioned in paragraph (a) or (b) (as the case may be) the cost it incurs in meeting those of the adult’s or carer’s needs referred to in the paragraph in question.
- (8) Any dispute between local authorities about the application of this section is to be determined under section 40 as if it were a dispute of the type mentioned in subsection (1) of that section.
- (9) “The relevant adult” means—
 - (a) in a case involving an adult’s needs for care and support, that adult;
 - (b) in a case involving a carer’s needs for support, the adult needing care.