



Care Act 2014

2014 CHAPTER 23

PART 1

CARE AND SUPPORT

Provider failure

52 Sections 48 to 51: supplementary

- (1) An authority becomes subject to the duty under section 48(2), 50(3) or 51(3) as soon as it becomes aware of the business failure.
- (2) Section 8 (how to meet needs) applies to meeting needs under section 48(2) as it applies to meeting needs under section 18.
- (3) Section 34 of the Social Services and Well-being (Wales) Act 2014 (how to meet needs) applies to meeting needs under section 50(3) as it applies to meeting needs under section 35 of that Act.
- (4) In deciding how to meet an adult's needs for care and support under section 48(2), 50(3) or 51(3), an authority must involve—
 - (a) the adult,
 - (b) any carer that the adult has, and
 - (c) any person whom the adult asks the authority to involve or, where the adult lacks capacity to ask the authority to do that, any person who appears to the authority to be interested in the adult's welfare.
- (5) In deciding how to meet a carer's needs for support under section 48(2), 50(3) or 51(3), an authority must involve—
 - (a) the carer, and
 - (b) any person whom the carer asks the authority to involve.

Status: This is the original version (as it was originally enacted).

- (6) In carrying out the duty under subsection (4)(a) or (5)(a), an authority must take all reasonable steps to reach agreement with the adult or carer about how it should meet the needs in question.
- (7) Sections 21 to 23 (exceptions to duty to meet needs) apply to meeting needs under section 48(2) as they apply to meeting needs under section 18.
- (8) Sections 46 to 49 of the Social Services and Well-being (Wales) Act 2014 (exceptions to, and restrictions on, duty to meet needs) apply to meeting needs under section 50(3) as they apply to meeting needs under section 35 of that Act.
- (9) Where an adult whose case comes within section 48 is being provided with NHS continuing healthcare under arrangements made by a clinical commissioning group no part of whose area is in the local authority’s area, the group is to be treated as a relevant partner of the authority for the purposes of sections 6 and 7.
- (10) “NHS continuing healthcare” is to be construed in accordance with standing rules under section 6E of the National Health Service Act 2006.
- (11) Where a local authority considers it necessary to do so for the purpose of carrying out its duty under section 48(2), it may request the registered care provider, or such other person involved in the provider’s business as it considers appropriate, to provide it with specified information.
- (12) Regulations must make provision as to the interpretation for the purposes of sections 48, 50 and 51 and this section of references to business failure or to being unable to do something because of business failure; and the regulations may, in particular, specify circumstances in which a person is to be treated as unable to do something because of business failure.
- (13) Pending the commencement of Part 4 of the Social Services and Well-being (Wales) Act 2014—
 - (a) a reference in section 49 or 51 to making arrangements to meet needs under section 35 or 36 of that Act is to be read as a reference to making arrangements or providing services under—
 - (i) Part 3 of the National Assistance Act 1948,
 - (ii) section 45 of the Health Services and Public Health Act 1968,
 - (iii) section 117 of the Mental Health Act 1983, or
 - (iv) Schedule 15 to the National Health Service (Wales) Act 2006;
 - (b) a reference in section 49 or 51 to making arrangements to meet needs under section 40 or 45 of that Act is to be read as a reference to providing services as referred to in section 2 of the Carers and Disabled Children Act 2000;
 - (c) a reference in section 49 or 51 to making direct payments under section 50 or 52 of that Act is to be read as a reference to making direct payments by virtue of section 57 of the Health and Social Care Act 2001;
 - (d) subsection (8) is to be read as if there were substituted for it—
 - “(8) Sections 21(1A) and (8) and 29(6) of the National Assistance Act 1948 apply to meeting needs under section 50(3) as they apply to the exercise of functions under sections 21 and 29 of that Act by a local authority in Wales (within the meaning given in paragraph 12 of Schedule 1).”

- (14) Pending the commencement of section 5 of the Social Care (Self-directed Support) (Scotland) Act 2013—
- (a) sections 49(2)(b)(ii) and 50(2)(b)(ii) are to be read as if there were substituted for each of them—
 - “(ii) under section 12B of the Social Work (Scotland) Act 1968,” and
 - (b) section 51(2)(b)(iii) is to be read as if there were substituted for it—
 - “(iii) under section 12B of the Social Work (Scotland) Act 1968.”.