

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

Market oversight

Section 55 – Assessment of financial sustainability of care provider

343. This section sets out the duty of the CQC to assess the financial sustainability of those providers which are subject to its regulatory regime with a view to identifying any threats that such providers may face to their financial sustainability. This section also provides for the CQC's response to situations where it is concerned that a provider's financial sustainability is threatened.
344. *Subsections (2)(a) and (3)* set out that, where the CQC identifies a significant risk to financial sustainability, it can require the provider to develop a sustainability plan. This would set out the provider's plans for mitigating or eliminating the risk. The CQC may require the provider, in developing the plan, to cooperate with it. The final plan may also be subject to the CQC's approval.
345. *Subsections (2)(b) and (4)* allow the CQC, where it identifies a significant risk to financial sustainability, to organise, or require the provider to organise, an independent business review, and charge the costs of the review back to the provider. These costs do not include the administrative costs that the CQC may incur in organising such a review.
346. *Subsection (5)* sets out that regulations may make provision for enabling the CQC to obtain, from certain persons, information which may be helpful to the CQC in assessing the financial sustainability of the provider. The type of information the CQC may need is likely to be information which relates to the finances of the care provider or which relates to the financial position of the particular entity - if the care provider is financially dependent on such entity. The type of person that may be described in such regulations may include companies within the same group as the provider, and companies that hold a significant ownership stake in the provider.
347. *Subsection (6)* provides that regulations may be made about the making of the CQC's assessment of a provider's financial sustainability.
348. *Subsection (7)* sets out that the CQC may consult on how to assess financial sustainability, and publish guidance on the methods it expects to apply in making its assessments.