

Social services in Wales during Covid-19: New Guidance


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This webinar is being recorded.

After the webinar we will send a link to the recording and a PDF set of the slides to everyone who registered for it.

If you have a question please submit via Q&A.
There will be time devoted to questions after the presentations.



- Adult social care: the new statutory guidance in Wales
- Implementing the modifications to the 2014 Act
- Streamlining and prioritising
- Guidance for children's social services in Wales

ADULTS

Topics covered in this part of the webinar

STRUCTURE

sources

what not changed

stages

ACTIVATING CHANGES STAGES 3 + 4

who decides

threshold

recording

relev't considtns

STAGE 3 "STREAMLINING"

assessments

what to record

degree of details

Ethical Framewk

STAGE 4 "PRIORITISATION"

possible tools -- withdrawal of a service? -- Ethical Framewk -- other duties

1. Structure: Sources



Coronavirus Act 2020: s.15,
Part 2 of Sch 12

Adult social services during the
COVID-19 pandemic: Guidance

Ethical Framework

Guidance is statutory: Act Sch 12 §35; Introduction to Guidance

1. Structure: Coronavirus Act

Coronavirus Act 2020

<http://www.legislation.gov.uk/ukpga/2020/7/contents/enacted/data.htm>

Commencement: s.87

Modifications temporary. WM keep under review, disapply them asap

Social care : Section 15/Sch 12
Disapply / modify SSWB(W) Act –
in force as of 1 April 2020
SI 2020/366

Codes of Practice: not amended. Duty to act in accordance with requirements contained in Code

1. Structure: What modified by Sch 12?

- s.19 assess'ts, s.24 carers assess'ts, associated regs
- s.32(1)(a) determination of eligibility
- s.32(2)(b) determination of charge
- s.35(3)(a) duty to meet eligible needs of adult
- ss.40: duty to meet eligible needs of adult carer
- ss.54: care and support plan

1. Structure: Abuse / Neglect and Risk

- Section 32(1)(b): “Where a LA is satisfied that a person has needs for care and support, or if the person is a carer, needs for support, the authority must determine whether it is necessary to meet the needs in order to protect the person from abuse or neglect or a risk of abuse or neglect”
- Section 35(3)(b) – duty to meet needs where LA considers it necessary to meet needs in order to protect adult from abuse or neglect or risk of abuse or neglect
- Section 40(3) - Duty to meet needs of adult carer if necessary to protect carer from abuse/neglect or risk abuse/neglect
- Defn of “abuse” and “neglect” in s197 of SSWBW Act. “Neglect” means a failure to meet a person’s basic physical, emotional, social or psychological needs, which is likely to result in an impairment of the person’s well-being (e.g given of impairment of the person’s health)

1. Structure: duties NOT changed

General Duties in 2014 Act

- Sections 5, 6, 7 not dis-applied by Sch 12 – promote well-being, have regard int conventions
- Prevention / information and advice

HRA

- “Continuing duties under the ECHR”
- Article 2 (right to life), Article 3 (freedom inhuman and degrading treatment), Article 8 (privacy and family life), Article 14 (discrimination)

Discrimination law

- Duties to make reasonable adjustments remain
- Duties towards people with protected characteristics
- **BUT** discriminating if express removal of duty to assess / provide?

PSED

- Underpin any decisions made with regard to the care and support someone receives

Safeguarding

- Part 7 duties
- Guidance, Annex D

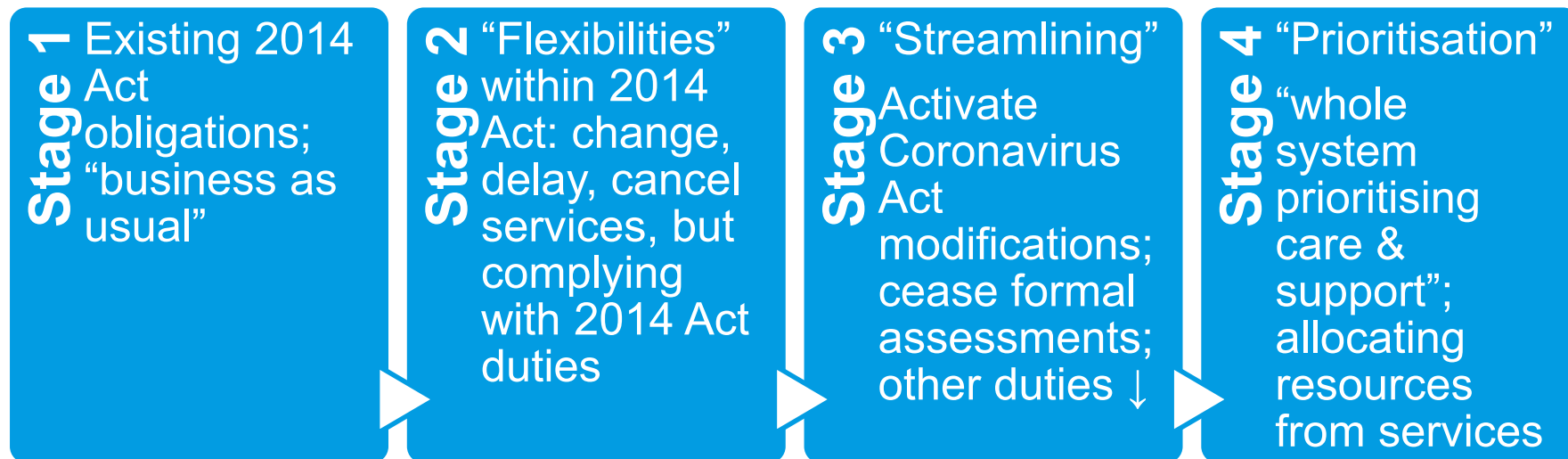
MCA DOLS

- NOT amended
- No derogation from Article 5
- MCA/DOLS guidance published by DHSC applies in Wales


1. Status of the Guidance

- Modifications in force 1 April 2020. Guidance not published until 30 April 2020
- Para 35 of Schedule 12 – LA must “have regard” to the guidance issued by the Welsh Ministers
- Must act in accordance with guidance unless there is a good reason not to: *ex p Rixon*
- MUST comply with such guidance as WM direct. No direction
- Para 35(5) of Sch 12 – LA may disregard provision of Code so far as inconsistent with guidance issued under para 35

1. Structure: The Four Stages



2. Activation

- 
- §2: “exercised as a last resort where this is essential in order to maintain highest possible level of services”
 - Comply with unmodified Act and Codes of Practice “for as long and as far as possible”
 - §9: “should continue to do everything they can to continue meeting their existing duties”
 - Pg 10: “1. when workforce is significantly depleted, or demand on social care increased, to extent it is no longer reas practicable to comply its 2014 Act duties. 2. where to continue to try to do so is likely to result in needs not being met, potentially risking life”
 - Pg 10: Any changes resulting from decision “should be proportionate to the circumstances in a particular local authority”
 - Annex A chart: “Where the impact of the pandemic is making this unachievable or untenable”
 - Annex B: Streamlining “only apply when it is no longer possible ...”

2. Activation: Principles/Core Values

- Act/Codes - principled, people centred and values based approach to all aspects of social care. Essential that maintained during pandemic
- Ethical Framework (Principle 1 (opportunity express views); Principle 2 (decisions on evidence); Principle 4 (involve families and carers in aspects of planning, appropriate communication))
- Reinforce practice principles set out in Part 3 Code of Practice (assessing needs) for person centred planning and delivery
- Respectful conversations about their well-being; take full part in decisions about their care: consultation re activation? Professional judgment in partnership with people, agree BI
- Reasonable: work with person, carer, family, understand needs, capacity, resources, outcomes, how best supported to achieve them

2. Activation: Who Decides?

- Decision to operate modifications taken locally. “Informed” by discussions with local partners and stakeholders
- Implementation “agreed by” the Director of Social Services
- Lead elected members briefed and involved; providers/partners engaged
- Annex A chart: DSS “authorise arrangements for determining and recording”
- DSS determine need to consult more widely
- Social care sector partners kept fully informed, including organisations supporting people, providers and Regional Partnership Boards
- BUT guidance cannot alter existing LA constitutional structures and schemes of delegation

2. Activation: Recording

Guidance ("where reasonably possible")

- "nature of the changes to demand or workforce"
- "steps taken to mitigate against the need for this to happen"
- "expected impact of measures taken"
- "how changes will enable LA to prioritise care and/or support at a population level"
- "individuals involved in the decision-making process"
- "points at which this decision will be reviewed again including as required in decision matrix"

Guidance Annex A chart

- "reason the decision needs to be taken"
- "impact of the decision on the people who ordinarily use the service"
- "impact of the decision on families and carers of people who ordinarily use the service"
- "possible alternative sources of care and support and the likelihood of this being available"

2. Activation: Other Issues

Activation: all or nothing?



LA may deploy “one or more” of modifications



Flexible approach consistent with scheme

Review



every 2 weeks and recorded



De-escalation and re-establishment of full duties and rights under 2014 Act implemented as soon as is reasonably possible

3. Assessments/Reviews/changes care

Not
required?

- Sch 12 removes statutory assess, planning duties; point of Sch 12
- assessment NOT necessary for HR compliance (but how know if HR breach w/o assessment?)

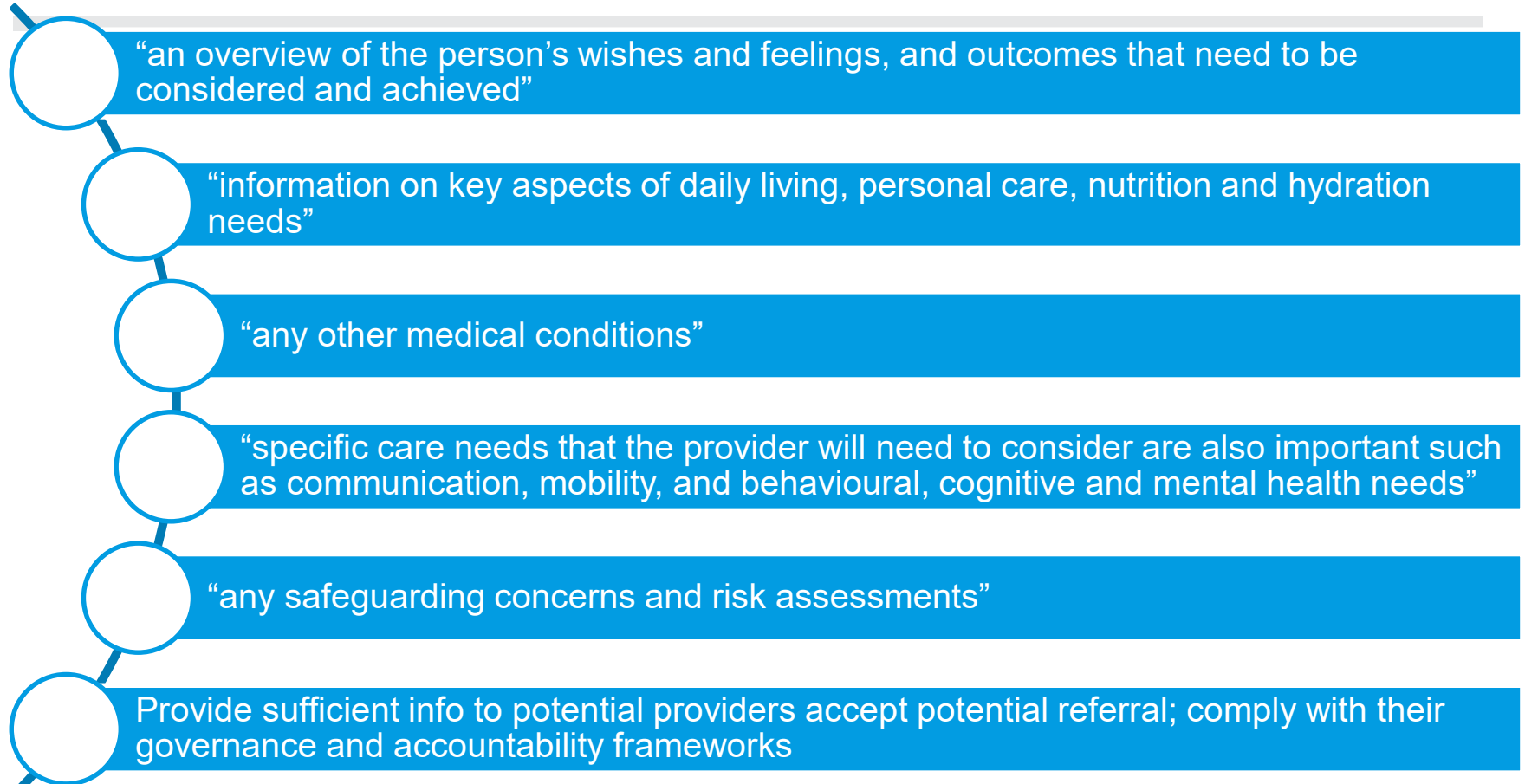
Required?

- Section 32(1)(b) – abuse/neglect
- Guidance Annex B is clear that assessment & recording continues
- “LAs should still assess ... make a written record”
- “crucial that LAs able to evidence their decision ... adequate records are kept”

3. Streamlining: Assessments

- Respond to increased pressures – LA “may have to reduce the level of comprehensiveness” of assessments, determination eligibility, conduct financial assessment, prepare/review care plan
- DSS – “proportionate professional recording is maintained”. May consider “single alternate document for local use”
- Evidence decision, demonstrate professional judgment, apply Ethical Framework in context of Covid-19, and, “where necessary” record they have considered protections including relevant Convention rights
- Assessments not face to face – done third parties/telephone/video calls
- Complaints/escalation proceeds remain under 2014 Act

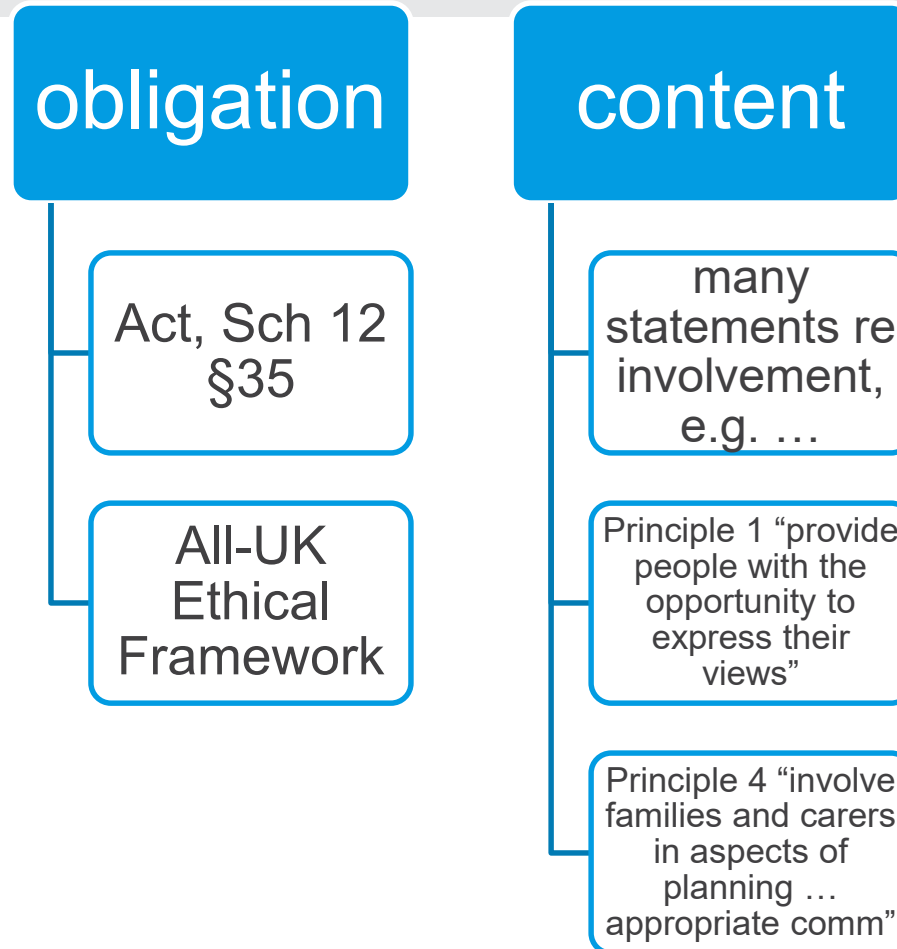
3. Streamlining: Recording requirements (Annex B)



3. Streamlining: Care Planning

- Wherever reasonably practicable to do so, continue to include person, families/carers in decision about revising care plans
- LA/providers/direct payment recipients should work together to agree the circumstances in which, and by how much, the care package and direct payments can be varied without review to ease administrative burdens on workforce.
- LA duties to support inds and ensure needs met same whether DP or directly provided by LA. Includes arrangements for social care sector accessing PPE equipment.
- Not seen any Direct Payment guidance for Wales (has been some for England)

3. Streamlining: Ethical Framework



4. Prioritising

- Annex C: prioritisation guidance
- Must comply with existing duties - "sufficient care and support will have to remain in place at all times in order to ensure that people are protected from abuse or neglect and the Convention rights of all those in need of care and support, and of carers, are respected.
- Duty to meet needs in order to protect adult from abuse/neglect or risk of same . Meet "basic" needs, likely to result in impairment of well-being
- "Criteria are well established and understood across local authorities as well as the wider social care sector"
- Identify these individuals – must meet their needs

4. Prioritising

Guidance Annex C suggests tools for prioritisation ...



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graph TD; A[Guidance Annex C suggests tools for prioritisation ...] --> B[Mapping all of LAs known packages for complexity and need, direct payments, unpaid carers, self funders]; B --> C["LAs may choose to adopt a RAG rating approach"]; C --> D[First instance, consider high/moderate. Suggests prioritisation could mean cutting off low band packages];
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Mapping all of LAs known packages for complexity and need, direct payments, unpaid carers, self funders

“LAs may choose to adopt a RAG rating approach”

First instance, consider high/moderate. Suggests prioritisation could mean cutting off low band packages

4. Prioritising

Consider and allocate capacity across the whole of adult social care or all of social care

- Allocating resources from some services types that may not be under pressure
- Support those areas that are

Withdrawal of a service?

- seems exactly what Sch 12 & Stage 4 involves
- But Guidance says opposite; Annex A “The 2020 Act does not give authority to block, restrict or withdraw whole services ... person-centred decisions”

How square this with Ethical Framework?

- Guidance says “underpins” prioritisation decision; also Annexes A & C
- Decisions made “within the remit” of the Ethical Framework
- But how: is directed to individuals & involvement. Conflicting principles.

4. Prioritising

- LAs confirmed undertaken prioritisation exercises – reflect distinct needs and services in their immediate and neighbouring areas
- WG does not wish to propose alternative methodologies in place of the well-established arrangements, including cross-authority mutual aid
- Personalised and effective way, ensuring individuals engaged in process as much as possible
- Example given of local authority personal care for one person so that another gets the help they need to eat
- Policy on prioritisation, framework for decisions. Otherwise impossible individual decisions taken by those on the ground

CHILDREN

“Children’s social services during the COVID-19 pandemic: guidance”

<https://gov.wales/childrens-social-services-during-covid-19-pandemic-guidance-html>

issued 21.4.20

is it statutory?

audience: those involved in vulnerable children, safeguarding, assess, plan

those making / reviewing plac't decisions for LAC, care leavers & adopted

Aims of the guidance



“encourage a flexible and pragmatic approach” to maintaining support for LAC & vulnerable children during coronavirus outbreak

recognise areas of provision where LAs will struggle to meet statutory requirements & provide guidance on measures to put in place “that are in the spirit of the law”

minimise impact of coronavirus on Children’s Services & partners, when resources available to cope with additional burdens are reduced

promote partnership working

“Principles”

“When making decisions about the operation of services, or about individual children, everyone’s work should be guided by the following principles ...”

“promoting the well-being of children”

Information-sharing in accordance with “Working Together ...”

inter and multi-disc working, co-productive rels

rights & WB of children paramount

as far as poss, continue to ascertain and have regard to wishes

“How should LAs prioritise activity during the emergency?”

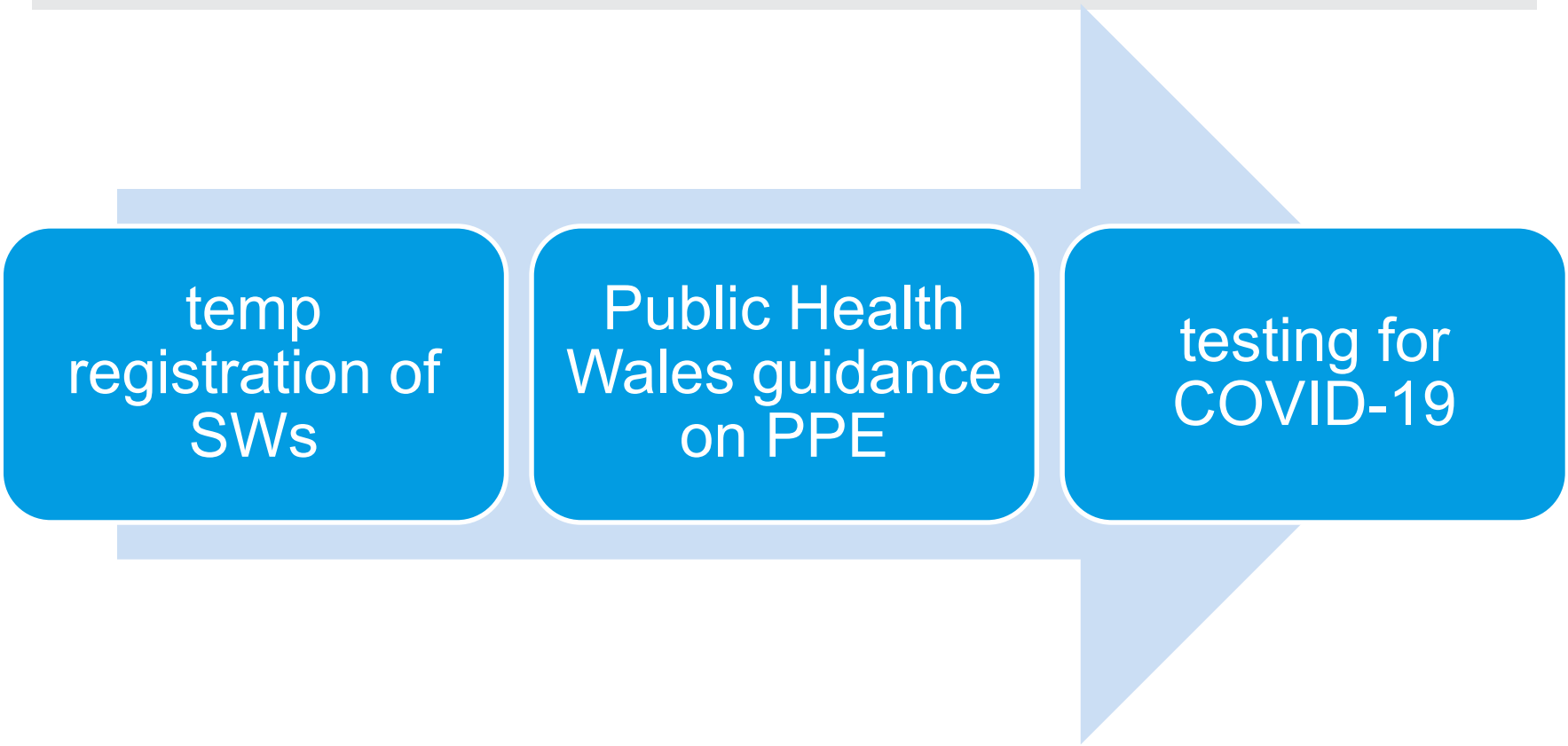
aware that LAs have risk assessed existing cases

work with partner agencies to share info

avoid duplication

secure a shared understanding of need

work with partner agencies to monitor & review



temp
registration of
SWs

Public Health
Wales guidance
on PPE

testing for
COVID-19

Maintaining contact

“Stay at Home”, 2m social distancing; so face to face contact by SWs generally suspended

does not
mean
reduction of
frequency
of contact

make
informed
judgement
re visiting;
balance
risks

follow PPE
guidance
when
visiting
private
households

use digital
and virtual
means
where
approp (but
safegrdg?)

Contact arrangements

“Contact arrangements should therefore be assessed on a case by case basis taking into account a range of factors including the UK government’s social distancing guidance and the needs of the child. It may not be possible, or appropriate, for the usual face-to-face contact to happen at this time and keeping in touch will, for the most part, need to take place virtually. We expect the spirit of any contact orders made in relation to children in care to be maintained and will look to social workers to determine how best to support those valuable family interactions based on the circumstances of each case.”

Contact with foster carers



support children in foster care to maintain contact
with birth families, siblings

phone calls, video chats, social media

not all families have access to computers & devices

Care & support planning, pathway plans, reviews

recognise difficulty in complying with some reqs re care planning

LAs should make every effort to comply; continue to take full account of needs / wishes of children in care

“imperative” that care & support plans, pathway plans continues & completed, with full involvement of professionals

practical difficulties with delivery & review of care & support plans in timescales; health/ ed profssls

Children's residential homes

If looking to change purpose of home from short breaks to supporting COVID-19, need notification of change

notify if home is going to close; if impending staff shortage, discuss this f urgently with placing authorities

expect children in residtl care to continue to be supported to have contact with birth families & siblings

“Every child who can be safely cared for at home should be and only where there is no safe alternative should provision be made in schools or other settings”

“vulnerable children” =
have SW or Statement

prioritise most vuln
children by need for
provsn

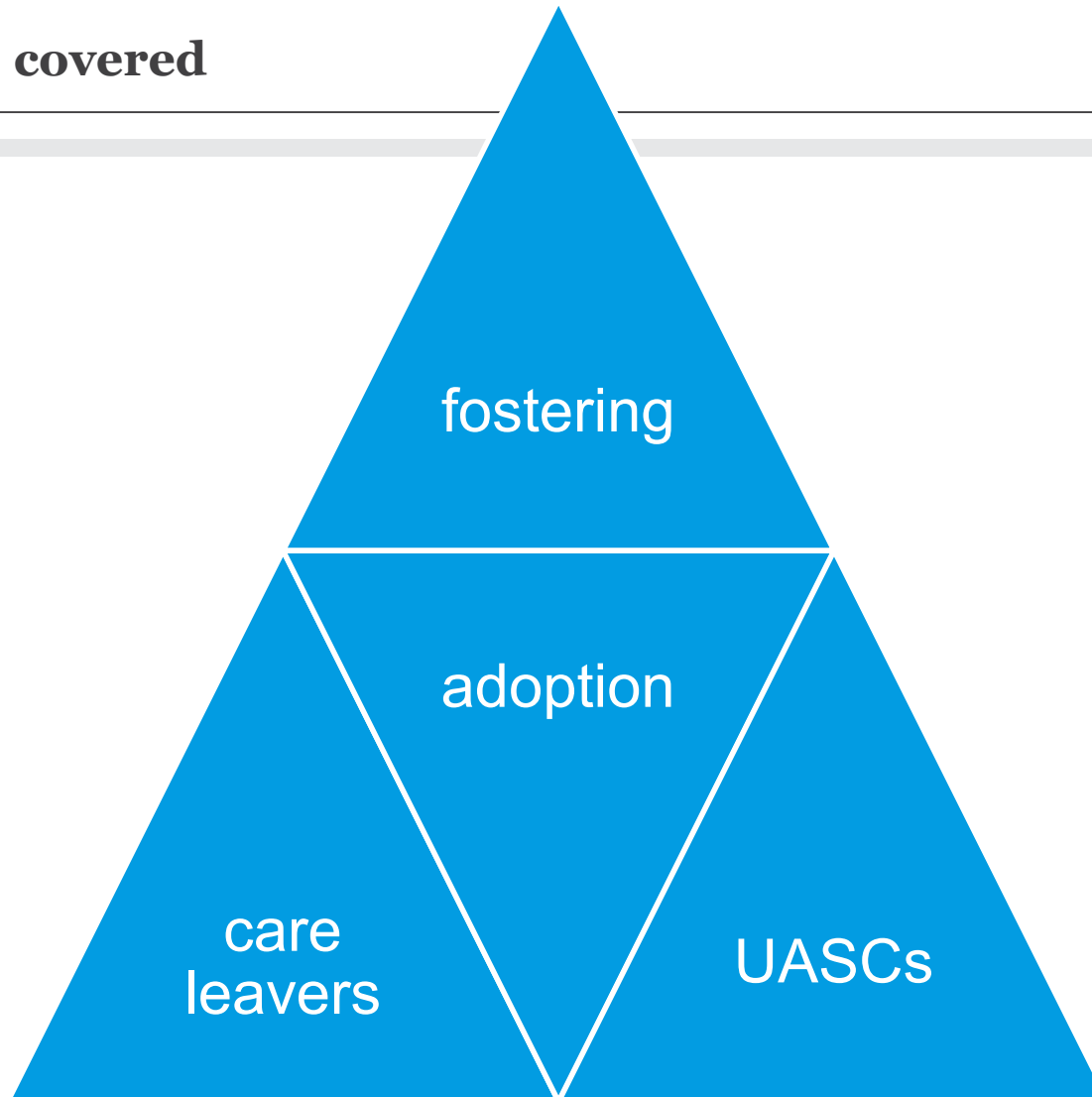
if can safely be cared for at home, then
should be

for EOTAS providers to ID and
cater to needs of these children

have protocols
for safegrding

allocate staff for
WB & safegdg
contacts

could involve
attending PRU or
other



Q&A

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