



Department
of Health &
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Dear colleagues,

COVID-19 contingency planning update: Emergency Coronavirus Bill

I am writing to update you on the steps that the Department of Health and Social Care (DHSC) is taking to support the adult social care sector in its response to COVID-19 and, specifically, to provide information about relevant measures in the Emergency Coronavirus Bill.

Work so far

Firstly, I want to thank you for all the time and effort that you are dedicating to maintaining the provision of critical services for some of the most vulnerable people in society. We are very grateful for your responses to such a fast-changing scene, for the preparations that you have made to assist the sector and for the contribution of sector leaders to national-level work through our new National Adult Social Care Covid-19 Group (NACG).

With your support we have already been able to publish guidance covering care homes, the home care sector, and supported living¹. We will also be issuing at least 300 fluid repellent facemasks to every care home and home care provider by next Tuesday. This will cover the initial rise in demand whilst we work rapidly with wholesalers to ensure a longer-term supply of all aspects of PPE. More broadly, last week's Budget announced a Covid-19 response fund initially set at £5bn for the NHS and other public services to tackle the virus.

Emergency Coronavirus Bill

Yesterday the Government published a policy paper setting out the provisions of an emergency Bill, to be introduced in Parliament shortly². These include significant changes to Local Authority duties under the Care Act 2014, aimed at enabling LAs and providers to prioritise resources on the most pressing and acute care needs for the most critical period of the Covid-19 pandemic.

I know that you will be committed to delivering on all your existing duties during the coming period. However, we need to prepare for the possibility that during the peak of an epidemic a greater number of people will need social care and many staff may be unavailable due to illness or the need to care for loved ones. This could mean that you need to focus your resources on ensuring the most serious and urgent care needs are met, and defer meeting some other, less acute or pressing needs. The emergency Bill will support you in this through the following changes, to be brought into effect when the need arises -

¹ <https://www.gov.uk/government/publications/covid-19-residential-care-supported-living-and-home-care-guidance>

² <https://www.gov.uk/government/publications/coronavirus-bill-what-it-will-do/what-the-coronavirus-bill-will-do>



1. Firstly, the duties on Local Authorities to meet eligible needs at present will be replaced, for the duration of the emergency period, with a *power* to meet needs, underpinned by a duty to meet needs for care and support where failure to do so would breach an individual's human rights (for example in relation to neglect). We hope that this will enable you to undertake a systematic prioritisation of provision where necessary to enable you to focus on the most acute care needs, and to mitigate the impacts of the emergency period across your service provision.
2. During the emergency period you will also no longer have a duty to carry out formal assessments, including financial assessments, in accordance with the Care Act. We hope that this will permit you to provide urgent care to individuals without a full Care Act assessment and, therefore, to prioritise the provision of care and support as discussed above. The changes we are making also allow that, if you have not charged an individual for their care during the emergency period, you are able to do so retrospectively after the conclusion of the emergency (subject to financial assessment).
3. We are also including provisions to allow NHS organisations to delay undertaking Continuing Healthcare assessments until after the peak of the pandemic. The aim of this is to ensure that patients that are ready to leave hospital are able to do so with minimum administrative burden, therefore making the best possible use of NHS staff and hospital space.
4. Finally, in the next few days we intend to publish an ethical framework to support decision-making during this period. We also propose to work with you and other partners to develop guidance covering the way these provisions might be operated by commissioners and providers. The Bill will confer powers on the Secretary of State for Health and Social Care to direct Local Authorities to follow this guidance.

These provisions will only come into force following a decision by the Secretary of State, and will be time-limited, based on the best clinical and scientific advice. If and when they do, there will be an expectation that you will continue to meet eligible needs in full wherever you have the capacity to do so.

We will continue to update you on other aspects of our preparations for the sector, including the guidance on the Bill provisions.

Please cascade this letter to your staff, delivery partners and other interested parties.

Yours sincerely,



JONATHAN MARRON
Director General, Prevention, Community and Social Care