



Llywodraeth Cymru
Welsh Government

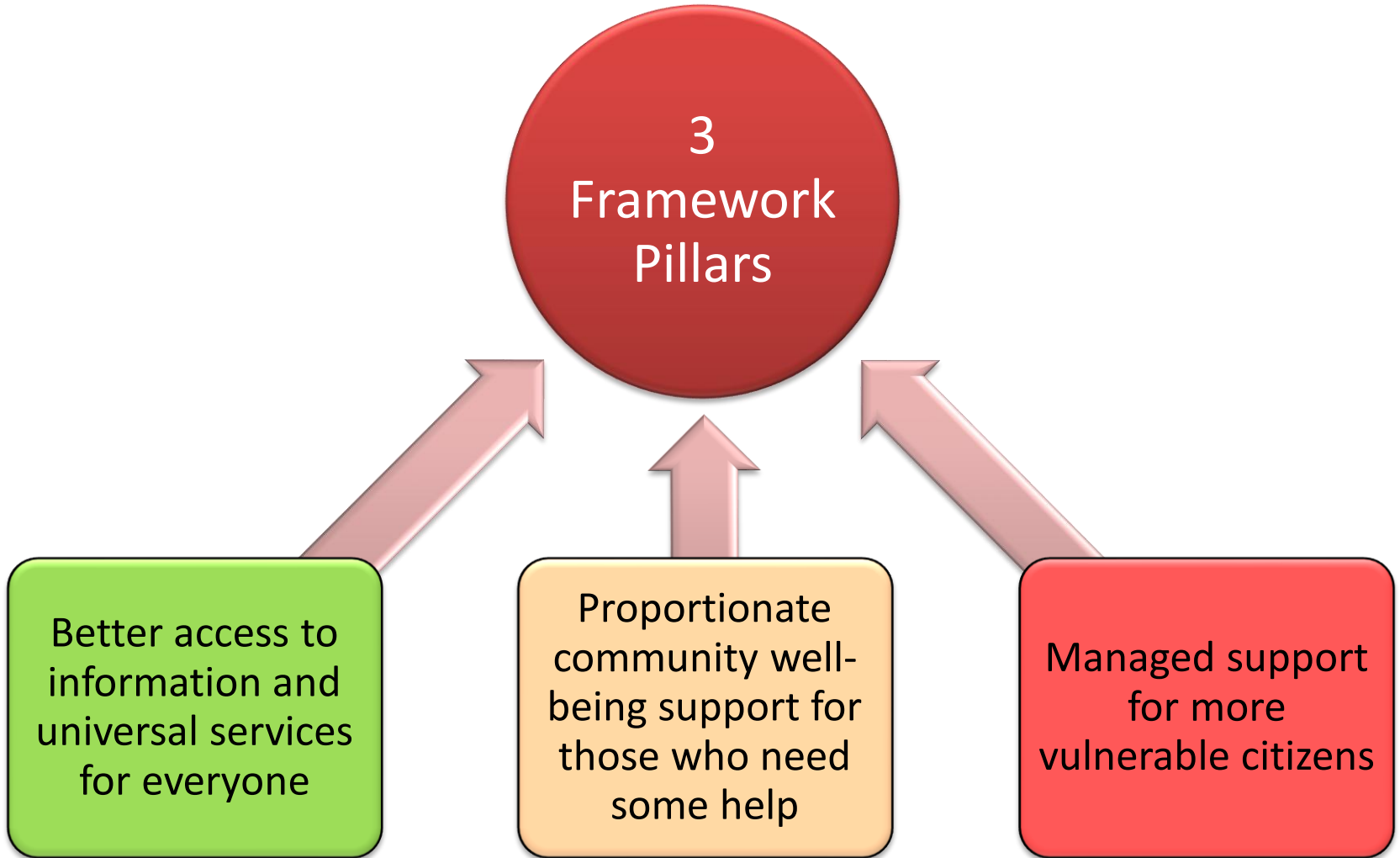
www.cymru.gov.uk

Parts 3 and 4 of the Social Services and Well-being (Wales) Act

Ordinary Residence and Dispute Resolution

- Ordinary residence determines which local authority is responsible for assessing and meeting a person's care and support needs – **essentially no change to this.**
- We intend to extend the specified accommodation to include adult placement (Shared Lives) schemes as well as care homes and we are consulting on whether other types of accommodation (e.g. supported living) should also be included.
- Regulations will deal with disputes about a person's ordinary residence, and Dispute Resolution procedures will also apply to disputes about the temporary duty and (if necessary) portability of care and support.

The 3 Pillars



Focus of the Assessment – Proportionate to need & circumstances

Whether, and if so to what extent, the provision of:

- Information, Advice and Assistance
- Preventative Services
- Or Care and Support (self-managed or otherwise)

... could contribute to the achievement of the individual's personal well-being outcomes or otherwise meet needs.

(.... and the order is important)

Eligibility determination is based on a judgement which flows from a process of assessment of needs structured around these 5 elements:



Eligibility status is given to the need – not the person

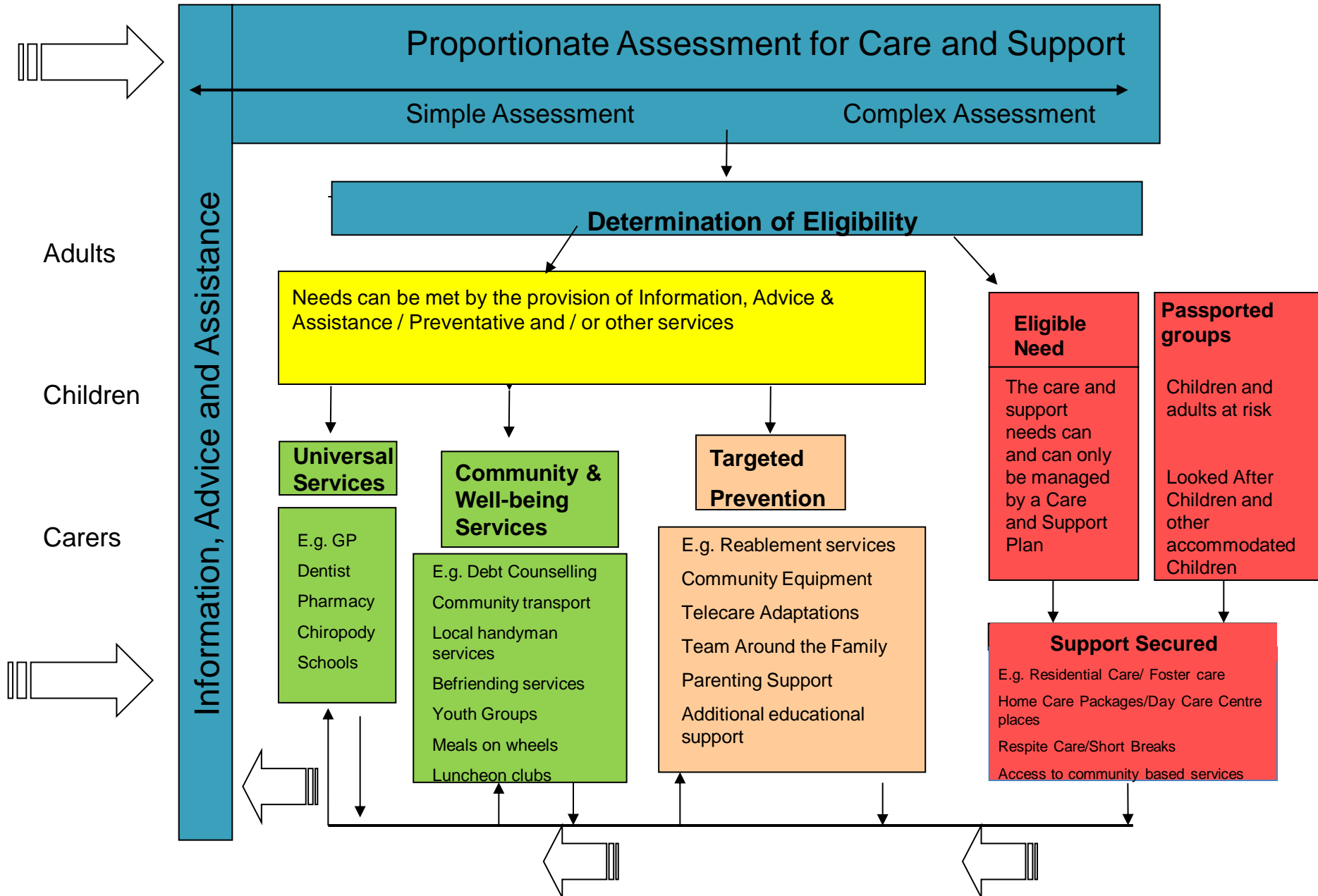
The National Threshold

“The Can and Can Only Test”

The person has needs which meet the eligibility criteria if an assessment establishes that they can, and can only, overcome barriers to achieving their well-being outcomes by the local authority preparing a care and support plan (or a support plan for a carer) to meet their assessed needs, and ensuring that the plan is delivered.

Determining eligibility is not about giving a right to any one service, it is about guaranteeing access to care and support where without it well-being outcomes could not be met.

The System Pathway



A model of care and support adapted from the SSIA Access to Care and Well-being report (March 2013)

People who appear to have care and/or support needs are entitled to access **information, advice and assistance** relating to services available in their area

National Eligibility – all local authorities must provide managed care and/or support services to individuals whose needs meet national criteria

Needs assessments must be proportionate to the individual's circumstances

Some people will be **automatically eligible** to receive care and support e.g. people at risk, LAC

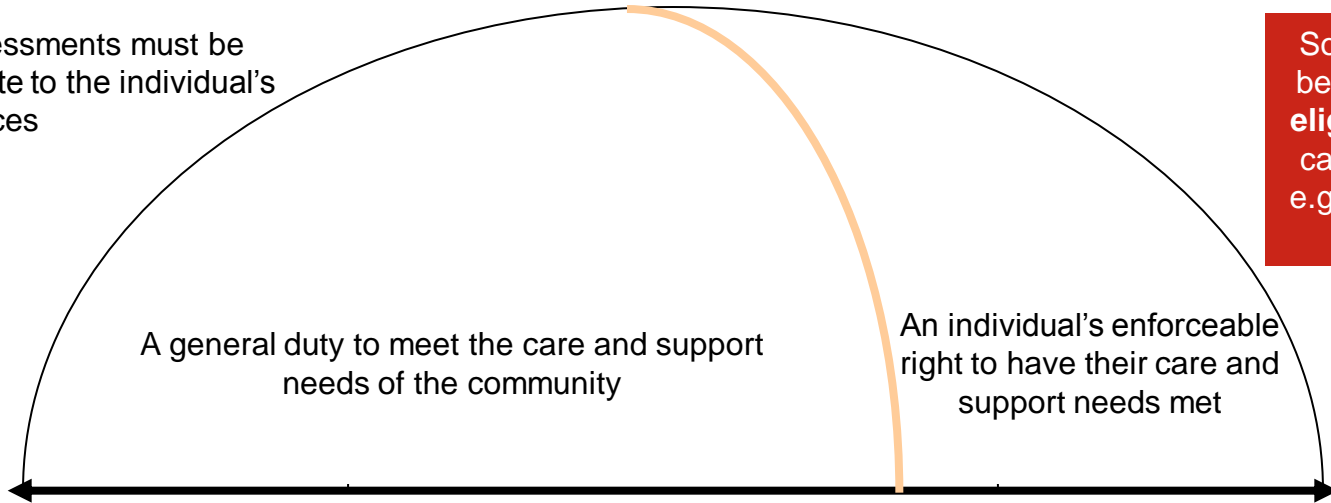
A general duty to meet the care and support needs of the community

An individual's enforceable right to have their care and support needs met

Preventative

Spectrum of Care and Support

Intensive



Particular Considerations for Children

Part 3 of Children Act repealed (includes section 17) and replaced by regulations and code of practice under parts 3 and 4 of the SSWb Act.

- Assessment must be Child Centred –
 - the process is designed around the needs of the child (environment, documentation, method of communication)
 - the child is seen and kept in focus throughout the assessment & account is always taken of the child's perspective
- Requires local authorities to promote the upbringing of a child by the child's family, as far as that is consistent with the well-being of the child.
- The draft regulations specifically identify needs which meet the eligibility criteria for children. This includes identifying whether there would be an adverse effect on the development of the child if the need goes unmet.
- Code of Practice will be augmented by Practice Guidelines

Links with Safeguarding

- The codes of practice on parts 3 and 4 should be not be considered in isolation from the code being developed for Part 7: Safeguarding.
- A key part of the assessment must be to establish whether there is reasonable cause to suspect that a someone is experiencing or at risk of abuse, neglect or other harm.
- Local Authorities must meet needs where this is necessary to protect the child – this duty over-rides the ‘Can and Can Only Test’.
- Requirements to consider whether LA should exercise functions under Part 4 (Care & Supervision) and Part 5 (Protection of Children) of CA 89 remain in force. There is a requirement to Act “**immediately and without delay**” where there is cause to suspect that a child is at risk – duty (to investigate) in section 47 of CA 89 remains.

Future provision of Direct Payments

Overview

- Monetary amounts provided by local authorities to individuals, or their representatives, to enable them to meet their care and support needs.
- Empower people to have choice and control over the way their care and support needs are met, which complements their existing support mechanisms.
- Replace care and support provided directly, or commissioned by, a local authority. They can be for all, or part, of a person's care and support needs.

Aims

- Continuation of direct payments as a means of achieving well-being outcomes in a manner which enhances their ability to determine the care and support they consider is right for them.
- Extension of the availability of direct payments to other forms of care and support and to individuals currently excluded from receiving them.

Remains the Same:

- ability of local authorities to provide direct payments;
- in a way which enhances their ability to determine the care and support which they consider is right for them to deliver their personal outcomes;
- maintain the ability to receive a direct payment with assistance where they are unable, or unwilling, to manage it.

Direct Payments: Key Changes

Key Changes

- available in all cases where an individual, or their representative, expresses a wish to receive one.
- only restriction is where the local authority considers the care and support needs cannot be met through direct payments;
- removal of current exclusions of certain classes of persons receiving direct payments.
- available for any identified need for care and support a local authority is to meet.
- a recipient able to use their direct payments to purchase their care and support direct from their local authority;
- a recipient able to employ a close relative to provide their care and support, or provide help in managing their payment, where the authority views this as necessary to maintain their well-being;
- local authorities required to work with people, or their representatives, to explore innovative ways their needs might be met through direct payments;
- encouraging a view of direct payments as one of a range of ways in which needs can be met. Not a secondary consideration.

Summary

- As a result direct payments in future will operate under a less restrictive legislative framework which supports innovation.