



COVID-19 vaccination as condition of deployment: regulatory overview

Q&A

1st Edition – 26 August 2021

Introduction

This document is based on a Care Provider Alliance (CPA) webinar on the implications and implementation of COVID-19 vaccinations as a condition of deployment in care homes in England. The webinar, which included contributions from the Care Quality Commission and NHS England, was held on 26 August 2021. The answers provided here are based on CQC and NHSE responses and do not necessarily reflect the Care Provider Alliance's position.

This document will be updated as we receive more detailed information. Please return to our [website pages on COVID vaccination as a condition of deployment](#) on a regular basis.

Further information

Access further information on COVID-19 vaccination, including details of related CPA webinars, at <https://careprovideralliance.org.uk/coronavirus-vaccination>

The Minister for COVID Vaccine Deployment, Nadhim Zahawi, hosted an interactive webinar with clinical experts on 21 May 2021 to give social care workers the opportunity to have their questions answered about the safety and effectiveness of the vaccines. The recording is available on DHSC's Adult Social Care YouTube channel ([Webinar: Your Questions Answered on the COVID-19 vaccine](#)).

DHSC and NHS information:

[Coronavirus \(COVID-19\) vaccination of people working or deployed in care homes: operational guidance](#)

[Vaccinations for NHS staff entering care homes letter and FAQ](#)

Questions

Application to care settings

Who does mandatory COVID-19 vaccination apply to?

The duty will only apply to those registered with CQC to provide the Regulated Activity: Accommodation for persons who require nursing or personal care.

How does this regulation apply in respite settings which are registered and regulated as a care home, but people are not permanently residing there?

The duty applies as respite settings provide accommodation for persons who require nursing or personal care.

What about volunteers coming into the home who provide an activity service to the residents in their rooms or communal areas?

All volunteers who enter the care residence will need to show proof of vaccination or exemption, unless they are under 18.

Is there an example template available for a covid vaccination policy for care home providers?

Yes – [see examples via CPA website](#)

Recording evidence of vaccination

What details need to be recorded for an employer to confirm they have seen evidence of vaccination status or exemption status?

Registered persons will not be required to show a record of the evidence itself to inspectors, but they will need to be able to provide reassurance that systems and processes are in place to ensure individuals who enter the premises are fully vaccinated.

Registered persons may choose to make a record of the evidence they have seen for their own internal staff employment record keeping.

If the evidence is collected and recorded, all personal data must be handled in accordance with UK GDPR. This includes providing individuals with privacy information at the stage their data is being collected.

Please refer to the guidance from the Information Commissioner's Office to ensure you have the appropriate lawful basis, technical and security measures in place to protect personal data.

Are care providers obliged to keep a hard copy of staff vaccine evidence, or can they just record the information on their matrix once seen by a manager?

The DHSC guidance makes it clear you don't need to keep a copy of the evidence you've seen – just a record to confirm that you've seen that evidence.

It may be that you want to keep a more detailed record of the evidence you've seen for your own employed/deployed staff (e.g., the info on the NHS App: brand, date of vaccinations) but for visiting professionals you simply tick a column in the visitor log to say that you have seen it.

Can we retain a copy of the vaccine evidence on a staff file in addition to recording or would this be a breach of GDPR?

Registered persons may choose to make a record of the evidence they have seen for their own internal staff employment record keeping.

If the evidence is collected and recorded, all personal data must be handled in accordance with UK GDPR. This includes providing individuals with privacy information at the stage their data is being collected.

Please refer to the guidance from the Information Commissioner's Office to ensure you have the appropriate lawful basis, technical and security measures in place to protect personal data.

Presumably, employers need to keep a record of vaccine dose details for their staff? As a minimum, evidence of 2 doses and the date the doses were given? And presumably, less detail is needed for anyone else crossing the threshold?

Registered persons will not be required to show a record of the evidence itself to inspectors but will need to be able to provide reassurance that systems and processes are in place to ensure individuals who enter the premises are fully vaccinated.

Registered persons may choose to make a record of the evidence they have seen for their own internal staff employment record keeping.

If the evidence is collected and recorded, all personal data must be handled in accordance with UK GDPR. This includes providing individuals with privacy information at the stage their data is being collected.

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How will the Capacity Tracker be used in monitoring compliance?

It is important to note that Capacity Tracker is an NHS system. CQC do receive location level data from this. This data is used as part of the normal ongoing

monitoring processes. If Capacity Tracker data indicates a low level of vaccine uptake amongst staff, depending on other information available to the inspector, it may trigger (for example) a call to the registered manager or an inspection.

How will CQC ensure that all inspectors apply the same approach in terms of evidencing the application of the regulation? Can we be assured they will not want to see the physical copy of the vaccine evidence?

Registered persons will not be required to show a record of the evidence itself to inspectors but will need to be able to provide reassurance that systems and processes are in place to ensure individuals who enter the premises are fully vaccinated.

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Booster vaccinations

What is the situation regarding booster doses – are they mandatory for staff in care homes?

Booster doses are not currently included in the regulations, but managers are strongly advised to encourage workers to take up booster vaccines if eligible. At this stage no decision has been taken regarding adding provision for booster vaccines to the regulations in the future.

Given that it is highly likely that boosters will become the official advice of the JCVI, how much notice will we get of boosters being added to the regs?

This is not known at the moment.

HR and contract of employment questions

Can a member of staff keep working right up to the 11th of November if they do not want to get the vaccine?

Unvaccinated care workers can remain in post in post until 10th November. They will not be able to enter a care home from 11th November.

Are we legally allowed to ask all our staff for evidence of having had both vaccinations?

Yes. Registered persons are ultimately responsible for ensuring that everyone who enters the care home is vaccinated or exempt.

If on maternity/long term sick/sabbatical, are you only required to provide proof of vaccine before you re-enter the service? Or is it still required by 11th Nov despite not being on-site?

People who are on maternity or long-term sick leave or on sabbatical do not have to be vaccinated by 11th Nov, but they must have had both doses of the vaccine by the time they return to work.

Find out more about HR and contract of employment issues in our webinar on 16 September. Details available soon on the [CPA website](#).

Exemptions including pregnant staff

Is it correct that that self-exemption is all that is required and that care providers cannot request that staff provide medical evidence of exemption?

For a small number of people vaccination is not appropriate due to clinical reasons. These people will be able to seek a clinically approved exemption from this requirement.

There will be a clear process for staff to follow if they think they may have a clinical reason to be exempt. This process will be aligned with certification for domestic events, exemptions from self-isolation for confirmed contacts and travel. Guidance for certification is being developed and we will add a link to this guidance here as soon as it's published.

There is no requirement for registered persons to record the clinical reason behind the exemption - they should only record whether a person is medically exempt or not.

When will the guidance for certification be available?

It will be available soon, but no date has yet been confirmed.

What is the position regarding pregnant workers and the vaccine? Do they still form part of the exemption list?

No. They must have the vaccine.

How long will exemptions last?

They will last for 12 months and then will need to be renewed.

Tradespeople and training

Is there an exemption for all tradespeople?

There is not an exemption for those carrying out non-urgent maintenance work - only urgent.

Does this also affect staff attending training, if the trainer is not vaccinated?

Anyone who enters a care home as part of their professional responsibilities will need to show proof of vaccination unless they are exempt. This includes trainers.

Do entertainers/ music therapists have to be double vaccinated?

Yes, they do.

Support with vaccination access

Does the legislation apply to care home staff who are vaccinated in another country and work in the UK?

The Department of Health and Social Care is aware some individuals will have been vaccinated outside of the UK. They are working on a solution to this and will provide further guidance as soon as possible.

Until further notice, anyone who has a vaccination abroad, whether MHRA-approved or not, cannot work in a care home from 11 November.

Keeping services safe

What exceptions will CQC allow where services have to work below safe numbers due to this?

The way the regulation is worded means that compliance with it is pretty binary – either you are meeting it or you aren't.

If CQC identify a breach of regulation, they say they will be reasonable and proportionate in the action we take, using our normal enforcement and judgement frameworks.

If they find a provider is in breach of the regulation, they say they will look at things in the round. This means for example if there is a short-term tension between deploying staff who have been vaccinated against having sufficient staff to provide safe care and treatment, then we would reflect that in the action we take (for example perhaps issuing a requirement notice, or warning notice rather than more significant enforcement action).

Is a lack of staff classed as an emergency?

It is the registered person's responsibility to use their professional judgement to determine whether a situation is an emergency in line with the guidance set out below. Registered persons will be expected to keep a log of all emergency situations, including details of the circumstances, during which people entered the home without showing proof of vaccination or exemption.

An emergency situation could include (but is not limited to):

- members of the public assisting in the event of flood or fire
- social workers responding to immediate safeguarding concerns

How does it work where a business contingency plan requires staff not in care roles to be deployed into a care home where staffing levels become unsafe? Presumably this effectively means all those staff would be expected to be vaccinated even though their main role does not specifically require it?

The regulation states that registered persons (registered managers, registered providers) will need to ensure that they do not allow anyone entry into a care home unless they have had a complete course of an authorised vaccine or fall into one of the groups exempt from being vaccinated.

The way the regulation is worded means that compliance with it is pretty binary – either you are meeting it or you are not.

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If CQC finds a provider is in breach of the regulation, they will look at things in the round. This means for example if there is a short-term tension between deploying staff who have been vaccinated against having sufficient staff to provide safe care and treatment, then CQC would reflect that in the action they take (for example perhaps issuing a requirement notice, or warning notice rather than more significant enforcement action).

Where one part of a building is a CQC registered care home (separate from the rest of the building) does the vaccination requirement apply to the care home zone only?

The regulations apply to anyone entering the inside of a care home. If a care home shares its premises with another business or home, then the requirement should not apply to these businesses/ homes as long as no one enters or passes through a care home to access them.

As a registered person, you know your service better than anyone else. We want to support and enable you to comply with these regulations in the way which will work

best for you and your team. This means you should make a decision about where you want to have vaccine checkpoints. We suggest you treat this as a risk assessment process. Talk to your team and to regular visiting professionals. Decide how you want to make this work in practice, keep a record of your discussion and review the actions you are taking regularly, making changes as necessary.

What support will be provided to commissioners/ASC providers to help enable recruitment to meet any shortfall in staffing levels as a result of the regulation changes?

The DHSC is looking at this issue and will talk to regional assurance teams to understand how different regions will be affected. They will be looking at providing support according to local need.

What happens if funeral directors of the person's choice are not vaccinated - do we go against the person's/family's wishes?

Funeral directors and their staff will have to show proof of vaccination or exemption when entering the care home.

If a person is not vaccinated or exempt will this stop them gaining their registration? What about current registered managers - are they expected to be vaccinated, and if they refuse could they lose their registration?

People who apply to be registered manager in a care home will need to be either vaccinated or exempt.

The requirement to be either vaccinated or exempt from vaccination also applies to existing registered managers. The registered provider would need to decide on the appropriate course of action in the event of an existing RM failing to meet this requirement. Annex A of the DHSC guidance provides information about sources of advice around employment law and practices.

Wider consultation on mandatory vaccination for health and care staff

When will details of the wider consultation on mandatory vaccinations for health and care staff outside of care homes be published?

The DHSC is expected to publish a consultation about the extension of this policy to other CQC regulated activities soon, but no date has yet been confirmed.

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