



# COVID-19 vaccination as condition of deployment

## Q&A for care homes in England

### 4th Edition – 23 November 2021

## Introduction

Since 11 November 2021, [anyone working or volunteering in a care home needs to be fully vaccinated against coronavirus \(COVID-19\)](#), unless they are exempt under the regulations.

[Temporary self-certification arrangements](#) were introduced in September 2021. On a temporary basis people working or volunteering in care homes who have a medical reason why they are unable to have a COVID-19 vaccine will be able to self-certify that they meet the medical exemption criteria. These temporary arrangements will run out on 24 December 2021 (12 weeks after the formal system became available). DHSC has stated their intention for the temporary system to last until April 2022 for people who were vaccinated abroad.

The [formal guidance on how to apply for medical exemptions](#) was announced on 30 September and published on 1 October 2021.

Government has also published the Impact Assessment for vaccination as a condition of deployment in care homes. You can find a copy of it [here](#).

This Q&A is based on Care Provider Alliance (CPA) webinars held in August and September 2021, and publicly available Government documents.

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.

## Extending requirements to wider health and social care

Following a consultation, the Government announced on 9 November 2021 that it intends to legislate to make COVID vaccination a condition of deployment in health and the wider social care sector. Work is underway to clarify the scope, but it is likely that this will mean that CQC registered providers of health and care services will

need to ensure that workers that have direct contact with patients and services users are vaccinated against Covid-19 in order for them to be deployed. Shared Lives services are the only type of service providing regulated care that will be exempt. Subject to the parliamentary process, the expectation is that the regulations will come into force from 1 April 2022. You can see more details of the announcement [here](#).

The regulations have also been laid on 9 November 2021 and can be found [here](#).

**Please note:** The Care Provider Alliance is developing a separate Q&A for other social care providers that will be affected by the extension of requirements to their services. This Q&A only relates to care homes.

### *Implications for care homes*

To ensure consistency across health and social care, Government is also making some changes to the care home regulations. They expect that the following changes will come into effect from when the regulations are made, shortly after parliamentary approval:

- allowing new recruits to be deployed 21 days after they have received their 1<sup>st</sup> dose of vaccination, with their 2<sup>nd</sup> dose within 10 weeks of the first;
- recognising that clinical trial participants are compliant; and
- recognising people who have received mixed doses of vaccination are also compliant.

The Government expects further changes to come into effect from 1 April 2022. They are as follows:

- staff vaccinated overseas can be deployed but may need to receive a top-up vaccine dose, as per UKHSA advice. The government intends to run the self-certification process for people vaccinated in care homes until the end of the proposed grace period which is expected to be 1 April 2022.
- the definition of authorised vaccine will be aligned across the two policies.

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### Disclaimer

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# Questions

## Timing of changes, including self-certification

### 1. What happened on 11 November 2021?

The regulations came into force for care homes on 11 November 2021 and if someone has not been fully vaccinated and does not have a temporary or permanent exemption after that date, they are not be able to work in a care home.

If someone has [a temporary, self-certified exemption](#), this runs out on 24 December 2021. They must be fully vaccinated OR be medically exempt based on the formal, permanent system by 24 December 2021. If not, they cannot enter the care home.

If someone was vaccinated overseas, they can continue to use the self-certification until 1 April 2022.

### 2. What are the temporary arrangements for self-certification?

Staff can self-certify that they are exempt from having the COVID-19 vaccine for a temporary period up to 24 December 2021 (see Government [guidance and forms here.](#))

Care homes can accept self-certifications as evidence of exemption up to 24 December 2021. Self-certifications run out on 24 December 2021 and can no longer be accepted as evidence of exemption from that date – unless they have been vaccinated overseas (see below).

The temporary arrangements are to give employees the time to undertake the permanent process for exemptions, *or* be fully vaccinated if they are not eligible for an exemption based on the permanent process.

However, please note that 11 November 2021 is the date the regulations came into force and if someone is not fully vaccinated and does not have a temporary or permanent exemption after that date, they will not be able to work in the care home.

This means that some care home staff are no longer able to enter the care home from 11 November 2021, and others may not be able to enter from 24 December 2021.

Further details, and related self-certification forms are [available on the Gov.UK website.](#)

The temporary arrangements are summarised below:

Temporary self-certification arrangements use the same exemption criteria as permanent arrangements.

Care providers should accept self-certification and are not required to make any kind of clinical assessment. The form requests that the person clarifies that they meet the medical exemption criteria – it does not require the person to disclose a particular condition that they might have.

Self-certification will be considered sufficient evidence for exemption from 1 October to 24 December 2021. This is to enable people to:

- a. apply via the formal system,
- b. get a result and choose whether or not they want to get vaccinated
- c. get both vaccines.

**Workers who have self-certified will not be required to be redeployed by 11 November but they will need to [complete the formal process](#) by 24 December 2021 to either secure a medical exemption or take up vaccination.**

The temporary, self-certification does not need clinical approval.

The permanent system is subject to assessment by clinicians.

**NOTE** Anyone who has been vaccinated overseas will need to self-certify as exempt using [the forms published on gov.uk](#). Government has announced their intention to extend self-certification for those vaccinated overseas to 1 April 2022.

### **3. What must employers do now that 11 November 2021 deadline has passed?**

From 11 November 2021, care homes must check the vaccination or exemption status of care staff, volunteers and other professional entering the care home.

Care staff, volunteers and other professionals wishing to enter the home must provide evidence of being fully vaccinated or either self-certified or formally exempt from having the vaccine.

If they cannot provide this evidence, the care home must deny them access (unless providing emergency assistance – see below).

Staff who cannot provide this evidence must be either redeployed, or be given notice. If they have not served their full notice period, they can be put on paid leave.

Workers who have self-certified do not need to be redeployed by 11 November 2021, but they will need to either be fully vaccinated, or complete the permanent exemption process by 24 December 2021. If they do not, they cannot enter the care home from 24 December 2021 (unless they have been vaccinated overseas – see note below).

Care providers who accept self-certification exemption up to 24 December will not be in breach of the regulations.

If an employee has used the self-certification exemption process and provided evidence to their employer, the employee is not required to provide evidence of full vaccination or formal exemption until the 24 December.

However, in order for the provider to plan effectively, DHSC think it would be reasonable to ask to see evidence that people are undergoing the clinical review process; it is not a legal requirement for the person to demonstrate that they have secured an exemption via the formal medical review process until 24 December.

**Note:** Government has announced its intention to extend self-certification for those who have been vaccinated overseas until 1 April 2022. They can continue to [use the self-exemption form](#).

#### **4. What support is being given to ensure care staff get their vaccines – including boosters?**

[Additional funding on COVID-19](#) was announced on 20 September 2021. This includes £25 million to support care workers to access COVID-19 and flu vaccines over the winter months. This will ensure social care staff who need to travel to receive their COVID-19 or flu vaccinations are paid their usual wages to do so and can be supported with travel costs.

### **Application to care homes**

#### **5. What roles are covered by the vaccination as a condition of deployment in care homes requirements?**

The requirement only applies in respect of persons entering the inside of the care home premises and it will be up to the registered person (or those acting on behalf of the registered person) to identify the most appropriate procedures to check vaccination status. (See Appendix 1 for a summary).

It includes roles such as care home staff, health care professionals, CQC inspectors, tradespeople, hairdressers and beauticians.

Essential Care Givers and visitors do **not** have to show proof of vaccination or exemption. Essential Care Givers do, however, need to follow the same IPC guidance as staff.

#### **6. 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.

**7. 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.

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

Yes – [see examples via CPA website](#) See also [Digital Social Care resources on data protection and recording of vaccination and exemption status](#).

## **Recording evidence of vaccination or exemption**

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

According to [the Government guidance](#), the registered person should keep a record of:

- the vaccination or exemption status of staff members and the date that the status was last checked
- the vaccination or exemption status of those entering the care home and the date that the status was last checked.

There is no requirement for registered persons to record the clinical reason behind the exemption - they should only record whether a person is fully vaccinated or medically exempt.

Individuals entering a care home only need to demonstrate vaccination status on the first occasion they enter or register, and the registered person should record their status on the care home's local system (for example IT system, paper file and so on).

All subsequent checks of individuals who have previously demonstrated vaccination status can be carried out via the records which will state the date and time the individual proved their status. Care homes will be able to use these records as proof of vaccination status, to reduce the burden of having to re-check every individual.

Care home managers can also decide to check more often, if preferred, but there is no requirement to do so. Records should be checked regularly to ensure they are up to date.

The registered person will be able share these records with CQC to demonstrate they have checked 3rd party medical exemptions.

## 10. What are the data protection implications?

Care homes must keep records to demonstrate compliance with the regulations.

The regulations expressly state that a care home may process information about vaccination or medical exemption status, but this must be done in a way that is consistent with data protection legislation.

Data about vaccination or medical exemptions is health data and therefore special category data for the purposes of the data protection legislation including the Data Protection Act 2018 and the UK GDPR.

In line with existing requirements, it is important for the care home to have a policy document outlining procedures for securing compliance with data protection principles, and outlining policies about retention and removal of personal data.

Care homes will need to consider:

- who has access to the data
- how much data they process
- how long they retain the data for
- how the data is stored
- whether any privacy information needs updating
- whether any data protection impact assessment requires updating
- whether any appropriate policy documents require updating.

## 11. Do care homes need to update any of their data protection policies?

Yes. The regulations say that a care home may process information about vaccination or medical exemption status, but this must be done in a way that is consistent with data protection legislation. This includes updating your information asset register, record of processing activity, and privacy notice.

You will also be required to complete a data protection impact assessment (DPIA) because the [Information Commissioner's Office Guidance on Vaccination and Covid Pass Checks](#) states:

“If the use of this data is likely to result in a high risk to individuals (eg denial of employment opportunities) or you will be processing health data on a large scale, then you need to complete a [data protection impact assessment](#) before you start processing the data.”

Care homes will not be able to employ individuals who have not received 2 vaccinations or who don't have an exemption, therefore this can result in the denial of employment opportunities and so a DPIA is required.

Digital Social Care has a draft privacy policy and DPIA and are working to get these formally signed off as soon as they can. In the meantime, please feel free to use these documents but be aware of the [disclaimer](#). Digital Social Care will continue to update this advice when they get more information.

[Access the draft privacy policy and DPIA on the Digital Social Care website.](#)

## **12. 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.

According to [the Government guidance](#), the registered person should keep a record of:

- the vaccination or exemption status of staff members and the date that the status was last checked
- the vaccination or exemption status of those entering the care home and the date that the status was last checked

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.

Digital Social Care's advice is that you should not hold more personal data than is required – and you are not legally required to store, for example, a copy of someone's NHS Covid Pass or exemption certificate. You only need to record that you have seen it and when you saw it.

## **13. What form of evidence of vaccination is acceptable? Can someone use their vaccination card?**

Individuals that have been vaccinated by the NHS in England may demonstrate their vaccination status using the [NHS COVID Pass](#) service via the following 3 routes:

- the NHS App
- the NHS website – NHS.uk
- the NHS COVID Pass letter

An individual's NHS appointment card cannot be used as proof of vaccination status.

The registered person (or those acting on behalf of the registered person) at the care home needs to satisfy themselves of the identity of the person entering the care home and their proof of vaccination.

#### **14. What form of evidence of exemption is acceptable?**

Self-certification is acceptable on a temporary basis to 24 December 2021. Providers should accept self-certification and are not required to make any kind of clinical assessment. [The self-certification form](#) available on GOV.UK requests that the person clarifies that they meet the medical exemption criteria – it does not require the person to disclose a particular condition that they might have.

If vaccinated abroad, they can self-exempt until 1 April 2022 using the self-exemption form on the DHSC website.

[The permanent process for exemptions](#) is also live. All exemptions will be confirmed by a doctor, specialist clinician or midwife.

People who are confirmed as medically exempt will be issued with an NHS COVID Pass, however the Pass does not explain that they are medically exempt from getting the vaccination. People who have been approved will also get a letter confirming they are exempt. This is the evidence they should use to prove that they are unable to get vaccinated.

#### **15. 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?**

Digital Social Care's advice is that you should not hold more personal data than is required – and you are not legally required to store, for example, a copy of someone's NHS Covid Pass or exemption certificate. You only need to record that you have seen it and when you saw it.

However, 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.

#### **16. What information do we need to keep about other professionals entering the home?**

As with the staff that you employ directly, you also need to keep a record of the vaccination or exemption status of other workers and volunteers entering the care home and the date that the status was last checked.

That includes roles such as care home staff, health care professionals, CQC inspectors, tradespeople, hairdressers and beauticians.

Care homes should carefully consider how they record and store this information – for example it should not be part of a visitors' book that is visible to all visitors.

Essential Care Givers and visitors do **not** have to show proof of vaccination or exemption. Essential Care Givers do, however, need to follow the same IPC guidance as staff.

### 17. How will the Capacity Tracker be used in monitoring compliance?

The first, second and booster Covid vaccination data reporting requirements on Capacity Tracker is divided into Residents, Directly Employed Staff and Agency/Bank.

Care homes are also asked to answer the following questions :

- Staff & Agency: Number of staff SELF-CERTIFYING as medically exempt
- Staff & Agency: Number of staff in receipt of NHS COVID PASS MEDICAL exemption
- Staff & Agency: Number of staff self-certifying as being fully VACCINATED ABROAD

Capacity Tracker is one of the main sources of information for central government in relation to vaccination in the care sector.

Vaccination data, including exemptions and booster doses, where applicable, are reviewed and reported daily to senior colleagues and ministers. The DHSC has asked that all care home and home care provider colleagues review their COVID vaccination entries frequently.

From 8 November 2021, a checkbox was added to Capacity Tracker on the 'Costs, Vacancies & Business Continuity (Daily)' page for care home providers and the 'COVID-19 Update (Daily)' page for home care providers. The checkbox asks for confirmation that the information has been reviewed and reflects the current known position at the location. This checkbox will need to be checked before the page can be saved.

**Providers who use the Bulk Upload template** are asked to confirm submissions are reviewed and accurate when uploading. As Bulk upload templates cover multiple locations any inaccurate entries across a whole template can have a substantial impact.

Please contact [Capacitytracker-guidance@dhsc.gov.uk](mailto:Capacitytracker-guidance@dhsc.gov.uk) if you need further guidance on how to enter vaccination data into Capacity Tracker.

## 18. How is Capacity Tracker used by CQC?

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.

## 19. 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.

## Booster vaccinations

### 20. 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, and a provision for booster vaccines may be added to the regulations in the future.

[Access resources on boosters.](#)

### 21. How much notice will we get of boosters being added to the regs?

This is not known at the moment. Regulations would need to be changed to include it.

## HR and contract of employment questions

Please refer to the [Government guidance on vaccination as a condition of deployment](#). In particular, see [Annex A on Good employment practice](#).

### 22. If someone has been vaccinated overseas, can they still enter the care home?

If vaccinated abroad they can self-exempt until April 2022 [using the correct form on the DHSC website](#).

### 23. 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. They do not need to show information

about the reason for the exemption – just that they are formally exempt (or for a limited period, self-certified as exempt).

**24. 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 11 November 2021, but they must have had both doses of the vaccine by the time they return to work, or have a medical exemption.

**25. Are care providers obliged to respond to template letters that employees have sent to them, but have been produced by other organisations?**

We are aware that several workforce organisations have produced standard letters which care workers are sending on to their employers.

Care providers should consider these carefully. They may be raising a complaint, grievance or whistleblowing concern – even if they do not refer to a specific employee.

You should explain that while the regulations regarding vaccination or exemption are in place, as an employer you have a legal duty to obey those regulations.

You also need to demonstrate that you are following a fair process, otherwise you may be at risk of an Employment Tribunal.

**26. What do you say to people about why you are dismissing them?**

You must have a ‘fair reason’ to dismiss someone. There are five fair reasons in law and three of them are most likely to apply in this instance:

- Illegality – you would be contravening an enactment if you continue to employ someone in a care home who is not fully vaccinated or who does not have an exemption
- Other substantial reason – for example this might include protecting health and safety of colleagues and people you support
- Capability – you cannot employ someone who does not have the capability to carry out the role.

Some legal advisors recommend including a number of ‘fair reasons’ for the dismissal. These reasons should be outlined in meetings, and in writing to the employee.

Ultimately it will be the courts that decide what is fair.

## 27. What constitutes a 'fair process'?

Employers must follow a fair process when managing dismissals. This is likely to include consultation with individuals, talking to them about the vaccination – ensuring that they understand the issues and implications of not getting vaccinated, and not being medically exempt.

Discuss what they are considering doing. For example, if they plan to sign on with a care agency, they will face the same requirements and not be able to work in a care home.

Give them the opportunity to have the vaccination. If they still refuse and do not have an exemption (temporary self-certification to 24 December 2021 or permanent), you can then hold another meeting to terminate their employment.

## 28. What process do I need to follow in order to dismiss someone due to vaccination status?

You must follow your standard dismissal process – including meetings, correspondence, notice period, ACAS meetings etc.

Please refer to the [Government guidance on vaccination as a condition of deployment](#). In particular, see [Annex A on Good employment practice](#).

The DHSC encourages care homes to engage with their workforce about the requirements.

[ACAS](#) has produced a range of guidance which employers may find useful when considering good employment practice as part of implementing the VCOD regulations.

Now that the deadline of 11 November 2021 has passed, you should already have given notice to staff members who **did not**:

- provide evidence that they were fully vaccinated by 11 November 2021

OR

- provide evidence that they are medically exempt (based on permanent system)

OR

- self-certify that they are medically exempt

OR

- self-certify that they were fully vaccinated overseas.

The next key date is 24 December 2021 when self-certification of exemption will end (except for those who were vaccinated overseas).

Some legal advisers are recommending that care providers give *conditional* notice to staff based on:

- not providing evidence that they are fully vaccinated by 24 December 2021

OR

- not providing evidence that they are medically exempt based on the *permanent* exemption system by 24 December 2021. Self-certification runs out on this date for most workers.

OR

- not providing self-certification of being fully vaccinated overseas, based on the form supplied by the Government. (Note: Self-certification for those vaccinated overseas will be valid until 31 March 2022).

### **29. What notice period do I need to give?**

You need to give adequate notice to terminate the contract, which is subject to the statutory notice period – which is one week for every year of service, to a maximum of 12 weeks.

If a staff member is still working their notice period, you can still redeploy them if that is feasible, or you can put them on paid leave and not let them come into the care home, or pay them in lieu of notice.

Care providers need to consider the costs this will incur.

### **30. If a care worker is not exempt and wants to get the vaccine, but they were unable to get fully vaccinated with double dose by 11 November 2021, what can they do?**

The care home worker is not able to enter the care home from 11 November. The care home should aim to redeploy them for the period until they are fully vaccinated.

JCVI advice is that there should be a minimum of 8 weeks between vaccines. GPs should not be agreeing to provide second doses in a shorter period of time. CQC have followed up with GPs who have done this.

### **31. If a care worker has had one vaccine but declines to have the second, what happens?**

Staff must be fully vaccinated – so they must have had both vaccines. So unless they are medically exempt, they must be deployed elsewhere or their employment will be terminated.

### **32. If a care worker got their second vaccination on 10 November, can they continue to be deployed?**

Technically yes. They don't have to wait for the two weeks after the second vaccination. However, we recognise that there may be a delay in their NHS COVID Pass being updated with this information. You would be therefore taking your staff member on trust. Consider if you can redeploy them or put them on leave until their COVID Pass is updated.

### **33. Can you include information about vaccination as a condition of deployment on recruitment adverts?**

Yes you can. Remember the requirement is either to be fully vaccinated, or have a medical exemption.

### **34. Can a new recruit who is not fully vaccinated be deployed?**

The Government expects that changes will come into effect from when the regulations are made, shortly after parliamentary approval.

This includes allowing new recruits to be deployed 21 days after they have received their 1<sup>st</sup> dose of vaccination, with their 2<sup>nd</sup> dose within 10 weeks of the first.

DHSC expects the new regulations to be passed in January 2022

## **Exemptions including pregnant staff**

### **35. What are considered medical exemptions for not getting the vaccine? Does it include pregnancy?**

Some individuals are unable to be vaccinated and/or tested for medical reasons. They can apply for proof that they have a medical reason why they should not be vaccinated and/or tested.

According to [Government guidance issued on 1 October 2021](#), the possible reasons for exemptions are limited. Examples that might be reasons for a medical exemption are:

- people receiving end of life care where vaccination is not in the person's best interests
- people with learning disabilities or autistic individuals, or people with a combination of impairments where vaccination cannot be provided through reasonable adjustments
- a person with severe allergies to all currently available vaccines
- those who have had an adverse reaction to the first dose (for example, myocarditis).

Other medical conditions could also allow someone to get a medical exemption.

Short-term exemptions will also be available for those with short-term medical conditions and as an option that some pregnant women may choose to take. Exemptions for pregnant women will expire 16 weeks post-partum, in order to allow them to become fully vaccinated after birth.

Pregnant women can alternatively use MAT B1 certificates to show their COVID status, if they choose to use a medical exemption. Pregnant women do not need to apply for a medical exemption NHS COVID Pass if they have a MAT B1 certificate. For pregnant women who use the MAT B1 form to show their exemption, the exemption will expire 16 weeks post-partum. This will allow them to become fully vaccinated after giving birth.

[See government correspondence on temporary exemptions for those working or deployed in care homes issued 16 September 2021.](#)

If vaccinated abroad, people, [can self-certify until April 2022 using the correct form on the DHSC website.](#)

### **36. What is the process for proving that you are medically exempt?**

On 1 October 2021, the Government published [guidance on proving you are unable to get vaccinated.](#)

If someone gets this proof of medical exemption they will be able to use the NHS COVID Pass wherever they need to prove their COVID-19 status within England.

All exemptions will be confirmed by a doctor, specialist clinician or midwife. If approved, the NHS COVID Pass can then be used to prove someone's status.

The domestic NHS COVID Pass will look and work the same for people with medical exemptions as it will for people who are fully vaccinated. The pass will not show that someone has a medical exemption.

To apply for an exemption, people must phone the NHS COVID Pass service on 119 to ask for an NHS COVID Pass medical exemptions application form, and follow their process.

### **37. 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?**

Self-certification of exemption is only acceptable on a *temporary* basis up to 24 December 2021 (12 weeks from the formal arrangements being available – which was announced on 1 October 2021) in order to give staff time to get vaccinated or go through the permanent exemption arrangements.

Care providers should accept self-certification on a temporary basis and are not required to make any kind of clinical assessment. The form requests that the person clarifies that they meet the medical exemption criteria – it does not require the person to disclose a particular condition that they might have.

Self-certification will be considered sufficient evidence for exemption until 12 weeks from the date that the permanent arrangements are put in place. The 12 week period is to enable people to:

- a. apply via the formal system,
- b. get a result and choose whether or not they want to get vaccinated
- c. get both vaccines.

So that is 12 weeks from new system going live (ie from 1 October 2021). NOT 12 weeks from 11 November 2021.

With the formal process and the self-certification process, 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 (or self-certified during the temporary arrangements).

If vaccinated abroad, people, [can self-exempt until April 2022 using the correct form on the DHSC website.](#)

### **38. If someone is unvaccinated and medically exempt, do I need to put any special arrangements in place for them?**

According to Government guidance, a risk assessment should be undertaken for those who are exempt from vaccination, to reduce risk of transmission. This might include a change to their duties where such a change is appropriate. It should also be taken into account that those that are exempt from vaccination may also be in the clinically extremely vulnerable category.

Providers should continue to ensure that those working in care homes continue to use appropriate PPE and follow [infection prevention control procedures.](#)

## **Tradespeople and training**

### **39. Is there an exemption for tradespeople?**

Tradespeople who come into the care home are covered by the regulations. So from 11 November 2021 they must be fully vaccinated or have a medical exemption.

Tradespeople can use the same temporary self-certification arrangements up to 24 December 2021, as outlined above. Self-certification of exemption is only acceptable on a *temporary* basis while they go through the permanent exemption arrangements.

After 24 December 2021, tradespeople carrying out non-urgent maintenance work must be either fully vaccinated OR be medically exempt under the permanent arrangements.

#### **40. What if someone needs to attend to assist with an emergency?**

Government guidance says:

“If someone is entering the care home for emergency assistance for an incident in the care home itself, or in relation to an incident in a neighbouring building (for example if access is required to respond to a fire), they will not need to show proof of vaccination or medical exemption.

“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.

In addition to providing emergency assistance, emergency services staff attending the care home in the execution of their duties are exempt from the requirement.

This includes:

- members of the fire and rescue services attending the care home to execute their duties
- members of the police service attending the care home to execute their duties
- members of the health service deployed for emergency response.

#### **41. 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.

Trainers can use the same temporary self-certification arrangements up to 24 December 2021, as outlined above. Self-certification of exemption is only acceptable on a *temporary* basis while they go through the permanent exemption arrangements.

After 24 December 2021, trainers must be either fully vaccinated OR be medically exempt under the permanent arrangements.

#### **42. Do entertainers/ music therapists have to be double 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 entertainers or therapists.

They can use the same temporary self-certification arrangements up to 24 December 2021, as outlined above. Self-certification of exemption is only acceptable on a *temporary* basis while they go through the permanent exemption arrangements.

After 24 December 2021, they must be either fully vaccinated OR be medically exempt under the permanent arrangements OR self-certify that they have been fully vaccinated overseas.

#### **43. 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.

## **Vaccinated overseas**

#### **44. What should care home staff who are vaccinated in another country do?**

Individuals that have received a COVID-19 vaccination abroad can use the *temporary* arrangements to self-certify as medically exempt until 1 April 2022. This is because it is not clinically appropriate for them to be vaccinated in the UK if they have already received a partial or full course of vaccination overseas.

The formal medical exemptions process currently does not apply to individuals vaccinated abroad.

The Government expects further changes to come into effect from 1 April 2022. They are as follows:

- staff vaccinated overseas can be deployed but may need to receive a top-up vaccine dose, as per UKHSA advice. The government intends to run the self-certification process for people vaccinated in care homes until the end of the proposed grace period which is expected to be 1 April.
- the definition of authorised vaccine will be aligned across the two policies.

Anyone who has been vaccinated overseas will need to self-certify as exempt using [the forms published on gov.uk](#).

## Keeping services safe

### 45. What is the role of the Care Quality Commission in relation to this requirement?

The requirement forms part of the fundamental standards and will be monitored and enforced in appropriate cases by CQC. They began monitoring this from 11 November 2021.

CQC say they will continue to use their existing assessment and enforcement policies and take a proportionate approach, to ensure the welfare and safety of people who use services. They have said that they will “always treat each matter individually and consider the individual circumstances when undertaking an assessment and deciding on any possible next steps.”

[CQC has published a statement on their website](#) outlining their approach to:

- [registration](#)
- ongoing monitoring and inspection
- enforcement.

They propose to add the following question to the Provider Information Return (PIR) once this duty is in place: ‘How are you assured that those you employ and deploy within your service are vaccinated in line with government requirements?’

They will also build a similar question into their monitoring approach.

CQC has now updated [the IPC tool](#) to help them to capture information about vaccination when they are on care home inspections.

### 46. What if a care home has not been able to collate all of the data about their staff’s vaccination status and CQC come to inspect them?

Technically the staff have not provided evidence so they should not be working in the care home. If they are, the care home would be in breach. CQC will be asking what systems and processes you have in place to demonstrate compliance.

### 47. If managers have seen staff getting vaccinated is this adequate evidence of that staff members’ vaccination?

No. Individuals that have been vaccinated by the NHS in England may demonstrate their vaccination status using the NHS COVID Pass service via the following 3 routes:

- the NHS App
- the NHS website – NHS.uk

- the NHS COVID Pass letter

#### **48. What exceptions will CQC allow – for example where staff are brought in from other areas of the organisation due to concerns about unsafe staff numbers in frontline roles?**

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 they take, using their 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 they would reflect that in the action they take (for example perhaps issuing a requirement notice, or warning notice rather than more significant enforcement action).

#### **49. 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

#### **50. 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.

**51. 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.

Government has also launched the [Made with Care](#) – a national social care workforce recruitment campaign, and allocated £162.5 million to support the recruitment of new staff and retention of existing carers.

**52. 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.

## Further information

[CPA COVID-19 vaccination - information and webinars](#)

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

[Digital Social Care guidance COVID-19 vaccination as condition of deployment – Data Protection Support](#)

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

[Covid-19 medical exemptions: proving you are unable to get vaccinated](#)

[Temporary medical exemptions for Covid-19 vaccination for people working or deployed in care homes](#)

[NHS Covid Pass](#)

DHSC [Webinar 21 May 2021: Your Questions Answered on the COVID-19 vaccine.](#)

[Government to introduce COVID-19 vaccination as a condition of deployment for all frontline health and social care workers](#)

[Draft Regulations to introduce vaccination as a condition of deployment for all frontline health and social care workers](#)

# Appendix 1 – Crossing the threshold of a care home

Reproduced courtesy of the National Care Forum

## Crossing the threshold of a care home - the realities of the new legislation

Full vaccination required - status needs to be checked (NB not an exhaustive list)

Full vaccination not required

