



FAQ – Adult Social Care provider data enforcement

Data collection

1. Who will be required to submit data?

These provisions apply to all adult social care (ASC) providers regulated by the Care Quality Commission (CQC). These are providers that are required to be registered under the Health and Social Care Act 2008 in respect of the carrying out of a regulated activity involving, or connected with, the provision of ASC in or in relation to England.

2. What data is going to be collected?

Section 277A of the Health and Social Care Act 2012 enables the Secretary of State to require regulated providers of ASC to provide information relating to themselves, to their activities in connection with the provision of ASC in England or to persons to whom they have provided such care.

The latest list of data items can be found in the [Formal Notice](#).

3. When will I be required to submit this data?

Submission of the required data became mandatory from 31 July 2022. Providers are required to update their data via the Capacity Tracker within a designated 7-day reporting window. This window will open at the start of the 8th day of each month and run until the end of the 14th day of each month, or the next working day where the 14th day falls on a weekend or public holiday.

4. What does this mean in practice?

Providers will be required to update their data on the 8th day of each month and by 14th day of each month - or the next working day where the 14th day falls on a weekend or public holiday.

5. Will there be further changes to the dataset?

We intend to give at least 3 months' notice of any change, as far as possible before making it a legal requirement.



Ahead of any future changes, we will engage with providers and representatives through the Provider Data Advisory Group (PDAG). This is intended to ensure that any changes improve data quality and relevance, while also managing data burdens on providers. Annex A has the list of PDAG member organisations

6. What is the purpose of collecting this information?

Availability of good quality and timely data from ASC providers is essential to improve services for users, support efficient commissioning and systems assurance, and manage national, regional, and local risks.

Data is needed to

- continue to support covid recovery
- monitor vaccination levels
- understand capacity and risk in the care system more generally
- judge when and how to target support to providers, and
- help facilitate the care of individuals across the care system long term

7. What are the benefits of data collection and how does this lead to better outcomes for people?

Emergency data measures taken in response to COVID-19 gave the Department near real-time data to manage the pandemic and showed the real benefits of using data to respond to emerging risks and issues. At a national level, it is important that we learn from these emergency measures and continue to have a regular data flow from ASC providers.

Providers can view their data in Capacity Tracker and are able to use this for benchmarking purposes, comparing against the local authority, region, and national aggregate.

8. What are the plans for the longer-term data collections?

DHSC is committed to transforming how social care data is collected, shared and used. '[Care data matters](#)' published in February 2023, sets out our roadmap for how we are transforming social care data nationally.

We want to use '[Care data matters](#)' to further inform how data is collected, held and shared, to ensure the right data is captured in the short- and longer-term to meet the needs of the sector. To support this, we are seeking views from people and organisations across the sector - including care providers - on the data they



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need to operate and delivery good quality care via a [feedback form](#) and through engagement sessions.

In addition, DHSC is working on developing plans for a longer-term dataset for provider data collection across the care sector and are engaging with providers, local authorities/commissioners, and CCGs/Integrated Care Systems (ICSs) around long-term provider data collection. Our aim is to work closely with all stakeholders to identify and agree key data needs and look at opportunities to streamline current data collections from ASC providers, so that data can be captured once and shared safely with all those that need it.

9. I am not providing adult social care so why am I being contacted about this?

If you have been contacted then it is because our records show that you are registered as an adult social care provider with the CQC, and therefore are required to provide certain information under s277A of the Health and Social Care Act 2012, as set out in the [Formal Notice](#).

If this is incorrect, and you are not providing adult social care services, you will need to ask the CQC to update your registration. You can do this by using the [CQC Provider Portal](#). Additional information is available [here](#).

Support and guidance

10. What support is available to help me fill in the Capacity Tracker?

On behalf of the Department of Health and Social Care, North of England Care System Support (NECS) provides a dedicated Support Centre – Monday to Friday, 8am – 5pm to support providers and wider stakeholder users of the Capacity Tracker. If providers need support to register, update, or navigate the system they can contact NECS by phone 0191 691 3729 or via necsu.capacitytracker@nhs.net

NECS will make every effort to onboard newly registered providers who have not yet completed the self-registration process – needs to be completed within the first 100 days of a provider location being added to the Capacity Tracker.

In addition, Capacity Tracker has an integrated Resource Centre – containing all communications, user/help guides and video tutorials along with contact details for local system champions.



11. Where can I find the published guidance?

You can find the formal notice, data collection guidance, and enforcement guidance [here](#).

12. What support will be available to providers struggling to get the information submitted?

Providers will be contacted when they have not updated their data in the Capacity Tracker and will be offered support and advice on completing the return – this will be done via NECS.

You can contact NECS directly already at: necsu.capacitytracker@nhs.net

Enforcement powers

13. Can I be fined immediately for not submitting the data?

Financial penalties will be a last step. We anticipate using them where a provider is persistently, in breach of their data obligations, and where our delivery partner - NHS Business Services Authority (NHSBSA) has reached out to offer guidance and support, but the provider is still not sharing their data and has not made adequate attempts to do so.

Providers will always be given the opportunity to make representations as to why they have not submitted the required data and why a financial penalty should not be imposed.

14. What will the enforcement process look like?

We envisage a 4-step approach to the enforcement process, carried out over a period of months. Financial penalties will be a last step and applied in cases where providers have not made adequate attempts to comply with requests for information, despite offers of support.

✚ **First breach:** This is the first record where a provider has not provided the data requested. Our delivery partner, the NHS Business Services Authority (NHSBSA), will contact those providers directly and notify them that they have missed the deadline, as well as offer support.

✚ **Second breach:** the second record that a provider has not provided the data requested. Our delivery partner will again make contact with the provider to try to understand any problems and offer further support and advice. Providers can use this as an opportunity to flag any extenuating circumstances.



- ✚ **Continued breach:** This is where a provider continues to not provide the data requested or they persistently fail to comply with their data obligations. A Notice of Intent may be issued to inform the provider that they are in breach of their legal duty to comply and will warn that a penalty notice (fine) may be issued. A provider can make (formal) representations to explain why they have not complied with the request for information and a decision will be made as to whether there has been failure to comply with the obligations and whether the provider has a reasonable excuse for not doing so.
- ✚ **Persistent failure:** This is where providers have not made adequate attempts to comply or engage with the support offered, or their reasons for not complying do not present as reasonable excuses – a final notice/penalty may be issued. Where a final notice (fine) is issued, providers will be able to appeal to the DHSC Enforcement Review Panel in the first instance. If they still consider the decision to be wrong, they can lodge an appeal with the First-Tier (Care Standards) Tribunal.

15. What is the scale of the financial penalties?

We have taken an approach that fines should be scaled, rather than fixed, in order to be sensitive to provider type and size. The level of the fines will be the same as a provider's CQC registration fee.

16. What are the timescales involved from the first notification to the issuing of a financial penalty?

We expect that from the first concern, the enforcement process will happen over a period of months, rather than weeks. Financial penalties are expected to be the last step of the process in cases where a provider doesn't submit the required data, despite the offers of support made.

17. Where will the fines go once collected?

The fines will go into a Consolidated Fund which is the Government's general bank account managed by HM Treasury.

18. Can I be fined more than once?

Yes, each time there is a breach of the [ASC Information Regulations 2022](#) a penalty can be issued.

Data use and privacy



19. Will data be shared with organisations outside of central government? How can we be sure that this data will not be used for profit?

These provisions will not enable data to be sold to private organisations. Our intention is that data collected will be shared appropriately with organisations who need the data across the ASC sector (e.g., LAs, CQC, ICSs) to guide delivery, policy development, and research in the area for purposes connected with the health or ASC system in England. The information will be subject to the UK General Data Protection Regulations (GDPR) statutory restrictions on disclosure and, where it applies, the common law duty of confidentiality. This includes not sharing commercially sensitive data without taking into account both the interests of the provider (or the person to whom that data relates) and the public.

20. How will DHSC indemnify providers against challenges by colleagues on GDPR.

DHSC will seek to ensure that data requests comply with these principles including UK GDPR, but providers should take their own legal advice as necessary.

21. How does this tie in with the government's digitisation target around digital social care records (DSCR) and Shared Care Records (ShCR)?

We will aim to ensure that the DSCR standardised data set includes the data required for the mandated Capacity Tracker return where it is already recorded in the DSCR, using consistent definitions, so that data held in a DSCR can be used to populate the Capacity Tracker return after provider confirmation.

22. Will this be factored in the Market Sustainability and Fair Cost of Care Fund?

Provider data collection is not a part of the Market Sustainability and Fair Cost of Care Fund. All documents for this Fund have now been submitted to the Department and, where relevant, published by individual local authorities on their GOV.UK pages.

23. Will this information be used to drive regulatory enforcement activity or be linked to CQC ratings?

Although this does not currently form a direct part of the CQC reviews, the CQC does look at whether or not providers are complying with their statutory duties as part of their wider intelligence gathering.



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ANNEX A

Member organisations of the Provider Data Advisory Group

- Local Government Association
- Association of Directors of Adult Social Services
- Care Quality Commission
- Department for Levelling Up, Housing and Communities
- Department of Health and Social Care
- NHS Transformation Directorate
- NHS England
- Assured software suppliers
- Think Local Act Personal