Department of Health & Social Care

FAQ – Provider data provisions

Data collection

1. **Who will be required to submit data?**

   These provisions apply to all adult social care (ASC) providers regulated by the CQC. These are providers required to be registered under the Health and Social Care Act 2008 in respect of the carrying on 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?**

   The Act 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.

   From 31 July 2022 we will mandate a core subset of the data which providers are already submitting through the Capacity Tracker (CT). **This will be gathered on a monthly basis**:

   - Care home bed vacancies and Home Care service users
   - Workforce resourcing including absences
   - Vaccination, COVID-19 and flu (seasonal)
   - Visiting (care homes) data

   All the data we are mandating have been collected for a number of months, if not for much longer. The Department is also engaging with and consulting the Capacity Tracker Data Advisory Group (CT DAG) on improvements to the wording and content of specific data items and questions based on feedback received from ASC providers and data users. This is intended to ensure that any changes improve data quality and relevance, while also managing data burdens on providers.

3. **What does this mean in practice?**

   Providers will be required to update their data by the 14th day of each month – or next working day – ensuring data are no more than a week out of date. This means that the first set of monthly data will be due by 14th August.

   Updates will be made via Capacity Tracker using the same method as now, and we intend to amend Capacity Tracker visually so that you will clearly see what is mandatory and what is not. Finally, we are also working on a means for you to provide quicker updates, e.g., for data that have not changed.

4. **Will there be further changes to the dataset?**

   It is our intention that the data currently listed will be the only data mandated during 22/23 and we will do our utmost to keep to this. If DHSC's data needs evolve, we intend to give at least 3 months' notice of the change as far as possible before making it a legal requirement. In line with this notice period, we can forewarn you of further comms by end of this month on plans for the autumn COVID-19 vaccination data collection which will become part of the mandatory dataset in October. We are also currently working with provider representatives to improve what is currently collected to provide workforce intelligence for both care home locations and home care settings and an improved way of highlighting pressures within home care. Burden on providers is a key consideration in all changes and our aim is both improving the information data gives us while also ideally *reducing* burden overall. As with all changes to the collection, we will engage with providers and representatives through the Capacity Tracker Data Advisory Group (CT DAG). The CT DAG has met fortnightly since the start of the pandemic and includes provider and local authority representatives and will continue to advise on data changes.

   Please refer to question 5 for the full list of CT DAG members and data that are being mandated.

   The Department is engaging with the Capacity Tracker Data Advisory Group (CT DAG) on improvements to some of the specific data items / questions based on feedback from ASC providers and data users.

5. **Who is represented on the Data Advisory Group?**

   The CT DAG has met fortnightly since the start of the pandemic and includes provider and local authority representatives and will continue to advise on all data changes. The Care Quality Commission (CQC) chair CT DAG meetings and the full member list is as follows:

   - The Care Providers Alliance (CPA)
   - Home Care Association (HCA)
   - National Care Forum (NCF)
   - Care Association Alliance (CAA)
   - Care England
   - The Local Government Association (LGA)
   - Association of Directors of Adult Social Services (ADASS)
   - CQC
   - Department for Levelling Up, Housing and Communities (DLUHC)
   - DHSC
   - NHS England and NHS Improvement (NHSEI)
   - NHS North of England Commissioning Support Unit (NECSU)

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
- ultimately help facilitate the care of individuals across the care system long term.

For example, during the pandemic, provider data sharing facilitated:

- Flagging a need for a visit from a Covid vaccination team. Vaccination Teams also used data to arrange visits directly
- Highlighting issues with accessing flu vaccinations
- Flagging PPE shortages
- Receipt of targeted support from Regional Teams, using data from the workforce RAG status
- Visualising and benchmarking your own provider data against local authority, regional and national data to understand how it compares

7. What are the benefits / how does this lead to better outcomes for people?

Emergency data measures taken in response to COVID-19 have given us near real-time data to manage the pandemic and shown us the real benefits of using data to respond to emerging risks and issues. While there are lessons to be learned about the implementation of these measures, they have led to a step change in our understanding of how the system works and the sector-wide benefits that can accrue from increased data sharing. Currently, providers are able to view their data in the CT and use this for benchmarking purposes, comparing against the local authority, region, and national aggregate. This provider view will be reviewed and improved to better meet provider needs and support them to realise the full value of their data. We are keen to explore what wider data sources we can add to this view, to offer a richer source of data to providers that they would not be able to access without it.

Data also helps us to identify issues at an early stage and provide an evidence base for funding bids. For example, CT data on staff absence in January 2021 showed that urgent support with recruitment and securing additional staff hours was needed, one of the drivers of the £120m Workforce Capacity Fund being established. Most importantly data was also essential in securing the Infection Control Fund, the Testing Fund, and the combined Infection Control and Testing fund through each iteration.

In the longer term, an agreed minimum dataset for data collection from ASC providers should help reduce the burden of data provision on ASC providers by enabling us to move to a model where data are collected once and shared safely with those organisations who need the data across the ASC sector (e.g., DHSC, LAs, CQC, ICSs).

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

Over the next few years, as outlined in our data strategy paper, Data Saves Lives: reshaping health and social care with data, we will be taking steps to

- improve the quality and timeliness of data in ASC,
- as ever, ensure current data collections have a clear purpose and are proportionate in recognition of the burden that data collections can create, and
- fill key data gaps where possible to ensure we have robust data flows.

DHSC is working on developing plans for a longer-term dataset for provider data collection across the care sector, which is likely to start being introduced from April 2023, to replace what is currently collected via the CT. We 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.

To be included in engagement on a longer-term data collection, please email providerdata@dhsc.gov.uk

9. Are there any plans to streamline collections / make sure other system partners have access to this information to reduce duplication and multiple requests for the same information?

CQC, LAs, NHSEI, Care Commissioning Groups (CCGs), UK Health Security Agency (UKHSA), DLUHC, Cabinet Office, and other parts of central government have received CT data throughout the pandemic. We are aware the process could be improved and in the longer term we aim to move to a model of collecting data from providers once and sharing it safely with organisations in the sector who need it (e.g., LAs, CQC, ICSs), with a view to reducing duplication and burdens.

Support and guidance

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

NECS provides a dedicated Support Centre – Monday to Friday, 8am – 5pm to support Care Providers and wider stakeholder users of the Capacity Tracker. If providers need support completing/updating the system, accessing or using the reports and analytics they can reach out either by phone 0191 691 3729 or via necsu.capacitytracker@nhs.net

In addition, Capacity Tracker has an integrated Resource Centre – all Communications, User/help guides and video tutorials along with contact details for local System Champions.

NECS also utilise Regional Leads that are split across the 7 NHSE Regions – they run regular provider engagement sessions and have set up regional forums to help support continuous improvement of the system and support our user centred design approach.

Finally for guidance relating to how to answer specific questions, you can email capacitytracker-guidance@dhsc.gov.uk

11. Will you be publishing guidance and/or writing to providers to inform them of the data requirements and subsequent penalties?

We will write formally to all CQC-registered providers in early July, with details of the specific data fields that will be mandated and guidance on how to comply with the new requirement. We will also be issuing guidance and communications to support all providers to transition to this mandatory collection.

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

Providers will be contacted when they have not updated their CT data and will be offered support / advice on completing the return – this will be done via the North of England Care System Support (NECS) as at present, or via other routes according to the issue. Contact will be expected using a combination of emails, telephone calls and NECS Regional Leads and local System Champions.

For administrative amendments, account support and more; you can contact NECS directly already at: necsu.capacitytracker@nhs.net

Enforcement powers

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

No, although we will be mandating some data from July 2022, we will not be rolling out the enforcement mechanism until November 2022, to give providers some time to adjust to the new approach. However, even once established, financial penalties will be a last step which we anticipate using where:

1. A provider continues to be, or is persistently, in breach of their data obligations, and
2. Our delivery partner 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.

A provider will always be given the opportunity to make representations as to why they have not supplied the required data and why a financial penalty should not be imposed. Even after a final penalty notice is issued, we expect that providers may be able to avoid a fine by providing the data requested.

14. What will the enforcement process look like?

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

1. **First breach, offer of support** - Where a provider has not provided the data requested, our delivery partner will contact them directly notifying them that they have missed the deadline and offering support.
2. **Continuous or further breach, additional offer of support** - If there is no response, or a provider fails to provide data requested on a further occasion, our delivery partner will contact the provider again to try to understand the problem and offer further support and advice. Providers can use this to flag any extenuating circumstances.
3. **Continued breach or persistent failure, Notice of Intent** - Where a provider continues to not provide the data requested or they persistently fail to comply with their data obligations, and they have not provided a reasonable excuse for not doing so, a Notice of Intent will be issued. This will act as a reminder to the provider of their legal obligation to comply, and as a warning that a penalty notice may be issued. A provider can make formal representations to explain why they are unable to comply with the request for information and a decision will be made as to whether or not there has been failure to comply with the obligations and whether the provider has a reasonable excuse for not doing so.
4. **Continued breach or persistent failure, Final Notice** – Where providers have not made adequate attempts to comply or engage with the support offered, or their reasons for not complying do not present reasonable excuses, or where

they continue to not comply with their data obligations, we may issue a Final Notice imposing a financial penalty. The provider will be given a further opportunity to submit the data requested and have the notice revoked, or pay the financial penalty.

Where a Final Notice is issued, providers will be able to appeal to the First-Tier Tribunal if they consider the decision to be wrong.

15. What is the scale of the financial penalties?

Following provider feedback that fines should be scaled, rather than fixed, we have taken an approach to fines which is 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 financial implications of data mandation?

We are carrying out an Impact Assessment to understand the financial implications on providers of mandatory completion of the Capacity Tracker. We intend to publish this Impact Assessment in July.

17. 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 the last step of the process in cases where a provider doesn’t submit the required data, despite any offers of support made.

18. 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. Payments from this account must be authorised in advance by the House of Commons. The Government presents its 'requests' to use this money in the form of Consolidated Fund Bills.

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 ensure the data collected complies with UK GDPR.

We hope to reduce the burden on providers by streamlining data collections systems and data sharing.

21. Which other sectors will be asked to provide a similar threshold of data and are financial penalties also being considered?

Information provisions are included in the Health and Care Act to enable NHS Digital to require data from private health care providers and to provide for an enforcement process via financial penalties.

22. 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.

23. Will this be factored in the FCC work?

It is LAs' responsibility to undertake Cost of Care exercises, as part of the conditions of the Market Sustainability and Fair Cost of Care fund. They are expected to gather relevant data from providers in order to undertake this work. There are tools available from the Care and Health Improvement Programme (CHIP) to help them to do this.

It is not mandatory for providers to participate in Cost of Care exercises and this provider data collection is not a part of FCC work.

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

Although this does not currently form 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.