

## **Mandatory COVID Vaccination – Privacy Statement**

### **Background**

On 14 December 2021, the Department of Health and Social Care published the Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) Regulations 2021/2022 (SI 2021/891) which began the process of making it a legal requirement for eligible staff working in health and social care settings to be fully vaccinated against COVID-19, unless exempt.

On 06 January 2022, the Government made new legislation, approved by Parliament, which amended the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (“the 2014 Regulations”). This extends the scope of mandatory vaccination requirements for staff beyond registered care homes to health and wider social care settings in England. Individuals undertaking CQC regulated activities in England must be fully vaccinated against COVID-19 no later than 01 April 2022 to protect patients, regardless of their employer, including secondary and primary care. The regulations will apply equally across the public (NHS) and independent health sector.

The regulations provide that the registered person can only deploy or otherwise engage a person for the purposes of the provision of a CQC-regulated activity, in which they have direct, face to face contact with patients and service users, if the person provides evidence that they have been vaccinated with a complete course of a Medicines and Healthcare products Regulatory Agency (MHRA) approved COVID-19 vaccine. This is subject to specific exemptions and conditions.

The vaccination as a condition of deployment (VCOD) requirements include front-line workers, as well as non-clinical workers not directly involved in patient care but who may have face to face or incidental contact with patients, including ancillary staff such as porters, cleaners or receptionists.

The VCOD regulations allow a 12 week grace period for compliance from 06 January, allowing unvaccinated individuals to have had their first dose by 03 February 2022 in order to have received their second dose by the 01 April 2022 deadline.

This means that eligible staff members will be required to provide evidence that they have been fully vaccinated against COVID-19, subject to specific exemptions, by no later than 1 April 2022.



Eligible staff will include front-line workers, as well as non-clinical workers not directly involved in patient care but who nevertheless may have direct, face to-face contact with patients, such as receptionists, ward clerks, porters and cleaners.

These regulations will protect vulnerable people and individual workers in health and social care settings, including hospitals, GP practices, dentists, community services and where care is delivered in a person's home.

To monitor compliance with the regulations both now and as part of normal business, the Trust must collect information about vaccination status of eligible staff (including those that are being considered for employment) and/or any medical exemptions that might apply (see Appendix 1).

For further information related to mandatory vaccinations, frequently asked questions and guidance please visit our [Trust Corona Virus – vaccination resource page](#)

<p><b>1) Controller contact details</b></p>	<p>Derbyshire Healthcare NHS Foundation Trust (DHCFT) RXM ICO registration: Z8416831</p>
<p><b>2) Data Protection Officer contact details</b></p>	<p>Telephone: (01332) 623700 Email: <a href="mailto:dhcft.dpo@nhs.net">dhcft.dpo@nhs.net</a></p> <p>If you have a concern about this process and your data then please contact our secure mailbox:</p> <p><a href="mailto:dhcft.datasecurityandprotection@nhs.net">dhcft.datasecurityandprotection@nhs.net</a></p> <p>This includes concerns about confidentiality, the Data Protection Act and GDPR (General Data Protection Regulation)</p>
<p><b>3) What personal data we collect</b></p>	<p>Your vaccination or exemption status, your existing staff record and your NHS number.</p> <p>This information will be provided directly by yourself or may be collected from the National Immunisation management Systems (NIMS) for verification/validation of vaccine status.</p> <p>There are a number of ways in which vaccination status can be obtained:</p> <ul style="list-style-type: none"> <li>• Staff can be asked directly about their vaccination status.</li> <li>• Organisations that have undertaken their own vaccination delivery programme can look up which staff have received vaccinations.</li> <li>• Central databases that record vaccination data from the national vaccination programme can be used and integrated with staff records.</li> </ul> <p>In order to reduce burdens on Trust and staff, a small number of designated members of staff (from People Services, Health Protection Unit and IMT&amp;Records) are given access to data about staff which has been recorded on the NHS England National Immunisation System (NIMS) database and</p>

	<p>linked to the NHS Electronic Staff Record (ESR) number. To be clear, the only clinical information that will be made available to NHS organisations from the national immunisation database is an individual's COVID-19 vaccination status. By getting this information from NHS England's immunisation database individuals will not need to provide evidence of their vaccination status, making it easier for both them and their managers.</p>
<p><b>4) Purpose of the processing</b></p>	<p>To comply with The Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) Regulations 2021 and to ensure patient-facing workers are protected against COVID-19 and to reduce the spread of the virus in the health and social care setting, which includes vulnerable individuals at higher risk of COVID-19.</p>
<p><b>5) Lawful basis for processing</b></p>	<p>In order that we can carry out processing of your personal data, we need a lawful basis to do so. The lawful bases for processing, storing and sharing this data under the UK General Data Protection Regulation (UK GDPR) are listed below.</p> <p>Personal data</p> <p>We will process your personal data primarily under:</p> <ul style="list-style-type: none"> <li>• Article 6(1) (e) the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.</li> </ul> <p>Special category data</p> <p>In addition to an article 6 lawful basis, we will process your special category data primarily under:</p> <ul style="list-style-type: none"> <li>• Article 9 (2 )(h) the processing is necessary for medical diagnosis, the provision of health treatment and management of a health and social care system.</li> </ul>

COPI Notice (Control of Patient Information)

[Coronavirus \(COVID-19\): notice under regulation 3\(4\) of the Health Service \(Control of Patient Information\) Regulations 2002 – general - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/coronavirus-covid-19-notice-under-regulation-34-of-the-health-service-control-of-patient-information-regulations-2002-general)

The Control of Patient Information (COPI) notices issued by the Secretary of State for Health and Social Care under the Health Service (Control of Patient Information) Regulations 2002, provides a legal basis for NHS England to disclose this information to health and care organisations, and NHS organisations are required under the COPI notice to process what would otherwise be confidential patient information for ‘COVID-19 purposes’. This includes:

- “monitoring and managing the response to COVID-19 by health and social care bodies and the government including providing [...] information about capacity, medicines, equipment, supplies, services and the workforce within the health services and adult social care services
- delivering services to patients, clinicians, the health services and adult social care services workforce and the public about and in connection with COVID-19, including the provision of information, fit notes and the provision of healthcare and adult social care services.”

Further information is available on the legal framework which supports access to the vaccination data: COPI notice - frequently asked questions.

[COPI notice - frequently asked questions - NHSX](#)

The COPI Notice therefore provides a legal basis for NHS organisations to use what would otherwise be confidential patient information to support the pandemic response. Organisations need to know the vaccination status of individual members of staff who have direct face to face contact with patients and service users in order to protect patients and the workforce. A record should be kept of all data processed under the COPI notice.

<p><b>6) Recipient or categories of recipients of the shared data</b></p>	<p>Your identifiable data will remain within our Trust. We only use your data to reference against the NIMS data to confirm vaccination status.</p>
<p><b>7) Right to object</b></p>	<p>Where we are processing your data to comply with a legal obligation or contract, you do not have a right to object under Article 21 of the UK GDPR.</p> <p>However, you have the right to object to your personal data being processed under our public task. You should be aware that the right to raise a concern does not always mean we will stop processing your data. This will be assessed on a case by case basis.</p> <p>Please contact us if you wish to object to the processing of your data. You will need to provide information on your specific circumstances which relate to the reasons you are objecting.</p>
<p><b>8) Right to access</b></p>	<p>You have the right to access any identifiable data that is being shared. To do this please submit a subject access request via the secure Mandatory Vaccination team mailbox:</p> <p>Email: <a href="mailto:dchst.mandatoryvaccine@nhs.net">dchst.mandatoryvaccine@nhs.net</a></p>
<p><b>9) Right of rectification</b></p>	<p>You have the right to request the correction of factual inaccuracies. To do this please contact your line manager in the first instance.</p>
<p><b>10) Retention period</b></p>	<p>Your information will be stored in line with the NHS records management code of practice, 2021. For this purpose, this will be in line with the retention periods of your employment with the Trust.</p> <p><a href="https://www.nhsx.nhs.uk/information-governance/guidance/records-management-code/">https://www.nhsx.nhs.uk/information-governance/guidance/records-management-code/</a></p> <p>In some circumstances, for example where we are legally required to, we may keep your information for a longer period.</p> <p>Information that identifies you will be stored securely and processed in the</p>

	<p>UK. We will ensure that there are appropriate data security and protection measures in place.</p>
<b>11) Right to complain</b>	<p>You have the right to complain if we are processing your personal data incorrectly. Please contact your line manager in the first instance</p> <p>For any mandatory vaccination related queries please contact:</p> <p><a href="mailto:dchst.mandatoryvaccine@nhs.net">dchst.mandatoryvaccine@nhs.net</a></p> <p>You have the right to escalate your complaint to the Information Commissioner's Office (ICO) if you are concerned about the way we have processed your personal information. Please visit the ICO's website for further details or use the contact details below.</p> <p>Information Commissioner's Office</p> <p>Wycliffe House</p> <p>Wilmslow</p> <p>SK9 5AF</p> <p>Email: <a href="http://www.ico.org.uk/global/contact-us/email">www.ico.org.uk/global/contact-us/email</a></p> <p>Website: <a href="http://www.ico.org.uk/">www.ico.org.uk/</a></p> <p>You can also call the helpline on 0303 123 1113 (local rate) or 01625 545 745 (national rate).</p>

Please note that the COVID-19 vaccination effort is fast-moving, and this privacy notice is subject to change.

## Appendix 1, valid medical exemptions

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, autism or a combination of impairments which mean that vaccination and testing result in distress and who cannot be vaccinated through reasonable adjustments such as an accessible environment
- 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 you to get a medical exemption.

You can also get a temporary exemption which will allow you to use the COVID Pass if you have a short-term medical condition or are pregnant and choose to take this option.

For more information about medical exemptions please visit:

<https://www.gov.uk/guidance/covid-19-medical-exemptions-proving-you-are-unable-to-get-vaccinated>

Please note out of scope and not valid as proof of vaccination status:

- verbal / self-declaration
- domestic COVID pass
- vaccination appointment cards or appointment confirmation