

Health and Social Care Act 2008

Registration update for vanguards and other new care models

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Introduction

This update is intended for providers who are, or who are considering, providing new care models. This might include models described within the NHS England vanguard programme, or other innovative ways of delivering health and social care. It will help groups who are developing new models of care to understand their duties and responsibilities around CQC registration, while also providing an opportunity for CQC to share some of our thinking around registration.

We are keen to work alongside such providers to develop an effective and efficient registration process. With new models of care developing at pace, we are continually developing this guidance and expect to continue to add new information as new contracts for new care models come into existence, and as we work towards our commitment in Shaping the Future, our strategy for 2016-21, to move towards a flexible, more risk-based approach to registration.

Next steps

Over the coming months we will be:

- adding to this guidance to address specific challenges or issues emerging from new care models
- moving more of our registration applications and notifications online to make the process quicker and more efficient
- developing our approach to making sure that we can hold to account those who are genuinely responsible for care in all organisational forms, including testing an approach to registering new providers at the “[controlling mind](#)” level, where this is appropriate
- extending our risk-based approach to registration, where applications considered to be low risk follow a streamlined registration process
- working with providers of new care models to test a new approach to registration.

We encourage all providers developing new models to engage with us at an early stage wherever possible, and have a designated email for queries: enquiries-newmodelsofcare@cqc.org.uk.

Every NHS England vanguard site also has a designated CQC lead. If you are a vanguard site and do not know who your contact is, please email us and we will contact you.

CQC Registration Improvement Programme

The Registration Improvement Programme is a five-year programme to develop and improve our registration function. This programme includes work to revise and streamline our processes, develop our intelligence around registration, and strategic changes to ensure that this function allows us to deliver our duties and purpose in the most effective way. We have been engaging with providers during the development of our 2016-2021 strategy, and as part our Summer Stakeholder 2016 events, and will continue to do so over the course of the programme. As part of this programme, we intend to test these strategic changes with providers of new care models over the coming year.

About registration

Under the Health and Social Care Act 2008, all 'service providers' who carry on regulated activities must register with the Care Quality Commission (CQC). A service provider can be an individual, a partnership or an organisation:

- **Individuals** are providers who have personal responsibility for regulated activities. They can include an individual who is a sole trader and is self-employed.
- **Partnerships** are formal groups of individuals who carry on a regulated activity together, with joint and several liability. They can include ordinary partnerships, limited partnerships and joint venture partnerships.
- **Organisations** include incorporated bodies such as limited companies, limited liability partnerships (LLPs), charities, franchises and NHS trusts and local authorities.

Providers must register with us if they carry on one or more of the 14 regulated activities, which are explained in our [guidance on the scope of registration](#).

The Registration process takes approximately 12 weeks from the time at which the correctly completed application is received. It is an offence to provide regulated activities without being registered with CQC.

Registration considerations for organisational form in new care models

New models may be developed within many different organisational forms. Our role at registration is to ensure that we are confident the provider can meet the regulations and provide high quality care. However, the organisational form a provider takes does have implications for regulation and accountability.

Considerations for prospective providers include:

- We can only register legal entities. If there is no legal entity, you cannot register with CQC.
- It is a legal requirement for those carrying on regulated activities to register with CQC.
- We will only register legal entities with an address in England. This is important because it is closely linked with our ability to take enforcement action if this is required.

For providers with multiple locations, multiple legal entities and/or multiple partners:

- Where an overarching legal entity is created that is carrying on regulated activities, this entity can be registered as one provider. This allows CQC to have a relationship with the overall provider and to understand links between different locations or services. There is more information about this below under the heading Testing an approach to registration at the ‘controlling mind’ level.
- All parties involved in the development and provision of new models should be clear on what entity is accountable for quality and safety at the outset, and their registration should reflect this.

Testing an approach to registration at the ‘controlling mind’ level

In our 2016-2021 strategy, we committed to ensuring that we are able to hold to account those who are genuinely responsible for quality. Although identifying those who are genuinely accountable is straightforward in some organisational forms, it can be very complex. Many providers have a corporate legal entity at the highest level of an organisation, which sits above the entities currently registered with CQC. For example, one organisation may have multiple legal entities, with each registered separately to provide care homes. In many cases, this entity directs, controls and is ultimately responsible for the quality and safety of its services – we call this the ‘controlling mind’ of the organisation. We believe this will enable CQC to hold the right people to account for the care they provide. We believe that registering such providers at the controlling mind level will have benefits for providers (reduced need

for duplicate registrations), benefits for CQC (improved understanding of links between providers and monitoring of risk) and people using services will benefit (who will be better protected because in the most serious cases, CQC will be able to take action against those ultimately responsible for ensuring that the care provided meets the regulations and is of high quality).

Some new approaches to service delivery may bring together many different organisations into new structures and forms. This may have consequences for the level at which the ‘controlling mind’ sits. We intend to test ‘controlling mind’ registration with some new models and want to work alongside you to understand together how best we can do this. We will learn as we do this, and that learning will support our application of this principle across all services in future. We encourage providers or prospective providers of new models of care to discuss their organisation and plans with us at an early stage and to contact us at enquiries-newmodelsofcare@cqc.org.uk. For information on fees, please see our [fees webpage](#).

Frequently asked questions about registration

1. Does a group of providers collaborating together need to be registered?

Providers can be grouped together or form themselves in a number of ways, so how they register will depend on how they are arranged. Remember:

- a) It is always the **provider** of the **regulated activity** that must register. By ‘provider’ we mean the legal person or legal entity that has ongoing control and direction of the regulated activity. The regulated activities are types of care and treatment. It is the provision of care or treatment that triggers the registration requirement.
- b) Only **legal entities** can register. Other people or bodies that come together less formally, without being legally constituted, are unlikely to have formed a legal entity and cannot register.
- c) Where separately registered providers are collaborating without creating a new legal entity, we will work with providers to understand their arrangements and to inform our regulation, in line with the principles for regulating new models set out in our [consultation document](#).
- d) If services are to be provided jointly or at a shared location in a new model of care, by two or more separate legal entities, please contact us to discuss your organisational form at enquiries-newmodelsofcare@cqc.org.uk.

2. Do all parties involved in a new model of care need to register separately?

If providers collaborating together are already registered for all regulated activities, they do not need to register again. They may need to make an application to vary the conditions of their registration to add or remove locations (see below), and will need to update their statement of purpose.

If providers collaborating together create a new legal entity accountable for the care provided, then a new registration application will be required for this legal entity. If this entity has responsibility for all care provided, then existing providers may need to make an application to cancel their existing registration.

Where providers have not established a legal entity to carry on the regulated activity, then each of the parties providing regulated activity must be registered separately for the regulated activities they plan to provide. If the providers already exist, but are not currently registered for all of the regulated activities they intend to provide, then a new application will be required for any new regulated activities. Existing providers will need to update their statement of purpose.

Prospective providers are encouraged to discuss their organisational form with CQC at an early stage, and to contact us at enquiries-newmodelsofcare@cqc.org.uk.

3. What about locations?

Providers are required to identify the locations from which they will 'manage' or 'carry on' the regulated activity. You can find more information about locations on our [website](#) under 'What is a location?'

4. What if I have more questions?

We are developing our policy and guidance with regard to new models of care and vanguards. Further information is available on our website: www.cqc.org.uk.

If you have a question that you do not feel we have answered in this guidance, please get in touch with us through our dedicated email address: enquiries-newmodelsofcare@cqc.org.uk and we will be happy to provide further information.

Case studies and examples

Case study 1

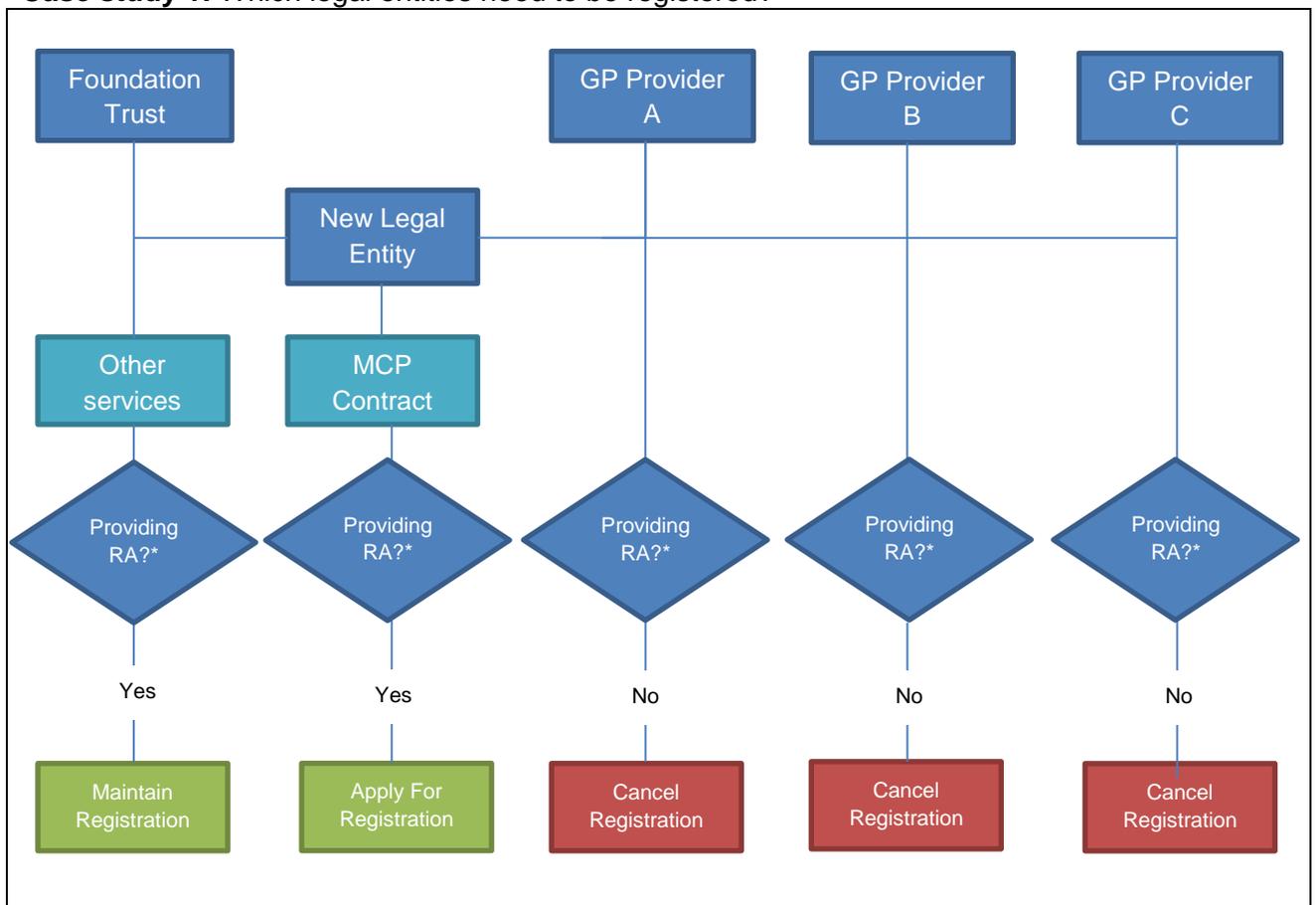
A foundation trust and the providers of several GP practices come together and create a new legal entity (in the form of a corporate joint venture), which holds a Multi-Speciality Community Provider (MCP) contract. Prior to this, the trust and the provider of each GP practice are all registered separately to provide regulated activities. The new legal entity will be providing the regulated activities of: treatment of disease, disorder and injury, diagnostic and screening procedures, family planning, and maternity and midwifery services.

The new legal entity will need to register with CQC for those regulated activities.

The GP practices will suspend General Medical Services (GMS)/Personal Medical Services (PMS) contracts, in line with the NHS England 'fully integrated' MCP model.

The foundation trust will need to maintain its registration if it continues to provide any regulated activity outside of the MCP contract. If it does not continue to provide any regulated activity itself, outside of the MCP contract, the GP providers can apply to cancel their CQC registrations.

Case study 1: Which legal entities need to be registered?



* RA – regulated activity

Case study 2

Five GP practices have agreed to collaborate. They are responsible for non-core hospital services for people in their area. They share back office functions to save cost, and use each other's premises to allow them to offer later appointments and to give patients choice about where they are seen. They have also begun offering care coordination. However, they do not establish a legal entity to do this.

The provider(s) of the five GP practices are already registered. Since they are not establishing a legal entity, no new registration will be necessary. They will only need to register for any new regulated activities they will provide. If they are going to be using each other's premises they may each need to vary the conditions of their registration to add those locations.

Case study 3

A foundation trust and the providers of several GP practices come together and create a new legal entity, in the form of a corporate joint venture, with an MCP contract. The new legal entity will deliver some services itself and sub-contract other services back to the GP providers.

The new legal entity will need to be registered for any regulated activity it is going to provide itself.

For the sub-contracted services, whether the new legal entity or the sub-contractors need to be registered will depend on the content of the sub-contract. Contracts, sub-contracts and other arrangements should be explicit about who will provide the regulated activity (i.e. who will have ongoing direction and control and be responsible for the regulated activity) and accountability arrangements. If the sub-contractors are already registered for the regulated activity that they will provide under the sub-contract, they will not need to apply for any additional registration. But if they provide regulated activity at a different location, which is not in their condition of registration, then they may have to apply to vary the condition by adding the location.

Summary

However you plan to organise a service, the general principle is to identify who will be the provider of the regulated activity.

When a group of providers who are already registered come together to provide services but do not establish a legal entity to do so, they will often already be registered for the regulated activities to be provided and will not need to apply for a new registration. However, they may need to vary their conditions of registration by adding any locations that are not already included in their location condition.

Where a new legal entity is formed, those involved will need to carefully review their responsibilities and any contracts and sub-contracts to ensure that the provider(s) of regulated activity are clearly identified and are registered for the regulated activity they will provide.

We encourage providers to speak to us about registration at an early stage by emailing us at enquiries-newmodelsofcare@cqc.org.uk. We explain more about our approach to regulating new models of care in our consultation document www.cqc.org.uk/nextphase.

Glossary of terms

Location:

A location is a place in which, or from which, regulated activities are provided or managed. Once you are registered you may only provide services at or from the locations specified in the conditions of your registration. You can find out more about the rules for identifying a location on our [website](#) under 'What is a location'.

Registered provider:

We use this to mean the legal entity with direction and control of, and responsibility for carrying on the health or adult social care activities that we regulate.

Regulated activity:

These are the health and adult social care services that we regulate, which you carry on. See our full [Scope of Registration Guidance](#) and our [Quick reference guide to regulated activities by type of service](#) to help you understand how regulated activities and services types could map to each other.

Statement of purpose:

A statement of purpose for a business describes what you do, where you do it and who you do it for. See the guidance on our website for [statement of purpose](#).