

Types of service provider or legal entity

There are many different types of service provider. A service provider is the legal entity who is carrying on the regulated activity. The following are some examples of the main types of service provider.

Individuals

If you will be carrying on the regulated activity by yourself (sometimes referred to as a 'sole trader') you need to register as an individual. Individuals register in their own name as a legal entity and are directly responsible for carrying on the regulated activity or activities.

Organisations

You need to register as an organisation if you intend to carry on regulated activity and are a:

- local authority
- NHS trust
- registered company or charity
- limited liability partnership (LLP)
- other corporate body.

It is the organisation itself that registers – not the people who control it. However, Regulation 5 of the [Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014](#) requires organisations to satisfy themselves that their directors (or those individuals who perform similar functions) are [fit and proper persons](#).

Partnerships

Where an activity is carried on by a partnership, the partnership needs to be registered as the service provider. We do not register each partner individually, but we place a condition on the partnership registration that details the names of each partner.

If there are any changes to the membership of the registered partnership, the provider needs to apply to vary that condition. Providers that registered as a partnership before 4 February 2013 did not have this condition, but we will add the condition to their registration if they apply to add or remove a partner or make another change to their registration details.

Corporate groups

Where a health or care provider is a subsidiary of a bigger parent company and is the legal entity responsible for the service it will need to register in its own right, rather than the parent company. For example, if several provider companies all trade under the same brand, each company that carries on regulated activities must register individually. We will manage our relationship across the parent corporate brand and our published assessments will distinguish clearly between the registered provider and the brand.

Franchises

Franchise holders are usually separate legal entities to the parent company and must register in their own right. When we publish our assessments, we will distinguish clearly between the registered provider and the brand. We will liaise with the parent company as necessary.

Joint ventures

Where an activity is provided as a joint venture between two providers, the venture will often be a corporate entity in its own right and therefore must register. Where the joint nature of the venture is reflected in contracts or agreements rather than in how it is organised, each party may need to register depending on the individual case.

Primary care at scale

A growing number of primary care services are now working more collaboratively. GP practices are working more 'at scale' as part of a federation or a larger primary care network with community health and other primary care teams and services. Collaborative working arrangements also include single provider 'super practices' covering multiple sites. Regardless of whether arrangements are formal or informal, it is important for providers to clearly identify the legal entity responsible for carrying on the regulated activities.

Section 75 agreements

Section 75 agreements enable NHS bodies and local authorities to:

- establish joint funding
- delegate functions
- integrate resources and management structures, such as integrated community mental health care.

These agreements do not usually constitute a new, separate legal partnership and each body that provides a regulated activity must be registered for it separately. Generally, the body that has the original statutory obligation or power to provide the service is the one that should register for it, as it retains accountability for the service.

Example: Where two community mental health teams are integrated under section 75 agreements, the party with the original statutory obligation to provide the regulated activity of Treatment of disease, disorder or injury would need to register for the entire service covered by the section 75 agreement. Where both parties to the agreement have the same statutory obligation, both are likely to need to register, but they will only be accountable for their areas of responsibility. If either of the parties to a section 75 agreement provide services outside of that arrangement, they would need to be considered in their own right.

Services registered with Ofsted

Ofsted is responsible for regulating establishments and agencies that provide children's social care services. Services regulated by Ofsted are described on the [Ofsted pages of the GOV.UK website](#).

CQC cannot regulate the accommodation element of any establishment or agency registered with Ofsted in England. However, if health care is also being offered, the provider will need to register with CQC separately for the health care element.

The Government guidance on [Children's homes and health care: registration with Ofsted or CQC](#) explains which regulated activities offered by children's homes are likely to need to register with CQC.

Services that provide the regulated activity of Personal care to children outside of an establishment or agency that is registered by Ofsted need to register with CQC. For example, a domiciliary or homecare agency may provide personal care to a child in their own home.

The **same** regulated activities cannot be dual registered with both the Care Quality Commission and Ofsted. Where a provider **must** register with Ofsted, the parts of its service that Ofsted regulates will be exempt from registration with CQC. This means the provider does not need to register the same regulated activity with CQC. A provider can still be registered with both regulators, but it cannot be accountable for the same activity (called double accountability). For example, a provider may be registered with Ofsted for activity A and be registered with CQC for activity B. Sometimes, activities A and B may be closely related, or take place in the same location.

We cooperate with Ofsted under the terms of a [Memorandum of Understanding](#). We work together to share expertise and coordinate activity. This allows each regulator to monitor the different areas while avoiding duplication and overlap. See [How we inspect children's services](#).

Hosting arrangements

Hosting is where one provider makes facilities available to another provider to enable it to carry on a regulated activity. In some cases, this may also include support staff such as reception, catering, and housekeeping.

It is the provider that carries on the regulated activity that needs to register – not the host.

Example: An independent provider of a private dialysis unit (provider A) operates within the premises of an NHS hospital (provider B). Provider A will need to register in its own right as a provider if it carries on a regulated activity – not provider B (the host NHS trust).

In these situations, we advise hosts to set out the extent of their role in formal agreements with the service provider (for example, through a contract or service level agreement). If the responsibilities of each provider are unclear, hosts may sometimes end up being held responsible for activities taking place in premises that are under their control, if nobody else is responsible for them.

Renting arrangements

In the same way, if a provider rents out its facilities to another provider, that other provider will need to register in its own right if it provides a regulated activity.

Example: A registered hospital (provider A) rents out its operating theatres to another provider (provider B) during times when they are not being used. Provider B will still need to register if it is carrying on regulated activities independently of the host hospital, even though the host hospital is already registered.

Practising privileges

Practising privileges are a well-established system of checks and agreements to enable doctors to practise in hospitals without being directly employed by them. Doctors sometimes rent consulting rooms to conduct private outpatient appointments in independent hospitals and in private facilities within an NHS hospital. Where these doctors provide a consultation in a service that is managed by the hospital, and the doctors have agreed practising privileges, the consultation may be covered by the hospital's registration.

Practising privileges are different to normal renting and sub-contracting arrangements because they have a specific exemption in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. For this exemption to apply, all aspects of a consultation must be carried out under the hospital's management and policies. For example, the consultation must meet the hospital's requirements for clinical governance and audit, and follow its policies and systems for complaints and for record-keeping (with the hospital owning the records). It means that the hospital retains responsibility for ensuring that all regulations and relevant requirements are met. The hospital can do this by granting practising privileges.

Doctors (or other healthcare professionals) can also sometimes practise in outpatient departments under their own arrangements, with the hospital only acting as landlord. Where this happens, and the doctor or other healthcare professional is carrying on regulated activities independently of the hospital, they must register as this does not amount to the exercise of practising privileges, unless they are exempt for other reasons ([see general exceptions and exemptions](#)).

Landlords should clearly set out the extent of their role in agreements with the service provider (for example, through a contract, service level agreement or practising privileges). If the extent of responsibilities is left unclear, landlords may sometimes end up being held responsible for activities taking place in premises that are under their control, if nobody else is responsible for them.

Subcontracted services

If a subcontractor provides treatment or care services that include a regulated activity, they will usually need to register in their own right. This will always depend on the nature of the subcontracting arrangement. But if a subcontractor does not provide treatment or care directly, such as providing equipment or support services that do not include providing a regulated activity (for example, catering or cleaning) they will not need to register.

Example of a subcontracted activity that needs to be registered: In a hospital's imaging service, the x-ray and scanning department is equipped, staffed and operated by a subcontractor. The overall service is seamless and people who use it may be unaware that some parts are subcontracted. The subcontractor will need to register for the activity as well as the provider of services at the host hospital, even though they provide a service that is part of a pathway of care, entirely within the hospital.

Generally, a subcontractor with a contract to supply part of a wider and more comprehensive service should register for any regulated activity they carry on if they retain any responsibility for delivering the service (such as the operational policies and protocols, day-to-day operational or staff management, clinical governance or quality assurance).

The provider that sub-contracts the work makes a commercial decision on who is responsible for delivering the regulated activity or activities. Commercially, the legal accountability for the quality of care remains the responsibility of both the provider and the sub-contractor. However, for registration under the Health and Social Care Act 2008, CQC will hold accountable the legal entity that is directly responsible for carrying on the regulated activity.

Example of a sub-contracted activity that may not need to be registered: A subcontractor provides an imaging service, but the hospital provider retains responsibility for all aspects of delivering the service. In this case, the hospital provider or the main contractor who retains ongoing control of delivering the service will be held accountable for the sub-contracted regulated activity or activities.

Secondments and similar service level agreements

In some cases, a service provider uses staff from another organisation who are 'loaned' to it, through a secondment or similar agreement, for a certain proportion of their time.

Example: provider A carries on the regulated activities of Surgical procedures and Treatment of disease, disorder or injury. Provider A employs two specialist registered nurses to administer chemotherapy and provide support to patients. When one or both of the specialist registered nurses are on leave, provider A borrows specialist chemotherapy registered nursing staff from provider B. An agreement is in place to enable this to happen. The staff are still paid by provider B, but provider A is the provider who is carrying on the service.

This arrangement does not make the delivery of the regulated activity a joint service (which might require both provider A and B to register for it). Instead, the original employer of the nursing staff is acting as a staffing agency. For the period in which the nursing staff have been seconded to work for and be managed by provider A, they are part of provider A. In this situation, provider B does not need to register for the service provided by provider A. This is often the case with arrangements for community mental health services.

In some cases, an NHS trust (A) may second its staff to a separate service (B) that is funded and facilitated by a charity, while retaining responsibility for the clinical services provided. Sometimes B may reimburse A for the cost of the staff. In these cases the requirement to register will depend on the detail in the contractual arrangements. This should identify which provider is actually responsible for the treatment being provided. An example of this might be an air ambulance service.

Whether we are considering a secondment, a hosting arrangement or any other way of organising a service, our general principle is to identify who is responsible for the safety and quality of care or treatment. We do this by finding out:

- who has clinical responsibility?
- who would need to handle complaints?
- whose quality assurance or clinical governance system covers the activity?

The line of accountability will usually tell us who is responsible for ensuring compliance with the regulations, and therefore who needs to register.