

Covid-19 Regulations

QR Codes within the NHS Test and Trace System and the need for businesses to register

Introduction

The Government has introduced a set of new measures to try and contain the spread of Covid-19. There has been an increase in the rate of infection across England and Wales which has led to further restrictions.

This briefing sets out the rules relating to the registration, promotion and use of QR codes in England and Wales. Given that public health is a devolved responsibility, there are some differences between England and Wales. These differences have been highlighted in this briefing note.

What must certain types of business do to meet the regulations?

Venues in hospitality, the tourism and leisure industry, close contact services and local authority facilities must:

- ask at least one member of every party of customers or visitors (up to 6 people) to provide their name and contact details. This relates to visits and purchases inside an establishment;
- keep a record of all staff working on their premises and shift times on a given day and their contact details;
- keep these records of customers, visitors and staff for 21 days and provide data to NHS Test and Trace if requested;
- display an official NHS QR code poster from 24 September 2020, so that customers and visitors can 'check in' using this option as an alternative to providing their contact details;
- adhere to General Data Protection Regulations. The Information Commissioner's Office (ICO) has guidance to help minimise data protection risks (<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/data-protection-impact-assessments/>)

Hospitality venues must also refuse entry to those who refuse to participate.

Failure to do any of these requirements will result in fixed penalty fines for business owners of up to £10,000.

In Wales, gatherings of up to 30 people are permitted whereas this is reduced to 6 in England. For self-catering accommodation and other accommodation providers, such as camp sites, it should be possible to receive the contact details when booking a stay. In the event that visitors have not booked, businesses will need to display the QR code at reception and receive the contact details at the time of check in.

Which types of business must show QR codes?

The table below sets out those businesses that are required to register for and display QR codes. This applies to England and Wales.

Sector	Type of business
Hospitality	<ul style="list-style-type: none">• restaurants, including restaurants and dining rooms in hotels or members' clubs• cafes, including workplace canteens• bars, including bars in hotels or members' clubs• public houses
Leisure and tourism	<ul style="list-style-type: none">• amusement arcades• art fairs• betting and bingo halls• casinos• clubs providing team sporting activities• facilities for use by elite and professional sportspeople (including sports stadia)• heritage locations and attractions open to the public (including castles, stately homes and other historic houses)• hotels and other guest accommodation provided on a commercial basis, including in bed and breakfast accommodation, boats, campsites, caravans, chalets, guest houses, holiday parks, hostels, motels, pubs, sleeper trains, self-catering accommodation and yurts• indoor sport and leisure centres• outdoor swimming pools and lidos• museums and galleries• music recording studios open for public hire or other public use• public libraries
Close contact services	<ul style="list-style-type: none">• barbers• beauticians (including those providing cosmetic, aesthetic and wellness treatments)• dress fitters, tailors and fashion designers• hairdressers• nail bars and salons• skin and body piercing services• sports and massage therapists• tattooists
Local authority run services	<ul style="list-style-type: none">• community centres• youth and community centres• village halls

How does a business register?

By maintaining records of staff, customers and visitors, and displaying an official NHS QR poster, you will help NHS Test and Trace to identify and notify people who may have been exposed to the virus.

Businesses must register for an official NHS QR code and display the official NHS QR poster from 24 September 2020. Details on how to register can be found at: <https://www.gov.uk/create-coronavirus-qr-poster>

The NHS COVID-19 app has a feature that allows users to quickly and easily 'check in' to the venue by scanning the code. The information stays on the user's phone. In England, businesses do not have to ask people for contact details (in a written form) if they choose to 'check in' using the official NHS QR code to provide their contact details. If there is an outbreak associated with a venue, a message will be sent to the relevant app users with the necessary public health advice.

Designated venues must display an official NHS QR code poster at their entrance, or at the point of service. The poster allows the visitor to scan the NHS QR code when they arrive by using the NHS COVID-19 app. Businesses must have a system for individuals who do not have a smartphone or the NHS COVID-19 app to provide their contact details.

If an app user chooses to use the QR code check-in feature, you should not ask for their contact details.

Hospitality venues must refuse entry to a customer or visitor who does not provide their name and contact details, is not in a group (for which one other member has provided name and contact details), or who has not scanned the NHS QR code.

Venues in other settings do not need to refuse entry but should encourage customers and visitors to share their details or scan the official NHS QR poster in order to support NHS Test and Trace and advise them that this information will only be used where necessary to help stop the spread of COVID-19.

What information do I have to collect?

Venues must ask every customer and visitor for the following details (unless they have 'checked in' using the NHS COVID-19 app):

- the name of the customer or visitor. If there is more than one person, then you can record the name of the 'lead member' of the group (of up to 6 people) and the number of people in the group;
- a contact phone number for each customer or visitor, or for the lead member of a group of people. If a phone number is not available, the business should ask for their email address instead, or if neither are available, then postal address;
- date of visit, arrival time and, where possible, departure time;
- the name of the assigned staff member, if a customer or visitor will interact with only one member of staff (for example, a hairdresser). This should be recorded alongside the name of the customer or visitor;

Recording both arrival and departure times (or estimated departure times) will help reduce the number of customers or staff needing to be contacted by NHS Test and Trace. It is recognised, however, that recording departure times will not always be practicable and this is not required by law.

All designated venues must also keep a record of all staff working on the premises on a given day, the time of their shift, and their contact details. This covers anyone providing a service or activity including volunteers.

No additional data should be collected for this purpose.

In England, the business does not have to request details from people who check in with the official NHS QR poster, and venues should not ask them to do both. Venues must not make the specific use of the NHS QR code a precondition of entry (as the individual has the right to choose to provide their contact details. Should someone choose to check in with the official NHS QR poster, a venue should check their phone screen to ensure they have successfully checked in.

Many businesses that routinely take bookings already have systems for recording their customers and visitors – including restaurants, hotels, and hair salons. Due to the COVID-19 outbreak, more businesses have, or are planning to implement, an ‘advanced booking only’ service to manage the numbers of people on the premises. These booking systems can serve as the source of the information that needs to be collected. Customers or visitors can still scan the official NHS QR code if they wish, to help remind them where they have been if asked by NHS Test and Trace.

The business should collect this information in a way that is manageable for the establishment. If not collected in advance, this information should be collected at the point that visitors enter the premises. It should be recorded electronically if possible, for example through an online booking system, but a paper record is acceptable. If businesses are keeping a paper record, this should be out of public sight and stored securely. The business must ensure that there are options for people to leave their contact details if they do not own a smartphone.

How does this apply in Wales?

There are a number of differences between Wales and England regarding the enforcement of the new restrictions.

In Wales, although the rule of six applies, children under 11 are not counted as part of the group. It is also permitted that up to four households are permitted to join together as an extended household. However, it is still the case that each group, whether as part of a group of six or in an extended household must comply with the social distancing rules – 2m in Wales and 2m or 1m+ in England. In a practical sense, in an indoor environment, businesses in Wales need to ensure that contact details are given by the person responsible for each group. The intention of the regulations is clearly to ensure that the test and trace system can work effectively.

There is also a difference regarding the size of gatherings outdoors. In England, this is still restricted to groups of six; in Wales the maximum number is 30. However, for business such as self-catering accommodation and campsites, the vast majority will have pre-booked and businesses will therefore have the necessary contact details. In the event of visitors not pre-booking, they will need to provide their contact details when they check in. Where there is a group of more than six but less than 30, it is advisable to take the contact details of all members of the group. But only six may provide these details at any one time if check in takes place indoors.