



As businesses start to reopen after the lockdown, they will need to collect information on their customers, visitors and staff, so information can be handed over to NHS Test and Trace.

The Government advice is that: 'you should assist NHS Test and Trace by keeping a temporary record of your customers and visitors for 21 days, in a way that is manageable for your business, to assist NHS Test and Trace with requests for that data if needed to help contain clusters or outbreaks.

The test and trace system involves people being asked to share sensitive personal information. This can include:

- Their name, date of birth and postcode
- Who they live with
- Places they recently visited
- Names and contact details of people they have recently been in close contact with, including any sexual partners.

While many businesses in hospitality, retail and leisure already have systems for recording their customers and visitors, for pubs, restaurants, museums, cinemas, zoos, places of worship, community centres and theme parks to name a few it will be a challenging for them to implement how to collect this data.

To date it is unclear whether a specific statutory obligation for businesses to assist NHS Test and Trace by collecting customer data. The use of the wording 'should assist' in the Government guidance as opposed to 'must assist' suggests that it isn't going to be a legal requirement.

Government guidance on what personal information to be collected, and kept temporarily for 21 days:

- The names of staff who work at the premises, a contact phone number for each member of staff, the dates and times that staff are at work
- The names of customers and or visitors, their contact phone number, date of visit, arrival time and, where possible, departure time.
If a customer will interact with only one member of staff e.g. a hairdresser, the name of the assigned staff member should be recorded alongside the name of the customer.

Information Commissioner's Office (ICO) have published a **ABCDE** step guide on contact tracing

- Ask for only what's needed
- Be transparent with customers
- Carefully store the data
- Don't use it for other purposes, and
- Erase it in line with government guidance

ICO have also published advice on collecting, storing and deleting the personal data you've been encouraged to obtain.

[Read more](#)

Many businesses would honour helping the government contact tracing scheme as being the right thing to do, while it also makes sense to encourage customers back with '[We're Good to Go](#)' industry standard and consumer mark, designed to reassure customers that businesses adhere to Government and public health guidance.

To date, the Government guidance doesn't yet provide much in the way of specific detail, such as what the legal basis for collecting this information is although the ICO says that further Q&As will be published.

The Government guidance current stance is it is not mandatory for customers or visitors to give their personal details, but encourages them in order to support NHS Test and Trace and advises that their information will only be used where necessary to help stop the spread of COVID-19'.

As the Government guidance says, 'there is also a wider system of enforcement, which includes specific obligations and conditions for licensed premises'.

While regulators have been assigned to carry out compliance checks nationwide to ensure that employers are taking the necessary NHS Test and Trace steps, it's unclear whether there is or will be a specific statutory obligation and legal duty for businesses to assist by collecting customer data.

Things are moving quickly in this area and businesses are encouraged to:

- Monitor NHS Test and Trace website to keep up to date with changes to guidance <https://www.nhs.uk/conditions/coronavirus-covid-19/testing-and-tracing/>
- Keeping and maintain a record of your personal data processing activities.
- Display a notice at your premises and or on your website setting out what personal data you will be collecting, and what it will be used for and the circumstances in which it might be accessed by NHS Test and Trace.
- After 21 days, the personal information you collect for the NHS Test and Trace scheme should be securely disposed of or deleted.
- Don't use this personal data for any other purpose unrelated to the NHS Test and Trace scheme such as marketing.
- Download FREE [Data Privacy Risk Assessment](#) for the Covid-19 contact tracing programme

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