

# Notices of Proposal, Notices of Decision and urgent cancellation orders

This guidance explains how you can make written representations about Notices of Proposal served by CQC, and how we receive, process and respond to these representations.

It also tells you how you can appeal to the First-tier Tribunal (Health, Education and Social Care Chamber) against a notice of decision or a Magistrates Court Order.

The guidance is for:

- a registered person (a registered provider or registered manager)
- people who are applying for registration as a registered person.

The guidance covers:

- written representations against Notices of Proposal
- appeals to the Tribunal against Notices of Decision and urgent cancellation orders

## Notices of proposal

CQC will serve a Notice of Proposal on a registered person or a person applying to register (an applicant) to enable us to:

- impose or vary conditions on a registered person's registration
- suspend a registered person's registration
- cancel a registered person's registration
- refuse an application for registration
- refuse an application by a registered person.

If we have served a Notice of Proposal on you, you have the right to make written representations about any matter you wish to dispute.

Written representations are your opportunity to explain your challenge against our Notice of Proposal.

We will consider your written representations and any supporting evidence. We will tell you that we have either:

- decided not to adopt the Notice of Proposal and will withdraw it
- decided to adopt the Notice of Proposal and will serve a Notice of Decision

You do not have to challenge a Notice of Proposal. If you choose not to, we will issue a Notice of Decision.

## Notices of Decision served under urgent procedures

We serve these notices under section 31 of the Health and Social Care Act 2008. The notices tell registered persons that we have decided to either:

- suspend your registration
- extend the suspension of your registration, or
- vary, remove or impose a condition of registration under the Act's urgent procedures with immediate effect.

We do not serve Notices of Proposal under urgent procedures so there is no process to make a written representation for them. You may appeal decisions served under urgent procedures to the First-tier Tribunal.

## Urgent cancellation orders

CQC can apply to a magistrate for an order to immediately cancel a registration. We do this under section 30 of the Health and Social Care Act 2008. We can apply for these orders if not cancelling the registration would pose a serious, immediate risk to a person's life, health or wellbeing.

We do not serve Notices of Proposal before applying for an urgent cancellation order so there is no written representation process for urgent procedures. You may appeal to the First-tier Tribunal against the magistrate's order.

# Representations and appeals

## Proposals you can make written representations about

You can make representations to CQC about Notices of Proposal that enable us to:

- impose, remove or vary conditions on a registered person's registration
- suspend a registration
- cancel a registration

- refuse an application for registration
- refuse an application by a registered person.

## Time limits for representations

Section 27(1) of the Health and Social Care Act 2008 says that representations must be made within “28 (calendar) days of service of the notice”.

For notices sent by email, the day of service of the notice is the next working day after we sent the notice. For notices sent by post, the day of service is three calendar days after we posted the notice.

You must submit your **full** representations and any supporting evidence that you wish us to consider within 28 days of the date of service. You cannot tell us you are going to submit representations within the timescale and then submit the representations or any further evidence later.

We will send you an acknowledgement email to confirm that we have received your representations. You need to keep this email until we have concluded our review of your representations.

## Making representations verbally

We cannot accept verbal representations. Section 27(1) of the Health and Social Care Act 2008 says that representations must be made in writing. This means you need to send a written submission delivered by email, by post or in person to one of our offices.

Send your representations and any supporting evidence by email to:

[HSCA\\_NoP\\_Representations@cqc.org.uk](mailto:HSCA_NoP_Representations@cqc.org.uk)

## Representations form

Download the representations form and email the completed form to:

[HSCA\\_NoP\\_Representations@cqc.org.uk](mailto:HSCA_NoP_Representations@cqc.org.uk)

Notice of Proposal: Representations form

[Notice of Proposal: Representations form](#)

**File title**

Notice of Proposal: Representations form

**Keywords**

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[Warning Notice](#)

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**Copyright Holder**

Care Quality Commission

**Teaser**

This form is for providers of health and adult social care services who have been served with a warning notice and wish to appeal against the publication of it.

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Although you do not have to use our standard form, we encourage you to use it. This will make it clear to us that you are making representations against a Notice of Proposal and it will help you to structure your response.

If we receive a letter from a registered person, a person applying to register or any person claiming to act on their behalf about a Notice of Proposal that they have received, we will check whether they are making representations and have the authorisation to do so if we need to. If we establish that the letter contains the full representations, the normal response timescales will apply from the date of receipt.

## Submitting supporting evidence

Although there is no requirement to submit supporting evidence with your representations it will help us to consider your representations if you do so. Submitting supporting evidence can help you to show evidence of any action you have taken to address the concerns identified in the Notice of Proposal. When you submit supporting evidence, we recommend that you list these documents clearly. This will enable us to check that we have received all of your documents

Examples of the evidence you could include:

- pictures that show the actions you have taken
- external professional reports or audits
- copies of documents that address our specific concerns.

If your supporting documents are a large file size, you may need to send attached to a series of separate numbered emails. For example attachments that are more than 15MB may be too big to send in one email.

## Timescale for determining representations

There is no legal timescale for us to determine a matter after we have received written representations about Notices of Proposal. We aim to conclude reviews of representations at the earliest possible opportunity. We are currently concluding reviews within an average of 60 working days. This means some cases may take more than 60 working days to conclude. This timescale is calculated from the working day after we receive the representation.

## How we consider representations

Our National Representations team will consider your representations. The team will make a recommendation to the delegated authority. The delegated authority is the person who has the authority under our Scheme of Delegation to make a final decision on the outcome of the representations review. They decide whether to either adopt or not to adopt Notices of Proposal in response to representations. The National Representations team and the delegated authority are impartial. They are independent of the inspection team who made the decision to serve the Notice of Proposal.

The delegated authority will make their decision about your representations based on:

- the Notice of Proposal
- your representations
- any supporting evidence submitted.

Where it is relevant to determining the decision on your representations, the delegated authority may also consider evidence that is publicly available such as inspection reports published by CQC.

We may need to contact you to clarify some things or to ask for further information. We usually allow 7 days for you to supply this information. If needed, we'll give the team who made the decision another 7 days to comment on the information. If you do not send us the information or give comments, we will continue to determine the matter.

If the delegated authority needs this information from the team who issued the Notice of Proposal, the same timescales will apply. And if needed, we'll give you a further 7 days to comment on their information or comments.

## Decisions not to adopt the Notice of Proposal

If the delegated authority decides not to adopt the Notice of Proposal, we will send you a letter to explain this. We will withdraw our Notice of Proposal and we will not take the proposed action.

If you are applying to register with CQC, your registration application will return to the registration team. They will consider your application further.

The decision to not adopt the Notice of Proposal does not prevent us from issuing a new or additional Notices of Proposal. We will do this where it is appropriate and justified. You have the right to make representations against any new Notice of Proposal that we issued. If you do so, the representations procedure starts again.

## Decisions to adopt the Notice of Proposal

If the delegated authority decides to adopt the Notice of Proposal, we will send you a letter to explain this.

This letter is our Notice of Decision. It includes information about:

- when the Notice of Decision takes effect
- how you can appeal to the First-tier Tribunal against the decision.

## Who gets a copy of the decision

CQC must send a copy of the decision to the other registered persons for the regulated activity. We may send it to other people we consider appropriate. Sections 28(5) and 39(2)(b) of the Health and Social Care Act 2008 tells us who we can send it to.

## Factual accuracy submissions

The factual accuracy check is a separate process. It does not form part of the representations or appeals process. The factual accuracy check is about the content of a draft inspection report. We will ask you to check the factual accuracy and completeness of the information we have used to reach our judgements and ratings in the draft inspection report. Therefore, it is important to include any information that you feel is relevant within your representations against the Notice of Proposal.



# Complaints

The representations or appeals process cannot consider complaints. Find out [how to complain about CQC](#).

## Appeals

You have the right to make a formal appeal to the First-tier Tribunal (Health, Education and Social Care Chamber) against:

- Notices of Decision
- notices served under the urgent procedures
- urgent cancellation orders.

The appeal process is completely independent of CQC.

## Appeals to the First-tier Tribunal

You have the right to submit an appeal against our Notice of Decision or a magistrate's order by appealing to the First-tier Tribunal (Health, Education and Social Care Chamber) under Section 32 of the Health and Social Care Act 2008.

[Download an application form or contact the Tribunals Service.](#)

## Time limits

You must submit your appeal to the Tribunals Service in writing within 28 calendar days of:

- the date you were served with the Notice of Decision or
- the date the magistrate's order was issued.

If you do not appeal, the Notice of Decision or the magistrate's order will become final as soon as either:

- the 28 day appeal period expires or
- if you inform CQC in writing that you do not want to appeal

Find out [how to appeal to the First-tier Tribunal](#).

## After you appeal

When the Tribunals Service receives a properly submitted appeal within the correct timescale, it arranges a hearing to consider all the relevant evidence and make a decision.

We will submit and exchange 'bundles' of evidence with you before the hearing. This makes sure that the process:

- is open
- takes all relevant evidence into account
- enables both sides to have full access to all relevant information when preparing for the hearing.

The Tribunals Service can hold hearings in its London offices, or in local venues across the country as needed.

## Providing or managing a service during an appeal to the Tribunal

If you are appealing a Notice of Decision that was not issued under the urgent procedures of the Health and Social Care Act 2008, you can continue to carry on the regulated activity

If we take enforcement action under the urgent procedures of the Health and Social Care Act 2008, our decision remains in place unless and until the Tribunal decides otherwise. You can find information about these urgent procedures and how we use them in our [Enforcement Policy and guidance](#).

## The Tribunal's decisions

The Tribunal can:

- dismiss the appeal, in which case our Notice of Decision is upheld and takes effect, or
- uphold the appeal.

If the Tribunal upholds an appeal, it will make a decision about your registration. The Tribunal's options for its decision are the same as those available to CQC under normal regulatory activity.

This includes changing conditions placed on your registration.

## Appealing the Tribunal's decision

There are [appeal processes](#) within the Tribunal Service and through the Court of Appeal.