

Warning Notices

This guidance explains how CQC uses Warning Notices in our enforcement procedures, how you can make representations about a Warning Notice, and how we may publish them.

Also see our [enforcement decision tree](#) and [enforcement policy](#).

Why we issue Warning Notices

We can issue a Warning Notice to a registered person where they have "failed to comply with the relevant requirements", that is to say where the quality of the care they are responsible for falls below what is legally required.

Legal requirements can include:

- the Health and Social Care Act 2008 ('the Act') and the Regulations made under it
- other legislation that registered persons are legally obliged to comply with in delivering the service

The discretionary power to issue a Warning Notice is conferred by section 29 of the Act. We use a section 29 Warning Notice for all types of regulated provider except NHS trusts (including foundation trusts).

For NHS trusts, section 29A of the Act has additional provision for Warning Notices. We may issue a section 29A Notice to an NHS trust where it appears to us that significant improvement is required. See more information in our [Section 29A Warning Notice guidance](#).

When we issue Warning Notices

We can issue a Warning Notice when there is a breach of:

- a Regulation
- a section of the Health and Social Care Act 2008
- a 'relevant enactment' (another Act with requirements relevant to the fundamental standards)
- a condition placed on a registration

We can issue a Warning Notice for a breach that occurred in the past, and which has been rectified, if it was serious enough to necessitate issuing the Notice.

How we issue Warning Notices

We will send a Warning Notice to the registered person. We must issue all Warning Notices in writing, and they must state:

- the relevant Regulation, section of the relevant Act, or condition that the registered person is not complying with and
- how the registered person did not comply or is continuing not to comply with a legal requirement

If a Warning Notice relates to continuing failure to comply with a legal requirement, it must also include:

- a warning that we may take further action if the registered person does not comply with the Warning Notice and the breach is continuing and
- the timescale within which the registered person must comply

For some Regulations of the Health and Social Care Act 2008, we do not firstly need to issue a Warning Notice before we are able to prosecute as they relate specifically to harm or the risk of harm, or are requirements imposed by CQC.

A Warning Notice is deemed to have been served:

- the next working day after it was sent, if issued electronically (by email)
- on the third day after the day it was sent, if issued by registered post
- on the day it was given to the person, if delivered by hand

Timescales for complying with a Warning Notice

There is no legally set timescale for complying with a Warning Notice. CQC can set any reasonable period. Timescales will reflect the degree of risk to the safety and welfare of people who use the service.

When issuing a Warning Notice, we will:

- focus on where outcomes for the people using the service are failing
- be proportionate
- make sure the timescale is realistic and achievable
- be consistent
- take into account the registered person's track record of enforcement, inspection history and notifications

If your service has a poor track record of enforcement, inspection history and submitting statutory notifications, we may impose a tighter timescale to encourage prompt action and improvements.

Where there is continuing failure to meet the requirement(s), a Warning Notice will specify the timescale in which the registered person must comply. It will include a warning that we may take further action if they do not comply with the Warning Notice within that timescale.

How we follow up requirements in a Warning Notice

We always check that you have taken action to comply with the legal requirements in a Warning Notice.

If you have complied within the specified timescale, you can let us know by sending confirmation. Email this to EnforcementComms@cqc.org.uk. Do **not** use a representations form to do this.

If we decide that we need to make further checks about meeting the requirements, we can either:

- telephone the registered person
- ask an appropriate third party for information or
- carry out an assessment activity (which could be an unannounced inspection)

If you are making representations against a Warning Notice and the deadline to comply stated in the Warning Notice has expired, we will assess your compliance after the representations process has concluded.

How we follow up non-compliance with requirements

We will consider the options and take the most appropriate action in line with our [enforcement decision tree](#). This can, in certain circumstances, include prosecution or taking action to vary or impose conditions of registration.

In serious circumstances, we can take action to cancel a registered person's registration. See our [enforcement policy](#).

Publishing Warning Notices

We do not have to publish information about any Warning Notice that we have issued. If the registered person has had the opportunity to make representations about it, we can publish it under Schedule 2, Part 2 of the Care Quality Commission (Registration) Regulations 2009.

In most circumstances, representations made concerning an adverse effect on the provider's business would not be a sufficient reason to withhold publication.

When we publish an inspection report for a service, we will refer to enforcement action in the report, and we may publish a summary on the provider's relevant location page on our website. We may also publish a press release on our website, and link to it from the relevant location page.

In all cases where we publish, we only publish a summary of the main points of the Warning Notice, not the full content.

If we decide not to publish the Warning Notice (and it has not been withdrawn), we will still send a copy to other bodies under our statutory duties (section 39 of the Health and Social Care Act).

