

# Representations against a Warning Notice

If we issue a Warning Notice against you there is no right of appeal against it, but you may decide to make representations to CQC about it.

Examples of representations about the content of a Warning Notice include:

- it contains an error
- it is based on inaccurate facts
- it should not have been issued for some other reason

Representations can also include reasons for why it would be unfair to publish the Warning Notice.

## How to make representations

Representations against a Warning Notice **must be in writing**. We will not accept a verbal representation.

This avoids any misunderstanding about the content of the representations and ensures that we record all details.

Each Warning Notice contains details of how to make representations, including how to download the [representations form for Warning Notices](#).

We encourage you to use our form so that it is clear that you are making

representations. If you do not use the form and send us a letter, please be clear that you are making representations. We will determine whether the letter constitutes formal representations about the Warning Notice. If we determine that it is representations, we will consider and respond to the letter using our representations process.

## Where to send your written representations

Email to: [HSCA\\_Representations@cqc.org.uk](mailto:HSCA_Representations@cqc.org.uk)

Post to: Care Quality Commission

Citygate

Gallowgate

Newcastle upon Tyne

NE1 4PA

You can also deliver your written submission in person to one of our offices.

**Note:** You cannot make representations as part of the [factual accuracy check](#) process for a draft inspection report, as this is a separate and distinct process.

## Deadline for representations

You must make representations against a Warning Notice within **10 working days** of service of the Notice.

# How we respond to representations

There is no legally set timescale for us to respond to representations about Warning Notices, but we aim to respond within **20 working days** of receiving any representations.

This timescale is calculated from the working day after we receive the representations.

We will send an outcome letter to the registered person who has made written representations to let them know our decision.

## How we make decisions about representations

Representations are considered by the National Representations Team (NRT) (for representations received from 1 April 2023 onwards).

To help us decide whether to uphold your representations, we will consider the information in your submission alongside the information detailed in the Warning Notice.

We firstly consider any representations made against the content of the Warning Notice.

We can decide to:

- **Not uphold the representations:** the decision maker has not agreed with the grounds made in the representations or
- **Uphold the representations:** the decision maker has agreed with the grounds made in the representations or determined for some other reason that it was not appropriate or proportionate to serve the Warning Notice. When we uphold representations, this will mean the outcome letter will formally record that we have withdrawn the Warning Notice

Please note there is no decision to partially uphold representations.

Where representations are made regarding publication, these will be considered, and the decision maker will decide whether the Warning Notice should be published.

We may confirm the accuracy and appropriateness of the Warning Notice in deciding that representations are not upheld, but also decide not to publish the Warning Notice (in such circumstances, a summary of the Warning Notice would not be included in the published inspection report, but the report would still state that enforcement action has been taken against the provider).

Please note CQC will send a copy of any Warning Notice that we issue to relevant external bodies, such as a local authority, in line with section 39 of the Health and Social Care Act 2008. The decisions we make about representations will also have implications for those bodies.

If we do not uphold representations and decide not to publish the Warning Notice, the local operations team who issues the Warning Notice will still send copies of it to relevant external bodies. The operations team will make these external bodies aware of any errors or issues that we have noted in the outcome letter to the provider.

If we have decided not to uphold the representations against the Warning Notice, there is no statutory appeal process for a registered person. However, registered persons have a right to apply for a Judicial Review of our decision.

## Withdrawing a Warning Notice

CQC will withdraw a Warning Notice if we take the view that it should not have been issued.

There is no specific statutory provision for withdrawal of Warning Notices, but we are obliged to consider representations about Warning Notices before we publish them. If the decision makers consideration of the representations shows that the Warning Notice should not have been issued, we will withdraw it.

We may decide to withdraw the Warning Notice because:

- it contains a serious error (which impacts upon the seriousness of the matters described or the proportionality of issuing the Warning Notice)
- it is based on inaccurate 'facts' (which impacts upon the seriousness of the matters described or the proportionality of issuing the Warning Notice)
- it has not been issued in accordance with the legal test, that is, it must satisfy the test, "it appears to the Commission that \_\_\_\_ has failed to comply with the relevant requirements \_\_\_\_"
- it would be unfair to publish it
- it makes requirements that we decide are not reasonable or proportionate

If we withdraw a Warning Notice, we will not publish the details of it. We will inform any relevant external bodies who have received a copy of the Notice that it has been withdrawn.

## Additional information

If we decide to uphold representations and withdraw the Warning Notice, the local operations team may decide to issue another Warning Notice (following the usual internal enforcement processes).

We will follow our [code of practice on confidential personal information](#) when making decisions in relation to confidential information.

