

Section 29A warning notices for NHS trusts and NHS foundation trusts

When CQC can serve a section 29A warning notice

We can serve a warning notice under section 29A of the Health and Social Care Act 2008 when we identify concerns across either the whole or part of an NHS trust or NHS foundation trust and we decide that there is a need for significant improvements in the quality of healthcare.

This includes concerns that are probably systematic and affect the entire system or service rather than being an isolated matter and that result in the risk of harm or actual harm.

The 'quality of healthcare' means anything covered by the five key questions and their key lines of enquiry across the whole or part of a trust or foundation trust.

CQC must apply a legal test to decide whether or not to issue a warning notice. This is in addition to other decisions we make, such as whether any regulations have been breached or decisions about the ratings assessment. We can only serve a s29A warning notice where there is a current need for significant improvement - it cannot be used retrospectively.

Our [enforcement policy](#) and [enforcement decision tree](#) explain how we decide when to serve a s29A warning notice. There is also information in the [addendum to the guidance on special measures](#).

Section 29A prevents CQC from serving a s29 warning notice on NHS trusts. We use s29 for other types of provider.

What the warning notice involves

The s29A warning notice will state the reasons why CQC considers that a trust needs to make significant improvements. It will also set a timescale for when the improvements need to be implemented. If the warning notice deals with multiple failings we can specify a different timescale for improvement for each failing. At the end of this (or, if the warning notice includes different time limits, at the end of the last time limit set), we must determine whether the NHS trust or foundation trust has complied with the requirements. We do this by carrying out an inspection.

If the trust has not complied with the requirements, we must decide what further action to take. A s29A warning notice doesn't mean that CQC cannot take any other enforcement options. This may include using our other enforcement powers, cancelling registration or imposing conditions (to prevent a provider from providing certain aspects of their service).

Special measures

For trusts already in special measures, at the end of the special measures period we may also consider appropriate alternatives such as stronger enforcement powers or special administration.

For less straightforward cases, for example if a trust has made some improvement but not enough to exit special measures, we may recommend extending special measures for a further period. In this case, CQC may issue a further s29A warning notice for that period.

Special administration

The Health and Social Care Act 2008 enables us to require a foundation trust to be placed in special administration, or make a recommendation to the Secretary of State that an NHS trust be placed in special administration (see the addendum to the special measures guidance).

Special administration is the final stage of the NHS single failure regime. A s29A warning notice does not automatically lead to special administration, but CQC can consider it as an option. This is normally after an NHS trust or foundation trust has failed to improve sufficiently in special measures and we have issued a s29A warning notice, although we can consider it at any time.

However, before we can do so, we must take a number of steps including consulting certain organisations and issuing a s29A warning notice.

Representations

You can make representations against a s29A warning notice, although they have no right of appeal. You must submit representations within 10 working days of CQC issuing the notice so that we can consider them. CQC is not legally required to withdraw a notice, but we may do this on an exceptional basis where it contains a serious error, is based on inaccurate facts or if CQC no longer believes that it meets the legal test that the quality of health care requires significant improvement.

When we publish an inspection report, we will include information about a s29A warning notice to fulfil our duty to protect and promote the health, safety and welfare of people who use health care services.

The role of NHS Improvement

When CQC serves a s29A warning notice, it automatically enables NHS Improvement to place this condition on an NHS foundation trust's licence.

This does not alter the grounds on which CQC may issue a warning notice, which must always be based on the legal test set in section 29A of the Health and Social Care Act 2008: that the quality of healthcare requires significant improvement.