

A new system of registration

**Suspension of registration under section 18
of the Health and Social Care Act 2008**

and

**Urgent procedure for suspension of
registration under section 31 of the Act**

Guidance for registered persons

Introduction

This guidance explains the principles and practice involved when we suspend a provider's or manager's registration under the Health and Social Care Act 2008 under the urgent procedures of section 31 of the Act.

Main points

1. The Health and Social Care Act 2008 gives the Care Quality Commission a wide range of powers to enable it to carry out its regulatory responsibilities.
2. CQC can suspend a registration or, where a serious risk of harm is identified, urgently suspend a registration.
3. Suspension of a registration does not cancel or change the registration in any other way. When a period of suspension ends, the original registration resumes unchanged.
4. In our use of these powers, we will:
 - Ensure that we act within the law and use our powers only when they are necessary and allowed.
 - Be consistent in our use of these powers.

Guidance on the non-urgent procedure to suspend a registration

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When can CQC consider suspending a registration?

The grounds for suspending a registration are set out in Section 18 of the Health and Social Care Act 2008. In summary they are:

- Failure to comply with relevant requirements in the Health and Social Care Act 2008 and its regulations.
- Failure to comply with conditions of registration.
- Obstruction of an inspector or assessor or failing to provide information when requested.
- Other reasons including non payment of fees, conviction of a relevant offence, bankruptcy, or a service becoming dormant.

Suspension of a registration is a serious step that we would only take where necessary and when it was the most appropriate, proportionate enforcement option for the given circumstances.

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What kind of evidence does CQC need to suspend a registration?

We will not follow suspension of registration procedures unless there is evidence to confirm that suspending a registration is appropriate.

The evidence must confirm one or more of the grounds shown in ‘when should we consider suspending a registration’ above.

There must also be good quality evidence to confirm that the registered person will be able to comply with relevant requirements at an identifiable time in the future.

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How does CQC suspend a registration?

We serve a **‘Notice of Proposal’** on the registered person to suspend their registration. The Notice includes the date when the suspension will end. We must be reasonably confident that the provider will be able to meet the requirements of the Health and Social Care Act by that date.

We include a statement of reasons in our Notice of Proposal. The statement gives our evidence and reasons for proposing to suspend the registration.

Notices may be delivered personally, sent by email to an address supplied by the registered person, or by recorded delivery to the provider’s or manager’s postal address.

If a notice is sent by recorded delivery, the law says that it is taken to have been received on the third day after it is sent, unless the recipient can prove otherwise.

Notices sent by email will be sent to the address supplied by the registered person. If served in this way, the law says that the notice is assumed to have been received one working day after it was sent.

We will serve Notices on more than one person where this is necessary. For example, we have to serve a notice on all the partners if the provider is a partnership, and we may need to serve a notice on a registered manager as well as the registered provider.

The registered person has 28 days from the date of service of the notice (see above - three days after it was sent by post or the day after it was sent by email) to make representations about our proposal. The law says that representations must be submitted in writing. There is information about how to submit representations in the Notice of Proposal.

If we do not receive any representations within 28 days, we will send a **'Notice of Decision'** to suspend the registration.

If we do receive representations will carefully consider them.

After we have considered the representations we will either:

- 'Adopt' the proposal and serve a 'Notice of Decision' to suspend the registration.
- Decide not to adopt our proposal and consider the matter again.

You can read and download separate guidance about representations and appeals on our website.

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Is there an appeals process against a Notice of Decision to suspend a registration?

Yes. Registered persons can appeal against a Notice of Decision to suspend their registration to the independent 'First Tier Tribunal'.

Notices of Decision include information about how to appeal to the tribunal. Representations or appeals must be made within 28 days of the service of the relevant notice. You can read more about this in our guidance on representations and appeals.

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Does CQC inform anybody else that it has suspended a registration?

We will usually inform relevant people and agencies as soon as possible after we have served a Notice of Proposal or Decision to suspend a registration. These agencies and people are:

- The primary care trust (PCT) and local authority covering the area where the regulated activity is carried on.
- The relevant strategic health authority where the regulated activity is carried on by a PCT or other NHS trust.
- Monitor, where the regulated activity or service is carried on by an NHS foundation trust.
- Any other people that CQC thinks are appropriate. For example, we would need to inform people using the service, and the Department of Health would need to know if we decided to suspend the registration of an NHS trust.

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Can CQC extend the suspension of a registration?

We can extend the suspension of a registration by serving Notices of Proposal and then Decision to do so in the normal way, under Section 18(4) of the Act.

The normal rights for providers to make representations and appeals also apply. This means that if we want to extend a suspension, we would normally begin the process at least eight weeks before a suspension is due to end.

There are also urgent procedures for extending the suspension of a registration (see the urgent procedure guidance below).

If we extend the suspension of a registration we must inform our partner agencies and other relevant people, as described in 'Does CQC inform anybody else that you have suspended a registration?' above.

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Can CQC end the suspension of a registration early?

No, there is no legal procedure for us to end the suspension of a registration before the date in our Notices of Proposal and Decision.

However, registered persons are able to apply for the suspension of their registration to be varied (ended at an earlier or later date) or cancelled immediately (see below).

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How do registered persons apply for the suspension of their registration to be varied or cancelled?

Registered persons can apply to either vary the period of suspension of their registration, or to cancel the suspension with immediate effect. You must use the specific application forms for this.

When we receive an application to vary or cancel a suspension of registration, we consider it carefully.

If we decide to approve the application, we will write to the registered person to tell them.

If we do not approve the application, we will send the registered person a Notice of Proposal to refuse the application. The registered person then has the right to make representations, as described above.

If we decide to adopt our proposal, we will send a Notice of Decision, again as described above. The registered person has the right to appeal against our decision to the tribunal. You can read separate detailed guidance about representations and appeals on our website.

If we agree to vary or cancel the suspension of a registration, we may inform our partner agencies and other relevant people, as described in ‘Does CQC inform anybody else that you have suspended a registration?’ above.

Guidance on the urgent procedure to suspend a registration

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When will CQC consider using its urgent powers to suspend a registration or extend the period of suspension of a registration?

The ‘normal’ process to suspend or extend the period of suspension of a registration may take weeks, even months. We can use the urgent procedures to do so with immediate effect where there is clear evidence that:

- the way a registered activity is being carried on or managed exposes any person to risk of harm, and
- the registered person will be able to comply with the essential standards, regulations, any conditions of registration, and requirements of the Act at an identifiable time in the future.

Risk does not necessarily mean that harm has taken place. We can suspend a registration urgently, before any harm occurs.

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Is the urgent process the same as the normal process but with shorter timescales?

No. When we use the urgent procedures we do not serve a Notice of Proposal. We serve a Notice of Decision that takes *immediate* effect.

This is a very serious step with a potentially huge impact on any people using the service, their families and supporters, the local health and/or social care market, and registered persons.

We will only suspend a registration using the urgent procedures when this is absolutely necessary.

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What is the procedure to urgently suspend a registration?

CQC can serve a notice to suspend a registration at any time under the grounds and circumstances described in 'When will CQC consider using its urgent powers to suspend a registration' above are met.

We must include a statement in the notice that describes the reasons and evidence that support our decision to urgently suspend the registration. The statement must clearly state our reasons for believing the grounds for an urgent suspension of registration are met.

We must also state the date when the suspension of registration ends. This date is a very important part of the Notice and we will consider it with great care. We must be reasonably confident that the provider will be able to meet the requirements of the Health and Social Care Act by that date.

If we suspend a registration using the urgent procedures, we must inform our partner agencies and other relevant persons, as described in 'Does CQC inform anybody else that it has suspended a registration?' above.

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How is the Notice served? When does it take effect? Is there a representations or appeal process?

Notices to suspend a registration using the urgent procedures take effect as soon as they are served.

The Notice is served on all registered persons (including, for example, managers and all the partners in a partnership).

There is no process for registered persons to make representations about decisions to suspend a registration using the urgent procedures.

The Notice includes information about the registered person's right of appeal to the First Tier Tribunal.

Registered persons must submit any appeal to the tribunal within 28 days from the date they received the Notice. There is a 'fast track' process for registered persons to submit an appeal to the tribunal when the urgent procedures have been used.