CQC Notices of Proposal

AUTHOR / KEY CONTACT

Laura Guntrip
Partner

Laura.Guntrip@LA-Law.com
01202 786187

With the COVID-19 vaccine rollout progressing well and as we move out of lockdown, we notice an increase in CQC inspections over recent months. That is to be expected, but we are concerned by CQCs approach in some cases and the enforcement action we are seeing.

CQC's own guidance states that the starting point of any inspection is for the inspector to look for 'Good'. In other words, does the service meet the rating characteristics of a Good service? If it does, they should look for evidence of whether the service meets the characteristics of an Outstanding rating. If the standard for Good is not met, the inspector should then consider if it meets the criteria for Requires Improvement, before looking at a rating of Inadequate.

We have recently received a flurry of instructions to challenge draft inspection reports through the factual accuracy process, rating reviews and to challenge or defend enforcement action such as Warning Notices, Notices of Proposal or where CQC is stating that criminal offences have been committed.

Sometimes the Warning Notices or Notice of Proposal are received together with the draft report, or sometimes shortly afterwards, or a Notice of Proposal may be received following completion of the factual accuracy process.

A Notice of Proposal to impose conditions of registration or to vary a registration to remove a location (i.e. cancellation of the registration of the service) are becoming increasingly common. Typically, conditions of registration will include a condition preventing new admissions to a care home and/or a requirement to provide regular information to CQC (e.g. weekly or monthly audits).

We are currently representing several care homes where CQC appears to be taking an unfair and disproportionate approach, with little or no leniency being allowed in recognition of the pandemic situation. This is both disappointing and frustrating after the challenges care homes have faced during this time. In many cases, it certainly does not seem as though the inspector has been looking for Good, but rather that the inspector has been looking for shortfalls. In particular, infection prevention and control remains a particular focus area in all inspections and we are also now seeing HSE taking an interest in infection control procedures and social distancing.

Lester Aldridge LLP is authorised and regulated by the Solicitors Regulation Authority (SRA ID: 463177). It is a limited liability partnership registered in England and Wales under number OC321318. Managing Partner: Tom Alder; Compliance Officer for Finance and Administration: Dan Baker-Mist (Financial Controller); Compliance Officer for Legal Practice: Joanne Clarke (Partner) - See more on the Lester Aldridge Privacy Policy

© 2026 Lester Aldridge

A Notice of Proposal is an important document, which could ultimately have significant implications for your business. We would strongly advise providers to seek legal advice if they receive a Notice of Proposal, to ensure their interests are best protected.

The first line of defence to a Notice of Proposal is the ability to submit written representations within 28 days of the Notice of Proposal. It is especially important to utilise the representation process effectively if CQC is proposing to cancel the registration, remove the location or impose particularly onerous conditions. This is your first opportunity to avoid the action CQC is proposing to take or the need to commence legal proceedings.

After considering any representations received, CQC will respond with a Notice of Decision, which will either uphold your representations and end the matter, or uphold CQC's proposal to proceed with the enforcement action. To prevent the action, an appeal must be submitted to the First Tier Tribunal within 28 days of the Notice of Decision.

It is important to note, however, that the process is different if you have received a Notice of Decision under Section 31 of the Health and Social Care Act 2008. In these cases, you would not usually receive a Notice of Proposal first but would normally receive a letter setting out CQC's concerns and stating that it is considering using its urgent enforcement powers under Section 31. That letter will usually ask for an action plan to be provided urgently (usually within 24 hours of the letter, often less) setting out how the concerns will be addressed. We would recommend that legal advice is obtained as soon as possible if you receive such a letter or a Notice of Decision. Urgent enforcement action under Section 31 takes immediate effect and can only be reversed through an appeal to the Tribunal. Urgent enforcement action of this nature can have a significant impact on a business. In these cases, an expedited appeal process is available but early legal representation is important given the speed of preparation required to give an appeal the best chance of success.

The evidence relied on in any type of enforcement notice will be based on the findings of an inspection and the associated inspection report. If you are aware that an inspection has not gone well, the draft inspection report gives a rating of Inadequate or you think there may be any form of enforcement action, it is prudent to invest the time in the factual accuracy process to correct any errors in the report, make the content more balanced and improve ratings, to reduce the risk of enforcement action. It may also be beneficial to have legal assistance with preparing your factual accuracy comments.

Enforcement action of any type may also have other implications for a provider. For example, it may impact on commissioning of a service and it may also impact on funding arrangements or breach banking covenants.

However, enforcement action can be challenged. We regularly represent care providers in preparing factual accuracy comments, challenging and defending Notices of Proposal, Notices of Decision, criminal investigations or where CQC is contemplating prosecution or issuing a fixed penalty fine.

If you are concerned about an inspection report or have received any form of Notice, our specialist CQC defence solicitors would be pleased to discuss your situation and options with you. Please contact our CQC

Tel: 0344 967 0793 | Email: info@LA-Law.com | www.lesteraldridge.com

Lester Aldridge LLP is authorised and regulated by the Solicitors Regulation Authority (SRA ID: 463177). It is a limited liability partnership registered in England and Wales under number OC321318. Managing Partner: Tom Alder; Compliance Officer for Finance and Administration: Dan Baker-Mist (Financial Controller); Compliance Officer for Legal Practice: Joanne Clarke (Partner) - See more on the Lester Aldridge Privacy Policy

© 2026 Lester Aldridge

lawyers by email: laura.guntrip@la-law.com or telephone: 01202 786187.

Tel: 0344 967 0793 | Email: info@LA-Law.com | www.lesteraldridge.com

Lester Aldridge LLP is authorised and regulated by the Solicitors Regulation Authority (SRA ID: 463177). It is a limited liability partnership registered in England and Wales under number OC321318. Managing Partner: Tom Alder; Compliance Officer for Finance and Administration: Dan Baker-Mist (Financial Controller); Compliance Officer for Legal Practice: Joanne Clarke (Partner) - See more on the Lester Aldridge Privacy Policy

© 2026 Lester Aldridge