

The Importance of Representations Against Notices of Proposal by Ofsted to Refuse Registration: A Case Study

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[Ofsted](#) has regularly been featured in the press because of the concerns raised concerning its ongoing inspection activity and the effectiveness of its judgements and inspections. Schools Week recently [investigated concerns](#) that Ofsted's system for recording inspection evidence had suffered glitches that wiped data and forced inspectors to re-record their findings, sometimes from memory. This has raised concerns about the accuracy of Ofsted findings, particularly during inspections.

Understandably, providers are more concerned than ever about their Ofsted judgements and have been seeking support in relation to factual accuracy and formal complaint challenges against Ofsted decision-making.

Ofsted – Notice of Proposal

In addition to these concerns and an influx of instructions concerning the challenging inaccuracy of draft inspection reports, we have seen an increase in the number of Notices of Proposals that Ofsted has issued regarding the registration of proposed new services.

Ofsted will issue a Notice of Proposal to refuse registration of a new service for various reasons. However, the most common reason usually relates to the fitness of the registered provider and/ or the protection of children standard. Ofsted will be concerned about the location of a proposed service in circumstances where, for example, it considers that the provider has not undertaken a proper locality risk assessment or where crime rates are particularly high in the area of the proposed service.

In one recent instruction, Ofsted had issued a Notice of Proposal to refuse registration of a children's home based on the above concerns. In that case, Ofsted relied, amongst other things, on crime mapping information from 2021. Clearly, the information on which Ofsted was relying was outdated and did not consider the last two complete years of crime mapping information. In this particular example, there had actually been a significant decrease in the crime rates in the local area. Due to our intervention, and the provider's commitment to

rebutting Ofsted's concerns in formal Representations, we were able to successfully lodge evidence that confirmed the most up-to-date position in respect of crime rates, together with the support from the local police force. Further, we lodged evidence of support from the local authority for a children's home within the local area.

Concerns raised by Ofsted about the provider's fitness were also disputed, and a range of information and evidence about the provider's experience and high-quality practice was lodged with Ofsted.

Notice of Decision

Upon consideration of our formal Representations and the further robust evidence provided to Ofsted, a prompt decision was made at a case review to withdraw the Notice of Proposal and issue a Notice of Decision to register the provider. The provider was promptly registered, and the provider's significant investment in the new service was realised.

The client commented regarding our support and representation: *"A big thank you to Alice Straight at LA Law. She really went above and beyond to handle my case with professionalism and expertise. Her attention to detail, clear communication, and dedication to getting the best outcome truly impressed me. I couldn't have asked for better representation and going forward will use Alice in any further enquiries or issues I may come across."*

A provider has 28 days to respond to a Notice of Proposal made against it by Ofsted. It is essential that the provider lodges as much information as possible in its Representations. This could include submissions about the factual inaccuracy of the contents of the Notice of Proposal, further context about Ofsted's comments, more up-to-date information and legal submissions about the application, or in some cases, Ofsted's misapplication of the relevant Regulations (if appropriate).

We have vast experience representing children's social care providers across various sectors including children's homes, supported accommodation, independent special schools, nurseries and independent training providers.

Due to the prompt instruction by the provider in the example above, the Representations submitted to Ofsted were as robust as they could be, resulting in a prompt and cost-effective outcome for the provider. The provider was not required to go further and lodge an appeal to the Care Standards Tribunal, for example, as legal advice was sought at the earliest opportunity, giving the provider the best opportunity to successfully challenge the Notice of Proposal at the first stage.

We would therefore encourage all providers to seek legal advice as soon as possible after receiving a Notice of Proposal from Ofsted.

If you have received a Notice of Proposal, Notice of Decision, or draft Ofsted report, please contact our experienced [Healthcare team](#) as soon as possible to discuss your situation and the options available to you

at alice.straight@la-law.com or on [01202 786353](tel:01202786353).