

A new system of registration

**Cancellation of registration under section 17
of the Health and Social Care Act 2008**

and

**Urgent procedure for cancellation of
registration under section 30 of the Act**

Guidance for registered persons

May 2010

Introduction

This guidance will help registered persons and providers to understand the principles set out in the Health and Social Care Act 2008 relating to Notices of Proposal and Notices of Decision to cancel registration and the 'urgent' procedure for cancellation.

It gives an overview of:

- CQC's powers under the Health and Social Care Act.
- How and when we can use them.
- The format and content of Notices of Proposal and Decision.

Main points

1. The Health and Social Care Act 2008 gives CQC a wide range of powers to enable it to carry out its regulatory responsibilities.
2. We can cancel a registration or, where a serious risk is identified, urgently cancel a registration.
3. In using these powers, we will:
 - Ensure we act within the law and use our powers only when they are allowed.
 - Be consistent in our use of these powers

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What can prompt CQC to cancel registration?

The grounds for cancelling registration are set out in section 17 of the Health and Social Care Act 2008:

- Failure to comply with relevant requirements in the Health and Social Care Act 2008 and its regulations.
- Failure to comply with the law by a registered person, manager or anyone else related to a regulated activity.
- Failure to comply with conditions of registration.
- Obstruction of an inspector or assessor or failing to provide information when requested.
- Other reasons such as non payment of fees, conviction of an offence, bankruptcy, making false statements in an application for registration or where services become dormant.

CQC must cancel a registration of a person as a manager where:

- No one is registered as a service provider in respect of a regulated activity, or
- Where the registration of a person as a service provider ceases to be subject to a registered manager condition.

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How will if I know if you intend to cancel my registration and can I appeal against your decision?

We must give registered persons written notice (a Notice of Proposal) that we propose to cancel their registration. This notice must state the timescale for appeals or representations. This is usually within 28 days from service of the notice.

We will include a statement of reasons in our notice. The statement gives our evidence and reasons for proposing to cancel the registration. This statement must be comprehensive, fair and accurate, and clearly show why at least one of the grounds for cancelling registration has been met.

If no representations are made within 28 days, we must then serve a Notice of Decision to cancel registration. There are a further 28 days from the service of this notice in which the recipient can make an appeal.

Appeals against Notices of Decision to cancel registration go before the First-tier Tribunal. They should be made to the following address:

First-tier Tribunal – Care Standards Appeals
Mowden Hall
Staindrop Road
Darlington
DL3 9BG

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When can you consider an urgent cancellation of registration?

Urgent cancellation is used where a registered service or activity presents a serious risk to a person's life, health or wellbeing.

'Risk' does not necessarily mean that an event has occurred which, for example, has harmed a person. We can cancel registration quickly before harm occurs.

We also have the power to cancel a manager's registration.

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Is it the same as a Notice of Proposal to cancel registration?

No. The process of obtaining an urgent cancellation is different to that of serving a Notice of Proposal or Decision to cancel a registration.

We make an application to a Justice of the Peace (JP) to urgently cancel a registration.

We are not legally required to inform providers (provide notice) that we are doing this, but we will usually inform the registered person affected when we are to make the application, so that they have an opportunity to be present when the application is considered by the JP.

If the JP is satisfied that a serious risk exists, they may make the order which cancels registration immediately.

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What happens after an order is made? Is there a process of appeal or representation?

If an order is made, it takes effect immediately: Registration is cancelled.

As soon as possible after the order is made, we will serve on the registered person (and manager if the cancellation relates to a service provider and vice versa) a copy of the order, along with an explanation of their rights of appeal.

The person affected by the order can appeal against it to the First-tier Tribunal, within 28 days from the date that they received it.

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Will you inform anybody else when you apply for an urgent cancellation of registration?

Yes. As soon as possible after an **application** has been made, we **must** tell:

- The relevant primary care trust and/or local authority in which the affected activity or service is located.
- The relevant strategic health authority where the affected activity or service is a PCT or NHS trust.
- Monitor where the affected activity or service is provided by an NHS foundation trust.
- Any other people that we thinks are appropriate. For example, the Department of Health may need to know if we decide to urgently cancel registration of a particular activity within an NHS provider.