

Protecting people using services by requiring improvement

We use the following enforcement actions to **require** a provider to protect people who use regulated services from harm and the risk of harm, and to ensure they receive health and social care services of an appropriate standard:

- Action Plan requests (previously called Requirement Notices)
- Warning Notices
- Section 29A Warning Notices

Action Plan requests

Where a registered person is in breach of a regulation but people using the service are not at immediate risk of harm, we may use our power to request a report from the provider.

This is called an 'Action Plan Request' when using our single assessment framework. Making such a request notifies a provider that we consider them to be in breach of their legal obligations.

The report must show how the provider will comply with these legal obligations, and what action it is taking or proposes to take to do so. Crucially this must be within a timeframe we judge to be reasonable. Failure to send us the requested report in a set timescale is an offence and could lead us to use our enforcement powers.

We will consider issuing an Action Plan request where:

- the provider is acting in breach of the regulations
- the impact on people using the service is not immediately significant
- we assess that the provider should be able to improve its standards within a reasonable timeframe
- the provider has no history of poor performance that gives rise to wider concerns.

Warning Notices

Warning Notices notify a registered person that we consider they are not meeting:

- a condition of registration
- a requirement in the Health and Social Care Act 2008
- a regulation, or any other legal requirement that we think is relevant.

We cannot use Warning Notices against unregistered persons.

We can serve Warning Notices about past failures to meet legal requirements or about a continuing breach of a legal requirement.

Where a Warning Notice concerns a continuing breach of a legal requirement, it will include a timescale by when improvements must be achieved. If a registered person has not made the necessary improvements within the timescale, we will consider further enforcement action. This could lead to further action under civil or criminal law.

The enforcement decision tree published with this policy specifically prompts our operational colleagues to consider persistent concerns and the ability to improve where concerns are identified.

We aim to follow up every Warning Notice through an appropriate form of check (including unannounced site visits where necessary) within 3 months of the date set in the Notice.

The regulations allow us to publish Warning Notices if we give registered persons the opportunity in advance to make representations about the proposed publication.

Section 29A Warning Notices for NHS trusts

Section 29A of the Health and Social Care Act makes additional provision for a [Section 29A Warning Notice](#) that is addressed to NHS trusts or NHS foundation trusts. We may issue such a notice where we judge an NHS trust requires significant improvement. Significant improvement is not necessarily restricted to breaches of legislation but could be broader.

When issuing a section 29A Warning Notice:

- We will use the same criteria for deciding whether to issue other Warning Notices.
- We will set a timescale for the significant improvements required to meet the legal obligations of the NHS body or to address the matters set out in the Notice.
- We will allow the NHS body to make representations in the same way as other Warning Notices and will have the same expectations for publication and follow-up.

We may use notices under Section 29A as part of the NHS Single Failure Regime. This is considered in section 4 of the policy as part of special measures.