EXPLANATORY MEMORANDUM TO

THE CARE QUALITY COMMISSION (ADDITIONAL FUNCTIONS) (AMENDMENT) REGULATIONS 2026

2026 No. 982

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Health and Social Care and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Dame Diana Johnson MP, Minister of State for Public Health and Patient Safety at the Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

2.2 Ben Widdicombe, Deputy Director for the policy area at the Department of Health and Social Care, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Tim Power at the Department of Health and Social Care can be contacted by email at the following address with any queries regarding the instrument: Tim.Power@dhsc.gov.uk. Alternatively, the department can be contacted by telephone: 0300 790 4007.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The instrument amends the Care Quality Commission (Additional Functions) Regulations 2011 to remove the statutory function conferred on the Care Quality Commission (CQC) in 2023 to provide training, guidance and support in connection with the raising of concerns or suggestions for improvement by staff (also known as Freedom to Speak Up) to bodies providing NHS care. This statutory function is no longer needed as it ceased to be a function of the CQC following the closure of the National Guardian's Office (NGO) in June 2026.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 In the context of healthcare, Freedom to Speak Up is about encouraging a positive culture where workers feel they can speak up about anything that gets in the way of providing good care. The NGO, which sat within the CQC, led and supported culture change around Freedom to Speak Up in the NHS.

5.2 In 2023, The Care Quality Commission (Additional Functions) (Amendment) Regulations 2023 gave the CQC a legal basis to host the NGO within its organisation. The NGO closed permanently 30 June 2026 and therefore the CQC no longer needs this legal basis.

What was the previous policy, how is this different?

5.3 Previously, the NGO was responsible for leading and supporting culture change around Freedom to Speak Up in the NHS. As mentioned above, in 2023, via regulations, the CQC was given a new statutory function that provided a legal basis for the NGO's work to be carried out.

5.4 Following Dr Penny Dash's 2025 review of patient safety across the health and care landscape[1], the government decided that the responsibilities of the NGO should instead be incorporated into providers and commissioners of NHS care, with some functions aligning with NHS England's staff voice functions. Consequently, the NGO was closed down on 30 June 2026. The statutory function conferred on the CQC in 2023 is therefore no longer needed.

6. Legislative and Legal Context

How has the law changed?

6.1 The CQC was established by the Health and Social Care Act 2008 to regulate health and social care services in England. Section 59(1) of the Health and Social Care Act 2008 enables the Secretary of State to make regulations to provide for the CQC to have additional functions in relation to matters such as the provision of NHS care or adult social services or the carrying on of regulated activities.

6.2 The Care Quality Commission (Additional Functions) (Amendment) Regulations 2023 provided the CQC with an additional statutory function to perform the role undertaken by the NGO. However, because the NGO closed down on 30 June 2026, this additional function is no longer required and is therefore removed by this instrument.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 This instrument has not been subject to a public consultation; however the Department of Health and Social Care has engaged with the CQC. In accordance with section

[1] Review of patient safety across the health and care landscape - GOV.UK
https://www.gov.uk/government/publications/review-of-patient-safety-across-the-health-and-care-landscape

59(2) of the Health and Social Care Act 2008, the Secretary of State has consulted NHS England before making this instrument.

7.2 In addition, Dr Penny Dash held discussions with a wide range of experts and leaders, including commissioners and providers of health and social care, patients, and users and those who have been harmed by poor-quality care. These discussions informed the review's recommendations.

8. Applicable Guidance

8.1 The Department of Health and Social Care does not intend to provide guidance on this instrument given the minor nature of the change.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private, voluntary or community bodies is foreseen.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Department of Health and Social Care will periodically review the instrument, as necessary, to ensure that it is still appropriate and effective.

10.2 The instrument does not include a statutory review clause because it makes a minor amendment to remove a function that is no longer needed following the closure of the NGO.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").