Special measures for quality reasons: guidance for trusts

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1. Introduction

1. Special measures apply when NHS trusts and foundation trusts ('trusts') have serious problems and where there are concerns that the existing leadership cannot make the necessary improvements without support. Trusts may be placed in special measures as a result of serious failures in quality of care and/or serious financial problems. Special measures consist of a set of interventions designed to remedy the problems at a trust within a reasonable timeframe.

2. This guidance, jointly produced by the Care Quality Commission (CQC) and NHS Improvement, describes how special measures work for quality reasons. We will also publish parallel guidance on how special measures work for financial reasons, which should be read alongside this. Although the special measures approach is a single framework for supporting trusts, there remain some important distinctions between what happens in relation to issues of quality and finance, including entry and exit criteria. Whatever the reason for going into special measures, the interventions that result will address the full range of issues at the trust.

3. This guidance explains:

• why trusts are placed in special measures for quality reasons
• the process for entering special measures
• what will happen to trusts during special measures and how long special measures are intended to last
• the roles and responsibilities of key organisations involved
• when and how trusts will exit special measures, including the relationship between quality and financial performance
• if and how a trust can re-enter special measures.
2. Why trusts are placed in special measures for quality reasons

4. A trust may be placed in special measures for quality reasons when it is rated ‘inadequate’ in the well-led key question (ie there are concerns that the organisation’s leadership is unable to make sufficient improvements in a reasonable timeframe without extra support) and ‘inadequate’ in one or more of the other key questions (safe, effective, caring and responsive).

5. In those circumstances CQC, through the Chief Inspector of Hospitals, will normally recommend to NHS Improvement that the trust is placed in special measures for quality reasons.

6. The evidence provided by CQC will include the reasons why it is recommending the trust should be placed in special measures, the specific areas of improvement where actions need to be taken, and what improvements in quality need to be achieved.

7. On the basis of the full range of information, NHS Improvement will decide whether the trust will go into special measures and as a result be placed in segment 4 of NHS Improvement’s Single Oversight Framework for NHS providers. Since the introduction of special measures in 2013, NHS Improvement has always followed the recommendations of the Chief Inspector of Hospitals.

8. NHS Improvement may also place a trust in special measures for quality reasons without receiving a recommendation from the Chief Inspector of Hospitals, based on its own evidence. In these circumstances, NHS Improvement will always seek advice from CQC. Since the introduction of special measures in 2013, NHS Improvement has never placed a trust in special measures for quality reasons without a recommendation from the Chief Inspector.

9. A trust will not enter special measures until NHS Improvement makes that decision.
3. How NHS Improvement places a trust in special measures for quality reasons

10. NHS Improvement will communicate its decision to the trust and then make a formal public announcement through a press release. The period of special measures begins when NHS Improvement formally and publicly announces a trust is in special measures. It is intended that the usual period of time a trust remains in special measures for quality reasons will be a maximum of 12 months, although this may be extended in some circumstances (see ‘Extension of special measures’ below).
4. What will happen to trusts in special measures for quality reasons

11. When NHS Improvement receives a recommendation from the Chief Inspector of Hospitals to place a trust in special measures for quality reasons, it will develop an appropriate package of support, taking into account the evidence CQC provides alongside relevant evidence including trust finances and operational performance. The special measures support package will include addressing the issues that directly led to the organisation going into special measures but could cover other challenges too. A trust may therefore be subject to interventions relating to its finances when it has gone into special measures for quality reasons, and vice versa.

12. When a trust goes into special measures for quality reasons, it will also be expected to produce an improvement plan, which should be published on its own website with a link to it from NHS Improvement’s website.

13. Typically, trusts will be subject to the following interventions, although their detailed application will vary according to the specific circumstances of the organisation.

• NHS Improvement will appoint an improvement director who will act on its behalf to provide assurance of the trust’s approach to improving performance.

• In most cases, NHS Improvement will also appoint one or more appropriate partner organisations to provide support in improvement. Partner organisations will be selected for their strength in the areas of weakness at the trust in special measures. The nature and amount of support from the partner will be tailored to the trust’s requirements but will focus on addressing quality issues identified in the trust’s action plan. Arrangements for this appointment will be set out in a memorandum of understanding between NHS Improvement and the partner (‘buddy’) organisation. Partner
organisations will be reimbursed by NHS Improvement for reasonable expenses and may receive an incentive payment.

- NHS Improvement will review the capability of the trust’s leadership. This may lead, if necessary, to changes to the management of the organisation to make sure the board and executive team can make the required improvements. Where changes are required, this will happen as soon as is practical and the necessary support will be provided to help facilitate this.

14. NHS Improvement will ensure that the trust addresses any urgent patient safety and quality issues identified as a priority. CQC will continue to monitor quality at the trust. If at any time patients are at immediate serious risk of harm, CQC can use its urgent powers to safeguard the patients. The expectation is that CQC will re-inspect the trust within 12 months of the start of special measures. It will judge if there have been improvements to the quality of patient care and its leadership.

15. More information on the support NHS Improvement provides is on the Improvement Hub.¹

Examples of actions to address wider structural issues

16. At the same time as helping address the specific issues that triggered special measures, NHS Improvement will consider whether long-term solutions are needed to address any structural issues affecting the trust’s ability to ensure high quality, sustainable services for the public.

17. These long-term solutions may not be complete by the time of CQC’s next inspection at the end of the initial special measures period, or even after a further six-month extension, but they should enable the Chief Inspector of Hospitals to decide whether a viable long-term solution has been identified and whether progress is being made. In such cases, it may be necessary for trusts to remain in special measures while efforts to achieve long-term viability are being undertaken.

18. NHS Improvement may consider a range of longer term solutions – see below for an indicative list of options. The choice of solution(s) for any given trust will

¹ [https://improvement.nhs.uk/improvement-hub/](https://improvement.nhs.uk/improvement-hub/)
depend on the nature of the issues facing it. The list provided below is for illustrative purposes only.

- Service reconfiguration: this option would be considered with those responsible (NHS England and local commissioners) where organising services differently, potentially across different services and organisations, could help improve quality of care, reduce capacity pressures and increase sustainability.

- Management support or operational franchise: these options would be considered if a trust was felt to be sustainable in the longer term but needed stronger leadership and management to deliver significant improvements in quality.

- Transaction (merger or acquisition): this option would be considered where improvement could best be achieved by a permanent change of ownership of part, or all, of the trust, and/or added value could be obtained from integration with the acquiring or merging trust.
5. How will CQC and NHS Improvement work together while trusts are in special measures for quality reasons

19. CQC’s inspection and monitoring directly inform interventions by NHS Improvement and vice versa. Experience has shown that the quality and timeliness of information-sharing between them are key to early and effective consideration of the issues and potential solutions for trusts. It minimises the risk that re-inspection will find insufficient improvement in a trust to recommend exit from the regime.

20. Early and full information-sharing is therefore a priority from the outset of special measures (or even earlier) and throughout the special measures period. When a trust first enters special measures for quality reasons, there will be close dialogue between CQC, NHS Improvement and the trust, which will include what improvements in quality would give assurance of progress being made. These improvements form the basis of joint reviews of progress during the special measures period, as well as the existing regular information exchange between CQC and NHS Improvement regional leads.

21. This process of information exchange and review will enable extra support or intervention to be considered as needed. These decisions need not wait until the next re-inspection.
6. Removing trusts from special measures

22. NHS Improvement will only take a trust out of special measures for quality reasons following a recommendation from the Chief Inspector of Hospitals. The Chief Inspector will usually recommend that there is no reason on grounds of quality why a trust should remain in special measures if the quality of care is showing sufficient signs of improvement, even if it is not yet ‘good’, and if the trust leadership is robust enough to ensure that the trust will sustain current improvements and make further improvements. NHS Improvement must also be confident that improvements will be sustained.

Care Quality Commission re-inspection

23. The expectation is that CQC will re-inspect a trust within 12 months of it being placed in special measures for quality reasons. CQC will take account of the trust’s action plans when planning the focus of the re-inspection. It will gather data from a wide range of sources across the five key questions (safe, caring, effective, responsive to people’s needs and well-led) before the re-inspection. The re-inspection will always include an assessment of the trust’s performance in the well-led key question.

24. NHS Improvement will provide CQC with information on its view of the progress the trust has made. This will be based on feedback from the improvement director, progress that the trust has demonstrated against its action plan, and other intelligence NHS Improvement gains from its regulatory activities. This could include information relating to financial or operational performance.

25. The re-inspection may be comprehensive or it may be targeted on specific areas – for example, when it is designed to investigate a particular concern or is a follow-up review after an extension period. CQC will decide the scope following discussion with NHS Improvement and depending on the original reasons for the trust’s entry into special measures.
26. As part of any inspection, CQC will consider whether the use of its enforcement powers is appropriate. Where it is appropriate, CQC will work closely with NHS Improvement.

**Care Quality Commission recommendation**

27. Where the quality of care is showing sufficient signs of improvement, CQC will recommend that it sees no reason on grounds of quality why a trust should remain in special measures. Before the recommendation is made, CQC will carry out an inspection which will include a well-led assessment. This will include taking account of the trajectory of improvement where there are broader improvement plans across a health economy.

28. Sufficient improvement will normally be demonstrated when:

- all inadequate ratings across the five key questions at trust level, together with the overall trust rating, have improved to at least ‘requires improvement’
- for a trust with a single major site, no core service remains inadequate overall
- for multi-site trusts, no core service remains inadequate, or – exceptionally – one or more core services remain inadequate but there is significant evidence of an ongoing trajectory of improvement across the organisation.

29. There may be specific extra improvements required by CQC which reflect the individual circumstances of the trust. CQC may also need to take into account structural problems in the local health economy, if they have contributed to the reasons for special measures.

30. An inspection and recommendation from the Chief Inspector of Hospitals may result in a range of outcomes for a trust in special measures that includes:

- exiting from special measures
- exiting from special measures with some continued support in place
- remaining in special measures until the end of an extension period
- remaining in special measures while NHS Improvement addresses financial concerns
• remaining in special measures while urgent support is provided or a long-term solution is found.

Removal from special measures at first re-inspection

31. NHS Improvement will decide whether to remove the trust from special measures on quality grounds following the recommendation from the Chief Inspector of Hospitals.

32. If we decide the trust has met the criteria to be considered for removal from special measures, then either:

   i) where the trust was only in special measures for quality reasons: the trust is no longer in special measures and moves to segment 3 of the Single Oversight Framework (unless at the same time there is a decision to apply special measures for financial reasons, in which case it remains in segment 4)

   ii) where the trust was in special measures for both quality and financial reasons: the trust remains in special measures for financial reasons, and remains in segment 4 of the Single Oversight Framework.

33. When deciding whether a trust can exit special measures, NHS Improvement will consider whether it is confident that the improvements at the trust have been made in a sustainable way.

34. NHS Improvement will inform the trust in question of its decision once its formal decision-making processes are complete. NHS Improvement will then communicate its decision formally and publicly in a press release on its website once the CQC report has been published. It is important to note that mandatory support may still be in place in a trust exiting special measures – ie trust in segment 3 of the Single Oversight Framework.

Removal from special measures with some support in place

35. When deciding that a trust exits from special measures for quality reasons, NHS Improvement may still provide continuing support in particular areas.
This could include continuing a buddying arrangement or an improvement director position.

36. When recommending a trust should exit special measures for quality reasons, CQC may recommend it continues to receive support in particular areas.

Extension of special measures

37. In some circumstances, special measures for quality reasons will be extended for a short period to allow the trust to make the improvements needed. This might occur, for example, where there have been changes to the leadership team and more time is needed for the new team to bring about change.

38. When deciding whether to extend the time a trust spends in special measures for quality reasons, NHS Improvement, in consultation with CQC, will consider whether it is reasonably confident that the measures already underway will deliver required improvements within a designated period of time.

39. In recommending the extension, CQC will identify the specific areas of improvement where actions are needed, and what improvements in quality need to be achieved.

40. NHS Improvement will decide, in consultation with CQC, what constitutes a reasonable timeframe, taking into account the nature of the remaining improvements that are necessary. However, the expectation is that CQC will re-inspect the trust within a six-month period from NHS Improvement’s decision that the trust is to remain in special measures.

41. In the case of an extension the trust will prepare a revised action plan that lists actions to address any outstanding or new concerns. The trust will publish the revised action plan on its website, with a link to it from NHS Improvement’s website.

Continuing in special measures

42. The expectation is that trusts will exit special measures for quality reasons after re-inspection within the initial 12-month period or following the extension period of six months.
43. CQC will re-inspect at the end of the extension period, typically 18 months after the trust enters special measures. The inspection will be planned in co-ordination with NHS Improvement. CQC will share the inspection findings with NHS Improvement and the trust as soon as possible.

44. In some cases, CQC and NHS Improvement may have residual concerns where a trust has not demonstrated sufficient improvement, and further action may be required to secure ongoing improvements to services. Some of the underlying reasons may be caused by structural problems in the local health economy. In some instances NHS Improvement will already be taking action and have communicated relevant concerns to CQC before the trust’s re-inspection.

45. If it is found there is still insufficient improvement for the trust to exit special measures for quality reasons, the Chief Inspector of Hospitals will write to the Secretary of State clearly setting out the reasons for recommending that the trust remain in special measures, the areas which require improvement and what improvements in quality need to be achieved. The letter will provide a transparent explanation of the challenges facing the trust and inform decisions on a long-term solution. On agreement from the Secretary of State, the Chief Inspector will write to NHS Improvement, which will trigger urgent and intensified consideration of the provider’s short and long-term improvement plans, to ensure that they remain the right solution for the organisation, and examination of any alternative options to secure sustainable high-quality services for patients. In some circumstances, the Chief Inspector may proceed to use CQC’s strongest enforcement powers. Those enforcement powers are:

- Imposition of conditions: this can mean the provider may no longer provide certain aspects of its services in certain of its locations. Again, contingency-planning would be needed to ensure that appropriate alternative provision is in place for service users.
- Special administration: CQC can take steps to require a foundation trust to be placed in special administration, or make a recommendation to the Secretary of State that an NHS trust be placed in special administration. Services can continue to be provided while the administrator undertakes time-limited consideration of options for the future.
• Cancellation of registration: this means the provider can no longer lawfully provide the health and care services for which it is registered in any of the sites it operates. Contingency-planning would be needed so that another provider can ensure continued access to services.

46. In some circumstances, a transaction may be the best means of securing longer term improvements in the quality of care. In these circumstances, the resulting organisation (whether an acquiring parent organisation, new entity formed by merger, or another model) would not automatically be placed into special measures at the point of transaction. NHS Improvement would assess the resulting organisation on its own merits and make any regulatory decisions accordingly, taking full account of the nature of the relevant quality problems and how the resulting organisation was seeking to address them.
7. Re-entering special measures

Special measures are designed to secure sustained improvements in performance by the trust in question. However, a trust may need to be placed back in special measures if its performance deteriorates to a level where special measures are the most appropriate response. A trust may be placed into special measures for different reasons on a different occasion.

CQC and NHS Improvement are committed to ensuring that wherever possible trusts do not slip back into special measures following exit.