

# Statutory breakeven duty: a guide for NHS trusts

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We support providers to give patients safe, high quality, compassionate care within local health systems that are financially sustainable.

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# 1. What is the breakeven duty

This document explains the breakeven duty for NHS trusts. The breakeven duty **does not apply to NHS foundation trusts**.

This document updates guidance previously issued by the Department of Health and Social Care (DHSC), last published in 2013. It updates terminology and context, but there are no changes of substance to the operation of the breakeven duty. This document has been issued for the 2017/18 financial year. If it is not amended in subsequent years, the reader should substitute any references to 2017/18 in this document with the current reporting year as appropriate.

This document is issued by NHS Improvement as referenced in the DHSC Group Accounting Manual. NHS trusts should have regard to this guidance, issued under powers of the NHS Trust Development Authority under direction from the Secretary of State.

## 1.1. Statutory requirement

Each NHS trust board is responsible for planning and controlling the activities, costs and income of the NHS trust to ensure that it remains financially viable at all times. The board is accountable for financial control and for ensuring that the NHS trust meets its statutory duty to break even.

Paragraph 2(1) of Schedule 5 to the National Health Service Act 2006 states:

*"Each NHS trust must ensure that its revenue is not less than sufficient, taking one financial year with another, to meet outgoings properly chargeable to [the] revenue account."*

This is known as the breakeven duty.

## 1.2. Meeting the breakeven duty

NHS trusts should normally plan to meet this duty by achieving a balanced position on their income and expenditure account each and every year. However the breakeven duty includes the phrase "taking one financial year with another". This

provides some flexibility on the time-scale for matching income with costs and when managing the recovery of an NHS trust in financial difficulties.

The Department of Health and Social Care has previously agreed with HM Treasury that the breakeven duty will be assumed to have been met if expenditure is covered by income over a three year period. We consider that 2009/10, being the first year of International Financial Reporting Standards (IFRS) implementation is a suitable point from which the breakeven duty should now be assessed.

Year 1 of the three years will begin with the first accounting year from or after 2009/10 in which a cumulative deficit position arises. The breakeven duty is then assumed to have been met if the trust returns to a cumulative breakeven or cumulative surplus in either of the next two years. If the trust returns to cumulative breakeven or cumulative surplus in year 2, this ends that three year period of assessment. If applicable, a new three year period is subsequently triggered when a cumulative deficit position arises in what is then termed year 1.

While the disclosure and assessment period begins in 2009/10, the cumulative position back to 1997 continues to form the basis of the cumulative breakeven position. Therefore the cumulative breakeven position for the years 1997/98 through to 2008/09 should be presented as a single number. The 2009/10 in year position is then added. If the cumulative breakeven position at the end of 2009/10 is a deficit (subject to materiality), this is then defined as 'year 1'.

Appendix 1 gives practical examples of the three-year measurement period.

### 1.3. Five-year measurement

The default period for breakeven duty measurement is over three years. An NHS trust can apply to NHS Improvement to extend its three-year measurement period to five years in exceptional circumstances. This will normally be approved where it is consistent with our understanding of the financial plan for the trust. If an NHS trust wishes to apply for such an extension, it should email [provider.accounts@improvement.nhs.uk](mailto:provider.accounts@improvement.nhs.uk).

Where the breakeven duty period is extended to five years then in any year that a cumulative deficit remains after this fifth year, the trust has failed to meet the breakeven duty in that financial year.

## 1.4. Link to control totals

In-year control totals are the primary mechanism used by NHS Improvement for NHS trust financial control. However the breakeven duty remains a statutory measure, as interpreted by this guidance. Section 3 of this document deals with the practical application of the breakeven duty.

## 2. Measuring the breakeven duty

### 2.1. Materiality

The Department of Health and Social Care, HM Treasury and the National Audit Office previously agreed that the breakeven duty will be assumed to have been met if the breakeven cumulative net deficit is less than or equal to 0.5% of the turnover of the reporting year. We consider that this definition should continue to apply.

### 2.2. Basis of calculation in previous guidance

Previous guidance on the breakeven duty issued by the Department of Health and Social Care was last issued in 2013 but largely dated back to 1995 and referred to considering whether costs are ‘cash impacting’ in measuring NHS trusts’ performance against the breakeven duty. We are now seeking to simplify the definition for measuring the breakeven duty, but in practice the measurement basis will be consistent with previous years.

### 2.3. Control total basis and breakeven duty

The Provider Financial Reporting (PFR) forms we issue include presentation of the ‘adjusted financial performance surplus/deficit’: this is the income and expenditure result on a control total basis.

The control total basis differs slightly from the previous ‘adjusted financial performance’ presented in NHS trust forms in years before 2017/18 and previously used in measuring performance against the breakeven duty. To maintain comparability between years, some further adjustments are therefore required subsequent to the current ‘adjusted financial performance’ to derive ‘breakeven duty financial performance’.

From 2017/18 onwards, ‘Departmental Expenditure Limit (DEL) impairments’ score against providers’ control totals and so are part of ‘adjusted financial performance’. This item is then removed in deriving ‘breakeven duty financial performance’.

## 2.4. Adjustments part of ‘adjusted financial performance’ (control total basis)

In PFR forms, ‘adjusted financial performance’ is derived as follows:

<b>Surplus / deficit for the year</b>		
less (-ve)	Impairments taken to expenditure (DEL + Annual Managed Expenditure (AME))	Adjustment to be retained for breakeven duty measurement, in line with previous years
less (+/-ve)	Transfers by absorption	Adjustment to be retained for breakeven duty measurement, in line with previous years
less (+ve)	Capital donations/grants credited to income	Adjustment to be retained for breakeven duty measurement, in line with previous years
add (+/-ve)	Prior period adjustments taken to income and expenditure	Adjustment to be retained for breakeven duty measurement, in line with previous years
add (-ve)	Impairments scoring to the Departmental Expenditure Limit (DEL)	To be reversed out in deriving ‘breakeven duty financial performance’: see next paragraph
less (+ve)	Impact of prior year post-accounts Sustainability and Transformation Fund (STF) reallocation	This is adjusted as part of the control total basis so as to not be part of the total on which current year STF is assessed. To be reversed out in deriving ‘breakeven duty financial performance’: see next paragraph
less (+/-ve)	IAS 19 impact of defined benefit pension schemes	Interests in defined benefit pension schemes (usually local authority pensions) score to adjusted financial performance on a cash basis
equals	<b>Adjusted financial performance surplus / deficit (control total basis)</b>	

## 2.5. Derivation of ‘breakeven duty financial performance’

Further adjustments are then made to derive ‘breakeven duty financial performance’:

<b>Adjusted financial performance surplus / deficit (control total basis)</b>		
less (-ve)	Impairments scoring to the Departmental Expenditure Limit (DEL)	Taking DEL impairments back out, so no impairments charged to expenditure affect the breakeven duty calculation
add (+ve)	Impact of prior year post-accounts Sustainability and Transformation Fund (STF) reallocation	While this needs to be taken out as part of the current year control total calculation, it remains a genuine accounting item so is added back as part of the breakeven duty calculation
add (+ve)	IFRIC 12 breakeven adjustment (if applicable)	This adjustment maintains comparability to prior years’ breakeven duty. See paragraph 2.6 below
add (+/-ve)	IAS 19 impact of defined benefit pension schemes	The adjustment in the control total basis above is reversed here to keep the breakeven duty basis consistent with previous years
equals	<b>Breakeven duty financial performance surplus / deficit</b>	

For years 2016/17 and earlier, the breakeven duty financial performance is the same as the adjusted financial position.

## 2.6. IFRIC 12 breakeven adjustment

The Department's central budgets are prepared under the European System of Accounts (ESA) rather than International Financial Reporting Standards (IFRS). In applying ESAs, the accounting for private finance initiative (PFI) and similar schemes is similar to that under the former UK Generally Accepted Accounting practice (UK GAAP).

Between 2009/10 and 2016/17, NHS trusts' adjusted financial performance included an adjustment relating to implementing International Financial Reporting Interpretation (IFRIC) 12 as part of IFRS. If an NHS trust's charge to expenditure under IFRIC 12 was greater than it would have been under UK GAAP, this was removed as part of the adjusted financial performance. No adjustment was made if the IFRIC 12 charge to expenditure was less than the equivalent under UK GAAP.

This adjustment is no longer part of NHS trusts' adjusted financial performance from 2017/18, as part of NHS Improvement's work to align financial reporting frameworks between NHS trusts and NHS foundation trusts. However, to maintain comparability with previous years this will continue to be adjusted for the purposes of the breakeven duty.

# 3. Reporting the breakeven duty

## 3.1. PFR monthly monitoring

Reporting the breakeven duty is only necessary as part of the year-end accounts and so does not form part of the PFR monthly monitoring form. The note format will be visible in the month 9 PFR form as part of the accounts information provided for that period, but the note itself does not require completion until month 12.

## 3.2. Annual accounts at year-end

The Department of Health and Social Care Group Accounting Manual (GAM) requires NHS trusts to disclose their breakeven duty performance in the annual accounts<sup>1</sup>.

As guided by paragraph 1.2 above, the disclosure will cover each year back to 2009/10. A narrative explanation must be given for each year where the breakeven cumulative net surplus or deficit for the breakeven period exceeds 0.5% of operating income<sup>2</sup> of the reporting year. The explanation should make clear why the surplus/deficit has arisen and the plans (actions and timescales) to restore the NHS trust's breakeven position. The trust may wish to refer to the in-year control total being NHS Improvement's primary mechanism for financial control.

The reporting format to use is shown in Appendix 2 to this document. It will also appear in the PFR form at months 9 and 12, and the accounts template provided by NHS Improvement.

The derivation of the current year's breakeven duty financial performance (as set out in paragraph 2.5 above) should also be disclosed. For month 12 this will also be included in the PFR form and the accounts template.

<sup>1</sup> For 2017/18 this is paragraph 5.195, added by FAQ 4.

<sup>2</sup> 'Operating income' means operating income from patient care activities plus other operating income. This is the same as the term 'turnover' previously used in the breakeven duty guidance.

### 3.3. Auditors' responsibilities

As set out in paragraph 1.1 above, the breakeven duty is a statutory duty for NHS trusts. The external auditors of NHS trusts have responsibilities under section 30 of the Local Audit and Accountability Act 2014 to report on unlawful matters by issuing a referral to the Secretary of State. External auditors are also required to follow the Comptroller and Auditor General's Code of Audit Practice, issued by the National Audit Office (NAO), and have regard to the accompanying auditor guidance notes (AGNs). These are available on the NAO website and AGN07 explains the auditor's responsibilities for reporting.

Auditors generally consider a trust's failure to meet the breakeven duty requirements to be an unlawful matter requiring a referral to the Secretary of State.

### 3.4. Practical application of breakeven duty

As noted in section 1.3, trusts may apply to extend the three year breakeven period to five years. If an NHS trust reports a cumulative deficit (above materiality threshold) in a given year and is subject to a three- ~~[/five-]~~ year recovery period, it should restore its reported position to a cumulative breakeven within the two ~~[/four]~~ subsequent financial years. This is illustrated in Appendix 1. If at the end of the third ~~[/fifth]~~ year there remains a cumulative deficit, the trust is in breach of the breakeven duty.

If the trust remains in a cumulative deficit (measured for breakeven duty) at the end of the fourth ~~[/sixth]~~ or future years, it has technically failed to meet the breakeven duty in those years too.

We recognise that for some trusts a longer-term recovery plan is required, regardless of the three or five year recovery period as defined for the breakeven duty. Therefore where the underlying matters referred to in a report are consistent with our existing understanding, an auditor issuing a Section 30 referral for a trust specifically relating to a breach of the breakeven duty would not itself cause a material concern for NHS Improvement.

# Appendix 1: Illustrative measurement examples

## Application of a three-year duty

### Example: NHS Trust 1

£000	Year A	Year B	Year C	Year D	Year E
Breakeven financial performance in-year position	400	200	(1000)		
Breakeven cumulative position	400	600	(400)		
			Year 1	Recovery of £400k deficit to take place over Years D and E	

### Example: NHS Trust 2

£000	Year A	Year B	Year C	Year D	Year E
Breakeven financial performance in-year position	(100)	200	(1000)		
Breakeven cumulative position	(100)	100	(900)		
	Year 1	Year 1 deficit recovered in Year B	Year 1	Recovery of £900k deficit to take place over Years D and E	

### Example: NHS Trust 3

£000	Year A	Year B	Year C	Year D	Year E	Year F
Breakeven financial performance in-year position	200	(100)	(50)	(120)		
Breakeven cumulative position	200	100	50	(70)		
				Year 1	Recovery of £70k deficit to take place over Years E and F	

## Application of a five-year duty

### Example: NHS Trust 4

£000	Year A	Year B	Year C	Year D	Year E	Year F	Year G	Year H	Year I	Year J	Year K
Breakeven financial performance in-year position	400	200	(1000)	(700)	900	300	(400)				
Breakeven cumulative position	400	600	(400)	(1100)	(200)	100	(300)				
			Year 1	Recovery of £400k deficit takes place over Years D, E and F			Year 1	Recovery of £300k deficit to take place over Years H, I, J and K			

### Example: NHS Trust 5

£000	Year A	Year B	Year C	Year D	Year E	Year F	Year G	Year H	Year I	Year J	Year K
Breakeven financial performance in-year position	1000	(100)	(100)	(100)	(100)	(100)	(900)				
Breakeven cumulative position	1000	900	800	700	600	500	(400)				
							Year 1	Recovery of £400k deficit to take place over Years H, I, J and K			

# Appendix 2: Example accounts disclosure

## Note [X]: Breakeven duty

NHS Improvement has provided guidance that the first year for consideration for the breakeven duty should be 2009/10. [name] NHS Trust is subject to a [three / five] year period for recovery of any deficit incurred.

### Breakeven duty financial performance 20XX/YY

Breakeven duty financial performance is determined as guided by NHS Improvement, in a manner to be consistent with previous years in this note.

	20XX/YY £000
Adjusted financial performance surplus/(deficit) (control total basis)	XXX
Less impairments scoring to the Departmental Expenditure Limit (DEL)	XX
Add back income for impact of 20WW/XX post-accounts Sustainability and Transformation Fund (STF) reallocation	XX
IFRIC 12 breakeven adjustment (to maintain effect of PFI schemes on breakeven duty consistent with previous years)	XX
IAS 19 impact of defined benefit pension schemes (to maintain effect of local authority pension interests on breakeven duty consistent with previous years)	XX
Breakeven duty financial performance surplus / deficit	XXX

### Breakeven duty assessment

The application of breakeven duty means that if a cumulative surplus or deficit is reported (greater than a materiality threshold of 0.5% of operating income), it should be recovered within the subsequent [two / four] financial years.

	1997/98 to 2008/09 total	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18
Breakeven duty in-year financial performance										
Breakeven duty cumulative position										
Operating income										
Cumulative breakeven position as a percentage of operating income										

[See also disclosure requirements in paragraph 3.2 above.]

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