



FACTSHEET 12

The Care Bill – Single Failure Regime

“We will create a single failure regime where the suspension of the Board can be triggered by failures in care, as well as failures in finance.”

David Cameron, Prime Minister, 6th February 2013

This factsheet describes how the Care Bill provides a clear and coordinated approach to identify and tackle failures of quality, governance and finance at NHS hospitals through a single failure regime.

What is the Single Failure Regime?

The Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry, led by Robert Francis, sets out how regulators, commissioners, professional bodies and the Department of Health failed to act together in the interests of patients and high quality patient care.

The Government's initial response to the Francis report, *Patients First and Foremost*, was published on 26 March 2013. This sets out a number of measures which aim to ensure safe and compassionate care. It includes the single failure regime as a key part of changes to the regulation and oversight of NHS Trusts and NHS Foundation Trusts.

The single failure regime will deliver a simple, flexible process for tackling quality failures in NHS Trusts and NHS Foundation Trusts .

As a result of the single failure regime, failures in care will no longer be placed in a 'too difficult' box, and there will be:

- a clearer understanding of roles between organisations

- reduced bureaucracy
- firmer action on failure.

What will the Bill do?

The failure regime is based on three stages; **identification**, **intervention** and **administration**.

The failure regime will give regulators clearer roles in tackling failure. The Care Quality Commission (CQC) will focus on exposing problems and requiring action while Monitor and the NHS Trust Development Authority (NTDA) will focus on intervening if a poor-performing provider is unable to resolve the situation working with commissioners.

Identification: The failure regime will build a common understanding of a provider's performance. In future, CQC will assess the quality of providers through a system of peer-led inspections and accompanying reports and ratings led by the Chief Inspector of Hospitals.

The Care Bill will give the power to CQC to issue a warning notice to NHS Trusts and NHS Foundation Trusts if the quality of services they provide requires significant improvement. This will provide a legislative basis for CQC to highlight systemic failings and require improvement within a specified period.

Intervention: Where CQC has issued a warning notice to an NHS Foundation Trust, the Care Bill will enable Monitor to impose extra conditions on its licence to secure the necessary improvements and intervene to remove board members or governors if the extra conditions are not met. The NTDA already has powers to intervene in NHS Trusts.

If an NHS Trust or Foundation Trust fails to make the necessary improvements within the specified period, CQC will be required to review what further action is required, including considering if special administration is appropriate.

Administration: The Care Bill amends the special administration process to ensure that it provides a suitable mechanism for dealing with financial and clinical unsustainability. Monitor will be able to put a failed Foundation Trust into special administration if it becomes clinically unsustainable, as it can currently do in case of financial insolvency. The special administration process will be suitable for dealing with clinical and/or financial unsustainability. NHS Trusts can already be put into special administration in the interests of the health service.

If necessary CQC will be able to direct Monitor to place a Foundation Trust into special administration on quality grounds. Equivalent provision for NHS Trusts will be made through directions to the NTDA. This will ensure that appropriate action is taken when an NHS Trust or Foundation Trust is found to be failing to deliver high quality, safe and compassionate care to its patients.

FURTHER INFORMATION

- Patients first and foremost: The initial government response to the report of the Mid Staffordshire NHS Foundation Trust Public Inquiry; Department of Health, March 2013.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/170701/Patients_First_and_Foremost.pdf
- The Mid Staffordshire NHS Foundation Trust Public Inquiry Report, chaired by Robert Francis QC, February 2013, <http://www.midstaffspublicinquiry.com/report>
- See the Factsheet on Ratings to learn more on the aggregate version of providers' performance.