

**A guide to
special
measures
Updated
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Main Hospital

Contents

1. Introduction	3
2. Why trusts are placed in special measures	3
3. What will happen when NHS TDA and Monitor place a trust in special measures	4
4. What will happen to trusts in special measures	4
5. Removing trusts from special measures.....	5
5.1. Care Quality Commission re-inspection	5
5.2. Care Quality Commission recommendation.....	6
5.3. Removal from special measures at first re-inspection	7
5.4. Removal from special measures with some support in place	7
5.5. Extension of special measures.....	7
5.6. Continuing in special measures	8

1. Introduction

Special measures apply to NHS trusts and foundation trusts that have serious failures in quality of care and where there are concerns that existing management cannot make the necessary improvements without support. Special measures consist of a set of specific interventions designed to improve the quality of care within a reasonable time.

In this approach the Care Quality Commission (CQC) will focus on identifying failures in the quality of care, judging whether improvements have been made and, where necessary, using its enforcement powers to ensure that providers who are unable to meet required standards of quality and safety are not allowed to continue indefinitely. The NHS Trust Development Authority (NHS TDA) and Monitor will use their respective powers to support improvement in the quality of care provided.

This guide, developed jointly by CQC, Monitor and NHS TDA, describes how the special measures programme works for NHS trusts and foundation trusts. It explains:

- why trusts are placed in special measures
- what will happen to trusts during special measures
- the roles and responsibilities of key organisations involved
- when and how trusts will exit special measures.

The guidance has been updated to reflect the ‘Special measures: one year on’ report and creates:

- an expectation that trusts and foundation trusts will be re-inspected within 12 months of being placed in special measures
- an expectation that trusts and foundation trusts will be re-inspected within the six month extension period where the decision has been made to extend their time in special measures
- a new commitment that the Chief Inspector of Hospitals will write to the Secretary of State if trusts or foundation trusts need to remain in special measures beyond this extension period.

2. Why trusts are placed in special measures

CQC, through the Chief Inspector of Hospitals (‘Chief Inspector’), will normally recommend that a trust is placed in special measures when an NHS trust or foundation trust 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).

When NHS TDA or Monitor receives a recommendation from the Chief Inspector to place an NHS trust or foundation trust in special measures, NHS TDA or Monitor will consider the evidence that CQC provides to them alongside other relevant evidence. The evidence provided by CQC should include the reasons why they are recommending the trust should be placed into special measures, the specific areas of improvement where actions need to be taken, and what improvements in quality need to be achieved.

On the basis of the full range of information, NHS TDA or Monitor will make a decision whether the trust or foundation trust will be placed in special measures.

NHS TDA or Monitor may also place a trust or foundation trust into special measures without receiving a recommendation from the Chief Inspector, based on its own evidence. In these circumstances, NHS TDA or Monitor will always seek advice from CQC.

An NHS trust or foundation trust will not enter special measures until NHS TDA or Monitor formally makes that decision.

3. What will happen when NHS TDA and Monitor place a trust in special measures

Monitor will take appropriate regulatory action in line with its existing powers as set out in its [‘Enforcement Guidance’](#).

An NHS trust that NHS TDA places into special measures will automatically be given an escalation score of 1 – the highest escalation level for NHS trusts. The range of interventions and support that a trust at escalation level 1 should expect is set out in [‘Delivering for Patients: the 2014/15 Accountability Framework for NHS trust boards’](#).

NHS TDA or Monitor 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 TDA or Monitor formally and publicly announces that a trust is in special measures. It is intended that the usual period of time a trust remains in special measures 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

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

1. NHS TDA or Monitor will appoint an **improvement director** who will act on their behalf to provide assurance of the trust’s approach to improving performance.

2. In most cases, NHS TDA or Monitor 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 TDA or Monitor and the partner ('buddy') organisation. Partner organisations will be reimbursed by Monitor or NHS TDA for reasonable expenses and may receive an incentive payment.
3. NHS TDA or Monitor will **review the capability of the trust's leadership**. If needed, this may lead to changes to the management of the organisation to make sure that 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.

NHS TDA or Monitor will require trusts in special measures to **publish their progress against action plans** every month on the NHS Choices and their own website, and to participate as required in national and local press conferences. CQC will review the action plan to check it covers the specific areas of improvement where action needs to be taken.

NHS TDA or Monitor will ensure that the trust or foundation 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 risk of harm, they can use their urgent powers to safeguard the patients. The expectation is 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 leadership.

5. Removing trusts from special measures

NHS TDA or Monitor will only take a trust out of special measures following a recommendation from the Chief Inspector. The Chief Inspector will usually recommend that a trust comes out of special measures if the quality of care is showing sufficient signs of improvement, even if it is not yet 'good', and the trust leadership is robust enough to ensure that the trust will sustain current improvements and make further improvements. NHS TDA or Monitor must also be confident that improvements will be sustained.

5.1. Care Quality Commission re-inspection

The expectation is an NHS trust or foundation trust will be re-inspected by CQC within 12 months of being placed in special measures. 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 before the re-inspection

and the re-inspection will always include an assessment of the trust's performance in the well-led key question.

NHS TDA and Monitor will provide CQC with information on their view of the progress that the NHS trust or foundation 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 TDA and Monitor gain from their regulatory activities.

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 TDA or Monitor and depending on the original reasons for the trust's entry into special measures. The re-inspection will always look at the well led key question.

As part of any inspection, CQC will consider whether the use of its enforcement powers is appropriate. In those cases where it is appropriate, CQC will work closely with NHS TDA or Monitor

5.2. Care Quality Commission recommendation

CQC will normally recommend that a trust comes out of special measures if the quality of care is showing sufficient signs of improvement, even if it is not yet 'good', and the trust leadership is robust enough to ensure that the trust will sustain current improvements and make further improvements. This will include taking account of the trajectory of improvement where there are broader improvement plans across a health economy..

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, CQC will consider whether it is possible for the trust to exit special measures if there are ratings of inadequate for one or more core services but with the expectation that this will not normally be the case.

However, there may be specific additional improvements required by CQC which reflect the individual circumstances of the trust. This may also need to take into account that some of the underlying reasons for special measures may be caused by intrinsic structural problems in the local health economy.

Where a trust meets the general criteria for exiting special measures but the Chief Inspector decides not to recommend exit, CQC will write to Monitor or NHS TDA to explain its reasons for this decision.

An inspection and recommendation from the Chief Inspector 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 urgent support is provided or a long-term solution is found.

5.3. Removal from special measures at first re-inspection

NHS TDA or Monitor will decide whether to formally remove the trust from special measures following the recommendation from the Chief Inspector.

When deciding whether a trust can exit special measures, NHS TDA or Monitor will consider whether they are confident that the improvements at the trust will be sustained.

If NHS TDA or Monitor reaches a positive conclusion, NHS TDA or Monitor will then consider whether any elements of the special measures programme should continue beyond the original defined period: for example, where a partner trust's programme of work is scheduled for completion a few months after special measures formally ends.

NHS TDA or Monitor will communicate a decision to the NHS trust or foundation trust in question, and then communicate it formally and publicly in a press release on the NHS TDA or Monitor websites and on the NHS Choices website.

It is important to note that trusts which exit special measures may still have ongoing concerns and foundation trusts exiting special measures may remain subject to enforcement action.

5.4. Removal from special measures with some support in place

When recommending that a trust should exit special measures, CQC may also recommend that it continues to receive support in particular areas. NHS TDA or Monitor will ensure the trust obtains this support through their normal oversight and intervention regimes when taking action on the recommendations. This could include continuing a buddying arrangement or an improvement director position.

5.5. Extension of special measures

In some circumstances, special measures 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.

When deciding whether to extend the time a trust spends in special measures, NHS TDA or Monitor, in consultation with CQC, will consider whether they are reasonably confident that the measures already under way will deliver required improvements within a designated period of time.

In recommending whether the trust's time in special measures should be extended, CQC should identify the specific areas of improvement where actions need to be taken, and what improvements in quality need to be achieved.

What constitutes a reasonable time frame will be decided by NHS TDA or Monitor in consultation with CQC, and will depend on 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 the NHS TDA or Monitor's decision that the trust is to remain in special measures.

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 the NHS Choices website and its own website.

When recommending that a trust should exit special measures at this point, CQC may also recommend that it continues to receive support in particular areas.

5.6. Continuing in special measures

The expectation is that trusts will exit special measures after re-inspection within the initial 12 month period or following the extension period of six months.

In some cases, CQC, NHS TDA and Monitor may have residual concerns where an NHS trust or foundation 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 intrinsic structural problems in the local health economy. In some instances we will already be taking action and have communicated relevant concerns to CQC before the trust's re-inspection.

Where a trust has not improved sufficiently to be taken out of special measures at the end of the extension period, the Chief Inspector will write to the Secretary of State clearly setting out the reasons for the trust remaining 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 or foundation trust, and inform decisions on a long-term solution.

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, etc) itself would not automatically be placed into special measures at the point of transaction. The resulting organisation would be assessed on its own merits and regulated accordingly by CQC, NHS TDA and Monitor, which would take full

account of the nature of the quality problems being taken on within the resulting organisation and how it, as a whole, was seeking to address them.

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