Special measures for financial reasons: what do trusts need to know?

The special measures (SM) for financial reasons programme[1] was introduced in July 2016 by NHS Improvement (NHSI) as part of a national 'reset' of financial discipline and performance in the NHS provider sector. When a trust faces serious financial problems and there are concerns that existing leadership cannot improve the situation without support, NHSI has powers to place it into SM for financial reasons. This regulatory tool consists of a set of interventions designed to achieve accelerated financial recovery and improve financial governance "within a reasonable timeframe", with particular emphasis on delivering control totals. This factsheet sets out the process for when a trust is placed in SM for financial reasons. Further information can be found in NHSI's guidance for trusts on *Special measures for finance reasons*.

Why trusts are placed in SM for financial reasons

A trust could be considered for SM for financial reasons if it meets one of the following objective criteria:

1. The trust has not agreed a control total and is planning or forecasting a deficit for the year
2. The trust has agreed a control total but has a significant negative variance against the control total plan and is forecasting a significant deficit
3. The trust has an exceptional financial governance failure, such as significant fraud or irregularity.

However, a trust meeting any of these criteria may be excluded in light of other relevant considerations such as:

- There are exceptional mitigating circumstances
- The trust is already receiving a significant package of regulatory action and support, or is about to
- Existing management does not require extra support e.g. has a NHSI and board approved recovery plan
- There is a recent track record of full-year delivery of plan and/or agreed recovery actions

NHSI will not place a trust in SM for financial reasons unless it finds a breach or suspected breach of its licence (or equivalent).

What happens to trusts in SM for financial reasons

Any trust in SM is automatically in segment 4 of the Single Oversight Framework (SOF). A trust in SM for financial reasons will therefore be subject to enforcement action to mandate support and required to carry out specific actions. When a trust enters SM for financial reasons, NHSI will establish a suite of regulatory interventions to improve the trust's financial position swiftly. This support consists of more intensive and

[1] Trusts can be placed in SM for financial and/or quality reasons. It is possible for trusts to be placed in both at the same time; in this instance, there will be a joined up approach from NHSI and the Care Quality Commission that addresses the full range of issues at the trust. However there are some important distinctions between what happens in relation to issues of finance and quality. NHS Providers has also published a factsheet on SM for quality reasons.

accelerated planning and delivery of recovery activities, through greater control by NHSI. NHSI anticipates that trusts in SM for financial reasons "have the potential to deliver significant financial recovery through actions within their own control"[2].

The nature and extent of these interventions vary on a case-by-case basis, but typically may include:

- Regular formal progress and challenge meetings with NHSI executive director sponsor
- NHSI appointing a financial improvement director and turnaround/recovery support, including an NHSI team and possibly wider support e.g. peer support
- Board vacancies filled on the direction of NHSI
- NHSI control of applications for Department of Health and Social Care (DHSC) financing
- Higher DHSC interest rate charges for new borrowing
- Rapid rollout of extra controls and other measures to immediately strengthen financial control
- Rapid (within a month) development (and then delivery) of a financial recovery plan which includes but is not limited to delivery of the trust's control total and efficiencies set out in the Carter Review.

NHSI's guidance states that improvements to finances should not be at the expense of quality. While a trust's board will be held accountable for ensuring the recovery plan does not compromise quality or safety, trusts should raise any concerns with NHSI. SM for financial reasons must be a time-bound process.

Removing trusts from SM for financial reasons

NHSI will determine whether to remove a trust from SM when the trust can demonstrate to NHSI's satisfaction that it has met the following conditions (not an exhaustive list):

- The trust has developed a financial recovery plan agreed with its board and NHSI
- Any significant financial governance failures have been addressed and future preventative action taken
- There has been no, and is no significant likelihood of, deterioration in quality or patient safety indicators as a direct result of SM actions, including no concerns raised by Care Quality Commission (CQC)
- The trust has a sustained track record of performance in line with its financial recovery plan
- NHSI must have no significant concerns about the trust's governance and leadership, and there must be no unplanned pressures that would materially impact the delivery of the trust's recovery plan.

If a trust is in SM for financial reasons only, upon removal the trust will move to segment 3 of the SOF. If the trust was in SM for both financial and quality reasons, the trust will be removed from SM for financial reasons but remain in SM for quality reasons and therefore in segment 4 of the SOF. In both cases existing enforcement action will be revised. The trust will remain in SM for financial reasons if CQC considers removal inappropriate.

If a trust cannot be removed from SM for financial reasons within a reasonable timeframe, NHSI may make changes to the support approach to address the reasons for the delay, make changes to board membership, initiate organisational form change and/or initiate a wider local health economy process if the issues are structural.

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[2] NHS Improvement, *Special measures for finance reasons: guidance for trusts.* March 2018. [Accessed 14 June 2018]