

# Guide to special measures

## Independent healthcare

### What are ‘special measures’?

People who use services have the right to expect high-quality, safe, effective and compassionate care. Where care falls below this standard and is judged to be inadequate it is essential that the service improves quickly for the benefit of people using the service.

The special measures process is designed to ensure a timely and coordinated response where we judge the standard of care to be inadequate.

Its purpose is to:

- Ensure that providers found to be providing inadequate care significantly improve.
- Provide a framework within which we use our enforcement powers in response to inadequate care and work with, or signpost to, other organisations in the system to ensure improvements are made.
- Provide a clear timeframe within which providers must improve the quality of care they provide or we will seek to take further action, for example to cancel their registration.

Services placed in special measures will be inspected again within six months. If insufficient improvements have been made such that there remains a rating of inadequate overall or for any key question or core service, we will take action in line with our enforcement procedures to begin the process of preventing the provider from operating the service. This will lead to cancelling their registration or to varying the terms of their registration within six months if they do not improve. The service will be kept under review and, if needed, could be escalated to urgent enforcement action. Where necessary another inspection will be conducted within a further six months, and if there is not enough improvement we will move to close the service by adopting our proposal to vary the provider’s registration to remove this location or cancel the provider’s registration. Special measures will give people who use the service the reassurance that the care they get should improve.

We have tested our approach to special measures across different sectors since October 2014 and we are continuing to develop our approach as our inspection methodology develops and ratings are applied.

Special measures only apply to services that have received a rating from CQC. They do not replace our existing enforcement powers: it is likely that we will take enforcement action at the same time as placing a service in special measures. In some cases, it may be more

appropriate to take urgent enforcement action rather than placing the service in special measures.

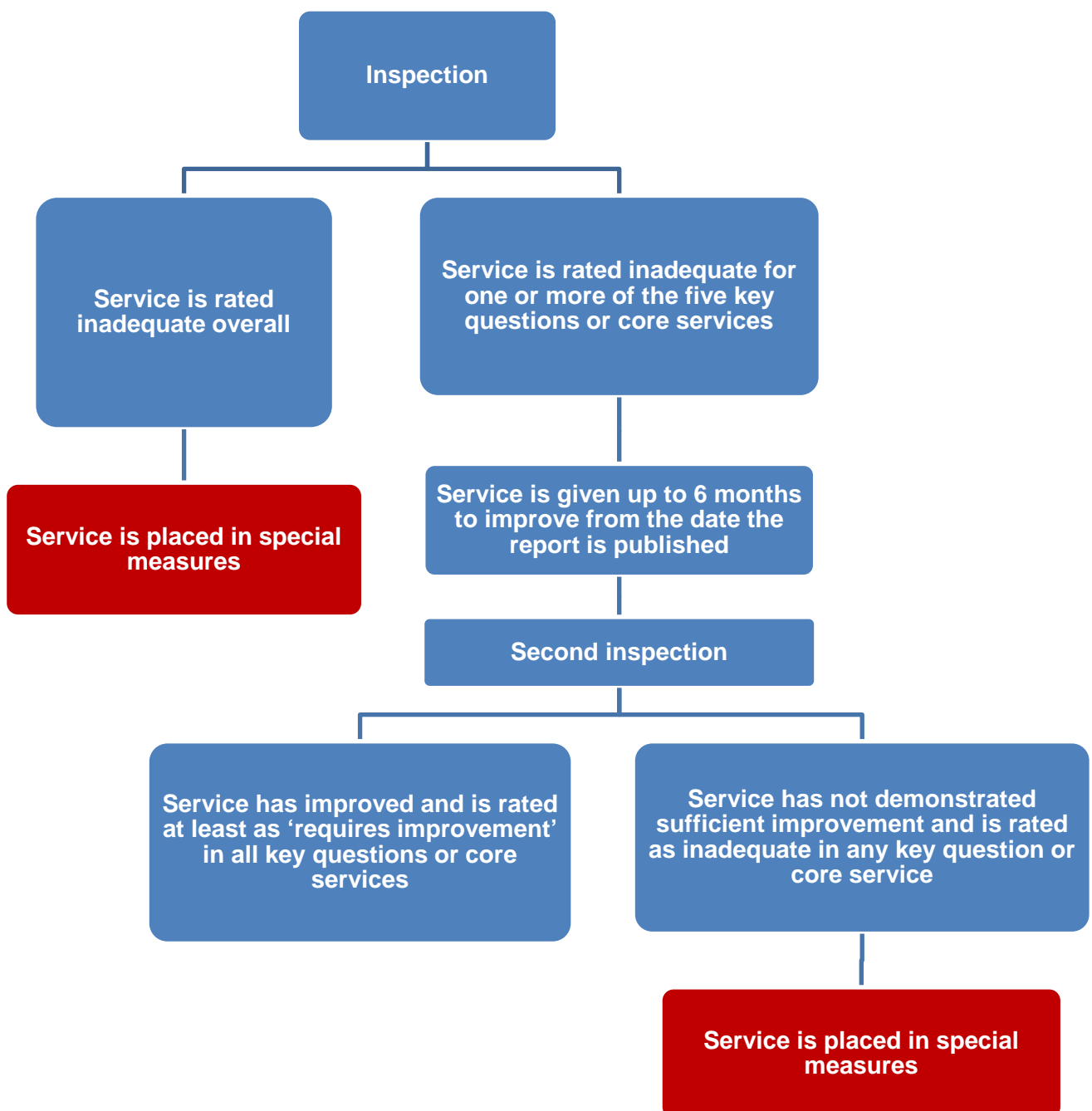
## Why do we place a service in special measures?

There are two routes into special measures (figure 1).

If a service is rated inadequate overall it will be placed straight in special measures.

If a service is rated inadequate for one of the five key questions or core services, it will usually have six months to improve. We will inspect again within six months. If the service is rated as inadequate for any key question or core service at the second inspection, it will be placed in special measures.

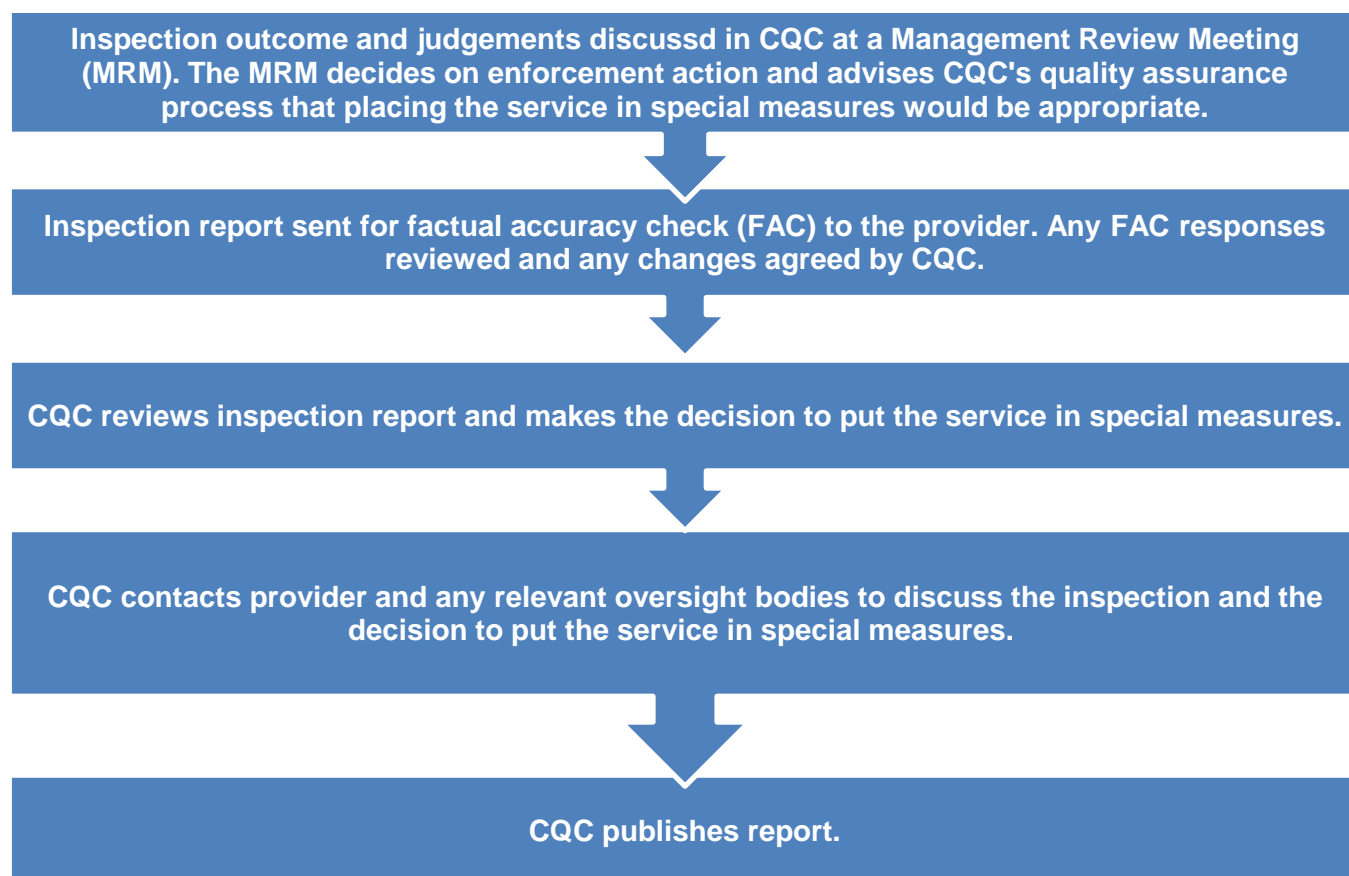
**Figure 1: Routes into special measures**



## How do we place a service in special measures?

It is CQC's decision whether to place a service in special measures.

**Figure 2: Placing a service in special measures**



## How do we communicate our decision to place a service in special measures?

Once a decision has been made to place a service in special measures we will inform the provider and any relevant oversight body before we publish the inspection report. There will be a statement in the inspection report to reflect our decision to place a service in special measures.

## How should patients being treated or cared for by the service be informed?

The provider should inform its patients that the service has been placed in special measures through all reasonable means, including for example by placing information in waiting rooms and patient areas, on the provider's website and on the NHS Choices website. Providers should follow CQC's [guidance on the display of ratings](#).

## **What will happen during special measures?**

The provider is responsible for the care that the service provides and for improving its quality and safety in response to CQC's judgements and ratings. When a service is in special measures it is the provider's responsibility to improve it.

We expect the provider to seek out appropriate support to improve the service from its own resources, from other relevant organisations and/or from oversight bodies

## **How do we use our enforcement powers alongside special measures?**

We will use special measures alongside our other powers, including enforcement. Enforcement action allows us to protect people who use regulated services from harm and the risk of harm and to hold services and individuals to account for failures in how they provide services.

It is likely we will also be taking enforcement action against providers that we put in special measures. This could include issuing a Warning Notice and/or imposing conditions of registration, which could require monitoring during the special measures period. In general, enforcement action will address individual issues that need to be addressed quickly to ensure that the service meets the fundamental standards. The aim of placing the service in special measures is that they make improvements that can be sustained in the longer term as well as addressing any short term failures.

## **Can providers challenge our decision to put a service in special measures?**

Registered persons have the right to make representations or an appeal against certain types of enforcement action. The representation and appeals process are detailed in our enforcement policy. In all cases CQC will follow the principles of our [published enforcement policy](#).

CQC offers providers the opportunity to request a review of their ratings. That review is not a statutory right of appeal, but a matter of CQC's policy. It is separate to the procedures for representations and appeals on enforcement and registration decisions.

A review may be requested on the grounds that CQC did not follow the published process for making ratings decisions and aggregating them. Providers cannot request reviews on the basis that they disagree with the judgements made by CQC, as such disagreements would have been dealt with through the factual accuracy checks and any representations about a Warning Notice, if one was served.

There is no right of appeal against special measures.

## **How long will a service be in special measures?**

We will normally carry out a further inspection within six months of a service being placed in special measures. This is six months from the date that we publish the inspection report.

The length of this period will be decided at the same time as making the decision to place the service in special measures and is dependent on risk to the people who use the service.

There may be a small minority of cases where a service is placed in special measures and the next inspection is sooner than six months. This may be for the following reasons:

- Improvements have already been made, prior to putting the service in special measures and there is confidence that the service will continue this improvement.
- The service is planning significant changes which may alter the situation during the next six months; for example, there may be a change in leadership or ownership within the service or provider.
- As part of our enforcement action.

Special measures provide a time-limited framework within which providers of inadequate care must improve. For independent healthcare services the maximum times for being in special measures will usually be no more than 12 months. Services placed in special measures will be inspected again in six months. If insufficient improvements have been made, and there remains a rating of inadequate overall or for any key question or core service, we will take action in line with our enforcement procedures to begin the process of preventing the provider from operating the service. This will lead to cancelling their registration or to varying the terms of their registration within six months if they do not improve.

## **What are the criteria for a service exiting special measures?**

If the service has demonstrated improvements and is no longer rated as inadequate for any of the five key questions or core services we will take it out of special measures.

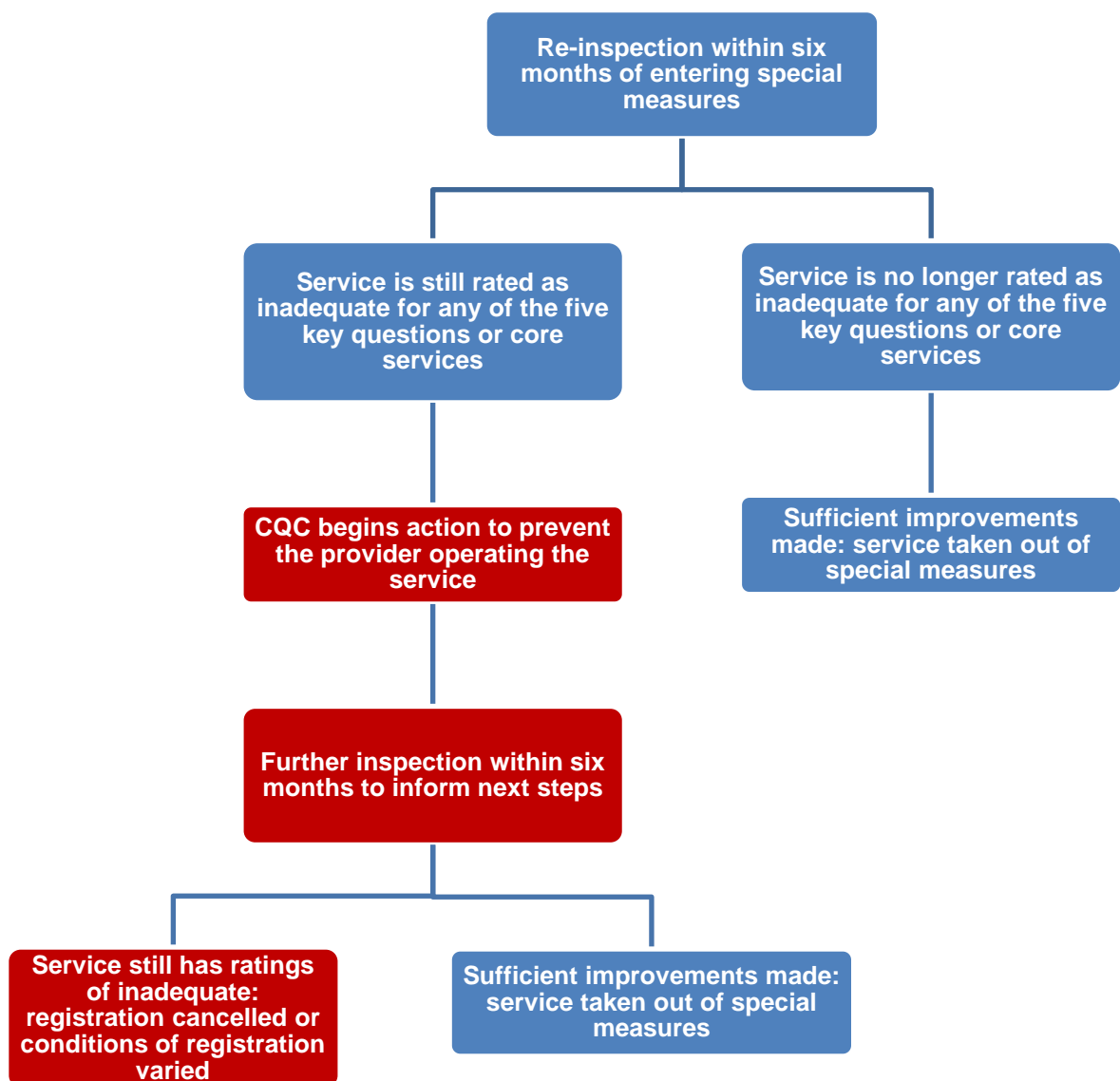
A service does not have to be rated as good to be taken out of special measures: it may still require improvement at this point and it is possible that there will be ongoing enforcement action. However, once the service is out of special measures, this improvement and enforcement action will be monitored and reviewed through the usual processes in line with our provider handbook and enforcement policy.

If the service has any rating of inadequate in the five key questions or core services at the inspection six months after being in special measures, we will begin the process of taking action to prevent the provider from operating the affected service, for example by proposing to cancel their registration or vary the terms of their registration. In some instances we may do this urgently, depending on the circumstances we find and the level of risk to service users.

Within six months of the second inspection we will usually carry out a further inspection to determine whether it is appropriate to complete the process of varying or cancelling the provider's registration, with the result that the affected service will be closed. If there remains a rating of inadequate in any key question or core service, we will take this step. We will do this by issuing a Notice of Decision.

This is illustrated in figure three.

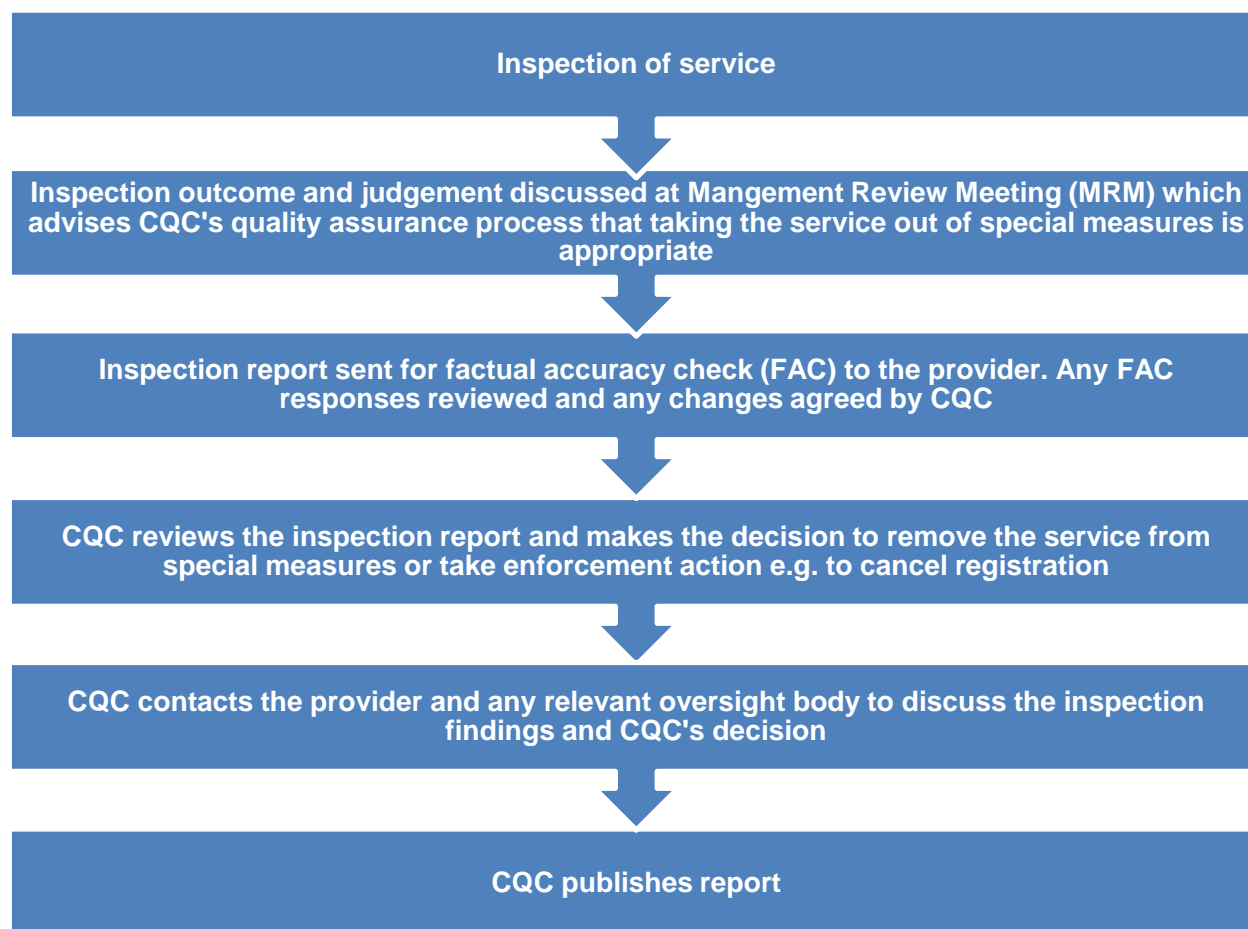
**Figure 3: Routes out of special measures**



### **How is the decision made to take a service out of special measures?**

The decision to take a service out of special measures is made by CQC. This decision will follow an inspection of the service.

**Figure 4: Removing a provider from special measures**



## **Development of special measures**

We will continue to develop our approach to special measures as we learn from experience and from feedback from providers, people who use services and their carers. We will issue new guidance if our approach to special measures changes.

## Appendix: Special measures process

