

Staff guide to special measures

NHS GP practices, GP out-of-hours services and other primary medical services

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.

We want to ensure that services found to be providing inadequate care do not continue to do so. Therefore we have introduced special measures. The purpose of special measures 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 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 for any population group, key question or overall, we will take action in line with our enforcement powers 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, working closely with NHS England since October 2014. We will continue to develop our approach to special measures. We will issue new guidance if our approach to special measures changes.

Special measures do not replace our existing enforcement powers: it is likely that we will take enforcement action at the same time as placing a GP practice, a GP out-of-hours service or other primary medical service into special measures. In some cases, it may be more appropriate to take urgent enforcement action rather than placing the service in special measures.

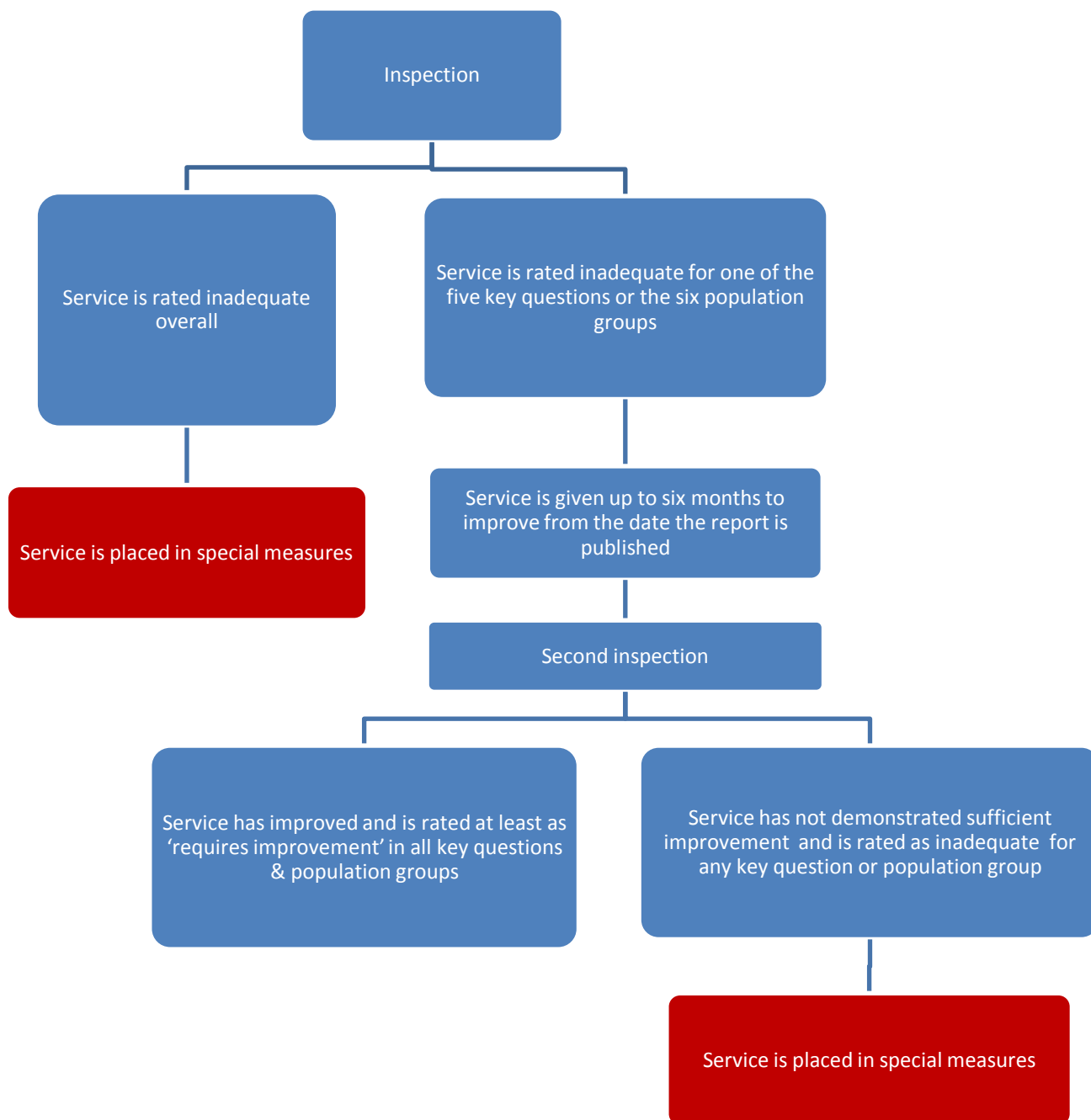
Why do we place a service in special measures?

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

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

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

Figure 1: Routes into special measures

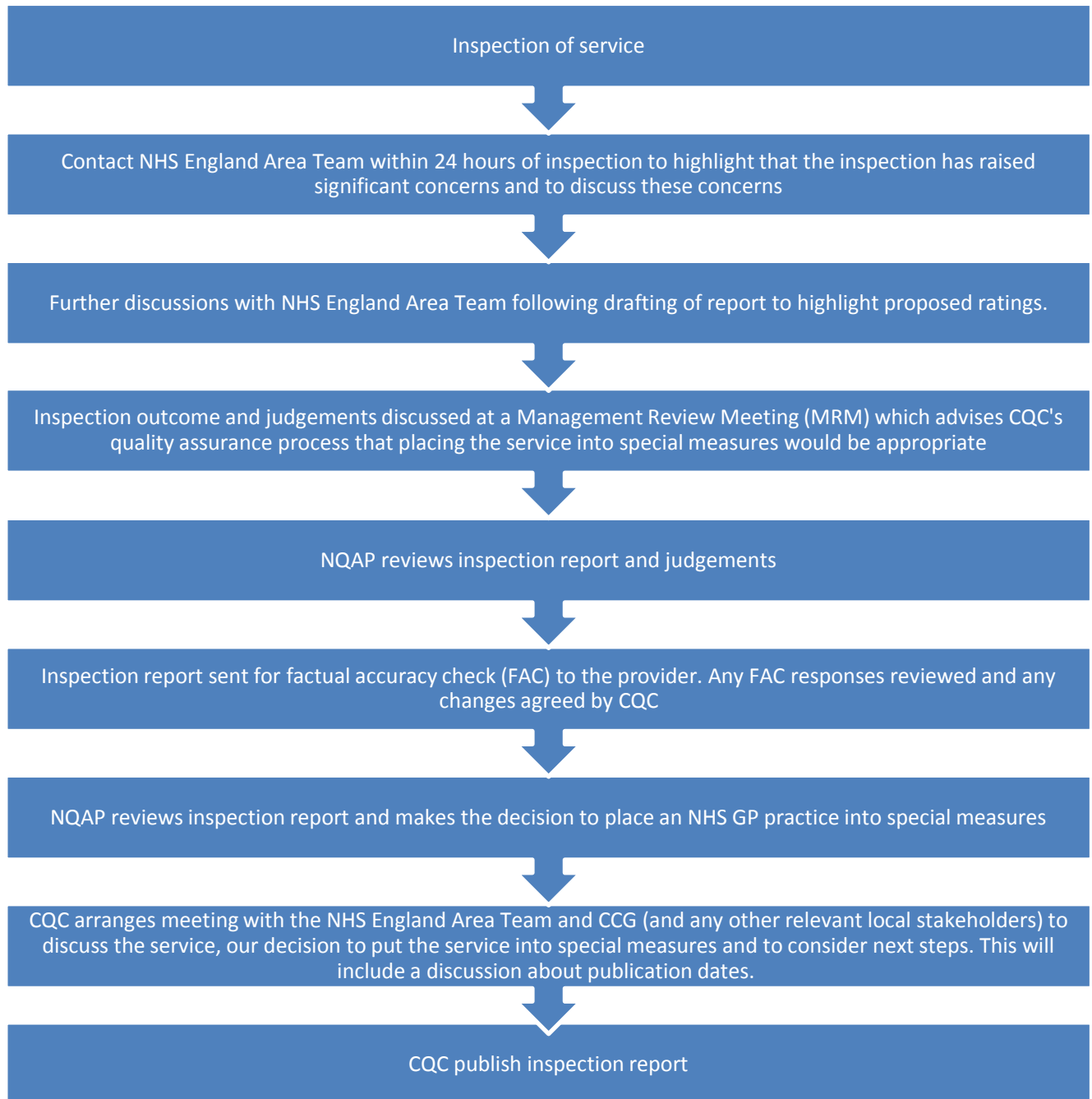


How do we place an NHS GP practice, a GP out-of-hours services or other primary medical services into special measures?

It is CQC's decision whether to place a service into special measures. We will always do this following discussion with the relevant NHS England Area Team. Figure 2 describes the key steps that must be taken before a service is placed into special measures. For services that are rated as inadequate and that are being placed into special measures we need to ensure that the time between the inspection and the publication of the report is kept to a minimum: these providers are providing inadequate care and we need to ensure we act swiftly to liaise with all relevant stakeholders to ensure that improvements begin quickly. Therefore the **usual maximum time** between the inspection and the publication of

the inspection report and the announcement that the service is placed into special measures should be **two months**.

Figure 2: Placing an NHS GP practices, GP out-of-hours services or other primary medical services in special measures



Following the inspection, the draft inspection report must be discussed at a Management Review Meeting (MRM). The MRM will decide on any enforcement action to be taken and will also provide advice to the National Quality Assurance Panel (NQAP) about placing the service in special measures. NQAP will review the report and ratings including the decision whether to place a service into special measures. The report will then go to the provider for Factual Accuracy Checks. NQAP will review the report following factual accuracy checks including consideration of any need to change ratings or revise the decision to place the service into special measures. This second NQAP is necessary because the decision to

place a service into special measures is linked to ratings, so confirmation of the rating, and therefore the decision to put them in special measures, is subject to the factual accuracy checks by the provider.

Please note that CQC and NHS England will communicate regularly to ensure that, nationally, both organisations are aware which services are being considered for special measures. However, this does not replace local discussions and **it is the inspection team's responsibility to communicate with the NHS England Area Team throughout the process, from initial inspection to the publication of the inspection report.**

How do we communicate our decision to place an NHS GP practices, GP out-of-hours services or other primary medical services into special measures?

When the provider receives the draft inspection report for factual accuracy checks, it will include text which will propose an inadequate rating and will describe that the service will be placed into special measures. This will be reviewed and finalised in light of the provider's factual accuracy comments.

Once a decision has been made to place a service into special measures we will inform the provider and the relevant NHS England Area Team before we publish the inspection report. There will be a statement in the published inspection report to reflect our decision to place the service into special measures.

How should people using the service be informed?

It is the provider's responsibility to inform people using the service that it is in special measures. The NHS England Area Team will support the service to inform patients through all reasonable means, including information in the waiting room, on the provider's website and on NHS Choices website, as well as in meetings with patients such as the patient participation group. Providers should follow CQC's guidance on the display of ratings.

Reports are published on our website every Thursday through our normal process. It is important that the publication of our report and associated media activity is aligned with NHS England's: our communications and media teams will work closely with NHS England press teams to ensure that our messages are aligned.

What do we say in inspection reports for services being placed into special measures?

When a service is being placed into special measures the following text should be used in the inspection report.

The following text should be used in the Chief Inspector's letter at the front of the inspection report when placing a service into special measures:

'I am placing the service into special measures. I am placing this service in special measures. 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 for any population group, key question or overall, 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.'

This can be preceded with some text that is specific about the findings from the inspection of that provider.

Following the inspection of a service which has been in special measures for six months and has not demonstrated sufficient improvement, the following text should be used in the Chief Inspector's letter at the front of the inspection report:

'This service was placed in special measures in *(insert date)*. Insufficient improvements have been made such that there remains a rating of inadequate for any population group, key question or overall. Therefore, we are taking 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 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'.

If a further inspection is necessary, and we proceed with our proposal to cancel the provider's registration or vary the conditions of their registration the following text should be used in the Chief Inspector's letter at the front of the inspection report:

'This service was placed in special measures in *(insert date)*. Following a further inspection in *(insert date)* where we found insufficient improvements we took action in line with our enforcement procedures to begin the process of preventing the provider from operating the service. In this third inspection we found that insufficient improvements have been made such that there remains a rating of inadequate for a population group/core service, key question or overall. We will now 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. The service will be kept under review and if needed could be escalated to urgent enforcement action'.

While it is our policy to make this information public, we do not want to cause undue alarm among people who use the service. Our press release for services being placed into special measures will normally include words to this effect (and this will always depend on the circumstances):

‘Patients registered with the practice being placed into special measures should be aware that the package of support being offered by NHS England and the Royal College of GPs will ensure that there are no immediate risks to patient safety at these GP practices while improvements are being made. This practice will not close.’

What needs to happen before publication of report?

Shortly after the inspection, the local inspection team will have shared early findings and concerns with the local CCG and NHS England Area Team.

We need to ensure that the local commissioners (CCGs and NHS England) are fully prepared for any public announcement. At least two weeks before publication, the inspection manager should liaise with the CQC regional engagement team to ensure that communications are in place to support the provider and commissioners in dealing with queries from their patients or the local media.

What will happen during special measures?

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

NHS England has published guidance on how it will help GP practices to improve the quality of care provided.

It is not our responsibility to provide information about sources of support – the NHS England Area Team will do this. If we are taking enforcement action, we will monitor these in line with the Enforcement Policy. Please see the enforcement section below for further detail.

At the start of special measures the service will work with the NHS England Area Team to draw up an action plan which will be submitted to CQC. The NHS England Area Team will also support the service to complete a more detailed improvement plan and will then monitor progress against this, as well as help the service to identify additional sources of support. As well as supporting improvement, the NHS England Area Team will also consider any relevant contractual action.

From October 2014 to October 2015 the Royal College of General Practitioners will be working with NHS England to pilot a peer support programme which will provide expert support, mentoring and coaching for GP practices placed in special measures. The NHS England Area Team will tell the practice about this available support.

The clinical commissioning group (CCG) will support the process of improvement planning, and help to identify solutions and sources of support for the service. Further detail on this can be found in [NHS England guidance](#).

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 or the risk of harm and to hold providers and individuals to account for failures in how they provide services.

It is likely we will also be taking enforcement action in NHS GP practices, GP out-of-hours services or other primary medical services that we put into special measures. This could include Warning Notices and imposing conditions of registration and this may require monitoring during the special measures period. In general, enforcement action will address individual issues which need to be addressed quickly to ensure that the service meets the fundamental standards. The aim of placing the service into special measures is that they make improvements that can be sustained in the longer term as well as addressing any short term failures.

When considering the use of enforcement actions for NHS GP practices, GP out-of-hours services or other primary medical services being placed in special measures it is important to seek case specific legal advice and ensure that you are following the published enforcement policy.

The following should be considered when deciding on taking enforcement action:

- **Timescales for requirements (formally known as compliance actions) and enforcement action:** These do not need to be the same as the special measures period (ie six months). The timescales will often be shorter than this and we will follow up every warning notice through an appropriate check. This may include through and unannounced focused inspections. When a service is in special measures consider the proportionality of following up on a warning notice and the most appropriate way to do this: we will have ongoing contact with the service and the NHS England Area Team during special measures so an inspection to follow up on a warning notice, for example, may not be proportionate.
- **Evidence to support enforcement action:** Always consider whether you have sufficient evidence to proceed with taking enforcement action.
- **Warning notices:** Note that if a warning notice issued to a provider under section 29 of the Act and is subsequently complied with by the provider, the evidence cannot be used in certain future enforcement action, including a notice of proposal to cancel the provider's registration.
- **Urgent action:** Consider whether the use of urgent action is necessary to act quickly to protect people using a registered service. This may include imposing conditions on registration or suspension of services. Always do this in line with our enforcement policy and ensure that the decision is made at an MRM. Consider the seniority of attendees at the MRM in these instances.
- **Proceeding straight to cancellation:** In a small number of scenarios it may be more appropriate to proceed straight to cancelling a provider's registration, rather than placing them in special measures. Always do this in line with our enforcement policy and ensure that the decision is made at an MRM. Consider the seniority of attendees at the MRM in these instances.

Given the likelihood of [enforcement](#) action and the possibility of cancelling registration following a period of special measures it is important that records and audit trails for GP practices placed into special measures are thorough and up to date.

Can providers challenge our decision to put a service into 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 an NHS GP practice, GP out-of-hours services or other primary medical service be in special measures before we inspect it again?

We will normally carry out a further inspection within six months of the service being placed into 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 it into special measures.

There may be a small minority of cases where a service is placed into 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 into 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 a change in leadership within the GP practice or a merger with another GP practice.
- As part of enforcement action or following up on enforcement action already taken.

This inspection will usually be a comprehensive inspection; it will not usually be limited to the areas that were previously rated as inadequate. Although in some cases we may carry out a focused inspection at this stage.

Special measures provide a time-limited framework within which providers of inadequate care must improve. For NHS GP practices, GP out-of-hours services and other primary medical services the overall timescales from being placed into special measures to the service being closed (if there is insufficient improvement) 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 for any population group, key question or overall we will take action in line with our enforcement procedures to begin the process of taking action to prevent 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 an NHS GP practice, GP out-of-hours services or other primary medical 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 six population groups 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 CQC's provider handbook and enforcement policy.

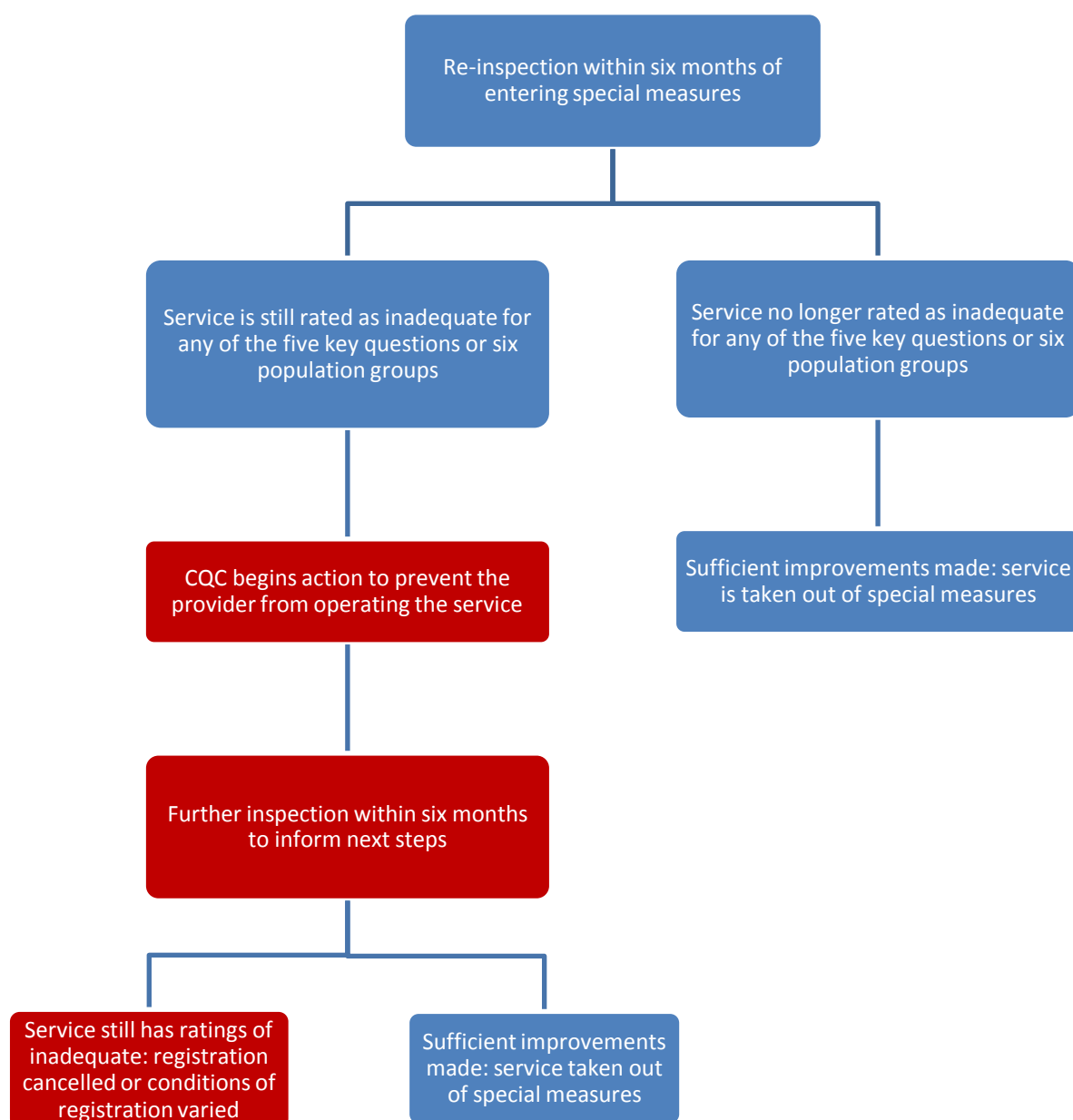
If the service is rated as inadequate for any key question or population group at the inspection six months after being placed in special measures, we will begin the process of taking action to prevent the provider from operating the affected service, for example by proposing to cancel their registration or to 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 this 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 service's registration, with the result that the affected service will be closed. If there remains a rating of inadequate for a key question or a population group 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



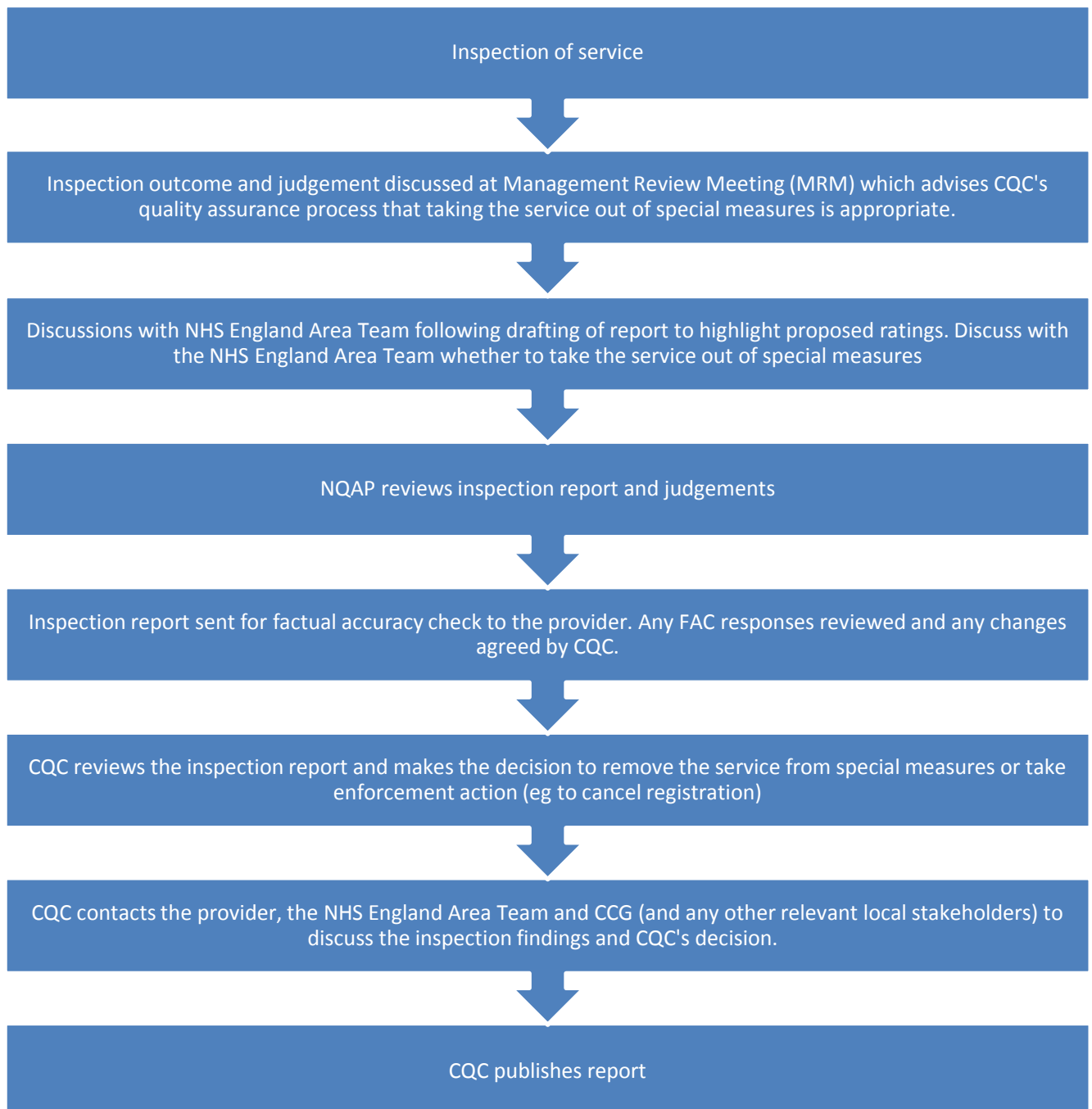
How is the decision made to take a NHS GP practice, GP out-of-hours services or other primary medical services out of special measures?

CQC decides whether to take a service out of special measures. This decision will follow an inspection of the service.

The same internal decision making process will be followed as when the service was put into special measures. An MRM will provide advice to the NQAP on whether the service should be taken out of special measures or not. And whether any further enforcement action should be taken.

Always do this in line with our enforcement policy and ensure that the decision is made at an MRM. Consider the seniority of attendees at the MRM in these instances.

Figure 4: Removing an NHS GP practice, GP out-of-hours services or other primary medical services from special measures



What do we say in inspection reports for services that are coming out of special measures?

The following text should be used in the Chief Inspector's letter at the front of the inspection report when taking a service out of special measures:

'I am taking this service out of special measures. This recognises the significant improvements that have been made to the quality of care provided by this service'

Development of special measures

We will continue to develop our approach to special measures. We will issue new guidance if our approach to special measure changes.

Appendix: Special measures process

