

## Board of Directors' Meeting: 12 October 2023

<b>Agenda item</b>	133/23		
<b>Report Title</b>	Corporate Fit and Proper Persons Policy		
<b>Executive Lead</b>	Anna Milanec, Director of Governance Rhia Boyode, Director of People & OD		
<b>Report Authors</b>	Nick Dowd, People Governance and Projects Manager Beverley Barnes, Board Coordinator		
<b>CQC Domain:</b>	<b>Link to Strategic Goal:</b>		<b>Link to BAF / risk:</b>
Safe	Our patients and community		<b>Trust Risk Register id:</b>
Effective	Our people	√	
Caring	Our service delivery		
Responsive	Our governance	√	
Well Led	Our partners		
<b>Consultation Communication</b>	People & Organisational Development Assurance Committee, 2023.09.25 (to be presented, in October 2023, to the: Workforce Policy Partnership Group, JNCC and Operational People Group)		
<b>Executive summary:</b>	<p>In August 2023, NHS England launched a new Fit &amp; Proper Persons Framework that came into effect from 1 October 2023. The Trust's Corporate Fit and Proper Persons Policy has been reviewed and updated in line with the new national framework. Updates to the policy are shown as tracked changes.</p> <p>Due to the urgency required in approving this policy to ensure it reflects the requirements of the new framework, the People &amp; Organisational Assurance Committee (PODAC) reviewed the draft changes to the policy, and agreed that it should be recommended to the Board of Directors for approval.</p> <p>As the meetings to progress the policy through operational governance and consultation are taking place during October and will not be complete before this month's Board meeting, the Board of Directors is requested to provide delegated authority to the Director of Governance and Director of People &amp; OD to approve the final version of the policy once the above governance process has been concluded.</p>		
<b>Recommendations for the Board:</b>	The Board of Directors is asked to approve the Corporate Fit and Proper Persons Policy (in its current draft form), and to provide delegated authority to the Director of Governance and Director of People & OD to approve the final version of the policy once the above governance process has been concluded.		
<b>Appendices:</b>	Appendix 1: Corporate Fit and Proper Persons Policy		

# Corporate Fit and Proper Persons Policy

## W20

Additionally refer to:

Disciplinary Policy  
 Verification of Professional Registration Policy  
 Employee Performance Management Policy & Procedure  
 Appraisals and Pay Progression [Policy](#)  
 Recruitment and Selection Policy  
 Freedom to Speak Up: [Raising Concerns \(Whistleblowing\) Policy](#)  
 Managing Conflict of Interest Policy  
 Care Quality Commission. Regulation 5: Fit and Proper Persons: Directors (January 2018)  
<http://www.cqc.org.uk/content/regulation-5-fit-and-proper-persons-directors>  
 Care Quality Commission. Fit and proper persons requirement: directors (NHS trusts) (June 2018)  
<https://www.cqc.org.uk/guidance-providers/nhs-trusts/fit-proper-persons-requirement-directors-nhs-trusts>  
[NHSE Fit and Proper Person Test Framework](#)  
[NHSE Guidance for Chairs on implementation of the Fit and Proper Person Test](#)

Version:	V1. <del>53</del>
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Approved by	JNCC, <a href="#">PAG, Workforce People &amp; OD Assurance Committee, Trust Board</a>
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Date ratified:	<b>TBC</b> <del>March 2021</del>
Document Lead	Deputy Workforce Director
Lead Director	Director of Governance
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Target audience:	All Trust procedural document leads

## Document Control Sheet

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Version	1.53
Status	<del>Final</del> Draft
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Issue Date	<del>TBC</del> March 2024
Review Date	<del>TBC</del> March 2024
Distribution	Please refer to the intranet version for the latest version of this policy. <b>Any printed copies may not necessarily be the most up to date</b>
Key Words <del>—including abbreviations if these would be reasonably expected to be used as search terms</del>	Well-Led; Appointment; Recruitment; Pre-Employment Checks
Dissemination plan	This document will be disseminated via policy leads and the management cascade.

## Version history

Version	Date	Author	Status	Comment – include reference to Committee presentations and dates
V1	May 18	V Maher	Final	Approved
V1.1	May 18	C Jowett	Final	Addition of annual declarations for Board
V1.2	July 20	H Kauldhar	Final	Changes to reflect audit feedback and addition of: Appendix 1. Standard Operating Procedure. Appendix 2. Disclosure Form - New Starter. Appendix 3. Disclosure Form - existing post holders (Annual review and ad hoc declaration).
V1.3	January 2021	E Wilkins	Draft	Full review and update of policy following audit feedback.
V1.4	Sept 2023	N Dowd	Final	Added flag on front page that policy is under review and new requirements apply from 30 <sup>th</sup> September 2023.
<u>1.5</u>	<u>Sept 2023</u>	<u>N Dowd</u>	<u>Draft</u>	<u>Changes to comply with NHSE Framework. Appendix 1 replaced with new checklist. Clarity added to the scope of the regulations. Additional information added about recruitment processes.</u>

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Commented [DN(SATHNT1): To be updated when tracked changes removed

## Policy on a page

~~This Policy applies to all Directors – Executive and Non-Executive, permanent, interim and Associate positions, irrespective of their voting rights. This includes those Directors who were already in post when the 2014 Regulations came into force.~~

This Policy applies to all Board members, including:

- executive directors and non-executive directors (NEDs), irrespective of voting rights
- interim (all contractual forms) as well as permanent appointments, where interim arrangements exceed 6 weeks
- those individuals who are called 'directors' within Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

This regulation has been integrated into the Care Quality Commission's (CQC) registration ~~requirements, and~~requirements and falls within the remit of their regulatory and inspection approach.

Providers must not appoint to any ~~qualifying-board member~~ post until all the fit and proper person requirements (FPPR) have been met and approved by the Chair.

The Trust will make every reasonable effort to assure itself about existing post holders and new applicants and to make specified information about board directors available to the CQC on request.

The Chair holds the ultimate accountability for adhering to the Regulations and the NHSE Framework. The Director of Governance / Company Secretary will ensure the compliance with this policy working closely with the ~~Workforce People & OD~~ Team and will ensure that evidence of compliance is maintained electronically on the personal files of ~~qualifying post holders~~board members and on the Electronic Staff Record system.

The Trust is responsible for ensuring the continued "fitness" of those persons to whom the Requirements apply.

Where matters are raised that cause concerns relating to an individual being fit and proper to carry out their role the Chair ~~may~~ will address this in the most appropriate, relevant and proportionate way and in accordance with the NHSE Framework.-

## 1.0 Introduction

The 'fit and proper persons' test set out in Regulation 5 of the *Health and Social Care Act 2008 (Regulated Activities) Regulations 2014* (referred to as the 2014 Regulations) came into force on 27<sup>th</sup> November 2014 and is aimed at making sure those individuals who have authority in organisations that deliver care, are responsible for the overall quality and safety of that care, and as such can be held accountable if standards of care do not meet legal requirements.

[This policy complies with the detailed framework published by NHS England in August 2023 \(available here\), taking effect from 30<sup>th</sup> September 2023 onwards. This policy should be read in conjunction with the NHSE framework.](#)

~~This Policy applies to all Directors~~

~~Executive and Non-Executive, permanent, interim and Associate positions, irrespective of their voting rights. This includes those Directors who were already in post when the 2014 Regulations came into force.~~

## 2.0 Purpose

- 2.1 All provider organizations must ensure that ~~director-Board level~~ appointments meet the 'fit and proper persons test' and the regulations place a duty on NHS providers not to appoint a person or allow a person to continue to be ~~an Executive Director or equivalent or Non-Executive Director~~ a Board member if this test is not met.
- 2.2 This regulation has been integrated into the Care Quality Commission's (CQC) registration requirements, and falls within the remit of their regulatory and inspection approach.
- 2.3 The requirements of paragraph 3 of Regulation 5 of the Regulated Activities are that the following requirements must be satisfied to appoint to a director role;
  - a) The individual is of good character;
  - b) The individual has the qualifications, competence skills and experience which are necessary for the relevant office or position or the work for which they are employed;
  - c) The individual is able by reason of their health, after reasonable adjustments are made, to properly perform tasks which are intrinsic to the office or position for which they are appointed or to the work for which they are employed;
  - d) The individual has not been responsible for, privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity; and
  - e) None of the grounds of unfitness specified in Part 1 schedule 4 apply to the individual (as per the Regulated Activities Regulations detailed below).

The Fit and Proper Person Requirements lists categories of persons who are prohibited from holding office and for whom there is no discretion. The grounds of unfitness specified in Part 1 of Schedule 4 to the Regulated Activities Regulations are;

- a) The person is an undischarged bankrupt or a person whose estate has had sequestration awarded in respect of it and who has not been discharged;

- b) The person is the subject of a bankruptcy restrictions order or an interim bankruptcy restriction order, or an order to like effect made in Scotland or Northern Ireland;
- c) The person is a person whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986;
- d) The person has made a composition or arrangement with, or granted a trust deed for creditors and not been discharged in respect of it;
- e) The person is included in the children's barred list or the adults barred list maintained under section 2 of the Safeguarding Vulnerable Group Act 2006, or in any corresponding list maintained under an equivalent enactment in force in Scotland or Northern Ireland'
- f) The person is prohibited from holding the relevant office or position, or in the case of an individual for carrying on the regulated activity, by or under any enactment.
- g) The person is responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity, or discharging any functions relating to any office or employment with a service provider.

2.4 Providers have a general obligation to ensure that they only employ individuals who are fit for their role, the 'fit and proper persons' test must be applied for all new and existing ~~directors-board members~~ and there must be systems and processes in place to provide ongoing assurance that the requirements are met. There is a duty on the organization to take such action as is necessary and proportionate to ensure on-going compliance.

2.5 There is an expectation that senior leaders set the tone and culture of the organization that leads to staff adopting a caring and compassionate attitude. As such, an assessment of a candidate's values for all Director appointments are critical to take account of the values of the organization and the candidate's fit to these values.

### 3.0 Scope

~~3.1 This Policy applies to all Board members, including:~~

- ~~• both executive directors and non-executive directors (NEDs), irrespective of voting rights~~
- ~~• interim (all contractual forms) as well as permanent appointments where interim arrangements exceed 6 weeks~~
- ~~• those individuals who are called 'directors' within Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.~~

~~3.1 This Policy presents a summary of the standards Executive and Non-Executive Directors and other Board level posts must comply with and the Trust process for monitoring and record-keeping.~~

3.2 Guidance describes "directors" as Executive and Non-Executive Directors and any other persons performing the functions of, or similar functions to, a director.

~~3.3 For the purpose of the Trust it has been agreed that the requirement should apply to all Executive Directors, Non-Executive Directors and Board level posts. This will be kept under review taking account of the emerging national guidance.~~

3.43.3 Where Interim Executive Directors are in place, the requirement to comply with

and meet the standards also applies if the position is likely to, or does, exceed 6 weeks. All Directors will be required to complete a self-declaration form on at least an annual basis and an enhanced DBS check at least every 3 years. (Appendix 1)

#### **4.0 Procedure**

4.1 The ~~introduction of the~~ fit and proper person's requirements (FPPR) places the ultimate responsibility on the ~~e~~Chair to discharge the requirement placed on the Trust, to ensure that all relevant post holders meet the fitness test and do not meet any of the 'unfit' criteria. Further detail is provided in the CQC Guidance for NHS Bodies: Fit and Proper Persons: Directors, November, 2014

[http://www.cqc.org.uk/sites/default/files/20141120\\_doc\\_fppf\\_final\\_nhs\\_provider\\_guidance\\_v1-0.pdf](http://www.cqc.org.uk/sites/default/files/20141120_doc_fppf_final_nhs_provider_guidance_v1-0.pdf)

4.2 The Trust will make every reasonable effort to assure itself about existing post holders and new applicants and to make specified information about board directors available to the CQC on request.

~~4.3 The selection process for all Director posts will be robust ensuring that the specific qualifications, skills and experience required for the role are set out in the job description and person specification and thoroughly tested through the selection process as detailed below.~~

#### **4.34 New Appointment Recruitment**

~~4.4 Appointments of new board members must be made through a robust and thorough recruitment process. The selection process for all Executive Director posts will be robust, ensuring that the specific qualifications, skills and experience required for the role are set out in the job description and person specification and thoroughly tested, through the selection process.~~

~~4.5 The selection process must, as a minimum, include an interview panel process and value-based interview/ assessment.~~

~~4.6 In assessing competence, skills and experience as part of the recruitment process, reference must also be made to the NHS Leadership Competency Framework (LCF) for board level leaders (expected October 2023).~~

4.7 Non-Executive Directors are appointed by NHS England. The recruitment process for Non-Executive Directors is led by the NHS England Appointments team, who will obtain references, conduct the required electronic checks under the FPPT framework, and obtain signed self-attestations. The Trust will, however, be responsible for requesting a DBS check and Occupational Health Assessment on each individual prior to appointment. Once the NHSE Selection Panel has approved an appointment, and the Appointments Team have conducted satisfactory FPPT checks, all FPPT documentation together with the letter of appointment issued by NHSE, will be requested by the Trust, and will be retained on the Non-Executive Director's local electronic personal file, along with all local recruitment and appointment information and checks, as described above. All information will be made available to the CQC on request.



- 4.8 The same process as above will apply to the appointment of the Chair.
- 4.9 No Executive Director should be appointed and start in post until all FPPT checks have been completed and approved by the Chair. For Non-Executive Director appointments, whilst NHSE will conduct the checks described above, the Chair will need to approve the locally requested DBS and Occupational Health Assessment, prior to NHSE appointment. No Non-Executive Director should therefore be appointed and take up their post until all FPPT checks have been completed and approved by the Chair, as appropriate.

#### 4.8 Full FPPT Assessment

4.9 A documented, full FPPT assessment will be carried out by the Trust in the following circumstances:~~In order to confirm that an individual is of good character, the Trust will make pre-employment checks:~~

1. New appointments in board member roles, whether permanent or temporary, where greater than six weeks, this covers:
  - a) new appointments that have been promoted within an NHS organisation
  - b) temporary appointments (including secondments) involving acting up into a board role on a non-permanent basis
  - c) existing board members at one NHS organisation who move to another NHS organisation in the role of a board member
  - d) individuals who join an NHS organisation in the role of board member for the first time from an organisation that is outside the NHS.
2. When an individual board member changes role within their current NHS organisation (for instance, if an existing board member moves into a new board role that requires a different skillset).
3. Annually; that is, within a 12-month period of the date of the previous FPPT to review any changes in the previous 12 months.

4.10 A full FPPT assessment will consist of the checks listed in Appendix 1. which will include the following:

~~Full employment history with documented explanation of any gaps  
Obtaining two references, one of which should be from the most recent employer  
Qualification and professional registration checks  
Right to work checks  
Proof of identity  
Occupational health clearance  
Enhanced DBS clearance  
Search of insolvency and bankruptcy register  
Search of disqualified directors register  
Web search of the individual  
Removal from Charity Trustees check  
Due diligence in relation to (or privy to) previous misconduct, mismanagement or professional disqualification~~

4.115 All checks must be recorded, evidenced, signed and dated by the Workforce Trust's

Recruitment Team, with the Director of Governance/ Company Secretary having final sign-off, will then review the checks and share the evidence with the Chair for approval. Evidence of checks for Executive Directors will also be shared with the CEO. The Senior Independent Director (SID, see section 5.5) will review and approve the locally requested checks (DBS and OH) upon recruitment of a new Chair, the annual review of FPPT checks on the Chair, and the Chair's 3-yearly DBS check.

~~4.6 In addition the selection process as a minimum will include an interview panel process and value based interview/ assessment.~~

~~4.127 The above will be overseen by the Director of Governance and evidence of the checks and the Chair's approval will be documented on the individual's personal file and on the Trust's Electronic Staff Records (ESR) system.~~

~~On appointment, the individual will be required to complete a 'Fit and Proper Persons' self declaration (Appendix 1), a declaration of Interest form, a confidentiality and privacy notice form. These will be retained on the individual's personal file.~~

#### **4.8 On-going Review of Existing Directors**

~~4.9 The Director of Governance/ Company Secretary will ensure an assessment of on-going fitness will be undertaken each year in April and will form part of the annual appraisal process. All Directors will be required to update their self declarations (Appendix 1) annually and complete three yearly Enhanced DBS checks.~~

~~The annual checks will include;~~

- ~~• Insolvency, bankruptcy and disqualified director's registration~~
- ~~• Removal from Charity Trustees~~
- ~~• NMC/GMC/professional qualifications checks (if relevant)~~
- ~~• An on-going 'duty to report' to be included in contracts of employment~~
- ~~• The completion of an annual self declaration by individuals within the scope of the policy (appendix 1)~~
- ~~• Annual formal appraisal processes which will include the Fit and Proper Person Requirements~~
- ~~• Maintenance of the register of declared interests~~
- ~~• Completion of mandatory and statutory training~~

#### **4.103 Dealing with Concerns**

~~4.114 If the Trust discovers at any point, information that suggests an individual Director does not meet the 'Fit and Proper Persons' criteria, the matter shall be referred immediately to the Chair (or the Senior Independent Director, if the concern relates to the Chair- see section 5.56).~~

~~4.125 All adverse findings must be evidenced with a written record held on the person file.~~

4.16 The Chair shall take appropriate and timely action to investigate and rectify the matter, taking expert advice as necessary and ensuring any issues are dealt with in accordance with the Trusts HR-People Policies and the NHSE Framework (see NHSE Chair's guidance document). There may be occasions where the Trust would contact NHS England for advice or to discuss a case directly. Where appropriate, findings in relation to a person's fitness may be referred to the relevant professional / regulatory body/bodies.

4.17 The Chair, in discussion with NHS England, will put in place Interim arrangements, if required, during any period of investigation, suspension or restriction from duties. Should there be sufficient evidence to support the allegation(s), then the Trust may terminate the appointment of the Director with immediate effect, in line with the Trust's Disciplinary policy.

#### **4.18 Employment References**

4.19 In 2023 the NHSE Framework introduced a standardised board member reference to ensure greater transparency, robustness and consistency of approach when appointing board members within the NHS. The template can be found here.

4.20 When recruiting into a board member role, at least one reference should be obtained on the standardised reference form wherever possible. Further details can be found in section 3.9.2 of the NHSE Framework. This applies to permanent and temporary appointments and internal appointments (unless the candidate is moving from one director position to another). It also applies where a board member from another organization joins the Trust in a non-board level role.

4.21 References should cover a minimum of 6 years. Where this is not possible, additional character or personal references should be sought.

4.22 References are not required for Non-Executive Director reappointments, ie where NHSE have agreed an extension for a further term of office, however NHSE will carry out the required online FPP checks, and obtain a new signed self-attestation form prior to confirming reappointment

4.22 When a board member leaves the Trust, or a reference request is received for an existing board member, a reference will be produced on the standardised reference form. This process will be led by the Director of Governance / Company Secretary with input from the People & OD team. The draft reference will be shared with the Chair for approval before being issued (or the SID if the reference is for the Chair). The completed reference will then be stored in the personal file for future use.

## **5.0 Roles and Responsibilities**

### **5.1 The Chair**

The Chair holds the ultimate accountability for adhering to the Regulations and the NHSE Framework. It is the responsibilities of the Trust Chair are listed in section 3.6 of the Framework (here). These include:

- Ensure the Trust has proper systems and processes in place to make robust assessments required by the FPPT

- Ensure the results of the full FPPT, including annual self-attestations for each board member, are completed and retained
- Ensure an appropriate programme is in place to identify and monitor the development needs of board members.
- Conclude whether board members are fit and proper
- ~~Confirm the fitness of all new directors, as assessed in line with the regulations.~~
- ~~Ensure that an on-going fitness review is included within the annual appraisals of all Board Directors.~~
- ~~Declare to the CQC in writing that he / she is satisfied that the Directors are fit and proper individuals for that role.~~
- ~~Deal appropriately with any breach as required, seeking expert advice if deemed appropriate and discussing any concerns with the relevant Nominations Committee; this includes putting in place appropriate interim arrangements, pending an investigation, where this is required.~~

## 5.2 Care Quality Commission

5.2.1 The regulations give the Care Quality Commission powers to assess whether both Executive and Non-Executive Directors are fit to carry out their role and whether providers have in place adequate and appropriate arrangements to ensure directors are fit and proper persons both at recruitment and whilst in post.

5.2.2 In undertaking inspections, the Commission will assess compliance as part of the well-led domain. Where compliance cannot be demonstrated this will be addressed as appropriate through the regulatory process.

## 5.3 Board post holders within the scope of the FPPR

5.3.1 Non-Executive Directors & Executive Directors and other Board level posts within the scope of this policy must ensure they comply with, and continue to comply with, the requirements of the Fit and Proper Persons ~~Test~~ Regulations, the NHSE Framework and this policy.

## 5.4 Director of Governance / Company Secretary

5.4.1 The Director of Governance / Company Secretary will ensure the compliance with this policy, working closely with the ~~Workforce People & OD~~ Team, and will ensure that evidence of compliance is maintained electronically on the personal files and ESR records of qualifying post holders.

## 5.5 Senior Independent Director (SID)

5.5.1 The SID is A Non-Executive Director who oversees the application of the Fit and Proper Person role for the Cchair. Annually, the SID or deputy chair will review and ensure that the chair is meeting the requirements of the FPPT (see section 4.5)

~~5.5.15~~ 5.2 Additionally, with the support of the Company Secretary, the SID can undertake investigations into any concerns raised about the Chair, including where the Chair has notified the SID they may no longer comply with Fit and Proper Persons requirements.

## **6 Governance and Records**

The Director of Governance in conjunction with the Chair~~man~~ and the Remuneration Committee will ~~also~~ ensure prompt action in accordance with Regulation 5, in the event of non-compliance with the policy by any qualifying post holder as per section 4.10.

Personal data relating to the FPPT assessment will be retained in local record systems and the Trust's ESR system.

### **6.1 On-going Governance**

6.1.1 In conjunction with the Director of Workforce, the Director of Governance, on behalf of the Chair, who has ultimate accountability, will submit at least quarterly updates to the Remuneration Committee, providing assurance on the Fit and Proper Person checks and escalate any risks/ required action.

6.1.2 In addition, an annual assurance report will be submitted to the Trust Board and Remuneration Committee which will also be published in the Trust's Annual Report. The Trust must also submit an annual report to NHSE.

## **7 Review Process**

7.1 This policy will be reviewed if there are legislative changes, within 3 years or where other significant reasons arise.

7.2 In order that this document remains current, the appendix can be amended and approved during the lifetime of the document without the policy having to return to the ratifying committee.

## **8 Equality Impact Assessment (EQIA)**

8.1 This policy applies to all employees equally and has no positive or negative impact on the protective characteristics within the Equality Act (2010).

## **9 Training**

9.1 Appropriate training and guidance will be provided for those who carry out checks or have other responsibilities under this policy.

## **10 Process for Monitoring Compliance**

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
<a href="#">Assurance of Fit and Proper Person checks</a>	<a href="#">Annual submission to NHSE</a>	<a href="#">Director of Governance</a>	<a href="#">Annual</a>	<a href="#">Remuneration Committee</a>
Assurance of Fit and Proper Person checks	Audit	Director of Governance	At least quarterly	Remuneration Committee
Annual assurance report of Fit and Proper Person checks	Audit	Director of Governance	Annual	Trust Board and within Trust's Annual report.

## 11 References

- 9.1 Care Quality Commission. Regulation 5: Fit and Proper Persons: Directors (January 2018)  
<http://www.cqc.org.uk/content/regulation-5-fit-and-proper-persons-directors>
- 9.2 NHS Employers. Employment Checks  
<https://www.nhsemployers.org/your-workforce/recruit/employment-checks>
- 9.3 Care Quality Commission. Fit and proper persons requirement: directors (NHS trusts) (June 2018)  
<https://www.cqc.org.uk/guidance-providers/nhs-trusts/fit-proper-persons-requirement-directors-nhs-trusts>
- [9.4 NHSE Framework](#)  
<https://www.england.nhs.uk/publication/nhs-england-fit-and-proper-person-test-framework-for-board-members/>
- [9.5 NHSE Guidance for Chairs](#)  
<https://www.england.nhs.uk/publication/guidance-for-chairs-on-implementation-of-the-fit-and-proper-person-test-for-board-members/>

**Appendix One – Fit & Proper Persons Director Declaration (to be completed annually)**

***Regulation 5 of the Health & Social Care Act 2008 (Regulated Activities) Regulation 2014 sets out the criteria that a Director must meet, to ensure unfit persons do not become or continue as governors or Directors (or those performing similar or equivalent functions). In exceptional circumstances and at NHSE/ I's discretion we may issue a license without the licensee having met this requirement.***

I hereby confirm that

- ~~I am not an undischarged bankrupt or a person whose estate has had a sequestration awarded in respect of it and who has not been discharged;~~
- ~~I am not the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order or an order to like effect made in Scotland or Northern Ireland;~~
- ~~I am not a person to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986(40);~~
- ~~I have not made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it;~~
- ~~I am not included in the children's barred list or the adults' barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006, or in any corresponding list maintained under an equivalent enactment in force in Scotland or Northern Ireland;~~
- ~~I am not prohibited from holding the relevant office or position, or in the case of an individual from carrying on the regulated activity, by or under any enactment;~~
- ~~I am not responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity, or discharging any functions relating to any office or employment with a service provider;~~
- ~~I have not in the preceding five years been convicted in the British Islands of any offence and a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on me.~~
- ~~I have not been struck off a regulatory/professional register.~~
- ~~I have not been prohibited from holding the position under any other law e.g. under the Companies Act or Charities Act.~~
- ~~After reasonable adjustments I am able, by reason of my health, of properly performing tasks which are intrinsic to the work for which I am employed.~~
- ~~I have the qualifications, skills, experience and professional registrations (if applicable) necessary for the position I hold on the board.~~

**Name:** \_\_\_\_\_

**Position:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Appendix 1 – Full FPP Assessment

As outlined in section 3.10.1 of the NHSE Framework a full FPPT assessment will consist of:

- First name\*
- Second name/surname\*
- Organisation\* (that is, current employer)
- Staff group\*
- Job title\* (that is, current job description)
- Occupation code\*
- Position title\*
- Employment history:\*
  - This would include detail of all job titles, organisation departments, dates, and role descriptions.
  - Any gaps that are because of any protected characteristics, as defined in the Equality Act 2010, would not need to be explained.
- Training and development
- References:\* (see section 4.14 of the policy)
- Last appraisal and date
- Disciplinary findings
  - That is, any upheld finding pursuant to any trust policies or procedures concerning employee behaviour, such as misconduct or mismanagement, this includes grievance (upheld) against the board member, whistleblowing claims against the board member (upheld) and employee behaviour upheld finding. Any ongoing and discontinued investigations relating to Disciplinary/ Grievance/Whistleblowing/Employee behaviour should also be recorded.
- Type of DBS disclosed\* †
- Date DBS received\* †
- Disqualified directors register check
- Date of medical clearance\* (including confirmation of OHA)
- Date of professional register check (eg membership of professional bodies)
- Insolvency check
- Self-attestation form signed (Appendix 3 of the NHSE Framework here)
- Social media check
- Employment tribunal judgement check
- Disqualification from being a charity trustee check
- Board member reference\*
- Sign-off by chair/CEO.

\* Fields marked with an asterisk (\*) – these do not require validation as part of the annual FPPT unless a specific reason arises. However, these fields should still be updated in the event of a change to the information held.

† While not requiring annual validation, DBS checks will be done on a three-year cycle.