

## Trust Board

**Title:** Fit and Proper Persons Test Framework

**Meeting Date:** 5<sup>th</sup> December 2023

**Executive Lead:** Alison Ryder, Director of People

**For:** Assurance and Policy Approval

**Risk Rating:** **Green**

---

### 1.0 Purpose

- 1.1 To provide the committee with an overview of the revised arrangements for the Fit and Proper Person's Test (FPPT) and the action being taken to implement this.

### 2.0 Key Points for the Attention of the Board

- 2.1 The Fit and Proper Person Test has been in place since 2014. The test was designed to assess the appropriateness of Board members and Directors to discharge their duties effectively. The original FPPT has been applied to all relevant Trust appointments since that date.
- 2.2 NHS England has recently issued a revised Fit and Proper Person Test Framework, which introduces a number of additional requirements in response to the recommendations of the 2019 Kark Review. This framework came into effect from 30<sup>th</sup> September 2023, although some provisions do not apply until next year and others only relate to new appointments or leavers from the Trust.
- 2.3 The Trust's Fit and Proper Person's Policy has been amended to reflect the new provisions and this is provided at appendix 1. A summary of the main changes is as follows:
  - There is a new Self-Attestation template that all Board and Executive Team members need to complete annually. This will be circulated by and returned to the Office of the Board going forward.
  - Web and social media searches need to be undertaken annually and a checklist completed (this is provided as an appendix to the policy). These checks will be carried out by the People Team.

- DBS checks will need to be repeated every three years (initiated by the People Team)
- Data will be added to the ESR system to confirm the checks have been completed (to be added by the Workforce Team)
- The Trust Chair will confirm that the relevant checks have been undertaken each year (with support from the Director of People) and then this will be submitted to the regional team by the Office of the Board.
- New appointments will be assessed against a new NHS Leadership Competency Framework (LCF) for Board level roles (not yet issued). This will be the responsibility of the interview panel.
- A new Board member reference template will be completed for all new Board appointments to cover the previous 6 years (to be initiated by the Director of People/ Resourcing Manager)
- When a Board member leaves, the reference template will be completed and held on file (by the Trust Chair/Chief Executive, supported by the Director of People)
- A new Board Appraisal Framework will be published by March 2024 to be used for all appraisals by end of Q1 2024.

2.4 The Director of People will be the Executive lead for ensuring these checks take place in support of the Trust Chair.

### 3.0 Relevant Strategic Objective(s) / Strategies

3.1 This report links to the following Trust Strategic Objectives

1. Outstanding quality and performance

3.2 Strategic links to: People Strategy 2021-2025

### 4.0 Risks and Mitigation Plans

Risk	Mitigation / Action(s)
There is a risk that elements of the new arrangements will be overlooked and a Board member who is not Fit and Proper will be appointed/remain in post.	Relevant leads will be aware of their responsibilities and schedule them in. The regional monitoring processes will ensure that this operates effectively.

## 5.0 Next Steps

5.1 The next steps will be:

- To carry out the annual checks for all Board and Executive members currently in post.
- To apply the new arrangements to all new appointments, starting with the Chair and Director of People recruitment processes due to take place this financial year.

## 6.0 Appendices

(1) *Fit and Proper Person's Test Policy (with check list)*

**Sign Off: To be completed as part of papers to Executive Team, Board Committees and Board**

**Committee Consideration**

This Report has previously been considered by the following committees:	
Committee:	Date (Month / Year):
<b>Executive Committee</b>	<b>25<sup>th</sup> October 2023</b>
<b>PPFC</b>	<b>28<sup>th</sup> November 2023</b>
Issues arising from committee consideration	

**Data Quality Statement**

By way of assurance to the Board, and in order to inform discussion / decision, the accountable executive director confirms that to the best of their knowledge, and subject to any exceptions identified, data contained in this report is:

<b>Data Quality Domain</b>	<b>Description</b>	<b>Comments / Exceptions</b>	<b>√/ x</b>
<b>Complete</b>	Information is as comprehensive as possible to inform the board and no significant known facts or statistics which may influence a decision are omitted.		√
<b>Accurate</b>	As far as can be reasonable ascertained or validated, information in the report is accurate.		√
<b>Relevant</b>	Information contained in the report is relevant to the matters considered in the report.		√
<b>Up To Date</b>	Information in the report is as up to date as reasonably possible in the context of the time at which the paper is written		√
<b>Valid</b>	Information is presented in a format which complies with internal or national models or standards		√
<b>Clearly Defined</b>	The meaning of any data in the report is clearly explained		√

**Executive Director Sign-Off**

This paper has been approved by the accountable executive director who is satisfied that (i) the implications for risks, (ii) quality/service/regulatory impacts and (iii) resource implications, have been considered.	Alison Ryder –Director of People	√
---	----------------------------------	---

**Company Secretary Sign-Off (Board papers only)**

This paper has been quality control checked and approved by the Assistant Trust Secretary	√
---	---

## Fit and Proper Persons Test Policy

(Reference No. HR 1023)

Category: (Clinical/H&S/Corporate/IT/People)	People
Version:	Version 5, October 2023
Version superseded:	Version 4
Name and designation of Policy Author:	Susan King, People and OD Lead
Name of Responsible Committee for approving & date of approval:	Joint Negotiation Committee
Name of Executive Director/Responsible Individual:	Alison Ryder, Director of People
Date issued for implementation:	
Next review date:	2 years from date issued or earlier at discretion of the Executive Director or Policy Author
Target audience:	All Hertfordshire Community Trust (HCT) Staff



## Why do we need this policy?

The Fit and Proper Person Test arises from Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

Regulation 5 establishes a statutory requirement governing the appointing of or having in place individuals as directors, or performing the functions of, or functions equivalent or similar to, the functions of a director (Regulation 5(2)).

## Policy on a Page

Fit and Proper Persons Test Policy



Hertfordshire Community  
NHS Trust



## What do I need to do?

Directors (including all posts outlined in Appendix 1) must satisfy all the requirements set out in Regulation 5(3) and be declared fit and proper persons. Individuals must be of good character, have the necessary qualifications, competence, skills and experience for their role, have the appropriate level of physical and mental fitness, have not been party to any serious misconduct or mismanagement in the course of carrying on a regulated activity, and not be deemed unfit under Schedule 4, Part 2 of the Health and Social Care Act 2008 (regulated activities) regulations 2014. Providers must also ensure that certain information regarding the individuals is available if required by the CQC.



## Where can I find more information?

The NHS England Fit and Proper Persons Test Framework for Board Members is available at:

[PRN00238-i-Kark-implementation-fit-and-proper-person-test-framework.pdf](https://www.england.nhs.uk/prn00238-i-kark-implementation-fit-and-proper-person-test-framework.pdf)  
([england.nhs.uk](https://www.england.nhs.uk))



## Who does it affect?

All staff listed in [Appendix 1](#).



## Who can I contact?

People Team: [Hct.hr@nhs.net](mailto:Hct.hr@nhs.net)

Director of People: [Alison.Ryder2@nhs.net](mailto:Alison.Ryder2@nhs.net)

## Version Control Sheet

For the Version Control to work efficiently, it is important that before commencing a review the author check the previous version has been signed off.

Version	Date	Author/Contributor(s)	Changes/	Completion Date
0.1				
0.2				
0.3				
0.4				

## Contents

Version Control Sheet.....	3
1. Introduction .....	5
2. Aim and Purpose.....	6
3. Scope.....	6
4. Explanation of Terms and Definitions .....	6
5. Ownership, Roles and Responsibilities .....	7
6. Process for New Appointments .....	8
7. Process for Considering On-going Fitness .....	10
8. Action to Consider for Concerns about an Individual's Continued FPPT Compliance ...	11
9. Recording on ESR .....	11
10. Implementation and Training .....	12
11. Monitoring Compliance and Effectiveness of Policy .....	12
12. Review, Revision and Governance .....	12
13. Equality Analysis (EA).....	12
14. References.....	12
15. Appendices .....	12
Appendix 1: Posts Occupied by "Relevant Staff" Requiring Declarations Under the Fit and Proper Persons Requirements Policy.....	14
Appendix 2: Fit and Proper Persons Checklist – To be used for recruitment and annually as applicable.....	15
Appendix 3: Monitoring Compliance for Policy .....	23
Appendix 4: Policy/ Procedural Document Amendment(s) Template.....	24
Appendix 5: Historical Editions .....	25
Appendix 6: Equality Analysis (EA) Form .....	26



## 1. Introduction

1.1	<p>Hertfordshire Community NHS Trust (HCT) is committed to:</p> <ul style="list-style-type: none"> <li>▪ promoting a culture that assures the safety of patients/service users, staff and visitors.</li> <li>▪ ensuring that significant events are reported in a timely manner, investigated thoroughly, and that any lessons learned are acted upon so that reoccurrence of similar events is minimised.</li> <li>▪ promoting a just culture that supports staff to be open, transparent and demonstrate candour.</li> <li>▪ complying with statutory and regulatory requirements relevant to the business of the organisation.</li> </ul>
1.2	<p>This policy should be read in conjunction with the following HCT policies, guidelines and documents/ forms available via <a href="#">HCT intranet</a>:</p> <ul style="list-style-type: none"> <li>▪ Recruitment Handbook</li> <li>▪ Performance Management Policy</li> <li>▪ Disciplinary Policy</li> <li>▪ Appraisal Policy</li> <li>▪ Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy</li> <li>▪ NHS Leadership Competency Framework</li> </ul>
1.3	<p>The Fit and Proper Person Test arises from Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.</p>
1.4	<p>Regulation 5 establishes a statutory requirement governing the appointing of or having in place individuals as directors, or performing the functions of, or functions equivalent or similar to, the functions of a director (Regulation 5(2)).</p>
1.5	<p>The intention of this regulation is to ensure that people who have director level responsibility for the quality and safety of care and for meeting the fundamental standards are fit and proper to carry out this important role.</p>
1.6	<p>The Care Quality Commission is entitled to take regulatory action if an organisation is in breach of this requirement.</p>
1.7	<p>Directors must satisfy all the requirements set out in Regulation 5(3) and be declared fit and proper persons. Individuals must be of good character, have the necessary qualifications, competence, skills and experience for their role, have the appropriate level of physical and mental fitness, have not been party to any serious misconduct or mismanagement in the course of carrying on a regulated activity, and not be deemed unfit under Schedule 4, Part 2 of the Health and Social Care Act 2008 (regulated activities) regulations 2014. Providers must also ensure that certain information regarding the individuals is available if required by the CQC.</p>
1.8	<p>This policy is to be followed to ensure that all appointments to jobs set out in <a href="#">Appendix 1</a> (“the relevant workers”), including those made through internal promotion, meet the requirements of the statutory Fit and Proper Person Test.</p>
1.9	<p>Further, this policy mandates regular checks to ensure that the relevant workers maintain their status as a fit and proper person to lead an NHS Trust.</p>
1.10	<p>The Trust is committed to treating people with dignity and respect in accordance with</p>

	the Equality Act 2010 and Human rights Act 1998. Throughout the production of this policy due regard has been given to the elimination of unlawful discrimination, harassment and victimisation (as cited in the Equality Act 2010).
1.11	This version supersedes any previous versions of this document.

## 2. Aim and Purpose

2.1	The aim of this document is to provide the protocol by which the Trust meets its commitment to the fit and proper person requirement.
2.2	The Fit and Proper Person Test (FPPT) applies to all officers of HCT as set out in <a href="#">Appendix 1</a> . This appendix may be updated from time to time at the discretion of the Chief Executive or Trust Chair to reflect changes to structures and roles.
2.3	The Trust will not permit any individual to hold a post included in <a href="#">Appendix 1</a> of this document if he or she does not meet the standard required to be approved as a Fit and Proper Person, either on appointment or through changing circumstances.

## 3. Scope

3.1	The Trust has defined a list of job roles (“the relevant workers”) which will be subject to the Fit and Proper Person Test requirement. This list is at <a href="#">Appendix 1</a> .
-----	--

## 4. Explanation of Terms and Definitions

4.1	<b>Fit and Proper Person</b> – an individual who is proven to be of good character, physically and mentally fit, has the necessary qualifications, skills and experience for the role, and can supply certain information, including a Disclosure and Barring Service check and a full employment history.
4.2	<b>Care Quality Commission (CQC)</b> - the independent healthcare regulator of health and adult social care in England.
4.3	<b>The Relevant Workers</b> - Holders of the posts set out in <a href="#">Appendix 1</a> . Relevant workers may be employed or engaged on any lawful basis, including as volunteers or temporary workers.
4.4	<b>NHS England</b> – Leads the NHS in England
4.5	<b>Disclosure and Barring Service (DBS) check</b> – A check on an individual’s criminal record by an employer.
4.6	<b>Enhanced DBS Check</b> - A check on any additional information held by Police which may be relevant to a particular role, in addition to a check on an individual’s criminal record.
4.7	<b>Regulation 5</b> - Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 which sets out the Fit and Proper Person Test requirements.
4.8	<b>NHS Leadership Competency Framework (LCF)</b> – A new national framework is being developed for board level roles, anticipated to be in place

	by March 2024. This framework will set out the competencies required to ensure high standards of leadership.
--	--

## 5. Ownership, Roles and Responsibilities

The generic statement of roles and responsibilities are in line with the HCT (Trust) CG01 V.6. Roles and responsibilities specific to this particular policy are defined below.

<b>5.1</b>	<b>Responsible Approval Committee</b>
5.1.1	'Joint Negotiation Committee' is the Responsible Committee for approving this policy.
<b>5.2</b>	<b>Executive Director</b>
5.2.1	The 'Director of People' is the identified Executive Director for this policy.
<b>5.3</b>	<b>Policy author(s)</b>
5.3.1	The identified Policy author(s) for this policy is the 'People and OD Lead'.
<b>5.4</b>	<b>Trust Chair</b>
	<ul style="list-style-type: none"> <li>▪ Chairs are accountable for taking all reasonable steps to ensure the FPPT process is effective and that the desired culture of their NHS organisation is maintained to support an effective FPPT regime. As such, chairs' responsibilities are as below:</li> <li>▪ Ensure the NHS organisation has proper systems and processes in place so it can make the robust assessments required by the FPPT.</li> <li>▪ Ensure the results of the full FPPT, including the annual self-attestations for each board member, are retained by the employing NHS organisation.</li> <li>▪ Ensure that the FPPT data fields within ESR are accurately maintained in a timely manner.</li> <li>▪ Ensure that the board member references/pre-employment checks (where relevant) and full FPPT (including the annual self-attestation) are complete and adequate for each board member</li> <li>▪ Ensure an appropriate programme is in place to identify and monitor the development needs of board members</li> <li>▪ On appointment of a new board member, consider the specific competence, skills and knowledge of board members to carry out their activities, and how this fits with the overall board</li> <li>▪ Conclude whether the board member is fit and proper.</li> <li>▪ Chairs will also complete an annual self-attestation that they themselves are in continued adherence with the FPPT requirements.</li> <li>▪ On an annual basis, chairs should confirm that all board members have completed their own FPPT self-attestation and that the FPPT is being effectively applied in their NHS organisation.</li> <li>▪ Ensure that for any board member approved to commence work or continue in post despite there being concerns about a particular aspect of the FPPT, they document the reason(s) as to why there has been an issue about whether a board member might not be fit and proper and the measures taken to address this. A local record of this should be retained. A summary of this should also be included in the annual FPPT submission form to the relevant NHS England regional director.</li> </ul> <p>Accountability for ensuring a new board member meets the FPPT assessment criteria will reside with the chair.</p>

5.4.1	<p><b>Director of People</b> The Director of People has on-going responsibility to support the Trust's Chair with their responsibilities, in addition to the following:</p> <ul style="list-style-type: none"> <li>▪ Provide the evidence that appropriate systems and processes are in place to ensure that all new and existing relevant workers are and continue to be fit and proper persons, and do not meet any of the unfitness criteria set out in Schedule 4 part 2 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014;</li> <li>▪ Make every reasonable effort to gain assurance about the suitability of an individual by all means available</li> <li>▪ Make specified information available to the CQC upon request</li> <li>▪ Be aware of the various guidelines available, and to have implemented procedures in line with this best practice</li> <li>▪ Inform the Chair of the Trust where a relevant worker no longer meets the requirement of Regulation 5</li> <li>▪ Inform the CQC where an Executive Director or member of the Trust Board no longer meets the requirement of regulation.</li> <li>▪ Take action to ensure that no post set out in <a href="#">Appendix 1</a> of this document is held by an individual who does not meet the requirements of regulation 5.</li> <li>▪ Ensure that recruitment staff are suitably trained to discharge this protocol.</li> </ul>
5.4.2	<p><b>'Relevant Staff' (Appendix 1)</b> All staff identified in Appendix 1 of this document must satisfy all the requirements set out in Regulation 5(3) and be declared fit and proper persons. Individuals must be of good character, have the necessary qualifications, competence, skills and experience for their role, have the appropriate level of physical and mental fitness, have not been party to any serious misconduct or mismanagement in the course of carrying on a regulated activity, and not be deemed unfit under Schedule 4, Part 2 of the Health and Social Care Act 2008 (regulated activities) regulations 2014.</p>
5.4.3	<p><b>Specialist Groups/ Individuals</b></p>
5.4.3.1	<p><b>Board Secretary</b> The Board secretary will be responsible for coordinating the self-attestation process on an annual basis.</p>
5.4.3.2	<p><b>People Team (Resourcing)</b> The Resourcing Team will be responsible for following this protocol for new director appointments, and for the annual checks, including completion of all relevant checklists.</p>
5.4.3.3	<p><b>People Team (Workforce)</b> The Head of Workforce Systems will be responsible for recording and maintaining all information in ESR.</p>
5.4.3.4	<p><b>Staff Side (Unions)</b> Will be invited to attend as representatives on stakeholder interview panels.</p>

## 6. Process for New Appointments

6.1	<p>The Trust will assess board members against the following three core elements when considering whether they are a fit and proper person to perform a board role:</p> <ul style="list-style-type: none"> <li>• Good character.</li> <li>• Possessing the qualifications, competence, skills required and experience.</li> <li>• Financial soundness.</li> </ul>
6.2	<p>Candidates will be assessed against the Leadership Competency Framework (LCF) once published in 2024. The LCF covers the following six competence</p>

	<p>categories:</p> <ul style="list-style-type: none"> <li>• Setting strategy and delivering long term transformation.</li> <li>• Leading for equality.</li> <li>• Driving high quality, sustainable outcomes.</li> <li>• Providing robust governance and assurance.</li> <li>• Creating a compassionate and inclusive culture.</li> <li>• Building trusted relationships with partners and communities</li> </ul>
6.3	<p>The Trust shall complete the checklist set out in <a href="#">Appendix 2</a> for new appointments as relevant and will include the following:</p> <ul style="list-style-type: none"> <li>• Proof of identity;</li> <li>• DBS check to the level required by the role;</li> <li>• Occupational Health Clearance as relevant to the role;</li> <li>• Evidence of the right to work in the UK;</li> <li>• A check of employment history and two references one of which must be the most recent employer. A minimum of six years continuous employment including details of any gaps in service need to be validated. (</li> <li>• Proof of qualifications/registration applicable to role.</li> </ul>
6.4	<p>The national reference template will be used obtain references.</p>
6.5	<p>In addition, the following registers will be checked:</p> <ul style="list-style-type: none"> <li>• Disqualified directors</li> <li>• Bankruptcy and insolvency</li> <li>• Removed Charity Trustees</li> <li>• A web search of the individual.</li> </ul>
6.6	<p>All new appointments into the relevant posts need to complete a FPPT Declaration form. This form and appropriate summary guidance will form part of the application process for the position.</p>
6.7	<p>The Trust will have regard to information on when convictions, bankruptcies or similar matters are considered 'spent'. However, there is no time limit for considering serious misconduct or responsibility for failure in a previous role. In consideration of any instances of serious misconduct or mismanagement, consideration will be given to relevant guidance issued by the CQC.</p>
6.8	<p>The Chair of the appointments panel for Board members will be responsible for ensuring compliance and will be supported by the Director of People. A detailed checklist will be completed and will be retained on the director's personal file for the purposes of audit by CQC (<a href="#">Appendix 2</a>).</p>
6.9	<p>Where specific qualifications are deemed by the Trust as necessary for a role, the Trust will make this clear and will only appoint those individuals that meet the required specification; including any requirements to be registered with a professional Regulator.</p>
6.10	<p>The Trust will carry out employment checks (so far as reasonably practicable) on a candidate's qualifications and employment records. The recruitment process will necessarily include a qualitative assessment and values based assessment.</p>
6.11	<p>Where the Trust considers that an individual can be appointed to a role based on their qualification, skills and experience with the expectation that they will develop specific competence to undertake the role within a specified timescale any such discussions</p>

	or recommendations will be discussed by the Remuneration Committee and recorded in the meeting minutes.
6.12	The appointment will be subject to clearance by Occupational Health as part of the pre-appointment process. If the Director has a physical or mental disability, wherever possible, reasonable adjustments will be made to enable the individual to carry out the role that they have been appointed to. Any discussion or decision as to whether a candidate is appointable on grounds of health will be recorded in the minutes of the Remuneration Committee.
6.13	The Chair of the Trust will be notified of any issues of non-compliance and is responsible for making an informed decision on the course of action to be followed.
6.14	Should a board member leave the Trust, a reference will be completed and maintained on file. If the Trust has provided a reference to another NHS organisation about an employee or former employee, and subsequently concluded there are matters arising that would deem the person not to be 'fit or proper' for the purposes of Regulation 5 of the Regulations, the Trust will make reasonable attempts to identify if the person's current employer is an NHS organisation and, if so, provide an updated reference/additional detail within a reasonable timeframe.

## 7. Process for Considering On-going Fitness

7.1	The Trust shall regularly review the fitness of directors to ensure that they remain fit for the role they are in. Each year there will be a requirement for all relevant persons to complete an attestation form confirming that they continue to be a fit and proper person. Confirmation of compliance will be published in the Trust's Annual Report and the Chair will submit the national annual reporting template.
7.2	<p>In addition, there will be an annual review of personal files and the fit and proper persons checklist to ensure that all information remains in order. This will include all of the applicable elements on the checklist, including an annual re-check of the following registers, which will be recorded on the checklist and on ESR:</p> <ul style="list-style-type: none"> <li>• Disqualified directors</li> <li>• Bankruptcy and insolvency</li> <li>• Removed Charity Trustees</li> <li>• A web search of the individual</li> <li>• A social media check</li> </ul> <p>The People (Resourcing) Team will be responsible for completion of the required checks and the associated checklist and providing this to the Chair.</p>
7.3	<p>The annual appraisal process will provide an opportunity to discuss continued "fitness", competence and how the post holder role models the Trust's values and behavioral standards, including the leadership behaviours expected. The Chief Executive will be responsible for appraising the Executive Directors. The Chair of the Trust will be responsible for appraising the Non-Executive Directors. The Chief Executive will be appraised by the Chair of the Trust. The Chair of the Trust will be appraised through the agreed appraisal process that includes feedback from Non-Executive Directors and Executive Directors.</p> <p>The appraisal process will include assessment against the NHS Leadership Competency Framework.</p>
7.4	Individuals will be required to make the Trust aware as soon as practicable of any



	incident or circumstances which may mean they are no longer to be regarded as a fit and proper person, and provide details of the issue, so that this can be considered by the Trust.. It will be the responsibility of the Chair to undertake an annual review, with support from the Director of People. Copies of self attestation forms will be held on file and required information held in ESR (see section 10).
7.5	The Chair of the Trust will be notified of any issues of non-compliance and is responsible for making an informed decision regarding the course of action to be followed. Current post holders that cannot satisfy the declaration questions will not necessarily be barred from continuation of employment/office as it will depend on the relevance of the information provided in respect of the nature of the position, and the particular circumstances.
7.6	On an annual basis, the Chairs is required to confirm that all board members have completed their own FPPT self-attestation and that the FPPT is being effectively applied in the organisation.

## 8. Action to Consider for Concerns about an Individual's Continued FPPT Compliance

8.1	Where matters are raised (whether in the course of new appointments, annual attestation, or other matters that come to the Trust's attention in other ways) that cause concerns relating to an individual being fit and proper to carry out their role, the Chair of the Trust will address this in the most appropriate, relevant and proportionate way on a case by case basis. In consideration of any potential misconduct or mismanagement, consideration will be given to relevant guidance issued by the CQC. Where it is necessary to investigate or take action the Trust's current processes will apply using the Trust's capability process, sickness management process, disciplinary procedure or afforded a similar process to this if the potential discontinuation could be due to 'some other substantial reason'. There may be occasions where the Trust would contact NHS England for advice.
8.2	The Trust reserves the right to suspend a relevant individual (as set out in appendix 1) or restrict them from duties on full pay / emoluments (as applicable) to allow the Trust to investigate the matters of concern. Suspension or restriction from duties will be for no longer than necessary to protect the interests of service users or the Trust and/or where there is a risk that the Director's presence would impede the gathering of evidence in the investigation.
8.3	Should there be sufficient evidence to support a conclusion that the individual is not or is no longer fit and proper, then the Trust shall take such action that is necessary and proportionate to ensure that the office or position in question is held by an individual who meets such requirements. As such, the Trust may terminate their appointment with immediate effect, in line with the Trust's Disciplinary Policy.
8.4	Where an individual who is registered with a professional regulator (GMC, NMC etc.) no longer meets the FPPT the Trust will also inform the relevant regulator.

## 9. Recording on ESR

9.1	Information for all board members will be held on ESR in the specific, nationally-defined fields.
-----	---

9.2	The information that ESR will hold about board members is detailed in the NHS Fit and Proper Persons Test Framework for Board Members (section 3.10.1).
-----	---

## 10. Implementation and Training

10.1	The policy will be made available for reference for all staff at all times and the Trust (HCT) will ensure all staff implementing this policy have access to appropriate implementation tools, advice and training.
------	---

## 11. Monitoring Compliance and Effectiveness of Policy

11.1	The action to confirm compliance and effectiveness of this policy will be via successful completion of the annual checks (see Appendix 3).
------	--

## 12. Review, Revision and Governance

12.1	The review, updating and archiving process for this policy shall be carried out in accordance with the Trust (HCT) CG01 <a href="#">Policy for Development &amp; Management of Procedural Documents, V.6</a> by the identified Policy author.
12.2	Minor revisions and details of amendments are recorded as per <a href="#">Appendix 4</a> .
12.3	The <a href="#">version control sheet</a> enables appropriate control of the policy with listed personnel responsible for its implementation as well as the date assigned/ approved/ circulated.
12.4	Historical Edition (Appendix 5) details the version history for this document.

## 13. Equality Analysis (EA)

13.1	It is the mandatory responsibility of the Policy author to complete the EA form (Appendix 6) before submitting the policy for approval.
------	---

## 14. References

This protocol should be read in conjunction with the following:	
<ul style="list-style-type: none"> <li>• Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.</li> <li>• NHS Employment Check Standards.</li> <li>• The NHS England <a href="#">Fit and Proper Persons Framework for Board Members</a> (Published 2 August 2023).</li> </ul>	

## 15. Appendices

The following appendices are attached to support this policy
--



**Appendix 1** – Posts Occupied by “Relevant Staff” Requiring Declarations Under the Fit and Proper Person Requirements Protocol  
**Appendix 2** – Checklist  
**Appendix 3** – Monitoring Compliance  
**Appendix 4** – Minor Amendments Template  
**Appendix 5** – Version Control Table  
**Appendix 6** - EIA

## Appendix 1: Posts Occupied by “Relevant Staff” Requiring Declarations Under the Fit and Proper Persons Requirements Policy

The Framework applies to the board members of NHS organisations. The term ‘board member’ is used to refer to:

- both executive directors and non-executive directors (NEDs), irrespective of voting rights
- interim (all contractual forms) as well as permanent appointments
- those individuals who are called ‘directors’ within Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

At HCT, this includes:

Trust Board Chair  
Non-Executive Director  
Associate Non- Executive Director

Chief Executive  
Medical Director  
Director of Nursing and Quality  
Director of Finance  
Chief Operating Officer  
Director of Strategy and Partnerships  
Director of Operations  
Director of Integrated Business Services  
Director of People

Other senior post holders where they are ‘Acting’ into the above (where this is for longer than six weeks).

## Appendix 2: Fit and Proper Persons Checklist – To be used for recruitment and annually as applicable

Employee Name		Employee Title:	
---------------	--	-----------------	--

FPPT Area	Record in ESR	Local evidence folder	Recruitment Test	Annual Test	ED	NED	Test Completed? Yes or N/A	Comments	Source	Notes
<b>First name</b>	✓	✓	✓	x – unless change	✓	✓			Application and recruitment process.	Recruitment team to populate ESR. For NHS-to-NHS moves via ESR / Inter-Authority Transfer/ NHS Jobs. For non-NHS – from application – whether recruited by NHS England, in-house or through a recruitment agency.
<b>Second name/surname</b>	✓	✓	✓	x – unless change	✓	✓				
<b>Organisation</b> (ie current employer)	✓	x	✓	N/A	✓	✓				
<b>Staff group</b>	✓	x	✓	x – unless change	✓	✓				
<b>Job title</b> Current Job Description	✓	✓	✓	x – unless change	✓	✓				
<b>Occupation code</b>	✓	x	✓	x – unless change	✓	✓				
<b>Position title</b>	✓	x	✓	x – unless change	✓	✓				

FPPT Area	Record in ESR	Local evidence folder	Recruitment Test	Annual Test	ED	NED	Test Completed? Yes or N/A	Comments	Source	Notes
<b>Employment history</b> Including: <ul style="list-style-type: none"> <li>• job titles</li> <li>• organisations/ departments</li> <li>• dates and role descriptions</li> <li>• gaps in employment</li> </ul>	✓	x	✓	x	✓	✓			Application and recruitment process, CV, etc.	Any gaps that are because of any protected characteristics, as defined in the Equality Act 2010, do not need to be explained.  The period for which information should be recorded is for local determination, taking into account relevance to the person and the role.  It is suggested that a career history of no less than six years and covering at least two roles would be the minimum. Where there have been gaps in employment, this period should be extended accordingly.

<p><b>Training and development</b></p>	✓	✓	✓	✓	✓	*		<p>Relevant training and development from the application and recruitment process; that is, evidence of training (and development) to meet the requirements of the role as set out in the person specification.</p> <p>Annually updated records of training and development completed/ongoing progress.</p>	<p>* NED recruitment often refers to a particular skillset/experience preferred, eg clinical, financial, etc, but a general appointment letter for NEDs may not then reference the skills/experience requested. Some NEDs may be retired and do not have a current professional registration.</p> <p>At recruitment, organisations should assure themselves that the information provided by the applicant is correct and reasonable for the requirements of the role.</p> <p>For all board members: the period for which qualifications and training should look back and be recorded is for local determination, taking into account relevance to the person and the role.</p> <p>It is suggested that key qualifications required for the role and noted in the person specification (eg professional qualifications) and dates are recorded</p>
--	---	---	---	---	---	---	--	---	---

FPPT Area	Record in ESR	Local evidence folder	Recruitment Test	Annual Test	ED	NED	Test Completed? Yes or N/A	Comments	Source	Notes
										however far back that may be.  Otherwise, it is suggested that a history of no less than six years should be the minimum. Where there have been gaps in employment, this period should be extended accordingly.
<b>References</b> Available references from previous employers	✓	✓	✓	x	✓	✓			Recruitment process	Including references where the individual resigned or retired from a previous role
<b>Last appraisal and date</b>	✓	✓	✓	✓	✓	*			Recruitment process and annual update following appraisal	* For NEDs, information about appraisals is only required from their appointment date forward. No information about appraisals in previous roles is required.
<b>Disciplinary findings</b> That is, any upheld finding pursuant to any NHS organisation policies or procedures concerning employee behaviour, such as misconduct or mismanagement	✓	✓	✓	✓	✓	✓			Reference request (question on the new Board Member Reference).  ESR record (high level)/ local case management	The new BMR includes a request for information relating to investigations into disciplinary matters/ complaints/ grievances and speak-ups against the board member. This includes information in relation to open/ ongoing
<b>Grievance</b> against the board member	✓	✓	✓	✓	✓	✓				

FPPT Area	Record in ESR	Local evidence folder	Recruitment Test	Annual Test	ED	NED	Test Completed? Yes or N/A	Comments	Source	Notes
<b>Whistleblowing</b> claim(s) against the board member	✓	✓	✓	✓	✓	✓			system as appropriate.	investigations, upheld findings and discontinued investigations that are relevant to FPPT.
<b>Behaviour</b> not in accordance with organisational values and behaviours or related local policies	✓	✓	✓	✓	✓	✓				This question is applicable to board members recruited both from inside and outside the NHS.
<b>Type of DBS disclosed</b>	✓	✓	✓	✓	✓	✓			ESR and DBS response.	Frequency and level of DBS in accordance with local policy for board members. Check annually whether the DBS needs to be reapplied for.  Maintain a confidential local file note on any matters applicable to FPPT where a finding from the DBS needed further discussion with the board member and the resulting conclusion and any actions taken/required.
<b>Date DBS received</b>	✓	✓	✓	✓	✓	✓			ESR	
<b>Date of medical clearance*</b> (including confirmation of OHA)	✓	X	✓	x – unless change	✓	✓			Local arrangements	

FPPT Area	Record in ESR	Local evidence folder	Recruitment Test	Annual Test	ED	NED	Test Completed? Yes or N/A	Comments	Source	Notes
<b>Date of professional register check</b> (eg membership of professional bodies)	✓	X	✓	✓	✓	X			Eg NMC, GMC, accountancy bodies.	
<b>Insolvency check</b>	✓	✓	✓	✓	✓	✓			<a href="#">Bankruptcy and Insolvency register</a>	Keep a screenshot of check as local evidence of check completed.
<b>Disqualified Directors Register check</b>	✓	✓	✓	✓	✓	✓			<a href="#">Companies House</a>	
<b>Disqualification from being a charity trustee check</b>	✓	✓	✓	✓	✓	✓			<a href="#">Charities Commission</a>	
<b>Employment Tribunal Judgement check</b>	✓	✓	✓	✓	✓	✓			<a href="#">Employment Tribunal Decisions</a>	
<b>Social media check</b>	✓	✓	✓	✓	✓	✓			Various – Google, Facebook, Instagram, etc.	
<b>Self-attestation form signed</b>	✓	✓	✓	✓	✓	✓			Template self-attestation form	Appendix 3 in Framework
<b>Sign-off by Chair/CEO</b>	✓	x	✓	✓	✓	✓			ESR	Includes free text to conclude in ESR fit and proper or not. Any mitigations should be evidence locally.

Other templates to be completed



FPPT Area	Record in ESR	Local evidence folder	Recruitment Test	Annual Test	ED	NED	Test Completed? Yes or N/A	Comments	Source	Notes
<b>Board Member Reference</b>	✓	✓	X	X	✓	✓			Template BMR	To be completed when any board member leaves for whatever reason and retained career-long or 75th birthday, whichever latest. Appendix 2 in Framework.
<b>Letter of Confirmation</b>	X	✓	✓	✓	✓	✓			Template	For joint appointments only - Appendix 4 in Framework.
<b>Annual Submission Form</b>	X	✓	✓	✓	✓	✓			Template	Annual summary to Regional Director - Appendix 5 in Framework.
<b>Privacy Notice</b>	X	✓	X	X	✓	✓			Template	Board members should be made aware of the proposed use of their data for FPPT – Example in Appendix 6.
<b>Settlement Agreements</b>	x	✓	✓	✓	✓	✓			Board member reference at recruitment and any other information that comes to light on an ongoing basis.	Chair guidance describes this in more detail. It is acknowledged that details may not be known/disclosed where there are confidentiality clauses.

Approvals/Confirmations	Date	Tick to confirm	Name
Recruitment Adviser confirmation all the above is in place			
Final Approval by Director of People (or CEO if the FPP is for Director of People)			
All pre-employment checks completed and proceed to final offer of employment			

Final Approval by CEO (signature)	
Full Name	
Date	

### Appendix 3: Monitoring Compliance for Policy

This document will be used to ensure effective monitoring and to seek compliance assurance for the policy.

Policy name		Policy version			
Policy author		Date of approval		Date of next review	

Requirement to be monitored (WHAT)	Lead (WHO)	Tool (HOW)	Frequency of Monitoring (WHEN)	Reporting Arrangements (WHERE)	Development of Action Plan (WHAT and WHO)	Monitoring of Action Plan and Implementation (HOW and WHEN)
Annual FPPT undertaken	Chair with support from Director of People	Using standard templates under national framework	Annually	National declaration required and data captured on ESR.	Director of People to ensure checks take place.	Lead to implement

## Appendix 4: Policy/ Procedural Document Amendment(s) Template

To be completed and attached to any procedural document when submitted to the appropriate committee for approval after doing Minor/ Technical revision(s).

**Policy name: Fit and Proper Persons Test Policy**

**Policy author: Susan King, People and OD Lead**

**Ref no. including version: version 5**

**Date revised: October 2023**

**Date of next revision:**

**Summary of Amendments:**

Section Heading, Paragraph Number(s)	Description of Amendment(s)	Comments
All sections, paragraphs renumbered	Whole document amended to meet new GR01 format	Updated as per revised GR1 policy
Section 5 - Responsibilities	Chair's section updated with revised framework responsibilities. People Team responsibilities outlined.	
Section 6 – Process for New Appointments	Criteria updated to meet framework. Reference made to Leadership Competency Framework, which will be introduced in 2024	
Section 6 – Process for New Appointments	A new national template will be used for references. References must cover a 6 year period. References will also be completed, kept and if necessary amended when a Board member leaves the Trust.	
Section 7 – Process for ongoing fitness	A self-attestation is required by all relevant staff on and annual basis and the Chair must complete an annual submission to confirm that the appropriate checks have been done.	
Section 9 - ESR	FPPT data will be recorded on ESR with effect from 30 September 2023.	
Appendices	Appendix 2 - Revised checklist illustrates all checks that must be completed for both new recruits and annually for existing staff.	Previous appendices have been removed and replaced with updated versions. People Team will keep a suite of forms and relevant documents to be used.

## Appendix 5: Historical Editions

### Historical Editions:

Edition/ Version and Date	Reason for archiving	Date for archiving and location
	Superseded by	<i>N:HCT/Shared Secure/Archived Policies</i>

## Appendix 6: Equality Analysis (EA) Form

Evidence that the Trust has carried out an equality analysis is required by law. The [Equality Act 2010](#) places a specific duty on public authorities including NHS Trusts to publish sufficient information to demonstrate compliance with the general equality duty to have due regard in the exercise of their functions to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic & those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

For an easy read guide to the [Equality Act 2010](#) see:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/85039/easy-read.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85039/easy-read.pdf)

1. Details of the policy				
Title of Policy/ Service/ Function/Proposal/:		New <input checked="" type="checkbox"/>		Date of completion: 12/10/2023
Name & Role of all staff involved in completing the EA:				
2. About the Policy. Who is likely to be affected by this policy?				
Staff <input checked="" type="checkbox"/>				
3. Assessing the impact (see section 13.3 of guidance notes)				
Protected Characteristic under the <a href="#">Equality Act 2010</a> (unless marked with a *)	Probable impact on group <i>The key question to ask – is there potential positive or negative impacts in relation to the different protected characteristics?</i>			Please give reasons for your selection
	<b>Positive</b> <i>(A policy or practice where the impact on a particular protected group is more positive than for other groups)</i>	<b>Negative</b> <i>(The outcome of a policy that creates disadvantage to or unequal treatment of a person with a protected characteristic)</i>	<b>Neutral</b> <i>(The evidence identifies that the policy has neither a positive nor a negative impact on any group, compared to others)</i>	
<b>Age</b> (e.g. older or younger people)			X	
<b>Disability</b> <i>(physical/ sensory/ learning/ mental health/other)</i>			X	
<b>Gender reassignment</b> <i>(process of transitioning from one gender to another)</i>			X	
<b>Marriage or civil partnership</b> <i>(legally married, or in a civil partnership)</i>			X	
<b>Pregnancy or maternity</b> <i>(women who are pregnant, whilst maternity covers a period of 26 weeks after birth)</i>			X	
<b>Race</b> <i>(incl. issues relating to ethnicity &amp; culture)</i>			X	
<b>Religion / belief</b> <i>(people who hold religious and non-religious beliefs)</i>			X	
<b>Sex (gender)</b> <i>Men / Women</i>			X	

<b>Sexual orientation</b> <i>(lesbian, gay or bisexual, heterosexual etc.)</i>			X	
<b>4. *Human rights</b>				
<b>Can the identified potential negative impacts be avoided or minimised by taking different action? Is there potential to further promote equal opportunities?</b> <i>(see section 13.4 of guidance notes)</i>	N/A  This policy is based on the NHS England requirements.			
<b>What information or data, if any has been used to complete this EA?</b>	N/A			
<b>Do you require further information or data to complete the analysis/actions?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
<b>Involvement and Engagement:</b> Consider external diverse views from people with the protected characteristics	N/A			
<b>Do you plan any further involvement /engagement?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
<b>5. Sign Off</b>				
<b>Completed By: Susan King</b>			<b>Job Title/role: People and OD Lead</b>	
<b>Business Unit: People Team</b>				
<b>Assessor Signature:</b>			<b>Date:</b>	