


TRUST POLICY AND PROCEDURE FOR FIT AND PROPER PERSON REQUIREMENTS

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	1.3	Feb 2020	Nigel Trowbridge, Acting Trust Secretary	Minor amendments to Policy in line with review by the new Trust Chair
	2	May 2022	Deb Price	Review
	3	September 2023	Rebecca O'Connor	Amended in light of new national Fit and Proper Person Framework
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To be read in conjunction with: Executive Director Contract of Employment / Non- Executive Director Precedent Letter of Appointment				
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Executive Lead Signature	 Rebecca O'Connor, Executive Director of Corporate Development			

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1. Introduction

This Policy is provided as a formal appendix to the Terms and Conditions of employment for Executive Directors and the Precedent Letter of Appointment for Non-Executive Directors and all Trust Board Members, irrespective of voting rights, including interim/ temporary and permanent appointments.

2. Background

The Fit and Proper Person Requirements (FPPR) for Directors of NHS bodies is a direct response to the leadership and corporate governance recommendations published in the 2014 Francis Report and 2019 Kark Review.

The purpose of the FPPR is to ensure that the public can have confidence that the people leading local NHS services are open and honest individuals and can be trusted to lead safe, caring and effective organisations.

3. Scope

The FPPR applies to Trust Board Directors, Trust Board members and equivalents who are responsible and accountable for delivering care, including associate directors and any other individuals who are members of the Trust Board, irrespective of their voting rights (referred to in this Policy as 'Directors') and includes:

- Permanent appointments.
- Fixed term; Interim (all contractual forms); acting up; and temporary positions (including secondments) who have been formally appointed by the Board to act up for an Executive Director during a period of incapacity or temporarily to fill an Executive Director vacancy, shall be entitled to exercise the voting rights of the Executive Director. *(An officer attending the Board to represent an Executive Director during a period of incapacity or temporary absence - (see section 6.7) - without formal acting up status may not exercise the voting rights of the Executive Director, therefore will not require a Fit and Proper Persons Test. An officer's status when attending a meeting shall be recorded in the minutes.)*
- Those individuals who by virtue of their profession are members of other professional registers, such as the General Medical Council (GMC) or Nursing and Midwifery Council (NMC), should still be assessed against this Framework if they are a board member at an NHS organisation.

4. Objectives

The objectives of this Policy are to ensure that the Trust has in place effective arrangements to:

- Assess Directors' FPPR compliance as part of the recruitment and selection process for the appointment of new Directors.
- Conduct an annual process for monitoring and maintaining FPPR compliance of incumbent Directors.
- Ensure standard documents such as employment contracts, job descriptions, and appointment letters are regularly reviewed and comply with FPPR and this Policy.
- Conduct investigations where it is alleged that a Director may no longer meet the requirements.
- Supply the Care Quality Commission (CQC) with the information they require to undertake their role in relation to the Fit and Proper Person Requirement.

5 Duties and Responsibilities

5.1 Trust Chair (Chair)

The Chair has overall accountability for the arrangements and ensuring compliance with the Fit and Proper Person Test and is responsible for a number of aspects as listed in the national [Fit and Proper person Test Framework](#).

5.2 Senior Independent Director

The Senior Independent Director will carry out the Fit and Proper Person Test assessment of the Trust Chair.

5.3 Chief Executive Officer

The Chief Executive will be responsible for carrying out an initial assessment of the FPPT for Executive Board members and sharing the information with the Trust Chair for overall assessment of Board members Fit and Proper Person status.

5.4 Trust Board

The Trust Board will:

- Approve and periodically review this Policy to ensure it is fit for purpose.
- Receive an annual report on the application of FPPR to ensure on-going compliance.

5.5 Nominations and Remuneration Committee

The Nominations and Remuneration Committee may be required by the Chair to:

- Commission an investigation under FPPR relating to a Director (excluding Non- Executive Directors).
- Consider any disciplinary action including termination of an Executive Director's contract of employment.

5.6 Council of Governors

The Council of Governors will:

- Receive a copy of the annual Trust submission on the application of FPPT for all members of the Trust Board.
- Take the annual Trust submission and other information relating to FPPT into account as part of their role in the appointment and removal of the Trust Chair and Non-Executive Directors.
- Be required by the Chair to commission an investigation under FPPR relating to a Non-Executive Director.
- Be required to hold a vote under the Trust's Constitution to consider the termination of a Non-Executive Director's term of office.
- Receive information regarding the performance appraisal process.

5.7 Executive Chief People Officer

The Executive Chief People Officer is responsible for:

- Providing professional human resources (HR) advice to the Chair and the Trust Board.
- Providing professional HR advice to the Trust Board's Nominations and Remuneration Committee and the Council of Governors as required in relation to any duty they may have on FPPR matters.

If the Executive Chief People Officer is the subject of the investigation, then the Trust Secretary will provide support to the Chair.

5.8 Corporate Governance Team

The Corporate Governance Team is responsible for the administration of the Policy and will support the Chair in:

- Ensuring Trust compliance with relevant obligations described within the Regulations and any changes to the requirements.
- Recommending appropriate amendments to FPPR Policy to the Trust Board and Council of Governors.
- Ensuring that all appropriate documentation is completed, stored and available to the CQC or any other regulator for inspection upon request.
- Providing the required information to the ESR Team for entering into the ESR system.

- Testing element of FPPT assessment and recording the outcome and evidence for the Trust Chair to review and conclude.
- Completing the annual submission form.

5.9 Staff

Trust Staff are responsible for raising any issues of concern about Directors via the appropriate Trust policies and procedures, for example through the Freedom to Speak Up (Raising Concerns at Work) Policy.

5.1 NHS England Regional Director

The NHS England Regional Director will oversee the Trust's Fit and Proper Person Test covering elements of:

- Appointment and Initial FPPT assessments.
- Receive the annual FPPT Submission Forms; and
- Where required, in relation to disputes and appeals.

6 Process for Assessing Directors FPPR Compliance

6.1 When should a Full Fit and Proper Person Test be completed?

A complete documented Fit and Proper Person Test will be conducted upon appointment to a Board member position, when a Board member changes position and annually within a 12-month period of the previous assessment.

The Fit and Proper Person Test checklists that all directors are of:

- Good Character;
- Have the correct competencies to undertake the role;
- Satisfactory health; and
- Have no previous misconduct or mismanagement.

The following documents and checks will apply to all Director Fit and Proper Person Test and a record will be kept in the individual's Personal File.

- Self- Attestation Form
- Employment history
- References
- Qualifications
- DBS and Model Declaration
- Declaration of Interests and comparison against Companies House
- Proof of Identity and Right to Work documentation
- Occupational health assessment
- Disqualified directors, removed Trustees, bankruptcy, insolvency and employment tribunal searches
- Social Media and general internet searches
- Job Description
- Interview notes
- Appraisal documentation

Copies of the appointment and personnel file checklists can be found as Appendices 2 and 3 of this Policy.

6.2 New Appointments

The FPPR will form part of the recruitment process for all Directors. All offers of employment will be made subject to satisfactory checks, which will include references, FPPR, health clearance, and Disclosure and Barring Service checks (DBS checks).

Where the Trust engages recruitment consultants to assist with appointments, it may ask the consultants to carry out all or some of the process and will require documentary evidence that the checks have been satisfactorily completed.

As part of conducting the initial appointment process for a board member, an inter-authority transfer (IAT)2 could be submitted to identify any of the applicant's previous or current NHS service/employment history. Alternatively, other arrangements could be made to collate the relevant information. This should also help identify any potential duplicate employment accounts for the appointee, e.g. when someone has more than one NHS role on ESR.

6.3 Board Member References

A standard board member reference is used to ensure greater transparency, robustness and consistency of approach when appointing board members within the NHS.

References will be collected from previous organisations for new starters, and will be produced for all departing board members, irrespective of whether there has been a request from another NHS employer or the individual is retiring.

Details of what will be included in the Board Member References can be found in [NHS England's Fit and Proper Person Test Framework](#).

6.3.1. Revising References

If the Trust has provided a reference to another NHS organisation about an employee or former employee, and has subsequently:

- become aware of matters or circumstances that would require them to draft the reference differently.
- determined that there are matters arising relating to serious misconduct or mismanagement.
- determined that there are matters arising which would require them to take disciplinary action.
- 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. A copy of the revised reference will also be kept on the Trust's file.

All Board Member References should be collated/developed using the template included as Appendix 5.

6.4 Secondments

Whilst it is the Trust's responsibility to ensure that any individual being seconded is a Fit and Proper Person, it is reasonable for the Trust to expect the seconding organisation to already have satisfied themselves of this. The Trust will therefore ask for this to be confirmed in writing by their Executive Chief People Officer / Executive Director of Workforce and to be supplied with copies of the most recent Fit and Proper Person evidence, in order to provide evidence of standard recruitment elements not undertaken by the Trust, such as references.

A separate Fit and Proper Person check will be undertaken by the Trust; however, the above information will be relied upon, unless there is any reason to doubt its accuracy, and retained for evidence.

6.5 Joint Appointments across different NHS organisations

Additional considerations are needed where there are joint appointments to support closer working between NHS organisations. Where joint appointments occur the Trust will follow the process detailed

in [NHS England's Fit and Proper Person Test Framework](#) and if listed as the host organisation, provide a 'letter of confirmation' (Appendix 6) to the other contracting NHS organisation to confirm that the board member in question has met the requirements of the FPPT.

6.6 Shared Roles within the Trust

Where two individuals share responsibility for the same board member role (e.g. a job share), both individuals should be assessed against the FPPT requirements.

6.7 Temporary Absence

For the purpose of the FPPT process, a temporary absence is defined as leave for a period of six consecutive weeks or less (e.g. sick leave, compassionate leave or parental leave) where the Trust is leaving the role open for the same board member. As such there is no requirement to approve another permanent individual for the role of board member.

Where there is a temporary absence (greater than six week), it is expected that the Executive Chief People Officer or Director of Corporate Development (Trust Secretary) will liaise with the Trust Chair and Chief Executive to ensure temporary cover is provided and a formal temporary appointment made. At which point a full FPPT assessment is undertaken for the individual covering the position on an interim basis.

7 Record Retention

Records will be kept in-line with the [NHS Records Management Code of Practice](#) and [NHS England's Fit and Proper Person Test Framework](#).

7.1 Electronic Staff Record (ESR)

NHS Business Services Authority (NHSBSA) hosts ESR on behalf of the NHS, as commissioned by the Department for Health and Social Care. Information regarding the outcome of the FPPT must be recorded in ESR. This information will only be accessible with the Trust and no public register is available. Access will also be provided to relevant individuals within the CQC at a local level, where this information is necessary for their roles, noting the CQC's ability to require information to be provided to it under Regulation 5(5) of the Regulations.

The Trust Chair is accountable for ensuring that the information in ESR is up to date.

7.2 Dispute Resolution relating to Data and Information

Where a board member identifies an issue with data held about them in relation to the FPPT, they should request a review which should be conducted in accordance with Trust policies in the first instance. Where this does not lead to a satisfactory resolution national guidance will be followed.

8 Managing an Unfit Outcome – Failure to confirm the Appointment

If during the pre-employment screening it emerges that the individual appears unlikely to meet the requirements of the Fit and Proper Person Test, consideration should be given to requesting further information from the individual as necessary to ensure that a full informed decision can be made.

If the individual fails to meet the Fit and Proper Persons Test requirements, the offer for appointment / employment should be withdrawn.

The reasons for withdrawing the offer in line with the Fit and Proper Persons Test should be fully recorded on the Appointment Checklist (Appendix 3) including what factors were taken into account, who was involved in the decision making, the weight attached to each factor and a clearly recorded conclusion.

9 Process to be followed where a concern is raised relating to a Director

Please see Appendix 4 for a flowchart describing the process to be followed when a concern is identified.

9.1 Concern Identified

If a concern is raised regarding a Director (except Non-Executive Directors) it should immediately be referred to the Trust Chair for his / her consideration on whether the Trust's Disciplinary Policy or FPPR process should be followed. This process includes a concern raised, either by a self-declaration or an internal or external source, at any stage of a Directors' employment including following the on-going assurance process outlined at Section 6.2.

The Chair will consult with the Senior Independent Director and seek advice from the Executive Chief People Officer to determine:

- The appropriate process to be followed.
- If any immediate action needs to be taken; for example, interim measures may be required in the interest of the Director or where the Trust needs to minimise any risk to service users, including temporary variation of duties, supervision, or suspension.
- If the concern is about the Executive Chief People Officer, advice should be sought from a suitably experienced external HR Director.
- The Chair will adopt the following principles when deciding which process to follow:
 - Concerns related to minor misconduct may be considered using the Trust's Disciplinary Policy
 - Concerns specific to the FPPR regulation or related to serious and / or gross misconduct should be dealt with under the Fit and Proper Person Process; the latter are likely to require consideration under the regulations. Concerns dealt with under this process potentially may lead to dismissal.
 - Concerns related to criminal proceedings should be dealt with through the Fit and Proper Person Process and should not necessarily be delayed by external procedures.
 - The decision regarding which process to follow should be documented by the Chair including factors taken into account, what weight has been attached to each factor and justification for the decision taken.

The Chair will also consult the Chief Executive Officer unless they are a subject of concern.

All those conducting investigations or participating in hearings under the Disciplinary or FPPR processes will have access to professional support from the Executive Chief People Officer, their deputy or an external senior HR practitioner. There will also be provision to seek other advice deemed necessary.

If it is decided to instigate a Fit and Proper Person investigation, the Trust Chair will refer the matter to the Trust Board's Nominations and Remuneration Committee, made up entirely of Non- Executive Directors, to commission any investigation.

The Investigation must not merely look at the concern in isolation but must conduct an investigation against all aspects of the FPPRs. The outcome of the investigation must be documented clearly including the factors taken into account on each limb of the FPPR, the weight attached to each factor and a justification of how the decision has been reached. A copy must be kept with the personnel file of the Director in question.

Following investigation, if it were concluded that there was a case to answer, the Nominations and Remuneration Committee would identify an appropriate panel for a Fit and Proper Person Hearing. The Director has the right to give written and oral evidence to the hearing.

The Director has a right of appeal against any disciplinary decision of a Fit and Proper Person Hearing Panel. This would be to a mutually acceptable external independent Executive or Non-Executive Director. The appeal must be submitted in writing within ten days of receipt of notification.

An appeal panel would normally consist of a minimum of two suitably experienced qualified members,

dependent upon the circumstances of the case.

10 Process to be followed where a concern is raised relating to a Non- Executive Director or Chair

If a concern is raised relating to a Non-Executive Director, it should be immediately referred to the Chair, or the Senior Independent Director (SID) if it concerns the Chair.

If the concern raised was considered to fall within the requirements of the FPPRs, the Chair (or SID) will advise the Council of Governors and instruct the Trust Secretary to investigate the situation. If there proves to be a case to answer, they will appoint a Fit and Proper Person Hearing Panel which would normally comprise a minimum of two suitably qualified and experienced members.

If the Panel's recommendation was the termination of the Non-Executive Director's engagement, the case must be presented to the Council of Governors to consider the appropriate disciplinary action.

Termination of a Non-Executive Director's engagement needs a 75% majority of all Governors voting on the council. There would be no appeal against termination.

11 Support for the Individual

The Trust is committed to supporting all staff to maintain their health and wellbeing, particularly at times of increased pressure or stress which might arise during disciplinary procedures.

The type and level of support for Directors will vary depending upon individual circumstances, the nature of the investigation being carried out and the needs of the Trust.

Directors should from the outset know how they will be communicated with during the investigation and what support they can be offered; this may include, but is not limited to:

- Regular meetings to discuss the progress of the investigation but not the substance of the investigation
- Counselling / Coaching or Mentoring during the course of the investigation.
- Supported time off to seek external advice about the investigation e.g. to meet with professional bodies etc.

Investigation processes vary and the Trust will work jointly with the Director to tailor the support offered to meet their needs.

12 Confidentiality

All information provided by a person in pursuance of this Policy will be kept confidential in accordance with the terms of the Trust's Data Protection and Confidentiality (Dealing with Confidential Information) Policy. However, a person seeking to demonstrate that they are a 'Fit and Proper Person' in accordance with this Policy consents to the Trust disclosing to Regulators, to the extent necessary, any personal information (as per Data Protection Act 1988 as amended and General Data Protection Regulations 2018) and confidential information for the purpose of undertaking the checks required by this Policy and for the related purposes of this Policy.

13 Quality Assurance and Governance

To ensure that the FPPT is being adequately embedded within NHS organisations there will need to be quality assurance checks conducted by the CQC, NHS England and an external/independent review.

The Trust will follow [NHS England's Fit and Proper Test Framework](#) and provide all information required to enable the CQC and NHS England to undertake their roles in line with the Fit and Proper Person Regulation.

14 References

[Regulation 5: Fit and proper persons: directors - Care Quality Commission \(cqc.org.uk\)](#)

[NHS England » NHS England Fit and Proper Person Test Framework for board members](#)

[PRN00238-i -Kark-Implementation-Fit-and-Proper-Person-Test-Framework-for-board-members-2-August-2023.pdf \(england.nhs.uk\)](#)

[NHS England » Appendix 1: Recommendations from the Kark Review \(2019\)](#)

[PRN00238-ii-appendix-2-the-board-member-reference-template.docx \(live.com\)](#)

[PRN00238-ii-appendix-3-new-starter-annual-nhs-fppt-self-attestation-1.docx \(live.com\)](#)

[PRN00238-ii-appendix-4-letter-of-confirmation-1.docx \(live.com\)](#)

[PRN00238-ii-appendix-5-annual-nhs-fppt-submission-reporting-template.docx \(live.com\)](#)

[PRN00238-ii-appendix-6-privacy-notice.docx \(live.com\)](#)

[PRN00238-ii-appendix-7-fppt-checklist.pdf \(england.nhs.uk\)](#)

[NHS England » Appendix 8: Future considerations for the Fit and Proper Person Test Framework](#)

[Fit and proper person regulation \(FPPR\) | NHS Employers](#)

[Fit and proper persons regulations in the NHS: What do providers need to know? \(nhsproviders.org\)](#)

New starter/Annual NHS FPPT self-attestation

Fit and Proper Person Test annual/new starter self-attestation
UNIVERSITY HOSPITALS OF DERBY AND BURTON NHS FOUNDATION TRUST

I declare that I am a fit and proper person to carry out my role. I:

- am of good character
- have the qualifications, competence, skills and experience which are necessary for me to carry out my duties
- where applicable, have not been erased, removed or struck-off a register of professionals maintained by a regulator of healthcare or social work professionals
- am capable by reason of health of properly performing tasks which are intrinsic to the position
- am not prohibited from holding office (eg directors disqualification order)
- within the last five years:
 - I have not been convicted of a criminal offence and sentenced to imprisonment of three months or more
 - been un-discharged bankrupt nor have been subject to bankruptcy restrictions, or have made arrangement/compositions with creditors and has not discharged
 - nor is on any 'barred' list.
- have not been responsible for, 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.

The legislation states: if you are required to hold a registration with a relevant professional body to carry out your role, you must hold such registration and must have the entitlement to use any professional titles associated with this registration. Where you no longer meet the requirement to hold the registration, and if you are a healthcare professional, social worker or other professional registered with a healthcare or social care regulator, you must inform the regulator in question.

Should my circumstances change, and I can no longer comply with the Fit and Proper Person Test (as described above), I acknowledge that it is my duty to inform the chair.

Name and job title/role:	
Professional registrations held (ref no):	
Date of DBS check/re-check (ref no):	
Signature:	
Date of last appraisal, by whom:	
Signature of board member:	
Date of signature of board member:	
For chair to complete	
Signature of chair to confirm receipt:	
Date of signature of chair:	

Director's Personnel File Checklist

Regulation 5: Fit and Proper Person Requirements
Executive Directors, Chair and Non-Executive Directors – Information Requirements:
Personal File Checklist

	Name	
	Position	
	Date	

Area	Evidence within Personnel File		Evidence	Checked by	Date
Signed FPPT Self attestation form	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Proof of Identity including a recent photograph (2)	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Where relevant, DBS check and / or barring information under the Safeguarding Vulnerable Groups Act 2006	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Satisfactory evidence of conduct in previous employment concerned with the provision of services relating to health or social care, or children of vulnerable adults (including disciplinary findings, Grievance, Whistleblowing and Behaviour)	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Where a person has been previously employed in a position whose duties involved work with children or vulnerable adults, satisfactory verification, so far as reasonably practicable, of the reason why that person's employment in that position ended	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Obtain, satisfactory documentary evidence of any qualification relevant to the duties for which the person is employed or appointed to perform	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
A full employment history, together with a satisfactory written explanation of any gaps in employment	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Satisfactory information about any physical or mental health conditions which are relevant to the person's capability, after reasonable adjustments are made, to properly perform tasks which are intrinsic to their employment or appointment for the purposes of the regulated activity	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Such other information as is required to be kept by the service provider under any enactment which is relevant to that individual	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Other Supporting Information					
Model Declaration A or B	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Declaration of Interest submitted via electronic system	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Comparison against Companies House	<input type="checkbox"/> Yes	<input type="checkbox"/> No			

Area	Evidence within Personnel File		Evidence	Checked by	Date
Appraisal Documentation	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Membership Body and Number	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Job Offer and Letter of Appointment	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Job outline	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Interview Notes on File	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Letter on Confirmation in file (For joint appointments only)	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Has there been any settlement agreements?	<input type="checkbox"/> Yes	<input type="checkbox"/> No			

Search of insolvency and bankruptcy register completed	Date			
Search of disqualified directors register completed	Date			
Search of Charity Commission Removed Trustees	Date			
Employment Tribunal Judgement Check	Date			
General Internet / Social Media Search	Date			

Information Requirements completed by:

Name		Position	
Signed		Date	

Fit and Proper Person Regulation Compliance Confirmed to the Trust Board by:

Name		Position	
Signed		Date	

Date Information updated on ESR _____

To be retained at the front of the personal file

**Regulation 5: Fit and Proper Person Requirements
Directors and Non-Executive Directors – Appointment Checklist**

Organisation Name	University Hospitals of Derby and Burton NHS Foundation Trust
Job Title <i>(current job description)</i>	
Occupation Code	
Position Title	
Candidate's First Name:	
Candidate's Second name/surname	

			Evidence/ Comments
Recruitment Source			
Job Description includes reference to FPPR	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Recruitment information pack includes reference to FPPR	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Are we doing the FPPR checks internally or via another agency? If via another agency full documentation must be returned to the Trust for file.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Documents checked confirming right to work in the UK	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Documents checked confirming identity	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Recent photograph checked and kept on file	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Detailed review of full employment history has been undertaken, which includes: - <ul style="list-style-type: none"> • Job title • Organisations/departments • Dates and role descriptions • Reasons for leaving. • Evidence of disciplinary matters in the employment history • Any gaps of employment history explained. • Comments on any information / issues identified. 	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Two board member references have been received (one from most recent employer) Check undertaken in relation to disciplinary findings, grievances, whistleblowing, and behaviour.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Copy of last appraisal and appraisal date received	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Original documentation relating to Qualifications/ and Professional Registration checked	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Occupational Health Review undertaken	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Satisfactory Disclosure and Barring Service (DBS) check completed (where appropriate Enhanced DBS check) [state type of check undertaken and date received]	Yes <input type="checkbox"/>	No <input type="checkbox"/>	

Satisfactory search of insolvency and bankruptcy register	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Satisfactory Search of disqualified directors register completed	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Satisfactory Search of disqualified charity trustee register completed	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Satisfactory Search of employment tribunal judgement check completed	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Satisfactory General Internet / Social Media Search	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Signed Self-attestation form received	Yes <input type="checkbox"/>	No <input type="checkbox"/>	

Additional Comments

(To be read in conjunction with the NHS Employment Check Standards)

Recruitment Checks Completed by: Name		Position	
Signed		Date	

Fit and Proper Person Regulation Compliance Confirmed:

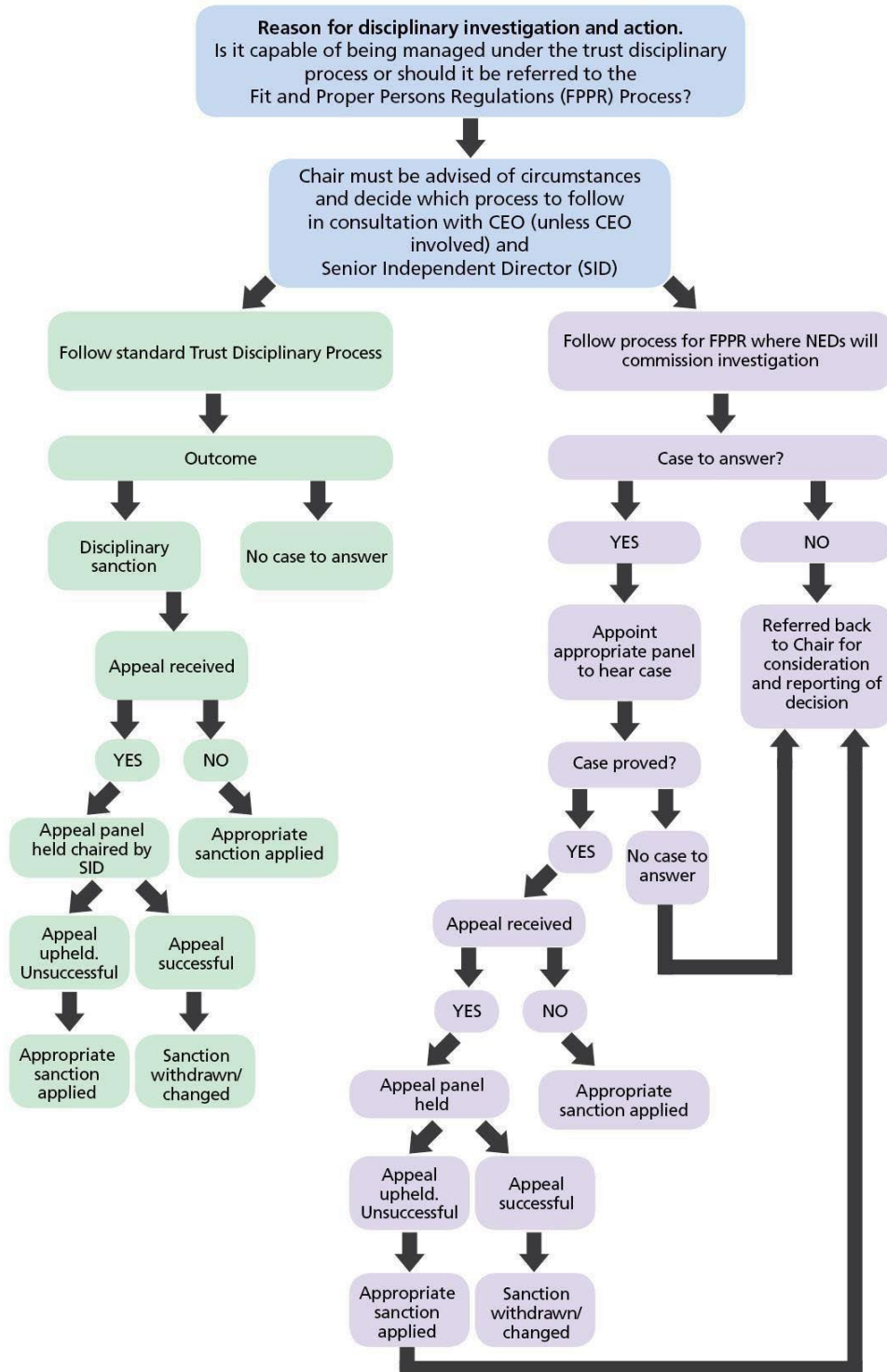
Name		Position	
Signed		Date	

Date Information updated in ESR _____

To be retained in section 8 of the personal file.

APPENDIX 4 - Policy Flow-Chart: When a Concern is identified

**Regulation 5: Fit and Proper Person Requirements Policy Flow-chart
– Concerns Identified Directors (excluding Non-Executive Directors)**



Board Member Reference

STANDARD REQUEST: To be used only AFTER a conditional offer of appointment has been made.

[Date]

Human resources officer/name of referee

Recruitment officer

External/NHS organisation receiving request

HR department initiating request

Dear [HR officer's/referee's name]

Re: [applicant's name] - [ref. number] – [Board Member position]

The above-named person has been offered the board member position of [post title] at the [name of the NHS organisation initiating request]. This is a high-profile and public facing role which carries a high level of responsibility. The purpose of NHS boards is to govern effectively, and in so doing build patient, staff, public and stakeholder confidence that the public's health and the provision of healthcare are in safe hands.

Taking this into account, I would be grateful if you could complete the attached confirmation of employment request as comprehensively as possible and return it to me as soon as practically possible to ensure timely recruitment.

Please note that under data protection laws and other access regimes, applicants may be entitled to information that is held on them.

Thank you in advance for your assistance in this matter.

Yours sincerely

[Recruitment officer's name]

Board Member Reference request for NHS Applicants:

To be used only AFTER a conditional offer of appointment has been made.

Information provided in this reference reflects the most up to date information available at the time the request was fulfilled.

1. Name of the applicant (1)

2. National Insurance number or date of birth

3. Please confirm employment start and termination dates in each previous role

A:(if you are completing this reference for pre-employment request for someone currently employed outside the NHS, you may not have this information, please state if this is the case and provide relevant dates of all roles within your organisation)

B: (As part of exit reference and all relevant information held in ESR under Employment History to be entered)_

Job Title:

From:

To:

Job Title

From:

To:

Job Title:

From:

To:

Job Title:

From:

To:

Job Title:

From:

To:

4. Please confirm the applicant's current/most recent job title and essential job functions (if possible, please attach the Job Description or Person Specification as Appendix A):

(This is for Executive Director board positions only, for a Non-Executive Director, please just confirm current job title)

5. Please confirm Applicant remuneration in current role *(this question only applies to Executive Director board positions applied for)*

Starting:

Current:

6. Please confirm all Learning and Development undertaken during employment: *(this question only applies to Executive Director board positions applied for)*

7. How many days absence (other than annual leave) has the applicant had over the last two years of their employment, and in how many episodes?
(only applicable if being requested after a conditional offer of employment)

Days Absent:

Absence Episodes:

8. Confirmation of reason for leaving:

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9. Please provide details of when you last completed a check with the Disclosure and Barring Service (DBS)
 (This question is for Executive Director appointments and non-Executive Director appointments where they are already a current member of an NHS Board)

<p>Date DBS check was last completed.</p> <p>Please indicate the level of DBS check undertaken (basic/standard/enhanced without barred list/or enhanced with barred list)</p> <p>If an enhanced with barred list check was undertaken, please indicate which barred list this applies to</p>	<p>Date</p> <p>Level</p> <p>Adults <input type="checkbox"/></p> <p>Children <input type="checkbox"/></p> <p>Both <input type="checkbox"/></p>
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10. Did the check return any information that required further investigation?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please provide a summary of any follow up actions that need to/are still being actioned:

<p>11. Please confirm if all annual appraisals have been undertaken and completed</p> <p>(This question is for Executive Director appointments and non-Executive Director appointments where they are already a current member of an NHS Board)</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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Please provide a summary of the outcome and actions to be undertaken for the last 3 appraisals:

12. Is there any relevant information regarding any outstanding, upheld or discontinued complaint(s) or other matters tantamount to gross misconduct or serious misconduct or mismanagement including grievances or complaint(s) under any of the Trust's policies and procedures (for example under the Trust's Equal Opportunities Policy)?

(For applicants from outside the NHS please complete as far as possible considering the arrangements and policy within the applicant's current organisation and position)

Yes

No

If yes, please provide a summary of the position and **(where relevant)** any findings and any remedial actions and resolution of those actions:

13. Is there any outstanding, upheld or discontinued disciplinary action under the Trust's Disciplinary Procedures including the issue of a formal written warning, disciplinary suspension, or dismissal tantamount to gross or serious misconduct that can include but not be limited to:

- **Criminal convictions for offences leading to a sentence of imprisonment or incompatible with service in the NHS**
- **Dishonesty**
- **Bullying**
- **Discrimination, harassment, or victimisation**

Yes

No

- **Sexual harassment**
- **Suppression of speaking up**
- **Accumulative misconduct**

(For applicants from outside the NHS please complete as far as possible considering the arrangements and policy within the applicant's current organisation and position)

If yes, please provide a summary of the position and **(where relevant)** any findings and any remedial actions and resolution of those actions:

14. Please provide any further information and concerns about the applicant's fitness and propriety, not previously covered, relevant to the Fit and Proper Person Test to fulfil the role as a director, be it executive or non-executive. Alternatively state Not Applicable. (Please visit links below for the CQC definition of good characteristics as a reference point) (7)(12)

[Regulation 5: Fit and proper persons: directors - Care Quality Commission \(cqc.org.uk\)](http://www.cqc.org.uk)

[The Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014 \(legislation.gov.uk\)](http://www.legislation.gov.uk)

15. The facts and dates referred to in the answers above have been provided in good faith and are correct and true to the best of our knowledge and belief.

Referee name (please print): Signature:

Referee Position Held:

Email address:

Telephone number:

Date:

Data Protection:

This form contains personal data as defined by the Data Protection Act 2018 and UK implementation of the General Data Protection Regulation). This data has been requested by the Human Resources/ Workforce Department for the purpose of recruitment and compliance with the Fit and Proper Person requirements applicable to healthcare bodies. It must not be used for any incompatible purposes. The Human Resources/Workforce Department must protect any information disclosed within this form and ensure that it is not passed to anyone who is not authorised to have this information.

APPENDIX 6 - Letter of Confirmation

Royal Derby Hospital
Uttoxeter Road
DERBY
DE22 3NE
01332 340131

[DATE]

Dear [CHAIR NAME¹],

Fit and Proper Person Test

This confirmation letter is provided in connection with [name of board member, job title of board member, organisations that the joint board member post covers] for [year of test, eg 2023/24] as at [date of conclusion of annual² FPPT for the individual] for the purpose of the Fit and Proper Person Test.

As Chair of [lead employer], I confirm that I have carried out the Fit and Proper Person Test for [name of board member].

The process and the evidence used by me in carrying out the Fit and Proper Person Test and in being able to reach a conclusion as to whether [name of board member] is fit and proper, is appropriate to reach that conclusion in the context of the Fit and Proper Person Framework.

In accordance with the [Fit and Proper Person Test Framework](#) requirements and in reaching my conclusion that [name of board member] is fit and proper as at [date of conclusion of test], I have assumed that you know no reason that this is not an appropriate conclusion to reach.

Please would you sign and return this letter as confirmation of receipt and that there are no further matters which should be taken into consideration.

Yours sincerely,

..... (signature)

..... (chair of lead employer organisation)

Date.....

I confirm that I have received the outcome for the FPPT for [name of board member] and that I have provided any necessary information for you to reach this conclusion.

..... (signature)

..... (chair of lead employer organisation)

Date.....

¹ This is the name of the chair of the other organisation that the joint board appointment is made with.
² It should be noted that while there will be an annual assessment of being fit and proper, it is a pervasive and ongoing process at all times. Any relevant matter related to the board member being fit and proper should be reported as soon as it arises.

APPENDIX 7 - Board Member PFFT Privacy Notice



Board Member FPPT Privacy Notice

University Hospitals of Derby and Burton NHS Foundation Trust is required to provide you with details on the type of personal information which we collect and process. In addition to any other privacy notice which we may have provided to you, this notice relates to the information collected and processed in relation to the FPPT.

The FPPT in ESR is commissioned by NHS England.

Contact: Will Monaghan, Senior Information Responsible Officer (SIRO)
Address: Executive Chief Digital Information Officer, Trust HQ, Level 5, Royal Derby Hospital, Uttoxeter Road, Derby, DE22 3NE
Phone Number 01332 785494
Email: w.monaghan1@nhs.net

The type of personal information we collect is in relation to the FPPT for board members and is described below, much of which is already collected and processed for other purposes than the FPPT:

1. Name, position title (unless this changes).
2. Employment history – this includes details of all job titles, organisations, departments, dates, and role descriptions.
3. References.
4. Job description and person specification in their previous role.
5. Date of medical clearance.
6. Qualifications.
7. Record of training and development in application/CV.
8. Training and development in the last year.
9. Appraisal incorporating the leadership competency framework has been completed.
10. Record of any upheld, ongoing or discontinued disciplinary, complaint, grievance, adverse employee behaviour or whistle-blow findings.
11. DBS status.
12. Registration/revalidation status where required.

13. Insolvency check.
14. A search of the Companies House register to ensure that no board member is disqualified as a director.
15. A search of the Charity Commission's register of removed trustees.
16. A check with the CQC, NHS England and relevant professional bodies where appropriate.
17. Social media check.
18. Employment tribunal judgement check.
19. Exit reference completed (where applicable).
20. Annual self-attestation signed, including confirmation (as appropriate) that there have been no changes.

Processing of this data is necessary on the lawful basis set out in Article 6(1)(e) UK GDPR as the foundation for the database. This is because it relates to the processing of personal data which is necessary for the performance of the fit and proper person test which is carried out in the public interest and/or in the exercise of official authority vested in the controller.

For CQC-registered providers, ensuring directors are fit and proper is a legal requirement for the purposes of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, and organisations are required to make information available connected with compliance to the CQC.

How we get the personal information and why we have it

Most of the personal information we process is provided to us directly by you as part of your application form and recruitment to satisfy recruitment checks and the FPPT requirements.

[If applicable] We may also receive personal information indirectly, from the following sources in the following scenarios:

- References when we have made a conditional offer to you.
- Publicly accessible registers and websites for our FPPT.
- Professional bodies for FPPT to test registration and or any other 'fitness' matters shared between organisations.

15 Regulatory bodies, eg CQC and NHS England.

We use the information that you have given us to:

- conclude whether or not you are fit and proper to carry out the role of board director

16 inform the regulators of our assessment outcome.

We may share this information with NHS England, CQC, future employers (particularly where they themselves are subject to the FPP requirements), and professional bodies.

Under the UK General Data Protection Regulation (UK GDPR), the lawful bases we rely on for processing this information are:

17 We need it to perform a public task.

How we store your personal information

Your information is securely stored. We keep the ESR FPPT information including the board member reference, for a career long period. We will then dispose of your information in accordance with our policies and procedures [insert].

Your data protection rights

Under data protection law, you have rights including:

- Your right of access – You have the right to ask us for copies of your personal information.
- Your right to rectification – You have the right to ask us to rectify personal information you think is inaccurate. You also have the right to ask us to complete information you think is incomplete.
- Your right to erasure – You have the right to ask us to erase your personal information in certain circumstances.
- Your right to restriction of processing – You have the right to ask us to restrict the processing of your personal information in certain circumstances.
- Your right to object to processing – You have the right to object to the processing of your personal information in certain circumstances.
- Your right to data portability – You have the right to ask that we transfer the personal information you gave us to another organisation, or to you, in certain circumstances.

18 You are not required to pay any charge for exercising your rights. If you make a request, we have one month to respond to you.

Please contact us at [insert email address, phone number and or postal address] if you wish to make a request.

How to complain

If you have any concerns about our use of your personal information, you can make a complaint to us at [Insert your organisation's contact details for data protection queries]. You can also complain to the ICO if you are unhappy with how we have used your data.

The ICO's address

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Helpline number: 0303 123 1113 ICO website: <https://www.ico.org.uk>

Annual NHS FPPT submission reporting template

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Part 1: FPPT outcome for board members including starters and leavers in period

Name	Date of appointment	Position	Confirmed as fit and proper?		Leavers only	
			Yes/No	Add 'Yes' only if issues have been identified and an action plan and timescale to complete it has been agreed	Date of leaving and reason	Board member reference completed and retained? Yes/No

Add additional lines as needed

Part 2: FPPT reviews / inspections

Use this section to record any reviews or inspections of the FPPT process, including CQC, internal audit, board effectiveness reviews, etc.

Reviewer / inspector	Date	Outcome	Outline of key actions required	Date actions completed
CQC				
Other, eg internal audit, review board, etc.				

Add additional lines as needed

Part 3: Declarations

DECLARATION FOR [name of organisation] [year]				
For the SID/deputy chair to complete:				
FPPT for the chair (as board member)	Completed by (role)	Name	Date	Fit and proper? Yes/No
For the chair to complete:				
Have all board members been tested and concluded as being fit and proper?	Yes/No	If 'no', provide detail:		
Are any issues arising from the FPPT being managed for any board member who is considered fit and proper?	Yes/No	If 'yes', provide detail:		
<i>As Chair of [organisation], I declare that the FPPT submission is complete, and the conclusion drawn is based on testing as detailed in the FPPT framework.</i>				
Chair signature:				
Date signed:				
For the regional director to complete:				
Name:				
Signature:				
Date:				