

Public Trust Board September 2022

Fit and Proper Person Self Declaration 2021/22

Purpose of the Report

The Care Quality Commission (CQC) introduced requirements regarding the 'Fit and Proper Person Tests' for Directors in November 2014, which became law from 1 April 2015. The Fit and Proper Person Test is a regulation to ensure that providers meet their obligations to only employ individuals who are fit for their role and to ensure that appropriate steps have been taken to ensure they are of good character, are physically and mentally fit, have the necessary qualifications, skills and experience for this role and can supply certain information (including a Disclosure and Barring Service (DBS) check and full employment history, if required).

At the time of establishing the LPT Fit and Proper Persons Register, the Board defined that there would be an annual self-declaration against compliance.

This self-declaration confirms compliance with the Fit and Proper Persons Test for 2022.

Analysis of the issue

The Human Resource Department maintains the Trust's register to support compliance of the 'Fit and Proper Person Test'.

When recruited to posts that are subject to Fit and Proper Person checks, directors have had the Fit and Proper Person checks discharged in line with the LPT Recruitment and Selection and DBS policies. Those posts subject to the Fit and Proper Person checks include¹

- All Executive and Operational Directors
- All non-executive Directors

As part of the recruitment process (and compliance for the Fit and Proper Person Test) for the defined staff group of directors appointed by LPT, a number of checks are undertaken.

These include

Checks on all individuals:

- Qualifications
- Competence, skills required, relevant experience and ability
- Good character
- Entitlement to work
- Identity
- Career History
- Consideration to the physical and mental health in line with the role and good occupational health practice

¹ <https://www.cqc.org.uk/guidance-providers/regulations-enforcement/fit-proper-persons-directors>

- Ensure, as far as possible the individual has not been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether lawful or not) in the course of carrying on a regulated service; this includes any allegations of such
- DBS check.
Only individuals who will be acting in a role that falls within the definition of a 'regulated activity' as defined by the Safeguarding Vulnerable Groups Act 2006 will be eligible for a check by the Disclosure and Barring Service (DBS)
- Review of Disqualified Directors Register (Companies House)
- Review Individual Insolvency Register (Gov.uk)
- Review of Insolvency Service Bankruptcy register
- Google search

In the period 1 April 2021 to 31st March 2022 five staff started where fit and proper person checks applied. These have successfully passed relevant recruitment checks for fit and proper person requirements at the required level.

Two further staff started between 1st April 2022 and the date of this report, all have successfully passed relevant recruitment checks for fit and proper person requirements at the required level.

One further existing member of LPT staff is currently going through the checks.

Through appraisals each year (or through the Trust Policy on Supporting Performance), individuals are continually monitored to ensure that they meet the requirements to hold office of their appointment. Where they do not, action will be taken by the Chief Executive and / or Trust Chair or respective Director (and where appropriate consultation with the Remuneration Committee). For non-executive director appraisals, each contains a fit and proper person self-declaration for NHSEI.

The Chair has confirmed that of non-executive Directors, all have had appraisals bar two. The exceptions are two starters whose interim reviews will take place for in October 2022.

For Executive Directors, as at September 2022 all have had appraisals in the last 12 months.

Additionally, there are a number of ongoing checks relating to Fit and Proper Person that are repeated each year.

These are:

- Annual self-declaration process
- Review of Disqualified Directors Register (Companies House)
- Review Individual Insolvency Register (Gov.uk)
- Review of Insolvency Service Bankruptcy register
- Google search

Online checks were carried out for the cohort requiring them most recently in December 2021, combined with the latest signed declaration available from each Director. At this point in time refreshed online checks relating to 10 staff who fit and proper person checks applied to were undertaken. There were no issues with any of the staff checked.

7 other staff had been checked within the last 12 months at that point in time as part of their recruitment. There were no issues with any of the staff checked in those processes.

1 member of staff who is temporarily covering a post is currently going through the checks to update their existing compliance level.

Staff seconded from NHFT have their Fit and Proper persons checks managed by NHFT. No concerns have been raised and further assurance of ongoing checks will be picked up as part of the next refresh of LPT's ongoing checks.

Where appropriate to their role, Directors have a Disclosure and Barring Service (DBS) check in place. The Trust is implementing a process whereby these checks will be refreshed as they approach 3 years of age, with Directors being required to enrol their new check in the DBS update service to maintain the check's currency.

As at the date of this report, 16 of the staff to who fit and proper person checks applied have a DBS check that is dated less than 3 years old, or are already in the DBS update service. The DBS position of these staff is appropriate to their role.

1 member of staff whilst holding DBS at appropriate level, is currently in the process of having their DBS check updated as it is over 3 years old.

As part of an annual cycle, Directors prior to the September 2022 Trust Board meeting have been asked to update their compliance to the Fit and Proper Person Test by a further self-declaration prior to the Board meeting, thus a formal record will be held in the Board minutes and the register will be updated. Any Director with any information known to them which would not support their compliance should make this known to the Trust Chair prior to the meeting.

Decision required

To approve the position for financial year 2021/22 that the Trust has discharged its requirements to meet Fit and Proper Person requirements for its Directors.

Governance table

For Board and Board Committees:	Trust Board 27 th September 2022	
Paper sponsored by:	Cathy Ellis Trust Chair	
Paper authored by:	Daniel Norbury, Head of Employment Services Kate Dyer, Deputy Director of Governance and Risk	
Date submitted:	19 th September 2022	
State which Board Committee or other forum within the Trust's governance structure, if any, have previously considered the report/this issue and the date of the relevant meeting(s):	None	
If considered elsewhere, state the level of assurance gained by the Board Committee or other forum i.e. assured/ partially assured / not assured:	--	
State whether this is a 'one off' report or, if not, when an update report will be provided for the purposes of corporate Agenda planning	Annual report.	
STEP up to GREAT strategic alignment*:	High Standards	
	Transformation	
	Environments	
	Patient Involvement	
	Well Governed	Y
	Reaching Out	
	Equality, Leadership, Culture	
	Access to Services	
	Trustwide Quality Improvement	
Organisational Risk Register considerations:	List risk number and title of risk	--
Is the decision required consistent with LPT's risk appetite:	Y	
False and misleading information (FOMI) considerations:	None	
Positive confirmation that the content does not risk the safety of patients or the public	Confirmed	
Equality considerations:	None	