



## Public Trust Board September 2023

### Fit and Proper Person Self Declaration 2022/23

#### 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 where required, and full employment history).

At the time of establishing the LPT Fit and Proper Persons Register, an annual self-declaration against compliance was introduced. This self-declaration confirms compliance with the Fit and Proper Persons Test for 2023.

As additional information relating to Fit and Proper person checks, the Trust is aware of the further Fit and Proper Person guidance which comes into force from the end of September 2023 following the Kark review.

This guidance will be implemented and built into future recruitment and annual checking processes. Staff involved in these processes are meeting with NHFT colleagues to ensure that a consistent approach is employed and where this new guidance introduces further requirements, these are discharged robustly.

#### Analysis of the issue

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

When posts that are subject to Fit and Proper Person checks are recruited to, 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 include<sup>1</sup>

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

As part of the recruitment process a number of checks are undertaken which supplement the standard recruitment process. These are:

- Qualifications
- Competence, skills required, relevant experience and ability
- Good character
- Entitlement to work
- Identity

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

- Career History
- Consideration to the physical and mental health in line with the role and good occupational health practice
- 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 2022 to 31<sup>st</sup> March 2023 four 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 1<sup>st</sup> April 2023 and the date of this report, all have successfully passed relevant recruitment checks for fit and proper person requirements at the required level.

Two further staff who are joining LPT imminently are currently going through the checks.

Through appraisals each year, 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, with 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 new starters whose interim reviews are yet to take place.

For Executive Directors, as at September 2023 all have either had appraisals in the last 12 months, or where the staff member is seconded from NHFT, NHFT has provided assurance that they are compliant with Fit and Proper Person Requirements.

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 September 2023, combined with the latest signed declaration available from each Director. At this point in time refreshed online checks relating to 14 staff who fit and proper person checks applied to, were undertaken. There were no issues with any of the staff checked.

Staff seconded from NHFT have their Fit and Proper persons checks managed by NHFT. NHFT have given assurance that the checks remain complete for these 4 staff.

No concerns have been raised and further assurance of ongoing checks will continue 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, 14 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.

Staff seconded from NHFT have their DBS checks managed by NHFT. NHFT have given assurance that the checks remain complete for 3 staff. One further member of staff is currently seconded from NHFT where the DBS reached 3 years in August 2023, but LPT now holds an appropriate DBS certificate for this employee as part of our recruitment process.

As part of an annual cycle, Directors prior to the September 2023 Trust Board meeting have been asked to update their compliance to the Fit and Proper Person Test by a further self-declaration, which is in place for all Directors and revealed no issues.

### **Decision required**

To approve the position for financial year 2022/23 that the Trust has discharged its requirements to meet Fit and Proper Person requirements for its Directors.

## Governance table

<b>For Board and Board Committees:</b>	Trust Board 26 <sup>th</sup> September 2023	
<b>Paper sponsored by:</b>	Crishni Waring Trust Chair	
<b>Paper authored by:</b>	Daniel Norbury, Deputy Director of HR and OD Kate Dyer, Deputy Director of Governance and Risk	
<b>Date submitted:</b>	None	
<b>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):</b>	--	
<b>If considered elsewhere, state the level of assurance gained by the Board Committee or other forum i.e. assured/ partially assured / not assured:</b>	Annual report.	
<b>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</b>		
<b>STEP up to GREAT strategic alignment*:</b>	High Standards	
	Transformation	
	Environments	
	Patient Involvement	
	Well Governed	Y
	Reaching Out	
	Equality, Leadership, Culture	
	Access to Services	
	Trustwide Quality Improvement	
<b>Organisational Risk Register considerations:</b>	List risk number and title of risk	--
<b>Is the decision required consistent with LPT's risk appetite:</b>	Y	
<b>False and misleading information (FOMI) considerations:</b>	None	
<b>Positive confirmation that the content does not risk the safety of patients or the public</b>	Confirmed	
<b>Equality considerations:</b>	None	