




Fit & Proper Persons Policy

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Executive director	Executive Director of Finance	
Policy lead	Associate Director of Corporate Governance	
Policy author (if different from above)	As Above	
Exec Sign off Signature (electronic)		
Disclosable under Freedom of Information Act 2000	Yes	

Policy context

The intention of the Fit & Proper Persons Policy is to adhere to regulations 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.

Policy requirement (see Section 2)

The aim of this policy document is to ensure a clear process is in place to provide assurance that individuals within Director Positions at Birmingham & Solihull Mental Health NHS Foundation Trust comply with the Fit and Proper Persons requirements.

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1: Introduction:

The Fit and Proper Person Test (FPPT) for directors of NHS bodies is a direct response to the Francis Report. The FPPT came into force in 2014, brought into being by Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. 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.

The Care Quality Commission (CQC) issued its own guidance on FPPT which makes it clear that it is a matter for NHS Bodies to ensure that the FPPT is met. NHSE in its recent guidance ([NHSE FPPT Framework for Board members, 2023](#)) advises that Chairs of NHS Board of Directors are responsible for overall accountability for the implementation of FPPT arrangements in their organisations as its implementation will be monitored by NHSE and the CQC.

The Fit and Proper Person Requirements (FPPR) focus on assessing the applicant's honesty, integrity, suitability and fitness, for example that they have the right level of qualifications, skills and experience, and that, with all reasonable adjustments, are able to undertake the roles and responsibilities of the position being offered.

This Policy is being updated to align with the recent changes to the Fit and Proper Person Test (FPPT) Framework as published by NHSE following the recommendations arising from the Kark Review (2019) of the FPPT arrangements. Tom Kark KC, who led on the Review states that “The culture and management of each hospital Trust flows from the management team. Thus, the quality and culture of the management team is of the greatest significance to the ethos and success of the hospital, the effectiveness, and the working conditions (in the widest sense) of its staff, and ultimately the care, comfort, and safety of the patients to whom the Trust provides health services.”

1.1 Rationale (why):

The purpose of this policy is to enable BSMHFT to ensure that those appointed as Executive Directors, Non-Executive Directors, VSMs and AFC band 9 Directors have, good character, possess the qualifications, competence, skills and experience required to appropriately perform the role for which they have been appointed to. It thus seeks to strengthen/reinforce individual accountability and transparency for board members, VSMs and AFC band 9 directors, thereby enhancing the quality of leadership within BSMHFT. It should be seen as a core element of a broader programme of board development, effective appraisals and values-based (as well as competency-based) appointments – all of which are part of the good practice required to build a ‘healthy’ board.

This policy will also aim to prevent BSMHFT from employing or re-employing unsuitable directors, prioritise patient safety and raise the standards of good leadership in the Trust. It will ensure board members, VSMs and AFC band 9 directors demonstrate the right behaviours and provide assurance that they are fit and proper to perform the role for which they are employed.

This policy should be read alongside the NHS Constitution and relevant HR Policies.

1.2 Scope (when, where and who):

The Care Quality Commission states that unless an individual satisfies all the requirements set out in Regulation 5, a service provider must not appoint or have in place an individual as a director, or performing the functions of, or functions equivalent or similar to the functions of a director. The requirements that are referred to are that:

- the individual is of good character (For example while it is difficult to outline all what constitutes good character, BSMHFT will check- whether the person has been convicted in the United Kingdom of any offence or been convicted elsewhere of any offence which, if committed in any part of the United Kingdom, would constitute an offence. And whether the person has been erased, removed or struck-off a register of professionals maintained by a regulator of health care or social work professionals including if the person is included in the children's barred list or the adults' barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006 etc).
- the individual has the qualifications, competence, skills and experience which are necessary for the relevant office or position or the work for which they are employed,
- the individual is able by reason of their health, after reasonable adjustments are made, of properly performing tasks which are intrinsic to the office or position for which they are appointed or to the work for which they are employed,
- the individual has not been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity, and

Where an individual who holds a relevant position but no longer meets the requirements, the Trust must:

- take such action as is necessary and proportionate to ensure that the position in question is held by an individual who meets such requirements, and
- if the individual is a health care professional, social worker or other professional registered with a health care or social care regulator, inform the regulator in question.
- Decide if an individual who during the course of their employment fails to meet any of the requirements of the FPPT should still continue in office or not, as they may be unfit to serve as a director (AFC Band 9), VSM or Board member. In such a scenario, the Trust must act fairly, equitably and swiftly in taking the necessary steps to ensure compliance with the FPPT requirements isn't undermined.

This policy is applicable to BSMHFT and its subsidiaries i.e. SSL and the MHPC thus covering all Board members, irrespective of their voting rights, VSMs and all AFC band 9 directors, whether they are interims (including all contractual forms) or permanent appointees and irrespective of their affiliations with any professional body e.g. GMC, NMC etc.

This policy provides a framework for assessing the suitability and appropriateness of such individuals in their capacity of Board members, VSMs or AFC band 9 directors at

the Trust. The Recruitment and the Company Secretary are expected to work collaboratively in ensuring appropriate application of this policy.

1.3 Principles (beliefs):

The Trust positively supports individuals with learning disabilities and ensures that no-one is prevented from accessing the full range of mental health services available. Staff will work collaboratively with colleagues from learning disabilities services and other organisations, in order to ensure that service users and carers have a positive episode of care whilst in our services. Information is shared appropriately in order to support this.

Application of this policy is guided by the following seven NHS guiding principles which shape the way NHS organisations operate:-

- The NHS provides a comprehensive service, available to all.
- Access to NHS services is based on clinical need, not an individual's ability to pay.
- The NHS aspires to the highest standards of excellence and professionalism.
- The patient will be at the heart of everything the NHS does.
- The NHS works across organisational boundaries and in partnership with other organisations in the interest of patients, local communities, and the wider population.
- The NHS is committed to providing best value for taxpayers' money and the most effective, fair, and sustainable use of finite resources.
- The NHS is accountable to the public, communities, and patients that it serves.

2: The policy:

The aim of this policy document is to ensure a clear process is in place to provide assurance that individuals at director-level i.e Executive Directors, Non-Executive Directors, VSMs and AFC band 9 directors at Birmingham & Solihull Mental Health NHS Foundation Trust comply with the Fit and Proper Persons requirements. All Directors, upon appointment will be subject to additional employment checks in ensuring they are a Fit & Proper Person, in line with CQC Regulations, to discharge their duties as a Board Member, VSM or AFC band 9 director.

3: The procedure:

The Fit and Proper Person checks will also be undertaken for the above groups in two ways: - first as part of pre-employment checks and second, via periodical monitoring (i.e. Annually for Board members & VSMs and every two years for all AFC band 9 directors) during the duration of their employment with BSMHFT.

3.1 Pre-Employment Checks:

The Trust will undertake all FPPT checks as part of pre-employment checks prior to making any director-level appointment as set out in this policy, as part of standard NHS Employment Checks and in line with the FPPT checklist in Appendix 2.

Pre-Employment Checks for director-level appointments:

Please note that the Company Secretary will lead on the implementation of pre-employment checks for Board Members & VSMs while the BSMHFT

Recruitment team will be responsible for overseeing pre-employment checks for all AFC band 9 Directors. The FPPT Checklist in Appendix 2 must be followed in implementing FPPT while ensuring every item on it including those set out below is collated, checked, and saved on the appropriate system.

1. Use the board member reference template (Appendix 3) for all new board appointments. Recruitment should send out the template to referees to complete and email back and whilst they hold those for AFC band 9 directors, those for Executive Directors, Non-Executives and VSMs should be forwarded to the Company Secretary.
2. Complete and retain locally on file the new board member reference for any board member, VSM and AFC band 9 director who joins or leaves the board or Trust respectively, for whatever reason and whether or not a reference has been requested.
Board members will be required to complete the New Starter/ Annual FPPT Self-Attestation as part of their pre-employment checks and annually thereafter while VSMs and AFC band 9 directors will complete it as part of their pre-employment checks and every two years thereafter. See appendix 4 for details.
3. Use the new NHS Leadership Competency Framework (LCF) for board members published 28th February 2024 as part of the assessment process when recruiting to all board-level roles and in informing their annual appraisals. (Access via <https://www.england.nhs.uk/publication/nhs-leadership-competency-framework/>)
4. Undertake an annual review for all Board members. See appendix 5 for details.
5. Individual self-attestations to be completed by all Board members, VSMs and AFC band 9 directors periodically for monitoring as set out in 2 above.
6. Annual Self-declaration for Board members and every two years for VSMs and AFC band 9 directors. See appendix 8 for details.
7. In additions to pre-employment checks as per the FPPT Checklist – use Letter of Confirmation for joint appointments (see appendix 6 for details) of board members/VSMs or AFC band 9 directors.
8. Annual submission forms completed to go to the regional director of NHSE Midlands. The Company Secretary will support the Chair in performing this responsibility.
9. ESR database updated accordingly for both BSMHFT staff VSMs and AFC band 9 directors while Board members have the option to either agree for the FPPT information to be held on ESR or on their personal electronic files.

Information on a board member`s file is expected to be held up to their 75th birthday after which such information should be securely and safely destroyed. Please, note that any untoward information which emerges during a regular FPPT check being undertaken once an individual is already in employment or a retrospective application of this Policy, will be managed on a case by case basis with appropriate advice from recruitment.

Implementation of the Enhanced DBS check for Directors will be in line with the Jan 2018 CQC revised guidance for providers reg 5 which makes it explicit for providers to undertake an “enhanced Disclosure and Barring Service (DBS) check for directors to check that they are not on the children’s and / or safeguarding barred list where they meet the eligibility criteria”. However, Executive/Non-Executive Directors are only eligible for such an enhanced DBS check if the role that they take falls within the definition of a “regulated activity” as defined by the Safeguarding Vulnerable Groups Act 2006. Hence, the Trust has put in place the following mitigations to reduce any potential safeguarding risk which may arise: -

- Joint walk around or visits to clinical areas are setup to include NEDs, Governors and EDs.

- The requirement of enhanced DBS checks for EDs and band 9 Directors will be based on their roles (e.g if they are patient-facing or not).
- Regular updating of DBS checks for band 9 Directors, EDs and NEDs.

4: Responsibilities

This should summarise defined responsibilities relevant to the policy.

Post(s)	Responsibilities	Ref
VSMs & AFC band 9 directors	<ul style="list-style-type: none"> • All VSMs & AFC band 9 Directors including contractors, agency and part-time staff at this level are expected to comply with the requirements of the FPPT. • They are thus responsible for notifying recruitment and their relevant line manager should there be any changes to their FPPT during their employment with the Trust. 	
Policy Lead/ Associate Director of Governance	<ul style="list-style-type: none"> • Responsible for ensuring relevant staff fully implement this policy across the Trust. • Responsible for ensuring any changes in guidance from NHSE and the CQC are timely reflected and incorporated in this Policy. 	
Executive Directors	<ul style="list-style-type: none"> • Responsible for ensuring they and their VSMs and AFC band 9 directors (direct reports) are compliant with the FPPT requirements as set out in this policy. 	
Chair of the Board of Directors	<p>Overall, accountability for FPPT arrangements in their organisations and for taking steps to ensure it is effectively implemented.</p> <ul style="list-style-type: none"> • Ensure assessments are carried out for board members on appointment and annually, and at any time that something new comes to light. • Ensure that the Board Member Reference is completed for any board member who leaves for whatever reason, whether or not a reference has been requested. • Conclude on assessments for the whole board (executive, permanent or temporary, voting or non-voting) and update ESR. • Submit annual summary to relevant regional director. 	
SID/Deputy Chair	<ul style="list-style-type: none"> • Carry out FPPT assessment of the chair. 	
HRD/CPO/Recruitment, & Similar roles	<ul style="list-style-type: none"> • Is responsible for ensuring all employment checks are carried out in accordance with this policy and collating the evidence for insertion in personal files. 	

	<ul style="list-style-type: none"> • HRD/CPO and Recruitment are responsible for establishing arrangements for the FPPT covering pre-employment checks for all AFC band 9 directors including contractors, agency and part-time staff at this level. • They are also responsible for continuous monitoring (every two years) of FPPT requirements and compliance for all AFC band 9 directors including contractors, agency and part-time staff at this level throughout the duration of their employment with the Trust. • Undertake self-assessments for all AFC band 9 directors – every two years. 	
Executive Director of Strategy, People & Partnerships	<ul style="list-style-type: none"> • In the event that an Executive Director, a Non-Executive Director, VSM or an AFC band 9 director is at the point of commencing employment or is found whilst employed to be unable to evidence all requirements, the Executive Director of Strategy, People & Partnerships will bring this to the attention of the Chair and Chief Executive for Board level Directors AND VSMS and that of the relevant Executive Director for AFC band 9 directors. 	
Company Secretary	<p>Support the chair in establishing arrangements for the FPPT and specifically for:</p> <ul style="list-style-type: none"> • Accessing and entering information onto ESR. • Testing elements of FPPT assessment and recording outcome and evidence for chair to review and conclude. • Responsible for monitoring and reporting compliance with this policy via annual compliance reports. • Completing the annual submission form. • Oversee the implementation of FPPT for Board members and VSMS including pre-employment checks and periodic monitoring as set out in this Policy. 	
Chief Executive	<ul style="list-style-type: none"> • Carry out initial assessments of the FPPT for executive board members and share with the chair for overall assessment of board members FPP status. • Support the chair. 	
Governors (NHS FTs only)	<ul style="list-style-type: none"> • Take the annual trust submission and other information relating to FPPT into account as part of their role in appointment and removal of chairs and non-executive directors and their 	

	role in receiving information about their performance appraisal process.	
Others e.g. NHS Regional Directors	Oversight role covering elements of:- <ul style="list-style-type: none"> • Appointment and initial FPPT assessment. • Receipt of the annual FPPT Submission forms. • Where required in relation to disputes and appeals. 	

5: Development and Consultation process consisting of:

Consultation summary		
Date policy issued for consultation	22 nd February 2024	
Number of versions produced for consultation	1	
Committees / meetings where policy formally discussed	Date(s)	
Deputy Director of Human Resources	22 nd February 2024	
Company Secretary	22 nd February 2024	
Where received	Summary of feedback	Actions / Response

6: Reference documents

The Care Act 2014
 The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
 The Health and Social Care Act 2008 (Regulated Activities) (Amendment Regulations 2015.
 Companies Act 2006
 NHS Employment Check Standards (NHS Employers)
 Standards of conduct, performance and ethics (Health and Care Professions Council)
 The seven principals of public life (Committee on standards for public life)
[CQC Guidance - Fit and proper persons: directors](#)
 NHS England fit and proper person test framework for board members accessible via
[NHS England » NHS England fit and proper person test framework for board members](#)

Related BSMHFT Documents:

Recruitment and Selection Policy
 Overarching Fitness to Practice Policy (HR 21)
 Professional Registration Verification and Monitoring Policy (HR 05)

7: Bibliography:

Care Quality Commission: Guidance for Providers: Fit and Proper Persons: Directors.
 NHSE Fit and Proper Person Test Framework for board members

8: Glossary consisting of:

CQC: Care Quality Commission
 CoG: Council of Governor
 FPPT: Fit & Proper Person Test
 VSM: Very Senior Manager

9: Audit and assurance consisting of:

Element to be monitored	Lead	Tool	Frequency	Oversight Committee
Compliance for all Board members & VSMs.	Company Secretary	Desktop Review of FPPT Documentation	Annually	FPP, People Committee, CoG, Audit Committee & Board.
Compliance for all Band 9 Directors.	Head of Recruitment	Desktop Review of FPPT Documentation	Every two years.	People Committee, CoG, Audit Committee & Board.
External Reporting to NHSE Regional Director				
Annual compliance via NHSE Annual Submission Reports	Chair of the Board of Directors (with support from the Company secretary)	Completion of the NHSE Annual Submission Template	Annually	NHSE Regional Director

10. Appendices consisting of:

- Appendix 1 must be the equality assessment.**
- Appendix 2: FPPT Checklist**
- Appendix 3: Template Board Member Reference Form.**
- Appendix 4: New Starter & Annual NHS FPPT Self-Attestation for Board members/AFC band 9 Directors)**
- Appendix 5: Annual NHS FPPT submission Reporting Template (for board members only)**
- Appendix 6: Letter of Confirmation for Joint Board Appointments.**
- Appendix 7: CQC Guidance on Regulation 5**
- Appendix 8: EDs/NEDs/VSMs/AFC band 9 Directors - Self-Declaration form.**

Appendix 1

Equality Analysis Screening Form

A word version of this document can be found on the HR support pages on Connect
<http://connect/corporate/humanresources/managementsupport/Pages/default.aspx>

Title of Policy	Fit & Proper Persons Policy		
Person Completing this policy	AD Corporate Governance	Role or title	
Division	Corporate Governance	Service Area	
Date Started	22 nd February 2024	Date completed	22 nd February 2024
Main purpose and aims of the policy and how it fits in with the wider strategic aims and objectives of the organisation.			
To adhere to regulations which require members of the Board of Directors and a/c staff (Directors) from band 9 and above to undergo specific checks in relation to their ongoing suitability for their role.			
Who will benefit from the policy?			
The Trust by ensuring Board Members and a/c staff (Directors) from band 9 and above are fit for their roles.			
Does the policy affect service users, employees or the wider community? <i>Add any data you have on the groups affected split by Protected characteristic in the boxes below. Highlight how you have used the data to reduce any noted inequalities going forward</i>			
The Policy may indirectly affect service users, however, it will directly affect a small group of staff- band 9 directors, EDs and NEDs.			
Does the policy significantly affect service delivery, business processes or policy? <i>How will these reduce inequality?</i>			
N/A			
Does it involve a significant commitment of resources? <i>How will these reduce inequality?</i>			
N/A			

Does the policy relate to an area where there are known inequalities? (e.g. seclusion, accessibility, recruitment & progression)				
N/A				
Impacts on different Personal Protected Characteristics – Helpful Questions:				
<i>Does this policy promote equality of opportunity? Eliminate discrimination? Eliminate harassment? Eliminate victimisation?</i>			<i>Promote good community relations? Promote positive attitudes towards disabled people? Consider more favourable treatment of disabled people? Promote involvement and consultation? Protect and promote human rights?</i>	
Please click in the relevant impact box and include relevant data				
Personal Protected Characteristic	No/Minimum Impact	Negative Impact	Positive Impact	Please list details or evidence of why there might be a positive, negative or no impact on protected characteristics.
Age	X			It is anticipated that age will not have an impact in terms of discrimination as this policy ensures that the staff group who are affected by this policy should be treated in a fair, reasonable and consistent manner irrespective of their age.
Including children and people over 65 Is it easy for someone of any age to find out about your service or access your policy? Are you able to justify the legal or lawful reasons when your service excludes certain age groups				
Disability	X			It is anticipated that disability will not have an impact in terms of discrimination as this policy ensures that the staff group who are affected by this policy should be treated in a fair, reasonable and consistent manner irrespective of any disclosed disability. The Trust have the Disability and Neuro Diversity Staff Network Group who currently support staff with disability. We also support staff with Reasonable adjustment with the Government 'Access to Work' Grant. This is dependent if the individual feel comfortable about being open about their disability especially where this may be a

				hidden disability or mental health issues. The current WDES is showing the Trust is ranked in the top 10% nationally in Recruitment and Reporting of harassment, bullying and abuse.
Including those with physical or sensory impairments, those with learning disabilities and those with mental health issues Do you currently monitor who has a disability so that you know how well your service is being used by people with a disability? Are you making reasonable adjustment to meet the needs of the staff, service users, carers and families?				
Gender	X			It is anticipated that gender will not have an impact in terms of discrimination as this policy ensures that the staff group who are affected by this policy should be treated in a fair, reasonable and consistent manner irrespective of their gender identity. Currently gender is collated and there is a disparity around gender pay gap overall with an increase from 6.99% to 11.17%. The Trust has now set up a Women's Network and Men's Network who meet on a monthly basis
This can include male and female or someone who has completed the gender reassignment process from one sex to another Do you have flexible working arrangements for either sex? Is it easier for either men or women to access your policy?				
Marriage or Civil Partnerships	X			It is anticipated that marriage or civil partnership will not have an impact in terms of discrimination as this policy ensures that the staff group who affected by this policy should be treated in a fair, reasonable and consistent manner irrespective of their marriage or civil partnership. This is dependent on staff feeling comfortable about being open about their Marriage or Civil Partnership
People who are in a Civil Partnerships must be treated equally to married couples on a wide range of legal matters Are the documents and information provided for your service reflecting the appropriate terminology for marriage and civil partnerships?				
Pregnancy or Maternity	X			It is anticipated that pregnancy and maternity will not have an impact in terms of discrimination as this policy ensures that the staff group who are affected by this policy should be treated in a fair,

				reasonable and consistent manner irrespective of this. However, the Trust will provide necessary support and reasonable adjustment for an employee who is pregnant or on maternity, paternity or adoption leave and this may be pausing the procedure for a temporary time. This is dependent on staff feeling comfortable about being open about their or their partners pregnancy, including miscarriage. We also have started the Women's Network where these matters can be discussed and shared there.
<p>This includes women having a baby and women just after they have had a baby</p> <p>Does your service accommodate the needs of expectant and post natal mothers both as staff and service users?</p> <p>Can your service treat staff and patients with dignity and respect relation in to pregnancy and maternity?</p>				
Race or Ethnicity	X			The Trust is working towards a Anti Racist organisation and will be launching the Anti Racist Framework. It is anticipated that Race or Ethnicity will not have an impact in terms of discrimination as this policy ensures that the staff group who are affected by this policy should be treated in a fair, reasonable and consistent manner irrespective of this. We also have the Race Equity Network and Anti Racist Campaign to support those who are facing racial discrimination.
<p>Including Gypsy or Roma people, Irish people, those of mixed heritage, asylum seekers and refugees</p> <p>What training does staff have to respond to the cultural needs of different ethnic groups?</p> <p>What arrangements are in place to communicate with people who do not have English as a first language?</p>				
Religion or Belief	X			Although this is a protected characteristic, we have some recorded data and this is subject to staff completing this. The Trust will provide necessary support and reasonable adjustment for employees and we also have the Spiritual Care Team. It is anticipated that religion or belief will not have an impact in terms of discrimination as this policy ensures that the staff group who are affected by this policy should be treated in a fair, reasonable and

				consistent manner irrespective of this. This is also dependent on staff feeling comfortable about being open about their religion or belief.
Including humanists and non-believers Is there easy access to a prayer or quiet room to your service delivery area? When organising events – Do you take necessary steps to make sure that spiritual requirements are met?				
Sexual Orientation	X			Although this is a protected characteristic we have some recorded data and this is subject to staff completing this. We currently have LGBTQ Staff Network who meet regularly where information is shared. It is anticipated that sexual orientation will not have a negative impact in terms of discrimination as this policy ensures that the staff group who are affected by this policy should be treated in a fair discrimination, reasonable and consistent manner irrespective of this. The Trust has also launched the LGBTQ+ campaign to support staff and training.
Including gay men, lesbians and bisexual people Does your service use visual images that could be people from any background or are the images mainly heterosexual couples? Does staff in your workplace feel comfortable about being 'out' or would office culture make them feel this might not be a good idea?				
Transgender or Gender Reassignment	X			Although this is a protected characteristic, this is not recorded. It is anticipated that Transgender or Gender Reassignment will not have an impact in terms of discrimination as this policy ensures that the staff group who are affected by this policy should be treated in a fair discrimination, reasonable and consistent manner irrespective of this. This is also dependent on staff feeling comfortable about being open about their being Transgender or undergoing Gender Reassignment. The Trust is currently offering Trans Awareness training to support staff.
This will include people who are in the process of or in a care pathway changing from one gender to another Have you considered the possible needs of transgender staff and service users in the development of your policy or service?				

Human Rights	X			<p>This policy is written to promote equality and remove any discrimination to ensure that everyone can fulfil their full potential within a Trust that is inclusive, compassionate, and committed. This is keeping in line with our Trust values, the NHS People’s Plan commitment to equality, diversity and inclusion and reflects the provisions of the Equality Act 2010.</p> <p>This policy applies to all, including applicants applying for a job, staff including agency, bank and volunteers, services users and carers, visitors, stakeholders, an any other third-party organisations who work in partnership with the Trust</p>
<p>Affecting someone’s right to Life, Dignity and Respect? Caring for other people or protecting them from danger? The detention of an individual inadvertently or placing someone in a humiliating situation or position?</p>				
<p>If a negative or disproportionate impact has been identified in any of the key areas would this difference be illegal / unlawful? I.e. Would it be discriminatory under anti-discrimination legislation. (The Equality Act 2010, Human Rights Act 1998)</p>				
	Yes	No		
What do you consider the level of negative impact to be?	High Impact	Medium Impact	Low Impact	No Impact
				X
<p>If the impact could be discriminatory in law, please contact the Equality and Diversity Lead immediately to determine the next course of action. If the negative impact is high a Full Equality Analysis will be required.</p> <p>If you are unsure how to answer the above questions, or if you have assessed the impact as medium, please seek further guidance from the Equality and Diversity Lead before proceeding.</p>				

If the policy does not have a negative impact or the impact is considered low, reasonable or justifiable, then please complete the rest of the form below with any required redial actions, and forward to the **Equality and Diversity Lead**.

Action Planning:

How could you minimise or remove any negative impact identified even if this is of low significance?

Discussions took place with colleagues in the development of this policy.
EDI Leads will work with the organisation to reduce impact of any detriment experienced by reports of concerns

How will any impact or planned actions be monitored and reviewed?

Via the Board and Board Committees.
Feedback from reporters of concerns, escalating concerns through governance routes.
Regular audits and policy updates

How will you promote equal opportunity and advance equality by sharing good practice to have a positive impact other people as a result of their personal protected characteristic.

This is not relevant. The policy is applicable to all members of the Board and afc band 9 (Directors) staff and above regardless of their personal protected characteristics.

Please save and keep one copy and then send a copy with a copy of the policy to the Senior Equality and Diversity Lead at bsmhft.edi.queries@nhs.net. The results will then be published on the Trust's website. Please ensure that any resulting actions are incorporated into Divisional or Service planning and monitored on a regular basis

Appendix 2: FPPT checklist

FPPT Area	Record in ESR	Local evidence folder	Recruitment Test	Annual Test	ED	NED	Source	Notes
First Name	✓	✓	✓	x – unless change	✓	✓	Application and recruitment process.	Recruitment team to populate ESR. For NHS-to-NHS moves via ESR / InterAuthority Transfer/ NHS Jobs. For non-NHS – from application – whether recruited by NHS England, in-house or through a recruitment agency.
Second Name/Surname	✓	✓	✓	x – unless change	✓	✓		
Organisation (ie current employer)	✓	x	✓	N/A	✓	✓		
Staff Group	✓	x	✓	x – unless change	✓	✓		
Job Title Current Job Description	✓	✓	✓	x – unless change	✓	✓		
Occupation Code	✓	x	✓	x – unless change	✓	✓		
Position Title	✓	x	✓	x – unless change	✓	✓		
Employment History Including: <ul style="list-style-type: none"> • job titles • organisation/ departments • dates and role descriptions • gaps in employment 	✓	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.

FPPT Area	Record in ESR	Local evidence folder	Recruitment Test	Annual Test	ED	NED	Source	Notes
Training and Development	✓	✓	✓	✓	✓	*	<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 however far back that may be.</p>
References Available references from previous employers	✓	✓	✓	x	✓	✓	Recruitment process	Including references where the individual resigned or retired from a previous role
Last Appraisal and Date	✓	✓	✓	✓	✓	*	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.

FPPT Area	Record in ESR	Local evidence folder	Recruitment Test	Annual Test	ED	NED	Source	Notes
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Disciplinary Findings 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 system as appropriate.	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 investigations, upheld findings and discontinued investigations that are relevant to FPPT. This question is applicable to board members recruited both from inside and outside the NHS.
Grievance against the board member	✓	✓	✓	✓	✓	✓		
Whistleblowing claim(s) against the board member	✓	✓	✓	✓	✓	✓		
Behaviour not in accordance with organisational values and behaviours or related local policies	✓	✓	✓	✓	✓	✓		
Type of DBS Disclosed	✓	✓	✓	✓	✓	✓	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.
Date DBS Received	✓	✓	✓	✓	✓	✓	ESR	
Date of Medical Clearance* (including confirmation of OHA)	✓	X	✓	X – unless change	✓	✓	Local arrangements	
Date of Professional Register Check (eg membership of professional bodies)	✓	X	✓	✓	✓	X	e.g. NMC, GMC, accountancy bodies.	

FPPT Area	Record in ESR	Local evidence folder	Recruitment Test	Annual Test	ED	NED	Source	Notes
Insolvency Check	✓	✓	✓	✓	✓	✓	Bankruptcy and Insolvency register	Keep a screenshot of check as local evidence of check completed.
Disqualified Directors Register Check	✓	✓	✓	✓	✓	Companies House		
Disqualification from being a Charity Trustee Check	✓	✓	✓	✓	✓	Charities Commission		
Employment Tribunal Judgement Check	✓	✓	✓	✓	✓	Employment Tribunal Decisions		
Social Media Check	✓	✓	✓	✓	✓	✓	Various – Google, Facebook, Instagram, etc.	Any negative information which emerges from a social media search that may make someone`s appointment untenable will be weighed on its merit and HR advice sought .
Self-Attestation Form Signed	✓	✓	✓	✓	✓	✓	Template self-attestation form	Appendix 3 in Framework
Sign-off by Chair/CEO	✓	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								
Board Member Reference	✓	✓	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.
Letter of Confirmation	x	✓	✓	✓	✓	✓	Template	For joint appointments only - Appendix 4 in Framework.
Annual Submission Form	x	✓	✓	✓	✓	✓	Template	Annual summary to Regional Director - Appendix 5 in Framework.

FPPT Area	Record in ESR	Local evidence folder	Recruitment Test	Annual Test	ED	NED	Source	Notes
Privacy Notice	x	✓	x	x	✓	✓	Template	Board members should be made aware of the proposed use of their data for FPPT – Example in Appendix 6.
Settlement Agreements	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.

Appendix 3: Board member /VSM//AFC band 9 Directors reference template

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/VSM/ AFC band 9 Director 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]

<p>Board Member/VSMs & AFC band 9 Directors 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.</p>		
1. Name of the applicant (1)		
2. National Insurance number or date of birth		
<p>3. Please confirm employment start and termination dates in each previous role <i>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)</i> <i>B: (As part of exit reference and all relevant information held in ESR under Employment History to be entered)</i></p>		
<p><u>Job Title:</u> <u>From:</u> <u>To:</u></p> <p>Job Title <u>From:</u> <u>To:</u></p> <p>Job Title: <u>From:</u> <u>To:</u></p> <p>Job Title: <u>From:</u> <u>To:</u></p> <p>Job Title: <u>From:</u> <u>To:</u></p>		
<p>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): <i>(This is for Executive Director board positions only, for a Non-Executive Director, please just confirm current job title)</i></p>		
<p>5. Please confirm Applicant remuneration in current role <i>(this question only applies to Executive Director board positions applied for)</i></p>	<p><u>Starting:</u></p>	<p><u>Current:</u></p>
<p>6. Please confirm all Learning and Development undertaken during employment: <i>(this question only applies to Executive Director board positions applied for)</i></p>		

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? <i>(only applicable if being requested after a conditional offer of employment)</i>	<u>Days Absent:</u>	<u>Absence Episodes:</u>
8. Confirmation of reason for leaving:		
9. Please provide details of when you last completed a check with the Disclosure and Barring Service (DBS) <small>(This question is for Executive Director appointments and non-Executive Director appointments where they are already a current member of an NHS Board)</small>		
Date DBS check was last completed.	Date	
Please indicate the level of DBS check undertaken (basic/standard/enhanced without barred list/or enhanced with barred list)	Level	
If an enhanced with barred list check was undertaken, please indicate which barred list this applies to	Adults <input type="checkbox"/>	Children <input type="checkbox"/>
	Both <input type="checkbox"/>	
10. Did the check return any information that required further investigation?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please provide a summary of any follow up actions that need to/are still being actioned:		
11. Please confirm if all annual appraisals have been undertaken and completed <small>(This question is for Executive Director appointments and non-Executive Director appointments where they are already a current member of an NHS Board)</small>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Please provide a summary of the outcome and actions to be undertaken for the last 3 appraisals:		

<p>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)?</p> <p>(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)</p>	<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
<p>If yes, please provide a summary of the position and (where relevant) any findings and any remedial actions and resolution of those actions:</p>		
<p>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:</p> <ul style="list-style-type: none"> • Criminal convictions for offences leading to a sentence of imprisonment or incompatible with service in the NHS • Dishonesty • Bullying • Discrimination, harassment, or victimisation • Sexual harassment • Suppression of speaking up • Accumulative misconduct <p>(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)</p>	<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
<p>If yes, please provide a summary of the position and (where relevant) any findings and any remedial actions and resolution of those actions:</p>		
<p>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)</p> <p><u>Regulation 5: Fit and proper persons: directors - Care Quality Commission (cqc.org.uk)</u></p> <p><u>The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (legislation.gov.uk)</u></p>		

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 4: New Starter & Annual NHS FPPT Self-Attestation for Board members/VSMs/AFC band 9 Directors)

Every board member should complete this Self-Attestation template annually and submit to the Company Secretary on behalf of the Board chair.

However, VSMs/AFC band 9 directors should complete this form every two years and submit to the Company Secretary for VSMs while AFC band 9 directors should submit theirs to Recruitment to share with the relevant Executive Director.

This document will also need to be completed as part of pre-employment checks and thereafter as set out above.

Fit and Proper Person Test annual/new starter* self-attestation

Birmingham and Solihull Mental Health 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, any 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):	
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:	

***Delete as appropriate.**

Appendix 5: Annual NHS FPPT submission Reporting Template (For Board Members only)

NAME OF ORGANISATION	NAME OF CHAIR	FIT AND PROPER PERSON TEST PERIOD / DATE OF AD HOC TEST:

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

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 Birmingham and Solihull Mental Health Foundation Trust - [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:				

Appendix 6: Letter of Confirmation for Joint Appointments.

The following wording is given as an example. It may not be applicable in every case and may consequently need addition or amendment. For example, a confirmation at the time of initial appointment may be different to the annual core testing.

[LEAD EMPLOYING ORGANISATION¹ LETTERHEAD]

[DATE]

Dear [CHAIR NAME²],

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, e.g. 2023/24] as at [date of conclusion of annual³ 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 organisation which holds the contract/employs the board member who works jointly across more than one organisation.

² This is the name of the chair of the other organisation that the joint board appointment is made with.

³ 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: CQC GUIDANCE ON REGULATION 5

Component of the regulation	Providers must have regard to the following guidance
<p>5(1) This regulation applies where a service provider is a body other than a partnership</p>	<ul style="list-style-type: none"> This regulation applies to all providers that are not individuals or partnerships.
<p>5(2) Unless the individual satisfies all the requirements set out in paragraph (3), a service provider must not appoint or have in place an individual—</p> <p>(a) as a director of the service provider, or</p> <p>(b) performing the functions of, or functions equivalent or similar to the functions of a director.</p> <p>(c)</p>	<ul style="list-style-type: none"> For NHS bodies it applies to executive and non-executive, permanent, interim and associate positions, irrespective of their voting rights. The requirement will also apply to equivalent director posts in other providers, including trustees of charitable bodies and members of the governing bodies of unincorporated associations. Where a local authority is a provider, the regulations will not apply to elected members as they are accountable through a different route.
<p>5(3)(a) the individual is of good character</p>	<ul style="list-style-type: none"> When assessing whether a person is of good character, providers must follow robust processes to make sure that they gather all available information to confirm that the person is of good character, and they must have regard to the matters outlined in Schedule 4, Part 2 of the regulations. It is not possible to outline every character trait that a person should have, but we would expect to see that the processes followed take account of a person's honesty, trustworthiness, reliability and respectfulness. If a provider discovers information that suggests a person is not of good character after they have been appointed to a role, the provider must take appropriate and timely action to investigate and rectify the matter. Where a provider considers the individual to be suitable, despite existence of information relevant to issues identified in Schedule 4, Part 2, the provider's reasons should be recorded for future reference and made available.

Component of the regulation	Providers must have regard to the following guidance
<p>5(3)(b) the individual has the qualifications, competence, skills and experience which are necessary for the relevant office or position or the work for which they are employed,</p>	<ul style="list-style-type: none"> • Where providers consider that a role requires specific qualifications, they must make this clear and should only appoint those candidates who meet the required specification, including any requirements to be registered with a professional regulator. • Providers must have appropriate processes for assessing and checking that the candidate holds the required qualifications and has the competence, skills and experience required, (which may included appropriate communication and leadership skills and a caring and compassionate nature) to undertake the role. These must be followed in all cases and relevant records kept. • We expect all providers to be aware of, and follow, the various guidelines that cover value-based recruitment, appraisal and development, and disciplinary action, including dismissal for chief executives, chairs and directors, and to have implemented procedures in line with the best practice. This includes the seven principles of public life (Nolan principles).
<p>5(3)(c) the individual is able by reason of their health, after reasonable adjustments are made, of properly performing tasks which are intrinsic to the office or position for which they are appointed or to the work for which they are employed,</p>	<ul style="list-style-type: none"> • This aspect of the regulation relates to a person's ability to carry out their role. This does not mean that people who have a long-term condition, a disability or mental illness cannot be appointed. When appointing a person to a role, providers must have processes for considering their physical and mental health in line with the requirements of the role. • All reasonable steps must be made to make adjustments for people to enable them to carry out their role. These must be in line with requirements to make reasonable adjustments for employees under the Equality Act 2010.

Component of the regulation	Providers must have regard to the following guidance
<p>5(3)(d) the individual has not been responsible for, been privy to, contributed to or facilitated, any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity, and</p>	<ul style="list-style-type: none"> • Providers must have processes in place to assure themselves that a person has not been responsible for, privy to, contributed to, or facilitated any serious misconduct or mismanagement in the carrying on of a regulated activity. This includes investigating any allegation of such and making independent enquiries. • Providers must not appoint any person who has been responsible for, privy to, contributed to, or facilitated any serious misconduct or mismanagement (whether lawful or not) in the carrying on of a regulated activity. • A director may be implicated in a breach of a health and safety requirement or another statutory duty or contractual responsibility because of how the entire management team organised and managed its organisation's activities. In this case, providers must establish what role the director played in the breach so that they can judge whether it means they are unfit. If the evidence shows that the breach is attributable to the director's conduct, CQC would expect the provider to find that they are unfit. • Although providers have information on when convictions, bankruptcies or similar matters are to be considered 'spent' there is no time limit for considering serious misconduct or responsibility for failure in a previous role.

Component of the regulation	Providers must have regard to the following guidance
<p>5(3)(e) none of the grounds of unfitness specified in Part 1 of Schedule 4 apply to the individual.</p>	<ul style="list-style-type: none"> • A person 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 must be subject to a check by the Disclosure and Barring Service (DBS). • Providers must seek all available information to assure themselves that directors do not meet any of the elements of the unfit person test set out in Schedule 4 Part 1. Robust systems should be in place to assess directors in relation to bankruptcy, sequestration, insolvency and arrangements with creditors. In addition, where a director meets the eligibility criteria, providers should establish whether the person is on the children's and/or adults safeguarding barred list and whether they are prohibited from holding the office in question under other laws such as the Companies Act or Charities Act. • If a provider discovers information that suggests an individual is unfit after they have been appointed to a role, the provider must take appropriate and timely action to investigate and rectify the matter.
<p>5(6) Where an individual who holds an office or position referred to in paragraph (2)(a) or (b) no longer meets the requirements in paragraph (3), the service provider must—</p> <p>(a) take such action as is necessary and proportionate to ensure that the office or position in question is held by an individual who meets such requirements, and</p> <p>(b) if the individual is a health care professional, social worker or other professional registered with a health care or social care regulator, inform the regulator in question.</p>	<ul style="list-style-type: none"> • Providers must assess and regularly review the fitness of directors to ensure that they remain fit for the role they are in. Providers must determine how often to review fitness based on the assessed risk to business delivery and/or to the people using the service posed by the individual and/or role. • Providers must have arrangements in place to respond to concerns about a person's fitness in relation to Regulation 5(3) and (4) after they have been appointed to a role, which either they or others have identified, and providers must adhere to these arrangements. • Providers must investigate, in a timely manner, any concerns about a person's fitness or ability to carry out their duties, and where concerns are substantiated, they must take proportionate, timely action. Where a person's fitness to carry out their role is being investigated, appropriate interim measures may be required to minimise any risk to people who use the service.

Appendix 8: Executive Directors/Non-Executive Directors, VSMs & AFC band 9 Directors - Self-Declaration form

On 20th November 2014 the Care Quality Commission (CQC) published guidance on the fit and proper person requirements and duty of candour which came into force for all NHS providers from 27th November 2014. These regulations play a major part in ensuring the accountability of directors (executive, non-executive, permanent, interim and associate positions, irrespective of voting rights and VSMs/AFC band 9 directors) of NHS bodies and outline the requirements for robust recruitment and employment processes for board level appointments. As part of the assurance against the new Fit and Proper Person requirements for new and existing board members, VSMs and AFC band 9, you are required to answer the following questions, sign, date and return.

STATEMENT	YES	NO
Have you got the qualifications, competency, skills and experience which are necessary for your current position at BSMHFT?		
Are you able by reason of health (after reasonable adjustments are made) of properly performing tasks which are intrinsic to the office or position for which you are employed at SFHFT		
Have you 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 activity or providing a service elsewhere which, if provided in England would be a regulated activity		
<p>Have you been subject of any of the following:</p> <ul style="list-style-type: none"> • undischarged bankrupt or a person whose estate has had sequestration awarded in respect of it and who has not been discharged. • subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order or an order to like effect made in Scotland or Northern Ireland. • a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986. • a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it. • included in the children's barred list or the adults' barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006, or in any corresponding list maintained under an equivalent enactment in force in Scotland or Northern Ireland. • prohibited from holding the relevant office or position, or in the case of an individual from carrying on the regulated activity, by or under any enactment. 		
Have you been convicted in the United Kingdom of any offence or been convicted elsewhere of any offence which, if committed in any part of the United Kingdom, would constitute an offence?		
Have you been erased, removed or struck-off a register of professionals maintained by a regulator of health care or social work professionals?		
Have you ever been found not to be a fit and proper person for the purposes of Regulation 5		

As a Director, it is also recommended that you also familiarise yourself with the Trust's Constitution and also the NHS Foundation Trust Code of Governance, as these are the Trust's core governance documents with which the Board of Directors and Council of

Governors are expected to comply. Corporate Services office will also offer support and advice as appropriate.

I hereby agree that the above is accurate.

Name

Position

Signed

Date