

Cover Sheet

Public Trust Board Meeting: Wednesday 10 May 2023

TB2023.56

Title: Fit and Proper Persons Annual Assurance – 2022/23

Status: For Information

History: None

Board Lead: Chief People Officer

Author: Laura Bick, Acting Director of Workforce

Confidential: No

Key Purpose: Assurance

Executive Summary

1. Following the introduction of regulatory standards in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, the Trust has an obligation to ensure that only individuals fit for their role are employed. Relevant staff are therefore required to meet the 'Fit and Proper Persons Test' both upon appointment and on an annual basis.
2. The Trust's Fit and Proper Persons Policy requires the Director of Workforce or nominated deputy to perform an annual review of compliance on behalf of the Trust Chair and for an annual assurance report to be submitted to the Board. This assurance report covers the period September 2022 to September 2023.
3. All Directors of the Trust Board satisfy the requirements of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 Fit and Proper Persons Test.

Recommendations

4. The Trust Board is asked to:
 - a. Note the content of this paper; and
 - b. Record that the Fit and Proper Persons Test has been conducted for the period September 2022 to September 2023 and that all Board members satisfy the requirements.

Fit and Proper Persons Annual Assurance – 2022/23

1. Purpose

- 1.1. The purpose of this paper is to provide annual assurance that all Board directors remain fit and proper for their roles.

2. Background

- 2.1. As a health provider, the Trust has an obligation to ensure that only individuals fit for their role are employed. Following the introduction of regulatory standards in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, the Trust must ensure that all Board directors meet the 'Fit and Proper Persons Test'.

- 2.2. The Trust's Fit and Proper Persons Policy specifies the scope of the staff who are included as:

“Section 2. All executive and non-executive directors of the Board, including permanent, interim and associate positions, irrespective of their voting rights. It also applies to individuals who are acting up into Board level positions.”

- 2.3. The Policy requires a full Fit and Proper Person Test to be completed on appointment. It also requires ongoing assurance as follows:

“Section 26. The fitness of directors will be reviewed on an annual basis so that the Chairman is assured that all directors remain fit and proper for their roles. All checks will be overseen by the Director of Workforce or their nominated deputy. An annual appraisal process will also be carried out.

Section 27. Relevant directors and employees will be required to complete and sign an annual self-declaration (contained in Appendix 3), which will be retained on their personal file.”

- 2.4. The Director of Workforce or nominated deputy will perform an annual review of compliance on behalf of the Trust Chair and for an annual assurance report to be submitted to the Board.

3. Fit and Proper Person: New Appointment and Annual Assurance Checks

- 3.1. All new appointments are subject to a full Fit and Proper Persons Test that includes:

- Standard employment checks as per the Trust's Recruitment and Selection Procedure and NHS Employers Check Standards.

- For 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 (as amended) this will also include an enhanced Disclosure and Barring Service (DBS) check.
- Additional checks upon which appointment/employment will be conditional include:
 - search of insolvency and bankruptcy register;
 - search of Companies House register to ensure that no Board member is disqualified as a director;
 - search of the Charity Commission’s Register of Removed Trustees;
 - a web search of the individual and
 - satisfactory completion of the ‘Fit and Proper Person Self-Declaration Form’.

3.2. The annual assurance check consists of the following:

- Satisfactory completion of the Fit and Proper Persons Test Self Declaration Form – Annual Declaration for Directors in Post.
- Search of insolvency and bankruptcy register.
- Search of Companies House register to ensure that no Board member is disqualified as a director.
- Search of the Charity Commission’s Register of Removed Trustees.
- Confirmation that Directors remain on the relevant professional register.

4. Outcome of the Annual Fit and Proper Persons Checks

- 4.1. In October/November 2022 and March 2023 (dependent upon employment start date) the Board of Directors completed the Fit and Proper Persons Test Self Declaration Form – Annual Declaration for Directors in Post.
- 4.2. The Director of Workforce reviewed the signed declarations and the outcome of the checks and determined that the Directors continued to meet the requirements of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 Fit and Proper Persons Test.
- 4.3. The completed declarations and the outcome of the searches have been saved on each personal file and will be reviewed again, starting in September 2023, or a year from commencement.
- 4.4. Each Director is responsible for identifying any issues which may affect their ability to meet the statutory requirements and bringing these issues on an ongoing basis and without delay to the attention of the Director of Workforce or the Trust Chair.

5. Conclusion

5.1. All current Directors of the Trust Board satisfy the requirements of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 Fit and Proper Persons Test.

6. Recommendations

6.1. The Trust Board is asked to:

6.1.1. Note the content of this paper; and

6.1.2. Record that the Fit and Proper Persons Test has been conducted for the period September 2022 to September 2023 and that all Board members satisfy the requirements.