<table>
<thead>
<tr>
<th>Title</th>
<th>Fit and Proper Persons Policy</th>
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</thead>
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<tr>
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<td>A policy for approval</td>
</tr>
<tr>
<td>History</td>
<td>Annual review</td>
</tr>
<tr>
<td>Board Lead(s)</td>
<td>Dame Fiona Caldicott, Chairman</td>
</tr>
<tr>
<td></td>
<td>John Drew, Director of Improvement and Culture</td>
</tr>
<tr>
<td>Key purpose</td>
<td>Strategy</td>
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### Executive Summary

1. The purpose of this paper is to present to the Trust Board the updated Trust's Fit and Proper Persons Policy, following its recent review.

2. The current Fit and Proper Persons Policy was last approved by the Trust Board in November 2017 with a 12 month review date.

3. The Policy enables the Trust to meet its obligations under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

4. The Policy has been reviewed and updated to take into account the ‘Guidance for Providers and CQC Inspectors’ published by the CQC earlier this year and includes further information about misconduct and mismanagement along with more information about the process to be followed upon identification or notification of an issue or concern.

5. **Recommendation**
   Trust Board is asked to approve the Fit and Proper Persons Policy provided at Annex A.
Fit and Proper Persons Policy

1. Purpose
   1.1. The purpose of this paper is to present to the Trust Board the Trust’s Fit and Proper Persons Policy, following its recent review.

2. Background
   2.1. The Fit and Proper Persons Policy was last approved by the Trust Board in November 2017 with a 12 month review date.
   2.2. In line with this review date the Policy has been reviewed and incorporates the following changes.

3. Summary of Amendments
   3.1. The policy has been reviewed and updated to take into account the ‘Guidance for Providers and CQC Inspectors’ published by the CQC earlier this year, along with guidance published by NHS Providers. This includes the addition of further information about misconduct and mismanagement (based on the recent guidance published by the CQC).
   3.2. Further information has been provided on the process to be followed upon identification or notification of a concern/issue.
   3.3. A shorter Fit and Proper Persons Declaration Form to be used by directors in post as part of the annual declaration process has been developed (previously both directors in post and applicants to director roles were required to complete the same declaration form).
   3.4. The Policy has also been updated to make reference to the General Data Protection Regulations.
   3.5. The policy has also been reviewed by the Trust’s solicitors to ensure legal compliance.

4. Conclusion
   4.1. This Policy enables the Trust to discharge its obligations under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

5. Recommendation
   5.1. Trust Board is asked to approve the Fit and Proper Persons Policy provided at Annex A.

Author: Anna Strange, HR Manager – Policies and Procedures
Executive Sponsor: John Drew, Director of Improvement and Culture
November 2018
### Fit and Proper Persons Policy

<table>
<thead>
<tr>
<th>Category:</th>
<th>Policy</th>
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<tr>
<td>Summary:</td>
<td>The policy provides a framework for ensuring the Trust meets its statutory obligations with regards to fit and proper persons.</td>
</tr>
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<td>Equality Impact Assessment undertaken:</td>
<td>August 2018</td>
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<td>Date of Board approval (tbc)</td>
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| Related Documents: | Care Quality Commission - Regulation 5: Fit and Proper Persons: Directors  
Constitution for Oxford University Hospitals NHS Foundation Trust  
Disciplinary Procedure  
Disclosure and Barring Service Checks Policy  
Freedom to Speak Up - Raising Concerns (Whistleblowing) Policy  
Recruitment and Selection Procedure |
| Author(s):        | HR Manager – Policies and Procedures |
| Further Information: | Director of Workforce |
| This Document replaces: | Fit and Proper Persons Policy November 2017 |

**Lead Director:** Director of Workforce  
**Issue Date:** Tbc
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<td>Appendix 3 – Fit and Proper Persons Test Self-Declaration Form - Annual Declaration for Directors in Post</td>
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<tr>
<td>Appendix 5 – Fit and Proper Persons Requirements – New Applicants Employment Checklist</td>
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</tr>
</tbody>
</table>
Introduction

1. As a health service provider, Oxford University Hospitals NHS Foundation Trust (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 “Regulations”) (as amended) the Trust must now ensure that all director level appointments meet the ‘Fit and Proper Persons Test’.

Scope

2. This Policy applies to 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.

Aim

3. The purpose of this Policy is to:
   3.1. define the minimum standards for determining the fitness and propriety of individuals on appointment and on an ongoing basis to serve in their respective positions within the Trust;
   3.2. define the individuals and/or roles to which this Policy applies;
   3.3. outline the evidence required to demonstrate compliance with the regulations;
   3.4. describe the procedures in relation to the Policy.

Responsibilities

4. It is the responsibility of the Chairman to discharge the requirement placed on the Trust, to ensure that all directors satisfy the requirements of the Fit and Proper Persons Test, both on appointment and on an ongoing basis, and to provide an annual report to the Board.

5. The Director of Workforce is responsible for:
   5.1. ensuring consistent application of the policy during the appointment process and ensuring that all appropriate documentation is completed, retained and available to the Care Quality Commission for inspection on request;
   5.2. maintaining the records of completed Fit and Proper Person declarations and managing the annual declaration process to ensure assurance of the ongoing fitness of directors;
   5.3. ensuring all Board directors complete an annual Fit and Proper Persons declaration;
   5.4. undertaking an annual review of compliance on behalf of the Chairman, including the preparation of an annual assurance report for the Board.

6. Individuals covered by the scope of this policy are responsible for:
   6.1. signing the relevant self-declaration (Appendix 2 for applicants and Appendix 3 for existing staff) to confirm that they are a fit a proper person, both on appointment and on an annual basis;
   6.2. providing evidence of their qualifications, experience and identity documents on appointment or on request to confirm the competencies relevant to their position;
   6.3. identifying any issues which may affect their ability to meet the statutory requirements on appointment and bringing these issues on an ongoing basis and without delay to the Director of Workforce or the Chairman.
7. **Staff** are responsible for raising any issues of concern via the appropriate Trust policies and procedures, for example through the Freedom to Speak Up - Raising Concerns (Whistleblowing) Policy.

8. Where **third party providers** are contracted for the purpose of the search and selection of directors, either interim or substantive, those third party providers will be required to:

   8.1. state in the candidate brief that the post is subject to the Fit and Proper Persons Requirement (FPPR);
   8.2. ask candidates at an early stage whether there are any factors which would impact on their ability to sign the Trust’s FPPR self-declaration;
   8.3. undertake referencing on behalf of the Trust in line with the Trust’s policy and the NHS Employers requirements;
   8.4. undertake qualifications checks on the successful candidate.

**Fit and Proper Persons**

9. Regulation 5 of the Regulations sets out the criteria a director or equivalent must meet, specifically:

   9.1. must be of good character;
   9.2. must have the qualifications, competence, skills and experience which are necessary for the relevant office or position or the work for which they are employed;
   9.3. must be 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;
   9.4. must not have 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;
   9.5. none of the grounds of unfitness specified in Part 1 of Schedule 4 apply to the individual.

10. To meet the requirements of Regulation 5, the Trust must be able to demonstrate that appropriate systems and processes are in place to ensure that all new directors and existing directors are, and continue to be, fit and that no appointments meet any of the unfitness criteria set out in Schedule 4 of the Regulations.

**Unfit**

11. A person will be deemed ‘unfit’ if they:

   11.1. are an undischarged bankrupt or a person whose estate has had sequestration awarded in respect of it and who has not been discharged;
   11.2. are the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order or an order to like effect made in Scotland or Northern Ireland;
   11.3. are a person to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986;
   11.4. have made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it;
   11.5. are 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; or

11.6. are 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.

Good Character

12. A person will not be of good character if they:

12.1. have 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/or

12.2. have been erased, removed or struck off a register of professionals maintained by a regulator of health care or social work professionals.

Determining Misconduct and Mismanagement

13. Determining whether there has been serious misconduct or mismanagement is a matter for the Trust. The Trust recognises that context is paramount. When considering mismanagement and misconduct the Trust needs to consider these in relation to; the services the Trust provides, the role of the individual and the possible impact on the Trust or confidence in its ability to carry out its mandate and fulfil its duties in the public interest.

Mismanagement

14. Mismanagement means being involved in the management of an organisation or part of an organisation in such a way that the quality of decision making and actions of managers falls below any reasonable standard of competent management. The following are a non-exhaustive list of examples of behaviour that may amount to mismanagement:

14.1. transmitting to a public authority, or any other person, inaccurate information without taking reasonably competent steps to ensure it is correct;

14.2. failing to interpret data in an appropriate way;

14.3. suppressing reports where findings may be compromising for the organisation;

14.4. failing to have an effective system in place to protect staff who have raised concerns;

14.5. failing to learn from incidents, complaints or when things go wrong;

14.6. repeated or ongoing tolerance of poor practice, or failure to promote good practice, leading to departure from recognised standards, policies or accepted practices;

14.7. continued failure to develop and manage business, financial or clinical plans;

14.8. failing to model and promote standards of behaviour expected of those in public life, including protecting personal reputation, or the interests of another individual, over the interests of people who use a service, staff or the public; or

14.9. failing to implement quality, safety and/or process improvements in a timely way, where there are recommendations or where the need is obvious.

Misconduct

15. The following non-exhaustive list of examples are likely to amount to serious misconduct:

15.1. disrespect in the work place
15.2. failing to comply with lawful instructions
15.3. breach of confidentiality;
15.4. fraud or theft;
15.5. any criminal offence other than minor motoring offences;
15.6. assault;
15.7. sexual harassment of staff;
15.8. bullying;
15.9. victimisation of staff who raise legitimate concerns;
15.10. any conduct that can be characterised as dishonesty, including:
   15.10.1. deliberately transmitting information to a public authority or to any other person, which is known to be false;
   15.10.2. submitting or providing false references or inaccurate or misleading information on a CV;
   15.10.3. disregard for appropriate standards of governance, including resistance to accountability and the undermining of due process;
   15.10.4. failure to make full and timely reports to the board of significant issues or incidents, including clinical or financial issues;

16. Further guidance on factors to consider around concerns regarding serious misconduct or mismanagement is available in Regulation 5: Fit and Proper Persons: Directors – Guidance for providers and CQC inspectors.

Trust Process

Pre-Appointment

17. The Trust expects its directors and senior leaders to set the tone and culture of the organisation. Therefore, it is important that in making appointments the Board takes into account the values of the Trust and the extent to which candidates provide a good fit with those values. Values-based interviews, or values-based questions in other interviews, will be used.

18. Where the Trust deems specific qualifications necessary for the role, this should be made clear from the outset of the recruitment process and any candidate appointed must be able to demonstrate that they hold such qualifications.

19. When appointing to director level (or equivalent), the Trust will make every effort to ensure that all available information is sought to confirm the individual meets all of the requirements of the “Fit and Proper Persons Test”.

20. All appointments to applicable posts will be conditional on the following satisfactory checks:
   20.1. Standard employment checks as per the Trust’s Recruitment and Selection Procedure and NHS Employers Check Standards.
   20.2. 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.
   20.3. Additional checks upon which appointment/employment will be conditional include:
20.3.1. search of insolvency and bankruptcy register;
20.3.2. search of Companies House register to ensure that no Board member is disqualified as a director;
20.3.3. search of the Charity Commission’s Register of Removed Trustees;
20.3.4. a web search of the individual and
20.3.5. satisfactory completion of the ‘Fit and Proper Person Self-Declaration Form’ contained in Appendix 2.

21. A detailed checklist will be completed and retained on the director’s personal file along with copies of the relevant documentation. When necessary this will be made available to the CQC for the purpose of audit and inspection.

22. The Trust will have regard to information on when convictions, bankruptcies or similar matters are considered ‘spent’. However, there is no time limit for considering serious misconduct or mismanagement in a previous role.

23. An individual may only be determined as suitable despite not meeting the characteristics outlined in Schedule 4, Part 2 (the ‘good character’ test) following report and debate at the relevant nominations committee and report and recommendation at the Council of Governors (for non-executive directors) or the Board of Directors (for executive directors). Decisions and the reasons for decisions must be recorded in the minutes at all stages, with external advice sought as necessary.

24. Where a prospective candidate is deemed not to meet the fit and proper person test under this Policy the Director of Workforce will notify the candidate of this as soon as is reasonably practicable.

25. A failure, refusal or partial compliance by a candidate to comply with any of the procedures or checks set out in this policy will immediately disqualify that person from the proposed appointment.

Ongoing Assurance

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.

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.

28. Following the annual review, the Director Workforce will draft an assurance report to the Board on behalf of the Chairman.

Upon Identification or Notification of a Concern or Issue

29. If it becomes apparent that circumstances exist, or have arisen, whereby an individual may not be considered to meet all the requirements of a fit and proper person, the Director of Workforce shall inform the Chairman (or the Senior Independent Director if the person in question is the Chairman) who will address this in the most appropriate, relevant and proportionate way on a case by case basis.

30. In some circumstances it may be appropriate for the Chairman (or Senior Independent Director) to instruct the Trust to carry out an initial fact finding exercise.

31. Following the initial fact finding exercise, if it is clearly and demonstrably unsubstantiated, a record of the concern, along with the action taken and outcome will be made and kept on file. No further action should be taken.
32. If following the initial fact finding exercise the concern is felt to be substantiated the Trust shall commission an investigation.

33. Where an individual’s fitness to carry out their role is being investigated appropriate measures will be considered to minimise any risk to service users, staff or the Trust. This may include restriction from duties or suspension on full pay/emoluments (as applicable) to allow the Trust to investigate the matters of concern. Any suspension or restriction from duties will be for no longer than necessary to protect the interests of service users or the Trust and/or where there is a risk that the director’s presence would impede the gathering of evidence in the investigation.

34. Should there be sufficient evidence to support a conclusion that the individual does not or no longer satisfies the fit and proper persons criteria, then the Trust shall take such action that is necessary and proportionate to ensure that the office or position in question is held by an individual who meets that requirement.

35. As such, the Trust may terminate the appointment of the director. In considering the termination of a director’s employment the Trust shall act reasonably and shall afford the director a right to present arguments as to why their employment should not be terminated, to call witnesses or present other evidence and to be accompanied by a colleague or trade union representative. Insofar as applicable the director shall be afforded a right of appeal.

36. Where appropriate, the Trust must also inform other organisations about concerns or findings relating to an individual’s fitness, for example, professional regulators, the CQC and other relevant bodies, and support any related enquiries or investigations carried out by others.

Training

37. There is no mandatory training associated with this policy. Ad hoc training sessions based on an individual’s training needs will be defined within their annual appraisal or job plan.

Monitoring Compliance

38. Compliance with the document will be monitored in the following ways.

<table>
<thead>
<tr>
<th>Aspect of compliance or effectiveness being monitored</th>
<th>Monitoring method</th>
<th>Responsibility for monitoring (job title)</th>
<th>Frequency of monitoring</th>
<th>Group or Committee that will review the findings and monitor completion of any resulting action plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review of all Board directors’ ongoing compliance with FPP</td>
<td>Internal File Review</td>
<td>Director of Workforce</td>
<td>Annual</td>
<td>Chairman/Trust Board</td>
</tr>
</tbody>
</table>

39. In addition to the monitoring arrangements described above the Trust may undertake additional monitoring of this policy as a response to the identification of any gaps or as a result of the identification of risks arising from the policy prompted by incident review, external reviews, or other sources of information and advice. This monitoring could include:

- Commissioned audits and reviews
- Detailed data analysis
• Other focused studies

Results of this monitoring will be reported to the nominated Committee.

Review

40. This policy will be reviewed in 3 years, as set out in the Policy for the Development and Implementation of Procedural Documents. The policy may need to be reviewed before this date, particularly if national guidance or local arrangements change.

References

42. Regulation 5: Fit and proper persons: Directors and Regulation 20: Duty of Candour (Care Quality Commission).
43. NHS Employers Employment Check Standards.
44. Insolvency Act 1986.
47. Constitution for Oxford University Hospitals NHS Foundation Trust, January 2018.
48. Fit and Proper Persons Regulations in the NHS – What do providers need to know? (NHS Providers).

Equality Impact Assessment

50. As part of its development, this policy and its impact on equality has been reviewed. The purpose of the assessment is to minimise and if possible remove any unfavourable treatment on the grounds of race, gender, gender reassignment, disability, age, sexual orientation, marriage and civil partnership, pregnancy and maternity or religion or belief. No detriment was identified.

Document History

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<th>Version number</th>
<th>Reason for review or update</th>
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<td>V.1</td>
<td>Updated to reflect changes</td>
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<tr>
<td>November 2018</td>
<td>V.2</td>
<td>Annual review by Trust Board</td>
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Appendix 1: Equality Impact Assessment

1. Information about the policy, service or function

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<th>What is being assessed?</th>
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<tr>
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<td>New Service/Function</td>
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<tr>
<td>Existing Policy/Procedure</td>
</tr>
<tr>
<td>Existing Service/Function</td>
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</table>

Staff member completing assessment:
Anna Strange, HR Manager – Policies and Procedures

Name of policy/service/function:
Fit and Proper Persons Policy

Details about the policy/service/function:
Since November 2014 there has been a requirement placed on NHS organisations to ensure director level appointments meet the 'fit and proper persons test' which was integrated into the Care Quality Commission’s (CQC) registration requirements. The introduction of a statutory fit and proper persons requirement for directors is an important step towards ensuring an open, honest and transparent culture and plays a major part in ensuring accountability of directors of NHS bodies.

Review Date: 3 years      Date assessment completed: 28/08/18

Signature of staff member completing assessment:  
Signature of staff member approving assessment:  

2. Screening Stage

Who benefits from this policy, service or function? Who is the target audience? (tick all that apply)

<table>
<thead>
<tr>
<th>Patients</th>
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<tbody>
<tr>
<td>Family/Carers</td>
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</tr>
<tr>
<td>Not applicable</td>
<td>[ ]</td>
</tr>
<tr>
<td>Staff</td>
<td>[X ]</td>
</tr>
<tr>
<td>Other (specify):</td>
<td></td>
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</table>

Does the policy, service or function involve direct engagement with the target audience?

| Yes | [ X ] Continue with full equality impact assessment |
| No  | [ ] Full equality impact assessment not required |
3. Research Stage

Notes:
If there is no impact for a particular group or characteristic, mention this in the Reasoning column and refer to evidence where applicable.

1Race categories follow those used in the National Census by the Office for National Statistics. Consideration should be given to the specific communities within broad categories such as Bangladeshi people.

2Please select age groups which may be impacted by the policy, service or function and complete as appropriate.

3Religion or Belief covers a wide range of groupings, the most common of which are Muslims, Buddhists, Jews, Christians, Sikhs and Hindus; it also covers people who do not have a faith. Consider these individually and collectively when determining impacts.

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Positive Impact</th>
<th>Negative Impact</th>
<th>Not Enough Information</th>
<th>Reasoning</th>
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<tbody>
<tr>
<td><strong>Sex and Gender Reassignment</strong></td>
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<tr>
<td>Men (incl. trans men)</td>
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<tr>
<td>Women (incl. trans women)</td>
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<tr>
<td>Non-binary people</td>
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<tr>
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<tr>
<td>Black or Black British</td>
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<tr>
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<tr>
<td>White Other</td>
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</tbody>
</table>

Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 sets out the criteria a director or equivalent must meet and mandates that all directors satisfy these criteria. The criteria are applied consistently regardless of protected characteristics and consequently have a neutral impact.
<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Positive Impact</th>
<th>Negative Impact</th>
<th>Not Enough Information</th>
<th>Reasoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other:</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Disability</td>
<td></td>
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<tr>
<td>Disabled people</td>
<td>X</td>
<td></td>
<td></td>
<td>The Regulations specify the requirement that an 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. Referrals will be made to COHWWB on application and as applicable so that the Trust can make reasonable adjustments.</td>
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<tr>
<td>Carers</td>
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<tr>
<td>Age²</td>
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<td>Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 sets out the criteria a director or equivalent must meet and mandates that all directors satisfy these criteria. The criteria are applied consistently regardless of protected characteristics and consequently have a neutral impact.</td>
</tr>
<tr>
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<td></td>
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<td>Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 sets out the criteria a director or equivalent must meet and mandates that all directors satisfy these criteria. The criteria are applied consistently regardless of protected characteristics and consequently have a neutral impact.</td>
</tr>
<tr>
<td>Characteristic /Characteristics</td>
<td>Positive Impact</td>
<td>Negative Impact</td>
<td>Not Enough Information</td>
<td>Reasoning</td>
</tr>
<tr>
<td>-------------------------------</td>
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<td>----------------</td>
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</tr>
<tr>
<td>Religion or Belief¹</td>
<td></td>
<td></td>
<td></td>
<td>Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 sets out the criteria a director or equivalent must meet and mandates that all directors satisfy these criteria. The criteria are applied consistently regardless of protected characteristics and consequently have a neutral impact.</td>
</tr>
<tr>
<td>Pregnancy and Maternity</td>
<td></td>
<td></td>
<td></td>
<td>Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 sets out the criteria a director or equivalent must meet and mandates that all directors satisfy these criteria. The criteria are applied consistently regardless of protected characteristics and consequently have a neutral impact.</td>
</tr>
<tr>
<td>Marriage or Civil Partnership</td>
<td></td>
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<td></td>
<td>Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 sets out the criteria a director or equivalent must meet and mandates that all directors satisfy these criteria. The criteria are applied consistently regardless of protected characteristics and consequently have a neutral impact.</td>
</tr>
<tr>
<td>Other Groups /Characteristics</td>
<td>For example: homeless people, sex workers, rural isolation.</td>
<td></td>
<td></td>
<td>NA</td>
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<tr>
<td>Group</td>
<td>Summary of consultation</td>
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</table>

Using the table below, list any protected groups you will target during the consultation process, and give a summary of those consultations.

List any other individuals/groups that have been or will be consulted on this policy, service or function.

The draft Policy will be circulated to all staff that are covered by the requirements of the Regulations for comment.

4. Summary Stage

Outcome Measures

List the key outcomes or measures of success for the policy service of function and state whether or not you are assured that these will be equitably and fairly achieved for all protected groups. If not, state actions that will be taken to ensure this.

It is mandated that all directors or equivalent meet the requirements of the Fit and Proper Persons test. Application of the test will ensure only individuals who meet the requirements of the test are appointed or continue in employment.

Positive Impact

List any positive impacts that this policy, service or function may have on protected groups as well as any actions to be taken that would increase positive impact.

The Regulations and this policy provide clear guidance that a director or equivalent needs to be capable of undertaking the relevant position, after any reasonable adjustments under the Equality Act 2010 have been made.

Unjustifiable Adverse Effects

List any identified unjustifiable adverse effects on protected groups along with actions that will be taken to rectify or mitigate them.
None

**Justifiable Adverse Effects**

List any identified unjustifiable adverse effects on protected groups along with justifications and any actions that will be taken to mitigate them.

<table>
<thead>
<tr>
<th>Identified Risk</th>
<th>Recommended Actions</th>
<th>Lead</th>
<th>Resource Implications</th>
<th>Review Date</th>
<th>Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td></td>
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</tbody>
</table>
Appendix 2 – Fit and Proper Persons Check – Candidate Declaration of Fitness Form

CONFIDENTIAL WHEN COMPLETED

Fit and Proper Persons Check

Candidate Declaration of Fitness Form

The position for which you have applied is subject to Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the “Regulations”). The Regulations requires that Oxford University Hospitals NHS Foundation Trust (the “Trust”) must not appoint, or have in place, a) an individual as a director of the Trust, or b) performing the functions of, or functions equivalent or similar to the functions of a director, without being satisfied that the individual is a fit and proper person to hold such a position.

Consequently, before you can be considered for appointment by the Trust we need to be satisfied of your suitability for the position, therefore you are asked to complete the following declaration.

The Trust aims to promote equality of opportunity and is committed to treating all applicants for positions fairly and on merit regardless of race, disability, age, gender, gender re-assignment, religion or belief, sexual orientation, pregnancy or maternity, marriage or civil partnership.

Prior to making a final decision concerning your application, we shall discuss with you any information declared by you that we believe may have a bearing on your suitability for the position. If we do not raise this information with you, this is because we do not believe that it should be taken into account. In that event you still remain free, should you wish, to discuss the matter with the recruiting manager. As part of assessing your application, we will only take into account relevant criminal record(s) and other information declared which is relevant to the position being applied for.

The information that you provide in this declaration form will be processed in accordance with the General Data Protection Regulation and Data Protection Act 2018. It will be used for the purpose of determining your application for the position for which you have applied. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud. Any information provided during your application shall be processed and retained in accordance with the Trust’s Privacy Statement (see below).

<table>
<thead>
<tr>
<th>First Name(s):</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Surname:</td>
<td></td>
</tr>
<tr>
<td>If you are known by any other name, please state:</td>
<td></td>
</tr>
<tr>
<td>Position Applied For:</td>
<td></td>
</tr>
</tbody>
</table>
Please answer all of the following questions. If you answer ‘yes’ to any of the questions, please provide full details in the space indicated, including any information that may have a bearing on your suitability for the position you hold. Additional space, if needed, is provided at the end of form.

In providing your responses, please note that you do not need to provide information about convictions, cautions, warnings or reprimands which are deemed 'protected' under the Rehabilitation of Offenders Act 1974 ( Exceptions) Order 1975 as amended by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013.

1. **Are you currently or have you ever been the subject of any Police action?** Action includes, but is not restricted to: investigation; summons; arrest; caution; reprimand; warning; driving offence; charge; conviction; or imprisonment which is not deemed to be ‘protected’ under the amendment to the Exceptions order 1975*, issued by a Court or Court-Martial in the United Kingdom or in any other country.

<table>
<thead>
<tr>
<th>No</th>
<th>Yes</th>
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</thead>
<tbody>
<tr>
<td>[ ]</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

   If ‘Yes’, please provide details of the order binding you over and/or the nature of the offence, the penalty, sentence or order of the Court, and the date and place of the Court hearing.

   You are not required to provide information relating to parking offences.

2. **Have you been charged with any offence in the United Kingdom or in any other country that has not yet been disposed of?**

<table>
<thead>
<tr>
<th>No</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ ]</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

   If ‘Yes’, please provide details of the nature of the offence with which you are charged, the date on which you were charged, and details of any on-going proceedings by a prosecuting body.

3. **Are you aware of any current investigations being undertaken by the NHS Counter Fraud Authority following allegations made against you?**

<table>
<thead>
<tr>
<th>No</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ ]</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

   If ‘Yes’, please provide details of the nature of the allegations made against you and, if known, any action to be taken against you by the NHS Counter Fraud Authority.
4. Have you been investigated by the Police, NHS Counter Fraud Authority or any other investigatory body resulting in a current or past conviction or dismissal from your employment or volunteering position?

   No [   ]    Yes [   ]

If ‘Yes’, please include details of the nature of the allegations made against you, and, if known, any action to be taken against you by the investigatory body.

5. Have you been responsible for, 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?

   "Responsible for, contributed to or facilitated" means that there is evidence that you have intentionally, or through neglect, behaved in a manner (whether whilst holding a Board appointment or otherwise) that would be considered to be, or would have led to, serious misconduct or mismanagement.

   "Privy to" means that there is evidence to suggest you were aware (whether whilst holding a Board appointment or otherwise) of serious misconduct or mismanagement but did not take appropriate action to ensure it was addressed.

   "Serious misconduct or mismanagement" means behaviour that would constitute a breach of any legislation/enactment that CQC deems relevant. “Serious misconduct” might be expected to include assault, fraud and theft.

   “Mismanagement” might be expected to include mismanaging funds and/or not adhering to recognised practice, guidance or processes regarding care quality within which you are required to work.

   No [   ]    Yes [   ]

If ‘Yes’, please provide full details of the serious misconduct/mismanagement. This must include details of the employment, office or position held, the nature of the allegations of serious misconduct/mismanagement made against you and the date you were dismissed (if appropriate).

6. Have you ever been been subject to any disciplinary investigation, disciplinary sanction or been dismissed by reason of misconduct from any employment, volunteering, office or other position previously held by you?

   No [   ]    Yes [   ]

If ‘Yes’, please provide details of the employment, office or position held, the date that you were dismissed and the nature of any allegations of misconduct made against you.
7. Have you ever been disqualified from the practice of a profession, or required to practice subject to specified limitations following fitness to practice proceedings, by a regulatory or licensing body in the United Kingdom or in any other country?

No [    ]  Yes [    ]

If ‘Yes’, please provide details of the nature of the disqualification, limitation or restriction, the date, and the name and address of the licensing or regulatory body concerned.

8. Are you currently or have you ever been the subject of any investigation or fitness to practice proceedings by any licensing or regulatory body in the United Kingdom or in any other country?

No [    ]  Yes [    ]

If ‘Yes’, please provide details of the reason given for the investigation and/or proceedings undertaken, the date, details of any limitation or restriction to which you are currently subject, and the name and address of the licensing or regulatory body concerned.

9. Are you subject to any other prohibition, limitation, or restriction that means we are unable to consider you for the position for which you are applying, for example, you are prohibited from holding the position of Director?

No [    ]  Yes [    ]

If ‘Yes’, please provide details.

10. Are you aware of any current or previous investigation that indicates that you, or an organisation for which you held responsibility, has failed to adhere to recognised best practice, guidance or processes regarding care quality?

No [    ]  Yes [    ]

If ‘Yes’, please provide details of the nature of the investigation made against you or the organisation and, if known to you, any action to be taken against you or the organisation by the investigatory body.
11. Have you been convicted of breaching any health and safety requirements or legislation on the basis of how you (or an organisation for which you have, or have had, responsibility) has organised or managed its activities?

No [   ]  Yes [   ]

If ‘Yes’, please provide details of the nature of the health and safety conviction against you or the organisation, and if known to you, any action to be taken.

12. Are you:
   a. an undischarged bankrupt;
   b. a person whose estate has had sequestration awarded in respect of it and who has not been discharged;
   c. the subject of bankruptcy restrictions order or an interim bankruptcy restrictions order or an order to like effect made in Scotland or Northern Ireland;
   d. a person to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986;
   e. an individual who has made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it;
   f. 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; or
   g. 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.

No [   ]  Yes [   ]

If ‘Yes’, please provide details.

13. Have you previously been employed in a position that involved work with children or vulnerable adults?

No [   ]  Yes [   ]

If ‘Yes’, please provide details/reasons to explain why this involvement ended.
14. Do you know of any other matters in your background which might cause your reliability or suitability for employment to be called into question?

[ ] No  [ ] Yes

If ‘Yes’, please provide details.

Where you have answered ‘yes’ to any of the preceding questions, please use the space below to provide any additional information you wish to include within this Declaration. Please indicate clearly the number(s) of the question to which you are referring.

Please note that you have a continued responsibility to immediately declare any charges made against you relating to any new offence, criminal conviction or fitness to practise proceedings in the United Kingdom, or in any other country, that might arise in the future. You are not required to provide information relating to parking offences.
DECLARATION

Privacy Statement

As an employee or applicant for employment by the Trust, your personal information is processed (created, stored and transmitted) in a variety of paper and electronic formats by the Trust in accordance with the provisions of current data protection law. The General Data Protection Regulation (GDPR) Article 6, paragraph 1b) – *processing is necessary for the performance of a contract to which the data subject is a party*….. is the lawful basis for using your data.

Personal data includes that relating to ethnic origin, disability, religious belief, sexual orientation and gender identity. You will have been asked to provide personal sensitive information during the recruitment process. The Trust is obliged to seek this information from staff but it is not compulsory for staff to provide responses. Access to and the sharing of this information is controlled very carefully. When reporting on personal sensitive information only aggregate data is presented so that an individual's data is protected.

There is a legal obligation on the Trust as employer, (see Article 10 of GDPR) to provide information regarding the commission of offences, or alleged commission of any offence, or any proceedings for any offence committed, the disposal of proceedings, or the sentence of any courts of any such proceedings.

The Trust will not retain this Declaration Form for longer than is necessary. Your completed form will be kept securely and in confidence. Access to the information contained within the Form will be restricted to designated persons within the Trust who are authorised to view it as a necessary part of their work.

Further information about your information rights is available from our Information Governance team: information.governance@ouh.nhs.uk . Tel: 01865 226912

In signing the Declaration below you are explicitly consenting for the data you provide to be processed in the manner described above.

............................................................................................................................

I hereby consent to the information provided in this Declaration Form being used by Oxford University Hospitals NHS Foundation Trust for the purpose of ensuring that I meet the Fit and Proper Persons Requirements for the position I have applied for and for enquiries in relation to the prevention and detection of fraud.

I hereby confirm that the information I have provided in this Declaration Form is correct and complete. I understand and accept that if I knowingly withhold information, or provide false or misleading information, this may ultimately result in the withdrawal of an offer of employment or my dismissal, and I may be liable to prosecution.

Please complete and return this form in a separate envelope marked ‘confidential’ to: Director of Workforce

Should you wish to withdraw your consent at any time after completing this Declaration Form, or you have any enquiries relating to the information required in this form, please contact the Director of Workforce.

<table>
<thead>
<tr>
<th>Signature</th>
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<tbody>
<tr>
<td>Name</td>
</tr>
<tr>
<td>Date</td>
</tr>
</tbody>
</table>
Appendix 3 – Fit and Proper Persons Test Self-Declaration Form - Annual Declaration for Directors in Post

CONFIDENTIAL WHEN COMPLETED

Fit and Proper Persons Test

Annual Declaration for Directors in Post

The position you hold is subject to Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the “Regulations”). The Regulations requires that Oxford University Hospitals NHS Foundation Trust (the “Trust”) must not appoint, or have in place, a) an individual as a director of the Trust, or b) performing the functions of, or functions equivalent or similar to the functions of a director, without being satisfied that the individual is a fit and proper person to hold such a position.

You are therefore asked to complete the following declaration to satisfy the Trust of your continued suitability for the position you hold.

We will discuss with you any information declared by you that we believe may have a bearing on your continued suitability for the position. If we do not raise this information with you, this is because we do not believe that it should be taken into account. In that event you still remain free, should you wish, to discuss the matter with the Director of Workforce.

Being unable to confirm any of the statements below will not necessarily preclude you from continued service with the Trust. This will depend on the relevance of the information you provide and the particular circumstances. However, your employment/office may be terminated if the Trust is not satisfied with the information/explanation provided.

Please note that you have a continued responsibility to immediately declare any charges made against you relating to any new offence, criminal conviction or fitness to practise proceedings in the United Kingdom, or in any other country, that might arise in the future. You are not required to provide information relating to parking offences.

Part 1 – Unfit Person Test

I hereby confirm that:

i. I am NOT an undischarged bankrupt or a person whose estate has had sequestration awarded in respect of it and who has not been discharged.

ii. I am NOT subject to a bankruptcy restrictions order or an interim bankruptcy restrictions order or an order to like effect made in Scotland or Northern Ireland.

iii. I am NOT a person to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986.

iv. I am NOT a person who has made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it.

v. I am NOT 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.

vi. I am NOT a person who is 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.
vii. I am **NOT** a person who has 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 discharging any functions relating to any office or employment with a service provider.

viii. I am **NOT** prevented by reason of my health, after reasonable adjustments have been made, from properly performing tasks which are intrinsic to the office or position to which I have been appointed or to the work for which I am employed.

**Part 2 – Good Character**

I hereby confirm that I am a person of good character and:

i. Have **NOT** 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.

ii. Have **NOT** been erased, removed or struck off a register of professionals maintained by a regulator or health care or social work professionals.

**Part 3 – General Declaration**

i. I am **NOT** subject to any investigation, or have been notified of such or under any performance management regime for any reason.

ii. I am **NOT** aware of any incident or issue in my previous employment which may affect my status as a fit and proper person to fulfil my role.

iii. I am **NOT** aware of any incident or issue which may affect my status as a fit and proper person to fulfil my current/potential role.

iv. I have nothing in my professional or personal life which, if brought into the public domain may cause embarrassment or disrepute to the Trust or render me unfit to hold office or otherwise place the Trust in breach of *The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014*.

v. I have read, understood and will adhere to the Trust’s Fit and Proper Persons Policy.

If you are unable to agree to any of the above statements please provide further details
DECLARATION

Privacy Statement – Staff Data

As an employee of the Trust, your personal information is processed (created, stored and transmitted) in a variety of paper and electronic formats by the Trust in accordance with the provisions of current data protection law. The General Data Protection Regulation (GDPR) Article 6, paragraph 1b) – processing is necessary for the performance of a contract to which the data subject is a party….. is the lawful basis for using your data.

Personal data includes that relating to ethnic origin, disability, religious belief, sexual orientation and gender identity. You will have been asked to provide personal sensitive information during the recruitment process. The Trust is obliged to seek this information from staff but it is not compulsory for staff to provide responses. Access to and the sharing of this information is controlled very carefully. When reporting on personal sensitive information only aggregate data is presented so that an individual's data is protected.

There is a legal obligation on the Trust as employer, (see Article 10 of GDPR) to provide information regarding the commission of offences, or alleged commission of any offence, or any proceedings for any offence committed, the disposal of proceedings, or the sentence of any courts of any such proceedings.

The Trust will not retain this Declaration Form for longer than is necessary. Your completed form will be kept securely and in confidence. Access to the information contained within the Form will be restricted to designated persons within the Trust who are authorised to view it as a necessary part of their work.

Further information about your information rights is available from our Information Governance team: information.governance@ouh.nhs.uk. Tel: 01865 226912

In signing the Declaration below you are explicitly consenting for the data you provide to be processed in the manner described above.

I hereby consent to the information provided in this Declaration Form being used by Oxford University Hospitals NHS Foundation Trust for the purpose of ensuring that I continue to meet the Fit and Proper Persons Requirements for the position/office I hold and for enquiries in relation to the prevention and detection of fraud.

I confirm that the information that I have provided in this declaration form is correct and complete. I understand and accept that if I knowingly withhold information, or provide false or misleading information, this may result in my dismissal and I may be liable to prosecution.

Please return your completed declaration form in an envelope marked ‘Confidential’ to the Director of Workforce.

<table>
<thead>
<tr>
<th>Signed</th>
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<tbody>
<tr>
<td>Name</td>
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<tr>
<td>Position</td>
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<tr>
<td>Date</td>
<td></td>
</tr>
</tbody>
</table>
Appendix 4 – Schedule 3: Information Required in Respect of Persons Employed or Appointed for the Purposes of a Regulated Activity

1. Proof of identity, including a recent photograph.

2. Where required for the purposes of an exempted question in accordance with section 113A(2)(b) of the Police Act 1997, a copy of a criminal record certificate issued under section 113A of the Act together with, after the appointed day and where applicable, the information mentioned in section 30A(3) of the Safeguarding Vulnerable Groups Act 2006 (provision of barring information on request).

3. Where required for the purposes of an exempted question asked for a prescribed purpose under section 113B(2)(b) of the Police Act 1997, a copy of an enhanced criminal record certificate issued under section 113B of that Act together with, where applicable, suitability information relating to children or vulnerable adults.

4. Satisfactory evidence of conduct in previous employment concerned with the provision of services relating to:
   a. Health or social care, or
   b. Children or vulnerable adults.

5. Where a person (P) 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 P’s employment in that position ended.

6. In so far as is reasonably practicable to obtain, satisfactory documentary evidence of any qualifications relevant to the duties for which the person is employed or appointed to perform, this should include evidence of any professional registration (if required for the post).

7. A full employment history, together with a satisfactory written explanation of any gaps in employment.

8. 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.

9. For the purposes of this Schedule:
   a. ‘the appointed day’ means the day on which section 30A of the Safeguarding Vulnerable Groups Act 2006 comes into force;
   b. ‘satisfactory’ means satisfactory in the opinion of the Commission;
   c. ‘suitability information relating to children or vulnerable adults’ means the information specified in sections 113BA and 113BB respectively of the Police Act 1997.
Appendix 5 – Fit and Proper Persons Requirements – New Applicants Employment Checklist

This checklist must be completed by the Director of Workforce for all appointments to positions covered by the scope of the Trust’s Fit and Proper Persons Policy.

If an agency or executive search organisation is engaged to assist with the appointment process, the Director of Workforce must ensure they are made aware of the requirements and standards that have to be met and will need to provide documentary evidence of compliance.

<table>
<thead>
<tr>
<th>Name:</th>
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<tbody>
<tr>
<td>Position:</td>
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<td>Date:</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Identification Checks</th>
<th>Yes</th>
<th>No</th>
<th>Comment(s)/ Date when check completed and who completed by</th>
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</thead>
<tbody>
<tr>
<td>Verification of ID as per the right to work checklist</td>
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<td></td>
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<tr>
<td>Confirmation of any restrictions to right to work in the UK</td>
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<tr>
<td>Confirm documents seen and that copies have been taken and verified.</td>
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<td></td>
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</tbody>
</table>

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<tr>
<th>Employment History</th>
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</thead>
<tbody>
<tr>
<td>Confirmation of a full employment history</td>
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<td></td>
</tr>
<tr>
<td>Any gaps in employment history have been clearly documented and explained. Checks for potential issues and conflicts of interest should be reviewed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Detail any further information below.</td>
<td></td>
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</tr>
</tbody>
</table>


### Qualification Checks
- Original certificates verified for mandatory qualifications
- Confirm copies taken and verified

### Disclosure and Barring Service Checks
- Standard DBS disclosure received prior to commencing work
- Confirm e-DBS undertaken and date received
- Enhanced DBS in place for a person who will be acting in a role that falls within the definition of a “regulated activity” as defined in the Safeguarding Vulnerable Groups Act 2006.

### Professional Registration
- Evidence of professional registration checked on appointment
- Details of professional body and registration

### References
- Reference from current employer
- References to cover last 3 years

### Occupational Health
- Completed Health Declaration form received
- OH clearance received
- Details of any reasonable adjustments recommended by COHWB

### Fit and Proper Persons Checks
- Completed Fit and Proper Persons Test Declaration Form received.
  - If any cause for concern highlighted discuss with the Director of Workforce and Chairman and record outcome of discussion.
- Check and print copy of check against disqualified directors list ([http://wck2.companieshouse.gov.uk//dirsec](http://wck2.companieshouse.gov.uk//dirsec))
Check and print a copy of check against Bankruptcy and Insolvency register ([https://www.insolvencydirect.bis.gov.uk/eiir/](https://www.insolvencydirect.bis.gov.uk/eiir/))

Check and print a copy of check against Removed Charity Trustees register ([http://apps.charitycommission.gov.uk/trusteeregister/search.aspx](http://apps.charitycommission.gov.uk/trusteeregister/search.aspx))

Completed internet based web search:
Details of search engines used (e.g. [www.google.com](http://www.google.com))

Details of word searches that were used (e.g. name + NHS)

Completed social profile search
Details of websites used (e.g. [www.linkedin.com](http://www.linkedin.com), [www.twitter.com](http://www.twitter.com), [www.facebook.com](http://www.facebook.com))

<table>
<thead>
<tr>
<th>Approvals/Confirmations</th>
<th>Date</th>
<th>Tick to confirm</th>
<th>Name and Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>HR confirmation all the above checks have been completed</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>