

Fit and Proper Persons Requirement (FPPR) Policy and Procedure

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1. Scope

This policy and procedure apply to all Directors and those senior managers who are formally recognised as part of the decision making process

2. Purpose

The purpose of the procedure is to ensure the company complies with The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 Regulation 5: Fit and Proper Persons Requirement.

3. Introduction

This policy outlines the application of the Fit and Proper Person test for new appointments and existing postholders. Where the company engages an interim at a senior level equivalent to the posts above the same process FPPR test will apply if they are employed or registered as an external worker. Where an interim is sourced by an agency the recruitment agency will be made aware of the FPPR process and must confirm that they have undertaken the necessary checks. Executive search companies will also be required to confirm compliance with the FPPR and provide relevant evidence for inspection by the company

4. Meeting the Requirements of Regulation 5

The introduction of the fit and proper person's requirements (FPPR) places the ultimate responsibility on the chair to discharge the requirement placed on the company to ensure that all relevant post holders meet the fitness test and do not meet any of the 'unfit' criteria. Further detail is provided in the CQC Guidance for health organisations. The company will make every reasonable effort to assure itself about existing post holders and new applicants. Individuals who fall into the categories above must satisfy the chair that they:

- Are of good character
- Hold the required qualifications and have the competence, skills and experience required for the relevant office for which they're employed
- Are able, by reason of their physical and mental health, after any required reasonable adjustments if required, capable of properly performing their work.
- Can supply relevant information as required by schedule 3 of the act, ie documentation to support the FPPR.
- Have not been responsible for or privy to, contributed to, or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on regulated activity (or providing a service elsewhere which if provided in England would be a regulated activity). In accordance with schedule 4 part 1 of the act a person is deemed "unfit" if the person is an undischarged bankrupt or a person whose estate has had sequestration awarded in respect of it and who has not been discharged.
- The person is 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.
- The person is a person to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986.
- The person has made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it.
- 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, or in any corresponding list maintained under an equivalent enactment in force in Scotland or Northern Ireland.
- The person 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. In accordance with part 2 of the Act a person will fail the good character test if they 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.
- Has been erased, removed, struck off a register of professionals maintained by a regulator of health care or social work professionals.

5. FPPR for existing staff and on-going fitness

5 (i) FPPR declaration

All post holders identified above are obliged to complete a FPPR declaration (Appendix 1). This declaration will be retained on the individual's personal file by the Company Secretary. The process for assurance includes a check of personal files to ensure there is a complete employment history and where there are any gaps or omissions the post holder will be asked to provide a written explanation for this. Where the company has no record of mandatory qualifications or

mandatory professional registration the individual will be asked to produce the original for inspection and verification. The Chairman will be notified of any issues of non-compliance and is the responsible officer for making an informed decision regarding the course of action to be followed.

5(ii) On-going fitness

The annual appraisal process will provide an opportunity to discuss continued “fitness”, competence and how the post holder role displays the company values and behaviour standard including the leadership behaviour expected. The Chair will be responsible for appraising the Directors. Annually there will be a requirement for post holders to complete a further form of declaration confirming that they continue to be a fit and proper person. Confirmation of compliance will be published made available to inspect.

Individuals will be required to make the company aware as soon as practicable of any incident or circumstances which may mean they are no longer to be regarded as a fit and proper person, and provide details of the issue, so that this can be considered by the Chair.

5(iii) Concerns regarding an individual’s continued FPPR compliance

Where matters are raised that cause concerns relating to an individual being fit and proper to carry out their role the Chair will address this in the most appropriate, relevant and proportionate way on a case-by-case basis. Where it is necessary to investigate or take action the company’s current processes will apply using the company’s capability process (managing performance or sickness absence), Disciplinary procedure or other process. The company reserves the right to suspend a Director or restrict them from duties on full pay / emoluments (as applicable) to allow the company to investigate the matters of concern. Suspension or restriction from duties will be for no longer than necessary to protect the interests of service users or the company and/or where there is a risk that the Director’s presence would impede the gathering of evidence in the investigation. Where an individual who is registered with a professional regulator (GMC, NMC etc.) no longer meets the fit and proper person’s requirement the company must inform the regulator, and also take action to ensure the position is held by a person meeting the requirements. Directors may personally be accused and found guilty by a court of serious misconduct in respect of a range of already prescribed behaviours set out in legislation. Professional regulators may remove an individual from a register for breaches of codes of conduct.

6. Process for New Appointments

The company’s comprehensive pre-employment checking processes are determined by ACAS employment standards and include the following:

- Proof of identity
- DBS check for all Directors and employees.
- Occupational Health Clearance as relevant to the role

- Evidence of the right to work in the UK
- A check of employment history and two references one of whom must be the most recent employer. Specifically, this include validating a minimum of three years continuous employment including details of any gaps in service. The number of references may differ for each applicant, depending on how many episodes of employment they may have had in the last three years prior to making their application.

7. Qualifications/registration applicable to role

In addition the following registers will be checked and recorded:

- Disqualified directors
- Bankruptcy and insolvency
- Removed Charity Trustees
- A web search of the individual

A FPPR Declaration form will be required for all Directors and persons in a position of decision making. While the company will have regard to information on when convictions, bankruptcies or similar matters are considered 'spent' there is no time limit for considering serious misconduct or responsibility for failure in a previous role.

The Chair of the appointments panel will be responsible for ensuring compliance supported by the relevant recruitment support. A detailed checklist will be completed and will be retained on the post holder's personal file for the purposes of audit. Where the company deems that the individual who is to be appointed is suitable, despite not meeting the characteristics outlined in Schedule 4, Part 2 of the Regulations (Good Character), the reasons will be recorded by the Chair of the appointments panel. External advice will be sought as necessary. Where specific qualifications are deemed by the company as necessary for a role, the company will make this clear and will only appoint those individuals that meet the required specification; including any requirements to be registered with a professional Regulator. The company will carry out employment checks (so far as reasonably practicable) on a candidate's qualifications and employment records. If the Director has a physical or mental health disability, wherever possible, reasonable adjustments will be made to enable the individual to carry out the role that they have been appointed to. Any prospective candidate will need to complete the 'Fit and Proper Person' Declaration. In the event the prospective candidate identifies any physical or mental health concerns (and subject to further information being obtained from the candidate, if necessary) their appointment will be subject to health clearance.