



REPORT TITLE:	Fit and Proper Persons Test: Chair's Annual Declaration		
SPONSOR:	Sir David Nicholson, Trust Chair		
REPORT AUTHOR:	Dan Conway, Associate Director of Corporate Governance		
MEETING:	Public Trust Board	DATE:	10 th May 2023

1. Suggested discussion points <i>[two or three issues you consider the Trust Board should focus on in discussion]</i>
<p>The report provides the Annual Declaration in respect of compliance with the Fit & Proper Persons Test by those individuals who are Board directors, Board members and individuals who perform the functions equivalent to the functions of a Board director and member.</p> <p>All existing Board directors, Board members and individuals who perform the functions equivalent to the functions of a Board director and member meet the requirements of the Fit and Proper Persons Test.</p> <p>Attached is the full set of declaration of interest for Board Members.</p>

2. Alignment to our Vision <i>[indicate with an 'X' which Strategic Objective[s] this paper supports]</i>												
<table border="1"> <thead> <tr> <th>OUR PATIENTS</th> <th></th> <th>OUR PEOPLE</th> <th></th> <th>OUR POPULATION</th> <th></th> </tr> </thead> <tbody> <tr> <td>To be good or outstanding in everything that we do</td> <td>X</td> <td>To cultivate and sustain happy, productive and engaged staff</td> <td>X</td> <td>To work seamlessly with our partners to improve lives</td> <td>X</td> </tr> </tbody> </table>	OUR PATIENTS		OUR PEOPLE		OUR POPULATION		To be good or outstanding in everything that we do	X	To cultivate and sustain happy, productive and engaged staff	X	To work seamlessly with our partners to improve lives	X
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3. Previous consideration <i>[at which meeting[s] has this paper/matter been previously discussed?]</i>
None

4. Recommendation(s)
<p>The Public Trust Board is asked to:</p> <p>a. APPROVE the position for 2022/23 that the Trust has discharged its requirements to meet Fit and Proper Person requirements for its Directors.</p>

5. Impact <i>[indicate with an 'X' which governance initiatives this matter relates to and, where shown, elaborate in the paper]</i>					
Board Assurance Framework Risk 01		Deliver safe, high-quality care.			
Board Assurance Framework Risk 02		Make best strategic use of its resources			
Board Assurance Framework Risk 03		Deliver the MMUH benefits case			
Board Assurance Framework Risk 04	X	Recruit, retain, train, and develop an engaged and effective workforce			
Board Assurance Framework Risk 05		Deliver on its ambitions as an integrated care organisation			
Corporate Risk Register [Safeguard Risk Nos]					
Equality Impact Assessment	Is this required?	Y		N	If 'Y' date completed
Quality Impact Assessment	Is this required?	Y		N	If 'Y' date completed

SANDWELL AND WEST BIRMINGHAM NHS TRUST

Report to the Public Trust Board: 10th May 2023

Fit and Proper Persons Requirements: Annual Declaration

1. Background

- 1.1 In line with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, the Trust is required to ensure that all relevant individuals meet the requirements of the Fit and Proper Persons Test (Regulation 5).
- 1.2 Regulation 5 recognises that individuals who have authority in organisations that deliver care are responsible for the overall quality and safety of that care. For the purpose of this regulation, these individuals are Board directors, Board members and individuals who perform the functions equivalent to the functions of a Board director and member (whether existing, interim or permanent and irrespective of their voting rights).
- 1.3 Regulation 5 states that a provider must not appoint or have in place an individual as a director who:
 - a) is not of good character;
 - b) does not have the necessary qualifications, competence, skills and experience;
 - c) is not physically and mentally fit (after adjustments) to perform their duties.
- 1.4 Regulation 5 also decrees that these individuals cannot 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 discharging any functions relating to any office or employment with a service provider.
- 1.5 These requirements play a major part in ensuring the accountability of leaders of NHS bodies and outline the requirements for robust recruitment & employment, appraisal and performance management processes for Board level appointments and for ensuring that there are appropriate checks that leaders have the skills, knowledge, experience and integrity that they need – both when they are appointed and on an ongoing basis.

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

- 2.1 All new Board appointments are subject to a full Fit and Proper Persons Test that includes:
- 2.2 Standard employment checks as per the Trust's Recruitment and Selection Procedure and NHS Employers Check Standards.
- 2.3 Additional checks are undertaken by the Associate Director of Corporate Governance/Company Secretary upon appointment/employment which 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
- Satisfactory completion of the Fit and Proper Persons Test Self Declaration Form – Annual Declaration of Interest for Directors in Post.

2.4 The annual assurance checks for all Board members are undertaken by the Associate Director of Corporate Governance/Company Secretary consists of the following:

- Satisfactory completion of the Fit and Proper Persons Test Self Declaration Form – Annual Declaration of Interest 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
- a web search of the individual

2.5 These are recorded and placed in the individual personal files. They are then used to help inform discussions at formal appraisal processes.

3. Declarations of Interest

3.1 The NHS Code of Accountability requires Board Directors to declare their interests which are relevant and material to the Board. This includes any interest that could conflict with the impartial discharge of their duties and which could cause conflict between their private interests and their NHS duties, and includes gifts and hospitality. Interests fall into the following categories:

- **Financial Interests:** Where an individual may get direct financial benefit (or avoidance of a loss) from the consequences of a decision they are involved in making.
- **Non-Financial Professional Interests:** Where an individual may obtain a non-financial professional benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or promoting their professional career.
- **Non-Financial Personal Interests:** Where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit, because of decisions they are involved in making in their professional career.
- **Indirect Interests:** Where an individual has a close association with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest and could stand to benefit from a decision they are involved in making.

3.2 Attached is the full set of declaration of interest for Board Members.

4. Declaration

4.1 As Chair of Sandwell and West Birmingham NHS Trust, I confirm that all existing Board directors, Board members and individuals who perform the functions equivalent to the functions of a Board director and member (both permanent and interim), meet the requirements of the Fit and Proper Persons Test.

5. Recommendations

5.1 The Trust Board is asked to:

- a) **APPROVE** the position for 2022/23 that the Trust has discharged its requirements to meet Fit and Proper Person requirements for its Directors.

Sir David Nicholson
Trust Chair

3rd May 2023