

<b>Report Title</b>	Fit and Proper Persons Test: Chair's Annual Declaration		
<b>Sponsoring Executive</b>	Kam Dhami, Director of Governance		
<b>Report Author</b>	Susan Rudd, Associate Director of Corporate Governance		
<b>Meeting</b>	Trust Board (Public)	<b>Date</b>	1 <sup>st</sup> April 2021

### 1. Suggested discussion points *[two or three issues you consider the Trust Board should focus on]*

The report provides the Chair's 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.

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.

### 2. Alignment to 2020 Vision *[indicate with an 'X' which Plan this paper supports]*

Safety Plan	<input type="checkbox"/>	Public Health Plan	<input type="checkbox"/>	People Plan & Education Plan	<input type="checkbox"/>
Quality Plan	<input type="checkbox"/>	Research and Development	<input type="checkbox"/>	Estates Plan	<input type="checkbox"/>
Financial Plan	<input type="checkbox"/>	Digital Plan	<input type="checkbox"/>	Other <i>[specify in the paper]</i>	<input checked="" type="checkbox"/>

### 3. Previous consideration *[where has this paper been previously discussed?]*

None

### 4. Recommendation(s)

The Trust Board is asked to:

- a. **NOTE** the annual Fit and Proper Person Test Chair's Declaration

### 5. Impact *[indicate with an 'X' which governance initiatives this matter relates to and where shown elaborate]*

Trust Risk Register	<input type="checkbox"/>	Risk Number(s): n/a				
Board Assurance Framework	<input type="checkbox"/>	Risk Number(s): n/a				
Equality Impact Assessment	Is this required?	Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>	If 'Y' date completed
Quality Impact Assessment	Is this required?	Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>	If 'Y' date completed

## **Fit and Proper Persons Requirements: Chair's Annual Declaration**

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).

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).

Regulation 5 states that a provider must not appoint or have in place an individual as a director who:

- is not of good character;
- does not have the necessary qualifications, competence, skills and experience;
- is not physically and mentally fit (after adjustments) to perform their duties.

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.

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.

As Chair of Sandwell and West Birmingham Hospitals 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.

My declaration has been informed by:

- the annual Fit and Proper Persons Test self-declarations completed by all board directors, board members and individuals who perform the functions equivalent to the functions of a board director and member;
- the outcome of the 2019/20 annual appraisals of those individuals and the agreement of objectives and, where required, the agreement of personal development plans;
- monitoring of sickness absence;
- monitoring of mandatory training compliance;
- due diligence checks (disqualification, regulation and bankruptcy) undertaken by the Company Secretary and review of personal files of the relevant individuals against the Trust's Fit and Proper Persons checks required on recruitment and those required on an ongoing basis, to ensure capture of the required information and assurances.

**Richard Samuda**  
**Chair**  
**31 March 2021**