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## Fit and Proper Person Test – Standard Operating Procedure

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*Solent NHS Trust procedures can only be considered to be valid and up-to-date if viewed on the intranet. Please visit the intranet for the latest version.*

Purpose of Agreement	Summarises the Fit and Proper Person Test checks and processes conducted by the Trust in accordance with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Regulation 5)
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**Amendments Summary:**

Amend No	Issued	Page	Subject	Action Date
1	Feb 2018	Various	Updated to reference CQC Guidance published Jan 2018 and to update the Self Declaration (Appendix 2)	Feb 2018
2	Sept 2018	12+ 13	Appendix 1 & 2 updated, removal of governor reference	Aug 2018
3	Nov 2021	Various	Updated to reflect new job titles and specific ref to applicability of FPPT (pg4)	November 2021

**Review Log:**

Version Number	Review Date	Lead Name	Ratification Process	Notes
3	Sept 2018	Rachel Cheal	Chairs action	Review conducted and amendments made as referenced above – no other amends
4	Aug 2020	Rachel Cheal	Virtual approval via Governance and Nominations Committee (September 2020)	Scheduled document review
5	Nov 2021	Catherine Mason	Chairs Action – 23/11/2021	Review conducted and amendments made as referenced above – no other amends

## 1. Context

- 1.1 The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Regulation 5) places a duty on NHS providers not to appoint a person or allow a person to continue to be an Executive Director or equivalent or a Non-Executive Director (NED) under given circumstances.
- 1.2 The Trust is required to ensure that directors and equivalents are 'fit and proper' for the role and make every reasonable effort to assure itself by all available means. This SOP sets out the Trust's 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 the 2014 Regulations.
- 1.3 In accordance with the CQC requirements;

*Unless the individual satisfies all the requirements set out in paragraph (3) [of the regulation], a service provider must not appoint or have in place an individual—*

- a. as a director of the service provider, or*
- b. performing the functions of, or functions equivalent or similar to the functions of a director.*

*The requirements referred to in paragraph (2) [of the regulation] are that—*

- a. the individual is of good character,*
- b. the individual has the qualifications, competence, skills and experience which are necessary for the relevant office or position or the work for which they are employed,*
- c. the 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,*
- d. the individual has not 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, and*
- e. none of the grounds of unfitness specified in Part 1 of Schedule 4 [of the regulation] apply to the individual.*

- 1.4 A copy of the full regulation and associated guidance documents including the CQC Guidance concerning the interpretation of the terms serious misconduct and management can be found [here](#)<sup>1</sup>.

## 2. Definitions

- 2.1 **Director:** A Board Director of the Trust or non-voting Director including those with 'Director' in their job title (for example a non-voting executive director) or an interim director who is employed by the Trust in a senior management position performing the functions of, or equivalent or similar to, a Director.

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<sup>1</sup> <http://www.cqc.org.uk/guidance-providers/regulations-enforcement/fit-proper-persons-directors>  
<http://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-5-fit-proper-persons-directors#full-regulation>

**For the purpose of this document the Board of Directors/ Directors means, Board members (voting), non-voting (i.e. other executive directors) and those who are advisors to the board (and therefore regular attendees) and those Directors that are considered part of the Executive Team (reporting directly to the CEO)**

- 2.2 **Non-Executive Director:** a Non-Executive Director is a member of the Board of Directors of the Trust who is not a member of the Trust Executive Group.
- 2.3 **Unfit** In accordance with schedule 4 part 1 of the 2014 Regulations, 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. For the avoidance of doubt this includes an Individual Voluntary arrangement under part VIII of the Insolvency Act 1986
  - 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.
- 2.4 **Good Character:** In accordance with Schedule 4 Part 2 of the 2014 Regulations, the Trust (via the Chair) will take into consideration, in determining whether an individual is of good character, whether he or she:
- Has 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, or struck off a register of professionals maintained by a regulator of health care or social work professionals.

### 3 Responsibilities

3.1 As stated within the Guidance<sup>2</sup>; 'The provider is responsible for the appointment, management and dismissal of its directors'.

3.2 The Trust will make every reasonable effort to assure itself about existing post holders and new applicants and to make specified information about Directors and Non-Executive Directors available to the CQC on request.

3.3 Where concerns are raised about a Director's fitness (whether such matters are self-declared, or of which the Trust becomes aware via other means), the Trust shall investigate the issue in accordance with section 6 and the process stipulated within the 'Guidance' and shall (where the individual is determined not to be fit, in consequence of that investigation):

- take such action as is necessary and proportionate to ensure that the office or position in question is held by an individual who meets the requirements of the 2014 Regulations, and
- if the individual is a health care professional, social worker or other professional registered with a health care or social care regulator, inform the relevant regulator.

#### 3.4 Chief People Officer

3.4.1 The Chief People Officer's office is responsible for:

- ensuring all checks are completed on appointment as part of the recruitment process
- ensuring associated evidence is filed for each individual and
- ensuring that the Trust Chairman has signed the checklist to signify their satisfaction that the necessary enquiries have been made in respect of the individual concerned
- reporting any exceptions/ issues of concern to the CEO, Chief of Staff and Corporate Affairs and/or the Chair as necessary

#### 3.5 Chief of Staff and Corporate Affairs

3.5.1 The Chief of Staff and Corporate Affairs office is responsible for:

- completing e-searches and social media searches upon appointment and every 6 months
- reporting any exceptions/ issues of concern to the Chief People Officer, CEO and/or the Chair as necessary

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<sup>2</sup> Regulation 5: Fit and Proper persons: directors – Guidance for providers and CQC inspectors. January 2018.

### 3.6 Chairman

#### 3.6.1 The Chairman is responsible for

- ensuring that an appropriate Fit and Proper Person process is implemented within the Trust
- satisfying themselves that the necessary enquiries have been made in respect of the individual concerned
- instigating any investigatory work or instigating any associated HR process in conjunction with the CEO and / or Chief People Officer

### 3.7 Board members/Executive Directors

#### 3.7.1 All Board members, advisors/regular attendees and Executive Team members are responsible for:

- ensuring they complete:
  - a self-declaration on appointment and
  - an annual self-declaration in accordance with the Board's Code of Conduct

This declaration will be retained on the individual's Electronic Staffing Record via the People Services Team and a copy retained by the Chief of Staff and Corporate Affairs

- informing the Chief of Staff and Corporate Affairs, in year, of any changes in circumstances that would affect their Fit and Proper Person status – for example; for informing of any speeding convictions

#### 3.8 Individuals as defined in sections 2.1 and 2.2 must satisfy the Chair that they:

- Are of good character, including by reference to the matters set out in section 2.4;
- Have the required qualifications, the competence, skills and experience required for the relevant office for which they are employed (or engaged);
- Are able, by reason of their physical and mental health, after any required reasonable adjustments, capable 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;
- Can supply relevant documentation, as set out in schedule 3 to the 2014 Regulations, to support the FPPR (and has supplied such information to the Trust, in accordance with section 4.3);
- 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 a

regulated activity (or providing a service elsewhere which if provided in England would be a regulated activity);

- Are not 'unfit' by reason of matters set out in section 2.3.

## **4 Process for new appointments**

### **4.1 Non-Executive Directors**

4.1.1 The appointment process for Non-Executive Directors (NEDs) is led by the NHS Improvement (NHSI) Appointment Team (with appointments being made by the Secretary of State).

4.1.2 NHSI are responsible for conducting Fit and Proper Person checks for each appointee.

4.1.3 The relevant information held by NHSI is requested by the Trust as evidence and, in addition; the Trust also completes its own checks, as detailed within the following sections.

### **4.2 Executive Directors (or equivalent)**

4.2.1 The appointment process for Executive Directors (or their equivalents) is led by the Trust.

4.2.2 Where an external third party is supporting the recruitment process, any relevant Fit and Proper Person Test evidence and information will be shared with the Trust for consideration / filing as appropriate.

### **4.3 Process**

4.3.1 The Trust shall carry out checks as is reasonably practical and shall complete the checklist set out in Appendix 1 for new appointments as relevant and will include the following:

- Proof of identity;
- A check of employment history and two references one of which must be the most recent employer. A minimum of three years continuous employment including details of any gaps in service need to be validated. (Discretion on the period of validation for Non-Executive Directors can be applied by the Chairman and documented on the personal file.);
- DBS check to the level required by the role;
- Qualifications/registration applicable to role.
- Psychometric tests
- Fit and Proper Person Self-declaration
- Occupational Health Clearance as relevant to the role;
- Evidence of the right to work in the UK;

- Self-declaration

4.3.2 In addition, the following electronic registers will be checked:

- A web search of the individual
- Disqualified directors
- Bankruptcy and insolvency
- Social Media checks

4.3.3 All new appointments into the relevant posts need to complete a FPPR Declaration form (Appendix 1).

4.3.4 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 responsibility for failure in a previous role.

4.3.5 A copy of the completed checklist, signed by the Chair, will be retained on the ESR personal file for the purposes of audit by CQC.

#### 4.4 Employment and qualification checks

4.4.1 The Trust will carry out employment checks (so far as reasonably practicable) on a candidate's qualifications and employment records.

#### 4.5 Occupational Health Assessments

4.5.1 The Trust will also carry out Occupational Health assessments in accordance with the checklist, Appendix 1.

4.5.2 If the Director has a physical or mental disability, wherever possible, reasonable adjustments will be made to enable the individual to carry out the role that they have been appointed to. Where a physical or mental health concern is identified, the appointment will be subject to clearance by Occupational Health as part of the pre-appointment process.

4.5.3 Any decision as to whether a candidate is appointable on grounds of health will be made by the Chair in conjunction with the CEO and Chief People Officer and recorded appropriately.

#### 4.6 Disclosure Barring Service

4.6.1 Disclosure Barring Service (DBS) checks will be completed in accordance with the CQC guidance note, accessible [here](#).

4.6.2 This is summarised as;

Role within the Trust	Level of DBS checks completed on appointment and then every 3 years		
	Basic	Standard	Enhanced
Director of Finance		X	
Chief Nurse			X
Chief Medical Officer			X
All Non-Executive Directors	X		
All other Executive Directors /Board members	X		

4.6.3 DBS checks are renewed every three years.

#### 4.7 Suitability and qualifications

4.7.1 Where the Trust makes a decision on the suitability of an individual, the reasons must be recorded by the Chair of the appointing panel. External advice will be sought as necessary prior to formal offer.

4.7.2 Where specific qualifications are deemed by the Trust as necessary for a role, the Trust 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.

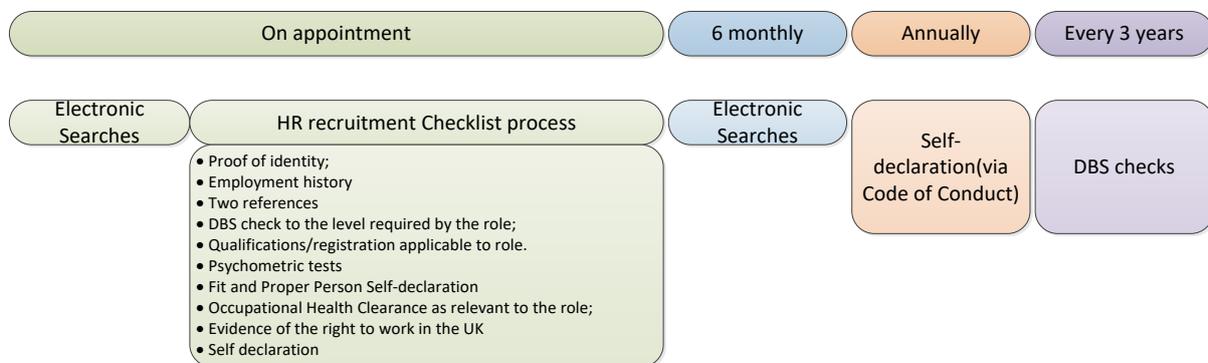
#### 4.8 Non-Compliance with Fit and Proper Person requirements

4.8.1 The Chair will be notified of any issues of non-compliance and is responsible for making an informed decision on the course of action to be followed with regard to the appointment of Board members of the wider executive team.

### 5. **Process for considering on-going fitness**

5.1 The Trust shall regularly review the fitness of directors to ensure that they remain fit for the role they are in.

- 5.2 On an annual basis all Board and wider executive team members are required to complete a further self-declaration confirming that they continue to be a fit and proper person – this is contained within the Board Code of Conduct (Appendix 1 forms the basis of the self-disclosure within the Code of Conduct).
- 5.3 The annual appraisal process will provide an opportunity to discuss continued “fitness”, competence and how the post holder role displays the Trust’s values and behaviour standard including the leadership behaviour expected. The Chief Executive is responsible for appraising the Executive Directors. The Chair is responsible for appraising the Non-Executive Directors. The Chief Executive will be appraised by the Chair. The Chair is appraised via the NHSI appraisal process.
- 5.4 Individuals will be required to make the Trust 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.
- 5.5 The Chair will be notified of any issues of non-compliance and is responsible for making an informed decision regarding the course of action to be followed. Current post holders that cannot satisfy the declaration questions will not necessarily be barred from continuation of employment/office as it will depend on the relevance of the information provided in respect of the nature of the position, and the particular circumstances. The Trust will address this in the most appropriate, relevant and proportionate way on a case by case basis.
- 5.6 A summary diagram is illustrated below in relation to the process and frequency of checks;



## 6. Action to consider for concerns about an individual’s continued FPPR compliance

- 6.1 Where matters are raised (whether in the course of new appointments, or annual declarations made, or other matters that come to the Trust’s attention in other ways) 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.
- 6.2 Where it is necessary to investigate or take action the Trust’s current HR processes will apply. Investigations will also be conducted in accordance with the ‘Guidance’. There may be

occasions where the Trust would contact NHS Improvement for advice or to discuss a case directly.

- 6.3 The Trust reserves the right to suspend a Board member or member of the wider executive team or restrict them from duties on full pay / emoluments (as applicable) to allow the Trust 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 Trust and/or where there is a risk that the Director's presence would impede the gathering of evidence in the investigation.
- 6.4 Should there be sufficient evidence to support a conclusion that the individual is not or is no longer fit and proper, 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 such requirements. As such, the Trust may terminate the appointment of the individual, in line with the Trust's Disciplinary Policy.
- 6.5 Where an individual who is registered with a professional regulator (GMC, NMC etc.) no longer meets the FPPR the Trust must also inform the relevant regulator.

## **7. Record of information and supply to CQC**

- 7.1 The Trust may make available information to CQC relating to an individual's compliance with the requirements of the 2014 Regulations, and in particular, shall maintain a record of (and may make available), in respect of each Director:
- Proof of identity including a recent photograph.
  - 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 that 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).
  - 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.
  - 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.
  - Where the Director 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 the individuals' employment in that position ended.

- In so far as it is reasonably practicable to obtain, satisfactory documentary evidence of any qualification relevant to the duties for which the person is employed or appointed to perform.
- A full employment history, together with a satisfactory written explanation of any gaps in employment.
- 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.

7.2 Where the Trust is required under any enactment to maintain information which is relevant to the individual, this must also be available to be supplied to CQC.

## **8. Board of Directors Assurance**

8.1 The Governance and Nomination Committee will receive a report to confirm the outcome of the annual FPPR checking process and will also receive reports regarding new appointments.

## **9. Review**

9.1 This SOP will be reviewed on a bi-annual basis (or before if guidance is updated), by the Chief of Staff and Corporate Affairs and the Chief People Officer.

## Appendix 1 – Recruitment checklist

<b>Name of Individual:</b>	
<b>Post Applied for:</b>	
<b>Previous Names:</b>	

Requirement	EDs/ equivalents	NEDs/ Chair	Date completed	Comments/ notes
Proof of Identity	X	X		
Evidence of Right to work in the UK	X	X		
Evidence received breaks in employment queried at interview	X			
Two references – one of which must be the most recent employer	X	X		
Disclosure Barring Service enhanced for DOF, MD, DON	X	X		
Relevant Qualification	X	X		
Professional registration	X			
Professional Body check	X			
Interview (with occupational psychologist)	X			
Psychometric tests	X			
Self declaration completed	X	X		
Occupational Health Assessment (paper screen and examination by exception)	X	offered		
Search of disqualified directors register	X	X		
Search of insolvency and bankruptcy register	X	X		
Google check on individual	X	X		

As Chair of Solent NHS Trust I am satisfied that the necessary enquiries have been made in respect of the above named individual and that I consider them to be 'Fit and Proper' under Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and the CQC requirements.

Name:	
Signature:	
Date:	

## Fit and Proper Person Declaration

### Pre-employment and annual declaration for Director and

#### Director-equivalent posts

##### Solent NHS Trust (“the Trust”)

1. It is a condition of employment that those holding director and director-equivalent posts provide confirmation in writing, on appointment and thereafter on demand, of their fitness to hold such posts. Your post has been designated as being such a post. Fitness to hold such a post is determined in a number of ways, including (but not exclusively) by the NHS Provider Licence Condition G4, the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (“the Regulated Activities Regulations”), and the Trust’s Standing Orders.
2. By signing the declaration below, you are confirming that you do not fall within the definition of an “unfit person” or any other criteria set out below, and that you are not aware of any pending proceedings or matters which may call such a declaration into question.

##### NHS Provider Licence Condition G4,

3. Condition G4 provides that the Licensee shall not appoint as a director any person who is an unfit person, except with the approval in writing of the Regulator.
4. Directors contracts contain a provision permitting summary termination in the event of a director being or becoming an unfit person. The Trust shall also ensure that it enforces that provision promptly upon discovering any director to be an unfit person, except with the approval in writing of the Regulator.

If the Regulator has given approval in relation to any person in accordance with the above the Trust shall notify the Regulator promptly in writing of any material change in the role required or performance by that person.

5. An “unfit person” is defined at condition G4 as:
  - (a) an individual:
    - (i) who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged; or
    - (ii) who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it<sup>3</sup>; or
    - (iii) who within the preceding five years has been convicted in the British Islands of any offence and a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him; or
    - (iv) who is subject to an unexpired disqualification order made under the Company Directors’ Disqualification Act 1986; or
  - (b) a body corporate, or a body corporate with a parent body corporate:
    - (i) where one or more of the Directors of the body corporate or of its parent body corporate is an unfit person under the provisions of sub-paragraph (a) of this paragraph, or

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<sup>3</sup> for the avoidance of doubt this includes an Individual Voluntary arrangement under part VIII of the Insolvency Act 1986

- (ii) in relation to which a voluntary arrangement is proposed under section 1 of the Insolvency Act 1986, or
- (iii) which has a receiver (including an administrative receiver within the meaning of section 29(2) of the 1986 Act) appointed for the whole or any material part of its assets or undertaking, or
- (iv) which has an administrator appointed to manage its affairs, business and property in accordance with Schedule B1 to the 1986 Act, or
- (v) which passes any resolution for winding up, or
- (vi) which becomes subject to an order of a Court for winding up.

### **Regulated Activities Regulations**

6. Regulation 5 of the Regulated Activities Regulations states that the Trust must not appoint or have in place an individual as a director, or performing the functions of or equivalent or similar to the functions of, such a director, if they do not satisfy all the requirements set out in paragraph 3 of that Regulation.
7. The requirements of paragraph 3 of Regulation 5 of the Regulated Activities Regulations are that:
  - (a) the individual is of good character;
  - (b) the individual has the qualifications, competence, skills and experience which are necessary for the relevant office or position or the work for which they are employed;
  - (c) the 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;
  - (d) the individual has not 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; and
  - (e) none of the grounds of unfitness specified in Part 1 of Schedule 4 apply to the individual.
8. The grounds of unfitness specified in Part 1 of Schedule 4 to the Regulated Activities Regulations are:
  - (a) 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;
  - (b) 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;
  - (c) 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;
  - (d) the person has made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it;
  - (e) 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;
  - (f) the person is prohibited from holding the relevant office or position, or in the case of an individual for carrying on the regulated activity, by or under any enactment.

### **Trust's Standing Orders**

9. The Trust's Standing Orders (section 2.10) places a number of restrictions on an individual's ability to become or continue as a director. A person may not become or continue as a director of the Trust if:
- a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged.
  - a person who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it. For the avoidance of doubt this includes an Individual Voluntary arrangement under part VIII of the Insolvency Act 1986.
  - a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him;
  - a person who, in the case of a non executive director other than the initial non-executive directors, no longer satisfies paragraph 29 (if applicable);
  - a person whose tenure of office as a chairman or as a member or Director of a health service body has been terminated on the grounds that his appointment is not in the interests of public service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest;
  - a person who has had their name removed from a list maintained by a direction under any NHS act or has otherwise been disqualified or suspended from any healthcare profession, and has not subsequently had their name included in such a list or had their qualification re-instated or suspension lifted (as applicable), and due to such reasons is considered by the Trust to be unsuitable to be a Director;
  - a person who by reference to information revealed by a disclosure and barring service (established under section 87 of the Protection of Freedoms Act 2012) check is considered by the chief executive to be inappropriate on the grounds that their appointment may adversely affect public confidence in the Trust or otherwise bring the Trust into disrepute;
  - a person who has, or has been in the last five years prior to their application to be a member, been involved as a perpetrator in a serious incident of assault or violence, or in one or more incidents of harassment, against any of the Trust's employees or other persons who exercise functions for the purposes of the Trust (including volunteers), and following such behaviour has been asked to leave, has been removed or excluded from any hospital, premises or establishment, in accordance with the relevant Trust policy for withholding treatment from violent / aggressive patients;
  - a person who has within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;
  - a person who is a governor of the Trust or an executive or non-executive director or a governor of another NHS foundation trust, an executive or non-executive director, chair, chief executive officer of another Health Service Body or a body corporate whose business includes the provision of health care services, or which includes the provision of any service to the Trust;
  - a person who is a member of a local authority health overview and scrutiny committee;
  - a person who is a subject of a disqualification order made under the Company Directors' Disqualification Act 1986;
  - a person who has failed without reasonable cause to fulfil any training requirement established by the Board of Directors;

- a person who has failed to sign and deliver to the Secretary a statement in the form required by the Board of Directors confirming acceptance of the Directors’ Code of Conduct;
- a person who has knowingly or recklessly made a false declaration for any purpose provided for under this constitution or in the 2006 Act;
- a person who is the spouse, partner, parent or child of a member of the Board of Directors (including the chairman) of the Trust; or
- a person who is the subject of a sex offenders order and/or his name is included in the sex offenders register.

**Declaration**

I acknowledge the extracts from the Provider Licence, Regulated Activities Regulations and the Trust’s Standing Orders above. I confirm that I do not fit within the definition of an “unfit person” as listed above and that there are no other grounds under which I would be ineligible to continue in post. I undertake to notify the Trust immediately if I no longer satisfy the criteria to be a “fit and proper person” or other grounds under which I would be ineligible to continue in post.

I declare that I have not been at any time responsible for, privy to, contributed to, or facilitated, any serious misconduct or mismanagement in the carrying out of a regulated activity in any former roles. If the Trust discovers information, after appointment, that suggests an individual is not of good character, or if concerns or findings regarding misconduct or mismanagement under the Fit and Proper Person requirements are made, these will be shared with Regulators as appropriate and may lead to action in accordance with the Trust’s disciplinary policy.

Name	
Signed	
Date	
Position	