

TRUST BOARD – 5 February 2015

Fit and Proper Person's Test

DIRECTOR:	Emma Stevens, Acting Director of Human Resources
AUTHOR:	Emma Stevens, Acting Director of Human Resources/Helen Atwell, Recruitment Services Manager
DATE:	5 February 2015
PURPOSE:	<p>In response to the Francis Inquiry, the Government announced its intention to introduce a number of new measures aimed at improving openness and transparency and setting minimum standards of care. This means that new regulations setting out fundamental standards of care will come into force for all care providers required to register with the Care Quality Commission (CQC) from 1 April 2015.</p> <p>As part of these new regulations, from 27th November all NHS Trusts must meet the new Regulation 5: fit and proper persons test for Directors.</p> <p>Health service providers currently have a general obligation to ensure that they only employ individuals who are fit for their role and UHL undertakes this through following the NHS Employers Good Practice Guidance in relation to employment checks.</p> <p>The introduction of the fit and proper persons requirement for Directors imposes an additional requirement. The purpose is to require providers to take proper steps to ensure that their Directors (or equivalent) are fit and proper for the role.</p> <p>The scope of the new requirements cover all NHS bodies - including NHS Trusts, NHS Foundation Trusts and Special Health Authorities that are required to register with the Care Quality Commission (CQC). It will apply to all Directors: Executive, Non-Executive, permanent, interim, associate positions, or functions equivalent or similar to the functions of Director. It excludes Governors of Foundation Trusts but includes governors if they are a member of a Trust Board.</p> <p>The Trust must ensure that it only employs Directors, or their equivalent, who are fit for their role. Summary of checks required, to which standard they relate to and how the process will operate at UHL are detailed in the attached report.</p>
PREVIOUSLY CONSIDERED BY:	Trust Board 22 December 2014
Objective(s) to which issue relates *	<input checked="" type="checkbox"/> 1. Safe, high quality, patient-centred healthcare <input type="checkbox"/> 2. An effective, joined up emergency care system <input type="checkbox"/> 3. Responsive services which people choose to use (secondary, specialised and tertiary care) <input type="checkbox"/> 4. Integrated care in partnership with others (secondary, specialised and tertiary care) <input type="checkbox"/> 5. Enhanced reputation in research, innovation and clinical education <input checked="" type="checkbox"/> 6. Delivering services through a caring, professional, passionate and valued workforce <input type="checkbox"/> 7. A clinically and financially sustainable NHS Foundation Trust <input type="checkbox"/> 8. Enabled by excellent IM&T

Please explain any Patient and Public Involvement actions taken or to be taken in relation to this matter:	The implementation of the new requirements is at the heart of the Government's approach to increasing transparency and accountability in the health and social care systems.
Please explain the results of any Equality Impact assessment undertaken in relation to this matter:	In line with current recruitment practice.
Organisational Risk Register/ Board Assurance Framework *	<input type="checkbox"/> Organisational Risk Register <input type="checkbox"/> Board Assurance Framework <input checked="" type="checkbox"/> Not Featured
ACTION REQUIRED * For decision <input checked="" type="checkbox"/> For assurance <input type="checkbox"/> For information <input type="checkbox"/>	

- ♦ We treat people how we would like to be treated
- ♦ We do what we say we are going to do
- ♦ We focus on what matters most
- ♦ We are one team and we are best when we work together
- ♦ We are passionate and creative in our work

* tick applicable box

UNIVERSITY HOSPITALS OF LEICESTER NHS TRUST

REPORT TO: TRUST BOARD

DATE: 5 February 2015

REPORT BY: ACTING DIRECTOR OF HUMAN RESOURCES

SUBJECT: FIT AND PROPER PERSONS TEST: DIRECTORS (REGULATION 5)

1. INTRODUCTION

- 1.1 Against the backdrop of the Francis Inquiry report, the Government has legislated (via the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014) and made important changes to health and social care standards which are regulated by the Care Quality Commission (CQC). A report to the Trust Board on 22 December 2014 summarised the key changes and identified immediate actions to be taken in response.
- 1.2 This report provides an update on the requirements placed on NHS provider organisations as of 27 November 2014 to ensure Director level appointments meet the 'fit and proper persons test' which have been integrated into the CQC's registration requirements. The Trust has responsibility to ensure that all Directors meet the fitness test and do not meet any of the 'unfit' criteria.

2. REGULATION 5: FIT AND PROPER PERSONS: DIRECTORS

- 2.1 Health Service providers currently have a general obligation to ensure that they only employ individuals who are fit for their role and UHL undertakes this through following NHS Employers Good Practice Guidance in relation to employment checks.
- 2.2 The introduction of the fit and proper persons requirement for Directors imposes an additional requirement. The purpose is to require providers to take proper steps to ensure that their Directors (or equivalent) are fit and proper for the role.
- 2.3 The fit and proper persons test will apply to Directors (both Executive Directors and Non-Executive Directors) and individuals "performing the functions of, or functions equivalent or similar to the functions of, such a Director". The test will therefore apply to senior managers who exercise functions similar to the Directors of the organisation. Advice has been taken from the NTDA with regard to the interpretation of the 'Director' category and the advice was that the Fit and Proper Persons Test applies to Directors who regularly attend the Trust Board and/or are Directors who report directly to the Chief Executive.
- 2.4 The Regulations provide that health service bodies must not appoint or have in place an individual as a Director or equivalent unless:-
 - the individual is of good character;

- 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;
- 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;
- can supply information to the CQC as set out in Schedule 3 of the Regulations;

2.5 The regulations also list categories of persons who are prevented from holding office and for whom there is no discretion:-

- The person 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;
- The person is an undischarged bankrupt or a person whose estate has had a 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(40);
- 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.

2.6 The regulations require the Chair of the Trust to:-

- Confirm to the CQC that the fitness of all new Directors has been assessed in line with the regulations and
- Declare to the CQC in writing that they are satisfied that they are fit and proper individuals for that role.

A notification to the CQC is already required following a new Director level appointment. The CQC will cross-check notifications about new Directors against other information that they hold or have access to, to decide whether we want to look further into the individual's fitness. They will also have regard to any other information that they hold or

obtain about Directors in line with current legislation on when convictions, bankruptcies or similar matters are to be considered 'spent'.

- 2.7 The CQC has the right to require the provision of information set out in Schedule 3 of the Regulations and such other information as set out in the pre-employment checklist at Appendix 2.

3 UHL PROCESS

- 3.1 In order to comply with Regulation 5, attached at **Appendix 1** are the specific requirements of the fit and proper person test (for sections 2.4 and 2.5 above) and sets alongside those requirements how the Trust intends to assure itself about the suitability of individuals. In addition, Appendix 1 outlines the annual checks which will be required.

- 3.2 The introduction of the Fit and Proper Persons Test will require new/amended documentation for employees meeting the definition as follows:-

- (i) Specific Pre Employment Checklist (Appendix 2) which would be completed with the issuing of a Conditional Offer letter
- (ii) Pre-Employment and Annual Declaration Form (Appendix 3)
- (iii) Revised insert into the Reference Request Form (Appendix 4)
- (iv) Revised Insert into Contract of Employment (Appendix 5)

4 RECOMMENDATION

- 4.1 The Trust Board are asked to comment and approve the implementation of the:-

- The advice from the NTDA regarding the definition of 'Director ' for this purpose is adopted
- Revised/New documents as attached as Appendices
- Approve the implementation of the Annual Declaration Form with immediate effect which will be signed off by the Chief Executive and Director of HR for posts reporting to the Chief Executive and by the Chairman and Director of HR for the Chief Executive and Non Executive Directors

University Hospitals of Leicester NHS Trust
Compliance with Regulation 5 – Fit and Proper Persons Test

(*) indicates newly-introduced requirements to address the regulations

	Standard	Assurance	Evidence
1.	The Individual is of Good Character		
1.1	<p>Providers should make every effort to ensure that all available information is sought to confirm that the individual is of good character as defined in Schedule 4, Part 2 of the regulations.</p> <p><i>(Sch.4, Part 2: Whether the person 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. Whether the person has been erased, removed or struck-off a register of professionals maintained by a regulator of health care or social work professionals.)</i></p>	<p>Employment checks are undertaken in accordance with NHS Employers pre-employment check standards and include:</p> <ul style="list-style-type: none"> ▪ Two references, one of which must be most recent employer ▪ qualification and professional registration checks ▪ right to work checks ▪ identity checks ▪ occupational health clearance ▪ DBS checks (A standard check would be undertaken in line with DBS Requirements unless direct patient care is required and then an enhanced check would be required) <p>In addition, we also carry out:</p> <ul style="list-style-type: none"> ▪ Declarations of fitness by candidates ▪ Search of insolvency and bankruptcy register (*) ▪ Search of disqualified directors register (*) 	<p>Fit and Proper Person Pre Employment Checklist (*)</p>

	Standard	Assurance	Evidence
1.2	Where a provider deems the individual suitable despite not meeting the characteristics outlined in Schedule 4, Part 2 of these regulations, the reasons should be recorded and information about the decision should be made available to those that need to be aware.	This would be the subject of debate at the Appointments Committee and subsequently at the Remuneration Committee. The minutes should record such decisions. The Chair will take advice from internal and external advisors as appropriate.	Appointment Committee notes /Minutes of Remuneration Committee meetings.
2.	Individual has the qualifications, competence, skills and experience		
2.1	Where specific qualifications are deemed by the provider as necessary for a role, the provider must make this clear and should only employ those individuals that meet the required specification, including any requirements to be registered with a professional regulator.	This requirement is included within the job Person Specification for relevant posts and is checked as part of the pre-employment checks.	Person Specification Fit and Proper Persons Recruitment Pre Employment Checklist (*) Appointment Committee notes
2.2	The provider should have appropriate processes for assessing and checking that the individual holds the required qualifications and has the competence, skills and experience required, (which may include appropriate communication and leaderships skills and a caring and compassionate nature), to undertake the role; these should be followed in all cases and relevant records kept.	Employment checks include a candidate's qualifications and employment references. The recruitment process also includes qualitative assessment and values-based questions. The Appointment Committee assessment is undertaken in line with the Person Specification for the role	Recruitment policy and procedure Values-based questions Appointment Committee notes

	Standard	Assurance	Evidence
2.3	The provider may consider that an individual can be appointed to a role based on their qualifications, skills and experience with the expectation that they will develop specific competence to undertake the role within a specified timeframe.	Any such decision would be discussed by the Appointments Committee and should be minuted. Any subsequent actions required would be subject to follow-up as part of on-going review and appraisal.	Appointment Committee notes Appraisal Paperwork
3.	Health		
3.1	When appointing relevant individuals the provider has processes for considering a person's physical and mental health in line with the requirements of the role.	All post-holders are subject to clearance by occupational health as part of the pre-employment process.	Occupational health clearance as part of Recruitment pre-employment checks
3.2	Wherever possible, reasonable adjustments are made in order that an individual can carry out the role.	Pre Employment Health Screening would take place and process re adjustments is already included in the Trust's Sickness Absence Policy.	Appropriate Occupational Health Report and Sickness Absence Policy
4.	Check of Persons Prevented from holding office		

	Standard	Assurance	Evidence
4.1	<p>The provider has processes in place to assure itself that the individual has not been at any time responsible for, privy to, contributed to, or facilitated, any serious misconduct or mismanagement in the carrying on of a regulated activity; this includes investigating any allegation of such potential behaviour. Where the individual is professionally qualified, it may include fitness to practise proceedings and professional disciplinary cases.</p> <p><i>("Responsible for, contributed to or facilitated" means that there is evidence that a person has intentionally or through neglect behaved in a manner which would be considered to be or would have led to serious misconduct or mismanagement.</i></p> <p><i>"Privy to" means that there is evidence that a person was aware of serious misconduct or mismanagement but did not take the appropriate action to ensure it was addressed.</i></p> <p><i>"Serious misconduct or mismanagement" means behaviour that would constitute a breach of any legislation/enactment CQC deems relevant to meeting these regulations or their component parts.")</i></p>	<p>This has been incorporated as a specific declaration as part of the pre-employment process.</p> <p>It is also incorporated into a revised reference request template for all director and director-equivalent posts.</p>	<p>References received that form part of the Fit and Proper Persons Pre-Employment Checklist (*)</p>
4.2	<p>Only individuals 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 will be eligible for a check by the Disclosure and Barring Service (DBS).</p> <p>As part of the recruitment/appointment process, providers should establish whether the individual is on a relevant barring list.</p>	<p>DBS checks are undertaken for those posts which fall within the definition of a "regulated activity" or which are otherwise eligible for such a check to be undertaken.</p> <p>Eligibility for DBS checks will be assessed for each vacancy arising.</p>	<p>DBS Policy</p> <p>DBS checks for eligible post-holders</p>

	Standard	Assurance	Evidence
4.3	<p>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;</p> <p>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(40);</p> <p>The person has made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it;</p>	<p>Search undertaken of Insolvency and Bankruptcy Register</p> <p>Pre-Employment Checks</p>	<p>Screen print for Personal file</p> <p>Fit and Proper Persons Recruitment Pre-Employment Checklist (*)</p>
4.4	<p>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;</p>	<p>Search undertaken of Disqualified Directors Register – Company's House</p> <p>Pre-Employment Checks</p>	<p>Screen print for Personal file</p> <p>Fit and Proper Persons Recruitment Pre-Employment Checklist (*)</p>
5.	On-going Checks		
5.1	<p>The fitness of directors is regularly reviewed by the provider to ensure that they remain fit for the role they are in; the provider should determine how often fitness must be reviewed based on the assessed risk to business delivery and/or the service users posed by the individual and/or role.</p>	<p>Post-holders undertake annual declarations of fitness to continue in post.</p> <p>Checks of insolvency and bankruptcy register and register of disqualified directors to be undertaken each year as part of the declaration process. (*)</p>	<p>Annual Declaration (*)</p>
5.2	<p>The provider has arrangements in place to respond to concerns about a person's fitness after they are appointed to a role, identified by itself or others, and these are adhered to.</p>	<p>The Disciplinary and Capability policies provide these arrangements, and revised contracts (for EDs and director-equivalents) and the Annual Declaration incorporate maintenance of fitness as a requirement (*)</p>	<p>Disciplinary and Capability Policies</p> <p>Contracts of Employment</p>
5.3	<p>The provider investigates, in a timely manner, any concerns about a person's fitness or ability to carry out their duties, and where concerns are substantiated, proportionate, timely action is taken; the provider must demonstrate due diligence in all actions.</p>	<p>This will be undertaken if concerns are identified and revised contracts provide for termination if individuals fail to meet necessary standards.</p>	<p>Disciplinary and Capability Policies</p> <p>Revised employment contracts</p>

	Standard	Assurance	Evidence
5.4	Where a person's fitness to carry out their role is being investigated, appropriate interim measures may be required to minimise any risk to service users.	This would be reviewed when concerns are identified.	Disciplinary and Capabilities policies.
5.5	The provider informs others as appropriate about concerns/findings relating to a person's fitness; for example, professional regulators, CQC and other relevant bodies, and supports any related enquiries/investigations carried out by others.	This would be completed if any concerns were identified.	Referrals made to other agencies.

() indicates newly-introduced requirements to address the regulations*

In the table above, unless the contrary is stated or the context otherwise requires, "ED" means executive directors and director-equivalent

PRE-EMPLOYMENT CHECKLIST FOR DIRECTOR AND DIRECTOR-LEVEL EQUIVALENTS

Standard	Evidence Received/Comment	Photocopy taken and Placed on Personal File
Proof of identity including a recent photograph.		
A copy of a Criminal Record Certificate issued at the appropriate level.		
Satisfactory evidence of good conduct in previous employment concerned with the provision of services relating to: (a) Health or social care, or, (b) Children or vulnerable adults		
Where a person has been previously employed in a position whose duties involved working with children or vulnerable adults, satisfactory verification, so far as reasonably practicable, of the reason why a person's 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.		

Form Completed By _____

Name:- _____

Job Title:- _____

Date:- _____

**PRE-EMPLOYMENT AND ANNUAL DECLARATION FOR DIRECTOR AND
DIRECTOR-EQUIVALENT POSTS**

UNIVERSITY HOSPITALS OF LEICESTER NHS TRUST (“the Trust”)

“FIT AND PROPER PERSON” DECLARATION

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 Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (“the Regulated Activities Regulations”).
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.

Fit and Proper Persons Regulation 5 (Health and Social Care Act 2008 (regulated Activities) Regulations 2014

3. Registration conditions of the Care Quality Commission requires that the Trust shall not appoint as a director any person who is an unfit person.
4. An “unfit person” is defined 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; 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 subparagraph (a) of this paragraph, or
- (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.

9. The Fit and Proper Persons Regulation 5 (Health and Social Care Act 2008 (regulated Activities) Regulations 2014 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) they are a member of the council of governors, or a governor or director of an NHS body or another NHS foundation trust;
- (b) they are a member of the patients' forum of an NHS organisation;
- (c) they are the spouse, partner, parent or child of a member of the board of directors of the Trust;
- (d) they are a member of a local authority's scrutiny committee covering health matters;
- (e) they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged;
- (f) they have made a composition or arrangement with, or granted a Trust deed for, their creditors and have not been discharged in respect of it;
- (g) they have within the preceding five years been convicted in the British Islands of any offence, and a sentence of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed;
- (h) they are the subject of a disqualification order made under the Company Directors Disqualification Act 1986;

Insert into Reference Request Inclusion for Director and Director-Level Equivalents

For Fit and Proper Person posts only:

The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 state that the Trust must not appoint or have in place an individual as a director, or who performs the functions of or equivalent or similar functions of a director if they do not fulfil the following requirements:

- (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

None of the grounds of unfitness specified in Part 1 of Schedule 4 apply to the individual. 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.

Considering these requirements, and based on your knowledge of the individual, would you have any concerns as to their suitability for appointment? Yes No:

If you have answered "yes", please expand below:

Insert into Contracts of Employment for Director and Director Level Equivalents (For FPPR)

“Regulated Activities Regulations” means The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014;

Terms and Conditions of Service

- 1.0 It is a condition of your employment that you agree to the public disclosure of information by the Trust in relation to your employment in accordance with the National Health Service Act 2006, and/or any other legal or regulatory requirements that may be imposed on the Trust from time to time. If information is requested to be withheld this should be discussed with the Director of Corporate and Legal affairs and Chief Executive.
- 2.0 You are required to confirm in writing in such form as may be prescribed by the Trust, on appointment and thereafter on demand, that:
 - 2.1 you are not subject to any restrictions which would prevent you from holding the office of director of the Trust;
 - 2.2 you do not fall within the definition of an “unfit person” as specified in Part 1 of Schedule 4 of the Regulated Activities Regulations
 - 2.3 you satisfy the requirements of Regulation 5(3) of the Regulated Activities Regulations; and
 - 2.4 you do not meet any of the criteria for disqualification as a director outlined within the Regulated Activities Regulations
 - 2.5 You shall notify the Trust as soon as practicable (and in any event within 7 days) of any change in circumstances that means the written confirmation that you have provided in accordance with clause 2.4 above is no longer accurate.
 - 2.6 You warrant that you are entitled to work in the United Kingdom without any additional approvals and you will notify the Trust immediately if you cease to be so entitled during your employment.
 - 2.7 Failure to provide the confirmation or notification described in clauses 2.1 to 2.6 (inclusive) above without good reason within 14 days of such confirmation or notification being demanded or required shall be referred to the Remuneration Committee and is likely to be considered a disciplinary matter.

