

Fit and Proper Persons Test: Policy and Framework

January 2024 – January 2027

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Purpose	This policy supports the implementation of the recommendations from the Kark Review; it sets out the requirements of the NHS England Fit and Proper Persons Test (FPPT), that came into effect on 30 September 2023 and promotes the underlying legal requirements through the establishment of the FPPT Framework (the Framework), to provide a fair and proportionate approach to the implementation of new, and more comprehensive requirements around board appointments.
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Document control:		
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1 Introduction

Ensuring high standards of leadership in the NHS is crucial; well-led NHS organisations and better-led teams with both strong teamwork and strong governance translate into greater staff wellbeing and clinical care. This requires accountable board members with both outstanding personal conduct and professional capabilities to effectively oversee NHS organisations that are often under significant financial restraint and operating in a highly regulated environment with public and political scrutiny.

This policy supports the implementation of the recommendations from the Kark Review¹; it sets out the requirements of the Fit and Proper Persons Test (FPPT) and promotes the underlying legal requirements through the establishment of the new NHS England Fit and Proper Person Test Framework FPPT (**the Framework**), to provide a fair and proportionate approach to the implementation of new, and more comprehensive requirements around board appointments.

1.1 Background

The CQC **Regulation 5: Fit and Proper Person Requirement** (FPPR) has been in force since 2014 (under the Health and Social Care Act 2008, Regulated Activities Regulations). The Regulations were introduced in response to concerns raised following investigations into Mid Staffordshire NHS Foundation Trust and Winterbourne View Hospital and stipulates that NHS organisations must not appoint or have in place directors unless they meet the FPPR standards. To assess individuals, the **Fit and Proper Person Test** (FPPT) was introduced in 2014.

The Kark Review (2019) was commissioned by the government in July 2018 to review the scope, operation and purpose of the Fit and Proper Person Test (FPPT) as it applies under the current Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

This included looking at how effective the FPPT is:

“... in preventing unsuitable staff from being redeployed or re-employed in the NHS, clinical commissioning groups, and independent healthcare and adult social care sectors.”

The review highlighted areas that needed improvement to strengthen the existing regime.

In response to these recommendations, NHS England (NHSE) published a **Fit and Proper Person Test Framework (the Framework)** in August 2023.

¹ [Kark review of the fit and proper persons test - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/kark-review-of-the-fit-and-proper-persons-test)

1.2 Purpose and Benefits

The new Framework includes all current elements relating to the current Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, along with additional elements as recommended by the Kark Review including the testing which already takes place and the additional elements of the review, which includes broadening the scope of the FPPT applicability to include NHS commissioners, including Integrated Care Boards and relevant Arm's Length Bodies (ALBs).

The new NHSE Framework introduces a means of retaining information relating to testing the requirements of the FPPT, a set of standard competencies, a new way of completing references and extension of applicability to ICBs, NHS England and the CQC.

The FPPT Framework introduces a means of retaining information relating to:

- Testing the requirements of the FPPT for individual directors,
- A set of standard competencies for all board members,
- A new way of completing board member references with additional content whenever a director leaves an NHS board, and
- Extension of the applicability to some other organisations including NHS England, Integrated Care Boards and the CQC.

The aim of strengthening the FPPT is to prioritise patient safety and good leadership in NHS organisations; the Framework will help board members build a portfolio to support and, provide assurance that they are fit and proper, whilst demonstrably unfit board members will be prevented from moving between NHS organisations.

The Framework will be fair and proportionate and has been developed with the intention to avoid unnecessary bureaucratic burden on NHS organisations.

As the FPPT assessment is on an individual basis, rather than in relation to the board as a whole, it is envisaged that aspirant board members who can demonstrate the characteristics described above should not be deterred from seeking to join the board of a more challenged NHS organisation. The FPPT assessment is one of general competence to act as a board member, and situational context should therefore be taken into account.

The Framework should be read in conjunction with the [NHS Constitution](#), [NHS People Plan](#), [People Promise](#) and forthcoming NHS Leadership Competency Framework for leaders at board level. The Framework supports transparency and should be the start of an ongoing dialogue between board members about probity and values. It should be seen as a core element of a broader programme of board development, effective appraisals and values-based (as well as competency-based) appointments – all of which are part of the good practice required to build a 'healthy' board.

1.3 Context

Current fit and proper persons regulations

In 2014, the government introduced a 'fit and proper person' requirement, via [Regulation 5 of the Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014 \(the 'Regulations'\)](#).

This sets out the requirements for a FPPT which applies to directors and those performing the functions of, or functions equivalent or similar to the functions of, a director in all NHS organisations registered with the CQC, which includes all license holders and other NHS organisations to which license conditions apply.

Regulation 5 recognises that individuals who have authority in NHS organisations that deliver care are responsible for the overall quality and safety of that care. The regulation requirements are that:

- a) the individual is of good character
- b) the individual has the qualifications, competence, skills and experience that 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 that 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, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) while carrying out a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity
- e) 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 from carrying on the regulated activity, by or under any enactment.

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The good character requirements referred to above in Regulation 5 are specified in [Part 2 of Schedule 4 to the Regulated Activities Regulations](#), and relate to:

- a) 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
- b) 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.

Integrated care boards (ICBs) are statutory bodies with the general function of arranging for the provision of services for the purposes of the health service in England and are NHS bodies for the purposes of the 2006 Act. ICBs, together with the CQC and NHS England, are within scope of this Framework. The Framework also supports the recommendations to strengthen and reinforce individual accountability and transparency for board members, thereby enhancing the quality of leadership within the NHS, and takes into account the requirements of the Care Quality Commission (CQC) in relation to directors being fit and proper for their roles.

The Framework is not retrospective and is intended to be used from 30 September 2023 onwards with full implementation by 31 March 2024.

NHS Principles and Values

The following NHS principles and values underpin the Framework and provide additional context to its aims:

- The NHS Constitution.
- The seven NHS guiding principles that govern the way the NHS operates and define how it seeks to achieve its purpose.
- The six core NHS values.
- The Nolan Principles of Standards in Public Life.

2 LSC ICB Fit and Proper Persons Policy

2.2 Purpose

The purpose of this policy is to set out how NHS Lancashire and South Cumbria Integrated Care Board (hereafter referred to as the ICB) will apply the NHS England Fit and Proper Person Framework (**the Framework**) to ensure it complies with CQC Regulation 5, and the further requirements of the Framework.

The ICB needs to be able to consistently demonstrate, on an annualised basis, that a formal assessment of fitness and properness for each board member has been undertaken. The ICB will carry out the assessment alongside the annual appraisal process.

The ICB chair will ensure that the ICB can show evidence that appropriate systems and processes are in place to ensure that all new and existing board members are, and continue to be, fit and proper (that is, the board members meet the requirement of [Regulation 5](#)), and that no appointments breach any of the criteria set out in [Schedule 4](#) of the regulations.

Such systems and processes include (but are not limited to) recruitment, induction, training, development, performance appraisal, disciplinary and dismissal processes.

In evaluating a board member's fitness, a decision is expected to be reached on the fitness of the board member that is in the range of decisions that a reasonable person would make. NHS England recognises that chairs will need to make judgements about the suitability of board members and will support balanced judgements made in the spirit of the Framework.

The Policy sets out:

- When the full FPPT assessment is needed, which includes annual self-attestations.
- New appointment considerations.
- Additional considerations in specific situations such as joint appointments, shared roles and temporary absences.
- The role of the Chair in overseeing the FPPT.
- The FPPT core elements to be considered in evaluating board members.
- The circumstances in which there will be breaches to the core elements of the FPPT.
- The requirements for a Board Member Reference (BMR) check.
- The requirements for accurately maintaining FPPT information on each board member in ESR.
- The record retention requirements.
- Dispute resolution.
- Quality assurance over the Framework

Ultimate accountability for adhering to this framework will reside with the chair of the ICB.

Throughout this Policy:

- the term **'board member'** refers to those individuals as set out under section 2.3
- the term **'ESR'** refers to the FPPT data fields in ESR.

It is important to note that:

- Information held in ESR about board members is accessible by a limited number of senior individuals within the ICB only.
- There is no access to FPPT information about board members in the ICB by another organisation or individual

2.3 Applicability

Within the NHS England FPPT Framework guidance, the term 'board member' is used to refer to:

- both executive directors and non-executive directors (NEDs), irrespective of voting rights
- interim (all contractual forms) as well as permanent appointments
- those individuals who are called 'directors' within Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

The Framework requirements applies on an individual basis, rather than in relation to the board as a whole.

The individual does not have to be an employee of the ICB to fall within the scope of this policy.

The Board of Lancashire and South Cumbria ICB

The composition of Integrated Care Boards is different to that of 'other' NHS organisations and is a unitary board, with a minimum membership requirement of:

Independent Members

- Chair
- A minimum of two other independent non-executive members

Executive Roles (Ordinary Members)

- Chief Executive
- Chief Finance Officer
- Director of Nursing
- Medical Director

Partner Members

- At least one drawn from Partner NHS Trusts/FTs
- At least one drawn from primary medical services providers within the ICB area
- At least one drawn from local authority whose responsibilities fall within the area of the ICB

All members of the Board are 'voting members' and non-voting members are not permitted. All members of the board will fall within this policy under the term 'board members'.

Those individuals who by virtue of their profession are members of other professional registers, such as the General Medical Council (GMC) or Nursing and Midwifery Council (NMC), should still be assessed against the Framework if they are a board member.

Local determination

The Framework recognises that some organisations may want to extend the FPPT assessment to other key roles, for example, to those individuals who may regularly attend board meetings or otherwise have significant influence on board decisions.

The Chair of the ICB has determined that this policy will be extended to:

- All other executives who report directly to the Chief Executive and regularly attend the board as a participant.
- The Directors of Health and Care Integration

The annual submission requirement is, however, limited to board members only.

2.4 Roles and Responsibilities

Role of the Chair

The Chair has ultimate accountability for ensuring that the ICB conducts and keeps under review a FPPT regime to ensure board members are, and remain, suitable for their role. The Chair will ensure that the ICB can show evidence that appropriate systems and processes are in place to ensure that all new and existing board members are, and continue to be, fit and proper.

As such, the chair will:

- a) Ensure the ICB has proper systems and processes in place to comply with the FPPT requirements.
- b) Ensure that the board member references/pre-employment checks (where relevant) and full FPPT (including the annual self-attestation) are complete and adequate for each board member.
- c) Ensure an appropriate programme is in place to identify and monitor the development needs of board members.
- d) On appointment of a new board member, consider the specific competence, skills and knowledge of board members to carry out their activities, and how these fit with the overall board.
- e) Conclude whether the board member is fit and proper.
- f) Confirm, on an annual basis, that all board members have completed their own FPPT self-attestation.
- g) Ensure that for any board member approved to commence work or continue in post despite there being concerns about a particular aspect of the FPPT, they document the reason(s) as to why there has been an issue

In considering their overall assessment of board members, the chairs will confirm points b) and e) are adequately addressed, and where relevant for point g), appropriate action has been taken to address any concern.

The chair will present a report on completion of the annual FPPT in accordance with local policy, to the board in a public meeting.

The chair will also complete an annual self-attestation that they themselves are in continued adherence with the FPPT requirements.

Senior Independent Director (SID)

Annually, the senior independent director (SID) will review and ensure that the chair is meeting the requirements of the FPPT and will sign off the completion of the annual assessment within ESR.

The accountability for ensuring that the ICB chair meets the FPPT assessment criteria will reside with NHS England regional directors, as is also the case for the chairs' annual appraisals.

ICB Chief Executive

The Chief Executive will review the FPPT evidence and conclude for each executive director who is a board member or where they are a direct report to the CEO in scope of this policy, whether they are fit and proper, prior to the annual submission.

Company Secretary/Director of Corporate Governance

The Company Secretary will be responsible for implementation of this policy and ensuring all relevant systems and processes are in place. The Company Secretary will lead the appointment process for the Chair, Non-Executive Members and Partner Members of the Board, in line with regulations, NHS England Frameworks and the ICB's constitution.

The company secretary will support the Chair to ensure all aspects of this policy are adhered to and that the ICB is compliant with all elements of the overall FPPT annual assessments and timely submissions to NHS England Regional Director and reporting to the Board of the ICB.

In conjunction with the Chair and the Remuneration Committee, the company secretary will also ensure prompt action in accordance with Regulation 5, in the event of non-compliance with the policy by any individual in scope.

Chief People Officer

The Chief People Officer will ensure there are robust HR Policies, systems and processes including (but not limited to) recruitment, induction, training, development, performance appraisal, disciplinary and dismissal processes recruitment processes and that these are align to the Framework where relevant, ensuring appropriate HR standard operating procedures and recruitment support, and that ESR is accurate and maintained to enable records and reporting of compliance.

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NHS England Regional Director

The NHS England Regional Director will review the annual submission (and any ad hoc submissions) and respond back to the ICB as a record of receipt.

Board Members as defined as those in scope of this policy (Under section 2.3)

The FPPT requirement applies to an individual basis, rather than in relation to the board as a whole. Individuals in scope of this policy fall under the requirements of the Regulated Activity Regulations regardless of whether they are in scope of this policy via joint or nominated appointment, a temporary, secondment or interim basis.

The individual does not have to be an employee of the ICB to fall within the scope of this policy, and will:

- complete an annual self-attestation declaration that they remain fit and proper
- Respond promptly to any requests for information or evidence of their ongoing suitability.
- Disclose to the Chair any issues which may call into question their suitability for the role they are undertaking as soon as responsibility possible.

2.5 FPPT Policy: Overview

The ICB needs to be able to consistently demonstrate, on an annualised basis, that a formal assessment of fitness and properness for each board member has been undertaken. The ICB will carry out the assessment alongside the annual appraisal process.

The ICB will be required to show evidence that appropriate systems and processes are in place to ensure that all new and existing board members are, and continue to be, fit and proper, and that no appointments breach any of the criteria set out in [Schedule 4](#) of the regulations.

Such systems and processes include (but are not limited to) recruitment, induction, training, development, performance appraisal, governance committees, disciplinary and dismissal processes.

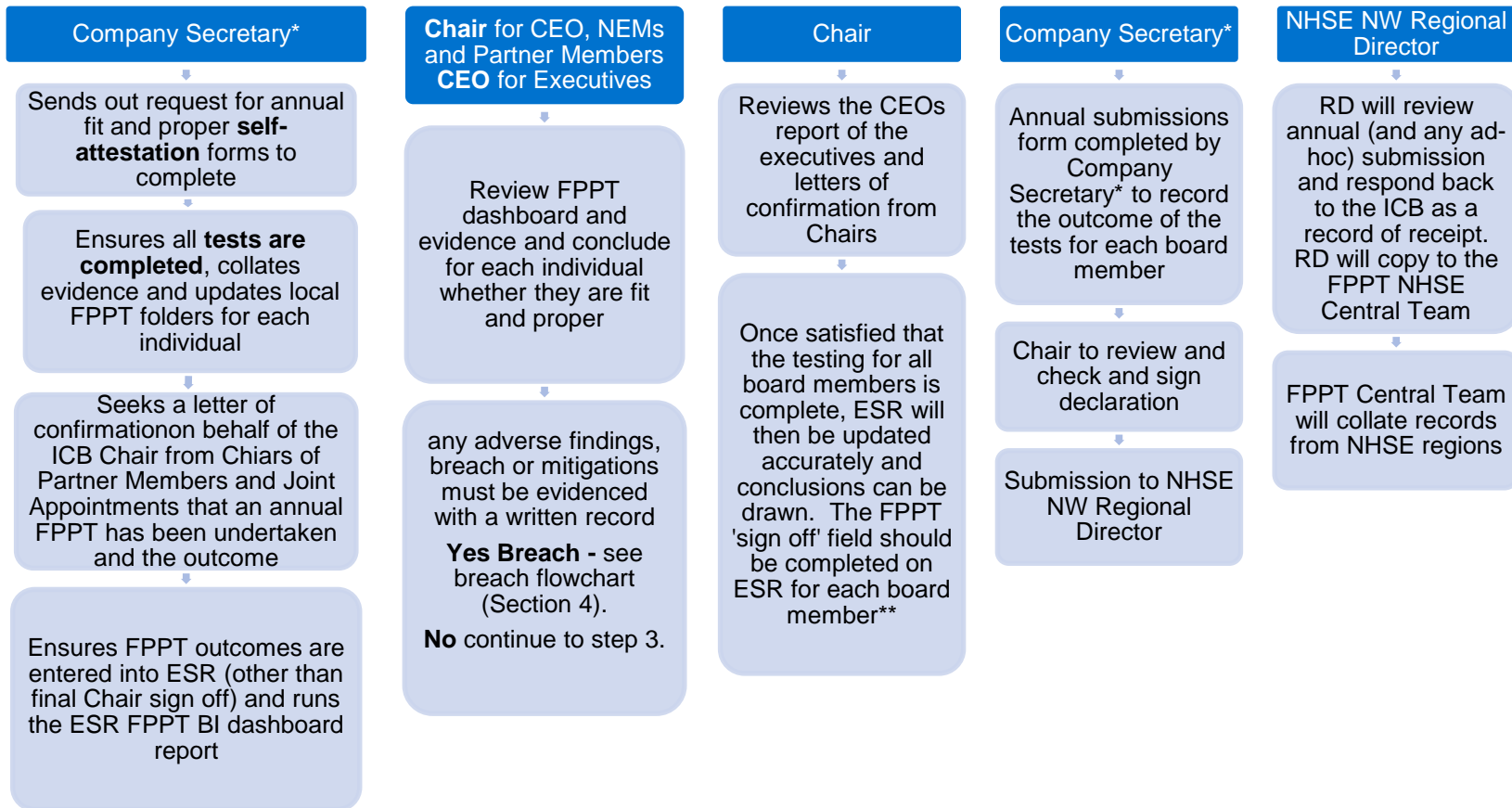
The ICB chair will be responsible for ensuring that the ICB conducts and keeps under review a FPPT (in line with tables 1-4 below) to ensure board members are, and remain, suitable for their role.

In evaluating a board member's fitness, a decision is expected to be reached on the fitness of the board member that is in the range of decisions that a reasonable person would make.

NHS England recognises that chairs will need to make judgements about the suitability of board members and will support balanced judgements made in the spirit of the Framework.

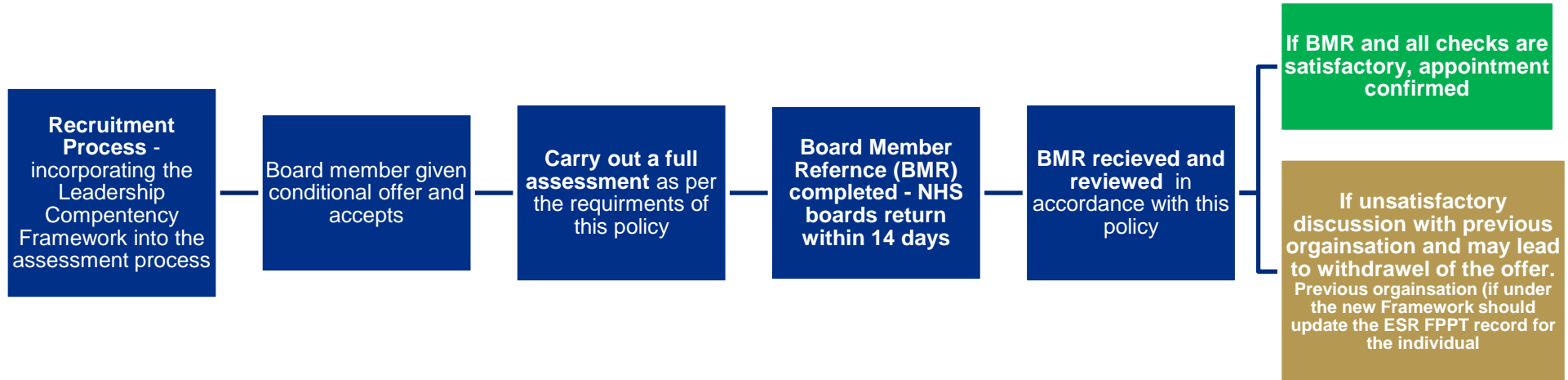
The ICB's approach to the formal assessment, including the Board Member Reference process, is set out in the three flow charts below.

1 Annual Assessment

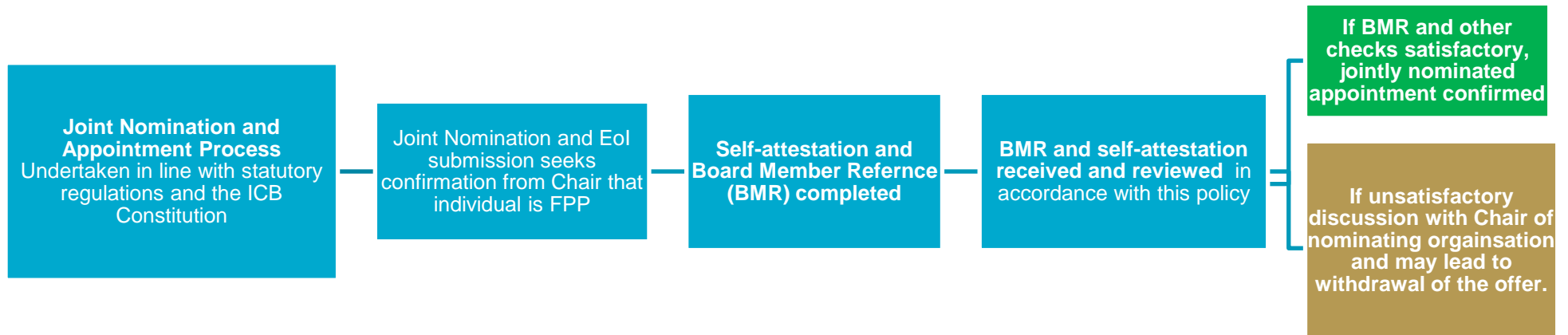


2 Board Member References: For Appointments

Non-Executive and Ordinary Members (CEO, Executives and Non-Executive Members)

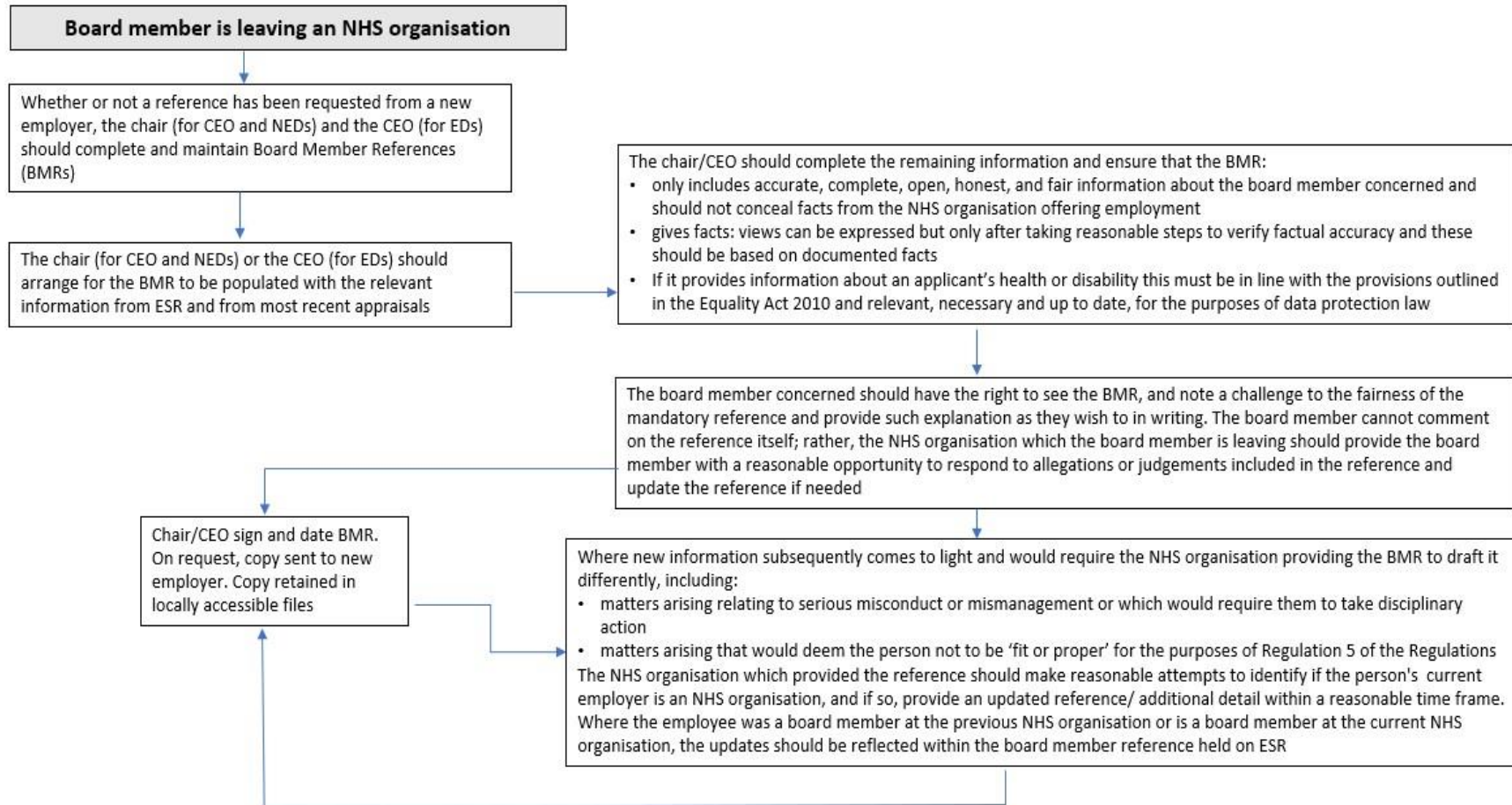


3 Partner Member Joint Nominations by their Sector (NHS Trusts/FTs, Local Authority and General Practice)



4 Board Member References: for leavers

Board Member Reference (BMR) – for leavers



3 Full FPPT Assessment

The Chair is ultimately responsible for ensuring the ICB can evidence that appropriate systems and processes are in place to ensure that all new and existing board members and executive directors are, and continue to be, fit and proper. Such systems and processes include (but are not limited to) recruitment / appointments, induction, training, development, appraisal, disciplinary and dismissal processes.

A documented, full FPPT assessment i.e. a complete assessment by the ICB as the employing organisation against the core elements (detailed in section 3.4) will be undertaken in the following circumstances:

New appointments in board member roles, whether permanent or temporary, where greater than six weeks, this covers:

- a) new appointments that have been promoted within the ICB.
- b) temporary appointments (including secondments) involving acting up into a board role on a non-permanent basis.
- c) existing board members at another NHS organisation who move to the ICB in the role of a board member.
- d) individuals who join the ICB in the role of board member for the first time from an organisation that is outside the NHS.

When an individual board member changes role within their current NHS organisation (for instance, if an existing board member moves into a new board role that requires a different skillset, e.g. chief financial officer).

Annually; that is, within a 12-month period of the date of the previous full FPPT to review for any changes in the previous 12 months.

Note: for points a, b and c above (new appointments) the full FPPT will also include a board member reference check (see section 3.5). The exact requirements for the initial FPPT assessment versus the annual FPPT assessment thereafter are detailed in section 3.6 (information held in ESR).

3.1 Self-attestation

Every board member, including partner members will need to complete an annual self-attestation, to confirm that they are in adherence with the FPPT requirements. Self-attestations will be a necessary step that forms a part of the full FPPT assessment (Appendix 3).

3.2 New appointments

The ICB should be able to demonstrate that appointments of new board members are made through a robust and thorough appointment process.

As such, no new appointments will be made to the post of board member unless the appointee concerned can demonstrate they have met the FPPT requirements as detailed in section 3.4 (FPPT core elements) of this document.

As part of conducting the initial appointment process for a board member, an inter-authority transfer (IAT)² could be submitted to identify any of the applicant's previous or current NHS service/employment history using the ESR system. Alternatively, other arrangements could be made to collate the relevant information. This should also help identify any potential duplicate employment accounts for the appointee, e.g. if someone has more than one NHS role on ESR.

For the initial appointment of ICB chairs only, once NHS England has obtained board member references and completed the fit and proper person assessment, FPPT approval will be sought from the NHS England Appointments Team before they commence their role.

3.3 Joint Appointments

Executive/Director and Non-Executive Directors

In the scenario of joint appointments, the full FPPT should be completed by the designated host/employing NHS organisation and in concluding their assessment they will need input from the chair of the other contracting NHS organisation to ensure that the board member is fit and proper to perform both roles.

The host/employing NHS organisation will then provide a 'letter of confirmation' (Appendix 4) to the other contracting NHS organisation to confirm that the board member in question has met the requirements of the FPPT.

The chair of the other contracting NHS organisation has the responsibility to keep the host/employing NHS organisation abreast of changes and any matters that may impact the FPPT assessment of the board member.

In addition, and to ensure the ICB can demonstrate that all board members are fit and proper, all partner members will be required to complete the self-attestation form for the ICB in line with its annual FPPT cycle.

ICB Partner Members

The NHS Trusts/Foundation Trust and Local Authority partner members are jointly nominated by their sector and are chief executives within their constituent organisations and will adhere to the full requirements of the FPPT Framework under their organisational policy and procedures.

The ICB will adopt the FPPT Framework guidance on 'Joint Appointments across different NHS organisations where the employer as the 'host' organisation will provide a letter of confirmation from the Chair confirming that the annual FPPT has been undertaken and any conclusions.

² [How to complete an Inter Authority Transfer \(IAT\) check in NHS Jobs user guide \(nhsbsa.nhs.uk\)](https://nhsbsa.nhs.uk)

In addition, and to ensure the ICB can demonstrate that all board members are fit and proper, all partner members will be required to complete the self-attestation form for the ICB in line with its annual FPPT cycle.

The Partner Member for Primary Medical Services will be included in the ICB's full FPPT assessment process and information for this individual will be held on ESR records.

Locally determined roles

For any locally determined roles that are 'Joint Appointments across organisations who sit within this policy, the employer as the 'host' organisation will provide a letter of confirmation from the Chair confirming that the annual FPPT has been undertaken and any conclusions.

In addition, and to ensure the ICB can demonstrate that all board members are fit and proper, all locally determined roles who are joint appointments will be required to complete the self-attestation form for the ICB in line with its annual FPPT cycle.

Shared roles within the ICB

Where two individuals share responsibility for the same board member role (e.g. a job share) within the ICB, both individuals should be assessed against the FPPT requirements in line with sections 2.x (full assessment) and 2.x (self-attestation).

Temporary absence

For the purpose of the FPPT process, a temporary absence is defined as leave for a period of six consecutive weeks or less (e.g. sick leave, compassionate leave or parental leave) and where the ICB is leaving the role open for the same board member. As such there is no requirement to approve another permanent individual for the role of board member.

Where an individual is appointed as a temporary/interim role and is not already assessed as fit and proper, the ICB will ensure appropriate supervision by an existing board member.

In any circumstance, a full FPPT assessment should be undertaken for an individual in an interim role exceeding six weeks. The FPPT assessment should commence as soon as the ICB is aware of the extension. This FPPT assessment should be carried out in line with the requirements under section 2.5.

Other Considerations

Where there is a joint appointment, the host/employing NHS organisation responsible for the FPPT should also lead on conducting the joint appraisal and ensure adequate input from the other contracting NHS organisation.

For the avoidance of doubt, where two or more organisations employ or appoint (in the case of a chair or NEM) an individual for two or more separate roles at the same time, each organisation has a responsibility to complete the FPPT.

If the FPPT assessment at one organisation finds an individual not to be FPP, the chair should update their counterpart of any other NHS organisation(s) (or Local Authority who sit under the CQC FPPR) where the individual has a board-level role and explain the reason. To note, the issue at one organisation may be one of role-specific competence, which may not necessarily mean the individual is not FPP at the other organisation.

3.4 Fit and Proper Persons Test: Core Elements

The ICB will assess board members against the following three core elements when considering whether they are a fit and proper person to perform a board role:

- Good character.
- Possessing the qualifications, competence, skills required and experience.
- Financial soundness

The FPPT checks relating to these core elements will be in addition to standard employment checks, as per the ICB's recruitment and selection procedures and NHS Employers' pre-employment check standard. This can include CV checks, self-declarations, Google searches, proof of qualifications, proof of identity, right to work, etc.

Good Character

When assessing whether a person is of good character, the ICB will follow robust processes to make sure that appropriate information is gathered, and will have regard to the matters outlined in [Part 1 of Schedule 4](#) apply, namely:

- Convictions of any offence in the UK.
- Convictions of any offence abroad that constitutes an offence in the UK.
- Whether any regulator or professional body has made the decision to erase, remove or strike off the board member from its register, whether in the UK or abroad.

As such, the ICB will conduct:

- A search of the Companies House register to ensure that no board member is disqualified as a director.
- A search of the Charity Commission's register of removed trustees.
- A Disclosure and Barring Service (DBS) check in line with local policy requirements
- A check with the relevant professional bodies where appropriate.

Furthermore, in considering that a board member is of 'good character,' the ICB will also consider the following in relation to the individual in question:

- Compliance with the law and legal processes.
- Employment tribunal judgements relevant to the board member's history.
- Settlement agreements relating to dismissal or departure from any healthcare-related service or NHS organisation for any reason other than redundancy.
- A person in whom the ICB, people using services and the wider public can have confidence.
- Adherence to the Nolan Principles of Standards in Public Life.
- The extent to which the board member has been open and honest with the ICB
- Whether the person has been the subject of any adverse finding or any settlement in civil proceedings, misconduct, fraud or the formation or management of a body corporate.
- Whether the individual has been involved – as a director, partner or concerned in management of:
 - a company, partnership or other organisation that has been refused registration, authorisation, membership or a licence to carry out a trade, business or profession.

- a business that has gone into insolvency, liquidation or administration while the person has been connected with that organisation or within one year of that connection.
- a company has been investigated, disciplined, censured, suspended, or criticised by a regulatory or professional body, a court or tribunal, whether publicly or privately.
- Any other information that may be relevant, such as an upheld/ongoing or discontinued (including where a board member has left the ICB prior to an investigation being completed):
 - disciplinary finding
 - grievance finding against the board member
 - whistleblowing finding against the board member
 - finding pursuant to any trust policies or procedures concerning board member behaviour.

Qualifications, competence, skills required and experience

The ICB will ensure it has appropriate processes in place for assessing and checking that the candidate holds the required qualifications and has the competence, skills and experience required, including checking the websites of the professional bodies to confirm that where required the board member holds the relevant and stated qualification/s.

Where the ICB considers that a board member role requires specific qualifications (for example, the chief financial officer being an accredited accountant, or the chief medical officer being a GMC-registered doctor), this will be made clear and the ICB will only appoint those candidates who meet the required specification, including any requirements to be registered with a professional body.

Job descriptions and person specifications will be clear in detailing required skills and relevant qualifications and/or memberships. These will be reviewed to ensure that they are appropriate and tailored for each role.

NHS Leadership Competency Framework (LCF)

The Leadership Competency Framework should be incorporated into all senior leader job descriptions and recruitment processes. It will also form the core of board appraisal frameworks, alongside appraisal of delivery against personal and corporate objectives.

In assessing competence, skills and experience for the purposes of the FPPT, the ICB will use the outcome of the appraisal processes for board members, which will be based on the NHS LCF for board level leaders: a framework that will apply to all NHS organisations.

Given the appraisal process will feed into the full FPPT assessment, the appraisal process will be undertaken annually, and will give due consideration to assessing good character and conduct (that is, a behavioural assessment).

The NHS LCF provides guidance for the competence categories against which a board member should be appointed, developed and appraised. The LCF covers the following six competence categories:

- Setting strategy and delivering long term transformation.
- Leading for equality.
- Driving high quality, sustainable outcomes.

- Providing robust governance and assurance.
- Creating a compassionate and inclusive culture.
- Building trusted relationships with partners and communities.

In assessing whether a board member has the competence, skills and experience to be considered fit and proper, the FPPT assessment will:

- have regard to the formal training and development the board member has undergone or is undergoing
- take account of the ICB's operating model (its size and how it operates) and the activities the board member should perform

consider whether the board member has adequate time to perform and meet the responsibilities associated with their role.

The ICB will ensure any necessary training is undertaken by board members where gaps in competency have been identified. As such, as part of the LCF, a tailored learning development plan and training framework will support board members. Both the development plan and training will be updated and delivered respectively annually.

Reasonable adjustments

In assessing if a board member can properly perform tasks to the requisite level of competence and skill for the office or position for which they are appointed, all reasonable steps will be made to make adjustments for people to enable them to carry out their role. As a minimum, these must be in line with requirements to make reasonable adjustments for employees under the Equality Act 2010; to prevent discrimination as defined by the Act.

When appointing a person to a role, the ICB will have processes for considering their physical and mental health in line with the requirements of the role. The ICB will undertake occupational health assessments (OHA) for potential new board member appointments, in circumstances where the individual in question has indicated a physical or mental health condition as part of pre-employment checks (e.g. medical assessment questionnaire).

While the OHA will not form part of the annual FPPT, it is an integral component of the recruitment process checks to ensure that the ICB can demonstrate it has taken account of and made any such reasonable adjustments for those in board member roles. This obligation is ongoing in relation to those with disabilities for the purposes of the Equality Act 2010. The statutory duty to make reasonable adjustments will be considered on an ongoing basis and applies where a disabled person is put at a substantial disadvantage.

Financial soundness

The ICB will seek appropriate information to assure itself that board members do not meet any of the elements of the unfit person test set out in [Schedule 4 Part 1](#) of the regulations.

Robust processes are in place to assess board members in relation to bankruptcy, sequestration, insolvency and arrangements with creditors. This, as a minimum, will include search of the insolvency and bankruptcy register and checks over county court judgement (CCJ) or high court judgement for debt.

3.5 Board member references

Content of the references

A standardised board member reference has been introduced to ensure greater transparency, robustness and consistency of approach when appointing board members within the NHS.

The aim of this is to help foster a culture of meritocracy, ensuring that only board members who are fit and proper are appointed to their role, and that there is no recycling of unfit individuals within the NHS.

The competency domains in the Leadership Competency Framework will be taken into account when the board member reference is written.

What is sought as part of the board member reference is evidence of broad competence across each of the six competency domains, and to ensure there are no areas of significant lack of competence which may not be remedied through a development plan.

Board members will be asked to attest to whether they have the requisite experience and skills to fulfil minimum standards against the six competency domains. The self-attestation record will be captured on ESR.

The annual attestation is expected to be undertaken at the same time as the annual appraisal process and assessment of competence against the six competency domains will also be used to guide the board member's development plan for the coming year.

The appraiser will also capture stakeholder feedback as part of the appraisal process and summarise competence against each of the six competency domains. (A board member appraisal framework will be published ahead of the 2023/2024 appraisal process to support this process.) The annual appraisals of the past three years, will then be used to guide the board member's reference.

The ICB will request board member references, and store information relating to these references so that it is available for future checks; and use it to support the full FPPT assessment on initial appointment.

The ICB will maintain complete and accurate board member references at the point where the board member departs, irrespective of whether there has been a request from another NHS employer and including in circumstances of retirement. Both the initial and board member references will be retained locally.

Board member references will apply as part of the FPPT assessment when there are new board member appointments, either internal to the ICB, or external to the NHS. This applies whether permanent or temporary where greater than six weeks; specifically:

- New appointments that have been promoted within an NHS organisation.
- Existing board members at one NHS organisation who move to another NHS organisation in the role of a board member.
- Individuals who join an NHS organisation in the role of board member for the first time from an organisation that is outside of the NHS.
- Individuals who have been a board member in an NHS organisation and join another NHS organisation not in the role of board member, that is, they take a non-Board level role.

The ICB will ensure that board member references checks are carried out in accordance with the data protection principles, as set out within data protection law. In particular, the

process will be undertaken fairly, and the information generated should be accurate and up to date.

Requests for board member references will not ask for specific information on whether there is a settlement agreement/non-disclosure agreement in place.

The board member reference request instead asks for any further information and concerns about an applicant's fitness and propriety, relevant to the FPPT to fulfil the role as a director, be it executive or non-executive.

Information on settlement agreements will be retained locally (where applicable) and included in the overall consideration of the fit and proper status of the individual in question.

If there is a historical settlement agreement/non-disclosure agreement already in place which includes a confidentiality clause, the ICB will seek permission from all parties prior to including any such information in a board member reference.

Going forward, the ICB will consider inclusion of a term in any proposed settlement agreement to state that information about the settlement agreement can be included in ESR, and in doing so will not be a breach of confidence.

The existence of a settlement agreement does not, in and of itself determine that a person is not fit or proper to be a board member.

The board member reference is based on the standard NHS reference and includes additional requests for information as follows (relevant to the FPPT):

- Information regarding any discontinued, outstanding, or upheld complaint(s) tantamount to gross misconduct or serious misconduct or mismanagement including grievances or complaint(s) under any of the organisation's policies and procedures (for example, under the trust's equal opportunities policy).
- Confirmation of any discontinued, outstanding or upheld disciplinary actions under the trust's disciplinary procedures including the issue of a formal written warning, disciplinary suspension, or dismissal tantamount to gross or serious misconduct.
- Any further information and concerns about the applicant's fitness and propriety, not previously covered, relevant to the FPPT to fulfil the role as a director, be it executive or non-executive.

Discontinued investigations are included in the reference request to identify issues around serious misconduct and mismanagement and to deliberately separate them from issues around qualifications, competence, skills, and experience (which it is believed can be remedied) and health (which it is believed can improve), unless such competence and/or health issues could potentially lead to an individual not meeting the requirements of the FPPT.

Investigations (irrespective of reason for discontinuance) should be limited to those which are applicable and potentially relevant to the FPPT, and examples are as follows (this is not an exhaustive list and consideration will be needed on a case-by- case basis):

- Relating to serious misconduct, behaviour and not being of good character (as described in the FPPT Framework).
- Reckless mismanagement which endangers patients.
- Deliberate or reckless behaviour (rather than inadvertent behaviour).
- Dishonesty.

- Suppression of the ability of people to speak up about serious issues in the NHS, e.g. whether by allowing bullying or victimisation of those who speak up or blow the whistle, or any harassment of individuals.
- Any behaviour contrary to the professional Duty of Candour which applies to health and care professionals, e.g. falsification of records or relevant information.

The reason for discontinuing (including not commencing) an investigation should be recorded, including whether an investigation was not started or stopped because a compromise, confidentiality or settlement agreement was then put in place (recognising that such an agreement is not necessarily a conclusion that someone is not fit and proper for the purposes of the FPPT).

It will be necessary as a matter of fairness for the employee to have had an opportunity to comment on information that is likely to be disclosed as part of any reference request i.e., as part of any disciplinary procedures/action.

The ICB will take any advice that it deems necessary in an individual case where they have assessed that the employee or prospective employer is likely to bring a claim.

Obtaining references

At least one board member reference will be obtained when the ICB is appointing a board member.

- For board members:
 - The ICB will obtain a minimum of two board member references (using the board member reference template) where the individual is from outside the NHS, or from within the NHS but moving into the board role for the first time.
 - These two references should come from different employers, where possible.
- For an individual who moves from one NHS board role to another NHS board role, across NHS organisations:
 - Where possible one reference from a separate organisation in addition to the board member reference for the current board role will suffice.
 - This is because their board member reference template should be completed in line with the requirements of the framework so that NHS organisations can maintain accurate references when a board member departs.
- For a person joining from another NHS organisation:
 - The ICB should take reasonable steps to obtain the appropriate references from the person's current employer as well as previous employer(s) within the past six years.
 - These references should establish the primary facts as per the board member reference template.
- Where an employee is entering the NHS for the first time or coming from a post which was not at board member level:
 - As the new employing NHS organisation, the ICB will make every practical effort to obtain such a reference which fulfils the board member reference requirements.
 - In this scenario, the ICB will determine reasonable steps to satisfy itself has pursued relevant avenues to obtain the information on potential incoming individuals through alternative means.

- For example, if a chief financial officer is joining from financial services, the ICB will check the financial services register, or request for a mandatory reference under the financial services regulations.

In cases where references from previous employers are unattainable for the previous six years, additional character or personal references will be sought. Character and personal references will be sought from personal acquaintances who are not related to the applicant, and who do not hold any financial arrangements with that individual.

References will not be used as the sole grounds for assessing an applicant's suitability for a post. Where negative issues are included in a reference, information will be carefully considered and weighed up against the wider range of evidence gathered as part of the recruitment process.

The ICB will aim to investigate negative information by sensitively raising it with the individual concerned, giving them the opportunity to explain the situation in more detail and/or, where appropriate, give them a chance to outline any learning from past mistakes or experiences to obtain the necessary assurances about their suitability for a role.

If a reference reveals something which is incompatible with the requirements of Regulation 5 of the Regulations, the individual should not be appointed to the role.

When requesting a reference, the ICB will make it clear that this is being requested in relation to a person being appointed to the role of board member, or for other purposes linked to the board member's current employment.

The obligation to obtain a reference for a potential candidate for employment/ appointment in the role of board member applies irrespective of how the previous employment ended, for instance, resignation, redundancy, dismissal or fixed term work or temporary work coming to an end.

Providing references

The ICB will provide a reference to another NHS organisation within a 14-day period, which starts from the date that the reference request was received. However, it should be acknowledged that there are occasions of exceptional circumstances, and references may take more than 14 days to provide.

The references referred to above are for a request made in relation to the individual being appointed to the role of board member, or for other purposes linked to the board member's current employment.

Where a current board member moves between different NHS organisations, a board member reference form (Appendix 2) should be completed by the employer and signed off by the chair.

The ICB should provide information in relation to that which occurred:

- in the six years before the request for a reference (where known, or at least from date of employment)
- between the date of the request for the reference and the date the reference is given
- in the case of disciplinary action, serious misconduct and/or mismanagement at any time (where known).

The ICB should also consider when providing the reference:

- That the process captures accurate, complete, open, honest and fair information about the board member concerned.
 - As such, references should not conceal facts from the NHS organisation offering employment.
- References should give established facts that are part of the history of the person.
 - It is unfair to give partial facts if those result in the offer being withdrawn, for example where this causes the recipient NHS organisation to assume the information is missing because it is negative, so the offer is withdrawn.
 - Views can be expressed but only after taking reasonable steps to verify factual accuracy and should be based on documented facts.
- The reference should be fair, such that the employee concerned should have the right to note a challenge to the fairness of the mandatory reference and provide such explanation as they wish to in writing.
 - This does not mean that the board member can comment on the reference itself; rather, that the ICB has provided those board members with a reasonable opportunity to respond to allegations or judgements upon which the reference is based.
 - Hence a board member's opinions are not required to be included within the reference but should be appropriately considered when drafting them.

Where the reference provides information about an applicant's health or disability this must be in line with the provisions outlined in the Equality Act 2010 and be relevant, necessary, and up to date, for the purposes of data protection law.

Revising references

If the ICB has provided a reference to another NHS organisation about an employee or former employee, and has subsequently:

- become aware of matters or circumstances that would require them to draft the reference differently
- determined that there are matters arising relating to serious misconduct or mismanagement
- determined that there are matters arising which would require them to take disciplinary action
- concluded there are matters arising that would deem the person not to be 'fit or proper' for the purposes of Regulation 5 of the Regulations,

the ICB should make reasonable attempts to identify if the person's current employer is an NHS organisation and, if so, provide an updated reference/additional detail within a reasonable timeframe.

Where the employee was a board member at the previous NHS organisation or is a board member at the current NHS organisation, the updates should be reflected within the board member reference.

For the avoidance of doubt, this refers to executive board members employed by an NHS organisation and non-executive board members who have been appointed.

Board member reference template

The board member reference template provided at Appendix 1 will be used by the ICB.

This policy along with the board member reference template, sets out the minimum requirements for a reference.

The ICB will maintain board member references at the point where the board member departs, irrespective of whether there has been a request from another NHS employer.

The BMR will be completed, and retained locally (on confidential file), for departing board members even where they have indicated they are moving onto a non-NHS role and/or performing a role that is not on the board, or where they have indicated they are to retire.

The individual may go on to act in the capacity of a board member at a future date, even if it is just on a temporary basis, for example to cover staff shortages.

3.6 Electronic Staff Record (ESR)

NHS Business Services Authority (NHSBSA) hosts ESR on behalf of the NHS, as commissioned by the Department for Health and Social Care.

New data fields in ESR will hold individual FPPT information for all board members operating in the NHS and will be used to support recruitment referencing and ongoing development of board members. The FPPT information within ESR is only accessible within the board member's own organisation and there is no public register.

ESR will hold information about each board member in line with the criteria detailed below in the section "Information held in ESR".

NHS England will use its network of regional directors in a direct oversight role to ensure that individual NHS organisations (within the designated regions) are completing their FPPT, via annual submissions to the NHS England regional directors.

The CQC will continue in its regulatory role and as such may determine that reviews are required over the data integrity and controls that a particular NHS organisation has in relation to the records held in ESR.

There will be limited access to ESR in accordance with the ICB's information governance policies, local policy and in compliance with data protection law.

Access to the FPPT fields in ESR will be restricted to the following individuals:

- chair
- chief executive officer (CEO)
- senior independent director (SID)
- company secretary
- chief people officer (CPO).

Access will also be provided to relevant individuals within the CQC at a local level, where this information is necessary for their roles, noting the CQC's ability to require information to be provided to it under Regulation 5(5) of the Regulations.

The ESR FPPT data fields will need to be maintained to ensure information about the serving board member is current. This will mean that ESR will be specifically updated for:

- all board members within the ICB
- new board members who have been appointed within the ICB from an NHS organisation

- whenever there has been a relevant change to one of the fields of FPPT information held in ESR (as outlined below)
- updates for annual completion of the full FPPT
- annual completion of FPPT confirmed by chairs.

It will be the responsibility of the ICB's company secretary on behalf of the Chair to ensure that ESR remains current and is updated for relevant changes in a timely manner. As a minimum, the ICB will conduct an annual review to verify that ESR is appropriately maintained.

A standard operating procedure will be in place to clearly define the roles and responsibilities of the ICB, its HR function and the recruitment team for all aspects of FPPT records held on ESR.

The ICB will maintain policies and procedures for collating the relevant information in an accurate, complete and timely manner for updating ESR.

This includes a clearly communicated process for individuals to access and exercise their rights in connection with the information held about them, in accordance with the requirements of data protection law.

Information held in ESR

The information that ESR will hold about board members is detailed below and also summarised in the FPPT checklist.

The FPPT assessment on initial appointment of a board member will cover all points mentioned below:

- First name*
- Second name/surname*
- Organisation* (that is, current employer)
- Staff group*
- Job title* (that is, current job description)
- Occupation code*
- Position title*
- Employment history:*
 - This will include detail of all job titles, organisation departments, dates, and role descriptions.
 - Any gaps that are because of any protected characteristics, as defined in the Equality Act 2010, would not need to be explained.
- Training and development
- References:*
 - Available references from previous employers, board member references, including resignations or early retirement.
- Last appraisal and date
- Disciplinary findings
 - That is, any upheld finding pursuant to any trust policies or procedures concerning employee behaviour, such as misconduct or mismanagement, this includes grievance (upheld) against the board member, whistleblowing claims against the board member (upheld) and employee behaviour upheld finding.

- Any ongoing and discontinued investigations relating to Disciplinary/Grievance/Whistleblowing/Employee behaviour should also be recorded.
- Type of DBS disclosed* †
- Date DBS received* †
- Disqualified directors register check
- Date of medical clearance* (including confirmation of OHA)
- Date of professional register check (e.g. membership of professional bodies)
- Insolvency check
- Self-attestation form signed
- Social media check
- Employment tribunal judgement check
- Disqualification from being a charity trustee check
- Board member reference*
- Sign-off by chair/CEO.

The national insurance number is an additional check where there may have been a change of name highlighted in the initial or annual assessment.

As part of the annual FPPT requires ICB will validate all fields above – except for:

* Fields marked with an asterisk (*) – these do not require validation as part of the annual FPPT unless a specific reason arises. However, these fields will still be updated in the event of a change to the information held.

† While not requiring annual validation, DBS checks will be done on a three-year cycle.

Record retention

The ESR FPPT data fields will retain records of completed tests to support the FPPT assessments. All supporting documents/records in relation to the FPPT will be held locally in secure folders.

The ICB has established and maintains adequate policies and procedures to comply with GDPR and the NHS Records Management Code of Practice.

The NHS Records Management Code of Practice sets out expectations in relation to retaining actual staff documents/records for a period of six years.

Case documents/records may be retained for longer than the standard six years, based on the facts of the case. This will be a local decision for the ICB.

In relation to ESR, the information and accompanying references will be kept career long, which at a minimum should be until the 75th birthday of the board member.

Data and information

Where a board member identifies an issue with data held about them in relation to the FPPT, they should request a review which should be conducted in accordance with the relevant ICB policies in the first instance.

Where this does not lead to a satisfactory resolution for the board member, the following options are available:

- For NHS England-appointed board members (ICB Chair) the matter will be escalated to the NHS England Appointments Team.
- For all other board members (including NHS England-appointed board members, and chairs not appointed by NHS England where the above processes have not led to a satisfactory conclusion), the options could include:
 - referring the matter to the ICO
 - (For executive director roles only*) taking the matter to an employment tribunal (ET)
 - instigating civil proceedings.

4 Breaches, Investigation and Dispute Resolution

Serious mismanagement or misconduct

The ICB will consider mismanagement and misconduct behaviours in relation to the services they provide, the role of the board member/individual and the possible adverse impact on the ICB or confidence in its ability to carry out its mandate and fulfil its duties in the public interest.

This section sets the minimum expectations to determine whether or not a board member has been involved in serious misconduct or mismanagement:

- Fraud or theft.
- Any criminal offence other than minor motoring offences at work (although this and the issues set out in this section may be relevant to assessing whether an individual is of good character more generally).
- Assault.
- Sexual harassment of staff.
- Bullying or harassment.
- Discrimination as per the Equality Act 2010.
- Victimisation (which falls within the scope of the Equality Act 2010) of staff who raise legitimate concerns.
- Any conduct that can be characterised as dishonest, including:
 - deliberately transmitting information to a public authority or to any other person, which is known to be false
 - submitting or providing false references or inaccurate or misleading information on a CV.
- Disregard for appropriate standards of governance, including resistance to accountability and the undermining of due process.
- Failure to make full and timely reports to the board of significant issues or incidents, including clinical or financial issues.
- Repeated or ongoing tolerance of poor practice, or failure to promote good practice, leading to departure from recognised standards, policies or accepted practices.
- Continued failure to develop and manage business, financial or clinical plans.

In assessing whether misconduct or mismanagement is 'serious', The ICB will consider isolated incidences of the following types of behaviour to amount to misconduct or mismanagement that does not reach the threshold of seriousness:

- Intermittent poor attendance.

- Failure to follow agreed policies or processes when undertaking management functions where the failures had limited repercussions or limited effects or were for a benevolent or justifiable purpose.

Breaches

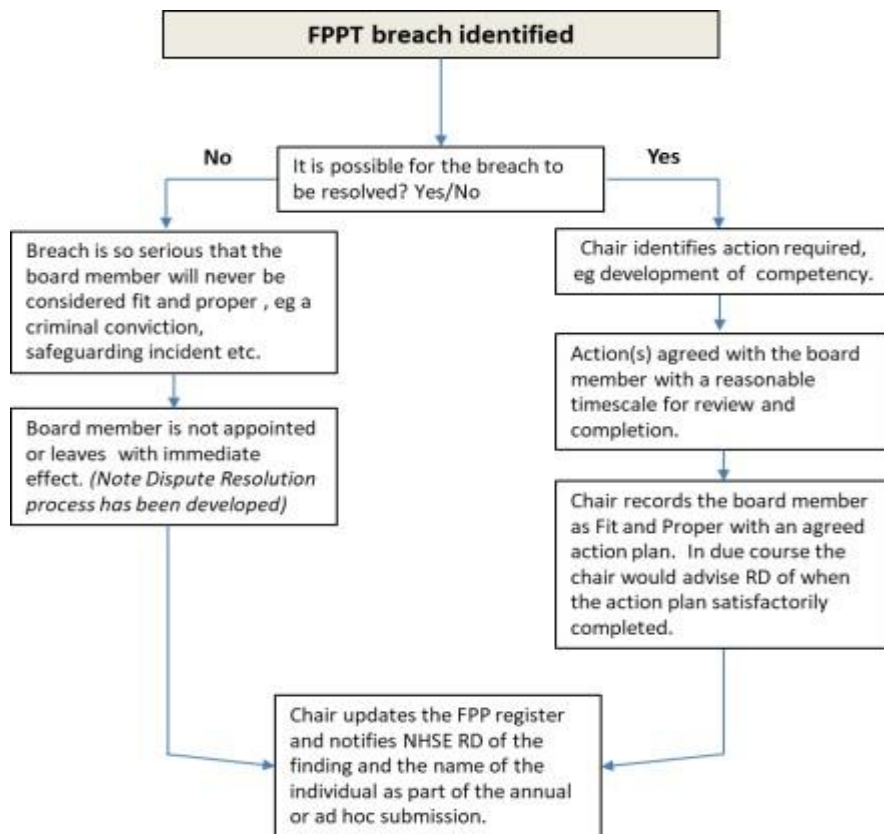
The Regulations (and this Policy) will be breached if a board member or executive director:

- Is unfit on the grounds of character, such as:
 - an undischarged conviction
 - being erased, removed or struck-off a register of professionals maintained by a regulator of healthcare, social work professionals or other professional bodies across different industries
 - being prohibited from holding a relevant office or position.
- Is also unfit on the grounds of character if they have been responsible for, contributed to or facilitated any serious misconduct or mismanagement (whether lawful or not) in the course of carrying out a regulated activity.
- Is unfit should they fail to meet the relevant qualifications or fail to have the relevant competence, skills and experience as deemed required for their role.
- A board member is unfit on grounds of financial soundness, such as a relevant undischarged bankruptcy or being placed under a debt relief order.
- The ICB does not have a proper process in place to make the robust assessments required by the Regulations.
- On receipt of information about a board member's fitness, a decision is reached on the board member that is not in the range of decisions a reasonable person would be expected to reach.

Exceptions

- If a board member or executive director is deemed competent but does not hold the relevant qualifications should be a documented explanation, approved by the Chair, as to why the individual in question is deemed fit to be appointed, or fit to continue in role if they are an existing board member or executive director. This should be recorded in the annual return to the NHS England regional director.
- Where an individual is deemed unfit (that is, they failed the FPPT) for a particular reason (other than qualifications) but the ICB appoints them or allows them to continue their current employment there should be a documented explanation as to why the individual is unfit and the mitigations taken, which is approved by the Chair. This should be submitted to the relevant NHS England regional director for review, either as part of the annual FPPT submission for the NHS organisation, or on an ad hoc basis as a case arises.

In the event of a breach, the following process will be followed:



Outcome of FPPT assessment

Where an individual is deemed ‘not fit and proper’ and disagrees with the outcome of the FPPT assessment, the following options are available:

- **For NHS England-appointed board member roles** (Chair) – the matter would be escalated to the NHS England Appointments team
- **For ICB appointed roles** (executive non-executive) – local policy and constitution arrangements should be followed first. At any point, employees have the right to take the matter to an employment tribunal*.
- **For ICB Partner Member roles** – the matter would be escalated to the position holders substantive organisation and their local policy.

* Chair and non-executive board members cannot take their organisation to employment tribunal unless in relation to discrimination, although they can choose to instigate civil proceedings.

An Exit Board Member Reference (BMR) will be drafted by the Chair for non-executive members and retained by the ICB.

For NHS England-appointed Chairs, a copy of the exit BMR will also be retained by the NHS England Appointments team.

5 Compliance and Oversight

Remuneration Committee

The Remuneration Committee will approve the ICB's policy and procedures, and the Company Secretary will provide an annual report to the committee assuring compliance.

CQC

The CQC's role is to ensure NHS organisations have robust processes in place to adequately perform the FPPT assessments, and to adhere to the requirements of Regulation 5 of the 2014 Regulations. This will be assessed as part of the CQC Well Led reviews.

NHS England

NHS England will have oversight through receipt and review of annual FPPT submissions to the relevant NHS England regional director.

Internal Audit

The Framework states that every three years, NHS organisations should have an internal audit to assess the processes, controls and compliance supporting the FPPT assessments. The internal audit should include sample testing of FPPT assessment and associated documentation. NHS organisations should consider inclusion of FPPT process and testing in the specification for any commissioned Well-Led/board effectiveness reviews.

6 Appendices

Appendix 1 The Board Member Reference Template

STANDARD REQUEST:

To be used only AFTER a conditional offer of appointment has been made.

[Date]

Human resources officer/name of referee

Recruitment officer

External/NHS organisation receiving request:

HR department initiating request:

Dear [HR officer's/referee's name]

Re: [applicant's name] - [ref. number] – [Board Member position]

The above-named person has been offered the board member position of [post title] at the [name of the NHS organisation initiating request]. This is a high-profile and public-facing role which carries a high level of responsibility. The purpose of NHS boards is to govern effectively, and in so doing build patient, staff, public and stakeholder confidence that the public's health and the provision of healthcare are in safe hands.

Taking this into account, I would be grateful if you could complete the attached confirmation of employment request as comprehensively as possible and return it to me as soon as practically possible to ensure timely recruitment.

Please note that under data protection laws and other access regimes, applicants may be entitled to information that is held on them.

Thank you in advance for your assistance in this matter.

Yours sincerely

[Recruitment officer's name]

Appendix 2 Board Member Reference request for NHS Applicants:

To be used only AFTER a conditional offer of appointment has been made.
Information provided in this reference reflects the most up to date information available at the time the request was fulfilled.

1. Name of the applicant

2. National Insurance number or date of birth

3. Please confirm employment start and termination dates in each previous role

A: (if you are completing this reference for pre-employment request for someone currently employed outside the NHS, you may not have this information, please state if this is the case and provide relevant dates of all roles within your organisation)

B: (As part of exit reference and all relevant information held in ESR under Employment History to be entered)

Job Title:

From:

To:

Job Title

From:

To:

Job Title:

From:

To:

Job Title:

From:

To:

Job Title:

From:

To:

4. Please confirm the applicant's current/most recent job title and essential job functions (if possible, please attach the Job Description or Person Specification as Appendix A):

(This is for Executive Director board positions only, for a Non-Executive Director, please just confirm current job title)

<p>5. Please confirm Applicant remuneration in current role <i>(this question only applies to Executive Director board positions applied for)</i></p>	<p><u>Starting:</u></p>	<p><u>Current:</u></p>
<p>6. Please confirm all Learning and Development undertaken during employment: <i>(this question only applies to Executive Director board positions applied for)</i></p>		
<p>7. How many days absence (other than annual leave) has the applicant had over the last two years of their employment, and in how many episodes? <i><u>(only applicable if being requested after a conditional offer of employment)</u></i></p>	<p><u>Days Absent:</u></p>	<p><u>Absence Episodes:</u></p>
<p>8. Confirmation of reason for leaving:</p>		

9. Please provide details of when you last completed a check with the Disclosure and Barring Service (DBS)

(This question is for Executive Director appointments and non-Executive Director appointments where they are already a current member of an NHS Board)

<p>Date DBS check was last completed.</p> <p>Please indicate the level of DBS check undertaken (basic/standard/enhanced without barred list/or enhanced with barred list)</p> <p>If an enhanced with barred list check was undertaken, please indicate which barred list this applies to</p>	<p>Date</p> <p>Level</p> <p>Adults <input type="checkbox"/></p> <p>Children <input type="checkbox"/></p> <p>Both <input type="checkbox"/></p>
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10. Did the check return any information that required further investigation?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please provide a summary of any follow up actions that need to/are still being actioned:

<p>11. Please confirm if all annual appraisals have been undertaken and completed</p> <p>(This question is for Executive Director appointments and non-Executive Director appointments where they are already a current member of an NHS Board)</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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Please provide a summary of the outcome and actions to be undertaken for the last 3 appraisals:

<p>12. Is there any relevant information regarding any outstanding, upheld or discontinued complaint(s) or other matters tantamount to gross misconduct or serious misconduct or mismanagement including grievances or complaint(s) under any of the Trust’s policies and procedures (for example under the Trust’s Equal Opportunities Policy)?</p> <p>(For applicants from outside the NHS please complete as far as possible considering the arrangements and policy within the applicant’s current organisation and position)</p>	<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
<p>If yes, please provide a summary of the position and (where relevant) any findings and any remedial actions and resolution of those actions:</p>		
<p>13. Is there any outstanding, upheld or discontinued disciplinary action under the Trust’s Disciplinary Procedures including the issue of a formal written warning, disciplinary suspension, or dismissal tantamount to gross or serious misconduct that can include but not be limited to:</p> <ul style="list-style-type: none"> • Criminal convictions for offences leading to a sentence of imprisonment or incompatible with service in the NHS • Dishonesty • Bullying • Discrimination, harassment, or victimisation • Sexual harassment • Suppression of speaking up • Accumulative misconduct <p>(For applicants from outside the NHS please complete as far as possible considering the arrangements and policy within the applicant’s current organisation and position)</p>	<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
<p>If yes, please provide a summary of the position and (where relevant) any findings and any remedial actions and resolution of those actions:</p>		

14. Please provide any further information and concerns about the applicant's fitness and propriety, not previously covered, relevant to the Fit and Proper Person Test to fulfil the role as a director, be it executive or non-executive. Alternatively state Not Applicable. (Please visit links below for the CQC definition of good characteristics as a reference point) (7)(12)

[Regulation 5: Fit and proper persons: directors - Care Quality Commission \(cqc.org.uk\)](http://cqc.org.uk)

[The Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014 \(legislation.gov.uk\)](http://legislation.gov.uk)

15. The facts and dates referred to in the answers above have been provided in good faith and are correct and true to the best of our knowledge and belief.

Referee name (please print): Signature:

Referee Position Held:

Email address:

Telephone number:

Date:

Data Protection:

This form contains personal data as defined by the Data Protection Act 2018 and UK implementation of the General Data Protection Regulation). This data has been requested by the Human Resources/ Workforce Department for the purpose of recruitment and compliance with the Fit and Proper Person requirements applicable to healthcare bodies. It must not be used for any incompatible purposes. The Human Resources/Workforce Department must protect any information disclosed within this form and ensure that it is not passed to anyone who is not authorised to have this information.

Appendix 3 New starter/annual NHS FPPT self-attestation

Fit and Proper Person Test annual/new starter* self-attestation

NHS Lancashire and South Cumbria Integrated Care Board

I declare that I am a fit and proper person to carry out my role. I:

am of good character

have the qualifications, competence, skills and experience which are necessary for me to carry out my duties

where applicable, have not been erased, removed or struck-off a register of professionals maintained by a regulator of healthcare or social work professionals

am capable by reason of health of properly performing tasks which are intrinsic to the position

am not prohibited from holding office (e.g. directors disqualification order)

within the last five years:

I have not been convicted of a criminal offence and sentenced to imprisonment of three months or more

been un-discharged bankrupt nor have been subject to bankruptcy restrictions, or have made arrangement/compositions with creditors and has not discharged

nor is on any 'barred' list.

have not been responsible for, 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.

The legislation states: if you are required to hold a registration with a relevant professional body to carry out your role, you must hold such registration and must have the entitlement to use any professional titles associated with this registration. Where you no longer meet the requirement to hold the registration, any if you are a healthcare professional, social worker or other professional registered with a healthcare or social care regulator, you must inform the regulator in question.

Should my circumstances change, and I can no longer comply with the Fit and Proper Person Test (as described above), I acknowledge that it is my duty to inform the chair.

Name and job title/role:	
Professional registrations held (ref no):	
Date of DBS check/re-check (ref no):	
Signature:	
Date of last appraisal, by whom:	
Signature of board member:	
Date of signature of board member:	
For chair to complete	
Signature of chair to confirm receipt:	
Date of signature of chair:	

Appendix 4 Letter of confirmation

The following wording is given as an example. It may not be applicable in every case and may consequently need addition or amendment. For example, a confirmation at the time of initial appointment may be different to the annual core testing.

[LEAD EMPLOYING ORGANISATION³ LETTERHEAD]

[DATE]

Dear [CHAIR NAME⁴],

Fit and Proper Person Test

This confirmation letter is provided in connection with [name of board member, job title of board member, organisations that the joint board member post covers] for [year of test, e.g. 2023/24] as at [date of conclusion of annual⁵ FPPT for the individual] for the purpose of the Fit and Proper Person Test.

As Chair of [lead employer], I confirm that I have carried out the Fit and Proper Person Test for [name of board member].

The process and the evidence used by me in carrying out the Fit and Proper Person Test and in being able to reach a conclusion as to whether [name of board member] is fit and proper, is appropriate to reach that conclusion in the context of the Fit and Proper Person Framework.

In accordance with the [Fit and Proper Person Test Framework](#) requirements and in reaching my conclusion that [name of board member] is fit and proper as at [date of conclusion of test], I have assumed that you know no reason that this is not an appropriate conclusion to reach.

Please would you sign and return this letter as confirmation of receipt and that there are no further matters which should be taken into consideration.

Yours sincerely,

..... (signature)

..... (chair of lead employer organisation)

Date.....

I confirm that I have received the outcome for the FPPT for [name of board member] and that I have provided any necessary information for you to reach this conclusion.

..... (signature)

..... (chair of lead employer organisation)

Date.....

³ This is the organisation which holds the contract/employs the board member who works jointly across more than one organisation.

⁴ This is the name of the chair of the other organisation that the joint board appointment is made with.

⁵ It should be noted that while there will be an annual assessment of being fit and proper, it is a pervasive and ongoing process at all times. Any relevant matter related to the board member being fit and proper should be reported as soon as it arises.