

**SHEFFIELD TEACHING HOSPITALS NHS FOUNDATION TRUST**

**EXECUTIVE SUMMARY**  
**REPORT TO THE BOARD OF DIRECTORS MEETING**  
**ON 18 MARCH 2015**

<b>Subject</b>	Fit and proper persons requirement
<b>Supporting TEG Member</b>	Neil Riley, Assistant Chief Executive
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<b>Status</b>	N and A

**PURPOSE OF THE REPORT**

To brief the Board of Directors on the Fit and Proper Persons Requirement (FPPR), to report current compliance and sources of assurance and to describe proposals to meet gaps in compliance and ensure the Trust meets the requirement in full.

**KEY POINTS**

- The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the 2014 Regulations) came into force on 27 November 2014. Regulation 5 places a duty on the Trust to ensure new and existing directors are fit and proper persons (see Appendix 1).
- In common with the duty of candour, the fit and proper persons requirement (FPPR) is incorporated into the CQC's current registration and regulatory regime and will become part of the CQC's Fundamental Standards and the new regulatory regime (including inspections) which will come into force in April 2015.
- The aim of the FPPR is to ensure that all board level appointments of NHS bodies carrying out a regulated activity are responsible for the overall quality and safety of care delivered and for making sure that care meets the regulations and requirements of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and that those individuals are fit and proper to assume that role.
- The regulation applies to all Directors – executive, non-executive, permanent, interim and associate positions, irrespective of voting rights.
- The FPPR criteria for what a director should be and must not be, are explained in detail.
- Trust responsibilities are explained.
- The regulatory roles of CQC and Monitor in terms of monitoring compliance are outlined.

**IMPLICATIONS**

<b>AIM OF THE STHFT CORPORATE STRATEGY 2012-2017</b>		<b>TICK AS APPROPRIATE</b>
1	Deliver the Best Clinical Outcomes	X
2	Provide Patient Centred Services	X
3	Employ Caring and Cared for Staff	X
4	Spend Public Money Wisely	X
5	Deliver Excellent Research, Education & Innovation	X

**RECOMMENDATIONS**

The Board of Directors is asked to **NOTE** the issues and to **APPROVE** the Action Plan.

**APPROVAL PROCESS**

<b>Meeting</b>	<b>Date</b>	<b>Approved Y/N</b>
TEG	11/03/15	Y



## TRUST EXECUTIVE GROUP

11 March 2015

### FIT AND PROPER PERSONS REQUIREMENT

#### 1 Introduction

The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the 2014 Regulations) came into force on 27 November 2014. Regulation 5 places a duty on the Trust to ensure new and existing directors are fit and proper persons (see Appendix 1).

In common with the duty of candour, the fit and proper persons requirement (FPPR) is incorporated into the CQC's current registration and regulatory regime and will become part of the CQC's Fundamental Standards and the new regulatory regime (including inspections) which will come into force in April 2015.

CQC published guidance on FPPR in November 2014.

#### 2 Background

Regulation 5 was introduced in response to failings at Mid Staffordshire and Winterbourne. The Francis Inquiry recommended a statutory Fit and Proper Persons Requirement be imposed on all health service bodies.

A fit and proper person requirement has been in use across other bodies and sectors for some years, for example HM Revenues and Custom, charities and the aviation sector. It has a common purpose which is to prevent people from being appointed or remaining in a position of authority or control when they are not fit to do so.

#### 3 FPPR

(a) Purpose

The aim of the FPPR for directors is to ensure that all board level appointments of NHS bodies carrying out a regulated activity are responsible for the overall quality and safety of care delivered and for making sure that care meets the regulations and requirements of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and that those individuals are fit and proper to assume that role.

(b) Scope

The regulation applies to all Directors – executive, non-executive, permanent, interim and associate positions, irrespective of voting rights. [NB For compliance purposes, it is recommended the Trust consider all members of the Board and those *senior managers* as defined for the purposes of the 2014/15 Annual Report and Accounts as within the purview of the regulation].

The regulation does not apply to Governors.

(c) Requirements

The introduction of the FPPR imposes an additional requirement on directors.

The Chairman is responsible for discharging the requirement placed on the Trust to ensure that all directors meet the fitness test and do not meet any of the unfit criteria, see (d) below.

The regulation will require the Chairman 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.

(d) Summary criteria

Directors should:

- Be of good character; [NB Although Paragraph 5 (4) of the Regulation requires matters listed in Schedule 4, Part 2 to be included in an assessment of good character, the CQC's definition is not the objective test of having no criminal convictions but rests upon a judgement as to whether the person's character can be relied upon to do the right thing under all circumstances. This gives the Board of Directors and the Council of Governor discretion in deciding fitness at appointment and over time.]
- Have the necessary qualifications, competence, skills and experience;
- Be able to perform the work they are employed for, after reasonable adjustments are made;
- Not have 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.

[Where:

- *'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.
- *'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.
- *'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.”]

This provision applies equally to Executive Directors and NEDs.

Directors must not:

- Be an undischarged bankrupt or a person whose estate has had a sequestration awarded in respect of it and who has not been discharged;
- Be subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order or an order to like effect made in Scotland or Northern Ireland;
- Be a person to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986;
- Have made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it.
- Be 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. [NB CQC recognises that it may not always be possible for providers to access a DBS check as an individual may not be eligible.]
- Be 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.
- Have been responsible for, privy to, contributed to, or facilitated, any serious misconduct or mismanagement (whether lawful or not) 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. [NB CQC accepts that providers will use reasonable endeavours in this instance. However, the existence of a compromise agreement does not indemnify the new employer and providers will need to ensure that their core HR policies address their approach to compromise agreements.]

(e) CQC role

The regulation give the CQC the power to assess whether directors are fit to carry out their role and whether NHS bodies have in place adequate and appropriate processes to ensure that Directors are fit and proper persons.

CQC will check and monitor compliance with the regulation at registration; during an inspection (as part of the well-led domain); on receipt of concerning information and where there is a serious systemic failure of an organisation.

CQC does not offer a clearance service for NHS trusts to confirm that particular individuals are fit and proper persons. CQC will look at the extent to which the provider meets the regulation by checking that the provider has made every reasonable effort to assure themselves of the suitability of their directors and that consequently those directors are fit and proper persons.

Under the “well-led organisation” domain of its inspection regime, the CQC expects senior leaders to set the tone and culture of the organisation that encourages a caring and compassionate attitude. In making appointments, the Board and the Council should take account of the values of the Trust and the extent to which candidates provide a good fit with those values.

(f) Monitor role

Standard condition G4 of the Provider Licence requires the Trust must not appoint or allow an unfit person to remain in post without Monitor’s consent. Monitor is able to use its enforcement powers to deal with a breach of the licence condition by requiring the unfit person to be removed from office. [NB Monitor’s current position uses a narrower definition as set out in Schedule 7 of the NHS Act 2006 as amended by the Health and Social Care Act 2012]

#### **4 Proposals to ensure compliance**

Drawing on guidance <sup>1</sup> jointly developed and published by NHS Employers, NHS Confederation and NHS Providers and on guidance <sup>2</sup> issued by CQC, the Assistant Chief Executive and the Director of Human Resources and Organisational Development have assessed current compliance and outlined a number of actions to ensure the Trust is meeting the FPPR going forward, in Appendix 2.

#### **5 Recommendation**

TEG is asked to approve the Action Plan to ensure ongoing compliance.

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<sup>1</sup> *Briefing: Fit and proper persons test.* (Dec 2012) NHS Employees, NHS Confederation and NHS Providers

<sup>2</sup> *Regulation 5: Fit and proper persons: directors. Guidance for NHS bodies.* (Nov 2014) CQC

## Appendix 1

### Regulation 5: Fit and proper persons - directors

- (1) This regulation applies where a service provider is a health service body.
- (2) Unless the individual satisfies all the requirements set out in paragraph (3), the service provider must not appoint or have in place an individual -
  - (a) as a director of the service provider, or
  - (b) performing the functions of, or functions equivalent or similar to the functions of, such a director.
- (3) The requirements referred to in paragraph (2) are that -
  - (a) the individual is of good character,
  - (b) the individual has the qualifications, competence, skills and experience which are necessary for the relevant office or position or the work for which they are employed,
  - (c) the individual is able by reason of their health, after reasonable adjustments are made, of properly performing tasks which are intrinsic to the office or position for which they are appointed or to the work for which they are employed,
  - (d) the individual has not been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity, and
  - (e) none of the grounds of unfitness specified in Part 1 of Schedule 4 apply to the individual.
- (4) In assessing an individual's character for the purposes of paragraph (3)(a), the matters considered must include those listed in Part 2 of Schedule 4.
- (5) The following information must be available to be supplied to the Commission in relation to each individual who holds an office or position referred to in paragraph (2) (a) or (b) -
  - (a) the information specified in Schedule 3, and
  - (b) such other information as is required to be kept by the service provider under any enactment which is relevant to that individual.
- (6) Where an individual who holds an office or position referred to in paragraph (2) (a) or (b) no longer meets the requirements in paragraph (3), the service provider must -
  - (a) take such action as is necessary and proportionate to ensure that the office or position in question is held by an individual who meets such requirements, and
  - (b) if the individual is a health care professional, social worker or other professional registered with a health care or social care regulator, inform the regulator in question.

### Schedule 4 Good character and unfit person tests

#### PART 1 Unfit person test

1. 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.
2. 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.

3. 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.
4. The person has made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it.
5. 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.
6. 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.

#### PART 2 Good character

7. 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.
8. 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.

#### **Schedule 3: Information Required in Respect of Persons Employed or Appointed for the Purposes of a Regulated Activity**

1. Proof of identity including a recent photograph.
2. Where required for the purposes of an exempted question in accordance with section 113A(2)(b) of the Police Act 1997, a copy of a criminal record certificate issued under section 113A of that Act together with, after the appointed day and where applicable, the information mentioned in section 30A(3) of the Safeguarding Vulnerable Groups Act 2006 (provision of barring information on request).
3. Where required for the purposes of an exempted question asked for a prescribed purpose under section 113B(2)(b) of the Police Act 1997, a copy of an enhanced criminal record certificate issued under section 113B of that Act together with, where applicable, suitability information relating to children or vulnerable adults.
4. Satisfactory evidence of conduct in previous employment concerned with the provision of services relating to—
  - (a) health or social care, or
  - (b) children or vulnerable adults.
5. Where a person (P) has been previously employed in a position whose duties involved work with children or vulnerable adults, satisfactory verification, so far as reasonably practicable, of the reason why P's employment in that position ended.
6. 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.
7. A full employment history, together with a satisfactory written explanation of any gaps in employment.
8. Satisfactory information about any physical or mental health conditions which are relevant to the person's capability, after reasonable adjustments are made, to properly perform tasks which are intrinsic to their employment or appointment for the purposes of the regulated activity.

9. For the purposes of this Schedule -
- (a) “the appointed day” means the day on which section 30A of the Safeguarding Vulnerable Groups Act 2006 comes into force;
  - (b) “satisfactory” means satisfactory in the opinion of the Commission;
  - (c) “suitability information relating to children or vulnerable adults” means the information specified in sections 113BA and 113BB respectively of the Police Act 1997.

## Appendix 2 Current position and Action Plan to ensure ongoing compliance

### At appointment:

	Standard	Trust position	
		Assurance Process	Evidence on completion of actions:
1	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><u>Current position:</u> Employment checks are undertaken in accordance with NHS Employment Check Standards issued by NHS Employers including:</p> <ul style="list-style-type: none"> <li>• 2 references, one of which must be most recent employer</li> <li>• qualification and professional registration checks</li> <li>• right to work checks</li> <li>• poof of identity checks</li> <li>• occupational health clearance</li> <li>• DBS checks (where appropriate)</li> </ul> <p><u>Action:</u></p> <ol style="list-style-type: none"> <li>1. Include searches of insolvency and bankruptcy register and disqualified directors register as part of standard employment checks for Directors and Senior Managers.<sup>3</sup> Responsible person: Director of HR and OD Date for completion: April 2015</li> <li>2. Amend Recruitment and Selection Policy accordingly. Responsible person: Director of HR and OD Date for completion: April 2015</li> </ol>	<ul style="list-style-type: none"> <li>• Recruitment and Selection Policy</li> <li>• References</li> <li>• Outcome of other pre-employment checks</li> <li>• DBS checks, where appropriate</li> <li>• Register search results</li> <li>• List of referees and sources of assurance for FOIA purposes</li> </ul>

<sup>3</sup> “Senior Manager” in this context is based upon guidance in Monitor’s 2014/15 Annual Reporting Manual (S7.36) i.e. those who influence the decisions of the NHS foundation trust as a whole rather than the decisions of individual directorates or sections within the NHS foundation trust. Such persons will include advisory and non-executive board members. In November 2014, the Chief Executive Officer confirmed that for future reporting purposes Senior Managers will include the Assistant Chief Executive and the Communications and Marketing Director as well as the Executive and Non-Executive Directors, including the Chairman.

	Standard	Trust position	
		Assurance Process	Evidence on completion of actions:
2	<p>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.</p>	<p><u>Current position:</u>  <b>NEDs:</b>  Established process for recruitment and selection of NEDs Matters for debate considered and recorded by Council of Governors Nominations and Remuneration Committee. External advice sought as necessary. Decisions of the committee appropriately reported to the Council of Governors.  <b>EDs (and designated Senior Managers):</b>  Established process for recruitment and selection of EDs Matters for debate considered by selection panel. External advice sought as necessary.</p> <p><u>Action:</u></p> <ol style="list-style-type: none"> <li>1. Review and update the Terms of Reference of the Council of Governors Nominations and Remuneration Committee to ensure FPPR issues are considered in the recruitment and selection of NEDs  Responsible person: Assistant Chief Executive  Date for completion: April 2015</li> <li>2. Review and update the process for recruitment and selection of EDs and designated Senior Managers to ensure FPPR issues are considered and recorded by the Board of Directors Nominations and Remuneration Committee and that decisions are appropriately reported to the Board of Directors.  Responsible person: Director of HR and OD  Date for completion: April 2015</li> <li>3. Review and update the Terms of Reference of the Board of Directors Nominations and Remuneration Committee and the Recruitment and Selection Policy.  Responsible person: Director of HR and OD  Date for completion: April 2015</li> </ol>	<p>Decisions and reasons for decisions recorded in minutes of Board Nominations and Remuneration Committee (EDs) and Council of Governors Nominations and Remuneration Committee (NEDs) and available for FOIA purposes.</p>

	Standard	Trust position	
		Assurance Process	Evidence
3	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.	<p><u>Current position:</u> Such requirements are included within the job description for all relevant posts and are checked as part of the pre-employment checks.</p> <p><u>Action:</u> No action required</p>	<ul style="list-style-type: none"> <li>• Recruitment and Selection Policy and procedures</li> <li>• Person specification</li> </ul>
4	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.	<p><u>Current position:</u> Employment checks include a candidate's qualifications and employment references. The recruitment and selection processes may use qualitative assessment and values-based questions but it is not formally required. Council of Governors Nominations and Remuneration Committee decisions and reasons for decisions are recorded and held on file.</p> <p><u>Action:</u></p> <ol style="list-style-type: none"> <li>1. Review and update Recruitment and Selection Policy to include qualitative assessment, PROUD value-based questions and psychometric profiling for recruitment and selection of relevant posts including EDs and designated Senior Managers Responsible person: Director of HR and OD Date for completion: April 2015</li> <li>2. Actions 2.2 and 2.3 above</li> <li>3. Review and update recruitment and selection processes for NEDs to include qualitative assessment and PROUD value-based questions. Responsible person: Assistant Chief Executive Date for completion: April 2015</li> </ol>	<ul style="list-style-type: none"> <li>• Recruitment and Selection Policy and procedures</li> <li>• Decisions and reasons for decisions recorded in minutes of Board Nominations and Remuneration Committee (EDs) and Council of Governors Nominations and Remuneration Committee (NEDs) and available for FOIA purposes</li> </ul>

	Standard	Trust position	
		Assurance Process	Evidence
5	In addition to 4, above, a 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.	<p><u>Current position:</u> Any such decision would be discussed by Council of Governors Nominations and Remuneration Committee (NEDs) and selection panel (EDs). Actions would be subject to ongoing review as part of annual appraisal.</p> <p><u>Action:</u> 1. Actions 2.2 and 2.3 above</p>	<ul style="list-style-type: none"> <li>Recruitment and Selection Policy and procedures</li> <li>Decisions and reasons for decisions recorded in minutes of Board Nominations and Remuneration Committee (EDs) and Council of Governors Nominations and Remuneration Committee (NEDs) and available for FOIA purposes.</li> <li>Director and Senior Manager appraisal process and documentation</li> </ul>
6	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 subject to equalities and employment legislation and to due process.	<p><u>Current position:</u> All post-holders are subject to clearance by Sheffield Occupational Health Services as part of the pre-employment process.</p> <p><u>Action:</u> No action required</p>	<ul style="list-style-type: none"> <li>Recruitment and Selection Policy and procedures</li> <li>Occupational Health clearance</li> </ul>
7	Wherever possible, reasonable adjustments are made in order that an individual can carry out the role.	<p><u>Current position:</u> Self declaration of reasonable adjustments is part of the recruitment process.</p> <p><u>Action:</u> No action required</p>	<ul style="list-style-type: none"> <li>Recruitment and Selection Policy and procedures</li> <li>Decisions and reasons for decisions recorded in minutes of Board Nominations and Remuneration Committee (EDs) and Council of Governors Nominations and Remuneration Committee (NEDs) and available for FOIA purposes</li> </ul>

	Standard	Trust position	
		Assurance Process	Evidence
8	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><u>Current position:</u> Employment checks are undertaken in accordance with NHS Employment Check Standards issued by NHS Employers</p> <p><u>Action:</u></p> <ol style="list-style-type: none"> <li>1. The covering letter in the recruitment packs for Directors and Senior Managers should make explicit the consequences of giving false or inaccurate or incomplete information Responsible persons: Director of HR and OD and Assistant Chief Executive Date for completion: April 2015</li> <li>2. Develop and implement a self -declaration of fitness as part of the recruitment and selection processes for Directors and Senior Managers. Responsible persons: Director of HR and OD and Assistant Chief Executive Date for completion: April 2015</li> <li>3. Revise and implement the standard reference requests for Directors and Senior Managers to seek relevant information from referees. Responsible persons: Director of HR and OD and Assistant Chief Executive Date for completion: April 2015</li> </ol>	<ul style="list-style-type: none"> <li>• Recruitment and Selection Policy and procedures</li> </ul>

	Standard	Trust position	
		Assurance Process	Evidence
9	The provider must not appoint any individual who has been responsible for, privy to, contributed to, or facilitated, any serious misconduct or mismanagement (whether lawful or not) 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><u>Current position:</u> Employment checks are undertaken in accordance with NHS Employment Check Standards issued by NHS Employers</p> <p><u>Action:</u> 1. Actions 2.2 and 2.3 above 2. Using enhanced information provided by implementation of 8 above, ensure such matters are routinely and explicitly considered by Board Nominations and Remuneration Committee (EDs) and Council of Governors Nominations and Remuneration Committee (NEDs). Responsible persons: Director of HR and OD and Assistant Chief Executive Date for completion: April 2015</p>	<ul style="list-style-type: none"> <li>Recruitment and Selection Policy and procedures</li> <li>Decisions and reasons for decisions recorded in minutes of Board Nominations and Remuneration Committee (EDs) and Council of Governors Nominations and Remuneration Committee (NEDs) and available for FOIA purposes</li> </ul>
10	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><u>Current position:</u> DBS checks are undertaken only 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><u>Action:</u> 1. Review and amend Recruitment and Selection Policy to update CRB references to DBS Responsible person: Director of HR and OD Date for completion: April 2015</p>	<ul style="list-style-type: none"> <li>Recruitment and Selection Policy and procedures</li> <li>DBS checks undertaken for eligible postholders</li> </ul>
11	As part of the recruitment/appointment process, providers should establish whether the individual is on a relevant DBS list.	<p><u>Current position:</u> Eligibility for DBS checks will be assessed for each vacancy arising.</p> <p><u>Action:</u> 1. Action 10.1 above</p>	<ul style="list-style-type: none"> <li>Recruitment and Selection Policy and procedures</li> </ul>

**Continuing provisions:**

	Standard	Trust position	
		Assurance Process	Evidence
12	<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><u>Current position:</u>            Limited assessment of continued fitness to be undertaken each year as part of appraisal process.</p> <p><u>Action:</u></p> <ol style="list-style-type: none"> <li>1. Develop and implement an annual self-declaration of fitness to continue in post for all Directors and Senior Managers, (scope to include convictions, professional registration, insolvency, bankruptcy and director disqualification). To be incorporated as part of the annual appraisal process.</li> </ol> <p>Responsible persons: Assistant Chief Executive            Date for completion: April 2015</p>	<ul style="list-style-type: none"> <li>• Self-declarations of fitness to continue and appraisal process and documentation.</li> </ul>

	Standard	Trust position	
		Assurance Process	Evidence
13	<p>If a provider discovers information that suggests an individual is not of good character after they have been appointed to a role, the provider must take appropriate and timely action to investigate and rectify the matter.</p> <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><u>Current position:</u> Disciplinary Procedure provides for such investigations.</p> <p><u>Action:</u></p> <ol style="list-style-type: none"> <li>1. Review current Contract of Employment for EDs and Senior Managers and Terms and Conditions agreements with NEDs regarding termination in the event of non-compliance with regulations and other FPP requirements. Responsible persons: Director of HR and OD and Assistant Chief Executive Date for completion: April 2015</li> <li>2. If necessary, revise Contracts of Employment with EDs and Senior Managers and Terms and Conditions agreements with NEDs to incorporate maintenance of fitness as a contractual requirement and allow for termination in the event of non-compliance with regulations and other FPP requirements. Responsible persons: Director of HR and OD and Assistant Chief Executive Date for completion: April 2015</li> <li>3. Seek legal advice to ensure Action 2 is legally valid Responsible persons: Director of HR and OD Date for completion: April 2015</li> <li>4. Review and amend Disciplinary Procedure Responsible persons: Director of HR and OD Date for completion: April 2015</li> </ol>	<ul style="list-style-type: none"> <li>• Disciplinary Procedure</li> <li>• Contracts of employment (for EDs and director-equivalents) and service agreements or equivalent (for NEDs)</li> </ul>

	Standard	Trust position	
		Assurance Process	Evidence
14	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.	<u>Current position:</u> Disciplinary Procedure  <u>Action:</u> 1. Review and amend Disciplinary Procedure Responsible persons: Director of HR and OD Date for completion: April 2015	<ul style="list-style-type: none"> <li>Disciplinary Procedure</li> </ul>
15	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.	<u>Current position:</u> Disciplinary Procedure  <u>Action:</u> 1. Action 14.1 above	<ul style="list-style-type: none"> <li>Disciplinary Procedure</li> </ul>
16	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.	<u>Current position:</u> Disciplinary Procedure  <u>Action:</u> 1. Action 14.1 above	<ul style="list-style-type: none"> <li>Disciplinary Procedure</li> <li>Documentation to relevant regulators</li> </ul>