

Executive Summary

Report to the Board of Directors

Held on 24 May 2022

Subject	Board of Directors' Fit and Proper Person Checks (CQC)
Supporting Board Member	Annette Laban, Chair
Author	Sandi Carman, Assistant Chief Executive
Status¹	A*

PURPOSE OF THE REPORT

To confirm that assurance has been provided to me on compliance with CQC Fit and Proper Person requirements, including completion of the annual fit and proper person self-declaration process. for members of the Board of Directors to strengthen compliance included in the 2022 CQC Action Plan following the November 2021 well-led review.

KEY POINTS

Background

- The Care Quality Commission (CQC) introduced requirements regarding the 'Fit and Proper Person Test' for Directors in November 2014, which became law from 1 April 2015 and forms part of [Regulation 5: Fit and Proper Persons Requirement](#) (Health and Social Care Act 2008 (Regulated Activities) Regulations 2014).
- The Fit and Proper Persons Requirement (FPPR) ensures that providers meet their obligations to only employ individuals who are fit for their role and to ensure that appropriate steps have been taken to ensure that they are of good character, are physically and mentally fit, have the necessary qualifications, skills and experience for this role and can supply certain information (including a Disclosure and Barring Service (DBS) check and full employment history, if required).
- The regulations also extend to individuals who are prevented from holding the office (for example, under a director's disqualification order).
- The Trust has in place a [Fit and Proper Person Policy](#) to ensure that the Trust complies with the FPPR. This policy defines checks made on appointment to director-level roles and confirms the practice to assess on-going fitness, both through the annual appraisal process and through an annual self-declaration against compliance.
- While the scope of the Trust policy also includes members of the Council of Governors in line with requirements for individuals elected / appointed to the Council of Governors to meet appropriate standards of personal behaviours under Provider Licence condition G4 (Fit and Proper Persons as Governors and Directors), this paper solely relates to CQC regulation requirements. Compliance with Provider Licence G4 is reported within the Trust's Provider Licence self-declaration presented to TEG and the Audit Committee in May / June.

Trust Fit and Proper Person Policy and procedure

On appointment checks

- The Trust's policy defines a number of checks that will take place on appointment to roles that fall under its agreed scope (ie Executive and Non-Executive directors and also those senior managers which are formally recognised as members of the Trust Executive Group). These include the following pre-employment checks in line with NHS employment standards:
 - Proof of identify
 - Disclosure and Barring Service (DBS) check
 - Occupational Health clearance
 - Evidence of the right to work in the UK
 - A check of employment history and two references
 - Qualifications / registration relevant to the role
- In addition, checks of the following registers are made on appointment:
 - Disqualified Directors
 - Bankruptcy and insolvency
 - Removed Charity Trustees

In the reporting period (1 April 2021 to the date of this report) four individuals were appointed where Fit and Proper Person checks applied. For all these four individuals, relevant checks were carried out on appointment with satisfactorily results recorded within personnel files.

Assessment of on-going fitness

- The Trust's policy confirms that the annual appraisal process should be used as an opportunity to discuss continued fitness competence. The Chief Executive is responsible for appraising Executive members of the Board of Directors / TEG members, while the Chair is responsible for appraising the Non-executive Directors and the Chief Executive. The Chair's appraisal is led by the Senior Independent Director.
- The policy also defines an annual requirement for post holders / office holders to complete a further form of declaration confirming that they continue to be a fit and proper person.

All individuals who were subject to Fit and Proper Person checks during the reporting period, (including directors no longer in post), and were eligible to take part in an in-year appraisal had done so. This does not include two very recent new starters whose appraisals will take place for 2022/23.

Through the appraisal process no matters were raised that cause concerns relating to an individual being fit and proper to carry out their role.

Self-declarations for all individuals subject to Fit and Proper Person checks (in post) have been completed and a hard copy will be retained on the individual's personnel file.

All returns have been reviewed by myself and no issues have been identified that impact on the individual's ability to perform their duties as a member of the Board.

Actions to strengthen adherence and evidence compliance with FPPR (CQC Action Plan 2022 – Outcome 16)

- As part of the Trust’s response to regulatory feedback following the November 2021 CQC well-led review, actions have been agreed to strengthen arrangements for ensuring that effective systems are in place to ensure and evidence adherence to the fit and proper persons requirements / regulations.
- Immediate action has been taken to implement a process to carry out Disclosure and Barring Service (DBS) checks every three years for members of the Board of Directors and the Council of Governors. In addition, disqualified directors and insolvency checks are now repeated annually, along with an annual cross check review of professional registration status (as recorded on ESR). As at the time of this report these recent checks had been made for all relevant individuals. The Trust’s Policy is being updated to reflect this more frequent checking and compliance will be reported in future FPPR annual assurance reports.
- As a further action, improved standards of record keeping will be introduced and adopted for relevant personnel files to enable monitoring of adherence to FPPR. Results of audits of records will, again, be incorporated within future FPPR assurance reporting to TEG and the Board of Directors.

IMPLICATIONS²

Aim of the STHFT Corporate Strategy		✓ Tick as appropriate
1	Deliver the Best Clinical Outcomes	
2	Provide Patient Centred Services	
3	Employ Caring and Cared for Staff	✓
4	Spend Public Money Wisely	✓
5	Deliver Excellent Research, Education & Innovation	
6	Create a Sustainable Organisation	

RECOMMENDATIONS

Board of Directors is asked to:

- Note confirmation of my satisfaction with arrangements for fit and proper person check, specifically the annual self-declaration process.
- Note that all Non-Executive, Executive Directors and Senior Managers that attend the Board have completed a self-declaration form for the year 2022/23.
- Note actions to strengthen adherence and evidence compliance with FPPR.

APPROVAL PROCESS

Meeting	Date	Approved Y/N
TEG	11.5.22	Y
Board of Directors	26.5.22	

¹ Status: A = Approval
A* = Approval & Requiring Board Approval
D = Debate
N = Note

² Against the six aims of the STHFT Corporate Strategy 'Making a Difference – The next Chapter 2022-27'