

**APPENDIX A**

**NHS**  
Yorkshire  
Ambulance Service  
NHS Trust



# Fit and Proper Person Policy

**Director of Corporate Services  
and Company Secretary**

**May 2024**

**Draft for Board Approval**

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Associated Policies and Procedural Documents:

Recruitment and Selection Policy and Procedures

Disclosure and Barring Service Procedure

Professional Registration Policy

Secondary Employment Policy and Guidance

Probationary Policy and Guidance

Standards of Business Conduct Policy

Code of Conduct Policy

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## STAFF SUMMARY

<p>The Trust is wholly committed to the principles and operational requirements of the Fit and Proper Person (FPPT) Test framework</p>
<p>This policy sets out the principles and arrangements that ensures compliant application of the FPPT in the Trust</p>
<p>The FPPT reinforces individual accountability and transparency for board members of NHS organisations, and thereby prioritise patient safety and good leadership. Compliance with the FPPT will help board members to provide demonstrable and objective assurance that they are 'fit and proper'.</p>
<p>The Trust requires individual board members to demonstrate that they meet the FPPT requirements at the point of commencing their role and on an ongoing basis thereafter</p>
<p>To ascertain whether an individual board member is 'fit and proper' the Trust will assess all board members against the full and current FPPT framework as set out in the relevant guidance issued by NHS England</p>
<p>The Trust requires every board member to complete an annual self-attestation to confirm that they adhere to the FPPT requirements</p>
<p>The Trust will not confirm any new appointment to a board member role unless, and until, the appointee concerned has demonstrated that they meet the FPPT requirements.</p>
<p>On initial appointment of a new board member, the Trust will obtain references in accordance with the national guidance. The Trust will use the information received from references to support the full FPPT assessment for new board members.</p>
<p>The Trust uses the Electronic Staff Record (ESR) to hold FPPT information relating to its board members.</p>
<p>The Trust Chair is accountable for ensuring that the Trust has taken all reasonable steps to implement effective arrangements that comply with the FPPT requirements.</p>
<p>The Trust will investigate in a timely manner any concerns regarding the fitness or the ability of an individual board member to carry out their duties. Any such investigation will be conducted in line with the relevant Trust policies and procedures</p>
<p>The Trust will submit a report to the NHS England Regional Director to confirm the satisfactory completion of all annual FPPT checks and review processes</p>

## **1.0 INTRODUCTION**

- 1.1 Yorkshire Ambulance Service NHS Trust (the Trust) is wholly committed to the principles and operational requirements of the Fit and Proper Person (FPPT) Test framework.
- 1.2 The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 5, Fit and Proper Persons (Directors) placed a duty on NHS organisations to ensure that those who hold, or are due to hold, a director position within the Trust are 'fit and proper' to carry out the role of overseeing the quality and safety of care. The systems and processes required to discharge this duty are set out in the Fit and Proper Person Test (FPPT) framework.
- 1.3 The Kark Review (2019) broadened the scope and strengthened the requirements of the FPPT Framework.

## **2.0 PURPOSE AND SCOPE**

### **2.1 Purpose**

- 2.1.1 This policy includes the arrangements necessary for the Trust to act in accordance with the recommendations of the Kark Review. It sets out the principles that ensure compliant application of the FPPT in the Trust. Operational details regarding FPPT application in the Trust are set out in a separate procedure document that supports the implementation of this policy.
- 2.1.2 The aim of the strengthened FPPT is to reinforce individual accountability and transparency for board members of NHS organisations, and thereby to prioritise patient safety and good leadership. Compliance with the FPPT helps board members to provide demonstrable and objective assurance that they are 'fit and proper'.
- 2.1.3 The Trust requires individual board members to demonstrate that they meet the FPPT requirement at the point of commencing their role and on an ongoing basis thereafter, including an annual review and self-attestation process (see 3.3).
- 2.1.4 In the event that an individual board member ceases to meet the FPPT requirements and can no longer demonstrate that they are 'fit and proper' the Trust will notify the appropriate regulators and the individual may be dismissed.

### **2.2 Scope**

- 2.2.1 The FPPT framework applies to the Board members of NHS organisations. In accordance with the relevant guidance, the term 'board member' is defined as:
- Executive and Non-Executive Directors, irrespective of voting rights
  - Interim (all contractual forms) and permanent appointments to Board Level roles
  - Those individuals called 'directors' within Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.



- 2.2.2 Appendix A sets out the board members to which the FPPT applies in this Trust.
- 2.2.3 Board members who by virtue of their profession are members of other professional registers, such as the General Medical Council (GMC), Health and Care Professions Council (HCPC), or the Nursing and Midwifery Council (NMC) will still be assessed against the FPPT framework.
- 2.2.4 The Trust may choose to extend the scope of the FPPT assessment to other key roles beyond board membership, such as those individuals who regularly attend meetings of the board and assurance committees or who otherwise have significant influence on board decisions.

### **3.0 FIT AND PROPER PERSON TEST FRAMEWORK**

#### **3.1 Principles**

- 3.1.1 To assess whether an individual board member is 'fit and proper' the Trust will take steps to satisfy itself that:
- The individual is of good character.
  - 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.
  - The individual is able by reason of their health, after workplace 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.
  - 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.
  - None of the grounds of unfitness specified in Part 1 of Schedule 4 of the Health and Social Care Act 2008 (Regulated Activities: 2014 Regulations) (see Appendix B).
- 3.1.2 The Trust will assess individuals against the full and current FPPT framework as set out in the relevant guidance issued by NHS England.

#### **3.2 Full FPPT Assessment**

- 3.2.1 The Trust will undertake a full and documented assessment against the FPPT framework in the following circumstances:
1. New appointments to board member roles, whether permanent or temporary, where the period of appointment is greater than six weeks. This covers:
    - a) New appointments, including when individuals have been promoted within the Trust.
    - b) Temporary appointments (including secondments) involving acting-up into a board role on a non-permanent basis.

- c) Existing board members of other NHS organisations who join the Trust in the role of board member.
  - d) Individuals who join the Trust in the role of board member for the first time from an organisation that is outside of the NHS.
2. When an individual board member changes their role within the Trust (for example, if an existing board member moves into a new board role that requires a different skillset).
  3. Annually, within a 12-month period of the date of the previous FPPT assessment, to review for any changes that may have occurred in the previous 12 months.
- 3.2.2 In circumstances 1(a) to 1(d) above (new appointments) the Trust will also carry out a board member reference check (see 3.5).
- 3.2.3 In circumstances 2 and 3 above the Trust is not required to carry out a board member reference check.
- 3.2.4 The process for carrying out the full FPPT assessment is set out in the procedure document that supports implementation of this policy.

### **3.3 Board Member Self-Attestation**

- 3.3.1 Self-attestation is a necessary step that forms part of the full FPPT assessment for all board members. The Trust requires every board member to complete an annual self-attestation to confirm that they adhere to the FPPT requirements. The process for completing the annual self-attestation process is set out in the procedure document that supports implementation of this policy.
- 3.3.2 The completed and signed self-attestation form should be submitted annually and, on request, to the Company Secretary on behalf of the Trust Chair.
- 3.3.3 The Trust will use the current official form for completing the FPPT self-attestation as issued by NHS England.
- 3.3.4 The Trust will submit an annual return to the NHS England Regional Director to confirm that all board members have completed the self-attestation process and that all board members meet the FPPT requirements.

### **3.4 New Board Member Appointments**

- 3.4.1 The Trust will not confirm any new appointment to a board member role unless, and until, the appointee concerned has demonstrated that they meet the FPPT requirements, and any other appropriate employment or pre-appointment checks required by the Trust.
- 3.4.2 New appointments that involve joint roles across a different NHS organisation in addition to the Trust will be managed by the Trust in accordance with the relevant national guidance issued by NHS England. It is expected that the designated host or

employing organisation would undertake the FPPT assessment with input from the Chair(s) of the other organisation (s) involved.

- 3.4.3 New appointments that involve shared roles within the Trust will be managed by the Trust in accordance with the relevant national guidance issued by NHS England. Where two individuals within the Trust share responsibility for the same board member role both individuals will be assessed against the FPPT requirements.
- 3.4.4 New appointments that involve interim cover for temporary absence will be managed by the Trust in accordance with the relevant national guidance issued by NHS England. For the FPPT requirements, a temporary absence is defined as leave for a period of six consecutive weeks or less, where the Trust is leaving the role open for the same board member. A full FPPT assessment will be undertaken for an individual in an interim cover role that is expected to exceed six weeks. Where an individual is appointed as temporary interim cover and is not already assessed as fit and proper, the Trust will ensure appropriate supervision by an existing board member until all appropriate checks have been completed.
- 3.4.5 The recruitment process for prospective new board members will align with other Trust policies relating to recruitment. The detailed process for recruiting new board members is set out in the procedure document that supports implementation of this policy.
- 3.4.6 Employment checks of prospective new board members will be carried out in accordance with the requirements of the FPPT framework and the Trust's own policies and procedures relating to employment checks. Such checks will include social media checks and criminal record checks, where these are relevant to the role being recruited. The detailed process for recruiting new board members is set out in the procedure document that supports implementation of this policy.

### **3.5 Board Member References**

- 3.5.1 On initial appointment of a new board member the Trust will obtain references in accordance with the national guidance. The Trust will use the information received from references to support the full FPPT assessment for new board members. The detailed process for obtaining references is set out in the procedure document that supports this policy.
- 3.5.2 The Trust will obtain references as part the FPPT assessment whenever it makes new board member appointments. This applies to appointees internal to the Trust, appointees external to the Trust but from within the NHS, and appointees external to the NHS. This applies to all appointments of a duration greater than six weeks, whether permanent or temporary. Specifically, this applies to:
  - a) New board member appointments that are internal promotions within the Trust.
  - b) Existing board members from another NHS organisation who join the Trust in a board member role.
  - c) Individuals who join the Trust in a board member role for the first time from an organisation outside of the NHS.

d) Individuals who have been a board member in another NHS organisation who join the Trust but not in a board member role.

- 3.5.3 For new board member appointments made from outside of the NHS the Trust will seek references to validate a period of six consecutive years of continuous employment (or provide an explanation for any gaps), or training immediately prior to the application being made.
- 3.5.4 The Trust will use the standard template for board member references issued by NHS England to support FPPT implementation.
- 3.5.5 The Trust will retain board member references locally so that the information received is available for future checks.
- 3.5.6 When a board member departs their role, the Trust will maintain a complete and accurate board member reference. This is irrespective of whether a reference request has been received from another NHS organisation, and it includes the circumstance of the departure of the board member.
- 3.5.7 The Trust will carry out board member references checks in accordance with the relevant information governance principles and data protection law. The Trust will ensure that the process is undertaken fairly, and that information generated is accurate and up to date.

### **3.6 Electronic Staff Record**

- 3.6.1 The Trust will use the Electronic Staff Record (ESR) to hold FPPT information relating to its board members. The data fields to be maintained in the Trust's ESR will be consistent with the requirements of the national guidance. These are set out in the procedure document that supports implementation of this policy.
- 3.6.2 The information about board members held in the Trust's ESR will be accessible by the Trust only (other than in circumstances outlined in 3.6.3). Access to this information will be limited to specified roles as set out in Appendix C.
- 3.6.3 The Trust will provide relevant individuals from the CQC with access to information about board members held on ESR where this information is necessary for their roles and in the context of the CQC's ability to require the Trust to provide information under Regulation 5(5).
- 3.6.4 The Trust will maintain current information about board members held in ESR. As a minimum the Trust will review and update the information on an annual basis. Specifically, the information held in ESR will be updated for:
- a) All existing board members in the Trust.
  - b) New board members who join the Trust.
  - c) Whenever there has been a relevant or material change to one of the FPPT fields held in ESR.
  - d) Annual completion of the FPPT requirements.

e) Annual confirmation by the Trust Chair of the completion of the FPPT requirements.

- 3.6.5 The Trust will manage information about board members held in ESR in accordance with the Trust's information governance and data protection policies.
- 3.6.6 Individual board members will be able to submit a subject access request to obtain the information about them held by the Trust.
- 3.6.7 The Trust will retain information about board members held in ESR in accordance with its records management policy and in line with the NHS Records Management Code of Practice.

### **3.7 The Role of the Chair**

- 3.7.1 The Trust Chair is accountable for ensuring that the Trust has taken all reasonable steps to implement effective arrangements that comply with the FPPT requirements. The full FPPT responsibilities of the Trust Chair are set out in Appendix D.
- 3.7.2 The Trust Chair is accountable for ensuring that all new board members meet the FPPT assessment criteria.
- 3.7.3 The Trust Chair is accountable for ensuring that all board members complete their annual self-attestation and that all board members meet the FPPT requirements. The Trust Chair will submit an annual declaration to the NHS England Regional Director to confirm this.
- 3.7.4 The Trust Chair will present an annual report on the completion of the FPPT requirements to a public meeting of the Board of Directors.
- 3.7.5 The Trust Chair is subject to the same FPPT requirements as all other board members, including the completion of an annual self-attestation. The Trust's Senior Independent Director will undertake an annual review to ensure that the Trust Chair is meeting the requirements of the FPPT.

## **4.0 BOARD MEMBER COMPLIANCE**

### **4.1 Annual Checks**

- 4.1.1 The Trust will undertake annual checks and reviews to ensure that individual board members continue to meet the FPPT requirements.
- 4.1.2 As a minimum the Trust will undertake the following annual checks and review processes:
- a) Completion of the annual self-attestation process by board members (see 3.3)
  - b) Annual checks on insolvency, bankruptcy, director qualifications, and registration with professional bodies (where required for the role).
  - c) The annual appraisal and development review of board members.

4.1.3 The detailed process for carrying out each of these checks is set out in the procedure document that supports this policy.

## **4.2 Board Member Appraisals**

4.2.1 The annual appraisal and development review of Executive board members will be led by the Chief Executive.

4.2.2 The annual appraisal and development review of Non-Executive board members will be led by the Trust Chair.

4.2.3 The annual appraisal and development review of the Chief Executive will be led by the Trust Chair.

4.2.4 The annual appraisal and development review of the Trust Chair will be led by the Senior Independent Director.

4.2.5 The annual appraisal and development review of Board members will be carried out in accordance with the requirements of the FPPT framework. The Trust will utilise any guidance, frameworks or other tools issued by NHS England or regulators to support the appraisal and development review of Board members.

## **5.0 BOARD MEMBER NON-COMPLIANCE**

5.1 The Trust will investigate in a timely manner any concerns regarding the fitness or the ability of an individual board member to carry out their duties. Any such investigation will be conducted in line with the relevant Trust policies and procedures.

5.2 In such circumstances that the Trust identifies concerns or adverse findings relating to the fitness of any individual board member, the Trust will inform other relevant bodies as required (for example, NHS England, CQC, professional regulators).

5.3 The Trust will support any enquiries or investigations carried out by others in relation to the fitness of any individual board member.

## **6.0 ASSURANCE AND REPORTING**

6.1 Assurance reports to confirm the completion of the annual FPPT checks will be received by the appropriate assurance committee(s) and by a meeting of the Board of Directors held in public.

6.2 Assurance reports to confirm the completion of annual appraisal and development reviews of Board members will be received by the Remuneration and Nominations Committee and by a meeting of the Board of Directors held in public.

6.3 The Trust will submit a report to the NHS England Regional Director to confirm the satisfactory completion of all annual FPPT checks and review processes.

## **7.0 IMPLEMENTATION PLAN**

- 7.1 The latest approved version of this policy will be posted on the Trust intranet site for all members of staff to access. New members of staff will be signposted to how to find and access this document during their induction into the Trust.
- 7.2 The Trust Chair is accountable for ensuring that this policy is implemented and complied with.
- 7.3 The Trust Chair will be supported by key roles to ensure that this policy implemented and complied with. Specific roles include:
- Company Secretary
  - Director of People and Organisational Development
  - Deputy Director of People and Organisational Development

## **8.0 MONITORING COMPLIANCE WITH THIS POLICY**

- 8.1 Compliance with this policy will be monitored by the Company Secretary.
- 8.2 Compliance with the FPPT will be reported annually to a meeting of the Trust Board held in public.

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## **APPENDIX A**

### **ROLES IN SCOPE**

In this Trust the roles to which the FPPT requirements will apply are as follows:

- Trust Chair
- Non-Executive Directors
- Chief Executive
- Deputy Chief Executive
- Chief Operating Officer
- Executive Director of Finance
- Executive Medical Director
- Executive Director of Quality and Chief Paramedic
- Director of People and Organisational Development
- Director of Strategy, Planning and Performance
- Directors of Partnerships and Operations
- Director of Corporate Services and Company Secretary
- Chief Digital Information Officer
- Head of Communications and Community Engagement

The additional requirement to undertake Disclosure and Barring Services checks apply only to the following roles:

- Executive Medical Director
- Executive Director of Quality and Chief Paramedic



## **APPENDIX B**

### **GROUND OF UNFITNESS**

The following grounds of unfitness are specified in Part 1 of Schedule 4 of the Health and Social Care Act 2008 (Regulated Activities: 2014 Regulations)

The grounds of unfitness specified 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.

## **APPENDIX C**

### **ACCESS TO THE ELECTRONIC STAFF RECORD**

Access to the ESR records held by the Trust in respect of FPPT requirements will be limited to the following roles:

- Trust Chair
- Chief Executive
- Senior Independent Director
- Trust Deputy Chair
- Company Secretary
- Head of Corporate Affairs (Deputy Company Secretary)
- Director of People and Organisational Development
- Deputy Director of People and Organisational Development
- ESR managers / administrators (as required)

## APPENDIX D

### ROLES AND RESPONSIBILITIES

#### 1. Trust Chair

The Chair is accountable for taking all reasonable steps to ensure the FPPT process is effective and that the desired culture of the Trust NHS is maintained to support an effective FPPT regime. The responsibilities of the Chair are as follows:

- a) Ensure the NHS organisation has proper systems and processes in place so it can make the robust assessments required by the FPPT.
- b) Ensure the results of the full FPPT, including the annual self-attestations for each board member, are retained by the employing NHS organisation.
- c) Ensure that the FPPT data fields within ESR are accurately maintained in a timely manner.
- d) 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.
- e) Ensure an appropriate programme is in place to identify and monitor the development needs of board members.
- f) 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.
- g) Conclude whether the board member is fit and proper.
- h) The Chair will also complete an annual self-attestation that they themselves are in continued adherence with the FPPT requirements. On an annual basis, the Chair should confirm that all board members have completed their own FPPT self-attestation and that the FPPT is being effectively applied in their NHS organisation.
- i) 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 about whether a board member might not be fit and proper and the measures taken to address this. A local record of this should be retained. A summary of this should also be included in the annual FPPT submission form (Appendix 5) to the relevant NHS England regional director.

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

The Chair to present a report on completion of the annual FPPT to the Board in a public meeting and, where applicable,

## **2. Senior Independent Director**

The Senior Independent Director will

- (a) Carry out an annual review to ensure that the Trust Chair meets the requirements of the FPPT framework.
- (b) Carry out an annual appraisal and performance review of the Chair

## **3. Board Members and others to whom the FPPT applies**

Board members and others to whom the FPPT applies will:

- a) Hold and maintain suitability for the role they are undertaking.
- b) Respond to any requests of evidence of their ongoing suitability i.e. annual re-checks.
- c) Disclose any issues which may call into question their suitability for the role they are undertaking.
- d) Participate in annual appraisal and objective setting processes as directed.
- e) Make a declaration of any interests to the Company Secretary so that these can be added to the Register of Interests and submitted to the Board at least annually.

## **4. Company Secretary**

The Company Secretary will:

- a) Act as the liaison officer between NHS England, the appropriate Integrated Care Board, and the Trust in respect of the appointment process for the Chairman and Non-Executive Directors (including Associate Non-Executive Directors).
- b) Oversee all appointment checks for roles within the scope of the FPPT framework and ensure the results are recorded and evidenced within an individual's file. Where checks have not been undertaken by NHS England, the Company Secretary will require assurance that these checks are undertaken by the Trust's Human Resources team.
- c) Undertake an annual refresh of suitability for holders of all posts within the scope of the FPPT framework. This includes requesting that an annual declaration of suitability is completed by all board members annually.
- d) Submit annually to the Board, with the Annual Register of Interests, an assurance of the compliance with the Fit and Proper Persons Test framework.
- e) Ensure that the Register of Interests is maintained and that arrangements are in place for all board members to make declarations when required.



## **5. Human Resources**

The Trust's Human Resources team will

- a) Ensure that all employment checks are undertaken in line with the regulation and NHS Employment Check standards for all roles within the scope of the FPPT framework and ensure the results are recorded and evidenced within an individual's file.
- b) Undertake an annual refresh of suitability for holders of all roles within the scope of the FPPT framework on request from the Company Secretary
- c) Ensure that all checks are complete prior to the commencement of employment for all roles within the scope of the FPPT framework.

## **6. Procurement**

The Trust's Procurement function will:

- (a) Ensure all agencies/candidate providers understand their responsibilities and comply with the requirements of this policy. This should be evidenced through suitable contract documentation to ensure the position is clear.

## **7. Agency Providers**

Agency Providers will be required to:

- (a) Ensure the necessary checks that are outlined in this policy have been undertaken for any interim staff supplied to the Trust and make those checks available as and when requested