

MIAA

2023/2024 Checklist Series – Fit and Proper Person Test

September 2023

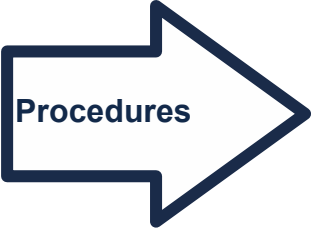
On 2nd August 2023 NHS England published the [Fit and Proper Person Test Framework for board members](#). The Framework has been developed in response to the recommendations of the Kark Review (2019) outlining requirements for recording Fit and Proper Person Test (FPPT) details on NHS Electronic Staff Record (ESR), mandatory reference requirements and extending coverage to commissioners (including ICBs) and other appropriate arm's length bodies. The Framework is effective from 30th September 2023 and all NHS boards should ensure the implementation of the Framework's requirements from that date (historic data collection is not required but NHS organisations should apply the Framework for new board level appointments, promotions and for annual assessments going forward).

The revised Framework incorporates the following Kark Review (2019) recommendations:

- All directors should meet specified standards of competence to sit on the board of any health-providing organisation. Where necessary, training should be available.
- That a central database of directors should be created to hold relevant information about qualifications and history.
- A mandatory reference requirement for each director should be introduced.
- The FPPT should be extended to all commissioners and other appropriate arm's length bodies.
- Remove the words 'privy to' from regulation.

This checklist is designed to provide assurance on an NHS organisation's preparedness to adopt the Framework from the 30th September and provide assurance of ongoing compliance following implementation of revised arrangements.

Fit and Proper Person Test Checklist

Areas for NHS organisations to consider	Organisation's Response	
 <p>Procedures</p>	FPPT Process and Procedures	
	<ul style="list-style-type: none"> • Have FPPT policies and procedures been updated to reflect the NHSE Framework? Have revised policies/procedures been communicated to relevant staff? 	
	<ul style="list-style-type: none"> • Do FPPT processes cover all board members as per the NHSE definition (i.e. executive directors (irrespective of voting rights), non-executive directors (irrespective of voting rights), interim (all contractual forms) appointments and those individuals called 'directors' within Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014)? 	
	<ul style="list-style-type: none"> • In the case of ICBs has your Chair established a process to consider FPPT assessment on a member-by member basis taking into account assurance received from other recruiting/appointing organisations? 	
	<ul style="list-style-type: none"> • Have processes been established to ensure personal data relating to FPPT assessment is retained in local record systems and specific data fields populated in ESR? 	

Areas for NHS organisations to consider	Organisation's Response
<ul style="list-style-type: none"> • Do FPPT processes clearly provide assurance of compliance with Regulation 5 requirements (in line with elements outlined in the NHSE Framework) that board members be: <ul style="list-style-type: none"> ○ individuals of good character (this relates to 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 and/or 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); ○ individuals having the qualifications, competence, skills and experience that are necessary for the relevant office or position or the work for which they are employed; ○ individuals that are 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; ○ individuals which have not been responsible for, contributed to or facilitated any serious misconduct or mismanagement (whether 	

Areas for NHS organisations to consider	Organisation's Response
<p>unlawful or not) while carrying out a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity:</p> <ul style="list-style-type: none"> ○ not subject to any of the grounds of unfitness specified in part 1 of Schedule 4 apply to the individual (e.g. 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 and f) the person is prohibited from holding the relevant office or position, or in the case of an individual from 	

Areas for NHS organisations to consider		Organisation's Response
	carrying on the regulated activity, by or under any enactment)?	
	<ul style="list-style-type: none"> • Are evidenced processes in place to undertake a formal assessment of the fitness and propriety of each board member annually? Is this assessment carried out alongside annual appraisals? 	
	<ul style="list-style-type: none"> • Are FPPT requirements included in systems and processes for recruitment, induction, training, appraisals, governance arrangements, disciplinary and dismissal processes? 	
	<ul style="list-style-type: none"> • Are processes in place to ensure a documented full FPPT assessment is undertaken in the following circumstances: <ul style="list-style-type: none"> a) New appointments in board member roles, whether permanent or temporary, where greater than six weeks, this covers: <ul style="list-style-type: none"> ▪ new appointments that have been promoted within an NHS organisation; ▪ temporary appointments (including secondments) involving acting up into a board role on a non-permanent basis 	

Areas for NHS organisations to consider	Organisation's Response
<ul style="list-style-type: none"> ▪ existing board members at one NHS organisation who move to another NHS organisation in the role of a board member; and ▪ individuals who join an NHS organisation in the role of board member for the first time from an organisation that is outside the NHS. <p>b) 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).</p> <p>c) Annually; that is, within a 12-month period of the date of the previous FPPT to review for any changes in the previous 12 months.</p> <p><i>For points b and c above, the board member reference check is not needed.</i></p>	
<ul style="list-style-type: none"> • Have processes been established to ensure every board member completes an annual self-attestation confirming adherence to FPPT requirements? 	

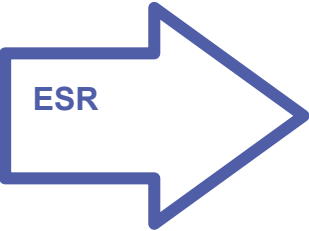
Areas for NHS organisations to consider	Organisation's Response
<ul style="list-style-type: none"> Do FPPT processes include, for the initial appointment of NHS trust chairs and ICB chairs only, once the NHS organisation has obtained board member references and completed the fit and proper person assessment, FPPT approval is sought from the NHS England Appointments Team before they commence their role? 	
<ul style="list-style-type: none"> Have processes been established for completing FPPT for joint appointments where the organisation is the designated host/employing organisation (including input from the chair of the other contracting NHS organisation)? Do these mechanisms include provision of a 'letter of confirmation' and processes for all parties to keep each other updated on matters that may impact FPPT assessment? 	
<ul style="list-style-type: none"> Are processes in place to ensure a FPPT assessment is completed for individuals who hold two or more separate roles? 	
<ul style="list-style-type: none"> Are processes in place to ensures a full FPPT assessment is undertaken for interim roles exceeding six weeks? 	
<ul style="list-style-type: none"> Does the senior independent director (SID) or deputy chair annually review and ensure the chair meets FPPT requirements? 	


Areas for NHS organisations to consider	Organisation's Response
<ul style="list-style-type: none"> • A processes in place to undertake DBS checks at least every three-years for board members following initial appointment? 	

Areas for NHS organisations to consider	Organisation's Response
<div data-bbox="203 555 517 788" style="border: 2px solid #00A0C0; padding: 10px; display: inline-block; margin-right: 10px;"> <p style="margin: 0; color: #00A0C0; font-weight: bold;">References</p> </div> <div data-bbox="528 539 2024 619" style="background-color: #00A0C0; color: white; padding: 5px; margin-bottom: 5px;"> <p style="margin: 0; font-weight: bold;">Board member references</p> </div> <ul style="list-style-type: none"> • Have processes been established to ensure Board member references are included as part of the FPPT assessment when there are new board member appointments, specifically: <ol style="list-style-type: none"> a) New appointments that have been promoted within an NHS organisation. b) Existing board members at one NHS organisation who move to another NHS organisation in the role of a board member. c) 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. d) Individuals who have been a board member in an NHS organisation and join another NHS organisation not in the role of 	

Areas for NHS organisations to consider		Organisation's Response
	board member, that is, they take a non-Board level role.	
	<ul style="list-style-type: none"> Do Board member reference processes require a minimum of two references, from different employers, where possible, (using the board member NHSE reference template) for individuals appointed from outside the NHS or from within the NHS but in their first Board role? 	
	<ul style="list-style-type: none"> For individuals moving between NHS Board roles does the organisation where possible obtain one reference from a separate organisation in addition to the board member reference for their current Board role? 	
	<ul style="list-style-type: none"> Are processes in place for the organisation to take reasonable steps to obtain appropriate references from current employers as well as previous employers within the past six years for Board members joining from another NHS organisation? 	
	<ul style="list-style-type: none"> Have processes been established to ensure the organisation makes every practical effort to obtain references that fulfil the board member reference requirements when employing individuals from outside the NHS? 	

Areas for NHS organisations to consider		Organisation's Response
	<ul style="list-style-type: none"> • Are mechanisms in place to store information relating to references so it is available for future checks? 	
	<ul style="list-style-type: none"> • Have processes been established to utilise board member annual appraisals from the past three years to guide board member references? 	
	<ul style="list-style-type: none"> • Where board member reference requests are received by your organisation from another NHS organisation what processes are in place to ensure the provision of the requested reference within 14 days? 	
	<ul style="list-style-type: none"> • Are you using NHSE's board member reference templates? If not, how are you ensuring you obtain all required information for board member references 	

Areas for NHS Organisations to consider	Organisation's Response	
 <p>ESR</p>	FPPT and ESR	
	<ul style="list-style-type: none"> • Have policies and procedures been established to collate the relevant FPPT information in accurate, complete and timely manner for updating ESR? Does this include checks to ensure all required data fields have been completed for each board member as appropriate? 	
	<ul style="list-style-type: none"> • Do annual FPPT checks include validation of all fields in ESR as specified in the framework? 	
	<ul style="list-style-type: none"> • Has access to ESR been restricted to ensure information held on ESR about board members is only accessible to a limited number of senior individuals in the organisation? 	
	<ul style="list-style-type: none"> • Has access to ESR been restricted to ensure there is no access to FPPT information by other organisations? 	
	<ul style="list-style-type: none"> • Are processes in place to enable individuals to access and exercise their rights in connection with the information held about them in accordance with data protection law? 	

Areas for NHS organisations to consider	Organisation's Response	
 <p>Reporting</p>	Governance and Reporting	
	<ul style="list-style-type: none"> Does the Chair present a report on the completion of the annual FPPT to a public board meeting and where applicable the Council of Governors? 	
	<ul style="list-style-type: none"> How does the annual FPPT review process ensure the Chair signs off the annual FPPT submission form and it is submitted to Regional Director NHS England? 	
	<ul style="list-style-type: none"> Are processes in place to report the high-level outcome of FPPT assessments in your annual report or elsewhere on your website? 	
	<ul style="list-style-type: none"> CQC – Where the CQC notify your organisation of concerns relating to a board member what processes do you have in place to detail the steps the organisation has taken to assure the fitness of the board member and to provide this information to the CQC within 10 days? 	
<ul style="list-style-type: none"> When was an internal audit of FPPT processes last undertaken? <p><i>Going forward NHS organisations should have an internal audit on FPPT every three years.</i></p>		