

MIAA

2022/2023 Checklist Series – Fit and Proper Persons

February 2023

The fit and proper persons requirement (or FPPR) is a statutory requirement for all care providers registered with the Care Quality Commission (CQC) to ensure the suitability of all their directors and those acting in an equivalent capacity. Providers are responsible for appointing, managing and dismissing directors and board members. People who have director-level responsibility for the quality and safety of care, treatment and support must meet the FPPR (Regulation 5 of the Health and Social Care Act 2008). This aims to make sure that directors are fit and proper to carry out their role.

It applies to a provider's board directors, board members and equivalents, who are responsible and accountable for delivering care, including associate directors and any other individuals who are members of the board, irrespective of their voting rights and applies to interim positions as well as permanent appointments. The recently formed Integrated Care Board's (ICB) model constitution also references that all Board members should comply with the Fit & Proper Person Test.

The Trust/ICB Chair is ultimately responsible for discharging the requirement placed on the organisation to ensure that appropriate checks have been taken to reach a judgement that all directors meet the categories of fitness and do not meet the unfit criteria. Responsibility also falls on the Chair to decide whether an investigation into a director is necessary and, at the end of the investigation, to consider whether the director in question remains fit and proper. Organisations also need to constantly assure themselves of the continuing fitness of their directors.

The CQC will check and monitor the extent to which the organisation meets the requirements:

- During an inspection under the 'well-led' question, the CQC will confirm that the organisation has undertaken appropriate checks and satisfied itself that on appointment, and subsequently, all new and existing directors meet the requirements; and
- On receipt of concerning information regarding directors, it will be logged by the CQC as an enquiry and processed in line with their procedures.

The CQC assesses the fitness of health service providers by focusing on the fitness of the nominated individuals. It will consider whether the organisation has taken the appropriate steps to ensure that individuals are:

- Of good character;
- Have the necessary qualifications, competence, skills and experience for their role;
- Have the appropriate level of physical and mental fitness; and
- Have not been party to any serious misconduct or mismanagement in the course of carrying on a regulated activity and are not deemed unfit under the Regulation provisions.

MIAA has produced this Fit and Proper Persons considerations checklist to support Trusts and ICBs in ensuring that they have sufficient and effective processes and governance arrangements in place for FPPR.

Fit and Proper Persons Checklist

Areas for Trusts/ICBs to consider	Trust/ICB Response
HR and Policies	
<ul style="list-style-type: none"> • Is there an up to date Fit and Proper Persons policy in place at the organisation that is in line with the CQC requirements? • Does the policy clearly set out who the FPPR applies to? • Has the organisation considered how the Fit and Proper Persons policy interacts with other relevant HR processes & policies? • Are roles and responsibilities relating to FPPR clearly communicated to staff? Is the role of the Chair in relation to FPPR clearly set out? 	
Recruitment and Pre-Appointment Checks	
<ul style="list-style-type: none"> • Do job descriptions for posts where the FPPR applies refer to the requirement to comply with the FPPR? • Are FPPR checks undertaken for interim/acting up posts prior to start dates? • Is there a documented process in place to ensure that all Directors have made a self-declaration prior to appointment? • Is there a documented process in place to ensure that the appropriate pre-employment checks have been undertaken and records maintained? 	

Areas for Trusts/ICBs to consider	Trust/ICB Response
<ul style="list-style-type: none"> • Is there a Fit and Proper Persons checklist in place for new starters? • Does the Chair sign off FPPR checks for all new appointments? • How is the organisation assured that all relevant documentation that may be requested by CQC with regards to FPPR is retained by the organisation? • Do all staff contracts reference the FPPR, including the requirement for continued compliance with the FPPR, the consequences of not meeting this and the need to inform the Trust of any changes to their Fit & Proper person status? • Does the new director induction include the need for continued compliance with the FPPR? 	
Continuous Assessment	
<ul style="list-style-type: none"> • Does the Fit and Proper Persons policy clearly outline the procedure for ongoing annual assessment of an individual's compliance with FPPR? • Are annual checks on directors continued compliance with FPPR undertaken such as searching of registers (Insolvency and Bankruptcy register, Disqualified directors and Charities Commission disqualified register)? • Are all directors required to complete a self-declaration of continued compliance with the FPPR on at least a yearly basis and are these reviewed and signed off by the Chair? 	

Areas for Trusts/ICBs to consider	Trust/ICB Response
<ul style="list-style-type: none"> • Are there processes in place to ensure that appropriate action is taken upon information being received indication that FPPR are not being met? 	
Committee approval and declaration	
<ul style="list-style-type: none"> • Does the Remuneration Committee approve appointments (including Interim) as being in line with FPPR? • Are there governance arrangements in place for monitoring and reporting of compliance with FPPR? • Does the organisation make an annual declaration of compliance with the FPPR? 	