**Fit & Proper Person Test**

The Health & Social Care Act 2008 (Regulated Activities) Regulations 2014 places a duty on NHS providers not to appoint or allow a person to continue to be an executive director or equivalent or a non-executive director under certain given circumstances.

NHS Providers must ensure that any Board level appointments meet the ‘Fit and Proper Persons Test’ and this will be subject to scrutiny and inspection by the CQC.

The requirements for fit and proper persons are:

* Of good character
* Have the necessary qualifications, skills and experience
* Able to perform the work that they are employed for (with reasonable adjustments)
* Can prove that they are not an unfit person

A person will be deemed unfit if:

* Within the preceding 5 years have been convicted in the UK of any criminal offence (or elsewhere if the offence is seen as criminal in the UK)
* Been sentenced to a sentence of imprisonment (suspended or not) for a period of not less than 3 months (without the option of a fine)
* Is an undischarged bankrupt
* Is subject to bankruptcy restrictions
* Has made a composition or arrangement with creditors and has not been discharged in respect of it
* Is included in the children’s or adult’s barred list under Section 2 Safeguarding Vulnerable Groups Act 2006
* Subject to an unexpired disqualification order made under the Company Directors’ Disqualification Act 1986

We have adjusted our recruitment processes as follows:

**New appointments**

* Separate reference form for senior appointments that asks specific questions about misconduct or mismanagement in the course of discharging functions relating to their current or previous positions relating to health/social care or children or vulnerable adults.
* References to cover the last 5 years of employment with all gaps in employment accounted for.
* DBS checks at basic level for non-executive directors and at an appropriate level for all executive directors as determined by the nature of their role.
* Appointed staff will be required to produce certificates that confirm that they hold the necessary qualifications/professional registration, these should be copied, certified and then held on their personal file
* Proof of identity including a recent photograph to be kept on file.
* Contract of employment amended to include that a condition of continuing employment is that they must remain a fit and proper person.
* The Council of Governors Nomination & Remuneration Committee together with the Board of Directors Remuneration Committee is responsible for satisfying themselves that relevant checks have been carried out.

**Existing directors/non-executive directors**

* Existing staff will be required to sign a Fit and Proper Person Declaration form. This will be reviewed on an annual basis to ensure that they remain fit and proper.
* DBS checks will need to be carried out on all directors whose DBS check is more than one year old. In addition we would propose that directors subscribe to the DBS update service which gives us an immediate update if there is any activity since the last DBS was carried out.
* Existing staff that are to cover (act up) for an interim period a post that falls under the fit and proper person test will be required to undertake an appropriate DBS check.
* The recruitment team will be in contact with all the directors and non-executive directors to obtain a recent photograph, a signed declaration form and a contract variation letter is in place. Instructions will also be given on how to access our on-line DBS application process.

A separate document on how the recruitment process not only complies with the regulations but gives assurance to the Board and to the CQC is attached separately.

Human Resources

January 2015