

## CPG70 – FIT AND PROPER PERSONS PROCEDURE - APPENDIX 7

### Complying with regulations

In the table below, unless the contrary is stated or the context otherwise requires, “ED” means Executive Directors and Director-equivalent and “NED” means Non-Executive Director.

Standard	Assurance	Evidence
<p>1 Providers should make every effort to ensure that all available information is sought to confirm that the individual is of good character as defined in Schedule 4 Part 2 of the Regulations.</p> <p><i>Schedule 4 Part 2: Whether the person has been convicted in the UK of any offence or been convicted elsewhere of any offence which, if committed in any part of the UK, would constitute an offence. 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.</i></p>	<p>Employment checks are undertaken in accordance with NHS pre-employment checks standards and include:</p> <ul style="list-style-type: none"> <li>• Two references, one of which must be most recent employer</li> <li>• Qualification and professional registration checks</li> <li>• Right to work checks</li> <li>• Identity checks</li> <li>• Occupational health clearance</li> <li>• DBS checks (where appropriate)</li> </ul> <p>In addition, we also carry out:</p> <ul style="list-style-type: none"> <li>• Declarations of ‘fitness’ by candidates</li> <li>• Search of insolvency and bankruptcy register</li> <li>• Search of disqualified directors register</li> </ul>	<ul style="list-style-type: none"> <li>• References</li> <li>• Photo ID</li> <li>• Other pre-employment checks</li> <li>• DBS checks where appropriate</li> <li>• FPPR signed declaration forms</li> <li>• Register(s) search results</li> <li>• List of referees</li> </ul>

Standard	Assurance	Evidence
<p>2 If a provider discovers information that suggests an individual is not of good character after they have been appointed to a role, the provider must take appropriate and timely action to investigate and rectify the matter</p>	<ul style="list-style-type: none"> <li>• Conduct and Capability policy provides for such investigations</li> <li>• Contracts have been revised to allow for termination in the event of non-compliance with regulations and other requirements</li> </ul>	<ul style="list-style-type: none"> <li>• ED contracts of employment</li> <li>• Terms and conditions of service agreements (for NEDs)</li> <li>• Conduct and Capability policy and procedure</li> <li>• Board of Directors Code of Conduct</li> </ul>
<p>3 Where a provider deems the individual suitable despite not meeting the characteristics outlined in Schedule 4 Part 2 of these Regulations, the reasons should be recorded and information about the decision should be made available to those that need to be aware</p>	<ul style="list-style-type: none"> <li>• This would be subject of debate at the Board of Directors Remuneration Committee (for Executive Directors and Director-equivalents) and at the Council of Governors Remuneration Committee (for NEDs). The minutes would record such decisions</li> <li>• The Chair would take advice from internal and external advisers as appropriate</li> </ul>	<p>Minutes of meetings</p>
<p>4 Where specific qualifications are deemed by the provider as necessary for a role, the provider must make this clear and should only employ those individuals that meet the required specification, including any requirements to be registered with a professional regulator</p>	<ul style="list-style-type: none"> <li>• This requirement is included within the job/role description for relevant posts and is checked as part of the pre-employment checks</li> <li>• Proof of qualifications checked as part of the pre-employment checks</li> </ul>	<ul style="list-style-type: none"> <li>• Job/role description/person specification</li> <li>• Recruitment policy and procedure</li> </ul>

Standard	Assurance	Evidence
<p>5 The provider should have appropriate processes for assessing and checking that the individual holds the required qualifications and has the competence, skills and experience required (which may include appropriate communication and leadership skills and a caring and compassionate nature) to undertake the role; these should be followed in all cases and relevant records kept</p>	<ul style="list-style-type: none"> <li>• Employment checks include a candidate's qualifications and employment references</li> <li>• The recruitment process also includes qualitative assessment and values-based questions</li> <li>• Decisions and reasons for decisions recorded in minutes</li> </ul>	<ul style="list-style-type: none"> <li>• Recruitment policy and procedure</li> <li>• Competency based questions</li> <li>• Values-based questions</li> <li>• Board/Council minutes</li> </ul>
<p>6 The provider may consider that an individual can be appointed to a role based on their qualifications, skills and experience with the expectation that they will develop specific competence to undertake the role within a specified timeframe</p>	<ul style="list-style-type: none"> <li>• Any such decision would be discussed by the Board of Directors or the Council of Governors Remuneration Committees and would be minuted</li> <li>• Actions would be subject to follow-up as part of ongoing review and appraisal</li> </ul>	<ul style="list-style-type: none"> <li>• ED appraisal framework</li> <li>• NED appraisal framework</li> <li>• Board/Council minutes</li> </ul>
<p>7 When appointing relevant individuals the provider has processes for considering a person's physical and mental health in line with the requirements of the role</p>	<ul style="list-style-type: none"> <li>• All post-holders are subject to clearance by Occupational Health as part of the pre-employment process</li> <li>• If a health issue is raised, should consider if it falls within definition of disability and if it does consider whether reasonable adjustments in compliance with the Equality Act 2010 can be made</li> </ul>	<p>Occupational Health clearance</p>

Standard	Assurance	Evidence
<p>8 Wherever possible, reasonable adjustments are made in order than an individual can carry out the role</p>	<ul style="list-style-type: none"> <li>• This is a current requirement in the Trust’s recruitment and retention policy and procedure (Equality Act 2010)</li> <li>• NHS employment check standards</li> <li>• Board/Council decisions</li> </ul>	<ul style="list-style-type: none"> <li>• Recruitment policy and procedure</li> <li>• Board/Council minutes</li> </ul>
<p>9 The provider has processes in place to assure itself that the individual has not been at any time responsible for, privy to, contributed to, or facilitated, any serious misconduct or mismanagement in the carrying on of a regulated activity, this includes investigating any allegation of such potential behaviour. Where the individual is professionally qualified, it may include fitness to practise proceedings and professional disciplinary cases.</p> <p><i>“Responsible for, contributed to or facilitated” means that there is evidence that a person has intentionally or through neglect behaved in a manner which would be considered to be or would have led to serious misconduct or mismanagement.</i></p> <p><i>“Privy to” means that there is evidence that a person was aware of serious misconduct or mismanagement but did not take the appropriate action to ensure it was addressed.</i></p>	<ul style="list-style-type: none"> <li>• This has been incorporated as a specific declaration as part of the pre-employment process</li> <li>• It is also incorporated into a revised reference request template for all Director and Director-equivalent posts</li> <li>• Same checks as set out in 1</li> </ul>	<ul style="list-style-type: none"> <li>• ED/NED recruitment information pack includes FPPR information</li> <li>• FPPR pre-employment declaration</li> <li>• Reference requests</li> </ul>

Standard	Assurance	Evidence
<p><i>“Serious misconduct or mismanagement” means behaviour that would constitute a breach of any legislation/enactment CQC deems relevant to meeting these regulations or their component parts.</i></p>		
<p>10 The provider must not appoint any individual who has been responsible for, privy to, contributed to, or facilitated, any serious misconduct or mismanagement (whether lawful or not) in the carrying on of a regulated activity, this includes investigating any allegation of such potential behaviour. Where the individual is professionally qualified, it may include fitness to practise proceedings and professional disciplinary cases.</p>	<ul style="list-style-type: none"> <li>• This has been incorporated as a specific declaration as part of the pre-employment process</li> <li>• It is also incorporated into a revised reference request template for all Director and Director-equivalent posts</li> <li>• Checks set out in 1</li> <li>• HR policies</li> <li>• Check publicly available information including serious case reviews</li> </ul>	<ul style="list-style-type: none"> <li>• ED/NED recruitment information pack</li> <li>• Reference requests</li> <li>• HR policies</li> </ul>
<p>11 Only individuals who will be acting in a role that falls within the definition of “regulated activity” as defined by the Safeguarding Vulnerable Groups Act 2006 will be eligible for a check by the Disclosure and Barring Service (DBS).</p> <p><i>CQC recognises that it may not always be possible for providers to access a DBS check as an individual may not be eligible.</i></p>	<p>DBS checks are undertaken only for those posts which fall within the definition of a “regulated activity” or which are otherwise eligible for such a check to be undertaken</p>	<ul style="list-style-type: none"> <li>• DBS policy</li> <li>• DBS checks for eligible post-holders</li> </ul>

Standard	Assurance	Evidence
12 As part of the recruitment/appointment process, providers should establish whether the individual is on a relevant barring list.	Eligibility for DBS/barring list checks will be assessed for each vacancy arising	<ul style="list-style-type: none"> <li>• DBS policy</li> </ul>
13 The fitness of Directors is regularly reviewed by the provider to ensure that they remain fit for the role they are in, the provider should determine how often fitness must be reviewed based on the assessed risk to business delivery and/or the service users posed by the individual and/or role.	<ul style="list-style-type: none"> <li>• Post holders undertake annual declarations of fitness to continue in post</li> <li>• Checks of insolvency and bankruptcy register and register of disqualified directors undertaken every three years</li> <li>• Regular DBS checks</li> <li>• Regular checks of relevant professional regulator's register</li> <li>• Annual report to the Board of Directors and Council of Governors</li> </ul>	<ul style="list-style-type: none"> <li>• Annual declaration</li> <li>• Board/Council minutes</li> <li>• Register checks</li> <li>• Continued assessment as part of appraisal process</li> </ul>
14 The provider has arrangements in place to respond to concerns about a person's fitness after they are appointed to a role, identified by itself or others, and these are adhered to.	<ul style="list-style-type: none"> <li>• Core HR policies including Conduct and Capability policy and Board of Directors Code of Conduct provides these arrangements</li> <li>• Revised contracts (for Executive Directors and Director-equivalents) and agreements (for NEDs) incorporate maintenance of fitness as a contractual requirement</li> </ul>	<ul style="list-style-type: none"> <li>• HR policies</li> <li>• Board of Directors Code of Conduct</li> <li>• ED contracts of employment</li> <li>• NEDs agreements</li> </ul>

Standard	Assurance	Evidence
<p>15 The provider investigates, in a timely manner, any concerns about a person's fitness or ability to carry out their duties and where concerns are substantiated, proportionate and timely action is taken, the provider must demonstrate due diligence in all actions</p>	<ul style="list-style-type: none"> <li>• This will be undertaken if concerns are identified; action taken and recorded as required</li> <li>• Revised contracts provide for termination if individuals fail to meet necessary standards</li> </ul>	<ul style="list-style-type: none"> <li>• ED contracts of employment</li> <li>• NEDs agreements</li> <li>• HR policies</li> <li>• Board of Directors Code of Conduct</li> </ul>
<p>16 Where a person's fitness to carry out their role is being investigated, appropriate interim measures may be required to minimise any risk to service users</p>	<ul style="list-style-type: none"> <li>• This would be reviewed when concerns are identified</li> <li>• Core HR policies</li> </ul>	<ul style="list-style-type: none"> <li>• Board of Directors Code of Conduct</li> <li>• Conduct and Capability policy and procedure</li> <li>• Managerial action taken to backfill posts as necessary</li> </ul>
<p>17 The provider informs others as appropriate about concerns/findings relating to a person's fitness; for example, professional regulators, CQC and other relevant bodies, and supports any related enquiries/investigations carried out by others.</p>	<ul style="list-style-type: none"> <li>• This would be reviewed when concerns are identified</li> <li>• Core HR policies</li> </ul>	<p>Referrals made to other agencies if necessary</p>