

Trust Board of Directors
Report Summary

Date of meeting: 2 May 2024	
Title of Document: Fit and Proper Person Test Framework	
To be presented by: Ann Filby, Trust Secretary	Author: Ann Filby, Trust Secretary
1. Status: For Approval/Discussion/Assurance/Noting/Information	
2. Purpose: An update is provided on completion of the first review to meet the requirements of the new framework, published in August 2023, and having taken effect from 30 September 2023	
Relates to:	
Strategic Objective	All
Operational performance	
Quality	
Legal, Regulatory, Audit	Regulation 5, The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
Equality and diversity	
Finance	
Governance	The NHS Provider Licence requires Boards to be satisfied that the principles, systems and standards of good corporate governance which reasonably would be regarded as appropriate for a supplier of health care services to the NHS are in place and that the Board has regard to such guidance on good corporate governance as may be issued
NHS policy/public consultation	NHS England Fit and Proper Person Test Framework for board members, August 2023
Accreditation/ Inspection	Annual submission to NHS Regional Director and Care Quality Commission review as part of planned Well-led inspections
Anchor institutions	
ICS/ICB/Alliance	
Board Assurance Framework (BAF) Risk	
Other	

3. Summary:

The requirement to undertake a Fit and Proper Person check on appointment and on an annual basis has been in place for some years. In July 2018 the government commissioned Tom Kark KC to review the scope, operation and purpose of the Fit and Proper Person Test (FPPT) and the Kark Review reported in February 2019. The review of the recommendations was paused due to the COVID-19 pandemic and agreement on those to be taken forward received final ministerial approval in 2022.

The revised framework and supporting information was published on 2 August 2023 and can be found [here](#). The framework took effect from 30 September 2023 and is designed as a key element in delivering patient safety and effective leadership, preventing poorly performing managers and directors from moving from one organisation to another. It is to be proportionate and should not be a large bureaucratic burden. Enhanced checks are now required, both on appointment and as part of the annual review process.

The Trust Chair is accountable for delivery of these requirements supported by the Trust Secretary, who takes operational responsibility under the Executive leadership of the Director of People and Organisational Development.

Implementation of the framework at ESNEFT encompassed the following elements:

- All Board members, voting and non-voting, the Deputy Chief Medical Officer and the Director of Integrated Care are in scope.
- Board members received a letter from the Trust Chair in October 2023 outlining the framework, the additional information required, the timeframe and detail of implementation. This included a requirement to register for the Disclosure and Barring Service (DBS) update service to enable annual review.
- New reference requirements have been implemented for new Board appointments and for those leaving the Board.
- The Standards of Business Conduct Policy was revised to incorporate the changes, removing the requirement for a separate Fit and Proper Person Policy. The revised policy was approved by the Audit and Risk Committee on 16 January 2024.
- All checks were completed by the Trust Secretary for those in scope.
- Self-attestation forms were completed by individuals and reviewed and signed by the Director of People and Organisational Development.
- The Trust Chair reviewed the evidence provided that all checks had been undertaken to enable confirmation of the outcome that all Directors in scope were fit and proper.
- The Electronic Staff Record for each member has been updated.
- The first annual submission to the NHS Regional Director was submitted on 28 March 2024.

A letter was received on 23 April 2024 from the Chair of NHS England setting out the requirements for the 2023/24 appraisal round and the FPPT submission, referencing the launch of the Leadership Competency Framework and its use as part of the FPPT framework. This confirms the requirements of the FPPT framework for the annual FPPT in future to be carried out at the same time of year as the appraisals. Submission of Chair and Non-Executive Director appraisal outcomes, the responsibility of the Council of Governors, is also confirmed and remains the same as in previous years. All Board performance reviews are planned to take place in the next few weeks.

4. Recommendations / Actions

The Board is asked to note the outcome of the review.