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FIT AND PROPER PERSONS REQUIREMENT POLICY

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1 Introduction

1.1 Policy statement

To ensure compliance with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 5¹, this policy details the requirements for employing *'fit and proper persons'*.

The Fit and Proper Persons Requirement (FPPR) applies to individuals employed within organisations or 'corporate' services that provide a regulated activity and these persons are known as *'nominated individuals'*. It should be noted that all partners who are responsible for the quality and safety of care and for meeting the fundamental standards are to be deemed 'fit and proper' to carry out the role.

1.2 Status

This document and any procedures contained within it are not contractual and therefore do not form part of any employee's contract of employment. Employees will be consulted on any modifications or change to the document's status.

1.3 Training and support

The Wellington Practice will provide guidance and support to help those to whom it applies to understand their rights and responsibilities under this policy. Additional support will be provided to managers and supervisors to enable them to deal more effectively with matters arising from this policy.

2 Scope

2.1 Who it applies to²

Regulation 5 applies to all providers that are not individuals or partnerships (other than limited liability partnerships) that carry out a regulated activity.

This includes (but is not limited to):

- Public and private limited companies
- Charitable bodies
- Unincorporated associations
- Limited Liability Partnerships (LLPs)
- Community Interest Companies (CICs)

FPPR does not apply to GP practices run by traditional GP partnerships as these are governed by the existing [Regulation 4](#).

With traditional GP partnership models, the CQC requires partners, as providers of healthcare services, to meet the requirements of Regulation 4, and:

¹ [Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014: Regulation 5](#)

² [CQC Nigel's surgery 31](#)

- Be of good character
- Possess the right competencies and skills
- Be physically and mentally fit to do the job
- Supply the CQC with documents that confirm their suitability

The CQC's information on Regulation 4 states that "To meet the requirements of Regulation 4, providers of healthcare services must register with CQC under [Section 10](#) of the Health and Social Care Act 2008".

2.2 Why and how it applies to them

Organisations and companies have an obligation to ensure that they only consider individuals who are a fit and proper person for their role and within the organisation. Partners must have knowledge of the processes involved in ensuring that the organisation is compliant.

The organisation aims to design and implement policies and procedures that meet the diverse needs of our service and workforce, ensuring that none are placed at a disadvantage over others, in accordance with the Equality Act 2010. Consideration has been given to the impact this policy might have with regard to the individual protected characteristics of those to whom it applies.

3 Definition of terms

3.1 Partnership

A partnership is simply defined as an agreement between two or more individuals as set out in the Partnership Agreement (formally called Deed of Partnership).³

3.2 Director

An appointed or elected member of the board of directors of a company who, with other directors, has the responsibility for determining and implementing the company's policy⁴

3.3 Insolvency

The condition of not having enough money to pay debts or buy goods⁵

3.4 Sequestration

The act of taking temporary possession of someone's property until they have paid money that is owed or they have obeyed a court order⁶

³ [iSC Medical: Definition of GP Partnerships](#)

⁴ [BD Business Dictionary Definition of company director](#)

⁵ [Cambridge Dictionary: Definition of insolvency](#)

⁶ [Cambridge Dictionary: Definition of sequestration](#)

4 Process

4.1 Overview

The FPPR came into force for all NHS trusts and foundation trusts in November 2014.⁷

The regulations require NHS trusts to seek the necessary assurance that all executive and non-executive directors (or those in equivalent roles) are suitable and fit to undertake the responsibilities of their role.

The Wellington Practice ensures that a partner must satisfy the requirements set out below and as per Regulation 5:

- The individual is of good character
- The individual has the qualifications, competence, skills and experience which are necessary for the relevant office or position or the work for which they are employed
- The individual is able by reason of their health, after reasonable adjustments are made, to properly perform tasks which are intrinsic to the office or position to which they are appointed or to the work for which they are employed
- The individual has not been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity

Criteria for an 'unfit' director include:

- Bankruptcy
- Sequestration and insolvency
- Appearing on barred lists and being prohibited from holding directorships under other laws

4.2 Who FPPR applies to:

Regulation 5 and FPPR applies to partners who are responsible and accountable for delivering care and refers to those employed either as an interim or within a permanent appointment.

Ultimately, responsibility for discharging this requirement lies with the senior partner of the organisation and it is they who determine which individuals fall within the scope of the regulation.

The following roles and personnel employed at are considered to be required to meet Regulation 5:

Name	Role
Dr Mohammed Shafiqur Rahman	Senior GP Partner
Dr Sangeeta Rathor	GP Partner

4.3 Recruitment

Upon identifying the need to recruit an individual into a role that would necessitate them to meet the FPPR, The Wellington Practice will follow the recruitment process as detailed in the [Recruitment Policy](#).

⁷ [NHS employers](#)

All individuals will undergo thorough scrutiny processes to ensure Regulation 5 compliance is met and [Annex A](#) provides this required criteria list.

The following aspects are to be considered during the recruitment process:

- The individual is of good character
- The individual is physically fit for the role
- The individual holds the relevant qualifications
- The individual has the necessary skills and experience
- No criminal convictions are held
- Employment history
- Bankruptcy or insolvency
- The individual is not under investigation or been barred from practicing
- Fitness to practise

4.4 Ensuring the individual is of good character

When assessing whether a person is of good character, prior to the employment commencement date, the organisation will follow a robust process to ensure that all available information is obtained to confirm that the person is of good character.

This will include pre-employment checks detailing references, right to work, qualifications and GMC registration (if relevant).

Further information of this process is as per the Recruitment Policy.

4.5 Physical fitness

This aspect of the regulation relates to a person's physical ability to carry out their role. Whilst this does not exclude persons with a long-term condition, a disability or mental illness, the process will ensure due consideration is given to any partner's physical and mental fitness commensurate with the considered fitness required for the role.

All staff are to be considered to undergo an occupational health check if needed when appointed to a role.

4.6 Qualifications, skills and experience

The Wellington Practice will only appoint candidates who meet the required professional qualifications. This includes registration with a professional body. This will be confirmed within the recruitment process.

Evidence of qualifications will be required.

4.7 Fitness to practice

Fitness to practice for the purpose of this policy will include aspects such as criminal convictions, bankruptcy and insolvency, investigations and barring, all of which are referred to below.

The Wellington Practice recruitment process will provide assurance that a person has not been responsible for, privy to, contributed to, or facilitated any serious misconduct or mismanagement in the carrying out of a regulated activity. This includes investigating any allegation of such and making independent enquiries.

A person who will be acting in a role that falls within the definition of a *'regulated activity'* as defined by the [Safeguarding Vulnerable Groups Act 2006](#) must be subject to a check by the [Disclosure and Barring Service \(DBS\)](#).

The organisation will seek all available information to provide assurance that any partner does not meet any of the elements of the *'unfit person test'* as detailed within [Schedule 4 Part 1 of the Health and Social Care Act](#).

4.8 Employment history

As per the recruitment policy, all individuals, including partners or directors, will undergo the interview process and therefore be required to provide evidence. This will include a CV and a detailed job application form that includes an employment history.

Additionally, references will be sought.

5 CQC DBS process

5.1 Who it applies to

In order to further provide evidence that a partner meets the FPPR, partners at The Wellington Practice are required to undertake an enhanced DBS check should there be contact with children or vulnerable adults.⁸

5.2 CQC DBS application

Partners who require a DBS check must have a CQC countersigned enhanced DBS certificate. To obtain this, the following steps are required:

- a. Register with the [CQC DBS website](#). This will also detail the documentation required to prove identity.
- b. Once registration has been established, log-in details will be provided, although this information can take up to five days to be received.
- c. Once received, identity can only then be confirmed at a post office that accepts CQC DBS applications. Refer to www.postoffice.co.uk/branch-finder to ensure that you find an appropriate post office that can countersign. The closest post office can be found by entering the organisation postcode and then, by using the dropdown feature, tick the *'CQC CRB ID Verification Service'*.
- d. Once identity has been confirmed, the CQC DBS website automatically submits the DBS application.

It should be noted that the CQC countersigned DBS certificate will be delivered via post up to 60 working days following completion.

⁸ [DBS Checks for CQC registration](#)

6 Monitoring and review of FPPR

Continuous monitoring of partners must be established to ensure they continue to meet the FPPR.

The Wellington Practice achieves this during [annual appraisal](#) and [revalidation](#) processes where many of the checks and controls established during the recruitment phase can be re-visited.

This includes:

- Scrutiny of registration status
- Checking the NPL
- Interview (appraisal)
- Checking certificates and qualifications
- Checks on solvency
- Periodic DBS re-check
- Occupational health check as required
- Completion of the Fit and Proper Persons Requirement self-declaration form at [Annex B](#) annually by the relevant individual

This organisation will continue to provide assurance that all relevant individuals with responsibility to provide the regulated activity remain fit to do so.

7 Managing an unfit outcome

7.1 On appointment

If, during pre-employment screening, it emerges that the individual appears unlikely to meet the requirements of the FPPR, consideration will be given to withdrawing the appointment or offer of employment.

Timescales involved to receive full FPPR status must be a consideration during the recruitment process. However, should circumstances result in any delay in the progression of the FPPR application, a risk assessment should be made as to whether the individual is able to commence employment at the organisation.

7.2 Upon review

If, during the annual review process, aspects of the process have not been completed or it has been found that the individual has not complied with this policy and Regulation 5, consideration will be given as to whether or not the individual should be suspended and/or subject to any form of disciplinary action.

For further guidance, refer to the Disciplinary Policy and Procedure.

7.3 Other circumstances

Circumstances may arise where concerns are raised about the fit and proper person status of an individual as a result of:

- A self-declaration
- Concerns raised via internal escalation processes (including the annual/ongoing review)
- Concerns raised externally to the organisation by an individual, an organisation or a regulator

When a concern is brought to the attention of the organisation, the following initial actions will be undertaken:

- Depending on which individual a concern(s) is raised about, the appropriate members of the organisation will be informed
- Consideration should be given as to whether or not the nature of the concern(s) raised will require the individual to be suspended or placed on restricted duties
- Appropriate and independent legal advice on the issue should be sought if necessary
- Confirmation of the investigation officer and the process and timescale to be used for the investigation
- The organisation will liaise with the CQC to advise them of the concern raised and the process being adopted by the organisation to investigate this matter

8 Summary

All individuals likely to be appointed to the position of partner at this organisation will undergo a thorough and comprehensive Fit and Proper Persons Requirement process.

It is imperative that the FPPR process is confirmed to ensure the quality and safety of care provided and every individual will be assessed with checks conducted upon appointment, at an annual review or should any need arise.

9 Annex A – Fit and Proper Person Requirement checklist

The following checklist is to be used to assist the organisation in confirming compliancy is met when appointing an individual into a position that requires them to meet the FPPR. The checklist can also be used during appraisal or review of the individual's compliancy.

This checklist should be completed alongside the self-declaration form at Annex B.

Requirement	Evidence/resource	Checked by	Date
The individual is of good character	Pre-employment		
	• Curriculum Vitae		
	• Application form		
	• References		
	• Identification (driving licence, utility bill)		
	• Right to work		
	• Qualifications		
The individual is physically fit for the role	• Registration		
	Occupational health check		
	• Referral made		
The individual holds the necessary qualifications	• Self-declaration form completed		
	• Certificates		
	• Registration to regulatory body (i.e. GMC)		
The individual has the necessary skills, experience and attributes	• Self-declaration form		
	• CV		
	• Application form		
The individual has no criminal convictions,	• Interview		
	CQC Countersigned DBS:		

safeguarding concerns or is not barred from practicing or under investigation and is fit to practise	• Applied for:		
	• Certificate received		
	• GMC registration/status		
	• National Performers List		
The individual is not subject to bankruptcy, insolvency or sequestration	HR Searches of:		
	• Business registers		
	• Companies House		
	• Self-declaration form		
The individual has suitable, relevant employment history	• Curriculum Vitae		
	• Application form		
	• Interview		
	• References		

10 Annex B – FPPR self-declaration form

In line with the requirements of Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and The Wellington Practice Fit and Proper Persons Policy, I hereby declare that I am of good character by virtue of the following:

Declaration	Confirmed Yes or No
I have not 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 or been charged with an offence that has not yet been disposed of	
I have not been erased, removed or struck-off a register of professionals maintained by a regulator of health or social care.	
I have not been sentenced to imprisonment for three months or more within the last five years	
I am not an undischarged bankrupt	
I am not the subject of a bankruptcy order or an interim bankruptcy order	
I do not have an undischarged arrangement with creditors	
I am not included on any barring list preventing me from working with children or vulnerable adults	
I do not know of any current NHS Counter Fraud and Security Management Service investigation following allegations made against me	
I have not been investigated by the police or any other investigatory body resulting in my dismissal from employment	
I am not currently the subject of any investigation or fitness to practise proceedings by any licensing or regulatory body in the UK or any other country	
I have the qualifications, skills and experience necessary for the position appointed to within the organisation	
I am capable of undertaking the relevant position, after any reasonable adjustments under the Equality Act 2010	
I have not been responsible for any misconduct or mismanagement in the course of any employment with a CQC registered provider	
I am not prohibited from holding the relevant position under any other law, e.g. under the Companies Act or the Charities Act	

Name:	Signed:
Appointed role:	Date:

This form is to be returned to the organisation manager upon completion