

Guidance for chairs on implementation of the Fit and Proper Person Test for board members

NHS England has developed a Fit and Proper Person Test (FPPT) Framework in response to recommendations made by Tom Kark KC in his 2019 Review of the FPPT. This also takes into account the requirements of the Care Quality Commission (CQC) in relation to directors being fit and proper for their roles.

In the foreword to his Review, Tom Kark KC stated that: “The culture and management of each hospital trust flows from the management team. Thus, the quality and culture of the management team is of the greatest significance to the ethos and success of the hospital, the effectiveness and the working conditions (in the widest sense) of its staff, and ultimately the care, comfort and safety of the patients to whom the trust provides health services.”

This guidance is for senior members of staff nominated by the chair to support the FPPT process and the senior independent director.

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Contents

Scope	2
Introduction	2
Background	4
Main elements of the new FPPT Framework at a glance	4
Guidance on completing the FPPT for board members	5
Process	5
Outcomes	8
Recording	9
Dispute resolution	9
Discontinued investigations	11
Suggested approach to the FPPT.....	13
Main process.....	13
FPPT breach identified	15
Appendix 1: FPPT checklist	17
Appendix 2: Guidance on completing the board member references	21

Scope

The FPPT is applicable to NHS trusts, foundation trusts,¹ integrated care boards (ICBs) and arm’s-length bodies (ALBs) – the Care Quality Commission (CQC) and NHS England – in scope. Bodies that are not in scope may also want to follow this guidance as a matter of good practice.

This guidance is aimed primarily at the chair of an organisation, who has overall accountability for the FPPT. It is also aimed at those who will be responsible for implementing, carrying out, and signing-off the FPPT. This is likely to include the:

- chair
- chief executive

¹ Throughout this document and the FPPT Framework, reference to FTs or foundations trusts refers to NHS foundation trusts

- company secretary
- director of workforce or HR/chief people officer
- senior independent director (SID)/deputy chair.

NHS organisations, as data controllers, must communicate to all directors whose details will be included in ESR and local records from October 2023 onwards. By doing this, directors will be afforded the opportunity to object if they have concerns regarding the proposed use of their data. It is suggested that directors are advised of the areas that will be considered under the FPPT assessment, what details will be stored and where, who will have access and the purpose.

Introduction

We (NHS England) have developed a response to the recommendations made by Tom Kark KC in his 2019 Review of the FPPT (the Review).

The Review made seven recommendations, five of which are being taken forward at this time in our FPPT Framework (the FPPT Framework). The FPPT Framework also incorporates the requirements of the CQC Fit and Proper Person Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

In the foreword to his Review, Tom Kark KC stated:

“The culture and management of each hospital trust flows from the management team. Thus, the quality and culture of the management team is of the greatest significance to the ethos and success of the hospital, the effectiveness and the working conditions (in the widest sense) of its staff, and ultimately the care, comfort and safety of the patients to whom the trust provides health services.”

The Review also included looking at how effective the FPPT is:

“... in preventing unsuitable staff from being redeployed or re-employed in the NHS, clinical commissioning groups (now superseded by ICBs), and independent healthcare and adult social care sectors.”

The FPPT Framework aims to be fair and proportionate and should not be a bureaucratic burden on organisations; many of the elements of the FPPT will already be carried out. Overall, the FPPT aims to improve patient safety and

increase diversity. It is recognised that the boards of NHS organisations include highly committed people with a determination to improve care for patients.

We are of the view that effective communications with board members, explaining the role of the FPPT framework and the FPPT in the Electronic Staff Record (ESR), the rationale for the data being included within it and how it may be used, will be a key element of an effective FPPT process.

This guidance must be read in conjunction with the FPPT Framework and is intended as a guide to support effective testing of board members in the organisations within scope.

We expect organisations to implement the FPPT Framework in line with the timetable below:

- As soon as possible, communicate with all board members whose details will be included in ESR for the purpose of FPPT in your organisation.
- From 30 September 2023, use the new board member reference template for references for all new board appointments
- From 30 September 2023, complete and retain locally the new board member reference for any board member who leaves the board for whatever reason and record whether or not a reference has been requested
- From 30 September 2023, use the Leadership Competency Framework as part of the assessment process when recruiting to all board roles
- By 31 March 2024, fully implement the FPPT Framework incorporating the LCF, including updating the ESR database
- Q1 2024, incorporate the LCF into annual appraisals of all board directors for 2023/2024, using the board appraisal framework

Background

[CQC Regulation 5: Fit and Proper Persons: Directors](#) (known by CQC as FPPR) recognises that individuals who have authority in organisations that deliver care are responsible for the overall quality and safety of that care and states that:

“Registered providers have individuals who are fit and proper to carry out the important role of director to make sure that providers meet the existing requirements of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.”

NHS provider organisations have already been subject to Regulation 5 since 2014. This new FPPT framework incorporates the testing which already takes place and the additional elements from the Review.

This guidance highlights the new/additional elements that organisations need to consider and how they should be approached as well as commenting on good practice for the whole FPPT.

Main elements of the new FPPT Framework at a glance

The scope of the FPPT applicability has broadened to include NHS commissioners and relevant ALBs.

The FPPT is applicable to all board members: executive and non-executive, interim and permanent, and voting and non-voting.

The FPPT is carried out on an individual board member basis, and in the annual submission to the NHS England regional director, the chair will provide the overall summary of the FPPT outcome for their board.

FPPT data fields have been developed in ESR which enables the FPPT assessment elements to be recorded, along with some high-level detail where appropriate; please see the separate ESR FPPT guidance document for more detailed guidance.

The leadership competency framework (LCF) will be used to support the FPPT for individual board members to review with their line manager (ie the chair or chief executive) whether they have the requisite experience and skills to fulfil the minimum competency against the six LCF domains.

It will be linked to the annual appraisal and FPPT and a summarised record will be entered onto the ESR FPPT. The LCF will be incorporated into all senior leader job descriptions and recruitment processes and built into national leadership programmes and support offers.

The board member reference (BMR) template is based on the standard NHS reference template with additional questions to incorporate the recommendations from the Review.

There is also a change to when a BMR should be completed for any board member: the reference should be completed when a board member leaves the organisation irrespective of whether a reference has been requested by a future employer. The reference should be retained in a locally accessible folder on a careerlong basis.

Guidance on completing the FPPT for board members

Process²

It is important to note that for organisations which are subject to the CQC FPPR, it is an ongoing, continuous obligation which needs to be kept under constant review. The purpose of the FPPT requirement and the Framework is to ensure that active consideration of the requirement can be demonstrated at key points, to support the achievement of the legal requirements.

Please read section 1.4 of [the Framework](#) on personal data.

Section 3.1 of [the Framework](#) sets out when an FPPT assessment is needed and describes the requirements under the following headings:

- When to carry out a formal/full FPPT assessment.
- Self-attestation arrangements.
- Annual check.
- Joint appointments and shared roles.
- Temporary absence.

These sections should be considered carefully, alongside the FPPT checklist.

For a new appointment, the FPPT should be completed before the new board member starts. For the annual FPPT, the 'once only' elements do not need to be repeated after initial appointment, unless there is known to be any change – such as name change or change in right to work status.

The FPPT assessment on initial appointment of a board member will cover all points mentioned below:

- First name*
- Second name/surname*
- Organisation* (ie current employer)
- Staff group*
- Job title* (ie current job description)
- Occupation code*
- Position title*

² For the purpose of the FPPT Framework, reference to serious misconduct and serious mismanagement should be read in the context of upheld, ongoing and discontinued investigations relevant to FPPT. All misconduct and mismanagement issues that are relevant to other elements of the FPPT Framework such as good character, should be considered.

- Employment history*
 - This would include detail of all job titles, organisations, departments, dates and role descriptions
 - Any gaps that are because of any protected characteristics, as defined in the Equality Act 2010, would not need to be explained
- Training and development
- References*
 - Available references from previous employers, including references where the individual resigned or retired from a previous role
- Last appraisal and date
- Disciplinary findings
 - That is, any upheld finding pursuant to any NHS organisation policies or procedures concerning employee behaviour, such as misconduct or mismanagement. This includes grievance (upheld) against the board member, whistleblowing claims against the board member (upheld) and employee behaviour upheld finding
- Grievance (upheld) against the board member
- Actions or investigations relating to any ongoing or discontinued matters relevant to FPPT and pursuant to the NHS organisation’s Disciplinary/ Grievance/Whistleblowing/Employee behaviour policies should also be recorded
- Type of DBS disclosed* †
- Date DBS received* †
- Disqualified directors register check
- Date of medical clearance* (including confirmation of OHA)
- Date of professional register check (eg membership of professional bodies)
- Insolvency check
- Settlement Agreements
- Self-attestation form signed
- Social media check
- Employment tribunal judgement check
- Disqualification from being a charity trustee check
- Board member reference*
- Sign-off by chair/CEO.

It should also be noted that the national insurance number is an additional check where there may have been a change of name highlighted in the initial or annual assessment.

The annual FPPT requires an NHS organisation to validate all fields above – except for:

* Fields marked with an asterisk (*) – these do not require validation as part of the annual FPPT unless a specific reason arises. However, these fields should still be updated in the event of a change to the information held.

† While not requiring annual validation, DBS checks will be done on a three year cycle.

The annual FPPT for all board members should be carried out at the same time of year as appraisals (incorporating the competency review).

The appraisal meeting is an opportunity for an ongoing and transparent dialogue between the chair or chief executive and the board member being appraised about probity and values.

The outcome of the FPPT assessments for board members (relevant evidence, ESR dashboard etc) should be provided to the chief executive and chair to consider as part of the appraisal meetings. Individual board members should be asked to confirm whether there have been any changes to their FPPT status since the last annual review.

An annual submission to the NHS England regional director (for NHS provider and commissioning organisations only) should be made on the outcome of the FPPT per organisation. This annual submission should be made at the same time as the submission of the chair's annual appraisal.

Alongside this process, the SID or deputy chair should carry out the annual appraisal process and FPPT review for the chair. In an NHS trust or ICB, the SID/deputy chair or company secretary should submit this directly to the NHS England regional director.

In a foundation trust, on completion of the chair's appraisal and chair's FPPT, the SID (with support from the company secretary) should present the findings to the council of governors with a recommendation for approval (as appropriate and in accordance with the foundation trust's constitution).

Points may also come to light in year and should be dealt with as they arise. The FPPT Framework does not replace the underlying statutory requirement to ensure that directors are fit and proper on an ongoing basis.

Outcomes

In carrying out the FPPT assessment for board members and the overall conclusion for an organisation, the chair will need to consider any findings/matters arising and how they could be managed if appropriate. Chairs should exercise judgement and take reasonable steps to reach a conclusion.

If issues are identified, this does not necessarily mean that someone is automatically unsuitable for a board member role. In appropriate cases, findings may be addressed by taking mitigating actions, such as learning and reflection, and training and development.

In some cases (depending on the issue) it will effectively be an automatic bar, eg if a board member was on the barred list for the Safeguarding Vulnerable Groups Act 2006, they must not be employed in 'regulated activity'.

The assessment of FPPT status needs to be proportionate and meet the overall aim of the FPPT, to ensure that board members have the appropriate skills, capability and good character to meet the requirements of their roles, and that this ultimately leads to provision of high-quality care and safety to patients.

Recording

An individual of appropriate seniority should complete the testing and record the outcome on the FPPT ESR data fields for the annual assessment. The ESR record should be updated for any changes or matters arising at any point in time.

Other documentation that supports the FPPT conclusion should be saved/recorded as appropriate and in accordance with local policy on the retention of documents. This documentation should be available for the chair/chief executive in carrying out the annual appraisal and FPPT assessment, and for the chair in carrying out the overall FPPT review for the organisation.

Dispute resolution

1. Data and information

Where a board member identifies an issue with data held about them in relation to the FPPT, they should request a review which should be conducted in accordance with local policies in the first instance.

Where this does not lead to a satisfactory resolution for the board member, the following options are available:

- For **NHS England-appointed board members (NHS trust chairs and NEDs and ICB chairs)** – the matter should be escalated to the NHS England Appointments Team.
- For **chairs not appointed by NHS England** – a further request for review can be made to the SID or deputy chair who would establish a process proportionate to the matter being considered; for example, establishing a panel with a least one independent member.
- For all other board members (including NHS England-appointed board members, and chairs not appointed by NHS England where the above processes have not led to a satisfactory conclusion), the options could include:
 - referring the matter to the ICO
 - (for executive director roles only*) taking the matter to an employment tribunal
 - instigating civil proceedings.

2. Outcome of FPPT assessment

Where a board member has been deemed ‘not fit and proper’ and disagrees with the outcome of the FPPT assessment, the following options are available:

- For **NHS England-appointed board member roles** – the matter should be escalated to the NHS England Appointments team for investigation in accordance with extant policy and procedure.
 - Where this results in a board member being terminated from their appointed role, a BMR** must be completed and retained by the local organisation in accordance with the Framework.
- For non-NHS England-appointed roles (executive and non-executive) – local policy and constitution arrangements should be followed first.
 - NHS organisations may wish to take their own legal advice or seek advice from NHS England.

At any point, employees have the right to take the matter to an employment tribunal*.

* Chair and non-executive board members cannot take their organisation to employment tribunal unless in relation to discrimination, although they can choose to instigate civil proceedings.

** Exit BMR to be drafted by local chair for non-executive directors [NEDs] (with support from the NHS England Appointments team as needed), and by the NHS England Appointments team for chairs.

For NHS England-appointed chairs, a copy of the exit BMR should also be retained by the NHS England Appointments team.

Discontinued investigations

Information in relation to discontinued investigations – ie those which have not completed or not yet started – should be considered as part of the FPPT.

Investigations (irrespective of reason for discontinuance) should be limited to those which are applicable and potentially relevant to the FPPT, and examples are as follows (this is not an exhaustive list and consideration will be needed on a case-by-case basis):

- Relating to serious misconduct, behaviour and not being of good character (as described in the FPPT Framework).
- Deliberate or reckless behaviour (rather than inadvertent behaviour).
- Dishonesty.
- Suppression of the ability of people to speak up about serious issues in the NHS, eg whether by allowing bullying or victimisation of those who speak up or blow the whistle, or any harassment of individuals.
- Any behaviour contrary to the professional Duty of Candour which applies to health and care professionals, eg falsification of records or relevant information.
- Reckless management which endangers patients.

The inclusion of discontinued investigations in the FPPT will identify issues around serious misconduct and mismanagement and deliberately separate them from issues around qualifications, competence, skills and experience (which it is believed can be remedied) and health (which it is believed can improve), unless such competence and/or health issues could potentially lead to an individual not meeting the requirements of the FPPT.

The term ‘investigation’ refers to the process which an employer initiates to find out all information that they reasonably can (which is relevant) about the issue in hand,

where the subject matter surrounds an actual (or potential) disciplinary process or grievance (including any complaint).

For the FPPT Framework, this will be as set out in local (individual organisation) policy. The investigation should normally:

- identify if there is a case to answer
- ensure fair treatment for all involved
- gather relevant evidence from all sides
- help identify what should happen next.

At any stage of an investigation, the employer can normally consider whether:

- the formal procedure should continue
- the issue can be resolved informally instead (where appropriate).

The reason for discontinuing an investigation (including not starting one) should be recorded and retained, including whether an investigation was not started or stopped because a compromise, confidentiality or settlement agreement was then put in place (recognising that such an agreement is not necessarily a conclusion that someone is not fit and proper for the purposes of the FPPT).

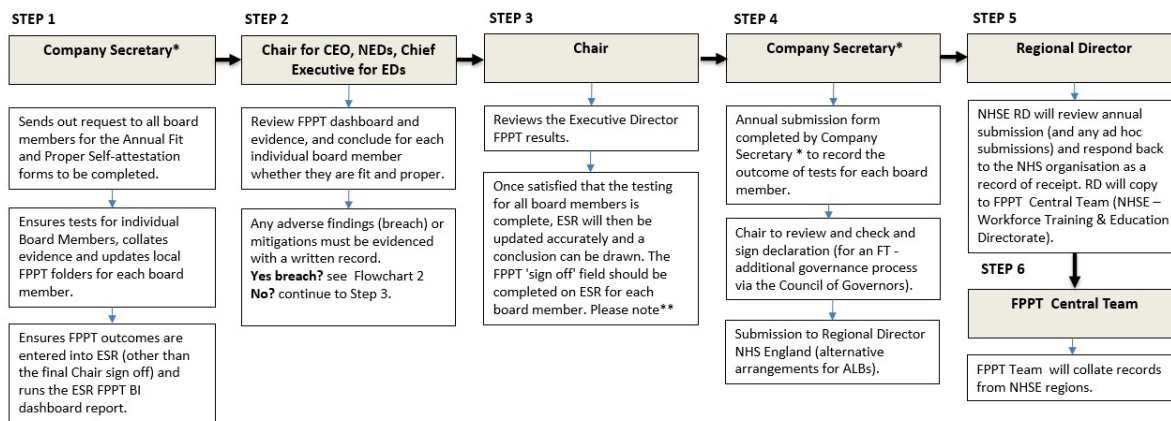
The reason would also include if the board member had left before the investigation could begin or conclude.

Suggested approach to the FPPT

Main process

This is illustrated here in two forms, via flowchart 1 (below) and expanded text beneath the chart:

Flowchart 1: Fit and Proper Person Test process



*Or senior member of staff nominated by and behalf of, the Chair, eg HRD
 ** SID/Deputy Chair to carry out FPPT on the Chair and 'sign off'
 SID = Senior Independent Director
 ESR= Electronic Staff Record

Step 1: (carried out by) Company secretary*

- Sends out request to all board members for the annual fit and proper self-attestation forms to be completed.
- Ensures tests are carried out for individual board members, collates evidence and updates local FPPT folders for each board member.
- Ensures FPPT outcomes are entered into ESR (other than the final chair sign-off) and runs the ESR FPPT business informatics (BI) dashboard report.

Step 2: Chair for CEO, non-executive directors (NEDs), chief executive for executive directors

- Review FPPT dashboard and evidence and conclude for each individual board member whether they are fit and proper.
- Any adverse findings (breach) or mitigations must be evidenced with a written record.
- Is there a breach?
 - Yes: see 'FPPT breach identified' section below –
 - No: continue to step 3.

Step 3: Chair

- Reviews the executive director FPPT results.
- Once satisfied that the testing for all board members is complete, ESR has been updated accurately and a conclusion can be drawn, the FPPT sign-off field should be completed on ESR for each board member.
- SID/deputy chair to carry out FPPT on the chair and sign-off.

- for a foundation trust: additional governance process via the council of governors.

Step 4: Company secretary*

- Annual submission form completed by company secretary* to record the outcome of tests for each board member.
- Chair to review and check and sign attestation form.
 - for a foundation trust: additional governance process via the council of governors.
- Submission to NHS England regional director (alternative arrangements for ALBs).

Step 5: NHS England regional director (RD)

- RD will review annual submission (and any ad hoc submissions) and respond back to the NHS organisation as a record of receipt.
- RD will copy to FPPT Central team (NHS England – WTE directorate).

Step 6: FPPT Central team

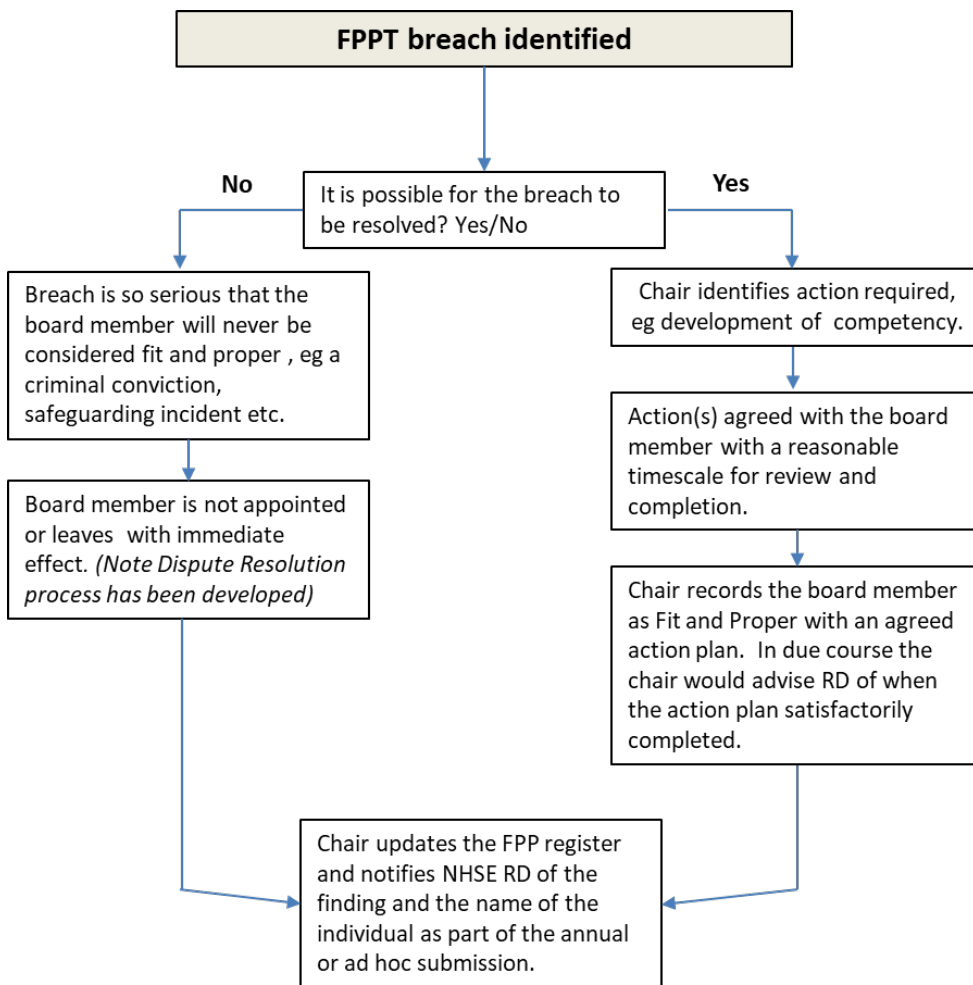
- FPPT team will collate records from NHS England regions.

* Or senior members of staff nominated by and on behalf of the chair, eg HR director or their nominee.

FPPT breach identified

As above, this process is illustrated in flowchart 2 below, and expanded text beneath:

Flowchart 2: FPPT breach identified process



Is it possible for the breach to be resolved?

- If yes:
 - Chair identifies action required, eg development of competency.
 - Action(s) agreed with the board member, with a reasonable timescale for review and completion.
 - Chair records the board member as fit and proper with an agreed action plan. In due course, the chair would advise RD of when the action plan is satisfactorily completed.
- If no:
 - Breach is so serious that the board member will never be considered fit and proper, eg a criminal conviction, safeguarding incident, etc.
 - Board member is not appointed or leaves with immediate effect. (Note – dispute resolution process has been developed.)

- In either case, process is concluded by chair updating the FPP register and notifying the RD of the finding and the name of the individual as part of the annual or ad hoc submission.

Appendix 1: FPPT checklist

	FPPT check	What to consider as part of the FPPT assessment
1	Training and development in the last year	<p>This should be considered with the appraisal at FPPT check point 2 below.</p> <ul style="list-style-type: none"> • Does this work towards/complete specific issues in the board member’s personal development plan as well as participation in wider board development and training? • Has it been completed satisfactorily? • Does the board member’s competency training and development follow the NHS Leadership Competency Framework (LCF)? • Any other training and development needs, eg was there anything included in a previous FPPT that needed mitigation through training and development? Was the development plan updated and was the training completed on time?
2	Appraisal incorporating the LCF has been completed	<p>This should be considered with training and development at FPPT check point 1 above:</p> <ul style="list-style-type: none"> • Has a satisfactory outcome to the appraisal been achieved and the personal development plan and objectives set for the following year? • Has progress against the LCF competencies been reviewed and is it satisfactory?
3	Any upheld disciplinary, complaint, grievance, adverse employee behaviour or whistleblow findings	<ul style="list-style-type: none"> • Have there been investigations completed in the last year involving or raising concerns about the board member which have been upheld? • If so, does the outcome impact the FPPT? • In what way does it impact the FPPT? Does it prevent a positive FPPT conclusion being reached? • Are there any ongoing investigations which involve the board member and that relate to FPPT that you need to be aware of? • Have there been any discontinued investigations that relate to the FPPT during the year that you need to be aware of? • Maintain a clear record of reasons for and actions taken in mitigation and how you have reached your conclusion in relation to the FPPT.

	FPPT check	What to consider as part of the FPPT assessment
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4	A check on the DBS per local policy – is a new DBS required because of any new circumstances or the renewal date is due? Where applicable, are there any matters disclosed on the DBS, but which are being managed?	<ul style="list-style-type: none"> • Local policy decision re frequency and level. • For any matters relating to the board member and their FPP status, and which can be managed, does this remain appropriate, has anything changed, does anything more need to be done? • Keep a record of annual (or more frequent if appropriate) consideration on this area – by signing off a board member as fit and proper, there is an assumption that this has been reviewed and considered and a conclusion met in relation to the impact on the FPPT outcome. The annual self-attestation will also help with this.
5	A check that registration/revalidation is up to date where required	<ul style="list-style-type: none"> • For those board members who are required (in their job description or person specification) to be registered with a professional body – check their professional register. • If a non-executive director has been appointed specifically for their professional background, and if this requirement is included in the role outline/specification and letter of appointment, then the check should also be carried out, but take into account that a retired professional may no longer be registered with a professional body.
6	Insolvency check	Consider impact of check on assessment of the board member as fit and proper.
7	A search of Companies House to ensure that no board member is disqualified as a director	Consider impact of check on assessment of the board member as fit and proper.
8	A search of the Charity Commissioner’s register of removed trustees	Consider impact of check on assessment of the board member board member as fit and proper.
9	Social media check	<ul style="list-style-type: none"> • Are there any matters which impact the reputation of the board member in relation to the FPPT? How much does this impact the reputation of the board and the organisation as a whole in relation to FPPT?
10	Employment tribunal judgement check	No additional considerations unless there are findings of dishonesty or discrimination/victimisation within the judgment.

FPPT check	What to consider as part of the FPPT assessment
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11	Settlement agreements	<ul style="list-style-type: none"> • Are you aware whether the board member came to the organisation with a settlement agreement which is relevant to the FPPT, in place from elsewhere? Are you satisfied that the FPPT and other recruitment checks provided sufficient assurance and evidence for the person to be considered a fit and proper person prior to becoming a board member? • Were any mitigations put in place in response to this? If yes, have you maintained a clear record of reasons for, and reasonable steps/actions taken in mitigation, and how you have reached your conclusion in relation to the FPPT?
12	Board member reference completed (where applicable)	<ul style="list-style-type: none"> • When a board member (permanent/interim; voting/non-voting; exec/non-exec) leaves for any reason (eg a temp board member stepping down; retirement; going to a new position elsewhere; sabbatical; secondment; any other reason), the board member reference (BMR) should be completed whether or not it has been requested by a future employer. • Organisations are encouraged to share the reference when complete with the individual for transparency. • The facility to upload the BMR template to ESR for retention and future reference, is under development. In the interim it should be retained locally. • See separate advice on completion of the BMR in appendix 2 of this document below.
13	Annual self-attestation signed, including confirmation (as appropriate) that there have been no changes	<ul style="list-style-type: none"> • Has this been signed off by the board member within the last 12 months? • Are there any changes or updates that they have made you/your organisation aware of? • Does the self-attestation made align with the results of the FPPT and any other knowledge that you have?

	FPPT check	What to consider as part of the FPPT assessment
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14	Chair sign-off	<ul style="list-style-type: none"> • Have you seen all the information/evidence that you need to form an overall assessment of this person as fit and proper? • Have you had an open discussion with the board member about the assessment and any findings? • Has there been any communication from NHS England or CQC as the regulator in relation to the board member that would affect the FPPT? If yes, document how this has been acted on and the current position/outcome. • Are there any other factors relating to the FPPT for this board member to take into account? If yes, document how this has been acted on and the current position/outcome. • Are you satisfied that all the requirements for the FPPT for this board member have been met satisfactorily and that you, as chair for the organisation can sign them off as fit and proper? • If all elements have not been met satisfactorily, does this lead to a conclusion of the board member not being fit and proper, or can the issues be managed? If so, how? Document this and update with progress. • There may be a limited number of exceptional cases where a board member is deemed fit and proper, but where they have failed an element of the FPPT. In circumstances where the NHS organisation appoints them or allows them to continue their current employment as a board member, there should be a documented explanation as to why the board member is fit and proper and the actions being taken. This should then be submitted to the relevant regional director for review as part of the annual submission form (or on an ad hoc basis). • Do you need to provide an update or letter of confirmation in relation to any board member where there is a joint appointment or secondment or other such arrangement with another NHS organisation?
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Appendix 2: Guidance on completing the board member references

The reference will apply to all board member roles and is mandatory. Some elements of the reference questions (as indicated on the board member reference template) will only apply to those applying for/have been executive board members.

The reference should be completed for all board members who leave their board role for whatever reason. This could be done as part of an exit interview where applicable. The reference should be completed as if it had been requested from a future employer whether or not that is the case and retained on ESR.

It is good practice to let the person in question have sight of any reference that has been written for them.

	BMR question	Comment/consideration
1	Name	No change to current NHS reference template.
2	National Insurance Number	No change to current NHS reference template.
3	Start and finish dates in previous roles	<p>This question asks for the employment history rather than just the start and finish date of the current role. This will identify any gaps in employment. This is information that should be available by the following means:</p> <ul style="list-style-type: none"> • For a non-executive director (NED) or someone who joined the NHS from a different industry/sector, details from their CV as part of their application. Important to record this as another NHS organisation may want to check that it is consistent with a different version of the CV. • For people who have worked in the NHS in their current/most recent role, from their employment history in ESR. • From the initial FPPT for the individual board member when they started in role, and any updates, eg, second employment, gaps for secondment, etc. <p>Where an external agency has been used to support recruitment for a board member role, this information should be available for the initial FPPT and recorded on ESR.</p> <p>In terms of how far to go back, a view of the relevance to the current position should be taken and also the need for sufficient information about their career and professional experience and skills, the FPPT Framework states that employers should seek the necessary references to validate a period of six consecutive years of continuous employment or training immediately prior to the application being made.</p>

	BMR question	Comment/consideration
4	Current and most recent job title and attach job description and person specification	<p>Please note: This is not required for NEDs.</p> <p>This is for a new employer to consider whether the information in the job description/person specification for the current role aligns with the information provided by the candidate and as an indicator of the level of responsibility, breadth of portfolio, etc.</p>
5	Current remuneration in the applicant's current role	Please note: This is not required for NEDs

6	Training and development	<p>Please note: This is not required for NEDs joining an NHS board for the first time from another industry/sector. However, it is needed where they are moving to another NHS board role and would reflect their progress against the LCF.</p> <p>This information should be on ESR for people who have worked in the NHS and applied to their current role on NHS Jobs.</p> <p>Under the FPPT Framework, training and development information should be updated annually as part of the annual appraisal, FPPT and competency review.</p> <p>At this time, the implementation of the FPPT is forward-looking and it is not expected that information relating to training and development is added to the ESR FPPT retrospectively.</p>
7	How many days' absence (other than annual leave) has the applicant had over the last two years of their employment, and in how many episodes?	No change to current NHS reference template.
8	Confirmation of reason for leaving	No change to current NHS reference template.

	BMR question	Comment/consideration
9	<ul style="list-style-type: none"> • Please provide details of when you last completed a check with the Disclosure and Barring Service (DBS) • Date DBS check was last completed • Please indicate the level of DBS check undertaken (basic/standard/enhanced without barred list/or enhanced with barred list) • If an enhanced with barred list check was undertaken, please indicate which barred list this applies to 	No change to current NHS reference template.

10	In relation to the DBS, did the check return any information that required further investigation?	<p>This reflects the position that something may be recorded in the DBS, but it was either not relevant to the FPPT or was able to be managed and the person continue in their board role.</p> <p>The reference should not provide details of any criminal matter from the DBS and simply answer 'yes' or 'no.' It is for the prospective employer to carry out their own tests and review.</p>
11	Please confirm if all annual appraisals have been undertaken and completed	<p>Please note: This is not required for NEDs joining an NHS board for the first time from another industry/sector. It is needed from starting as an NHS board member onwards.</p> <p>As stated above, the FPPT implementation is not retrospective, and this would be from the point of implementation going forward.</p> <p>However, in due course, the reference requests: "a summary of the outcome and actions to be undertaken for the last three appraisals."</p> <p>Annual appraisals should be carried out alongside the annual FPPT and consideration of the LCF.</p> <p>The outcome of the appraisal process should be identified as satisfactory or otherwise.</p>

	BMR question	Comment/consideration
12	Is there any relevant information regarding any outstanding, upheld or discontinued complaint(s) tantamount to gross misconduct or serious misconduct or mismanagement including grievances or complaint(s) under any of the trust's policies and procedures (for example under the trust's equal opportunities policy)?	<p>This is a key question for anyone applying for a board role. It relates only to matters relevant to the FPPT. It requires a 'yes' or 'no' answer and a brief outline which should be no more than 2-3 sentences setting out the type of complaint (and which policy and procedure it aligns to) and the reason for the complaint</p> <p>Further details of the case should not be included and are for local record retention.</p> <p>No third party should be identifiable in the information provided.</p> <p>Organisations may wish to take their own legal advice in relation to the potential risk of a claim from the board member leaving or a prospective employer for matters relating to outstanding or discontinued complaints. Information provided in the reference must be based on fact.</p>

13	<p>Is there any outstanding, upheld or discontinued disciplinary action under the trust's disciplinary procedures including the issue of a formal written warning, disciplinary suspension, or dismissal tantamount to gross or serious misconduct that can include but not be limited to:</p> <ul style="list-style-type: none"> • Criminal convictions for offences leading to a sentence of imprisonment or incompatible with service in the NHS • Dishonesty • Bullying • Discrimination, harassment, or victimisation • Sexual harassment • Suppression of speaking up • Accumulative misconduct 	<p>This is also a key question for anyone applying for a board role. It relates only to matters relevant to the FPPT. It requires a 'yes' or 'no' answer and a brief outline which should be no more than 2-3 sentences setting out the headline reason for the disciplinary and the level of action from the investigation and findings.</p> <p>Further details of the case should not be included and are for local record retention.</p> <p>No third party should be identifiable in the information provided.</p> <p>Organisations may wish to take their own legal advice in relation to the potential risk of a claim from the board member leaving or a prospective employer for matters relating to outstanding or discontinued disciplinary action. Information provided in the reference must be based on fact.</p>
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	BMR question	Comment/consideration
14	<p>Please provide any further information and concerns about the applicant's fitness and propriety, not previously covered, relevant to the FPPT to fulfil the role as a director, be it executive or non-executive?</p>	<p>This is a concluding question and covers the history of FPPT for the person. Other factors which are relevant to the FPPT but not covered above should be included here, for example whether there is a settlement agreement in place, whether there have been any discontinued investigations into a complaint or disciplinary matter. Did the person resign prior to disciplinary action.</p> <p>The information should be limited to fact, and where possible, the person would have had sight of the reference and know what had been included.</p>

15	<p>The facts and dates referred to in the answers above have been provided in good faith and are correct and true to the best of our knowledge and belief.</p> <p>Referee name (please print):</p> <p>Signature:</p> <p>Referee Position Held:</p>	<p>The chair will write and sign off all NED references, the CEO will write and sign off all ED references.</p> <p>The chair and CEO will need to be supported with provision of the relevant information from ESR.</p>
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