



MEETING TITLE Trust Board Meeting held in Public.		MEETING DATE 27/04/2021	
TITLE of PAPER	Fit and Proper Person Policy - review	PAPER REF	TB21.009
KEY PRIORITIES	Attract, develop and retain a highly skilled, engaged and diverse workforce		
PURPOSE OF THE PAPER	The purpose of the report is to request approval for minor amendments to the Fit and Proper Persons Policy		
For Approval	<input checked="" type="checkbox"/>	For Assurance	<input type="checkbox"/>
For Decision	<input checked="" type="checkbox"/>	Discussion/Information	<input type="checkbox"/>
AUTHOR / LEAD	Suzanne Hartshorne, Interim Director of Workforce & OD	ACCOUNTABLE DIRECTOR	Suzanne Hartshorne, Interim Director of Workforce and OD
DISCUSSED AT / INFORMED BY – include date(s) as appropriate [free text - please provide an audit trail of the development(s) / proposal(s) subject of this paper: see also guidance 3 overleaf]: Remuneration Committee: 26/11/20. The Committee agreed that the FFP policy should be amended to remove the sentence which referenced the inclusion in contracts of the wording noted above and remove the sentence from the self-declaration form. TEG 17/03/21: Approval given for minor amendments to the Fit and Proper Persons Policy Remuneration Committee: 25/03/21. Approval given for minor amendments and submission to Trust Board for ratification.			
PREVIOUSLY AGREED AT:	Committee/Group:	Date:	
RECOMMENDATION(S)	It is recommended that the Trust Board: 1. Note the contents of report. 2. Approve the minor amendments to the Policy.		
RISK ASSESSMENT		Yes	No
Corporate Risk Register and/or Board Assurance Framework amended <i>If 'Yes' – expand in Section 4. / attached paper</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Equality Impact Assessment <i>If 'Yes' – expand in Section 2. / attached paper</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Resource Implications (Financial, Workforce, other - specify) <i>If 'Yes' – expand in Section 2. / attached paper</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Legal implications/Regulatory requirements <i>If 'Yes' – expand in Section 2. / attached paper</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
ASSURANCE/COMPLIANCE			
Care Quality Commission	5: Well led		
NHSI Single Oversight Framework Choose a THEME(s)	6. Leadership & Improvement Capability (Well-Led)		

Private & Confidential
Fit and Proper Person Policy - Update

1. PURPOSE/AIM

- 1.1 The purpose of this report is to request approval for minor amendments to the Trust's Fit and Proper Person Policy (FPP).
- 1.2 The updated policy is attached in Appendix 1 and has been updated following discussion with the Remuneration Committee in November 2020.

2. BACKGROUND/CONTEXT

- 2.1 Since 27 November 2014, NHS provider organisations have been required to meet regulatory requirements, in particular to ensure that new director level appointments meet the 'fit and proper persons test' which were integrated into the CQC registration requirements. These requirements fall within the CQC regulatory and inspection approach and are reviewed under the 'well-led' domain. A Trust Policy for Fit and Proper Persons was agreed in November 2017 and was updated in March 2018, for this purpose. The policy is due for review in March 2021.
- 2.2 In November 2020, the Remuneration Committee received an update in respect of a review of the FPP Policy and that a discrepancy had been highlighted when comparing the policy text against VSM contracts of employment. In summary, Appendix C (Annual Self-declaration) of the FPP Policy states:

The Trust will ensure that its contracts of employment with its directors contain a provision which clearly permits summary dismissal in the event of a Director being, or becoming, an unfit person.
- 2.3 However, the review identified that this exact statement was only contained in one Director contract – due to the timing of appointments of our VSMs i.e. prior to these provisions. However, reference was made within other Director contracts around being dismissed for a range of other issues (which are the issues identified to be a fit and proper person).
- 2.4 Legal advice had been sought from Capsticks who stated that there was no statutory or legal obligation to include the FPP wording in the contract and also that all contracts had the provision of staff adhering to policies and procedures and annual checks are undertaken. Therefore, they perceive the risk to be low. Given that YAS' FPP Policy stated that the Trust would ensure that there was provision for dismissal in the contracts, the Trust could either remove this wording from the self-declaration form and Appendix C of the policy – or amend director's contracts (existing contracts as well as new starters) to reflect this statement.
- 2.5 The Committee considered this matter and determined that given the risk was relatively low (because reference was already made in contracts to fit

and proper person issues), it agreed for the policy to be amended and to remove this sentence from the self-declaration form. It also determined that VSM contracts would be the subject of a wider review as and when the Trust undertook a restructure, or replaced, those roles.

3. FIT AND PROPER PERSON POLICY - UPDATED

- 3.1 Appendix 1 sets out the tracked changes. In summary, there are 2 amendments.
- 3.2 The Remuneration Committee was previously referred to as the Remuneration and Terms of Service Committee, hence this has been updated.
- 3.3 The paragraph in Appendix C, as referred to above, has been removed.
- 3.4 The responsibilities for the completion of Appendix B and D have been clarified.

4. RECOMMENDATIONS

It is recommended that the Trust Board:

- 1. Note the contents of report.
- 2. Approve the minor amendments to the Policy.

5. APPENDICES

Appendix 1: Fit and Proper Person Policy Version 4