

Appendix 23 - Fit and Proper Person Declaration

Fit and Proper Person Pre-employment and annual declaration for Director and Director-equivalent posts

WORCESTERSHIRE ACUTE HOSPITALS NHS TRUST (“the Trust”)

“FIT AND PROPER PERSON” DECLARATION

1. It is a condition of employment that those holding director and director-equivalent posts provide confirmation in writing, on appointment and thereafter on demand, of their fitness to hold such posts. Your post has been designated as being such a post. Fitness to hold such a post is determined in a number of ways, including (but not exclusively) by the Health and Social Care Act 2008 (Regulated Activities) Regulations 2008 (“the Regulated Activities Regulations”).
2. By signing the declaration below, you are confirming that you do not fall within the definition of an “unfit person” or any other criteria set out below, and that you are not aware of any pending proceedings or matters which may call such a declaration into question.

Regulated Activities Regulations

3. Regulation 5 of the Regulated Activities Regulations states that the Trust must not appoint or have in place an individual as a director, or performing the functions of or equivalent or similar to the functions of, such a director, if they do not satisfy all the requirements set out in paragraph 3 of that Regulation.
4. The requirements of paragraph 3 of Regulation 5 of the Regulated Activities Regulations are that:
 - a) The individual is of good character;
 - b) 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;
 - c) The individual is able by reason of their health, after reasonable adjustments are made, of properly performing tasks which are intrinsic to the office or position for which they are appointed or to the work for which they are employed;
 - d) The individual has not been responsible for, 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; and
 - e) None of the grounds of unfitness specified in Part 1 of Schedule 4 apply to the individual.
5. The grounds of unfitness specified in Part 1 of Schedule 4 to the Regulated Activities Regulations are:
 - a) The person is an undischarged bankrupt or a person whose estate has had sequestration awarded in respect of it and who has not been discharged;
 - b) The person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order or an order to like effect made in Scotland or Northern Ireland;
 - c) The person is a person to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986;
 - d) The person has made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it;
 - e) The person is included in the children’s barred list or the adults’ barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006, or in any corresponding list maintained under an equivalent enactment in force in Scotland or Northern Ireland;
 - f) The person is prohibited from holding the relevant office or position, or in the case of an individual for carrying on the regulated activity, by or under any enactment.
6. The grounds specified in Part 2 of Schedule 4 to the Regulated Activities Regulations which are the test of good character are:

- a) Whether the person has 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.
 - b) Whether the person has been erased, removed or struck-off a register of professionals maintained by a regulator of healthcare or social work professionals.
7. In addition the Trust requires individuals to declare that:
- a) They are not subject to any investigation or under any performance management regime for any reason.
 - b) They are not aware of any incident or issue in their previous employment which may affect their status as a fit and proper person to fulfil their current/potential role.
 - c) They have not within the preceding two years been dismissed, other than by reason of redundancy from within a Health Service body or other organisation providing substantial services to the NHS; if there was a finding against the individual's previous employer in relation to their dismissal, they must provide details and consideration will be given to their eligibility to be a Director.
 - d) They are not an executive or non-executive of another NHS Trust or Governor, Director, Chair, Chief Executive of another NHS body.
 - e) They are not disqualified as a Company Director under the Company Directors Disqualification Act 1986 in England and or Wales.
 - f) They are not prohibited from holding the position under any other law e.g. the Charities Act.

I acknowledge the extracts from the provider licence, Regulated Activities Regulations and the Trust's constitution above. I confirm that I do not fit within the definition of an "unfit person" as listed above and that there are no other grounds under which I would be ineligible to continue in post. I undertake to notify the Trust immediately if I no longer satisfy the criteria to be a "fit and proper person" or other grounds under which I would be ineligible to continue in post come to my attention.

Name:

Signed:

Position:

Date: