



REPORT CLASSIFICATION	✓	CATEGORY OF PAPER	✓
Official	✓	Proposes specific action	
Official: Sensitive Commercial		Provides assurance	
Official: Sensitive Personal		For information only	✓

BOARD	
26 September 2023	
Report Title:	Fit and Proper Person Test Framework Guidance Summary
Purpose of report	
To provide the Board with a summary of NHS England's Fit and Proper Persons Test Framework.	
Key points	
<p>NHS England published its Fit and Proper Person Test (FPPT) Framework on 02 August 2023 in response to the recommendations made by Tom Kark KC in his 2019 review (the Kark Review). The framework also takes into account the requirements of the Care Quality Commission in relation to directors being fit and proper for their roles.</p> <p>Key points</p> <p>The aim of the FPPT Framework is to strengthen and reinforce individual accountability and transparency for board members, as well as prioritising patient safety, to enhance the quality of good leadership in NHS organisations. It will support board members to build a portfolio to provide assurance that they are fit and proper to undertake a board level position.</p> <p>The Framework includes all current elements relating to the current Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, along with additional elements as recommended by the Kark Review including:</p> <ul style="list-style-type: none"> • A new NHS Leadership Competency Framework • FPPT fields in NHS Electronic Staff Record (ESR) to record FPPT information • A standardised board member reference. <p>The FPPT Framework brings together:</p> <ul style="list-style-type: none"> • An assessment at recruitment, annual review and at any time that new information relevant to the framework becomes available • Learning and development offers and a standard set of competencies with minimum levels expected for board members • An appraisal process for board members (to be available later in 2023/2024) 	

Item: 9.1

The Framework is effective from 30 September 2023 and must be implemented by all boards from that date. It must also be used for all new board level appointments or promotions and annual assessments going forward. It applies to board members of NHS organisations and is to be completed on an individual basis ensuring board members are demonstrating right behaviours and encouraging a listening and speaking up culture.

A new NHS Leadership Competency Framework (due for publication at the end of September 2023) references six competency domains which will be incorporated in all senior leader job descriptions and recruitment processes and form part of the core of the board appraisal frameworks and the delivery of appraisals.

A new Board Appraisal Framework will also be published by 31 March 2024 which will incorporate the Leadership Competency Framework into annual appraisals for all board directors for 2023/2024 for implementation by the end of Q1 2024/2025.

A detailed plan has been developed to ensure the necessary HR and governance processes are in place to ensure implementation of the framework by the required deadlines.

Risks and issues

- Potential risk to ICB non-compliance of the new FPPT framework if the processes and data fields have not been updated in the ESR databases to hold board member records.
- Delays in the completion of board members appraisals for 2023/24 until the Leadership Competency Framework and the new appraisal framework is published by NHS England.

Assurances

- The Board will have oversight of the framework, supported by robust HR and governance processes and reporting across the FPPT cycle.
- Assurance will be provided in accordance with any Care Quality Commission reviews for data integrity and controls for the records held within the ESR system.
- Supporting processes are being put in place to ensure implementation and deliver of the statutory requirements of the framework.
- The Board will be kept informed on the publication of the NHS Leadership Competency Framework and Board Appraisal Framework by 31 March 2024.

Recommendation/action required

The Board is asked to:

- Receive the Fit and Proper Person Test Framework guidance for information;
- Note the NHS Leadership Competency Framework for board level roles is due for publication by the end of September 2023 for implementation by 31 March 2024;
- Note the new Board Appraisal Framework is due for publication by 31 March 2024 for implemented by the end of Quarter one, 2024/2025.

Acronyms and abbreviations explained

FPPT – Fit and Proper Person Test
CQC – Care Quality Commission
NHSE – NHS England
NEDs – Non-Executive Directors
ESR – Electronic Staff Record
LCF – Lead Competency Framework

Executive Committee Approval	N/A
Sponsor/approving executive director	C Riley, Executive Director of Corporate Governance, Communications, and Involvement
Date approved by executive director	18 September 2023

Reviewed by:	D Cornell, Director of Corporate Governance and Board Secretary					
Report author	L Hutchinson, Acting Head of Corporate Governance					
Link to ICB corporate aims (please tick all that apply)						
CA1: Improve outcomes in population health and healthcare						✓
CA2: tackle inequalities in outcomes, experience and access						✓
CA3: Enhance productivity and value for money						✓
CA4: Help the NHS support broader social and economic development						✓
Relevant legal/statutory issues						
Note any relevant Acts, regulations, national guidelines etc						
Any potential/actual conflicts of interest associated with the paper? (please tick)	Yes		No		N/A	✓
If yes, please specify						
Equality analysis completed (please tick)	Yes		No		N/A	✓
If there is an expected impact on patient outcomes and/or experience, has a quality impact assessment been undertaken? (please tick)	Yes		No		N/A	✓
Key implications						
Are additional resources required?	N/A					
Has there been/does there need to be appropriate clinical involvement?	N/A					
Has there been/does there need to be any patient and public involvement?	N/A					
Has there been/does there need to be partner and/or other stakeholder engagement?	N/A					

NHS England Fit and Proper Person Test Framework Summary for Board Members

1. Introduction

- 1.1 NHS England published its Fit and Proper Person Test (FPPT) Framework on 02 August 2023 in response to the recommendations made by Tom Kark KC in his 2019 review of the FPPT (the Kark Review¹). The framework also takes into account the requirements of the Care Quality Commission in relation to directors being fit and proper for their roles.

2. Background

- 2.1 The Kark Review (2019) was commissioned by the Government in July 2018 to review the scope, operation, and purpose of the FPPT and looked at how effective it was in preventing unsuitable staff from being redeployed or re-employed in the NHS and independent healthcare and adult social care sectors.

Specific recommendations from the Kark Review can be found in Appendix 1 of the full framework (a link to this is provided at the end of this report).

3. Purpose

- 3.1 Ensuring high standards of leadership in the NHS is crucial – well-led NHS organisations and better-led steams with both strong teamwork and strong governance translate into greater staff wellbeing and better clinical care.
- 3.2 The aim of the framework is to strengthen and reinforce individual accountability and transparency for board members, as well as prioritising patient safety, to enhance the quality of good leadership in NHS organisations. It will support board members to build a portfolio to provide assurance that they are fit and proper to undertake a board level position.
- 3.3 The FPPT is effective from 30 September 2023 and is to be completed on an individual basis, ensuring board members are demonstrating right behaviours and encouraging a listening and speaking up culture.
- 3.4 The FPPT Framework brings together:

¹ [A review of the Fit and Proper Person Test](#)

- A FPPT assessment at recruitment, annual review and at any time that new information relevant to FPPT becomes available.
- Learning and development offers and a standard set of competencies with minimum levels expected for board members.
- An appraisal process for board members
- Specific reference requirements for board members

4. Accountability and responsibilities

- 4.1 Chairs are accountable for taking all reasonable steps to ensure the FPPT process is effective. Their responsibilities include ensuring that:
- The NHS organisation has proper systems and processes in place so that it can make the robust assessments required by the FPPT
 - The results of the full FPPT, including self-attestations for each board member, are retained by the employing organisation
 - The FPPT data fields within the electronic staff record (ESR) system are accurately maintained in a timely manner
 - Board member references/pre-employment checks and a full FPPT are complete and adequate for each board member
 - An appropriate programme is in place to identify and monitor board member development needs.
- 4.2 The chair in each NHS organisation will be responsible for ensuring that their organisation conducts and keeps under review a FPPT assessment to ensure board members are, and remain, suitable for their role.
- 4.3 Chairs will also be subject to the same FPPT requirements and will be required to complete an annual self-attestation to demonstrate continued adherence with the FPPT requirements. The senior independent director (SID) or deputy ICB chair will carry out an FPPT assessment of the Chair.
- 4.4 Accountability for ensuring chairs of NHS trusts, foundation trusts and ICBs meet the FPPT requirements will reside with NHS England regional directors, as is the case for chair appraisals. In relation to chairs of NHS England and the Care Quality Commission (CQC), this accountability will reside with the Department of Health and Social Care.
- 4.5 The Chief Executive will be responsible in carrying out an initial assessment for executive board members and share the overall assessment of board member FPPT status.

5. Key Elements

5.1 The FPPT Framework includes all current elements relating to the current Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014² as well as new elements to incorporate the recommendations from the Kark Review which include:

- A new NHS Leadership Competency Framework (LCF) due for publication at the end of September (see section 6 of this reports refers)
- FPPT fields in the NHS Electronic Staff Record (ESR) to record testing
- Requirement for a board member reference (based on the standard NHS reference with additional requests for information as relevant to FPPT – detailed in section 3.9 of the full report)
- Extending the scope to include ICBs and some Arm's-length bodies (ALBs)
- Clear statement of accountability of chairs in implementing the Framework in their organisations

New data fields in electronic staff records (ESR) will hold individual FPPT information for all board members operating in the NHS and be used to support recruitment, referencing and ongoing development of board members. The ESR information will only be accessible within the board members' own organisation and there will be no public register.

5.2 Applicability

The Framework applies to board members of NHS organisations, the guidance uses the term 'board member' and this refers to both executive and non-executive directors (irrespective of voting rights) and interim appointments as well as permanent appointments.

It is recognised some organisations may want to extend the FPPT assessment to other key roles e.g., partner members or regular attendees to board meetings or those who have a significant influence on board decisions. However, the annual submission is limited to board level executive and non-executive director members only.

ICB chairs will need to consider FPPT assessment on a member-by-member basis and take into account assurance from other recruiting/appointment organisations e.g., in the case of partner members.

² [Regulation 5: Fit and proper persons: directors - Care Quality Commission \(cqc.org.uk\)](https://www.cqc.org.uk/publications-and-reports/regulation-5)

5.2 Assessment process

A documented, full FPPT assessment against the core elements (good character, possessing the qualifications, competence, skills required and experience and financial soundness) will be needed in the following circumstances:

- New appointments in board member roles, whether permanent or temporary where greater than six weeks (section 3.7 of the full framework). This will include a standardised board member reference check (section 3.9 of the full framework) and the additional step of seeking NHS England approval for NHS trust and ICB chairs.
- When an individual board member changes role within their current NHS organisation
- Every board member will need to complete an annual self-attestation to confirm they are in adherence with the FPPT requirements. This should be within a 12-month period of the date of the previous FPPT to review any changes in the previous 12 months (appendix 3 of the full framework)
- Joint appointments across NHS organisations – a full FPPT assessment would need to be completed by the designated host/employing NHS organisation, with input from the chair of the other contracting NHS organisation.
- Shared roles within the same NHS organisation (e.g., job share) – both individuals should be assessed against the FPPT requirements.

6 **Leadership Competency and Appraisal Frameworks**

- 6.1 A new NHS Leadership Competency Framework (LCF) for board level roles is due to will be published by the end of September to support the FPPT framework to be implemented by 31 March 2024, alongside the FPPT Framework.
- 6.2 The LCF will help inform the 'fitness' assessment in the FPPT and references six competency domains which should be incorporated into all senior leader job descriptions and recruitment processes. It will also form part of the core of board appraisal frameworks, alongside appraisal of delivery against personal and corporate objectives. The LCF should be taken into account when the board member references are written.
- 6.3 Board level leaders will be asked to attest to whether they have the requisite experience and skills to fulfil minimum standards against the six competency domains. This will be overseen by the board director's line manager and organisational chair.
- 6.4 A new board appraisal framework will also be published for NHS organisations by 31 March 2024 (for implementation by the end of quarter one 2024/25) and used for all annual appraisals of all board directors for 2023/24.

7 Quality assurance and governance

7.1 Quality Assurance

To ensure the FPPT is adequately embedded within the ICB, there will need to be quality assurance checks which will be conducted by the CQC, NHS England and an external / independent review. The quality assurance checks over the various parts of the FPPT are detailed below:

- CQC: its role will be to ensure there are robust processes in place to perform the FPPT assessments and adhere to the requirements of Regulation 5 as part of the Well Led reviews. The CQC will also have regard to the evidence that exists as to whether board members meet the FPPT and may intervene where there is evidence that proper processes have not been followed or are not in place.
- NHS England: will have an oversight through receipt and review of the annual FPPT submission to the relevant NHS England regional director from NHS organisations.
- Internal Audit / Internal Review: every three years, NHS organisations should have an internal audit to assess the processes, controls and compliance supporting the FPPT assessments.

7.2 Governance

Robust governance arrangements will need to be in place to provide clarity on reporting arrangements across the FPPT cycle and should include:

- An update to a meeting of the board in public to confirm that the requirements for FPPT assessment have been satisfied at least annually.
- Consideration by Audit Committee, for example where there is a related internal or external audit included in the audit programme.

8 Key milestones

8.1 The framework sets out the following key milestones for implementation:

- As soon as possible: chairs should communicate with their board members whose details will be included in ESR for the purpose of FPPT.
- From 30 September 2023: use the new board member reference template for references for all new board appointments; complete and retain locally the new board member reference for any board member who leaves the board for

whatever reason and whether a reference has been requested or not; use the LCF 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 the first full FPPT annual review of all board members; individual self-attestations completed for board members; annual submission completed and ESR database updated.
- By the end of Quarter one, 2024/2025: incorporate the LCF into annual appraisals of all board directors for 2023/2024, using the new board appraisal framework.

9. Next steps and implementation

9.1 The governance team has undertaken a full review of the requirements of the framework and, working with the Director of Workforce, has developed a detailed implementation plan to ensure all requirements of the framework are met. An assurance report on implementation of the framework will be brought to the Board at a later date.

10. Recommendations

10.1 The Board is asked to:

- Receive the Fit and Proper Person Test summary for information;
- Note the NHS Leadership Competency Framework for board roles is due for publication at the end of September 2023 for implementation by 31 March 2024;
- Note the Board Appraisal Framework is due for publication by 31 March 2024 for implementation by the end of Quarter one, 2024/25.

Sponsoring director: D Cornell, Director of Corporate Governance and Board Secretary

Report author: L Hutchinson, Head of Corporate Governance

Date: 15 September 2023

Appendix 1 – References and Links

1. Fit and Proper Person Test Framework (full document)

[NHS England » NHS England Fit and Proper Person Test Framework for board members](#)

2. Supporting Appendices to the full document

[Appendix 1: Recommendations from the Kark Review \(2019\)](#)

[Appendix 2: Board Member Reference Template](#)

[Appendix 3: New Starter Annual FPPT Self Attestation](#)

[Appendix 4: Letter of Confirmation](#)

[Appendix 5: Annual FPT Submission Reporting Template](#)

[Appendix 6: Privacy Notice](#)

[Appendix 7: FPPT Checklist](#)

[Appendix 8: Future considerations for the Fit and Proper Person Test Framework](#)