

## Appendix 1

### Fit and Proper Person Test Framework

#### Introduction

On 2 August, NHSE published the [FPPT Framework](#), which is applicable to all board members (executive and non-executive, voting and non-voting). All of the existing elements of CQC Regulation 5: fit and proper persons: directors are incorporated within the Framework and there have been no changes to the regulation itself.

Board members are already subject to FPPT checks on appointment, and on an annual basis thereafter. The Framework has been introduced in response to the recommendations made by [Tom Kark KC in his review of the FPPT](#), to strengthen the arrangements already in place. The new elements that have been introduced are as follows:

- a Leadership Competency Framework (LCF)
- the introduction of FPPT fields in the Electronic Staff Record (ESR) to record testing
- a revised Board Member Reference template
- a strengthening of some elements of the FPPT assessment (see further details below)
- extending the scope of FPPT to include ICBs and some ALBs
- a clear statement of accountability of chairs in implementing the framework in their organisation, including an annual submission to the NHSE Regional Director

The FPPT Framework brings together:

- the FPPT assessment at recruitment, annual review and at any time that new information becomes available
- learning and development offers and a standard set of competencies with minimum levels expected for board members (as set out in the LCF)
- appraisal process for board members (to be available later in 2023/24)
- specific reference requirements for board members

NHSE has committed to a review of the framework in 18 months.

#### Strengthened FPPT Assessment

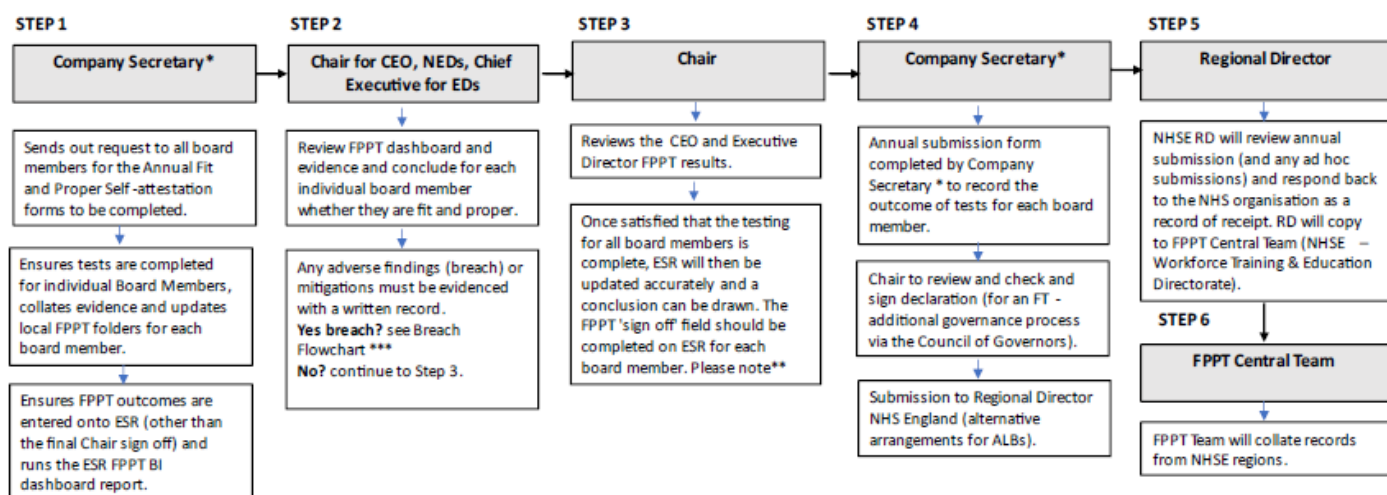
The elements of the FPPT assessment which are new or have been strengthened are set out below:

New/strengthened element	Comment
<b>Training and development</b> – to be checked and recorded on recruitment and then updated annually	<ul style="list-style-type: none"><li>• organisations should assure themselves that the information provided by the applicant is correct and reasonable for the requirements of the role</li><li>• key qualifications required for the role should be in the person specification</li><li>• it is suggested that a training history of no less than six years should be the minimum, plus any specific qualifications/training if that was more than six years ago</li></ul>
Last <b>appraisal</b> and date	<ul style="list-style-type: none"><li>• there will be further guidance from NHSE before 31 March 2024 relating to board appraisals</li><li>• appraisals should consider both performance objectives, and development towards the standard competencies within the LCF. Guidance on minimum standards will be provided</li></ul>

	and organisations should conclude on whether the appraisal outcome is satisfactory
<b>Disciplinary</b> findings relevant to the FPPT assessment, including those arising from: <ul style="list-style-type: none"> <li>grievances and complaints against the board member</li> <li>speaks up against the board member</li> </ul>	<ul style="list-style-type: none"> <li>the NHS standard reference requests information about upheld and ongoing investigations. The new board member reference requests information about investigations (relevant to FPPT) that have been concluded and the matter upheld; ongoing at the time of the reference; or discontinued and the reason for this</li> </ul>
Behaviour not in accordance with <b>organisational values and behaviours</b> or related local policies	<ul style="list-style-type: none"> <li>board behaviours are considered in 'our leadership way' which is referred to in elements of the People Promise. This in turn, is linked to the competencies within the LCF and should be considered as part of an FPPT assessment</li> </ul>
<b>Employment Tribunal</b> judgement check	<ul style="list-style-type: none"> <li>an additional check of ET judgements where a specific board member (rather than the organisation as a whole) was implicated and which related to FPPT</li> </ul>
<b>Board Member Reference</b>	<ul style="list-style-type: none"> <li>the new board member reference template should be used from 1 October to request references and also for any board member leaving the organisation for whatever reason, whether or not a reference has been requested</li> <li>this should be retained for the career of the board member or until their 75<sup>th</sup> birthday</li> </ul>
<b>Settlement agreements</b>	<ul style="list-style-type: none"> <li>the organisation is required to consider whether the board member came to the organisation with a settlement agreement that is relevant to FPPT and whether the recruitment checks provided sufficient assurance and evidence for the person to be considered fit and proper</li> <li>it is acknowledged that details may not be known/disclosed where there are confidentiality clauses</li> </ul>
<b>Letter of Confirmation</b>	<ul style="list-style-type: none"> <li>this should be used in relation to joint appointments, the host employing organisation should carry out the FPPT assessment having sought information/commentary from the other organisation</li> </ul>

### Suggested approach to the FPPT

The suggested approach to the annual review of FPPT is set out in the guidance, as follows:



\*Or senior member of staff nominated by and behalf of, the Chair, e.g., HRD

\*\* SID/Deputy Chair to carry out FPPT on the Chair and 'sign off'

\*\*\* Please refer to the Chairs Guidance for the Breach Flowchart

SID = Senior Independent Director

ESR= Electronic Staff Record

## **Personal Data**

Personal data relating to the FPPT assessment will be retained in local record systems and specific data fields in ESR. A privacy notice has been sent to all Board members to advise them 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 of reaching a conclusion about whether a board member is fit and proper. Board members were asked to submit any objections by 15 September 2023; none were received.

## **Next Steps**

- The Interim Director of HR and Associate Director of Corporate Governance will meet with the Chairman to discuss the requirements of the framework and agree a date for undertaking the first round of annual reviews (this must be completed prior to 31 March 2024).
- A new FPPT Standard Operating Procedure will be developed by the Interim Director of HR to align with the new elements introduced by the Framework.
- From 1 October, the new board member reference will be implemented for all new board appointments and departing board members.
- From 1 October, the LCF (due to be published by 30 September) will be used as part of the assessment process when recruiting to board roles (including the NED interviews taking place in October 2023).
- From Q1 24/25, the LCF will be incorporated into annual appraisals of all board members, using the new board appraisal framework. The appraisal/LCF and FPPT assessment processes will be aligned.

**The FPPT Framework must be fully implemented from 31 March 2024.**