

Fit and Proper Person Policy & Procedure

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1. Introduction

- 1.1. The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 place a duty on all NHS providers not to appoint an individual as a Director, or performing the “functions of, or functions equivalent or similar to the functions of a director”, or allow a person to continue in the role, if they do not meet, or cease to meet, the requirements as set out in the Regulations in relation to the Fit and Proper Person Test. A new Fit and Proper Person Test framework was published by NHS England in August 2023.
- 1.2. Wye Valley NHS Trust (the Trust) is required to ensure its Directors (as defined in 3) are ‘fit and proper’ to undertake the role and make every reasonable effort to assure itself by all available means.
- 1.3. It is the ultimate responsibility of the Chair to discharge the requirement placed on the Trust to ensure that all relevant post holders (as defined in 3) meet the test.

2. Scope

- 2.1. This policy applies to Directors and people performing “the functions of or functions equivalent or similar to the functions” of a Director. For the purposes of this policy the positions within the Trust, the following are within the scope of this policy:
 - Non-Executive Directors (including the Chair)
 - Executive Directors (including the Chief Executive)
 - Any other position designated by the Chair or Chief Executive as being a role that performs a function of, or functions equivalent or similar to those, of a Director. For the avoidance of doubt, this would include any Associate Non-Executive Director appointments, interim appointments, and any other individuals who are members of the board, irrespective of their voting rights.
- 2.2. An individual falls under the requirement of the Regulated Activity Regulations regardless of whether they undertake the role on a permanent or interim basis.

3. Duties and responsibilities

Role	Has responsibility for
Chair	Overall accountability for arrangements in their organisation <ul style="list-style-type: none">• ensure assessments carried out for Board members on appointment and annually, and at any time that something new comes to light• ensure that the Board Member Reference is completed for any Board member who leaves the Board for whatever reason, whether or not a reference has been requested• conclude on assessments for the whole Board (executive and non-executive, permanent or temporary, voting or non-voting) and update Electronic Staff Record• submit annual summary to relevant regional director
Deputy Chair	<ul style="list-style-type: none">• carrying out the Fit and Proper Person Test assessment for the Chair;• undertaking investigations into any concerns raised about the Chair (with the support of the Associate Director of Corporate Governance / Company Secretary Team)
Human Resources and Company Secretary Team	Support Chair in establishing arrangements for the Fit and Proper Person Test and specifically for: <ul style="list-style-type: none">• accessing and entering information onto Electronic Staff Record• testing elements of Fit and Proper Person test assessment and

	<ul style="list-style-type: none"> recording outcome and evidence for chair to review and conclude • completing the annual submission form
Remuneration Committee	<ul style="list-style-type: none"> • approval of the Fit and Proper Person Test Policy
Chief Executive /Managing Director	<ul style="list-style-type: none"> • carry out initial assessment of the Fit and Proper Person Test for executive board members and share with the chair for overall assessment of board member Fit and Proper Person status • support the chair
Directors	<ul style="list-style-type: none"> • giving their consent, on request, to the pre-employment checks described in Appendix 3; • providing evidence of their qualifications, experience and identity documents on appointment or on request to confirm the competencies relevant to the position; • confirming that they are a fit and proper person on appointment (by signing the declaration provided in Appendix 4 for new directors) and thereafter on an annual basis; • identifying any issues which may affect their ability to meet the statutory requirements on appointment and bringing any issues on an on-going basis to the Chair
Staff	<ul style="list-style-type: none"> • raising any concerns via the appropriate Trust policies and procedures, for example through the Freedom to Speak Up - Raising Concerns (Whistleblowing) Policy.
NHS Regional Directors	<p>Oversight role covering elements of:</p> <ul style="list-style-type: none"> • appointment and initial Fit and Proper Person Test assessment • receipt of the annual Fit and Proper Person Test submission forms • where required, in relation to disputes and appeals

4. Standards and Practice

4.1. Fit and Proper Person definition

4.1.1. Regulation 5 of the Health & Social Care Act 2008 (Regulated Activities) Regulation 2014 sets out the criteria that a director must meet on appointment, and on an ongoing basis:

- be of good character
- have the qualifications, competence, skills and experience necessary for the relevant office or position or the work for which they are employed
- be 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
- not have been responsible for, 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)
- not be 'unfit' by reason of matters set out in paragraph 4.2.2 below.

4.2. The 'Unfit Person test' and considerations relating to 'Good Character'

4.2.1. Schedule 4 of the Health & Social Care Act 2008 (Regulated Activities) Regulations 2014 (see Appendix 2) describes the unfit person test (part 1) and matters to be considered relating to 'good character' (part 2). Its purpose is to ensure that the Trust is not managed or controlled by individuals who present an unacceptable risk to the organisation or to patients.

- 4.2.2. Under Schedule 4, Part 1, a director is deemed unfit if:
- 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;
 - 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;
 - The person is a person to whom a moratorium period applies under a debt relief order, which applies under part VIIA (debt relief orders) of the Insolvency Act 1986(1);
 - The person has made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it;
 - 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;
 - The person is prohibited from holding the relevant office or position, or in the case of an individual from carrying on the regulated activity, by or under any enactment.
- 4.2.3. In determining whether an individual is of good character, consideration will be given to Schedule 4, Part 2:
- 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; and / or
 - Whether the person has been erased, removed or struck off a register of professionals maintained by a regulator of health or social care work professionals.
- 4.2.4. The document [Regulation 5: Fit and proper persons: directors](#) released by the Care Quality Commission in 2018 provides additional guidance to help providers interpret and implement the regulation. This guidance will be taken into account by the Trust in reviewing an individual's compliance with the Fit and Proper Person Test. The document outlines:
- Definitions of misconduct and mismanagement and when proven misconduct or mismanagement should be assessed as 'serious'
 - Factors to consider around concerns regarding serious misconduct or mismanagement
 - Features that would normally be associated with 'good character' and factors to consider when assessing 'good character'

4.3. **New Director Appointments**

- 4.3.1. All appointments will be subject to the individual satisfactorily meeting the Fit and Proper Person Test prior to confirmation of offer of employment/office. An agreed sign-off process with all relevant checks (Appendix 3) will be carried out prior to final checking by the Trust Chair or nominated deputy and conditional offer. This will include completion, by the individual, of a self-attestation (Appendix 4). All offers must be conditional on meeting the statutory requirements.
- 4.3.2. Where a senior level post or interim is sourced by an agency or executive search company, the agency will be made aware of the Trust's Fit and Proper Person Test process and must confirm that they have undertaken the necessary checks; compliance will be confirmed by the Trust.
- 4.3.3. Disclosure & Barring Service checks - Where the position and role of the director meets the eligibility criteria, a Disclosure & Barring Service check will be undertaken in accordance with the Trust's HR.87 Criminal Records (DBS) Policy.
- <https://wvt-intranet.wvt.nhs.uk/media/65610/criminal-records-dbs-policy-hr87-trust-wide-policy.pdf>
- 4.3.4. Disqualification - A failure or refusal by a candidate for appointment to comply with any of the procedures set out in this policy will immediately disqualify that person from the proposed appointment.

4.3.5. Ineligibility of candidates - If the candidate fails to show that they meet the Fit and Proper Person Test as outlined in 4.1 above, the Trust will withdraw the provisional offer of employment.

4.4. **Joint appointments across different NHS organisations**

4.4.1. For joint appointments across different NHS organisations, the full Fit and Proper Person Test would need to be completed by the designated host/employing NHS organisation and in concluding their assessment they will need input from the chair of the other contracting NHS organisation to ensure that the board member is fit and proper to perform both roles.

4.4.2. The host/employing NHS organisation will then provide a 'letter of confirmation' to the other contracting NHS organisation to confirm that the board member in question has met the requirements of the Fit and Proper Person Test.

4.4.3. The chair of the other contracting NHS organisation has the responsibility to keep the host/employing NHS organisation abreast of changes and any matters that may impact the Fit and Proper Person test assessment of the board member.

4.4.4. For the avoidance of doubt, where two or more organisations employ or appoint (in the case of a chair or Non-Executive Director) an individual for two or more separate roles at the same time, each organisation has a responsibility to complete the Fit and Proper Person Test.

4.4.5. If the Fit and Proper Person assessment at one organisation finds an individual not to be a Fit and Proper Person, the chair should update their counterpart of any other NHS organisation(s) where the individual has a board-level role and explain the reason. To note, the issue at one organisation may be one of role-specific competence, which may not necessarily mean the individual is not a Fit and Proper Person at the other organisation

4.5. **Existing Directors: Annual Review Process**

4.5.1. The Trust is responsible for ensuring that relevant individuals continue to meet the Fit and Proper Person Test. This shall be done through an annual review which will be aligned with appraisal dates to ensure that outcomes are available for reference at individual appraisals. Documentation will include:

- Completion of the self-attestation form (Appendix 4) by the individual
- Annual checks against the disqualified directors register, the bankruptcy and insolvency register, the removed charity trustees register and relevant professional registers

4.5.2. The Chair will review and sign (Appendix 5) to confirm that the annual checks have been completed and that the person continues to meet the Fit and Proper Person Test. Confirmation of compliance will be declared in the Trust's Annual Report.

4.6. **Existing Directors: Responsive Review Process**

4.6.1. Circumstances may arise where concerns are raised about the Fit and Proper Person status of an individual, either by self-notification, or as a result of concerns raised by a third party. Should this occur then a review should take place outside of the normal testing schedule.

4.7. **Existing Directors: Action required via Annual / Responsive Review process**

4.7.1. If an individual is deemed competent but does not hold relevant qualifications, there should be a documented explanation, approved by the chair, as to why the individual in question is deemed fit to be appointed as a board member, or fit to continue in role if they are an existing board member. This should be recorded in the annual return to the NHS England regional director.

- 4.7.2. If an individual is deemed unfit (they failed the Fit and Proper Person Test) for a particular reason (other than qualifications) but the NHS organisation appoints them or allows them to continue their current employment as a board member. In such circumstances there should be a documented explanation as to why the board member is unfit and the mitigations taken, which is approved by the chair. This should be submitted to the relevant NHS England regional director for review, either as part of the annual Fit and Proper Person Test submission for the NHS organisation, or on an ad hoc basis as a case arises.
- 4.7.3. If an individual is deemed to no longer meet the Fit and Proper Persons Test (either through the annual review process, or via a responsive review), the Chair will be notified and is responsible for making an informed decision regarding the course of action to be followed.

4.8. **Dispute Resolution**

4.8.1. Data and information

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

4.8.1.2. 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 Non-Executive Directors and Integrated Care Board 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 Senior Independent Director or deputy chair who would establish a process proportionate to the matter being considered; for example, establishing a panel with at 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 Information Commissioner’s Office
 - taking the matter to an employment tribunal (for executive director roles only)
 - instigating civil proceedings.

4.8.2. Outcome of Fit and Proper Person Test assessment

4.8.2.1. Where a board member disagrees with the outcome of the Fit and Proper Person Test assessment and they have been deemed ‘not fit and proper,’ 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 Board Member Reference 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.

4.8.3. At any point, employees have the right to take the matter to an Employment Tribunal.

4.9 Personal Data

- 4.9.1 Personal data for board members relating to the Fit and Proper Person Test assessment will be retained in local record systems and on the NHS Electronic Staff Record.
- 4.9.2 Fit and Proper Person Test outcomes must be entered onto Electronic Staff Record so that an Electronic Staff Record Fit and Proper Person Test Dashboard can be reviewed by the Chair. Once satisfied, the Chair must update and sign off each Board member on Electronic Staff Record.
- 4.9.3 An annual submission form (Appendix 6) will be generated for Chair sign off and submitted to the NHS England Regional Director, where the NHS England Fit and Proper Person test central team will collate records from NHSE regions.

4.10 Board Member Reference Request

- 4.10.1 NHS organisations will need to request board member references (Appendix 7), and store information relating to these references so that it is available for future checks; and use it to support the full Fit and Proper Person test assessment on initial appointment.
- 4.10.2 NHS organisations should maintain complete and accurate board member references at the point where the board member departs, irrespective of whether there has been a request from another NHS employer and including in circumstances of retirement. Both the initial and board member references should be retained locally on Electronic Staff Record.
- 4.10.3 Board member references will apply as part of the Fit and Proper Person test assessment when there are new board member appointments, either internal to a particular NHS organisation, internal to the NHS, or external to the NHS. This applies whether permanent or temporary where greater than six weeks; specifically:
 - New appointments that have been promoted within an NHS organisation.
 - Existing board members at one NHS organisation who move to another NHS organisation in the role of a board member.
 - Individuals who join an NHS organisation in the role of board member for the first time from an organisation that is outside of the NHS.
 - Individuals who have been a board member in an NHS organisation and join another NHS organisation not in the role of board member, that is, they take a non-Board level role.

5. Training requirements

- 5.1 Training will be provided by the Associate Director of Corporate Governance / Company Secretary Team to Directors if required around the declarations to be made.

6. Monitoring Compliance

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements
Fit and Proper Persons tests undertaken for newly appointed Directors	Associate Director of Corporate Governance / Company Secretary	Audit of personal files to ensure the pre-employment checks (including FPPT) have been undertaken for all new Director appointees.	On appointment	Trust Chair / Chief Executive
Annual Fit and Proper Persons test declarations completed by existing Directors.	Associate Director of Corporate Governance / Company Secretary	Audit of personal files to ensure the annual fit and proper persons declarations have been completed by existing Directors.	Annually	Trust Chair / Chief Executive

7. Document Review

- 7.1.1 The policy will be reviewed after three years or earlier in view of developments which may include legislative changes, national policy instruction or Trust Board decision.

8. Associated trust documents and supporting references

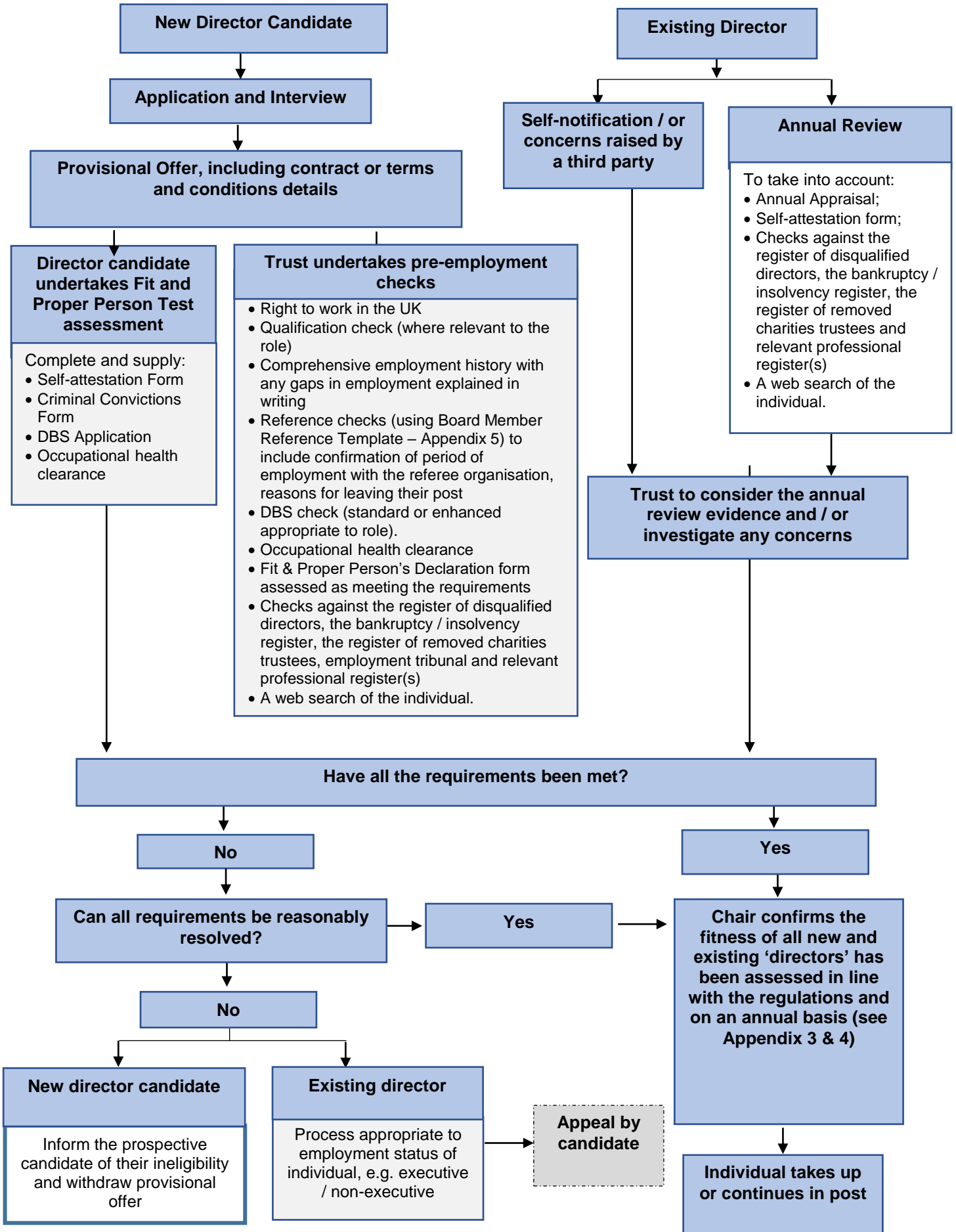
- HR.87 Criminal Records (DBS) Policy
 - ✚ <https://wvt-intranet.wvt.nhs.uk/media/65610/criminal-records-dbs-policy-hr87-trust-wide-policy.pdf>
- IG.10 – Information Governance High Level Policy / IG.12 Data Protection Act Policy
 - ✚ <https://wvt-intranet.wvt.nhs.uk/media/66769/information-governance-high-level-policy-ig10-wvt-trust-wide-policy.pdf>
 - ✚ <https://wvt-intranet.wvt.nhs.uk/media/60809/data-protection-act-policy-ig12-wvt-trust-wide-policy.pdf>
- HR.80 Appraisal Policy
 - ✚ <https://wvt-intranet.wvt.nhs.uk/media/54425/appraisal-policy-hr80-wvt-trust-wide-policy.pdf>
- HR.02 Disciplinary Policy (not updated since 2021)
 - ✚ <https://wvt-intranet.wvt.nhs.uk/media/54425/appraisal-policy-hr80-wvt-trust-wide-policy.pdf>
- HR.26 Freedom to Speak Up Policy
 - ✚ <https://wvt-intranet.wvt.nhs.uk/media/64686/freedom-to-speak-up-policy-hr26-posted-feb-2023-links-udated-new-pic.pdf>
- [Equality Act 2010 \(legislation.gov.uk\)](#)
- [NHS Employers 2018](#)
- [Safeguarding Vulnerable Groups Act 2008](#)
- [Fit and proper persons: directors - Care Quality Commission \(cqc.org.uk\)](#)
- [The Health and Social Care Act \(Regulated Activities\) Regulations 2014](#)
- [NHS Employers Employment Check standards](#)
- [Insolvency Act 1986](#)
- [Police Act 1997](#)

- [Fit and Proper Persons Regulations in the NHS – What do providers need to know? \(NHS Providers\).](#)
- [Fit and proper person regulation \(FPPR\) | NHS Employers](#)
- [NHS England Fit and Proper Person Test Framework for board members \(August 2023\).](#)

9. Definitions and Glossary

Term	Definition
Care Quality Commission (CQC)	The regulator for health and social care services in England
Director	For the purposes of this policy, Directors are the group of people constituted (formally or informally) as the decision-making body of the organisation. This includes interim positions as well as permanent appointments.
Fit and proper person test for directors	Aims to ensure 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 & Social Care Act 2008 (Regulated Activities) Regulations 2014
Misconduct	Conduct that breaches a legal or contractual obligation imposed on the director.
Mismanagement	Being involved in the management of an organisation or part of an organisation in such a way that the quality of decision making and actions of the managers falls below any reasonable standard of competent management.

Appendix 1: Fit and Proper Person Test Process



Appendix 2: Regulation 5 – Schedule 3: Information required in respect of persons employed or appointed for the purposes of a regulated activity

1. Proof of identity including a recent photograph.
2. Where required for the purposes of an exempted question in accordance with section 113A(2)(b) of the Police Act 1997(1), a copy of a criminal record certificate issued under section 113A of that Act together with, after the appointed day and where applicable, the information mentioned in section 30A(3) of the Safeguarding Vulnerable Groups Act 2006 (provision of barring information on request)(2).
3. Where required for the purposes of an exempted question asked for a prescribed purpose under section 113B(2)(b) of the Police Act 1997, a copy of an enhanced criminal record certificate issued under section 113B of that Act together with, where applicable, suitability information relating to children or vulnerable adults.
4. Satisfactory evidence of conduct in previous employment concerned with the provision of services relating to—
 - (a) health or social care, or
 - (b) children or vulnerable adults.
5. Where a person (P) has been previously employed in a position whose duties involved work with children or vulnerable adults, satisfactory verification, so far as reasonably practicable, of the reason why P's employment in that position ended.
6. In so far as it is reasonably practicable to obtain, satisfactory documentary evidence of any qualification relevant to the duties for which the person is employed or appointed to perform.
7. A full employment history, together with a satisfactory written explanation of any gaps in employment.
8. Satisfactory information about any physical or mental health conditions which are relevant to the person's capability, after reasonable adjustments are made, to properly perform tasks which are intrinsic to their employment or appointment for the purposes of the regulated activity.
9. For the purposes of this Schedule—
 - (a) "the appointed day" means the day on which section 30A of the Safeguarding Vulnerable Groups Act 2006 comes into force;
 - (b) "satisfactory" means satisfactory in the opinion of the Commission;
 - (c) "suitability information relating to children or vulnerable adults" means the information specified in sections 113BA and 113BB respectively of the Police Act 1997.

Appendix 3: Fit and Proper Person Test checklist

Fit and Proper Person Test Area	Record in Electronic Staff Record	Local evidence folder	Recruitment Test	Annual Test	Executive Director	Non-Executive Director	Source	Notes
First name	✓	✓	✓	x – unless change	✓	✓	Application and recruitment process.	Recruitment team to populate Electronic Staff Record. For NHS-to-NHS moves via Electronic Staff Record / Inter-Authority Transfer/ NHS Jobs. For non-NHS – from application – whether recruited by NHS England, in-house or through a recruitment agency.
Second name/surname	✓	✓	✓	x – unless change	✓	✓		
Organisation (ie current employer)	✓	x	✓	N/A	✓	✓		
Staff group	✓	x	✓	x – unless change	✓	✓		
Job title Current Job Description	✓	✓	✓	x – unless change	✓	✓		
Occupation code	✓	x	✓	x – unless change	✓	✓		
Position title	✓	x	✓	x – unless change	✓	✓		
Employment history Including: <ul style="list-style-type: none"> • job titles • organisations/ departments • dates and role descriptions • gaps in employment 	✓	x	✓	x	✓	✓	Application and recruitment process, CV, etc.	Any gaps that are because of any protected characteristics, as defined in the Equality Act 2010, do not need to be explained. The period for which information should be recorded is for local determination, taking into account relevance to the person and the role. It is suggested that a career history of no less than six years and covering at least two roles would be the minimum. Where there have been gaps in employment, this period should be extended accordingly.

Fit and Proper Person Test Area	Record in Electronic Staff Record	Local evidence folder	Recruitment Test	Annual Test	Executive Director	Non-Executive Director	Source	Notes
Training and development	✓	✓	✓	✓	✓	*	<p>Relevant training and development from the application and recruitment process; that is, evidence of training (and development) to meet the requirements of the role as set out in the person specification.</p> <p>Annually updated records of training and development completed/ongoing progress.</p>	<p>* NED recruitment often refers to a particular skillset/experience preferred, e.g. clinical, financial, etc, but a general appointment letter for NEDs may not then reference the skills/experience requested. Some NEDs may be retired and do not have a current professional registration.</p> <p>At recruitment, organisations should assure themselves that the information provided by the applicant is correct and reasonable for the requirements of the role.</p> <p>For all board members: the period for which qualifications and training should look back and be recorded is for local determination, taking into account relevance to the person and the role.</p> <p>It is suggested that key qualifications required for the role and noted in the person specification (e.g. professional qualifications) and dates are recorded however far back that may be.</p> <p>Otherwise, it is suggested that a history of no less than six years should be the minimum. Where there have been gaps in employment, this period should be extended accordingly.</p>
References Available references from previous employers	✓	✓	✓	x	✓	✓	Recruitment process	Including references where the individual resigned or retired from a previous role

Fit and Proper Person Test Area	Record in Electronic Staff Record	Local evidence folder	Recruitment Test	Annual Test	Executive Director	Non-Executive Director	Source	Notes
Last appraisal and date	✓	✓	✓	✓	✓	*	Recruitment process and annual update following appraisal	* For Non-Executive Directors, information about appraisals is only required from their appointment date forward. No information about appraisals in previous roles is required.
Disciplinary findings That is, any upheld finding pursuant to any NHS organisation policies or procedures concerning employee behaviour, such as misconduct or mismanagement	✓	✓	✓	✓	✓	✓	Reference request (question on the new Board Member Reference). Electronic Staff Record (high level)/ local case management system as appropriate.	The new BMR includes a request for information relating to investigations into disciplinary matters/ complaints/ grievances and speak-ups against the board member. This includes information in relation to open/ ongoing investigations, upheld findings and discontinued investigations that are relevant to Fit and Proper Person Test. This question is applicable to board members recruited both from inside and outside the NHS.
Grievance against the board member	✓	✓	✓	✓	✓			
Whistleblowing claim(s) against the board member	✓	✓	✓	✓	✓			
Behaviour not in accordance with organisational values and behaviours or related local policies	✓	✓	✓	✓	✓			

Fit and Proper Person Test Area	Record in Electronic Staff Record	Local evidence folder	Recruitment Test	Annual Test	Executive Director	Non-Executive Director	Source	Notes
Type of Disclosure and Barring Service disclosed	✓	✓	✓	✓	✓	✓	Electronic Staff Record and DBS response.	Frequency and level of Disclosure and Barring Service in accordance with local policy for board members. Check annually whether the Disclosure and Barring Service needs to be reapplied for. Maintain a confidential local file note on any matters applicable to Fit and Proper Person Test where a finding from the Disclosure and Barring Service needed further discussion with the board member and the resulting conclusion and any actions taken/required.
Date Disclosure and Barring Service received	✓	✓	✓	✓	✓	✓	Electronic Staff Record	
Date of medical clearance* (including confirmation of OHA)	✓	X	✓	x – unless change	✓	✓	Local arrangements	
Date of professional register check (eg membership of professional bodies)	✓	X	✓	✓	✓	X	E.g. NMC, GMC, accountancy bodies.	
Insolvency check	✓	✓	✓	✓	✓	✓	Bankruptcy and Insolvency register	Keep a screenshot of check as local evidence of check completed.
Disqualified Directors Register check	✓	✓	✓	✓	✓	✓	Companies House	
Disqualification from being a charity trustee check	✓	✓	✓	✓	✓	✓	Charities Commission	

Fit and Proper Person Test Area	Record in Electronic Staff Record	Local evidence folder	Recruitment Test	Annual Test	Executive Director	Non-Executive Director	Source	Notes
Employment Tribunal Judgement check	✓	✓	✓	✓	✓	✓	Employment Tribunal Decisions	
Social media check	✓	✓	✓	✓	✓	✓	Various – Google, Facebook, Instagram, etc.	
Self-attestation form signed	✓	✓	✓	✓	✓	✓	Template self-attestation form	
Sign-off by Chair/Chief Executive	✓	x	✓	✓	✓	✓	Electronic Staff Record	Includes free text to conclude in Electronic Staff Record fit and proper or not. Any mitigations should be evidence locally.
Other templates to be completed								
Board Member Reference	✓	✓	x	x	✓	✓	Template BMR	To be completed when any board member leaves for whatever reason and retained career-long or 75th birthday, whichever latest.
Letter of Confirmation	x	✓	✓	✓	✓	✓	Template	For joint appointments only
Annual Submission Form	x	✓	✓	✓	✓	✓	Template	Annual summary to Regional Director
Privacy Notice	x	✓	x	x	✓	✓	Template	Board members should be made aware of the proposed use of their data for Fit and Proper Person Test
Settlement Agreements	x	✓	✓	✓	✓	✓	Board member reference at recruitment and any other information that comes to light on an ongoing basis.	Chair guidance describes this in more detail. It is acknowledged that details may not be known/disclosed where there are confidentiality clauses.

Appendix 4 - Fit and Proper Person Test annual / new starter self-attestation

WYE VALLEY NHS TRUST

- I declare that I am a fit and proper person to carry out my role. I:
 - am of good character
 - have the qualifications, competence, skills and experience which are necessary for me to carry out my duties
 - where applicable, have not been erased, removed or struck-off a register of professionals maintained by a regulator of healthcare or social work professionals
 - am capable by reason of health of properly performing tasks which are intrinsic to the position
 - am not prohibited from holding office (eg directors disqualification order)
 - within the last five years:
 - I have not been convicted of a criminal offence and sentenced to imprisonment of three months or more
 - been un-discharged bankrupt nor have been subject to bankruptcy restrictions, or have made arrangement/compositions with creditors and has not discharged
 - nor is on any 'barred' list.
 - have not been responsible for, 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.
 - The legislation states: if you are required to hold a registration with a relevant professional body to carry out your role, you must hold such registration and must have the entitlement to use any professional titles associated with this registration. Where you no longer meet the requirement to hold the registration, and if you are a healthcare professional, social worker or other professional registered with a healthcare or social care regulator, you must inform the regulator in question.
 - Should my circumstances change, and I can no longer comply with the Fit and Proper Person Test (as described above), I acknowledge that it is my duty to inform the chair.

• Name and job title/role:	•
• Professional registrations held (ref no):	•
• Date of DBS check/re-check (ref no):	•
• Signature:	•
• Date of last appraisal, by whom:	•
• Signature of board member:	•
• Date of signature of board member:	•
• For chair to complete	
• Signature of chair to confirm receipt:	•
• Date of signature of chair:	•

Appendix 5: Fit and Proper Persons Requirement – Annual Checklist for existing Directors

Name	
Position	

Item	Checked by (Initials)	Any relevant information to note
Fit and Proper Persons Requirement self-declaration signed and returned (appendix 4)		
Disqualified Directors Check		(date to be noted)
Bankruptcy & insolvency check		(date to be noted)
Removed Charity Trustees check		(date to be noted)
Financial Conduct Authority <i>where individual has worked for an organisation regulated by the Financial Conduct Authority (FCA)</i>		(date to be noted)
Employees Tribunal		(date to be noted)
Where appropriate, relevant professional registers		
Web search results		

I confirm that the above checks have been undertaken and I am satisfied the individual named above is assessed to be a “fit and proper person” to continue in their appointed role.

Trust Chair	Name	Signature	Date

Appendix 6 - Annual NHS Fit and Proper Person Test submission reporting template

NAME OF ORGANISATION	NAME OF CHAIR	FIT AND PROPER PERSON TEST PERIOD / DATE OF AD HOC TEST:

Part 1: Fit and Proper Person Test outcome for board members including starters and leavers in period

Name	Date of appointment	Position	Confirmed as fit and proper?		Leavers only	
			Yes/No	Add 'Yes' only if issues have been identified and an action plan and timescale to complete it has been agreed	Date of leaving and reason	Board member reference completed and retained? Yes/No

Add additional lines as needed

Part 2: Fit and Proper Person Test reviews / inspections

Use this section to record any reviews or inspections of the Fit and Proper Person Test process, including Care Quality Commission, internal audit, board effectiveness reviews, etc.

Reviewer / inspector	Date	Outcome	Outline of key actions required	Date actions completed
Care Quality Commission				
Other, eg internal audit, review board, etc.				

Add additional lines as needed

Part 3: Declarations

DECLARATION FOR [NAME OF TRUST] [YEAR]				
For the Senior Independent Director/Deputy Chair to complete:				
Fit and Proper Person Test for the chair (as board member)	Completed by (role)	Name	Date	Fit and proper? Yes/No

For the chair to complete:

Have all board members been tested and concluded as being fit and proper?	Yes/No	If 'no', provide detail:

Are any issues arising from the Fit and Proper Person Test being managed for any board member who is considered fit and proper?	Yes/No	If 'yes', provide detail:

As Chair of [organisation], I declare that the Fit and Proper Person Test submission is complete, and the conclusion drawn is based on testing as detailed in the Fit and Proper Person Test framework.

Chair signature:

Date signed:

For the regional director to complete:

Name:

Signature:

Date:

Social Media Fit & Proper Persons Assessment Protocol

Social Media Checks	<p>Background checks include the practice of reviewing an employee's social media and web presence to ensure they are an appropriate fit for a position.</p> <p>Public profile and information only for annual review. No private posts can be assessed.</p>
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Content Clarifiers	<p>Extremist Groups Swearing and profanity Negative sentiment Hate speech Violent images Potential nudity Toxic language</p>
Facebook	To review Trust Facebook accounts: posts on timeline and images
Instagram	Account required to view profiles To review posts and comments made on posts
X/Twitter	To use Trust X account to view profiles, posts, retweets, replies and images
Linkedin	Account required to view profiles To review articles, images and videos
Youtube	To use Trust Youtube to view videos To review videos posted and comments made on videos.
Tumblr	To review posts and images
Medium	Account required to view profiles To review posts, blogs and images
Flicker	To review images, photographs, titles and comments
Google	General first and surname checks

Testing Requirements	First Check / Annual Check
	<p>To review postings from the previous 2 years as a baseline</p> <p>To review postings from the previous year only</p>
Testing criteria	<p>Surname, job title Surname, first name Surname, NHS Surname, Hospital Official first name and chosen/used first name</p>
Process if flag of concern found	Inform the Company Secretary to ensure the concerns are addressed with the Chairman/Deputy Chairman.
Evidence for File	Confirmation Email for each staff member to be placed on personal file as part of FPP process noting nothing of concern found.

Appendix 7 - Board Member Reference

[Date]

Human resources officer/name of referee

Recruitment officer

External/NHS organisation receiving request

HR department initiating request

Dear [HR officer's/referee's name]

Re: [applicant's name] - [ref. number] – [Board Member position]

The above-named person has been offered the board member position of [post title] at the [name of the NHS organisation initiating request]. This is a high-profile and public facing role which carries a high level of responsibility. The purpose of NHS boards is to govern effectively, and in so doing build patient, staff, public and stakeholder confidence that the public's health and the provision of healthcare are in safe hands.

Taking this into account, I would be grateful if you could complete the attached confirmation of employment request as comprehensively as possible and return it to me as soon as practically possible to ensure timely recruitment.

Please note that under data protection laws and other access regimes, applicants may be entitled to information that is held on them.

Thank you in advance for your assistance in this matter.

Yours sincerely

[Recruitment officer's name]

Board Member Reference request for NHS Applicants:

To be used only AFTER a conditional offer of appointment has been made.
Information provided in this reference reflects the most up to date information available at the time the request was fulfilled.

1. Name of the applicant (1)

2. National Insurance number or date of birth

3. Please confirm employment start and termination dates in each previous role

A: (if you are completing this reference for pre-employment request for someone currently employed outside the NHS, you may not have this information, please state if this is the case and provide relevant dates of all roles within your organisation)

B: (As part of exit reference and all relevant information held in Electronic Staff Record under Employment History to be entered)

Job Title:

From:

To:

Job Title

From:

To:

Job Title:

From:

To:

Job Title:

From:

To:

Job Title:

From:

To:

4. Please confirm the applicant's current/most recent job title and essential job functions (if possible, please attach the Job Description or Person Specification as Appendix A):

(This is for Executive Director board positions only, for a Non-Executive Director, please just confirm current job title)

<p>5. Please confirm Applicant remuneration in current role <i>(this question only applies to Executive Director board positions applied for)</i></p>	<p><u>Starting:</u></p>	<p><u>Current:</u></p>
<p>6. Please confirm all Learning and Development undertaken during employment: <i>(this question only applies to Executive Director board positions applied for)</i></p>		
<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? <i>(only applicable if being requested after a conditional offer of employment)</i></p>	<p><u>Days Absent:</u></p>	<p><u>Absence Episodes:</u></p>
<p>8. Confirmation of reason for leaving:</p>		

9. Please provide details of when you last completed a check with the Disclosure and Barring Service (DBS) (This question is for Executive Director appointments and non-Executive Director appointments where they are already a current member of an NHS Board)		
Date Disclosure and Barring Service check was last completed. Please indicate the level of Disclosure and Barring Service 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	Date Level Adults <input type="checkbox"/> Children <input type="checkbox"/> Both <input type="checkbox"/>	
10. Did the check return any information that required further investigation?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please provide a summary of any follow up actions that need to/are still being actioned:		
11. Please confirm if all annual appraisals have been undertaken and completed (This question is for Executive Director appointments and non-Executive Director appointments where they are already a current member of an NHS Board)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Please provide a summary of the outcome and actions to be undertaken for the last 3 appraisals:		

<p>12. Is there any relevant information regarding any outstanding, upheld or discontinued complaint(s) or other matters 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> <p>(For applicants from outside the NHS please complete as far as possible considering the arrangements and policy within the applicant's current organisation and position)</p>	<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
<p>If yes, please provide a summary of the position and (where relevant) any findings and any remedial actions and resolution of those actions:</p>		
<p>13. 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>(For applicants from outside the NHS please complete as far as possible considering the arrangements and policy within the applicant's current organisation and position)</p>	<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
<p>If yes, please provide a summary of the position and (where relevant) any findings and any remedial actions and resolution of those actions:</p>		

14. Please provide any further information and concerns about the applicant's fitness and propriety, not previously covered, relevant to the Fit and Proper Person Test to fulfil the role as a director, be it executive or non-executive. Alternatively state Not Applicable. (Please visit links below for the Care Quality Commission definition of good characteristics as a reference point) (7)(12)

Regulation 5: Fit and proper persons: directors - Care Quality Commission (cqc.org.uk)

The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (legislation.gov.uk)

15. 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.

Referee name (please print): Signature:

Referee Position Held:

Email address:

Telephone number:

Date:

Data Protection:

This form contains personal data as defined by the Data Protection Act 2018 and UK implementation of the General Data Protection Regulation). This data has been requested by the Human Resources/ Workforce Department for the purpose of recruitment and compliance with the Fit and Proper Person requirements applicable to healthcare bodies. It must not be used for any incompatible purposes. The Human Resources/Workforce Department must protect any information disclosed within this form and ensure that it is not passed to anyone who is not authorised to have this information.

Equality Impact Assessment

Please read EIA Guidance when completing this form.

https://wvt-intranet.wvt.nhs.uk/media/58475/equality-impact-assessment-guidance_wvt.pdf

Section 1

Name of Lead for Activity:	
Job Title:	

Details of individuals completing this assessment	Name	Job Title	Email Contact
Date assessment completed			

Section 2

Activity being assessed (e.g. policy/procedure, document, service redesign, policy, strategy etc.)	Title:			
What is the aim, purpose and/or intended outcomes of this Activity?				
Who will be affected by the development & implementation of this activity?	<input type="checkbox"/>	Service User	<input type="checkbox"/>	Staff
	<input type="checkbox"/>	Patient	<input type="checkbox"/>	Communities
	<input type="checkbox"/>	Carers	<input type="checkbox"/>	Other
	<input type="checkbox"/>	Visitors	<input type="checkbox"/>	_____
Is this:	<input type="checkbox"/> Review of an existing activity <input type="checkbox"/> New activity <input type="checkbox"/> Planning to withdraw or reduce a service, activity or presence?			
What information and evidence have you reviewed to help inform this assessment? (Please name sources, e.g. demographic information for patients / services / staff groups affected, complaints etc.)				
Summary of engagement or consultation undertaken (e.g. who, and how, have you engaged with, or why do you believe this is not required)				

Summary of relevant findings	
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Section 3

Please consider the potential impact of this activity (during development & implementation) on each of the equality groups outlined below. **Please tick one or more impact box below for each Equality Group and explain your rationale.** Please note it is possible for the potential impact to be both positive and negative within the same equality group and this should be recorded. Remember to consider the impact on e.g. staff, public, patients, carers etc. in these equality groups.

Equality Group	Potential <u>positive</u> impact	Potential <u>neutral</u> impact	Potential <u>negative</u> impact	Please explain your reasons for any potential positive, neutral or negative impact identified
Age				
Disability				
Gender Reassignment				
Marriage & Civil Partnerships				
Pregnancy & Maternity				
Race including Traveling Communities				
Religion & Belief				
Sex				
Sexual Orientation				
Other Vulnerable and Disadvantaged Groups (e.g. carers; care leavers; homeless; Social/Economic deprivation, travelling communities etc.)				
Health Inequalities (any preventable, unfair & unjust differences in health status between groups, populations or individuals that arise from the unequal distribution of social, environmental & economic conditions within societies)				

Section 4

What actions will you take to mitigate any potential negative impacts?			
Risk identified	Actions required to reduce / eliminate negative impact	Who will lead on the action?	Time frame

How will you monitor these actions?

When will you review this EIA? (e.g. in a service redesign, this EIA should be revisited regularly throughout the design & implementation)

Section 5

Please read and agree to the following Equality Statement

Equality Statement

- 1.1. All public bodies have a statutory duty under the Equality Act 2010 to set out arrangements to assess and consult on how their policies and functions impact on the 9 protected characteristics: Age; Disability; Gender Reassignment; Marriage & Civil Partnership; Pregnancy & Maternity; Race; Religion & Belief; Sex; Sexual Orientation
- 1.2. WVT will challenge discrimination, promote equality, respect human rights, and aims to design and implement services, policies and measures that meet the diverse needs of our service, and population, ensuring that none are placed at a disadvantage over others.
- 1.3. All staff are expected to deliver services and provide services and care in a manner which respects the individuality of service users, patients, carers etc. and as such treat them and members of the workforce respectfully, paying due regard to the 9 protected characteristics

Signature of person completing EIA:	
Date signed:	
Comments:	
Signature of Lead for this activity:	
Date signed:	
Comments:	