



## FIT AND PROPER PERSONS POLICY AND PROCEDURES

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## **1. INTRODUCTION**

- 1.1 New regulations came into effect for NHS bodies on 27 November 2014 (Document Reference A) requiring directors to be fit and proper persons (Regulation 5), and trusts to implement a duty of candour when dealing with complaints (Regulation 20). These Regulations, and the fundamental standards of care, were revised and brought into force more widely for all care providers, less partnerships, from 1 April 2015 (Reference B).
- 1.2 Regulation 5 establishes a statutory requirement governing the appointing of or having in place individuals as directors, or performing the functions of, or functions equivalent or similar to, the functions of a director (Regulation 5(2)).
- 1.3 Directors must satisfy all the requirements set out in Regulation 5(3) and be declared fit and proper persons. Individuals must be: of good character, have the necessary qualifications, competence, skills and experience for their role, have the appropriate level of physical and mental fitness, have not been party to any serious misconduct or mismanagement in the course of carrying on a regulated activity, and not be deemed unfit under Schedule 4, Part 1 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. Providers must also ensure that certain information regarding the individuals is available Regulation provisions to the CQC.

## **2. PURPOSE**

- 2.1 The purpose of the Regulation is to ensure that all Board level and director appointments at NHS bodies carrying on a regulated activity are held responsible for the overall quality and safety of the care provided, for making sure the care meets the existing regulations and effective requirements of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, and that providers and directors can be held to account. Services must be safe, effective, caring, responsive, and well-led.
- 2.2 The aim of this document is to provide the policy and procedures by which YDH will support its commitment to the fit and proper person requirements. The Trust will not permit any individual to hold the post of director who does not meet the standards required to be approved as a fit and proper person, either on appointment or through changing circumstances.

## **3. APPLICATION**

- 3.1 The Care Quality Commission (CQC) has fully integrated the fit and proper person requirements (FPPR) into their regulatory registration and inspection framework. YDH must demonstrate that it is meeting these requirements in order to continue to deliver regulated services, or to vary its registration with the CQC should it wish to do so.
- 3.2 The FPPR applies to all directors whether executive, non-executive, permanent, interim, deputy or assistant/associate directors, and irrespective of directors' Board voting rights. The requirement does not apply to the Council of Governors. Although it is for YDH to determine which individuals fall within its scope, the CQC will take a view on how effectively YDH has discharged its responsibility.
- 3.3 The CQC will check and monitor the extent to which YDH meets the requirements:
  - At the point of registration;
  - During an inspection under the 'well-led' question, the CQC will confirm that the Trust has undertaken appropriate checks and satisfied itself that on appointment, and subsequently, all new and existing directors meet the requirements; and
  - On receipt of concerning information regarding directors, it will be logged by the CQC as an enquiry and processed in line with their procedures in line with

safeguarding/whistleblowing protocols.

3.4 The CQC assesses the fitness of health service providers by focusing on the fitness of the nominated individuals. It will consider whether YDH has taken the appropriate steps to ensure that individuals are:

- Of good character;
- Have the necessary qualifications, competence, skills and experience for their role;
- Have the appropriate level of physical and mental fitness; and
- Have not been party to any serious misconduct or mismanagement in the course of carrying on a regulated activity, and are not deemed unfit under the Regulation provisions.

#### **4. KEY DOCUMENT REFERENCE**

4.1 This policy should be read in conjunction with the following:

- A. Regulation 5 Fit and Proper Persons: Directors and Regulation 20 Duty of Candour, Guidance for NHS Bodies, Care Quality Commission November 2014.
- B. Guidance for Providers on Meeting the Regulations, Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Part 3) (as amended), Care Quality Commission (Registration) Regulations 2009 (Part 4) (as amended), Care Quality Commission February 2015.
- C. Regulation 5 Fit and Proper Persons: Directors, Information for NHS Bodies, Care Quality Commission March 2015.
- D. Regulation 5 Fit and Proper Persons: Directors, Information for providers of Adult Social Care, Primary Medical and Dental Care, and independent Healthcare, Care Quality Commission March 2015.
- E. NHS Employment Check Standards revised September 2017.
- F. YDH HR Policy Manual (including policies for for maintaining high professional standards, capability, disciplinary and raising concerns).
- G. YDH Code of Conduct and Conflicts of Interest Policy

#### **5. PROCESS AND RESPONSIBILITIES**

5.1 It is the overall responsibility of the Chair of the Trust to discharge the FPPR, to ensure all directors meet the fitness test and not the unfit criteria, and to declare to the CQC that the Trust complies with the requirements of Regulation 5.

5.2 YDH has a responsibility to implement the following on a continuing basis:

- Provide the evidence that appropriate systems and processes are in place to ensure that all new and existing directors are and continue to be fit and proper persons, and do not meet any of the unfitness criteria set out in Schedule 4 part 2 of the regulations;
- Make every reasonable effort to assure itself about the suitability of an individual by all means available;
- Make specified information available to the CQC upon request.
- Be aware of the various guidelines available, and to have implemented procedures in line with this best practice;
- Inform the regulator where a director no longer meets the requirement and is registered with a health or social care professional regulator, and take action to ensure the position is held by someone meeting the requirement.

5.3 An overview of the process is set out at **Appendix 1**.

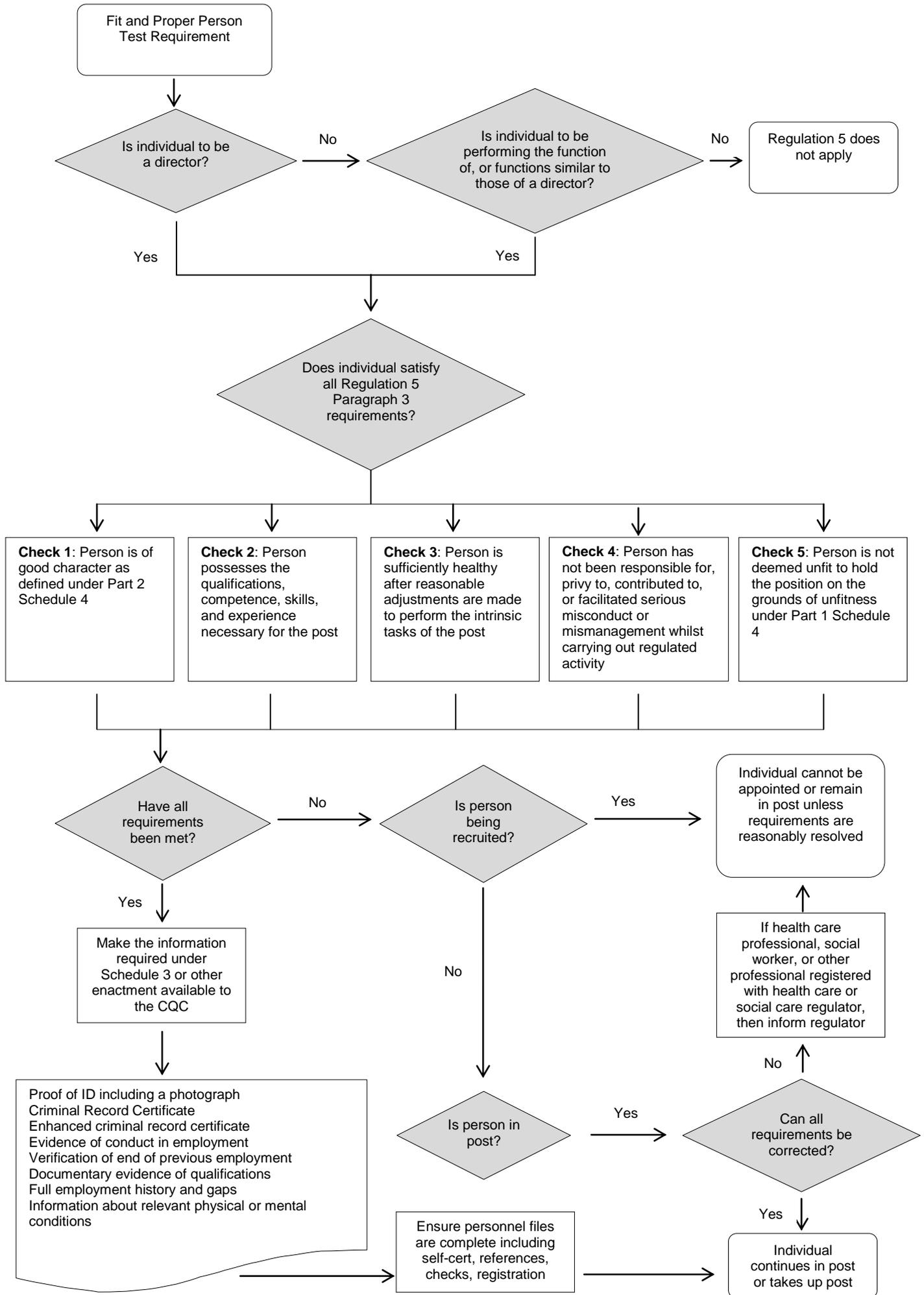
5.4 The checklist for assessing individuals (at appointment) as fit and proper is attached at **Appendix 2**.

- 5.5 Candidate declaration of fitness forms are attached at **Appendix 3 and 4** (A is used where YDH is undertaking a DBS check (previously CRB), B is for where no such check is required).
- 5.6 The declaration form for those already in post is included at Appendix 5 (which should be completed annually). Full checks as described at Appendix 2 will be carried out, in addition to the annual declaration, every three years.
- 5.7 Activity described at Appendix 2, 3 and 4 will be undertaken by the Trust's HR team. The annual declarations (Appendix 5) will be collected annually by the Company Secretary.
- 5.8 If an individual who holds an office or position no longer meets the requirements, YDH will take such action as is necessary and proportionate to ensure that the office or position is held by someone who does meet the requirements. The Trust may suspend individuals during investigations into whether the requirements are met, or if at any stage the Trust becomes aware of information which may mean an individual is not a fit and proper person. The issues will be addressed on a case by case basis in line with the Trust's HR manual. Where the individual is a health care professional, YDH will inform the regulator/professional body in question. Interim measures may be required to minimise the risk to people who use the services.

## **6 REVIEW**

- 6.1 This policy will be reviewed in 3 years as set out in Policy for the Management of Procedural Documents, or more frequently in the event of a major change to the law or any other circumstances which has an impact on the procedural document in question, at which point a review will take place as soon as reasonably practicable.

## APPENDIX 1 – FIT & PROPER DIRECTORS PROCESS OVERVIEW



### Fit and Proper Person Check – Pre-Employment Checklist

#### Procedural Checks 1 and 4: Good Character, and Misconduct or Mismanagement

No	Check and Evidence Required	Date Obtained	HR Initials
1.	Signed Declaration of Fitness from candidate (Form A or B, according to whether DBS checks required)		
2.	DBS checks - as appropriate to the post - in line with NHS Employment Check Standards.		
3.	Undertake police check/certificate of good character – only needed if individual has spent 6 months or more outside the UK in the last 5 years before application.		
4.	Where post requires the individual to be a registered health professional – check professional body’s register for: <ul style="list-style-type: none"> <li>• Confirmation that individual is registered to carry out the proposed role</li> <li>• Details of any limitation on their registration that might affect the duties proposed</li> <li>• Details of any current or previous fitness to practice proceedings/professional disciplinary proceedings.</li> </ul>		
5.	Search of CQC records: <a href="http://www.cqc.org.uk/">http://www.cqc.org.uk/</a> <ul style="list-style-type: none"> <li>• Check if any provider for whom the individual has worked has had registration suspended/cancelled due to failings in care in the last 5 years (or longer if available)</li> <li>• Check the involvement of the individual or any providers in previous inspections (Investigate further if inspection rating is ‘requires improvement’, or ‘inadequate’).</li> </ul>		
6.	Search for involvement of individual or providers in serious care issues/investigations. Check the following websites: <ul style="list-style-type: none"> <li>• Public Inquiry Reports - <a href="http://www.nationalarchives.gov.uk/webarchive/inquiries-inquests-royal-commissions.htm#">http://www.nationalarchives.gov.uk/webarchive/inquiries-inquests-royal-commissions.htm#</a></li> <li>• Serious Case Reviews - <a href="http://www.nspcc.org.uk/preventing-abuse/child-protection-system/england/serious-case-reviews/">http://www.nspcc.org.uk/preventing-abuse/child-protection-system/england/serious-case-reviews/</a></li> <li>• Homicide investigations for mental health trusts (if employed previously by mental health trust) - <a href="http://www.england.nhs.uk/publications/invest-reports/">http://www.england.nhs.uk/publications/invest-reports/</a></li> </ul>		
7.	Review Parliamentary and Health Service Ombudsman reports relating to providers to identify whether these give rise to further lines of enquiry regarding the individual: <a href="http://www.ombudsman.org.uk/">http://www.ombudsman.org.uk/</a>		

#### Procedural Check 2: Qualifications, Competence, Skills and Experience

No	Check and Evidence Required	Date Obtained	HR Initials
8.	A full employment history, together with a satisfactory written explanation of any gaps in employment in line		

	with NHS Employment Check Standards. For new appointees coming to the NHS for the first time, validate a minimum of 3 years' continuous employment and training).		
9.	Two references - one of which must be most recent employer, in line with NHS Employment Check Standards		
10.	Academic and professional qualifications check - checked against job description/person specification - in line with NHS Employment Check Standards		

**Procedural Check 3: Health**

No	Check and Evidence Required	Date Obtained	HR Initials
11.	Occupational health clearance in line with NHS Employment Check Standards		

**Procedural Checks 4: Misconduct or Mismanagement**

See Procedural Check 1 above.

**Procedural Check 5: Grounds of Unfitness**

No	Check and Evidence Required	Date Obtained	HR Initials
12.	Check Register of Insolvent Companies for any company for whom the individual had a previous/current director role, that have become insolvent: <a href="http://wck2.companieshouse.gov.uk/wcframe?name=accessCompanyInfo">http://wck2.companieshouse.gov.uk/wcframe?name=accessCompanyInfo</a>		
13.	Check Disqualified Directors Register to identify whether individual has been disqualified through a court order/by an undertaking of the Insolvency Service from being a director of a company or a member of an LLP: <a href="http://wck2.companieshouse.gov.uk/wcframe?name=accessCompanyInfo">http://wck2.companieshouse.gov.uk/wcframe?name=accessCompanyInfo</a> , and; <a href="https://www.insolvencydirect.bis.gov.uk/IESdatabase/viewdirectorssummary-new.asp">https://www.insolvencydirect.bis.gov.uk/IESdatabase/viewdirectorssummary-new.asp</a> (lists directors the Insolvency Service got disqualified in the last 3 months), and; Contact The Insolvency Service for details of directors who got disqualified more than 3 months ago: <a href="mailto:Defendant.Liaison.Team@insolvency.gsi.gov.uk">Defendant.Liaison.Team@insolvency.gsi.gov.uk</a>		
14.	Check the Individual Insolvency Register to identify whether the individual is insolvent: <a href="https://www.insolvencydirect.bis.gov.uk/eiir/">https://www.insolvencydirect.bis.gov.uk/eiir/</a>		
15.	Check Register of Judgments to review details of County Court judgments, and credit refusals: <a href="http://www.trustonline.org.uk/">http://www.trustonline.org.uk/</a> (Small fee charged for doing so.)		
16.	Check Bankruptcy or Debt Relief Restrictions Register:		

	<a href="https://www.insolvencydirect.bis.gov.uk/IESdatabase/viewbrobrusummary-new.asp">https://www.insolvencydirect.bis.gov.uk/IESdatabase/viewbrobrusummary-new.asp</a>		
17.	If individual has worked for an organisation regulated by the Financial Conduct Authority (FCA), check Financial Service Register: <a href="https://register.fca.org.uk/">https://register.fca.org.uk/</a>		
18.	If individual has worked in a consumer credit business check the business name on the Consumer Credit Register: <a href="http://fca-consumer-credit-interim.force.com/CS_RegisterSearchPageNew">http://fca-consumer-credit-interim.force.com/CS_RegisterSearchPageNew</a>		

**Additional Checks:**

No	Check and Evidence Required	Date Obtained	HR Initials
19.	Proof of identity (including recent photograph) in line with NHS Employment Check Standards		
20.	Confirmation of right to work in the UK in line with NHS Employment Check Standards		

**Chairperson Review:**

No	Check and Evidence Required	Date Obtained	Signature
21.	Chairperson review of file to ensure all checks outlined above are complete		

## MODEL DECLARATION FORM A

### Guidance for applicants

The position you have applied for is exempt from the Rehabilitation of Offenders Act 1974 (as amended in England and Wales).

When **Yeovil District Hospital** is assessing your character and suitability for any such appointment, it is legally permitted to ask for and consider any information relating to unspent (current) and spent (old) criminal convictions, police cautions, final warnings or reprimands which are not protected (or filtered out) by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013.

You are not legally obliged to declare any convictions or cautions which are protected under the Exceptions Order. Employers must not ask for, or consider any such information as part of their recruitment process. Before completing this form it will be important for you to read the useful guidance section on page two which provides additional advice about the type of criminal history information you must declare.

Where relevant to the role, the organisation may also ask you to provide any information about any investigations and/or formal action taken against you by a regulatory or licencing body which may have had an impact on your professional registration and/or fitness to practise in your chosen profession.

Any information you declare when completing this form will be verified by undertaking a follow-up check with the relevant body. It will also include carrying out a standard or enhanced disclosure through the Disclosure and Barring Services (known as a DBS check).

Enhanced disclosures may also include other non-conviction information which may be held on central police databases, where this is regarded as relevant to the position you are applying for. If the position has, in addition, been identified as a 'regulated activity' under the Safeguarding Vulnerable Groups Act 2006 (as amended by the Protection of Freedoms Act 2012), the enhanced disclosure will also include any information that may be held about you on the children's and/or adults barred list(s).

### Our fair recruitment promise

**Yeovil District Hospital** aims to promote equality of opportunity and is committed to treating all applicants for positions fairly and on merit regardless of ethnicity, disability, age, gender or gender re-assignment, religion or belief, sexual orientation, pregnancy or maternity, marriage or civil partnership.

The organisation does not discriminate unfairly against applicants on the basis of criminal conviction or other such information declared. If we believe that the information you have declared is relevant to the position you are applying for, we will discuss this with you prior to making our final recruitment decision. If information is not raised with you, this is because we do not believe that this should be taken into account. In any event, you remain free to discuss the matter with the recruiting manager or human resources department should you wish to do so.

All information will be examined on a case-by-case basis alongside the full range of information we gain about you as part of our recruitment process. It is important to stress that answering yes to any of the questions in the attached form does not mean that you will be prevented from taking up an appointment in the NHS.

## How will my information be used?

The information that you provide in this declaration form will be processed in accordance with the Data Protection Legislation (GDPR and DPA 2018). It will only be used for the purpose of determining your application for this position. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud.

If you have declared any information relating to criminal convictions or other such offences, we will consider the following:

- The relevancy of the conviction/offence to the position being applied for.
- The seriousness of the offence(s).
- Your age when you committed the offence(s).
- The length of time since the offence(s) occurred.
- If there is a pattern of offending behaviour.
- The circumstances surrounding the offence(s).
- Any evidence you provide to demonstrate that your circumstances have changed since the offending behaviour.

It is important to be aware, that the failure to disclose all spent and unspent convictions which you are legally obliged to declare (i.e. those that are not protected by Exceptions Order of the Rehabilitation of Offenders Act (as amended in England and Wales), could result in disciplinary proceedings or dismissal.

Please ensure that you take the time to read the supplementary guidance that we sent to you with your application form. This provides you with detailed information about how we will process your application, the persons to whom information will be disclosed, and the range of checks that we will undertake as part of our recruitment process.

## Useful guidance

If you have a criminal history, it will be important for you to refer to the easy to read [guidance documents](#) provided on the Unlock website.

Unlock is a charity body that provides information and advice to individuals to help them gain a greater understanding about the type of information employers are likely to seek about their criminal history, which convictions and cautions are protected under the Exceptions Order (i.e. will never be disclosed as part of a DBS check and do not need to be declared when completing this form) and their rights.

Please complete and return the form only to: **Yeovil District Hospital when you attend your ID check appointment or email your Recruitment Officer.**

**Before completing this form, it is important to note the following points:**

1. You must answer all the questions in this form.
2. Before ticking yes or no, please ensure that you to read the explanatory notes which are provided underneath each of the questions. These notes are intended to guide you in determining what additional information you will be required to provide to support your answers.
3. If you answer yes to any of the questions, please use the space provided to include any relevant information about your suitability for the position you are applying for.
4. If you would like any additional supplementary evidence to support your application to be considered, please ensure it is attached or uploaded with this form when you return it.
5. You are not required to disclose information about parking offences.

<b>Applicant details</b>				
Full name (in block capitals)		Contact details		
Role applied for				
<b>1. Are you currently bound over, or have you ever been <u>convicted of any offence by a Court or Court-Martial in the United Kingdom or in any other country?</u></b>  You should tick no, if any convictions are protected (or filtered out) by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) 2013. Please refer to information about protected convictions and cautions in the <a href="#">useful guidance</a> section.			Yes	No
If you have ticked yes, please provide details of the order binding you over and/or the nature of the offence, penalty, sentence or order of the Court, the date and place of the Court hearing.				
<b>2. Have you ever received a <u>police caution, reprimand or final warning in the United Kingdom or in any other country?</u></b>  You should tick no, if any cautions, reprimands or final warnings are protected (or filtered out) by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) 2013. Please refer to further information about protected convictions and cautions in the <a href="#">useful guidance</a> section.			Yes	No
If you have ticked yes, please provide details of the caution, reprimand or final warning, including the date and reason administered.				

<p><b>3. Have you been charged with any offence in the United Kingdom or in any other country that has not yet been disposed of?</b></p> <p>Please note that you <u>must</u> inform us immediately if you are charged with any offence in the United Kingdom or in any other country <u>after</u> you complete this form and <u>before</u> taking up any position offered to you.</p>	Yes	No
<p>If you have ticked yes, please provide details of the nature of the offence with which you are charged, date on which you were charged, and details of any on-going proceedings by a prosecuting body.</p>		
<p><b>4. Are you aware of any current investigations being undertaken by the police following allegations being made against you in the United Kingdom or in any other country?</b></p>	Yes	No
<p>If you have ticked yes, please provide details of the nature of the allegations made against you and, if known to you, any action to be taken against you by the police.</p> <p>Please note that we will only take into account any current investigations which might be relevant to the position you are applying for.</p>		
<p><b>5. Have you ever been investigated by the NHS Business Services Authority (formerly NHS Counter Fraud and Security Management Services) or any other investigatory body resulting in a current or past conviction or any formal action being taken against you?</b></p>	Yes	No
<p>If you have ticked yes, please provide details of the offence, including any dates.</p> <p><b>Investigatory bodies</b> may include:</p> <p>HM Revenue &amp; Customs, the Financial Services Authority, Department for Business, Energy and Industrial Strategy (formerly the Department of Trade &amp; Industry), Department of Work and Pensions, Home Office, UK Visas and Immigration and local authorities.</p> <p>This list is intended as a guide only, <u>you must</u> declare any investigation conducted by an investigatory body.</p>		
<p><b>6. Have you ever been dismissed by reason of misconduct from any employment, volunteering, office, or other position previously held by you?</b></p>	Yes	No
<p>If you have ticked yes, please provide details of the employment, volunteering, office, or other position held, the date that you were dismissed and the nature of allegations of misconduct made against you.</p>		

<b>7. Are you currently subject to a fitness to practise investigation and/or proceedings of any nature by a regulatory or licensing body in the UK or in any other country?</b>	Yes	No
<p>If you have ticked yes, please provide the reasons given for the investigation and, where applicable, the details of any warnings, conditions or sanctions (including limitations, suspension or any other restrictions) that apply to your professional registration and, the name and address of the regulatory or licensing body concerned.</p> <p>Please note that we will only take into account any current fitness to practise investigation or proceedings which might be relevant to the position you are applying for.</p>		
<b>8. Have you ever been removed from the register, or have conditions or sanctions been placed on your registration, or have you been issued with a warning by a regulatory or licensing body in the UK or in any other country?</b>	Yes	No
<p>You should tick no, where any right to appeal has been upheld and where that appeal has resulted in your case being fully exonerated.</p> <p>If you have ticked yes, please provide details of any conditions or sanctions (including limitations, suspension or any other restrictions) that apply to your registration and/or any warnings issued, where relevant and, the name and address of the regulatory or licensing body concerned.</p>		
<b>9. Are you subject to any other prohibition, limitation, or restriction that means we are/or may be unable to consider you for the position for which you are applying?</b>	Yes	No
<p>If you have ticked yes, please include details of the nature of the prohibition, restriction or limitation and by whom it was made.</p>		

**Continuation sheet:**

If you have answered yes to any of the questions above, please use the space below to provide any additional information you wish us to consider as part of your application. You may continue on a separate sheet or attach any additional evidence, if you wish to do so.

Please clearly indicate the number of the question to which the information relates.



## Declaration

### IMPORTANT

The Data Protection Legislation (GDPR and DPA 2018) requires us to advise you that we will be processing your personal data. Processing includes: holding, obtaining, recording, using, sharing and deleting information.

The Act defines 'sensitive personal data' as racial or ethnic origin, political opinions, religious or other beliefs, trade union membership, physical or mental health, sexual life, criminal offences, criminal convictions, criminal proceedings, disposal or sentence.

The information that you provide in this declaration form will be processed in accordance with the Data Protection Legislation. It will be used for the purpose of determining your application for this position. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud.

Once a decision has been made concerning your appointment, **Yeovil District Hospital** will not retain this declaration form any longer than is necessary - see further details in the supplementary guidance notes for applicants which we provided with your application form. This declaration will be kept securely and in confidence. Access to this information will be restricted to designated persons within the organisation who are authorised to view it as a necessary part of their work.

**In signing the declaration on this form, you are explicitly consenting for the data you provide to be processed in the manner described above.**

I confirm that the information that I have provided in this declaration form is correct and complete. I understand and accept that if I knowingly withhold information, or provide false or misleading information, this may result in my application being rejected, or if I am appointed, in my dismissal, and I may be liable to prosecution.

Please sign and date this form.

Full name (in block capitals)		Signature	
Date			

If you need any assistance or advice before returning this form to us, or you wish to withdraw your consent at any time after you have submitted this form, please contact: **Recruitment Department on 01935 384554**

All enquiries will be treated in strict confidence.

## MODEL DECLARATION FORM B

### Guidance for applicants

The position you have applied for is non-exempt from the Rehabilitation of Offenders Act 1974 (as amended in England and Wales).

When **Yeovil District Hospital** is assessing your character and suitability for any such appointment, it is legally permitted to ask for and consider any information relating to unspent (current) convictions, police cautions, final warnings or reprimands which are not protected (or filtered out) by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013.

You are not legally obliged to declare any convictions or cautions which are protected or have become spent (old) under the Exceptions Order. Employers must not ask for, or consider any such information as part of their recruitment process. Before completing this form it will be important for you to read the useful guidance section on page two which provides additional advice about the type of criminal history information you must declare.

Where relevant to the role, the organisation may also ask you to provide any information about any investigations and/or formal action taken against you by a regulatory or licencing body which may have had an impact on your professional registration and/or fitness to practise in your chosen profession.

Any information you declare when completing this form will be verified by undertaking a follow-up check with the relevant body.

### Our fair recruitment promise

**[Insert organisation name]** aims to promote equality of opportunity and is committed to treating all applicants for positions fairly and on merit regardless of ethnicity, disability, age, gender or gender re-assignment, religion or belief, sexual orientation, pregnancy or maternity, marriage or civil partnership. The organisation does not discriminate unfairly against applicants on the basis of criminal conviction or other such information declared.

Any information declared by you that is believed to be relevant to the position that you are applying for will be discussed with you prior to making the final recruitment decision. If information is not raised with you, it is because it is believed that it should not be taken into account. In any event, you remain free to discuss the matter with the recruiting manager or human resources department should you wish to do so.

All information will be examined on a case-by-case basis alongside the full range of information we gain about you as part of our recruitment process. It is important to stress that answering yes to any of the questions in the attached form does not automatically mean that you will be prevented from taking up an appointment in the NHS.

### How will my information be used?

The information that you provide in this declaration form will be processed in accordance with Data Protection Legislation (GDPR and DPA 2018).

It will be used for the purpose of determining your application for this position and enquiries in relation to the prevention and detection of fraud.

If you have declared any information relating to unspent criminal history, the organisation will consider the following:

- The relevancy of the conviction/offence to the position being applied for.
- The seriousness of the offence(s).
- Your age when you committed the offence(s).
- The length of time since the offence(s) occurred.
- If there is a pattern of offending behaviour.
- The circumstances surrounding the offence(s).
- Any evidence you provide to demonstrate that your circumstances have changed since the offending behaviour.

It is important to be aware that the failure to disclose all unspent convictions which you are legally obliged to declare (i.e. those that are not protected by Exceptions Order of the Rehabilitation of Offenders Act, as amended in England and Wales), could result in disciplinary proceedings or dismissal.

Please ensure that you take the time to read the supplementary guidance that was sent to you with your application form. This provides you with detailed information about how your application will be processed, the persons to whom information will be disclosed and the range of checks that will be carried out as part of the recruitment process.

## **Useful guidance**

If you have a criminal history, it will be important for you to refer to [additional guidance](#) provided on the Unlock website.

Unlock is a charity body that provides information and advice to individuals to help them gain a greater understanding about the type of information employers are likely to seek about their criminal history. It also provides information about which convictions and cautions are protected under the Exceptions Order (i.e. will never be disclosed as part of a DBS check and do not need to be declared when completing this form) and your rights.

There is also an easy to use [disclosure calculator](#) which will help identify any current unspent convictions and cautions that must be declared when completing the attached form.

## MODEL DECLARATION FORM B

Please complete and return the form only to: **Yeovil District Hospital when you attend your ID check appointment or email your Recruitment Officer.**

### Before completing this form, it is important to note the following points:

1. You must answer all of the questions in this form.
2. Before ticking yes or no, please ensure that you read the explanatory notes which are provided underneath each of the questions. These notes are intended to guide you in determining what additional information you will be required to provide to support your answers.
3. If you answer yes to any of the questions, please use the space provided to include any relevant information about your suitability for the position you are applying for.
4. If you would like any additional supplementary evidence to support your application to be considered, please ensure it is attached or uploaded with this form when you return it.
5. Please note that you are not required to disclose information about parking offences.

<b>Applicant details</b>			
Full name (in block capitals)		Contact details	
Role applied for			
<b>1. Are you currently bound over or do you have any current unspent <u>convictions</u> that have been issued by a Court or Court-Martial in the United Kingdom or in any other country?</b>		Yes	No
<p>You should tick no, if any convictions are protected (or filtered out); and/or have become spent as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) 2013.</p> <p>Please refer to further information about protected and spent convictions and cautions in the <a href="#">guidance for applicants</a> section which accompanies this form.</p>			
<p>If you have ticked yes, please provide details of the order binding you over and/or the nature of the offence, penalty, sentence or order of the court, the date and place of the court hearing.</p>			
<b>2. Do you have any current unspent <u>police cautions, reprimands or final warnings</u> in the United Kingdom or in any other country?</b>		Yes	No
<p>You should tick no, if any cautions, reprimands or final warnings are protected (or filtered out); and/or have become spent as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) 2013.</p> <p>Please refer to further information about protected and spent convictions and cautions in the <a href="#">guidance for applicants</a> section which accompanies this form.</p>			
<p>If you have ticked yes, please provide details of the caution, reprimand or final warning, including the date and reason administered.</p>			

<p><b>3. Have you been charged with any offence in the United Kingdom or in any other country that has not yet been disposed of?</b></p> <p>Please note that you <u>must</u> inform us immediately if you are charged with any offence in the United Kingdom or in any other country <u>after</u> you complete this form and <u>before</u> taking up any position offered to you.</p>	Yes	No
<p>If you have ticked yes, please provide details of the nature of the offence with which you are charged, date on which you were charged, and details of any on-going proceedings by a prosecuting body.</p>		
<p><b>4. Are you aware of any current investigations being undertaken by the police following allegations being made against you in the United Kingdom or in any other country?</b></p>	Yes	No
<p>If you have ticked yes, please provide details of the nature of the allegations made against you and, if known to you, any action to be taken against you by the police.</p> <p>It is important to note, that we will only take into account any current investigations which might be relevant to the position you are applying for.</p>		
<p><b>5. Have you ever been investigated by the NHS Business Services Authority (formerly NHS Counter Fraud and Security Management Services) or any other investigatory body resulting in a current or past conviction or any formal action being taken against you?</b></p>	Yes	No
<p>If you have ticked yes, please provide details of the offence, including any dates.</p> <p><b>Investigatory bodies</b> may include:</p> <p>HM Revenue &amp; Customs, the Financial Services Authority, Department for Business, Energy and Industrial Strategy (formerly the Department of Trade &amp; Industry), Department of Work and Pensions, Home Office, UK Visas and Immigration and local authorities.</p> <p>This list is intended as a guide only, <u>you must</u> declare any investigation conducted by an investigatory body.</p>		
<p><b>6. Have you ever been dismissed by reason of misconduct from any employment, volunteering, office or other position previously held by you?</b></p>	Yes	No
<p>If you have ticked yes, please provide the details of the employment, volunteering, office, or other position held, the date that you were dismissed and the nature of allegations of misconduct made against you.</p>		

<b>7. Are you currently subject to a fitness to practise investigation and/or proceedings of any nature by a regulatory or licensing body in the UK or in any other country?</b>	Yes	No
<p>If you have ticked yes, please provide the reasons given for the investigation and, where applicable, the details of any proceedings or sanctions (including limitations, conditions, suspension or any other restrictions) that apply to your professional registration, and the name and address of the regulatory or licensing body concerned.</p> <p>It is important to note, that we will only take into account any current fitness to practise investigations or proceedings which might be relevant to the position you are applying for.</p>		
<b>8. Have you ever been removed from the register, or have conditions or sanctions been placed on your registration, or have you been issued with a warning by a regulatory or licensing body in the UK or in any other country?</b>  <i>You should tick no, where any right to appeal has been upheld and where that appeal has resulted in your case being fully exonerated.</i>	Yes	No
<p>If you have ticked yes, please provide details of any conditions or sanctions (including limitations, suspension or any other restrictions) that apply to your registration and/or any warnings issued, where relevant, and the name and address of the regulatory or licensing body concerned.</p>		
<b>9. Are you subject to any other prohibition, limitation, or restriction that means we are/or may be unable to consider you for the position for which you are applying?</b>	Yes	No
<p>If you have ticked yes, please include details of the nature of the prohibition, restriction or limitation and by whom it was made.</p>		

**Continuation sheet**

If you have answered YES to any of the questions above, please use the space below to provide any additional information you wish us to consider as part of your application. You may continue on a separate sheet or attach any additional evidence, if you wish to do so.

Please clearly indicate the number of the question to which the information relates.

## Declaration

### IMPORTANT

The Data Protection Legislation (GDPR and DPA 2018) requires us to advise you that we will be processing your personal data. Processing includes: holding, obtaining, recording, using, sharing and deleting information. The Act defines

'sensitive personal data' as racial or ethnic origin, political opinions, religious or other beliefs, trade union membership, physical or mental health, sexual life, criminal offences, criminal convictions, criminal proceedings, disposal or sentence.

The information that you provide in this declaration form will be processed in accordance with the Data Protection Legislation. It will be used for the purpose of determining your application for this position. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud.

Once a decision has been made concerning your appointment, Yeovil District Hospital will not retain this declaration form any longer than is necessary - see further details in the supplementary guidance notes for applicants which we provided with your application form. This declaration will be kept securely and in confidence. Access to this information will be restricted to designated persons within the organisation who are authorised to view it as a necessary part of their work.

**In signing the declaration on this form, you are explicitly consenting for the data you provide to be processed in the manner described above.**

I confirm that the information that I have provided in this declaration form is correct and complete. I understand and accept that if I knowingly withhold information, or provide false or misleading information, this may result in my application being rejected, or if I am appointed, in my dismissal, and I may be liable to prosecution.

Please sign and date this form.

Full name (in block capitals)		Signature	
Date			

If you need any assistance or advice before returning this form to us, or you wish to withdraw your consent at any time after you have submitted this form, please contact **Recruitment Department on 01935 384554**

All enquiries will be treated in strict confidence.

**FIT AND PROPER PERSONS TEST DECLARATION**  
 (Annual Declaration for Directors in Post)

The position you hold is subject to Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

This regulation requires that Yeovil District Hospital NHS Foundation Trust must not appoint, or have in place, a) an individual as a director of the Trust, or b) performing the functions of, or functions equivalent or similar to the functions of, such a director, without being satisfied that the individual is a fit and proper person to hold such a position.

You are therefore asked to complete the following declaration to satisfy the Trust of your continued suitability for the position.

We will discuss with you any information declared by you that we believe may have a bearing on your continued suitability for the position. If we do not raise this information with you, this is because we do not believe that it should be taken into account. In that event you still remain free, should you wish, to discuss the matter with the Company Secretary in the first instance.

Answering 'yes' to any of the questions below will not necessarily bar you from continued service with Yeovil District Hospital NHS Foundation Trust. This will depend on the relevance of the information you provide and the particular circumstances. However, your employment/office may be ended if the Trust is not satisfied with the information/explanation provided.

I hereby confirm that I am not:

a) an individual

- i. who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged; or
- ii. who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it; or
- iii. who within the preceding five years has been convicted in the British Islands of any offence and a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him; or
- iv. who is subject to an unexpired disqualification order made under the Company Directors' Disqualification Act 1986; or

b) a body corporate, or a body corporate with a parent body corporate:

- i. where one or more of the Directors of the body corporate or of its parent body corporate is an unfit person under the provisions of sub-paragraph (a) of this paragraph, or
- ii. in relation to which a voluntary arrangement is proposed under section 1 of the Insolvency Act 1986, or
- iii. which has a receiver (including an administrative receiver within the meaning of section 29(2) of the 1986 Act) appointed for the whole or any material part of its assets or undertaking, or
- iv. which has an administrator appointed to manage its affairs, business and property in accordance with Schedule B1 to the 1986 Act, or
- v. which passes any resolution for winding up, or
- vi. which becomes subject to an order of a Court for winding up.

I confirm that the information that I have provided in this declaration form is correct and complete. I understand and accept that if I knowingly withhold information, or provide false or misleading information, this may result in my dismissal, and I may be liable to prosecution.

<b>Name:</b>		<b>Signature:</b>		<b>Date:</b>	
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### Equality Impact Assessment Tool

To be completed and attached to any procedural document when submitted to the appropriate committee for consideration and approval.

Name of Document:

		Yes/No	Comments
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:		
	Race	No	
	Ethnic origins (including gypsies and travellers)	No	
	Nationality	No	
	Gender	No	
	Culture	No	
	Religion or belief	No	
	Sexual orientation including lesbian, gay and bisexual people	No	
	Age	No	
	Disability	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	N/A	
4.	Is the impact of the policy/guidance likely to be negative?	No	
5.	If so can the impact be avoided?	N/A	
6.	What alternatives are there to achieving the policy/guidance without the impact?	N/A	
7.	Can we reduce the impact by taking different action?	N/A	

For advice or if you have identified a potential discriminatory impact of this procedural document, please refer it to The Equality & Diversity Lead, Yeovil Academy, together with any suggestions as to the action required to avoid/reduce this impact.

Signed **Ben Edgar-Attwell**

Date: **30 January 2019**