


# FIT AND PROPER PERSONS (*Directors*)

<b>VERSION No</b>	3	
<b>REVIEWED BY</b>	Registered Manager (MP)	
<b>NUMBER OF PAGES</b>	2	

## Policy Statement





*Regulation 5 of the Health and Social Care Act (Regulations 2014) are a new requirement for directors, and, by definition, extends these requirements to the senior management team. This organisation sets out below its process for ensuring compliance with the regulation.*

*The process covers the following all relating to directors and specific, identified posts:*






- 1. Recruitment and selection*
- 2. Employment checks*
- 3. Appraisal arrangements for specific identified posts*
- 4. Code of conduct.*

## The Policy

**1. Recruitment and Selection:** All directors and specific, identified posts will be subject to the following robust stages of recruitment:

-  All such posts will be advertised externally, in order to open up the process
-  Directors and specific, identified posts will have job descriptions that detail their role and responsibilities, duties, and the limits to their accountabilities
-  A person specification will form part of the recruitment process
-  Interviews will use an assessment criterion to ensure transparency for all candidates and records will be a contemporaneous account of the interview.

**2. Employment Checks:** All of the identified posts will be subject to the following checks:

-  Right to work check, to comply with current immigration requirements
-  Reference checks, both written and a with verbal confirmation of their integrity
-  Qualifications (originals), to be validated and then copied for file retention
-  A disqualified directors check, made via the Companies House register or the Insolvency Service Register for England and Wales (Scotland and Northern Ireland have their own insolvency registers).
-  In order to meet the regulatory requirements, all of the above checks must meet the good character and unfit persons tests in part one of the Schedule that applies to the specified posts.

### Part 1: Unfit Person Test

- 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 and Northern Ireland
- The person is a person to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the *Insolvency Act 1986*
- 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 or adult barred list under Section 2 of the *Safeguarding Vulnerable Groups Act 2006* or in any corresponding list maintained under an equivalent enactment in force in Scotland and 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.

## Part 2: Good Character

- a) Whether the person has been convicted in the UK of any offence or been convicted elsewhere of any offence which, if committed in any part of the UK, would constitute an offence
- b) Whether the person has been erased, removed, or struck-off a register of professionals maintained by a regulator of health care or social care professionals.




*Please note: If during any of these checks it becomes apparent that the proposed post holder is not of the required calibre, appropriate employment law advice should be sought. The final decision of whether or not to employ rests with the employer, not with the CQC. An open and transparent process must be in place for all decisions in regard to these specified posts to be validated and an audit trail of evidence available, if requested.*

### 3. Appraisal Arrangements

It is important that all staff, no matter where they sit in our organisation, are, from time to time, appraised in regard to their contribution to the company and in their skills, knowledge, and competency (specific to their role).

### 4. Code of Conduct

Every specified post will receive a copy of the code of conduct. As a provider of health and social care, the code is based on the five domains identified by the CQC. It is important to stress that the code is *in addition to* any professional codes of conduct issued by professional bodies such as the following:

-  Nursing and Midwifery Council (NMC)
-  Health and Care Professions Council (HCPC)
-  Institute of Directors (IoD).

*The code sets out the organisation's ethos and philosophy in delivering its services, reminding and affirming the objectives of the business in relation to our service-users.*

### 5. Identified Specified Posts

At present, this is the post holders list to which this policy applies whenever a vacancy arises. Prior to 1 December 2014, appointees were recruited before these regulations were in place. Regulation 5 states that people who have “director level responsibility” for the quality and safety of care, and for meeting the fundamental standards are fit and proper to carry out this important role:

#### **Post Holder List\***

Managing Director  
Registered Manager  
Deputy Manager

*\*This list is not exhaustive, it merely serves as an illustration of various posts which could be considered for the list.*

### Related Guidance:

-  [CQC Guidance for providers and CQC inspectors](https://www.cqc.org.uk/sites/default/files/20180119_FPPR_guidance.pdf)  
[https://www.cqc.org.uk/sites/default/files/20180119\\_FPPR\\_guidance.pdf](https://www.cqc.org.uk/sites/default/files/20180119_FPPR_guidance.pdf)

*Related Policies*  
*Good Governance*  
*Staffing*  
*Recruitment and Selection*  
*Duty of Candour*

