Trust Board

Gateshead Health NHS Foundation Trust

Report Cover Sheet

Agenda Item: 7

Date of Meeting:	Wednesday 30th October 2019			
Report Title:	Declaration of Board Members Interests and Fit and Proper Persons Declaration			
Purpose of Report:	In accordance with section 20 of Schedule 1 of the Health & Social Care (Community Health and Standards) Act 2003 NHS Foundation Trusts are required to maintain a register of Directors' and Governors' interests. This requirement is also enshrined in section 10 of the Trust's Constitution. Also included is the Fit and Proper Persons Test required by the Health Act 2012 and subsequently the Trust's Standard Licence Conditions. The register for Gateshead Health NHS Foundation Trust is held at Trust Headquarters and is available to the public through the Trust Secretary. This availability is published in the annual report and on the Trust's web site. The declared interests for Mrs Alison Marshall, Chair, are attached as appendix 1 and the Fit and Proper Persons Declaration as appendix 2.			
	Decision: ☒	**Discussion:** ☐	**Assurance:** ☐	**Information:** ☐
Trust Goals that the report relates to: (Including reference to any specific risk)	**Goal 2** All the services we deliver will be good or outstanding when assessed against being safe, effective, caring, responsive, and well-led.			
Recommendations: (Action required by Board of Directors)	The Board is asked to: i) Approve and record in the Board minutes the declared interests and Fit and Proper Persons Declaration as shown in appendices 1 and 2. ii) Note that the next full routine review of the declaration of Board members' interests will take place in April 2020.			
Financial Implications:	None			
Risk Management	None			

Implications:	
Human Resource Implications:	None
Trust Diversity & Inclusion Objective that the report relates to: (including reference to any specific implications and actions)	None
Author:	Mrs D Atkinson, Trust Secretary
Presented by:	Mrs D Atkinson, Trust Secretary

Appendix 1

Declaration of Interests - Mrs Alison Marshall, Chair

Name	Position	Interest	Interest of Spouse	Category
Alison Marshall	**Chair**		**John Marshall**	
	Chair	NED of Northern Powergrid (Northeast)Ltd and Northern Powergrid (Yorkshire PLC)	NED of North East Ambulance Service NHS Foundation Trust NED of North East Ambulance Service Unified Solutions Ltd NED of Newcastle Gateshead Initiative (Chair) NED of NGI Events Ltd NED of North East England Chamber of Commerce Director of Newcastle United Foundation Projects Ltd NED of Believe Housing Ltd	A
			Chair of Trustees – Newcastle United Foundation	D
		Ambassador for North Northumberland Hospice Care	Ambassador for North Northumberland Hospice Care	E

Key to Interests Declared:

A Directorships, including Non-Executive Directorships held in private companies or PLCs (with the exception of dormant companies).

B Ownership or part ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS

C Majority or controlling shareholdings in organisations likely or possibly seeking to do business with the NHS

D A position of authority in a charity or voluntary body in the field of health and social care

E Any connection with a voluntary or other body contracting the NHS service

F To the extent not covered in the declarations above, any connections with an organisation, entity or company considering entering into or having entered into a financial arrangement with the Trust but not limited to, lenders or banks.

Appendix 2

All Members of the Board of Directors have signed the following declaration and an annual search of insolvency, bankruptcy and disqualified director's registers has also taken place.

Fit and Proper Person Declaration

1. It is a condition of employment that those holding director and director-equivalent posts provide confirmation in writing, on appointment and thereafter on demand, of their fitness to hold such posts. Your post has been designated as being such a post. Fitness to hold such a post is determined in a number of ways, including (but not exclusively) by the Trust's provider licence, the Health and Social Care Act 2008 (Regulated Activities) Regulations 2008 ("the Regulated Activities Regulations") and the Trust's constitution.

2. By signing the declaration below, you are confirming that you do not fall within the definition of an "unfit person" or any other criteria set out below, and that you are not aware of any pending proceedings or matters which may call such a declaration into question.

Provider licence

3. Condition G4(2) of Gateshead Health NHS Foundation Trust's Provider Licence ("the Licence") provides that the Licensee shall not appoint as a director any person who is an unfit person, except with the approval in writing of Monitor.

4. Licence Condition G4(3) requires the Licensee to ensure that its contracts of service with its directors contain a provision permitting summary termination in the event of a director being or becoming an unfit person. The Licence also requires the Licensee to enforce that provision promptly upon discovering any director to be an unfit person, except with the approval in writing of Monitor.

5. An "unfit person" is defined at condition G4(5) of the Licence as:

   (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.

Regulated Activities Regulations

6. Regulation 5 of the Regulated Activities Regulations states that the Trust must not appoint or have in place an individual as a director, or performing the functions of or equivalent or similar to the functions of, such a director, if they do not satisfy all the requirements set out in paragraph 3 of that Regulation.

7. The requirements of paragraph 3 of Regulation 5 of the Regulated Activities Regulations are that:

(a) the individual is of good character;

(b) the individual has the qualifications, competence, skills and experience which are necessary for the relevant office or position or the work for which they are employed;

(c) the individual is 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;

(d) the individual has not been responsible for, privy to, 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; and

(e) none of the grounds of unfitness specified in Part 1 of Schedule 4 apply to the individual.

8. The grounds of unfitness specified in Part 1 of Schedule 4 to the Regulated Activities Regulations are:

(a) 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;

(b) 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;

(c) 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;

(d) the person has made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it;

(e) 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;

(f) the person is prohibited from holding the relevant office or position, or in the case of an individual for carrying on the regulated activity, by or under any enactment.

Trust's Constitution

9. The Trust's constitution places a number of restrictions on an individual's ability to become or continue as a director. A person may not become or continue as a director of the Trust if:

(a) they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged;

(b) they have made a composition or arrangement with, or granted a Trust deed for their creditors and have not been discharged in respect of it;

(c) they have within the preceding five years been convicted in the British islands of any offence, and a sentence of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed on them;

(d) in the case of a Non-Executive Director they are no longer a Member of the Public or Patient Constituency.

(e) they are a person whose tenure of office as a Chairman or as a Member or Director of a Health Service body has been terminated on the grounds that his/her appointment is not in the interests of public service, for non-attendance at meetings, or for non-disclosure of a pecuniary/non-pecuniary interest;

(f) they have within the preceding two years been dismissed, from any paid employment for misconduct with a Health Service body;

(g) they are an Executive Director of the Trust, or a Governor, Non-Executive Director, Chairman, Chief Executive officer of another Trust;

(h) they are incapable by reason of mental disorder, illness or injury of managing and administering their property and affairs;

(i) they bring the Board of Directors or any of its Member organisations into disrepute;

(j) they have failed to comply with the required standard of behaviour as per the Trust policy for withholding treatment from violent and abusive patients;

(k) they have had their name removed, by a direction under section 46 of the 1977 Act from any list prepared under Part II of that Act, and has not subsequently had their name included in such a list;

(l) they have been placed on the Registers of schedule 1 Offenders pursuant to the Sex Offenders Act 1977 and/or the Children & Young Person Act 1933;

(m) they fail to abide by the Constitution

(n) they are under 16 years of age;

(o) they have failed to undertake the required training for Directors

I acknowledge the extracts from the provider licence, Regulated Activities Regulations and the Trust's constitution above. I confirm that I do not fit within the definition of an "unfit person" as listed above and that there are no other grounds under which I would be ineligible to continue in post. I undertake to notify the Trust immediately if I no longer satisfy the criteria to be a "fit and proper person" or other grounds under which I would be ineligible to continue in post come to my attention.

Name: _____ Signed: _____

Position: _____ Date: _____