

THE CLATTERBRIDGE CANCER CENTRE NHS FOUNDATION TRUST (“the Trust”)

“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 The Clatterbridge Cancer Centre 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 are a member of the Council of Governors, or a governor or director of a health service body;
- b) they are the spouse, partner, parent or child of a member of the Board of Directors of the Trust;
- c) they are a member of a committee of a local authority that has any role in scrutinising health matters;
- d) they are subject to a sex offender order;
- e) they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged;
- f) they are a person in relation to whom a moratorium period under a debt relief order applies (under Part 8A of the Insolvency Act 1986);
- g) 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;
- h) 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;
- i) they are the subject of a disqualification order made under the Company Directors Disqualification Act 1986;
- j) in the case of a non-executive Director, they are no longer a member of one of the public constituencies;
- k) they are a person whose tenure of office as a Chair or as a member or director of a health service body has been terminated on the grounds that their appointment is not in the interests of the health service, for non attendance at meetings, or for non-disclosure of a pecuniary interest;
- l) they have within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment;
- m) in the case of a non-executive Director they have refused without reasonable cause to fulfil any training requirement established by the Board of Directors; or
- n) they have refused to sign and deliver to the Secretary a statement in the form required by the Board of Directors confirming acceptance of the code of conduct 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: **[Name]** Signed: _____

Position: **[Position]** Date: _____