FIT AND PROPER POLICY

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SCOPE

This policy affects all members of the LSHTM Council and Council Committees, including elected staff and student members, and members of the Executive Team.

PURPOSE AND OVERVIEW

As part of LSHTM's commitment to good governance, the university wishes to comply with all regulatory standards which apply to higher education.

As a charity, and as part of a key condition for LSHTM's ongoing registration with the Office for Students (OfS), the university is required to demonstrate that members of its governing body are 'fit and proper persons'. This is because its governors determine how a significant proportion of the University's funds are spent.

LSHTM's Ordinances publicly confirm the University's commitment to this undertaking. Under B2.2 MEMBER STANDARDS, the Ordinances state: '...ii) Members of the governing body must be fit and proper persons as set out in the Office for Students public interest governance principles that apply to all registered providers...'

Therefore, upon appointment to the Governing Body (Council), all individuals will be required to undertake a check as to whether they are a fit and proper person. The purpose of the Fit and Proper Policy is to set out the requirements of that check.

POLICY

Definition of a 'fit and proper person'

The Office for Students defines a fit and proper person as:

- of good character;
- having the qualification, competence, skills, and experience that are necessary for their role;
- able by reason of their health, after reasonable adjustments are made, to properly perform the tasks of the office or position for which they are appointed; and
- has not been responsible for, been privy to, contributed to, or facilitated any serious misconduct or mismanagement (whether unlawful or not) in their employment or in the conduct of any entity with which they are of have been associated.

The Office for Students states the following are indicators that a person may not be a fit and proper person:

- disqualification from acting as a company director, or from acting as a charity trustee, as set out in the Company Directors Disqualification Act 1986 or the Charities Act 2011;
- conviction of a criminal offence anywhere in the world or the subject of any adverse finding in civil proceedings, where relevant, including, but not limited to bankruptcy or equivalent proceedings (in the last three years);
- subject of any adverse findings in any disciplinary proceedings by any regulatory authorities or professional bodies;
- involvement in any abuse of tax systems;
- involvement with any entity that has been refused registration to carry out a trade or has had that registration terminated;
- involvement in a business that has gone into insolvency, liquidation, or administration while the person was related to that organization or within one year of that connection;
- dismissal from a position of trust or similar; or
- involvement with a higher education provider that has had its registration refused or revoked by the OfS or has had similar action taken against it by another regulator.

PROCEDURE

Fit and Proper Person Check

Appointment to the Governing Body is conditional upon satisfactory fit and proper checks. The Secretary to Council will obtain a completed and signed Self-Declaration Form from prospective Governors, stating that they are a fit and proper person and that none of the OfS fit and proper indicators apply.

Carrying out fit and proper checks

Under point 'IX. Fit and proper' of the OfS' Public Interest Governance Principles, it states that it is a requirement that: '... Members of the governing body, those with senior management

responsibilities, and individuals exercising control or significant influence over the provider, are fit and proper persons...Therefore, the Secretary to Council shall carry out rigorous checks to ensure that this is the case.

The Secretary to Council shall:

- consult official registers of disqualified persons (company director search, current and historic);
- conduct searches on the Charity Commission's website and the constituent UK Registrars of Companies;
- conduct an internet search using keyword indicators that an individual might not be a fit and proper person;
- check the criminal record of prospective Governors via the self-declaration.

Criminal records outside the UK

LSHTM is aware that not all countries use the same methods of recording criminal activity or have agreements with the UK permitting access to such data.

Please note that due diligence searches carried out by LSHTM may reveal that individuals living and working outside the UK may have criminal convictions for same-sex sexual activity, gender reassignment or campaigning for LGBTQ rights. However, as this is lawful in the UK, such convictions will not be a barrier to being selected as a fit and proper person to be/become a Governor of LSHTM.

Consideration of whether an individual is a fit and proper person

Before confirming any appointment, the Nominations Committee will consider the outcome of any discussions arising from the 'fit and proper person' checks and any existing conflicts of interest.

If a governor needs to disclose information in support of their declaration, this will not necessarily exclude them from continuing as a member of Council. However, please be aware that LSHTM is required to:

- disclose this information to the OfS
- provide evidence that LSHTM has investigated and considered the appropriateness of the potential governor/governor's behaviour and that of any associated companies.

Positive responses or contra-indicators received from existing or potential governors will be reviewed, decided upon and documented.

In the case of instances where a decision is made that an existing Governor is not considered to be a fit and proper person, the University is obliged to consider whether that decision constitutes a Reportable Event under its Reportable Event Procedure.

Renewal of self-declaration forms

Declaration forms will be issued annually to Governors to complete and return. Should a Governor's circumstances change mid- year, they should inform the Chair of Council and the Secretary to Council at the earliest opportunity.

Renewal of checks

This Policy shall apply to all existing and prospective Governors. Full updates, including external checks, will take place every three years.

Retention of data

Declarations will be retained by the Secretary to Council until the term of that Governor's appointment to Council ends and for a subsequent seven years. Declarations will not be disclosed outside of the Governance Office, Office for Students, other relevant University persons, External Auditors, or otherwise as required by law.

Once Governors have signed their declarations (see Appendix 4), they should return this to the Governance Team (Committees@lshtm.ac.uk). In signing this declaration, Governors are confirming that they will ensure that funds will be used appropriately in support of LSHTM's charitable objectives and for the purposes for which they were given.

In signing the declaration, Governors are also consenting that the University may submit their declaration (on request), to the Office for Students, as evidence that they are a fit and proper person.

How LSHTM will use this information

The OfS requires us to confirm that every individual whose details we have passed to it has consented in writing to the OfS holding and processing their personal data for the purpose of its regulation of the university, and that we will provide a copy of this consent on request. However, under General Data Protection Regulations (GDPR), the lawful basis under which it is necessary for us to process personal data is contained within check with LSHTM's Data protection Officer as UK policy has been updated.

To find out how the university uses the information it holds on individuals, please view our Staff Privacy Notice https://www.lshtm.ac.uk/sites/default/files/Staff-Privacy-Notice.pdf

LSHTM will apply the same approach contained within this policy, to its handling of data on members of Council.

Governors will be invited to sign the Fit and Proper Self Declaration Form (see Appendix 4) to confirm they have read, understood and completed this form to verify they are a fit and proper person.

How OfS will use this information

The Office for Students will hold and process all LSHTM's governors' information, as part of OfS' regulation of the University as an English Higher Education Institution.

For more information about how the OfS will use your information please visit the OfS website.

Breaches of the Code

In cases where there is a concern that a Governor has breached this Code, the matter will be reviewed by the Chair of Council and a member of the Nominations Committee* who will discuss their recommendations to the Council in closed session. Council will then take a view.

(* Please note, if a concern has been raised about the Chair, the review will be undertaken by the Deputy Chair and a member of the Nominations Committee.)

In LSHTM's Ordinances, point v, under B.6 REMOVAL AND RESIGNATION OF COUNCIL MEMBERS states: '...Subject to the conditions in paragraphs below, the Council may, by majority decision, remove a Council Member from office if it is satisfied that that the Council Member is unable or unfit to discharge the duties of office or there has been a reasonable loss of confidence on the part of the Council in the ability of the Council Member to perform the duties of office...'

Any sanctions will be determined by Council, up to and including requiring the Governor concerned to resign from Council. The Governor will accept the decision of Council in such cases.

APPENDICES

Appendix 1: Nolan Principles

Appendix 2: Public Interest Governance Principles as set out by the OfS

Appendix 3: Pro-forma Record of Fit and Proper Person Checks

Appendix 4: Pro-forma Fit and Proper Person – Self Declaration Form

Appendix 1 - Nolan Principles

'The Seven Principles of Public Life outline the ethical standards those working in the public sector are expected to adhere to. They were first set out by Lord Nolan in 1995 in the first report of the Committee on Standards in Public Life and they are included in a range of codes of conduct across public life'. (The Seven Principles of Public Life - GOV.UK (www.gov.uk)

All LSHTM governors and public office holders are expected to abide by the Nolan Principles and uphold the highest ethical standards. LSHTM asks all its Governors to confirm their commitment to the Nolan Principles by signing the Fit and Proper Person Self Declaration form (see Appendix 4).

1. Selflessness
Holders of public office should act solely in terms of the public interest.

2. Integrity
Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3. Objectivity
Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

4. Accountability
Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

5. Openness
Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

6. Honesty
Holders of public office should be truthful.

7. Leadership
Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

Appendix 2 - Public Interest Governance Principles as set out by the OfS

The principles below have been extracted from the OfS website and apply to all registered providers. LSHTM asks Governors to confirm their commitment to the Public Interest Governance Principles by signing the Fit and Proper Person Self Declaration form (see Appendix 4).

I. Academic freedom: Academic staff at an English higher education provider have freedom within the law:

- to question and test received wisdom; and
- to put forward new ideas and controversial or unpopular opinions; without placing themselves in jeopardy of losing their jobs or privileges they may have at the provider.

II. Accountability: The provider operates openly, honestly, accountably and with integrity and demonstrates the values appropriate to be recognised as an English higher education provider.

III. Student engagement: The governing body ensures that all students have opportunities to engage with the governance of the provider, and that this allows for a range of perspectives to have influence.

IV. Academic governance: The governing body receives and tests assurance that academic governance is adequate and effective through explicit protocols with the senate/academic board (or equivalent).

V. Risk management: The provider operates comprehensive corporate risk management and control arrangements (including for academic risk) to ensure the sustainability of the provider's operations, and its ability to continue to comply with all of its conditions of registration.

VI. Value for money: The governing body ensures that there are adequate and effective arrangements in place to provide transparency about value for money for students and (where a provider has access to the student support system or to grant funding) for taxpayers.

VII. Freedom of speech: The governing body takes such steps as are reasonably practicable to ensure that freedom of speech within the law is secured within the provider.

VIII. Governing body: The size, composition, diversity, skills mix, and terms of office of the governing body is appropriate for the nature, scale and complexity of the provider.

IX. Fit and proper: Members of the governing body, those with senior management responsibilities, and individuals exercising control or significant influence over the provider, are fit and proper persons.

X. Records: Where degree awarding powers (DAPs) are solely contained in the provider's governing documents, and no order either under section 76 of the Further and Higher Education Act 1992, or under the Higher Education and Research Act 2017 exists, the provisions setting out those powers must be retained and may not be altered without the consent of the Office for Students.

XI. Independent members of the governing body: There must be at least one external member of the governing body who is independent of the provider, and whose term of office is normally limited to a maximum of three terms of three years or two terms of four years. For providers with large governing bodies, or more complex legal forms, additional independent members may be appropriate.

XII. Regularity, propriety and value for money: The governing body ensures that there are adequate and effective arrangements in place to ensure public funds are managed appropriately, in line with the conditions of grant and the principles of regularity, propriety and value for money, and to protect the interests of taxpayers and other stakeholders. This also applies to any funds passed to another entity for the provision of facilities or learning and teaching, or for research to be undertaken.

Appendix 3

CONFIDENTIAL: Pro-forma Record of Fit and Proper Person Checks

This form to be completed by the Secretary to Council.

NAME OF PERSON TO BE CHECKED:

FOR WHICH ROLE:

Checks

	YES	**NO**
1. Is the person of good character?		
2. Has the individual the qualifications, competence, skills, and experience required for the role?		
3. Is the person by reason of health, with reasonable adjustments, able to properly perform the tasks of the office for which they are appointed?		
4. Has the person completed self-declaration form?		

Result of searches

5. What is the result of company director search? *https://www.gov.uk/search-the-register-ofdisqualified-company-directors*	*List all companies, including ones no longer trading:*
6. What is the result of Charity Commission website search? *https://register-ofcharities.charitycommission.gov.uk/*	
7. Is the person on the Register of Disqualified Trustees? *https://www.gov.uk/guidance/charitytrustee-disqualification*	

8. What is the result of bankruptcy and insolvency register search? *https://www.gov.uk/search-bankruptcyinsolvency-*	
9. Are there any negative indicators following internet search, including fraud, disciplinary, disqualification, evasion, regulatory, reputation, discharge, financial etc?	
10. Has an internet search - including social media channels- been conducted, to search for values alignment this protecting the institution from reputational risk?	

NAME OF SECRETARY TO COUNCIL:

SIGNATURE:

DATE:

Appendix 4

CONFIDENTIAL Pro-forma Fit and Proper Person – Self Declaration Form

NAME:

ROLE:

Please complete and return this self-declaration to the Governance Team (Committees@lshtm.ac.uk) as soon as possible; please note that the self-declaration is required to be completed before your appointment can be confirmed.

If you answer 'Yes' to any question, please provide full details on a separate page, making it clear to which question you are referring.

All information provided will be kept confidential and managed in accordance with Data Protection legislation.

1. Have you ever been or are you currently? A director, a partner in a partnership, a trustee, secretary or controller of a company, or an officer of an organization that has, either during your connection or within one year of that connection:	**Yes/No**
• **Gone into liquidation?**	
• **Called in a receiver or administrator?**	
• **Been wound up?**	
2. Been convicted of an offence in the UK that potentially carries a custodial offence?	
3. Have you ever had or used a different personal name? regardless of the reason for the change;	
• **marriage**	
• **deed poll**	
• **nom de plume**	
4. Have you ever been convicted of a criminal offence anywhere in the world?	
5. Have you ever been the subject of any adverse finding in civil proceedings, where relevant, including, but not limited to bankruptcy or equivalent proceedings (in the last three years) ?	
6. Have you been involved in any abuse of tax systems?	
7. In the last five years, have you been the subject of any civil action relating to your professional or business activities that resulted in a judgement or	

finding against you by a court, or a settlement (other than a settlement consisting only of the dismissal by consent or of a claim against it and the payment of its costs) being agreed?	
8. Have you ever been disqualified by a court from being a director or from acting as a charity trustee, as set out in the Company Directors Disqualification Act 1986 or the Charities Act 2011, or from acting in the management or conduct of the affairs of any company?	
9. In the last ten years have you been:	
a) refused or been restricted in the right to carry on any trade, business, or profession for which a specific licence, registration or other authority is required?	
b) investigated about allegations of misconduct or malpractice in connection with your professional activities that resulted in a formal complaint being proved but no disciplinary action/order being made?	
c) the subject of disciplinary procedures by a professional body or employer resulting in a finding against you?	
d) reprimanded, excluded, disciplined, or publicly criticized by any professional body to which you belong or have belonged?	
e) e. refused entry to or excluded from membership of any profession or vacation?	
f) f. dismissed or requested to resign from any office, employment, or partnership (other than through redundancy)?	
g) g. reprimanded, warned about future conduct, disciplined, or publicly criticized by any regulatory body, or any officially appointed enquiry concerned with the regulation of a financial, professional, or other business activity?	
h) h. the subject of a court order at the instigation of any regulatory body, or any officially appointed enquiry concerned with the regulation of a financial, professional, or other business activity?	
10.	
11. Are you currently undergoing any investigation or disciplinary procedures in respect of issues that would give rise to any 'Yes' answers to questions in this Fit and Proper Self Declaration Form?	
12. Have you been involved with any entity that has been refused registration to carry out a trade or profession or had had that registration terminated?	
13. Have you ever been dismissed from a position of trust or otherwise?	
14. Have you ever been involved with a higher education provider that has had its registration refused or revoked by the Office for Students, or has	

had similar action taken against it by another regulator (this includes, but is not limited to, serving on a board/governing body, Fit and Proper Person Policy 8 having voting rights, being a significant shareholder/owner, serving in a senior position etc.)?	
15. Do you confirm your commitment to the Nolan Principles (see Appendix 1)?	
16. Do you confirm your commitment to the Public Interest Governance Principles as set out by the OfS (see Appendix 2)?	

Each Trustee must be a 'fit and proper person' to be a Governor of LSHTM's Council. This will be assessed by looking at all relevant information and in particular any information which concerns the Trustee Directors':

1. honesty and integrity
2. competence and capability

When considering the above criteria, the following will be taken into account:

1. any attempt to deceive
2. any misuse of funds
3. any breaches of trust or pensions law, particularly if these are significant, persistent, deliberate or contrary to legal advice received
4. if a Trustee Director's professional charges constitute a breach of trust or demonstrate a lack of internal controls
5. criminal convictions so far as these are not spent under the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978. These convictions are not limited to those involving dishonesty or deception and could involve convictions for money laundering, violence or substance abuse
6. if an individual has been disqualified from being such a Director
7. if an individual is subject to certain personal insolvency proceedings (e.g. an undischarged bankrupt or made an arrangement with creditors)
8. Governors have at least the requisite level of knowledge and understanding as required (as demonstrated through t=LSHTM's Trustee Training Programme)

If a Governor is competent to manage their own affairs (e.g. taking into account any absence, illness or infirmity).

I confirm that I:

have read and understood LSHTM' Fit and Proper Policy and accordingly I do not believe there is any reason that I would not be considered a "fit and proper person" to be a Governor for LSHTM e and any all relevant matters have been fully disclosed;

have provided full and accurate information within this Self-Declaration to the best of my knowledge, belief and understanding and that I am not prevented by law from acting as a Trustee.

I understand that the personal data (including any sensitive personal data) contained in this Self Declaration will be used by LSHTM to ensure compliance with its legal, regulatory, and other obligations.

SIGNATURE:

DATE:

After review/sign-off, this self-declaration form should be returned to the Governance Team (Committees@lshtm.ac.uk) for storing.

TO BE COMPLETED BY THE SECRETARY TO COUNCIL

I have reviewed the declaration and I confirm that, unless stated below, there were no further explanations or discussions required relating to the clearance of contra-indications:

NAME OF SECRETARY TO COUNCIL:

SIGNATURE:

DATE: