

Report of Constitution & Governance Committee - Review of Disclosures and Barring Service (DBS) checks policy for Somerset County Councillors 2022

Chair of Committee: Councillor Theo Butt Philip

Lead Officer: Scott Wooldridge – Monitoring Officer and Head of Governance and Democratic Services

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Executive Member: Councillor Tessa Munt – Lead Member for Children and Families Division and Local Member: N/A

1. Summary/link to the County Plan

- 1.1.** The Disclosure and Barring Service (DBS) helps prevent unsuitable people from working with vulnerable groups, including children. It replaced the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).
- 1.2.** At the meeting of the County Council in November 2017 the Council accepted the recommendation of the then Standards Committee that all members whose duties bring them into contact with young children or vulnerable adults should have an enhanced DBS check. This included: the relevant Executive members; members of the Scrutiny Committees for Children and Families and/or Adults and Health; members of the Adoption and Foster Panels; any member who partakes in a visit to a Children's home and whose Corporate Parenting responsibilities involve interaction with children; and members appointed to Panels or working groups relating to education or adult social care services.

In addition, it was agreed that all other members were required to have a Basic DBS check and this policy was based on an assessment of the legislative and practical requirements at the time.

- 1.3.** In July 2022 the Lead Member for Children and Families requested that the Monitoring Officer present a report to the Constitution and Governance Committee and then at Full Council to revisit the policy with a view to requiring all members to be enhanced DBS checked. It feels timely to revisit the policy given the continuing emphasis on safeguarding and an assessment of DBS policies of other councils in relation to members.

2. Recommendations

2.1. The Constitution and Governance Committee recommends that the Council agrees:

- (a) **that the existing DBS policy for Councillors be extended to provide an extension of the current mandatory requirement to have Enhanced DBS checks without barred list checks to : all Executive Lead Members; Associate Lead Members; members of the Adults & Health and Children & Families Scrutiny Committees; members of the Adoption and Foster Panels; members of the Corporate Parents Board; and Members appointed to Panels or working groups relating to education or adult social care services, to ensure that all Members of the Council and co-opted members are required to undergo an Enhanced DBS check without barred list checks. (Option 3 in paragraph 3.1);**
- (b) **That all DBS checks required above will be carried out by the Council immediately following each Council election to ensure that such checks are renewed halfway through this election period, approximately May 2025. This is relevant as DBS checks are effectively only valid on the day they are issued and this current election period is unusually long.**
- (c) **That the Monitoring Officer maintains a register of approved applications.**

2.2. Officers anticipate that the proposals will be welcomed by all members, however the Committee is asked to note that if the amended policy set out in paragraph 2.1 above is agreed by the Council, then any member who refuses an enhanced DBS check without barred list checks under this policy will be in breach of the Members' Code of Conduct for failure to comply with Council policy and will be subject to a potential range of sanctions which can be imposed in these circumstances.

The Committee is also asked to note that the recommendation listed in paragraph 2.1 exceeds legal requirements, for members requiring a DBS check. However there is a view that the role, expectations and reach of a County Councillor has increased considerably since 2017 and will only continue to do so as part of a Unitary Authority. There is a reasonable expectation that all Councillors could be in a position where they are visiting a care home, school or vulnerable resident whilst dealing with casework issues and by agreeing these recommendations, the Council will be providing the greatest level of assurance possible to the public.

There is also the possibility that following May 2023 Annual General Meeting of Full Council there could be a number of changes to the roles Councillors are

appointed to and these recommendations would mitigate the need for a further round of ad-hoc Enhanced DBS checks.

3. Background

3.1. The DBS is a non-departmental public body, sponsored by the Home Office. It was formed in 2012 by the merger of the Criminal Records Bureau ("CRB") and the Independent Safeguarding Authority ("ISA") under the Protection of Freedoms Act 2012 which made changes to the arrangements for carrying out criminal records checks. The DBS provides access to criminal records and other relevant information for organisations in England and Wales and is also responsible for investigating safeguarding concerns and maintaining the barred lists for Children and Adults and the combined list (these are statutory lists containing details of people considered unsuitable to work with children and/or adults).

There are various level of checks that can be applied for –

1. Basic disclosure certificate - shows any 'unspent convictions' someone may have in the UK. A basic disclosure shows a conviction record at a point in time, so there is no set time that it lasts for. Individuals can apply and pay for a basic Disclosure themselves. This is not the same as a DBS Standard check
2. Standard disclosure certificate - checks for spent and unspent convictions, cautions, reprimands and final warnings.
3. Enhanced disclosure certificate, this includes the same as the standard check plus any additional information held by local police that's reasonably considered relevant to the role being applied for.
4. Enhanced disclosure certificate with barred list checks, this is like the enhanced check, but includes a check of the DBS barred lists. Under the current legislation no elected member would qualify for this level of check.

3.2. Legislation in 2012 significantly amended definitions of regulated activities with children and adults which impacted on the legal position of DBS checks in relation to members. It is reasonable to say that the legislative requirements allow for a degree of interpretation and this has contributed to policy variations around the country.

3.3 Other points to note

- 3.3.1** DBS checks carried out by the Council are only relevant for members acting in their capacity as elected members. If members carry out roles outside of this capacity involving work with children or adults (for example, volunteering with the scout movement or in a children's centre), it is their responsibility to check with the relevant organisation regarding that organisation's own DBS checking requirements.
- 3.3.2** Any policy change should apply to checks requested and initiated from the date of the Council's decision.
- 3.3.3** In the event that a DBS check raises concerns then the response by the Council will be proportionate. If there is a suggestion of risk to children or adults then advice will be taken from the Council's safeguarding experts. One option is then to seek an external risk assessment before deciding next steps which could include a referral to the police for investigation through to a decision being taken to restrict the members' appointments on the Council and formal advice being given to, for example, the schools within the members' electoral division and other relevant agencies.
- 3.3.4** The current cost of an Enhanced DBS is £44 and for a Basic Disclosure check it is £25. The estimated cost of undertaking a one time enhanced check for all members and co-opted members is approximately £4400, compared to the cost of the current mixed approach being roughly £3350. This cost should be capable of being met from within the Members' budget.
- 3.3.5** The ultimate purpose of this report and the recommendations are to revise and amend the Council's DBS policy to enhance the arrangements in place to provide a strong level of assurance to Somerset residents that the Council is taking practical actions to continue to reduce the risk of harm to vulnerable young people and adults.