

# WEST NORTHAMPTONSHIRE COUNCIL CABINET

9<sup>TH</sup> JULY 2024

## LEADER OF THE COUNCIL AND CABINET MEMBER FOR STRATEGY – COUNCILLOR ADAM BROWN

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**Report Title**                      **DBS Checks in relation to Elected Members Protocol**

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### Contributors/Checkers/Approvers

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### List of Appendices

#### Appendix A – Draft Protocol for DBS checks for Elected Members

##### 1. Purpose of Report

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- 1.1. The purpose of this report is to seek Members’ agreement to a protocol for dealing carrying out and dealing with DBS checks in relation to elected members.

##### 2. Executive Summary

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- 1.2. There has been a changing history in relation to criminal record checks in relation to elected members. Historically checks were done and in 2014 concerns were raised nationally about the

number of unnecessary checks that were carried out in relation to those who had no involvement with vulnerable people and children which was delaying checks for essential staff.

- 1.3. More recently the independent review of disclosure and barring has identified that certain councillors should undertake DBS checks. It has been identified nationally that checks of certain elected Members should be undertaken where their roles involve them in decision making in relation to vulnerable adults and children.
- 1.4. The recent review has resulted in a recommendation for legislation change and, in the meantime, guidance encouraging members to engage in voluntary DBS checks. This policy is to enable those checks to be carried out and considered.

### **3. Recommendations**

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3.1 It is recommended that the Cabinet:

- Approves the Policy on Disclosure and Barring Service (DBS) checks for Councillors.

### **4. Reason for Recommendations**

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- To further enhance the Council's safeguarding approach and to be consistent with safeguarding policies.
- To provide a consistent approach in accordance with national guidance and the outcome of the independent review of the Disclosure and Barring Regime (18 April 2023) by Simon Bailey.

### **5. Report Background**

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5.1 In January 2024, the Department for Levelling Up, Housing and Communities (DLUHC) wrote to all Unitary and Upper Tier Authorities, reminding them of the recommendation in Simon Bailey's Independent Review of the Disclosure and Barring Regime (18 April 2023).

5.1.1 With specific reference to local authorities, the review made the following recommendation:

Recommendation 5: Local councillors I recommend that an enhanced disclosure and barring service check is made mandatory for all councillors in Unitary and Upper Tier Authorities who are being considered for appointment to any committee involved in decisions on the provisions of children's services or services for vulnerable adults. I accept that this would require legislation and therefore some inevitable delay, so I further recommend that these authorities are encouraged to adopt this procedure as best practice pending legislation.

- 5.2 At the time of the review and subsequent DLUHC letter, the Council did not have policy on Disclosure and Barring Service (DBS) checks policy specifically for Councillors.
- 5.3 The Policy, presented for the Committee's consideration and recommendation, includes requirements for Enhanced DBS checks for those Councillors involved in decisions about the

provision of children's services or the provision of services for vulnerable adults, and for Basic DBS checks for any Councillor elected to the Council.

5.4 In January 2024 the Department for Levelling Up, Housing and Communities wrote to all Unitary and Upper Tier Authorities, reminding them of the recommendation in Simon Bailey's Independent Review of the Disclosure and Barring Regime (18 April 2023). The purpose of the review, commissioned by the Home Office, was to provide assurance to Ministers about the effectiveness of the disclosure and barring regime in safeguarding children and vulnerable adults. Part of the review considered the regime with regard to local councillors' eligibility for checks provided by the Disclosure and Barring Service ('DBS checks').

5.5 The Policy attached, as Appendix 1, incorporates the recommendations from the Report of the Independent Review of the Disclosure and Barring Services (DBS) and the recommendation from the Department for Housing, Levelling Up and Communities (DLUHC). The Policy will implement a practice whereby Enhanced DBS checks are mandatory for all Councillors being considered for appointment to any Committee of the Council involved in decisions on the provision of social services or education functions. This includes, but is not limited to, any Councillor in the roles below:

- All Cabinet Members as they are responsible for decisions in relation Children's Services and Adults Services
- Scrutiny Members who are involved in shaping decisions in relation to Children's, Adults, Health and Housing.
- Any other member directly involved in decisions or policy development in relation to Adults and Children eg this may include Members of Adoption Panel, Members of Health and Wellbeing Board and Members of Corporate Parenting Panel.

5.6 the Policy will also require a Basic DBS check for all Councillors elected to the Council.

5.7 It is proposed that the policy, if adopted, will be reviewed every three years or sooner when there are substantive legislative or guidance changes requiring changes to be made.

## **6. Issues and Choices**

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6.1 The guidance asks that all Councillors involved in decisions about children and vulnerable adults undertake an enhanced DBS check. There is an option to ignore the guidance but there would need to be a clear rationale for doing so. It seems likely that this will be subject to legislation in future.

6.2 The guidance does not require basic checks to be carried out on all Councillors, so this is something which is a matter for local discretion.

## **7. Implications (including financial implications)**

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### **7.1 Resources and Financial**

7.1.1 The costs of the checks will be funded from existing budgets in the and will be at a cost in the region of £3k. This covers the cost of basic checks for all Councillors and enhanced checks, for the roles listed.

### **7.2 Legal**

7.2.1 The Disclosure and Barring Service (DBS) provides a procedure through which organisations may carry out criminal record checks relating to individuals who may, on behalf of the organisation, undertake work or hold positions or responsibilities which may bring them into contact with vulnerable persons. There are different levels of DBS checks, with different eligibility criteria; a basic DBS check can be obtained by any individual for any purpose, so all Councillors are eligible for a basic criminal record check, however, access to Standard and Enhanced DBS checks is controlled by legislation and such checks should only be applied for when someone will be carrying out the activities that would make them eligible for a check. Councillors who have responsibility (e.g. through committee membership) for social services, health and education functions for children and/or vulnerable adults, are eligible for enhanced DBS checks.

7.2.2 Legislation specifies when a DBS check can be applied for, rather than when checks must be carried out. Organisations may produce their own guidance stating when DBS checks will be requested, but this guidance must comply with the law that allows a DBS check to be applied for.

7.2.3 The Policy incorporates the recommendations from the February 2023 Report of the Independent Review of the Disclosure and Barring Services and the DLUHC's January 2024 best practice recommendation in relation to Council's obtaining Enhanced DBS checks for Councillors involved in decisions on the provisions of services to children and/or vulnerable adults.

7.2.4 The Council will also need to ensure compliance with UK GDPR and Data Protection legislation when processing the information in relation to DBS.

### **7.3 Risk**

7.4 The independent review has highlighted the need for this to happen and this is supported by government guidance. Failing to follow those recommendations and guidance is a reputational risk.

7.5 The more significant risk is not knowing about convictions and other information about individuals who may pose a risk to the safety of vulnerable individuals and the Council not having the information to appropriately manage the risk.

### **7.6 Consultation**

7.7 As this is a response to national guidance, there has been no consultation. The policy is consistent with other local authorities.

## 7.8 **Consideration by Overview and Scrutiny**

7.9 As this is a response to national guidance it has not been felt appropriate to delay implementation of the policy further to undertake a scrutiny review.

## 7.10 **Climate Impact**

7.11 There are no specific carbon impacts as a result of this policy.

## 7.12 **Community Impact**

7.12.1 The purpose of this report is to enhance safeguarding and therefore improve community protection. There are no negative impacts on the community as a result of this report.

## 7.13 **Communications**

7.14 Information will be made available publicly about when DBS checks have been completed but any information concerning the results of the checks will remain confidential as detailed in the policy.

7.15 Candidates standing for office will also be made aware that DBS checks will be a requirement for councillors standing for office in future.

## 8. **Background Papers**

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**None**