

# POLICY ON DISCLOSURE AND BARRING SERVICE (DBS) CHECKS FOR COUNCILLORS

## **1. Introduction**

1.1 It is essential that the public has full confidence that the Council is doing all it can to ensure the safeguarding of children, young people and vulnerable adults.

1.2 The Policy on Disclosure and Barring Service (DBS) Checks for Councillors (“the Policy”) sets out when DBS checks will be required to be undertaken by Councillors (including Co-opted Members) and paid for by the Council.

1.3 This Policy takes into account the recommendations from the Report of the Independent Review of the Disclosure and Barring Services (DBS) commissioned by the Home Office and published on 18 April 2023 and from the recommendations from the Department for Housing, Levelling Up and Communities (DLUHC) on 18 January 2024. The recommendations included implementing 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.

1.4 Any Councillor in a role which involves the discharge of education functions and/or social services functions of the Council will be required to undergo an Enhanced DBS check, to be carried out in accordance with this Policy. This includes any Councillor sitting on an Adoption and Fostering Panel.

1.5 This Policy provides further detail as to what education and social services functions of the Council covers, who will undertake the DBS checks and the process to be followed by the Council should a positive disclosure be received.

1.6 This Policy complies with the Rehabilitation of Offenders Act 1974 and with the Disclosure and Barring Service Code of Practice.

## **2. Requirement for eligible Councillors to undergo an Enhanced DBS check**

2.1 The Protection of Freedoms Act 2012 abolished the former arrangements for the vetting and barring of individuals from working with children and vulnerable adults and a new body, the Disclosure and Barring Service (DBS), was formed.

2.2 The Act reduced the number of roles and circumstances under which a person would be required to have a DBS check.

2.3 There are various types of DBS checks but for the purposes of this Policy the most relevant are:

Type of DBS Check	Description
Basic DBS check	This check shows unspent convictions and conditional cautions. There is no eligibility requirement for a basic check
Standard DBS check	This check shows spent and unspent convictions and adult cautions from the Police National Computer which have not been filtered in line with legislation. These checks can only be applied for when an individual is taking on a specific role. There is an eligibility requirement for Standard DBS checks.
Enhanced DBS check	This check shows the same as a standard check plus any information held by local police that is considered relevant to the role. These checks can only be applied for when an individual is taking on a specific role. There is an eligibility requirement for Enhanced DBS checks.

2.4 A Councillor is only eligible for an Enhanced DBS check if they meet specific legislative criteria, therefore an Enhanced DBS check will be undertaken where the Councillor has, by virtue of their role, responsibility for certain functions relating to Children and/or vulnerable adults.

#### In relation to Children

2.5 Councillors undertaking a role which is eligible for an Enhanced DBS check in relation to Children, namely one which discharges any education functions, or social services functions of the Council in relation to Children will be required to undergo an Enhanced DBS check, to be carried out in accordance with this Policy. The application should be made within one month of a Councillor's appointment to the specified role.

2.6 This will include, but is not limited to, the following Councillors: (i) Any Councillor who has Lead Member responsibilities that involve family services, education or housing (ii) A Councillor sitting on an Adoption and Fostering Panel. (iii) A Councillor sitting on any Committee (including sub-committee) reviewing policies or strategies relating to Children.

#### In relation to Adults

2.7 Councillors undertaking a role which is eligible for an Enhanced DBS check in relation to Work with Adults, namely one which discharges any social services functions of the Council, which relate wholly or mainly to vulnerable adults who receive a health or social care service will be required to undergo an Enhanced DBS

check, to be carried out in accordance with this Policy. The application should be made within one month of a Councillor's appointment to the specified role.

2.8 This will include, but is not limited to, the following Councillors: (i) Any Councillor who has Lead Member responsibilities that involve vulnerable adults, family services, education or housing (ii) A Councillor sitting on any Committee (including sub-committee) reviewing policies or strategies relating to vulnerable adults

2.9 If the Council's governance arrangements changed, an Enhanced DBS check would be required by the relevant councillors discharging the functions set out above in relation to children and/or vulnerable adults.

The list of Councillors in relation to the Council's current governance arrangements who are deemed to be eligible for an enhanced DBS check are set out in Schedule 1 below.

### **3. Councillors not eligible for an Enhanced DBS Check**

3.1 As best practice in safeguarding residents, the Council will undertake basic DBS checks for all Councillors, as they could interact with children and vulnerable adults through case work and surgeries.

3.2 Where Councillors have other roles in the community that require Enhanced DBS checks, such as School Governors, Trusts or volunteering roles, those Councillors or their host organisations will pay for the costs of this.

3.3 All organisations have a legal responsibility to ensure DBS checks are relevant to their setting. DBS checks are not transferable from one setting to another.

### **4. The Council Process of undertaking DBS Checks**

4.1 The Democratic Services Team will make a request for the DBS check to the PA Support Team. The trained staff within the PA Support Team will complete the necessary request to the Disclosure and Barring Service (DBS). Once undertaken, the outcome of that check is returned to the individual Councillor.

4.2 The Councillor is responsible for providing all the information requested by the DBS Team for the checks to take place. Compliance in providing this information will be monitored and any issues reported to the relevant Group Whip and the Monitoring Officer.

4.3 The DBS Team will ensure that disclosure certificates are made available to the Monitoring Officer and the Councillor with the outcome of the check. By undertaking the check the Councillor is agreeing that the DBS Check result will be shared with the Council's Monitoring Officer (or Deputy Monitoring Officer in their absence).

4.3 It is important that if the request to the DBS is made by the Council, the results of the check are provided. Failure by a Councillor to provide evidence of the outcome of the DBS check must therefore be reported to the Chief Executive and Monitoring Officer who will take steps necessary to ensure compliance. Where appropriate this may include prompt consultation with the Council's Local Authority Designated Officer (LADO) who is responsible for the management and oversight of allegations

against people that work with children and where there may be concerns about the suitability for a person to hold a position of trust. This includes the provision of advice and guidance on how to deal with such allegations, liaising with police and other agencies to monitor the progress of cases and ensure that they are dealt with as quickly as possible and consistent with a thorough and fair process (HM Government, 2023).

4.4 Should a Councillor have signed up to the Update service (a service designed to remove the requirement to complete a new disclosure form every three years and allows portability between employers but which also allows a streamlined process where a Councillor remains in the Cabinet) the DBS team, with the permission of the Councillor, will establish whether there has been any change in status since the last DBS check was carried out. If there is any change the details will be made available to the Chief Executive and Monitoring Officer. All Councillors who sign up for the update service will be required to give their permission for the DBS team to check their disclosure status every three years.

4.5 There are different types of disclosure results as follows:

- (i) A clear disclosure certificate is one where there is no record of any relevant information. A copy of the clear disclosure certificate is noted and signed by the Monitoring Officer to confirm the check was clear. The record is then destroyed. Councillors are responsible for keeping the original copy as they may be asked to make it available to relevant bodies whilst undertaking their role as a Councillor;
- (ii) A positive disclosure certificate is one which contains content about cautions, convictions, reprimands, warnings or information held locally and nationally by police forces relating to the Councillor and the activities they will or may be or may have been involved in whether as a private individual or a Councillor. In the event of a positive disclosure the process set out in paragraph 5 applies.

## **5. The process of dealing with a positive disclosure**

5.1 A positive disclosure in relation to a Councillor may be revealed by a DBS check.

5.2 In such a case the Council must ensure compliance with established safeguarding procedures in line with national guidance. The Steps to be taken upon a positive disclosure being made

5.3 Where a DBS check discloses a positive criminal record, the disclosure certificate will be reported by the Monitoring Officer to the Chief Executive. The Chief Executive and Monitoring Officer will review the disclosure and decide how to address the issues raised by the disclosure including meeting with the Councillor concerned. Where relevant the Local Authority Designated Officer (LADO) will be involved.

5.4 The Chief Executive and Monitoring Officer (and where appropriate the LADO) will need to consider the issues raised by the disclosure promptly and

without delay given the potential implications for the Councillor, the Council and other parties.

5.5 The issues considered might include:

- whether a positive criminal record disclosure risk assessment is required (in which case this will be undertaken by the Chief Executive and the Monitoring officer with support, where relevant, from the Democratic Services Team and the LADO).
- the context of the offence or incident disclosed, and any information provided by the Councillor to explain the circumstances.
- the seriousness and nature of the offence or incident.
- the relevance of the offence or incident to the Councillor engaging with vulnerable groups; the passage of time since the offence or incident; and whether the Councillor's circumstances have changed since the offence or incident.
- if there is a dispute about the content of a disclosure, whether to make representations to the Disclosure and Barring Service (DBS) or Responsible Body.
- who should be informed of the matters under consideration including the rationale for this and clarity about how they will be informed and by whom.
- the communication strategy including who will be involved in preparing, signing off and delivering communications; whether a press release is required; the timing of communications including what will be communicated, by whom, to whom and how.
- the governance issues which the positive disclosure gives rise to and how they can be lawfully and practically addressed; and
- whether any practical steps are required as an immediate response or on an ongoing basis such as restricting access to others, buildings or resources.

5.6 The Monitoring Officer will prepare notes of outcome and actions to ensure that they are properly recorded; that there is clarity of responsibility for any actions including matters to be communicated to others; and that appropriate follow-through to conclusion takes place.

5.7 The Chief Executive and the Monitoring Officer will take such advice and action and involve such persons as are necessary to ensure the safeguarding of children and vulnerable adults. External advice may be sought as and when required. If there is any doubt about how to proceed, guidance will be sought from the Monitoring Officer (or appropriate officer in their absence) at the earliest opportunity.

#### Possible actions following a positive disclosure.

5.8 There are a range of possible actions that might flow from a positive disclosure. These include the requirement to manage any potential risks

identified and to consider whether there are others who may require protection either as a result of the disclosure itself or as a result of actions the Council may decide to take.

5.9 The Monitoring Officer will consider whether there may have been a breach of the Code of Conduct and take any necessary steps in accordance with the Council's arrangements for dealing with such breaches.

## **6. Confidentiality of information and security of disclosure information**

6.1 All allegations may have far-reaching consequences for the Councillor in question and others. It is therefore essential that all information is kept strictly confidential and only disclosed on a 'need to know' and lawful basis in accordance with the Council's policy on information security and data protection and then only as permitted by the Monitoring Officer and the Chief Executive.

6.2 With regards to the decision about who should be informed of the matters under consideration, the starting presumption will be in favour of not notifying others unless there is a clear rationale for doing so. The expectation is that in most instances the Chief Executive will consult the Leader of the Council, but this may not be the case in all instances.

6.3 Any actions or decisions of the Council must be taken in the context of putting its safeguarding responsibilities first. Others must not be notified if to do so may have an adverse impact on any related safeguarding process.

6.4 The Council should comply fully with the Disclosure and Barring Service Code of Practice regarding the correct handling, use, storage, retention and disposal of disclosures and disclosure information. The Council should also ensure full compliance with its obligations under relevant Data Protection legislation and any other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of disclosure information.

6.5 Where it is necessary to store a copy of a disclosure certificate this will be securely stored electronically, and password protected with access strictly controlled and limited to those entitled to see it as part of their duties. The disclosure certificate will be held for up to 6 months after which time it will be deleted electronically unless there are compelling reasons for retention.

6.6 It is an offence under the Police Act 1997 to pass disclosure information to unauthorised persons. This means that disclosures and the information they contain can only be passed to those individuals that need to have access to that information in order to undertake their work role. Individuals who have responsibilities in respect of disclosures including those involved with the process for dealing with positive disclosures must ensure confidentiality at all times. Failure to maintain confidentiality could result in disciplinary action.

## **7. Policy Review**

7.1 It is proposed that the policy will be reviewed every 3 years or sooner when there are substantive legislative or guidance changes requiring changes to be made.