

DISCLOSURE AND BARRING SERVICE CHECKS

To: Full Council

Date: 11th December 2013

From: The Monitoring Officer

Purpose: To seek approval of the recommendation from the Constitution and Ethics Committee concerning Disclosure and Barring Service (DBS) checks for elected members.

Recommendation: It is recommended that Full Council approve the revised section relating to Members to be included in the Council's existing policy on DBS checks for members and officers.

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1.0 BACKGROUND

1.1 Existing Policy

All Members of the County Council are currently required to have a standard Criminal Records Bureau (CRB) check. This policy was established in February 2006, when it was also agreed that Enhanced checks would be carried out for the following:

- All Cabinet members
- Chairman and Vice chairmen of the Council
- Opposition spokespersons for Children's and Young People's Services and for Environment and Community Services (whose remit includes vulnerable adults and older people)
- Members of Fostering and Adoption Panels
- Assigned visitors to Children's homes
- Members engaged with regular liaison with young people or vulnerable group representatives (Youth Parliament)

1.2 Regulatory Changes

In 2012 changes occurred which brought together the CRB and the Independent Safeguarding Authority (ISA) into the DBS. CRB checks are now called DBS checks.

There are now three levels of checks undertaken:

- Standard - Spent and unspent convictions, cautions, reprimands, final warnings.
As above - plus any additional information held locally by police
- Enhanced - forces that is reasonably considered relevant to the post applied for.
- Enhanced Plus - As above - plus a check of the appropriate DBS barred lists.

The definition of regulated activity is now as follows:

Regulated Activity is any activity which involves contact with children under 18 or vulnerable adults and is of a specified nature (for example jobs in teaching, training, childcare, supervision, the provision of advice or guidance to children, and health care/therapy and jobs that involve driving vehicles conveying only children or vulnerable adults) and is carried out frequently, intensively, or overnight; or is carried out in a specified place (for example, schools, children's homes, children's centres, children's hospitals, juvenile detention facilities, adult care homes) and happens frequently, or intensively. Frequently means once a week or more often. Intensively means 4 days or more within a 30 day period.

1.3 New criteria

The DBS advise that:

- a) Elected members are not eligible for an enhanced plus DBS check
- b) Elected members may be eligible for an enhanced DBS check dependent upon the answers to the following questions:
 - The type of committee the councillor/elected member sits on
 - The role and work of the committee i.e. do they discharge certain functions as follows:

Specifically, in relation to children or vulnerable adults:

- a) s/he is a member of a local authority and discharges any education functions, or social services functions, of a local authority;
- b) s/he is a member of an executive of a local authority which discharges any such functions;
- c) s/he is a member of a committee of an executive of a local authority which discharges any such functions;
- d) s/he is a member of an area committee, or any other committee, of a local authority which discharges any such functions.

The DBS have further clarified the visits by elected councillors to children's homes and have advised that these activities do not meet the conditions for regulated activity, and the frequency criteria is also not met. As a consequence, the DBS advise that this activity does not warrant a check at any level offered by the DBS under current legislation.

It should be noted that an employer can be fined for repeatedly processing applications for people who do not meet the revised criteria.

2. COUNCIL'S EXISTING POLICY ON DBS CHECKS

- 2.1 In light of the changes, the Constitution and Ethics Committee reviewed the policy in relation to Members on 7 November 2013. It agreed to recommend to Council the following revised section be added into the Council's existing policy on DBS checks for Members and officers:

Elected Members who are or will be Lead Member for Adult Services or Children's Services will be required to undertake an enhanced DBS check. In the event that a check is returned with a positive trace, the Objective Assessment (Elected Members) process will be triggered to consider whether it is appropriate under all of the circumstances for them to continue in this role.

- 2.2 There is currently no objective assessment process in place for Elected Members as there is for Officers. In the course of considering the report, the Committee raised concerns about the legality of the objective assessment process, both from the data protection aspect of its inclusion on the member's Human Resources record, and from the aspect of the Council appearing to make its own decision on the member's suitability. The Committee agreed that it should be subject to legal scrutiny before being introduced.

- 2.3 In recommending to Council that a revised section be added into the Council's existing policy on DBS checks for Members and officers, Council will be revoking the current Member policy for CRB checks.

Source Documents	Location
Report to full Council on 21 February 2006	Room No:114a Shire Hall Castle Hill Cambridge CB3 0AP