



REPORT OF:	REPORT OF STANDARDS COMMITTEE
TO:	COUNCIL FORUM
ON:	28TH MARCH 2019

SUBJECT: COUNCILLOR DISCLOSURE & BARRING SERVICE CHECKS

1. PURPOSE OF THE REPORT

To consider revisions to the current policy on the safeguarding and probity checks applied to Councillors.

2. RECOMMENDATIONS

The Council Forum is asked to

1. To agree that following election each councillor be asked to undertake a basic disclosure check which would detail any unspent convictions in line with the Rehabilitation of Offenders Act
2. Subject to 1) above, to agree that following election any councillor who by nature of occupation/role has a DBS certificate of not more than 4 years old be allowed to utilise this certificate (known as portability) to meet requirement 1, but will be asked to undertake a basic disclosure check on the anniversary of the 4th year of the issuing of this certificate or submit a revised (portability based) certificate at that time.
3. Subject to 1) above, to agree, that the cost of the basic disclosure, currently £25, be borne by the councillor from their allowances payments.
4. Subject to 1) – 3) above, and in order to implement the new arrangements ask the Monitoring Officer to develop a DBS Policy incorporating these new arrangements as set out in this report in consultation with the Standards Committee, bringing the Policy for approval of full council in the summer.
5. To agree that the Chief Executive write to the Secretary of State for Housing, Communities and Local Government, to express the view that in support of the Code of Conduct for Councilors and the expectations as referenced in the Section 27(2) of the localism Act 201, all elected members of Council's should be subject of `enhanced` disclosure and barring services checks.

3. BACKGROUND

In January the Council Forum noted that the Committee had looked at the current practice regarding undertaking police checks via the appropriate regulations. Currently a risk assessment is undertaken and specific Councillor roles where they may have access or personal data relating to health, children or vulnerable adults, such as the Leader and Executive Members for Children Young People & Education, and for Adults and Health, and these roles are subject to full `enhanced` checks.

Currently all prospective councillors make a personal declaration on nomination for office as regards criminal convictions, however when elected unless their terms of office include specific health, childrens or vulnerable adults related activity, the current national regulations do not permit the Council to ask Councillors to agree to enhanced police and barred list checks.

The Standards Committee however considered that given the important role played by Councillors in the Community and the general expectations of the public as regards probity and integrity, it would be reasonable for the Council to adopt a policy where every Councillor following their election be expected to agree to a police conviction check, known as a basic disclosure, which is permitted within the regulations. (Given some holders of office would already by virtue of other occupations have DBS certificates – the Council would also accept these under the portability arrangements, reducing the total number of checks required.)

The Standards Committee also expressed the view that the cost of any basic disclosures should be borne by the Councillor, funded from their members allowance. The cycle of re-checks, being the election cycle (i.e. every 4 years).

Any new arrangements would need to be set out in a written DBS Policy approved by Council. Subject to the consideration of this report by the Council Forum it is suggested therefore that the Monitoring Officer be asked to develop a Policy which would include would fully set out the process for carrying out checks, the type of DBS check, retention/storage of the DBS certificates, renewal, portability, the use of the disclosure information, access to information and what actions would be taken and by whom on the disclosure of convictions.

The Standards Committee also considered that the role of the modern councillor by its nature meant regular `unsupervised` access to and representation of vulnerable people in a variety of settings and they felt the current rules prohibiting the higher `enhanced` level of check for all councillors should be reconsidered by government.

In this context the Standards Committee have asked the Council Forum to agree that the Chief Executive be asked to write to the Secretary of State for Housing, Communities and Local Government, to express the view that in support of the Code of Conduct for Councilors and the expectations as referenced in the Section 27(2) of the localism Act 2011, all elected members of Council's should be subject of `enhanced` disclosure and barring services checks.

6. POLICY IMPLICATIONS

The Councils current policy on the disclosure and barring checks would be changed by the approval of this report and a new Policy would be developed for consideration and approval by the full council.

7. FINANCIAL IMPLICATIONS

There are no direct financial implications from the adoption of the recommendations as set out in this report.

8. LEGAL IMPLICATIONS

There is no specific legal requirement to undertake DBS checks on elected members, but the Council can lawfully decide to introduce DBS checks. This was debated at the Standards Committee on 14 January 2019, and made recommendations to Council as the decision-making body to consider and determine the recommendations

The current disqualification rules for councillors and mayors contained in section 80, Local Government Act 1972 includes a provision that anyone convicted of an offence carrying a prison sentence of more than three months (without the option of a fine) is banned from serving as a local Councillor. Individual candidates are required to make a self-declaration on the prescribed form during the nomination process that they are not disqualified to stand and be elected as a local councillor. Currently, no DBS or other checks are undertaken by the Council. However, under section 27, Localism Act 2011 there is a duty on the Council to promote and maintain high standards of conduct by members and co-opted members of the authority.

DBS checks by the Council will need to be in accordance with The Protection of Freedoms Act 2012. A DBS policy will should be developed and approved by Council before any DBS checks on elected members can be implemented. This is to ensure lawfulness and transparency in the Council's procedures when undertaking DBS checks for elected members.

9. RESOURCE IMPLICATIONS

Existing resources from the Governance Services team and Human Resources teams would be required to develop and assure the Policy. Current resources from the Governance team would also be required to manage and deliver the revised policy.

10. EQUALITY IMPLICATIONS

There are no equality issues arising from this report.

11. CONSULTATIONS

The proposals from this report have been developed by the Standards Committee for the approval of full Council. The adoption of a new DBS Policy would also be subject to a recommendation from the Standards Committee to full council ensuring all Councillors who would be impacted by the changes have had opportunity to consider and debate before final decision.

Chief Officer/Member

Contact Officer: David Fairclough
Date: 7 March 2019
Background Papers: Standards Committee Reports and Minutes January 2019