



**REPORT OF: DIRECTOR OF HR, LEGAL & GOVERNANCE**

**TO: STANDARDS COMMITTEE**

**ON: 26 JUNE 2019**

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**SUBJECT: Review of DBS Procedures - Councillors**

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## **1. PURPOSE OF THE REPORT**

To consider proposals for a Disclosure and Barring Service Policy for Councillors.

## **2. RECOMMENDATIONS**

The Standards Committee is asked:

To agree a Disclosure and Barring Service Policy for Councillors for recommendation for Adoption by the Council Forum on review the current guidance on Disclosure and Barring Service (DBS) eligibility for Councillors and make any recommendations for change to the full Council on 18<sup>th</sup> July 2019.

## **3. BACKGROUND**

At their meeting in October 2018, the Committee re-considered the work programme following the publication of the outcome of national government consultation on `Updating the Disqualification Criteria for Councillors and Mayors` and added to the programme a review of the Council's policy on the application of the Disclosure and Barring Service provisions for Councillors.

In January the Standards Committee considered a detail report on the arrangements for the potential undertaking of police checks which are facilitated by the Disclosure and Barring Service (DBS).

The Committee noted the ability for an employer, to ask an individual to apply for a DBS check, at either Standard or Enhanced level, is set out in legislation. There is a legislation that supports and prevents access to the DBS service depending on the role of an individual and the frequency and contact a person has with vulnerable people.

The Committee recommended to the Council forum:

- 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 Councillors 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.*

On 28<sup>th</sup> March 2019 the Council Forum approved these recommendations.

In respect of recommendation 5 the Chief Executive wrote to the Secretary of State on 29<sup>th</sup> March 2019 and a response is awaited.

In accordance with approved recommendation 4 above a draft DBS Policy has been developed reflecting the discussions at the meeting in January 2019.

This draft policy is presented at **Appendix `A`** for debate and discussion at this meeting.

Also presented at **Appendix `B`** is a draft letter which would be sent to all Councillors in the event the draft Policy is approved by full Council in due course, along with a FAQ document which would be issued with the letter **Appendix `C`**.

#### **4. RATIONALE**

This report reflects the Council Forum's request for the Monitoring Officer to develop a DBS Policy for councillors.

#### **5. POLICY IMPLICATIONS**

Elected members play a crucial role, and are the foundations of local democracy. They are community champions, and have a leading role to play in building a better society for everyone. With such an important role comes great responsibility. If adopted the Policy would be included in the Council's Constitution providing transparency and evidence of the Council's commitment to the values and high standards of behaviour expected of councillors.

#### **6. FINANCIAL IMPLICATIONS**

None

## **7. LEGAL IMPLICATIONS**

Currently, the disqualification rules for councillors and mayors is contained in section 80, Local Government Act 1972, which includes a provision that anyone convicted of an offence carrying a prison sentence of more than three months (without the option of fine) is banned from serving as a local councillor.

New measures considered by the Standards Committee last year will see the disqualification rules changed to include the alternatives to a prison sentence as a barrier to becoming a councillor. This would mean any person who is subject to an Anti-Social Behaviour Injunction, a Criminal Behaviour Order, a Sexual Risk Order or who is on the Sex Offenders' Register, would no longer be able to stand or serve as a councillor. This will require changes to primary legislation, in particular the Local Government Act 1972, the Local Democracy, Economic Development and Construction Act 2009, and the Greater London Authority Act 2009.

Although the current disqualification rules do not provide for carrying out DBS checks, any changes to the Council's requirements for carrying out DBS checks must be in accordance with the legislative framework and statutory guidance issued in respect of councillors.

Reflecting the likelihood of future legislative change it is proposed the Policy be subject to review by the Standards Committee in 2 years.

## **8. RESOURCE IMPLICATIONS**

None

## **9. EQUALITY IMPLICATIONS**

The proposals reflect current legislation and nothing in this policy affects or impacts adversely on any group or individual under the equalities act. Any final proposal is also subject to agreement of the full Council for which an equality impact assessment report will be prepared, as required to demonstrate this consideration and conclusion.

## **10. CONSULTATIONS**

The DBS policy is to be presented as recommendations from this Committee to the full council

Contact Officer: David Fairclough  
Date: 31 May 2019  
Background Papers: Councillor DBS.