

**Elected Member Disclosure and Barring
Service (DBS) Checks**

Report of Corporate Management Team

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Purpose of the Report

- 1 To advise Council of a recommendation by Constitution Working Group to review the process of DBS checking for elected members.

Background

- 2 DBS checks provide information about a person's criminal record history at the point at which the check is made. The Council has a policy of re-checking eligible staff every five years. This policy does not, however, currently extend to DBS checks for members.
- 3 Prior to the Council submitting an application to the Disclosure and Barring Service, they are legally bound to take reasonable steps to ensure that they are entitled to ask the applicant to reveal their conviction history. Pursuing checks for positions that do not fulfil the appropriate exceptions constitutes a breach of employment law and could result in the Council's Registered Body status being revoked.
- 4 Whilst the processes for staff were reviewed in 2014 when revised national DBS eligibility guidance was revised, elected members are checked on an ad-hoc basis depending on requests made by schools and individual services. The requests are linked to the specific tasks or roles being undertaken by elected members – for example school governors and attendance at Corporate Parenting Panels.

Application of DBS Eligibility Criteria for Elected Members

- 5 The Casey Report, produced following the child exploitation investigations at Rotherham Metropolitan Borough Council in 2015, has drawn renewed attention to the issue of Elected Members and DBS checks.
- 6 Under Section 80(1)(d) of the Local Government Act 1972, persons standing for election are required to declare relevant convictions prior to election and it is an offence to provide false information.

- 7 Whilst it has not previously been Council policy to routinely DBS check all elected members, some elected members have been checked when they sit on specific panels (e.g. Corporate Parenting/Fostering and Adoption). The majority of checks have, however, been undertaken at the request of schools for their roles of Governor and/or volunteers.
- 8 Given the revised definitions of Regulated Activity introduced as a result of the Protection of Freedoms Act, there is no statutory requirement for a criminal records check on elected members unless they are undertaking Regulated Activities.
- 9 The Council does have a duty of care to service users and the public, and must take reasonable steps to identify foreseeable risks. Elected Members are considered as persons of trust and authority within their local community. Securing DBS checks for Elected Members is one way of a proportionate means of discharging the Council's duty of care.
- 10 The Casey Report has prompted councils to review their DBS policy approach with some moving from targeted DBS checking towards a blanket approach for elected members.

Conclusion

- 11 Constitution Working Group has considered the merits of DBS checks for elected members and has requested that a policy framework for elected members DBS checks be considered.

Recommendations and Reasons

- 12 It is recommended that Council authorise officers to devise a policy framework on DBS checks for members and present this to the Constitution Working Group.

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Appendix 1: Implications

Finance - DBS application costs incurred by the Council @ £52 per check (inclusive of £4 e-bulk charge).

Staffing - All staff are DBS checked in accordance with DBS Code of Practice and Council Policy.

Risk - The appropriate positions are DBS checked and risk assessed accordingly.

Equality and Diversity / Public Sector Equality Duty - All issues and principles of equality and diversity are embedded in the Council Policies and Procedures.

Accommodation – None specific within this report.

Crime and Disorder - The appropriate positions are DBS checked and risk assessed accordingly in accordance with Council procedures.

Human Rights – None specific within this report.

Consultation - Consultation taking place with Head of Legal & Democratic Services and Head of Policy and Performance, Transformation and Partnerships.

Procurement – None specific within this report.

Disability Issues – None specific within this report.

Legal Implications - Elected Members are DBS checked in accordance with current legislation.