
**DISCLOSURE AND BARRING SERVICE (DBS) CHECKS
FOR COUNCILLORS**

1. INTRODUCTION

- 1.1 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. The Independent Review recommends that Councils implement 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.
- 1.2 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.
- 1.3 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.
- 1.4 This policy complies with the exception to the Rehabilitation of Offenders Act 1974 and with the Disclosure and Barring Service Code of Practice.

2. ELIGIBILITY OF 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 A Councillor is only eligible for an Enhanced DBS Check if they meet specific legislative criteria. Such checks will be undertaken where the Councillor has, by virtue of their role, responsibility for certain functions.

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.
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In relation to Children

- 2.4 Councillors undertaking a role which is eligible for an Enhanced DBS check in relation to Children (including a check against the Barred list) will be required to undergo an Enhanced DBS check, to be carried out in accordance with this Policy. A Councillor who discharges any education functions, or social services functions, of the Council is eligible for an Enhanced DBS check.

- 2.5 The following Councillors will therefore be required to undertake an Enhanced DBS check:-
- (i) Deputy Leader (with responsibility for Children and Education)
 - (ii) A member of the Corporate Parenting Board
 - (iii) A Councillor sitting on an Adoption and Fostering Panel.
 - (iv) Lead Member for Asylum Seekers, Refugees, and Migrants
 - (v) Lead Member for Women and Girls

In relation to Adults

- 2.6 Councillors undertaking a role which is eligible for an Enhanced DBS check (including a check against the Barred list) in relation to Work with Adults will be required to undergo an Enhanced DBS check, to be carried out in accordance with this Policy. A Councillor who discharges any social services functions of the Council, which relate wholly or mainly to adults who receive a health or social care service or a specified activity is eligible for an Enhanced DBS check.
- 2.7 The following Councillors will therefore be required to undertake an Enhanced DBS check:-
- (i) Cabinet Member for Adult Social Care and Health
 - (ii) Lead Member for Community Mental Health
 - (iii) A Member of the Health and Wellbeing Board
 - (iv) Lead Member for Asylum Seekers, Refugees, and Migrants
 - (v) Lead Member for Women and Girls
- 2.8 If the Council's governance arrangements were to change 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.
- 2.9 Councillors who do not undertake a role eligible for an enhanced DBS check, as set out above, will not be required or be eligible to have a DBS check.

3. COUNCILLORS NOT ELIGIBLE FOR AN ENHANCED DBS CHECK

- 3.1 Councillors may have other roles in the community, such as being School Governors, Trustees, or may volunteer with organisations which may bring them into contact with individuals in vulnerable groups from time to time.
- 3.2 It is the responsibility of those organisation to undertake any DBS check on behalf of the Councillor.

4. THE COUNCIL PROCESS OF UNDERTAKING DBS CHECKS

- 4.1 When a new post requiring a DBS disclosure is created, the manager of the post is responsible for ensuring that the relevant flag is applied when creating the post in the IBC Shared Services Portal.

- 4.2 The manager of the post will initiate the process within IBC and the IBC Shared Services will send a link to the post holder asking them to complete the necessary information to process a DBS check.

5. Processing DBS Applications

- 5.1 The postholder will be required to complete the online DBS application form. The manager will also be sent a link from IBC Shared Services asking them to review and validate proof of identity and ensuring the DBS application form is completed correctly.
- 5.2 Check and collect the relevant documents to allow the IBC to process the DBS checks. Please see the DBS ID checking guidance for further information.
- 5.3 The DBS certificate is sent to the postholder only. IBC Shared Services will be notified if there is a positive disclosure, they will notify the manager asking them to review the disclosure with the postholder and to discuss and consider suitability for employment.

6. Information that will lead to an individual automatically being unsuitable

- 6.1 Enhanced Disclosures provide details of whether the individual is included on a list of people named as barred from working with children or adults considered vulnerable.
- Children's Barred list (Formerly List 99 and POCA - Protection of Children's Act list)
 - Adults Barred List (Formerly POVA – Protection of Vulnerable Adults)
- 6.2 Candidates/employees who are named on the lists are considered unsuitable to work with children/adults and must not be employed in Regulated Activity. There is no discretion. It is a criminal offence to allow someone to engage in Regulated Activity when barred.
- 6.3 It is a criminal offence for a person on either list to apply to work with children or adults considered vulnerable. If a Disclosure reveals that a job applicant on these lists has applied to work with children, or a Disclosure reveals that an existing employee is registered on one of the lists, the Council has a legal duty to inform the police.
- 6.4 The Councillor is responsible for providing a copy of the disclosure to the Monitoring Officer no later than 14 days after having received it from the Disclosure and Barring Service. The Line Manager will ensure that disclosure certificates are made available to the Monitoring Officer for checking by reminding Councillors of the requirement to provide evidence of the outcome of the check.
- 6.5 It is important that if the request to the DBS is made by the Council the results of the check are provided the Line Manager. Failure by a Councillor to provide evidence of the outcome of the DBS check must therefore be reported to the

Monitoring Officer who will take steps necessary to ensure compliance. Where appropriate this may include prompt consultation with the Adult Safeguarding lead and Council's Local Authority Designated Officer (LADO) who is responsible for the management and oversight of allegations against people that work with children – 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 (Working together to Safeguard Children 2018).

- 6.6 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 a designated role the line manager will, with the permission of the Councillor, 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 Monitoring Officer. All Councillors who sign up for the update service will be required to give their permission for the Resourcing team in HR to check their disclosure status every three years.
- 6.7 There are several types of disclosure results as follows:
- (i) A **clear** disclosure certificate is one where there is no record of any relevant information. Councillors are responsible to 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.

7. THE PROCESS OF DEALING WITH A POSITIVE DISCLOSURE

- 7.1 A positive disclosure in relation to a Councillor may be revealed by a DBS check.
- 7.2 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

- 7.3 IBC Shared Services will notify the Manager of receipt of the "Positive" Disclosure.
- 7.4 Where a DBS check discloses a positive criminal record the matter should be reported by the manager to the Monitoring Officer. The Monitoring Officer will need to meet with the Councillor concerned to review the disclosure and decide

how to address the issues raised by the disclosure. Where relevant the Local Authority Designated Officer (LADO) and Adult Safeguarding lead will be involved.

7.5 The Monitoring Officer (and where appropriate the LADO and Adult Safeguarding lead) 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.

7.6 The issues considered might include:

- whether a positive criminal record disclosure risk assessment is required (in which case this will be undertaken by the Monitoring officer with support, where relevant People and Talent and LADO and Adult Safeguarding lead).
- 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.

7.7 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.

7.8 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

- 7.9 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.
- 7.10 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.

8. CONFIDENTIALITY OF INFORMATION AND SECURITY OF DISCLOSURE INFORMATION

- 8.1 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.
- 8.2 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 Monitoring Officer will consult the Leader of the Council or the Leader of Opposition Party as appropriate but this may not be the case in all instances.
- 8.3 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.
- 8.4 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.
- 8.5 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.
- 8.6 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.

9. POLICY REVIEW

- 9.1 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.

GUIDANCE FOR MANAGING A POSITIVE DBS (DISCLOSURE AND BARRING SERVICE) CERTIFICATE

The term “Positive Disclosure” refers to a Disclosure containing information relating to convictions, cautions, reprimands etc., together with any “soft” information relating to non-convictions that the police deem relevant.

Only those authorised to receive Disclosure information under section 124 of the Rehabilitation of Offenders Act (1974) will be permitted access to it. Specifically, Disclosure information will only be made available to those who are directly involved in the appointment process and those who require such information for safeguarding purposes.

Where a “positive” Disclosure has been received the following key stages must be followed by the relevant parties:

- IBC Shared Services will notify the recruiting Manager of receipt of the “Positive” Disclosure.
- IBC Shared Services will request a copy of the Council’s positive DBS disclosure risk assessment from the hiring manager, completed with the HR Business Partner, Assistant Director, candidate / employee / volunteer (unless indicated otherwise).
- Where the Disclosure relates to a child or vulnerable adult who may be at risk of significant harm if the person was to have contact with children, then they must not be employed until a discussion with the Local Authority Designated Officer, (LADO) or Adult Safeguarding lead has taken place. The LADO must be notified in all cases where a person has behaved in a way that has harmed or may have harmed a child or possibly committed a criminal offence against or related to a child.
- If the individual is already employed / volunteering, then consideration should be given to whether suspension may be necessary pending the Council’s positive DBS disclosure risk assessment being completed.
- It should be noted that in all cases of Positive Disclosure, a formal the positive DBS disclosure risk assessment must be undertaken.
- Once the risk assessment has been completed, irrespective of the level of seriousness, a formal meeting must be arranged with the employee / candidate to explore the issues and circumstances.
- The formal meeting must be arranged by the hiring manager and have taken place within 5 working days of being notified of a ‘positive’ Disclosure.

The formal meeting

The formal meeting is an essential part of the process, as it is necessary to verify that the information contained on the Disclosure does indeed relate to the individual concerned. This verification must be sought prior to any judgements being made. There have been occasions where DBS system errors have occurred, and information supplied has been wrongly attributed to individuals.

The discussion will aid the decision-making process, and should broadly focus on the following:

- The seriousness and nature of the offence(s)
- The nature of the role being undertaken
- Length of time since the offence(s) occurred
- Number and pattern of offences
- The applicant's age at the time, circumstances/explanation
- Any concealment of offences - at any stage
- Any remorse or otherwise shown

Judgements regarding suitability are not wholly confined to the Disclosure revealing offences against children or vulnerable adults. Other types of offences may render a prospective person unsuitable. In addition to convictions or cautions, this may also include having harmed or placed children or vulnerable adults at risk of harm; or having exhibited behaviour which leads to the belief that there may be a child or vulnerable adult at risk of harm in the future.

Any Disclosures which raise child protection issues will also be referred to the LADO before any approval. This may necessitate the holding of a strategy meeting, if recommended by the LADO.

Making decisions following receipt of a Positive Disclosure

The fact that someone has a conviction, or a caution would not necessarily prevent them from undertaking their role with the Council, although serious consideration should be given to the information that has been received before a decision is made.

In reaching that decision, the Monitoring officer should consider all the items detailed above together with the possible implications for the Council.

It is therefore essential that when recording comments on the Positive Disclosure Risk Assessment that they are kept relevant, accurate and professional as the information may be requested by an applicant.