

### AMENDMENT TO COUNCIL'S DBS POLICY

The Council's DBS Policy be amended (to take effect from 1 October 2014) to include the following:

#### 8. Disclosures for Non-Council Employees

##### Councillors

The Disclosure and Barring Service (DBS) gives no direction about Council's undertaking DBS checks in relation to Elected Members.

Some Councils conduct DBS checks for all Elected Members whereas others only conduct checks when Elected Members undertake regulated activity.

A 'regulated activity' is defined as regularly undertaking one of the following "*unsupervised activities*":

- *Teaching*
- *Training*
- *Instructing*
- *Caring for supervising or being in sole charge of children and/ or vulnerable adults*

The Council's Constitution defines the key roles of Elected Members as:

- Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- Represent their communities and bring their views into the Council's decision-making process;
- Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- Balance different interests within the ward and represent the ward as a whole;
- Be involved in decision making;
- Be available to represent the Council on other bodies;
- Maintain the highest standards of conduct and ethics;
- Take part in member development and training.

##### **Legal Framework**

The Rehabilitation of Offenders Act Regulations allows **discretion** for the Council to carry out enhanced DBS checks on Elected Members who hold responsibilities in relation to children and vulnerable adults.

Consideration should also be given to carrying out DBS checks for those Elected Members who have responsibility for financial services and for awarding public works contracts, public supply contracts and public service contracts.

These are referred to in the DBS Guide to eligibility of criminal record checks as positions, professions, employment, offices and works eligible for DBS checks which are taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

## **Governing Principles**

The DBS advise that Elected Members in their general constituency capacity are **not** eligible for a DBS records check.

It is considered appropriate that targeted checking of Elected Member positions which discharge “social services and education functions” (i.e. Executive Members for Children Young People and Executive Member for Adult Social Services) be subject to DBS Disclosure.

Any DBS Disclosure check required shall be undertaken as soon as possible and will be undertaken by the Council’s Human Resources and Organisational Development Section.

The requirement for a DBS Disclosure check shall not prevent an Elected Member from undertaking their role as an Elected Member or any other role/responsibility conferred upon them by the Council/Leader of the Council.

## Leader of the Council

The Leader of the Council is ultimately responsible for all Executive decisions of the Council and as such, is involved in a range of decisions impacting on the services provided to children and vulnerable adults.

In addition, the Leader of the Council plays a key role in ensuring the Council delivers its responsibilities as a Corporate Parent and in demonstrating his support for the Council’s commitment to safeguarding children and vulnerable adults.

In undertaking the role of Leader, the Elected Member will frequently come into contact with children and vulnerable adults and therefore may undertake regulated activities as part of the role.

Accordingly, the Leader of the Council will be subject to DBS Disclosure.

## Cabinet Members

In line with the role of the Leader, Cabinet Members will be involved in a number of decisions that directly impact on the services delivered to children and vulnerable adults. Depending on their portfolio, they could also have a statutory responsibility as Lead Member for Children or Adults, as well as be asked to play a leading role in relation to specific aspects of the Council’s role as Corporate Parent.

Given the broad nature of a Cabinet Member’s portfolio, there is potential for Cabinet Members to need to carry out regulated activities.

Accordingly, Cabinet Members will be subject to DBS Disclosure.

### Member of the Policy and Performance Committees (Families and Wellbeing)

Given the nature of the work undertaken by this Committee, the fact that members of the committee will be involved in a number of decisions that directly impact on the services delivered to children and vulnerable adults and will support the Council's role as Corporate Parent, it is considered appropriate that DBS Disclosure checks are undertaken for members of this committee.

### Members

Whilst the Council cannot require any Member to undertake an enhanced DBS check, requesting Members do so in relation to specific roles they may undertake is consistent with the Council's safeguarding duties.

Any Elected Member that is not required to undertake a DBS Check does not prevent him/her from making decisions relating to the discharge of education or social services functions of the Council.

However, an Elected Member would be advised against having unsupervised contact with children when visiting a school or children's home, if frequently carrying out a relevant activity there, without a DBS Disclosure check being undertaken.

In such circumstances, the Elected Member should seek advice from the Head of Legal & Members Services and/or Head of Human Resources and Organisational Development.

### **Use of DBS Disclosure by other bodies**

Where an Elected Member has been subject to a DBS Disclosure check by virtue of another position they hold (i.e. as a Governor of a school), consideration shall be given to whether the DBS Disclosure is appropriate and sufficient to be utilised by the Council.

The Head of Human Resources and Organisational Development shall consider each case and determine whether use of a valid DBS Disclosure can be utilised by the Council.

### **Register of Elected Member DBS Disclosures**

The Head of Human Resources and Organisational Development shall keep a register of Elected Member DBS Disclosures (which may include details of other DBS Disclosures undertaken by other bodies).

### **If there is a trace?**

If the DBS certificate of an Elected Member has a trace, the Head of Human Resources and Organisational Development will meet with the Elected Member and assess the implications arising (if any) and advise the Elected Member accordingly. Where necessary and appropriate the Monitoring Officer will be notified.