

**Report: DBS Checks for Elected Members**

Date of meeting:	11 December 2024 16 January 2025
Report to:	Audit and Governance Committee Council
Report of:	Executive Director of Corporate Services and Commercial
Portfolio:	Corporate Services
Wards affected:	All
Included in Forward Plan:	No
Is this a key decision:	No
Exempt/confidential report:	No

**Summary:**

This report outlines proposals for elected members to be subject to voluntary DBS checks. It is proposed that all elected members and co-opted members obtain a Basic DBS Check and those members and substitute members sitting on Overview and Scrutiny (Children’s Services & Safeguarding) Committee and Overview and Scrutiny (Adult Social Care and Health) Committee and Cabinet Members obtain an Enhanced DBS Check.

**Recommendation(s):**

That the Audit and Governance Committee recommends to Full Council that a scheme is introduced whereby:

- (1)** All elected members are asked to agree to be subject to a Basic DBS check within one month of taking office.
- (2)** All elected members who sit on or are substitute members on the Overview and Scrutiny (Children’s Services & Safeguarding) Committee and Overview and Scrutiny (Adult Social Care and Health) Committee are asked to agree to be subject to an Enhanced DBS check within one month of being appointed to the committee.
- (3)** All Cabinet Members are asked to agree to be subject to an Enhanced DBS check

within one month of being appointed to Cabinet.

(4) All co-opted Members to Overview and Scrutiny (Children's Services & Safeguarding) Committee and Overview and Scrutiny (Adult Social Care and Health) Committee will be asked to agree to be subject to an Enhanced DBS check.

(5) Agree that such checks outlined above will be subject to renewal every 3 years.

(6) Agree the content of the 'Risk Assessment of Unspent Convictions or Conditional Cautions' attached as Appendix 2

(7) Authorise the Council's Monitoring Officer to amend Chapter 2 of the Council's Constitution to reflect the above recommendations

(8) Delegate authority to the Council's Monitoring Officer to amend the scheme to reflect any subsequent changes to the committee titles.

(9) Further to the letter from the Minister for Local Government of 18th January 2024, the Council calls upon the Council Leader to write to the Secretary of State for Housing, Communities and Local Government requesting that legislation be introduced to make it mandatory for all elected members (and co-opted members) to be subject to enhanced DBS checks.

#### Full Council

- (1) Endorses the recommendations of the Audit and Governance Committee outlined above.

### **1. The Rationale and Evidence for the Recommendations**

1.1 There are four types of DBS check:

- A **Basic DBS Check** provides provide a minimal overview of an individual's criminal history and reveals unspent convictions. It does not include cautions, reprimands, or spent convictions.
- A **Standard DBS Check** is more comprehensive than basic checks and are commonly used in specific industries such as finance and law. It reveals both unspent and spent convictions.
- An **Enhanced DBS Check** provides the highest level of disclosure and is essential for certain roles in education, healthcare, and other sensitive areas. It reveals unspent and spent convictions. It includes cautions, reprimands, and warnings. It also encompasses relevant police intelligence information deemed necessary for the applied position.
- An **Enhanced with Barred Lists DBS Check** contains the same information as an enhanced DBS certificate and will include a check of one or both child and adult barred lists.

1.2 Section 27 of the Localism Act 2011 requires local authorities to promote and maintain high standards of conduct by members and co-opted members of the authority.

1.3 In 2022 as part of the government's strategy to tackle violence against women and girls, the Home Office commissioned Simon Bailey to carry out a review of the effectiveness of the disclosure and barring regime in safeguarding children and vulnerable adults. The purpose of the review was to provide assurance to Ministers on the effectiveness of the Disclosure and Barring Service regime in safeguarding children and vulnerable adults.

1.4 He concluded that the disclosure and barring regime is delivering its mission of helping employers and organisations to make safer employment decisions but he identified several areas where the regime could be strengthened.

1.5 He made 9 recommendations which the government are considering but have not formally responded to.

1.6 His report includes:

"There is no uniformity of practice among councils in relation to obtaining criminal record checks for safeguarding purposes."

"Put simply, if a number of councils properly regard such checks as necessary, having regard to their duty to safeguard, how can the need for the checks not apply to all councils having the same duty? That said, it does not seem to me that it is necessary that enhanced checks should apply to all councillors, but rather to those who are being considered for appointment to any committee involved in decisions on the provisions of children's services or services for vulnerable adults."

1.7 Current position with neighbouring authorities:

- Liverpool – no checks
- Wirral – no checks
- Cheshire West & Chester – no checks
- Knowsley – Enhanced checks for

- Cabinet
- Children’s Scrutiny Committee
- Health & Adult Scrutiny Committee

1.8 The review included consideration of the eligibility of local councillors for criminal record checks provided by the Disclosure and Barring Service (‘DBS checks’). On this point the review made the following recommendation:

Recommendation 5: local councillors

That an enhanced criminal record check is made mandatory for all councillors in Unitary and Single Tier Authorities who are being considered for appointment to any committee involved in decisions on the provisions of children’s services or services for vulnerable adults. I accept that this would require legislation and therefore some inevitable delay, so I further recommend that these authorities are encouraged to adopt this procedure as best practice pending legislation.

1.9 On 18th January 2024, the Minister of State for Local Government issued a letter to all leaders of Unitary and Upper Tier Authorities in England informing them the recommendation and sated that:

“Government strongly supports the recommendation and I urge an enhanced DBS check to be adopted as best practice for all councillors being considered for appointment to any committee which discharges education or social services functions. Such roles are eligible for enhanced DBS checks, and it is within the power of relevant authorities to implement this best practice. My clear view is that there is reputational benefit in councils being both consistent and robust on adopting this best practice recommendation given the high profile of cases, rightly so, when things go wrong.

In the meantime, the Government will keep under review the case for mandating enhanced criminal record checks for all councillors falling into the categories identified by Bailey’s recommendation 5 above.

I feel strongly that adopting as best practice enhanced DBS checks for all councillors serving on committees with responsibilities for children’s services or services for vulnerable adults is important to ensure public confidence in political representatives. I would be grateful if the content of this letter could be brought to the attention of those officers with responsibilities for these matters.”

1.10 The Council’s Monitoring Officer sought guidance from the DBS on the subject and they confirmed that all councillors can apply for a Basic Checks and those councillors who are members of the Council’s executive with education or social services

functions and those councillors who a member of a committee that discharges those functions can apply for an Enhanced Check.

### **Nomination Forms to Stand for Election**

1.11 The nomination form requires candidates to declare that they are not barred from standing for election for various reasons including that they do not contravene S 80 Local Government Act 1972 as amended (Disqualifications for election and holding office as member of local authority e.g. convicted and sentenced to 3 months or more, etc) and criminal offence to make a false declaration.

### **The Use of Disclosure Information**

1.12 The existence of a criminal record or other information revealed as a result of a DBS check will not necessarily debar a councillor from holding office. Only if the information demonstrates that the councillor is in fact disqualified from office would they cease to be a councillor.

1.13 If the disclosure information received raises issues of concern, the Chief Executive, in consultation with the relevant Group Leader, with advice from the Council's Monitoring Officer, will discuss with the individual Councillor in confidence the roles that they perform as a councillor, the committees and outside bodies on which they serve and their arrangements for ward work/surgeries, in accordance with the Risk Assessment document at **Appendix 2**.

### **Freedom of Information Act / Confidentiality**

1.14 *Would a DBS check be released in response to an FOI?*

There is a precedent set by the ICO in their decision notices, where a complainant requested information from the Disclosure and Barring Service (DBS) about an individual who had been convicted of offences. The DBS refused to confirm or deny whether it held this information on the basis it was personal information.

1.15 The decision was in relation to a single individual. If the council receives a request about a single Councillor's DBS check there is a precedent here and the Council would neither confirm nor deny that it holds the information. The same principle would also

apply if the Council were to receive a request for multiple elected member DBS checks, where the elected members are specifically named.

1.16 *Would the council release information about who has and has not undertaken a DBS check?*

If the request is about statistics, i.e. how many elected members have requested a DBS check and how many haven't, it is more likely that information would be disclosed, as it doesn't identify anyone individually.

1.17 *Would information contained in a DBS check be made public?*

No, information contained in a DBS check would be treated as confidential.

## **2. Financial Implications**

The fee for a Basic DBS check is £21.50 each. Enhanced DBS checks cost £49.50 each. The cost of the DBS check is to be met by the Council.

## **3. Legal Implications**

It is not a legislative requirement for Elected Members to undertake DBS checks. However, it is proposed by Government as best practice, pending legislation.

## **4. Corporate Risk Implications**

There is a reputational risk to the Council by not implementing this proposal and if not, there is a risk that a member may undertake an inappropriate role in light of an undisclosed conviction.

## **5 Staffing HR Implications**

The DBS checking process will be co-ordinated by the Council's Democratic Services. This will involve registering each member on the eBulk2000 system and then each member must use the on-line process to provide identification and submit the application. Training will be provided to members.

## **6 Conclusion**

As part of our ongoing commitment to safeguarding and transparency within our local governance, the Council is recommended to introduce Disclosure and Barring Service (DBS) checks for all Elected Members. This new measure will bolster public trust and ensure that those in positions of authority are held to the highest standards of integrity and accountability

## **Alternative Options Considered and Rejected**

Given the contents of this report it is not considered appropriate for the Council to do nothing and retain the current position that elected members are not subject to any DBS checks.

<b>Equality Implications:</b> There are no equality implications
<b>Impact on Children and Young People:</b> None directly from the recommendations within this report.
<b>Climate Emergency Implications:</b> The recommendations within this report will have a neutral impact.

### What consultations have taken place on the proposals and when?

#### (A) Internal Consultations

The Executive Director of Corporate Services & Commercial (FD.7872/24.....) and the Chief Legal and Democratic Officer (LD 5972/24.) have been consulted and any comments have been incorporated into the report.

#### (B) External Consultations

None

#### Implementation Date for the Decision:

With immediate effect.

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#### Appendices:

The following appendices are attached to this report:

- **Appendix 1** – Letter from the Department of levelling Up, Housing & Communities, dated 18<sup>th</sup> January 2024
- **Appendix 2** - Risk Assessment of Unspent Convictions or Conditional Cautions

**Background Papers:** None