

Report to Governance Committee

7 February 2022

Update on DBS checks for County Councillors

Report by Director of Law and Assurance

Electoral division(s): N/A

Summary

The Disclosure and Barring Service (DBS) provides a procedure through which organisations may carry out criminal record checks relating to individuals who may, on behalf of the organisation, undertake work or hold positions or responsibilities which may bring them into contact with vulnerable persons.

Prior to the 2021 County Council elections the Governance Committee agreed that all newly-elected members should be required to have a standard DBS check and members appointed to specific roles should be required to have an enhanced DBS check. The Committee is asked to note the progress made on the completion of this task to date.

Recommendation

To note the progress made with the completion of DBS checks for elected members and make any further recommendations.

Proposal

1 Background and context

- 1.1 DBS checks provide a controlled and regulated route for assurance in relation to a person's criminal convictions and cautions where this is required. DBS checks are an important reference check for people seeking to work with children or vulnerable adults (e.g. teachers, social workers).
- 1.2 There are four levels of DBS check:
 - (a) **Basic:** for any position or purpose. Gives confirmation on the record of convictions and conditional cautions considered to be 'unspent'. This is the only DBS check that people can apply for themselves.
 - (b) **Standard:** this check covers all spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC) which have not been filtered in line with legislation. This check is available for roles and positions defined in law.

(c) **Enhanced:** this check is for specific duties, positions and licences included in regulations (e.g. regularly caring for, training, supervising or being solely in charge of children). An enhanced level certificate contains the same PNC information as the standard level certificate but includes a check of any additional relevant information held by police forces.

(d) **Enhanced with a barred list check:** This is only available for those carrying out regulated activity and a small number of positions outlined in the regulations (e.g. prospective adoptive parents and taxi and private hire vehicle licences). It contains the same information as the enhanced check but in addition checks against the national children's and/or adults' barred lists.

1.3 Being a councillor does not require a DBS check of any form to be undertaken. Councillors do not and are not expected to undertake roles that meet the legislative requirements for DBS checks (e.g. working with vulnerable individuals). Whilst members do not carry out any of the roles specified in the regulations (e.g. care worker or social worker) there are certain aspects of their role which may on rare occasions cross into activity which may be considered relevant. The ability to visit establishments where children, young people or older people are present to receive services for which the Council is responsible is one example.

1.4 In March 2017, the Governance Committee determined that all county councillors should have the basic DBS check, with the following roles having an enhanced check:

- Chairman and Vice-Chairman of the County Council
- Cabinet Members covering Children and Young People, Education and Skills, Adults and Health and any advisers they appoint
- Corporate Parenting Panel members
- Foster Panel members

1.5 In January 2021 the Committee was invited to review the arrangements for DBS checks ahead of the May election. That report reminded the Committee of the arrangements undertaken in 2017 and summarised the findings of a survey carried out by South East Employers of 21 county councils in the region and other similar authorities.

1.6 The Committee agreed that the arrangements agreed in 2017 should be applied to members newly elected in May 2021.

2 Matters for consideration

2.1 Following the election in May 2021 32 new members were elected, the remaining 38 members were former members of the County Council who were re-elected and who had had a DBS check carried out in 2017.

2.2 The first stage of the DBS checking process requires members to provide three original documents to officers in order to verify their identification. The practice of some meetings taking place virtually due to the Covid-19 situation has made this process more difficult. The DBS process for all of the 33 newly-elected members (including one elected in a by-election in November 2021) has been

completed, although at the time of writing the final DBS certificate has not yet been issued for the member who most recently went through the process. Two of the newly-elected members were appointed to the Foster Panel requiring them to have an enhanced check.

- 2.3 In addition, enhanced DBS checks have been carried out for 12 members (Chairman and Vice-Chairman, the Cabinet Members for Adults Services, Children and Young People and Public Health and Wellbeing) and four additional members appointed to the Corporate Parenting Panel. The enhanced checks for the members appointed to the Foster Panel have been carried out by officers who support this Panel.

3 Consultation, engagement and advice

- 3.1 The Governance Committee agreed the approach to DBS checks at its meeting in January 2021, prior to this MDG had been consulted. Feedback from some other county councils was considered as well as information on a South East Employers survey of councils.

4 Finance

- 4.1 The costs of DBS checks are: £23 for a standard check and £40 for an enhanced check. The costs of councillors' DBS checks are currently met by the Council. It is estimated that the cost of carrying out the DBS checks in 2021/22 will be £1,216. However, it may be necessary for additional checks to be carried out during the remainder of this administration in the event of any by-elections or members being appointed to roles requiring an enhanced check to be carried out.

5 Risk implications and mitigations

- 5.1 There are risks associated with enabling members to discharge their roles – specific or general – in relation to vulnerable persons without the County Council having subjected those members to DBS checks. DBS checks could provide a first level of assurance that an individual in a position of trust does not present a direct risk of harm to vulnerable individuals.

Risk	Mitigating Action (in place or planned)
DBS checks give a false sense of assurance and confidence as to the risks posed by any particular person	Other measures and safeguards are in place (such as supervision or requiring approval before elected members make direct contact with vulnerable people)

6 Policy alignment and compliance

- 6.1 There are no specific implications of the proposals related to the public sector equality duty. In terms of the County Council's responsibilities to reduce crime and disorder, it could be said that the imposition of conditions to eligibility to discharge certain roles as an elected councillor will contribute to the overall aims of reducing crime and disorder.
- 6.2 There are Human Rights responsibilities in so far as the carrying out of a DBS check infringes an individual's right to respect for private life given that

enhanced checks could lead to disclosures of personal sensitive information which may otherwise be considered confidential or 'spent' for the purpose of the Rehabilitation of Offenders Act. This may be considered to be outweighed however by the public interest in giving assurance to vulnerable people and to society at large that elected members in a position of trust have undergone a level of vetting and scrutiny as to their suitability to discharge specific aspects of public service rather than in relation to their private lives.

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Background papers

None