



Report for: Standards Committee

Date of Meeting:	19 June 2024
Subject:	DBS Checks for Members
Cabinet Member:	Cllr David Wulff – Cabinet Member for Quality (Cost) of Living, Equalities and Public Health
Responsible Officer:	Maria de Leburne – Director of Legal, HR & Governance (Monitoring Officer)
Exempt:	N/A
Wards Affected:	All
Enclosures:	Community PDG Safeguarding Policy report – 26 March 2024

Section 1 – Summary and Recommendation(s)

For Members to consider the Community PDG recommendation from the 26 March 2024 and whether a working group is required to decide if Members require a DBS check.

Recommendation(s):

- 1. Standards Committee to consider whether a Member Working Group is set up to review the potential future inclusion of DBS checks for Members within the Corporate Safeguarding Policy and related DBS Policy.**

Section 2 – Report

1.0 Introduction

- 1.1** As part of the update to the Corporate Safeguarding Policy to Community PDG on the 26 March 2024, Section 4 of the report made reference to 'Members and DBS checks'.

- 1.2 Members at the Community PDG on the 26 March recommended to Standards Committee that a Member Working Group be established to review the potential future inclusion of DBS checks for Members within the Corporate Safeguarding Policy and related DBS Policy. Please see the report from the PDG.
- 1.3 The Disclosure and Barring Service (DBS) helps prevent unsuitable people from working with vulnerable groups, including children. It 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.
- 1.4 Currently elected members of Mid Devon District Council are not required to have DBS checks. Not all councils require DBS checks of their members.

2.0 Options

2.1 Whether to Adopt DBS checks

- 2.2 The position of Councillor is not in itself a position named in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Therefore, there is no eligibility for a DBS certificate at a Standard or Enhanced level, solely on the basis of being a Councillor, they have to be carrying out further activities prescribed in legislation.
- 2.3 Councillors who do not carry out any of the specific educational and/or social service functions, are not eligible for a Standard or Enhanced DBS check. Councillors in this position may attend community events, take surgeries, or visit local residents in their own homes, have access to the general public including children, but these activities do not meet the legislative criteria to be eligible to apply for a Standard or Enhanced DBS certificate. However, a Basic level check can be requested for these Councillors.
- 2.4 Members would therefore only be entitled to have a basic check as our members do not work within education or social services (at case level) such as members in unitary or county councils.
- 2.5 A basic check would reveal unspent convictions or conditional cautions, whereas a Standard DBS Check searches criminal history for any cautions, reprimands, warnings and convictions. An Enhanced DBS Check would reveal the same as the Standard DBS check but would also include any additional information held by local police considered relevant to the role in question.
- 2.6 If Basic Checks are required for our members then the Monitoring Officer will need to draft a policy on how any negative findings are dealt with. Other Members would not be made aware of any outcome however it would be the responsibility of the Monitoring Officer to bring it to the attention of the Chief

Executive, who would then be responsible for dealing with the situation. However, it is important to note that there is no mechanism for taking action against any councillor as a result of anything a DBS check might reveal. Nor is there any compulsion for a member to submit to it in the first place.

- 2.7 While it may seem that undertaking DBS checks for all councillors (as we do before employing officers) might be a further way to reduce risk, it is unclear at this point what value this would add given that councillors would be under no obligation to agree to a check being undertaken, the information could not be shared subsequently, it would not have any bearing on their elected status, and we are not an authority which has the education or social services functions as defined in the Safeguarding Vulnerable Groups legislation set out below.

3.0 Next Steps

- 3.1 That Standards decide if a working group is required to discuss DBS checks or alternatively Standards Committee could decide at this Committee that they do not consider DBS checks are required or alternatively that they wish to recommend to Full Council that basic DBS checks are required.

Financial Implications

There will be a small cost to the Council for each member as the cost of a Standard DBS check is £18 'basic disclosure'. Therefore a total cost for 42 members is £756.

Legal Implications

As referenced above, the position of Councillor is not in itself a position named in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Therefore, there is no eligibility for a DBS certificate at a Standard or Enhanced level, solely on the basis of being a Councillor, they must be carrying out further activities prescribed in legislation.

The Protection of Freedoms Act (PoFA) 2012 amended the definitions of regulated activity with children and adults which had an impact on the level of DBS certificate that is available for some local authority roles, which may include some Councillors.

A Councillor is only eligible for an enhanced DBS certificate without DBS barred list checks if they meet the specific legislative criteria from the Safeguarding Vulnerable Groups Act 2006 set out below:

A person is a member of a relevant local government body if –

- i. he is a member of a local authority and discharges any education functions, or social services functions, of a local authority;
- ii. he is a member of an executive of a local authority which discharges any such functions;

- iii. he is a member of a committee of an executive of a local authority which discharges such functions;
- iv. he is a member of an area committee, or any other committee, of a local authority which discharges such functions.

This includes a reference to any sub-committee which discharges any such functions.

If the above conditions above are met, then a Councillor can be eligible for an enhanced DBS certificate without a check of the barred list.

Risk Assessment

No risks have been identified.

Impact on Climate Change

None.

Equalities Impact Assessment

None directly arising from this report.

Relationship to Corporate Plan

Our values and priorities – equally important to the ‘what’ we are trying to achieve, is the ‘how’ the organisation operates and conducts itself.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Maria de Leburne
Agreed on behalf of the Monitoring Officer
Date: 12.6.24

Chief Officer: Stephen Walford
Agreed by or on behalf of the Chief Executive
Date: 12.06.2024

Cabinet member notified: (yes/no)

Section 4 - Contact Details and Background Papers

Contact: Maria de Leburne, Director of Legal, HR & Governance (Monitoring Officer)
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Background papers: [Independent Review of the Disclosure and Barring Regime \(accessible\) - GOV.UK \(www.gov.uk\)](#)

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Report for: Standards Committee

Date of Meeting:	19 th June 2024
Subject:	UPDATED CORPORATE SAFEGUARDING POLICY
Cabinet Member:	Councillor David Wulff, Cabinet Member for Community and Leisure
Responsible Officer:	Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing
Exempt:	Not Applicable
Wards Affected:	All
Enclosures:	Annex A – Updated Corporate Safeguarding Policy Annex B – Equalities Impact Assessment screening

Section 1 – Summary and Recommendation(s)

The purpose of this report is to seek approval for the adoption of the revised Corporate Safeguarding Policy (recommendation 1). As a local authority public sector body we must have adopted policies for staff and members to follow that set out our roles and responsibilities for safeguarding children and vulnerable adults.

The current Policy was last reviewed by the Community PDG in March 2022 and Cabinet in April 2022 and is scheduled to be reviewed every 3 years, but can be reviewed earlier at the request of the Council's Corporate Safeguarding Lead as is the case. A Policy review was instigated to take into account changes of responsibilities within the Council, inclusion of new sections on the role of the Local Authority Designated Officer (LADO), the importance of Corporate Parenting alongside updates to legislation and guidance and a refresh of the 'Safeguarding Champions' Group.

As part of the review process, views were sought on current safeguarding policy and operational practice from an informal, internal working group of safeguarding leads and the external Devon Districts Safeguarding Officers network.

The updated Corporate Safeguarding Policy was also reviewed by a consultant with national experience carrying out a self-assessment of Mid Devon Housing in January

2024. The purpose was to assess the proposed changes against the expectations of the new housing regulatory regime and in recognition of the particular involvement of housing in safeguarding matters. Further changes have been made to the Policy to reflect recommendations made.

Introductory safeguarding training for Members was carried out in December 2023 and a second session is planned for March 2024 for any Members missing the first date. Feedback from the first session has also helped to shape the policy format in particular.

Together, the review process and recent member training have also identified a potential gap in safeguarding provisions for Members with a recommended mechanism to review DBS checks which could be included in a future update of relevant policies (recommendation 2).

Recommendations:

- 1. That the Community PDG recommends the updated Corporate Safeguarding Policy to Cabinet for approval.**
- 2. That the Community PDG recommends to Standards Committee that a Member working group is established to review the potential future inclusion of DBS checks for Members within the Corporate Safeguarding Policy and related DBS Policy.**

Section 2 – Report

1 Background

- 1.1 We have adopted policies for staff and Members to follow, which set out our roles and responsibilities for safeguarding children and vulnerable adults. The Districts' Safeguarding Leads in Devon have produced a combined policy as part of the Devon Districts Safeguarding Officers Network, drawing on good practice found in existing safeguarding policies to ensure that we all have access to a policy that is relevant and appropriate. This year we have adapted it to reflect this Council's specific way of working. An updated version of the proposed policy is shown at Annex A.
- 1.2 The Policy sets out a series of high level responsibilities and goes into detail on the requirements to provide clarity on who should be doing what.
- 1.3 In essence we have a duty to work with other agencies and the Policy reminds us of the Council's responsibility under the Children's Act 2004, the Care Act 2014 and other relevant legislation, which is essential to ensure that our functions are discharged with regard to the need to safeguard and promote the welfare of children and other vulnerable groups.
- 1.4 We have a shared responsibility with a variety of statutory agencies to protect children and vulnerable adults from harm, ensure their safety, and prevent

impairment of their health or development. As a partner agency we appreciate that safeguarding is not just the duty of Social Services and child protection specialists.

- 1.5 As a minimum all employees, Members and partners/contractors should become familiar with our Corporate Safeguarding Policy and procedures on how to report and handle incidents where we suspect abuse or neglect.

2 The Council's Commitments and Further Actions

- 2.1 We have set out a series of commitments in the Policy which state that we will seek to tackle and manage safeguarding concerns.
- 2.2 We have raised awareness of our duties through the staff induction process, making on-line safeguarding mandatory training for staff, development of an internal Safeguarding Champions Group and we will take update reports to the Corporate Management Team (CMT).
- 2.3 There is mandatory training on induction for all staff which is renewable every three years. We are also working towards being able to provide a Level 2 course for frontline staff that come into regular face to face contact with customers and require more than just an awareness of the issues. We have also provided a dedicated briefing for Members and are also working toward enhancing this with a package of safeguarding training for members and senior Leadership Team, alongside bespoke enhanced safeguarding/mental capacity training for staff. These bespoke elements are subject to further investigation and budgetary provision.
- 2.4 The Safeguarding Champions Group has been in place since October 2023 (having been a previous forum that did not meet for several years) and is made up of representatives including the Designated Corporate Safeguarding Lead, the Corporate Safeguarding Officer and Safeguarding Champions from Services. The forum meets every two months to discuss the direction of safeguarding delivery internally, monitoring how we are currently working and drawing on National/County and local learning to inform staff and keep their knowledge current around emerging trends.
- 2.5 We will encourage managers to reinforce awareness of safeguarding issues with their teams at team meetings to help keep this important duty in our corporate consciousness.
- 2.6 In adopting a revised Policy it will also be necessary to underpin this Policy with improved procedures that set out how staff and Members should deal with particular situations. We draw on good practice and advice from our Safeguarding Partnerships to ensure that we have a Policy and procedure that is clear and easy to follow.
- 2.7 Our membership of the Devon Districts Safeguarding Officers Network, which has representatives from both safeguarding boards and the other Devon districts ensures that we are aware of all relevant local updates, changes and

emerging threats. We share these updates with our Safeguarding Champions for cascading to relevant frontline staff.

- 2.8 The Mid & East Devon Community Safety Partnership (CSP) also deals with some safeguarding issues on a more strategic and district-wide basis such as domestic and sexual violence and abuse, modern slavery, child sexual exploitation and preventing violent extremism. The Specialist Lead for Community Safety and Safeguarding (which encompasses the role of Corporate Safeguarding Officer) sits on the Safeguarding Champions Group and the CSP and hence is able to ensure that strong links are maintained between the two policy areas. The CSP is also currently chaired by the Designated Corporate Safeguarding Lead. This provides essential continuity across the different functions/role involved with and responsible for safeguarding.

3 Policy Amendments

- 3.1 Amendments have been made to the following sections of the existing Policy in addition to minor wording changes. These reflect a significant revision and update on current Policy.

- Updates throughout to reflect internal organisational changes as well as those to external partners
- 1.3 New section of definitions added
- 2.1 Additional Policy aim added 'Ensure the importance of listening to children and adults at risk and responding appropriately'
- 3.1 Scope of Policy – Care Leavers up to the age of 25 added, and includes 'employees and Members involved in decision making with regard to licensing'
- 3.4 New paragraph on consent added.
- 4.1.1 The six principles of safeguarding added for clarity
- 4.1.2 Reference to new statutory guidance (December 2023) added: [Working together to safeguard children - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/working-together-to-safeguard-children)
- 4.1.3 and 4.1.9 to 4.1.12 added
- Section 5 – updated role descriptions
- 5.5 Safeguarding Champions – title and role description updated
- 5.9 Additional cross-referenced policies added (bottom six bullet points)
- 6.1.1 Updated description of responsibilities for Members
- 6.2 Bullet point 8 added – 'Ensure the Council officers take account of the Section 11 Duty in the Children Act 2004 to make arrangements to ensure that the Council's functions are discharged with regard to the need to safeguard and promote the welfare of children in all decision making' to clarify statutory duty
- 6.3 Updated description of senior management responsibilities
- 6.4 Updated description of management responsibilities

- 6.5 Updated description of HR responsibilities
- Section 9 - A new section on Confidentiality and Information Sharing to provide additional guidance and clarity
- Section 10 - A new section on Mental Capacity and Best Interest
- Section 11 - A new section on Partnership Working, Escalation and Resolution
- Section 12 - A new section setting out the Council's Corporate Parenting responsibility under the Children and Social Work Act 2017 in relation to certain children and young people
- Section 13 - A new section describing the role of the Local Authority Designated Officer (LADO) setting out how the organisation will respond to requests for information from the LADO
- Appendix 1 inclusion of new safeguarding summary process flowchart

4 Members and DBS checks

- 4.1 Members are currently not included in policy provisions to undertake a basic DBS check as a requirement of their role.
- 4.2 Unlike specific officer roles, Member DBS checks are not a legally mandated requirement however can be considered as a best practice from a safeguarding perspective. It is therefore a key provision that merits further consideration given the role of Members:
- As trusted community leaders at a very frontline ward level with day to day direct engagement with families including children
 - Being in receipt of sensitive and confidential information with regard to safeguarding matters and vulnerable persons where consented
 - In ensuring the Council has an adequate Corporate Safeguarding Policy in place that is resourced and implemented
 - As safeguarding promoters concerned with the protection of vulnerable people in our community
- 4.3 Many of our residents may be under an assumption our Members currently undergo the same checks as officers engaging in the frontline areas of the Council, notably across housing, public health and leisure. As such they are arguably relying upon misleading assurances including where they consent to the sharing of sensitive information.
- 4.4 A number of councils have introduced checks for all Members including those with lower-tier functions where councillors typically operate in less 'arms length'

roles in the community. Nonetheless, this is a potentially sensitive subject and one where debate and any changes must be led and agreed by Members.

5 Recommendations

5.1 In accordance with the above, the following recommendations are made:

1. That the Community PDG recommends the updated Corporate Safeguarding Policy to Cabinet for approval.
2. That the Community PDG recommends to Standards Committee that a Member working group is established to review the potential future inclusion of DBS checks for Members within the Corporate Safeguarding Policy and related DBS Policy.

Financial Implications

There are no direct financial implications from updating the Policy.

However, it is proposed that face to face training for the most relevant staff teams would be beneficial to increase the awareness and understanding of safeguarding responsibilities and good practice. This approach has been successful at East Devon District Council. Detailed proposals and costing have not been developed at this stage, but it is recommended that is provided as soon as possible to enable external training to be delivered in 2024/25.

Legal Implications

The Children Act 2004 and, specifically Section 11 of the Act places a duty on key people and public bodies, including district councils, to make arrangements to ensure that their functions are discharged having regard to the need to safeguard and promote the welfare of children. Updated statutory guidance has been issued in 2023.

Section 6 of the Care Act 2014 requires County Councils and their relevant partners including district councils, to co-operate with each other when exercising their respective functions where they are relevant to the care and support. This co-operation can be both at a strategic level and in relation to individual cases.

There is also other relevant legislation which applies to the issue of safeguarding under which the Council has specific duties. Members will note that this legislation is listed in the Policy document and at the end of this report.

Risk Assessment

Failure to meet the requirements of the legislation could lead to children and adults at risk coming to significant harm. This could also result in legal challenge to the Council and adverse reputational damage to the Council.

Failure to take action around safeguarding is a medium risk as we have an existing Policy in place and regularly reviewing this policy keeps it up-to-date with any learning and new legislation. Therefore, the Council has a continued mitigation against those risks occurring as long as an effective policy is fully implemented.

Leadership Team and CMT provide governance to the Policy and resulting actions.

The Designated Corporate Safeguarding Lead, and the Corporate Safeguarding Officer work closely with both the Torbay and Devon Safeguarding Adults Partnership, Devon Safeguarding Children Partnership, Safer Devon Partnership and other district councils. This ensures the sharing of best practice and that the Council is kept up to date with any new developments or changes to requirements. This ongoing work has helped shape this policy update.

Impact on Climate Change

No direct carbon/environmental impacts arising from the recommendations.

Equalities Impact Assessment

The equalities considerations are as set out in the report and the Policy. The Policy itself and processes that underpin the Policy are an important way of reducing inequality and ensuring that vulnerable people are protected.

An Equality Impact Assessment (EIA) screening has been completed under the revised corporate template. This is attached at Annex B. It concludes that the updated Policy is overwhelmingly positive in terms of equalities and therefore does not require a full EIA.

Relationship to Corporate Plan

The Policy helps the Council meet its legal responsibilities in respect to safeguarding and child protection and contributes to the Corporate Plan. An effective Corporate Safeguarding Policy, awareness and training is important to support our staff and to support the most vulnerable in the community we serve. It's particularly relevant to the housing services we provide and in support of our tenants.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 12 Mar 2024

Statutory Officer: Maria de Leiburne

Agreed on behalf of the Monitoring Officer

Date: 12 Mar 2024

Chief Officer: Simon Newcombe

Agreed by or on behalf of the Chief Executive/Corporate Director

Date: 29 February 2024

Performance and risk: Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 07 March 2024

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing (and Corporate Safeguarding Lead) or Adrian Gardner, Specialist Lead for Community Safety & Safeguarding (and Corporate Safeguarding Officer)

Email: snewcombe@middevon.gov.uk or agardner@middevon.gov.uk

Telephone: 01884 255255

Background papers:

1. The Care Act 2014 in particular Sections 42 to 46 related to safeguarding, further information can be found at: [Care Act 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk)
2. The Children Act 2004, specifically Section 11 which places a duty on key people and public bodies, including district councils, to make arrangements to ensure that their functions are discharged with regard to the need to safeguard and promote the welfare of children. New Statutory guidance has been issued in 2023: [Working together to safeguard children - GOV.UK \(www.gov.uk\)](https://www.gov.uk) Further information can be found at: <http://www.legislation.gov.uk/ukpga/2004/31/contents>
3. The Children and Social Work Act 2017 sets out how all local authorities should approach their Corporate Parenting responsibilities for looked after children and care leavers. For district councils this includes Housing, Leisure and Recreation and Local Taxation Collection as set out in the [statutory guidance](#).
4. The Counter Terrorism and Security Act 2015 section 26 which places a duty on certain bodies, in the exercise of their functions, to have due regard to the need to prevent people from being drawn into terrorism. The Prevent Agenda is one of four strands which makes up the Governments counter-terrorism strategy. Further information can be found at: <http://www.legislation.gov.uk/ukpga/2015/6/contents>
5. The Modern Slavery Act 2015. Further information can be found at: <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>

6. The Anti-Social Behaviour, Crime and Policing Act 2014 in particular Part 10 relating to forced marriage. Further information can be found at: <http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted>
7. The Serious Crime Act 2015 particularly Part 5 relating to female genital mutilation, child cruelty and domestic abuse. Further information can be found at: <http://www.legislation.gov.uk/ukpga/2015/9/contents/enacted>
8. The Domestic Abuse Act 2021 Part 1 Sec 3 provides that children who witness domestic abuse are now counted as victims in their own right.
9. Serious Violence Duty within the Police, Crime, Sentencing and Courts Act 2022. The statutory guidance requires specified authorities (including district councils) to focus on youth violence when setting their definition of serious violence. It also encourages a focus on domestic abuse and sexual offences.
10. The Devon Adolescent Safety Framework provides a route to protect young people from extra familial violence such as exploitation and sits alongside the usual statutory child protection procedure that deal with intra familial abuse. <https://www.dcfp.org.uk/training-and-resources/policies-and-procedures/adolescent-safety-framework-safer-me/>
11. Devon County Council procedures for managing allegations against staff and Local Authority Designated Officer (LADO) role. [Managing allegations - Devon Safeguarding Children Partnership \(devonscp.org.uk\)](#)
12. The Statutory Taxi and Private Hire Vehicle Standards <https://www.gov.uk/government/news/new-standards-to-improve-safety-for-taxi-and-private-hire-vehicle-passengers>

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