

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)
Email: mdeleburne@middevon.gov.uk
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Background papers: [Independent Review of the Disclosure and Barring Regime \(accessible\) - GOV.UK \(www.gov.uk\)](#)