

## **A COUNCILLORS' SAFEGUARDING GUIDANCE NOTE AND DBS CHECKS**

[NB: This Guidance Note does not form part of the Constitution or the Members' Code of Conduct].

- 1.** A Councillor's behaviour is in effect already covered by the Council's Code of Conduct (as required under the Localism Act 2011) - which provides recourse to any member of the public wishing to make a complaint against a Members behaviour - that Code, however, does not make specific mention or reference to allegations about safeguarding.
  - 1.1** The Code of Conduct, in the main, only applies to the conduct of a Councillor when acting or giving the impression that they are acting in their official capacity; it may not therefore always cover them in their 'private' life. Moreover, while the District Council's Monitoring Officer has a duty to advise and consult an Independent Person appointed under s28(7) of the Localism Act 2011 on any action to be taken arising from a complaint on the conduct of members under the Code of Conduct it would be inappropriate to do so in any case where safeguarding issues had been raised without first referring to the Council's safeguarding procedures.
  - 1.2** Councillors should operate within a safe working environment at all times. If Councillors adhere to common sense principles of safe working this will not only benefit the work and reputation of the Council but help protect them (Councillors) as well.
  - 1.3** Councillors, in their role as a Councillor, should therefore ensure that they do not have – or are not put in the position of having - unsupervised contact with children and young people or vulnerable adults. Avoiding any such circumstances/unsupervised contact wherever possible with vulnerable persons will help prevent the risk of any allegation of inappropriate behaviour being made.
  - 1.4** Any suspicions of poor practice, abuse or inappropriate behaviour observed or reported of a District Councillor (by whatever means or route) should in the first instance be reported to the District Council's Monitoring Officer, who shall take all necessary steps as indicated below including all appropriate notifications. The District Council's Monitoring Officer will review each case on its own facts and take any action that is required and this may result in the Police being involved.
  - 1.5** If the allegation is in relation to potential safeguarding concerns relating to the individual in their capacity, either as a councillor, or in any other working or volunteering role with children , the District Council's Monitoring Officer will make a referral to and liaise directly with the Local Authority Designated

Officer (LADO), who is responsible for managing and overseeing allegations against adults working with children. If the allegation relates to safeguarding concerns regarding the individual's behaviour with children in their personal life (e.g.: as a parent or relative or friend), the District Council's Monitoring Officer will ensure a referral is made to the Devon Multi-Agency Safeguarding Hub (MASH). In these circumstances, Children's Services would undertake any assessment as appropriate and, if following this, concerns remain which could impact on the individual's role as a Councillor, also make a referral for LADO consideration.

## **2. DBS Checks and Risk Assessment**

- 2.1** Following each District Council election the Council will, (or mid-term if a Councillor is elected mid-term) conduct a Basic DBS check for all Councillors which will be in place for a period of four years (a Council term).
- 2.2** Councillors will co-operate in providing all necessary information to enable the DBS check to be carried out. Once a Basic DBS check has been undertaken for that individual Councillor, a record of that will be retained. .
- 2.3** Only where the DBS check identifies a criminal conviction will the Monitoring Officer be notified. In these circumstances, the following course of action must be undertaken in line with this guidance. The Monitoring Officer will not retain a copy of the DBS Certificate but will record the Certificate Number, date of Certificate, date of offence(s) disclosed, the type of offences and when they will be spent. The applicant will retain the original DBS Certificate.
- 2.4** It is the responsibility of the Monitoring Officer to ensure all appropriate actions, guidance and notifications are taken in such cases.
- 2.5** The Monitoring Officer will also review the circumstances of the case with reference to the Code of Conduct to determine whether there are any standards issues involved and any potential case to answer.
- 2.6** Thereafter and following consultation with the Head of Paid Service and Corporate Safeguarding Lead (where appropriate) a discussion will be had with the Councillor to ascertain the facts of the matter, then conduct a risk assessment against an agreed criteria in consultation with the relevant Group Leader, and then agree future actions required
- 2.7** Any such risk assessment must necessarily require an objective common-sense approach, having regard not only to the Council's responsibilities for safeguarding but the need for Councillors to maintain the highest standards of conduct in their

professional lives and from a safeguarding perspective, their personal lives. Also important is the need for any person in public life and holding a position of special responsibility to be extra vigilant.

**2.8** The Monitoring Officer can also consider the withdrawal of facilities/access and, exceptionally, any action required to ensure the continued protection of others as a result of the disclosure or of any action the Council may decide to take as a result of that risk assessment, including confidential notification to a third party to ensure that continued protection of others, consulting with the Chair of the Standards Committee as appropriate.

**2.9** If a Basic check reveals that a Councillor has been sentenced to imprisonment for 3 months or more (including suspended sentences) during the last five years or has been convicted of a corrupt or illegal practice by an election court, then their seat will be lost and reported to the relevant body.

**DBS Risk Assessment Checklist**

<b>Disclosure Certificate No.</b>																				
<b>Date of Certificate</b>																				
<b>Full Name:</b>																				
<b>Position</b>	<b>Councillor</b>																			
<b>Check Undertaken for:</b>																				
<b>Level of Check</b>	<b>Basic</b>																			
<b>Convictions disclosed? If so, details</b>																				
<b>Date(s) and place of conviction?</b>																				

**Risk Assessment**

**Monitoring Officer/ Questions to consider as part of the Risk Assessment**

<b>Questions</b>	<b>Comments</b>
Does the Councillor confirm that the information disclosed in the DBS Disclosure is accurate?	
What is the individual's attitude to the offence now? Has the individual explained the circumstances of the offence?	
Will the Councillor be working unsupervised?	
Were/Are there any orders/requirements/conditions as a part of the unspent conviction and are they relevant to rehabilitation or control of reoffending?	
Does the conviction disqualify the Councillor from being a councillor?	
What preventative measure(s) could be put in place to reduce the risk?	
Have circumstances changed since committing the offence(s)? What has the individual done to reduce the risk of re-offending i.e. rehabilitation, improved education, moved location, changed associates etc	
At the time of the offence were there any mitigating circumstances? (ie financial / domestic / alcohol / drugs	
Was this a 'one-off' offence? or repeat offending?	

What level of contact is there with children or vulnerable adults i.e., unsupervised.	
What level of personal contact is there with the public?	
Is there potential for reputational damage?	
Is this a safeguarding concern?	
Describe what preventative measure(s) could be put in place to reduce risk?	
Signature of Monitoring Officer and Date of Risk Assessment	

**Part B Monitoring Officer- Any Further Actions**

Please state any additional safeguarding measures required such as building restrictions, or additional safeguards to be implemented by the Council and / or referral to the Standards Committee. Examples below .....

(NB; Notwithstanding the guidance relating to Regulated Activity and Sentencing referred to earlier)

- Speak to Leader of the Council and / or Group Leader
  
- Consideration of Committee / Sub Committees / outside bodies appointments
  
- Exclude or restrict the Subject Member's access to some or all District Council premises or business;
  
- Any training required
  
- Withdraw facilities (e.g. computer access).
  
- **Or other actions as defined in the Safeguarding Policy**

**Action Taken:**

## Guidance for Councillors

When should a councillor comply with the council's safeguarding policy?

When acting as, or perceived to be acting as, a councillor.

When is a councillor acting as, or perceived to be acting as, a councillor?

It can be unclear as to when a councillor's duties end and when their private life takes over.

With regard to safeguarding children there would appear to be three possible situations:

1. A councillor clearly acting in an official capacity, for example where a planned visit to has been organised by officers and the councillor is attending in their official capacity. In this situation, councillors would be expected to follow the same policy and procedures as officers.
2. A situation where the councillor could be perceived to be acting in an official capacity – this could be a situation where councillors are fact finding on their own without officers in attendance (for example where complaints of anti-social behaviour in a children's play area have been made and a ward councillor goes out to see how bad the situation is). In this situation, the councillor may come into contact with children. Again, councillors would be expected to follow the same policy and procedures.
3. Purely social contact with children (for example giving a lift to the children of a family friend) or vulnerable adults (for example visiting an older person who is a friend at a care home). There is no need to follow the council's child protection policy and procedures.

It is noted that councillors often get involved with, or take on, other roles in the community, for example school governor, helping at youth clubs, care homes etc. In these circumstances the councillor will have to comply with the policy of the relevant organisation (i.e. the school etc).

Working with children and vulnerable adults

In the unlikely event that a councillor needs to work frequently with children or vulnerable adults on behalf of the council then they would be required to have a DBS check and meet with the Community Safety and Safeguarding Lead, to ensure that they are familiar with the council's safeguarding policy and procedure. Councillors will receive additional guidance on their safeguarding responsibilities as part of the councillor induction process.