



## GOVERNANCE COMMITTEE

**TUESDAY, 19 SEPTEMBER 2017**

**12.00 NOON (OR AT THE CONCLUSION OF THE CABINET, WHICHEVER IS THE LATER)**  
**COMMITTEE ROOM, COUNTY HALL, LEWES**

MEMBERSHIP - Councillor Keith Glazier (Chair)  
Councillors Godfrey Daniel, David Elkin, Rupert Simmons and David Tutt

### A G E N D A

- 1 Minutes of the meeting held on 5 September 2017 (*Pages 3 - 4*)
- 2 Apologies for absence
- 3 Disclosures of interests  
Disclosures by all members present of personal interests in matters on the agenda, the nature of any interest and whether the member regards the interest as prejudicial under the terms of the Code of Conduct.
- 4 Urgent items  
Notification of items which the Chair considers to be urgent and proposes to take at the appropriate part of the agenda. Any members who wish to raise urgent items are asked, wherever possible, to notify the Chair before the start of the meeting. In so doing, they must state the special circumstances which they consider justify the matter being considered urgent.
- 5 Employment Appeal Panel - Member Appeal Hearings (*Pages 5 - 10*)  
Report by Chief Operating Officer
- 6 Review of Members' Allowances (*Pages 11 - 26*)  
Report by Assistant Chief Executive
- 7 Disclosure and Barring Service Checks for Councillors (*Pages 27 - 42*)  
Report by Assistant Chief Executive
- 8 Proposed discontinuation of the Education Performance Panel, Governors Panel and the Music Service Management Committee (*Pages 43 - 46*)  
Report by Director of Children's Services
- 9 Amendments to Constitution - Scheme of Delegation to Officers (*Pages 47 - 48*)  
Report by Director of Communities, Economy and Transport
- 10 Appointments to Outside Bodies - Conservators of Ashdown Forest (*Pages 49 - 50*)  
Report by Assistant Chief Executive
- 11 Any other items previously notified under agenda item 4

PHILIP BAKER  
Assistant Chief Executive  
County Hall, St Anne's Crescent  
LEWES BN7 1UE

11 September 2017

Contact Andy Cottell, 01273 481955, Email: [andy.cottell@eastsussex.gov.uk](mailto:andy.cottell@eastsussex.gov.uk)



## GOVERNANCE COMMITTEE

MINUTES of a meeting of the Governance Committee held in the Committee Room, County Hall, Lewes on 5 September 2017.

---

PRESENT Councillors Keith Glazier (Chair), Godfrey Daniel, David Elkin and Sylvia Tidy

### 10 MINUTES OF THE MEETING HELD ON 18 JULY 2017

10.1 RESOLVED – that the minutes of the previous meeting of the Committee held on 18 July 2017 be confirmed as a correct record.

### 11 REPORTS

11.1 A copy of the report referred to below is included in the minute book.

### 12 APOLOGIES FOR ABSENCE

12.1 Apologies for absence were received from Councillor Simmons and Councillor Tutt. It was noted that Councillor Tidy was substituting for Councillor Simmons

### 13 EXCLUSION OF THE PUBLIC AND PRESS

13.1 RESOLVED to exclude the public and press from the remaining agenda item on the grounds that if the public and press were present there would be disclosure to them of exempt information as specified in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended), namely information relating to the financial or business affairs of any particular person (including the authority holding the information).

### 14 VOLUNTARY SEVERANCE SCHEME

14.1 The Committee considered a report by the Director of Children's Services regarding a voluntary severance scheme.

14.2 The Committee RESOLVED – to agree the proposals set out in the report in relation to a voluntary severance scheme

*[Councillor Godfrey Daniel wished his name recorded as having voted against the above resolution]*

This page is intentionally left blank

Report to: **Governance Committee**  
Date: **19 September 2017**  
Report by: **Chief Operating Officer**  
Title of report: **Employment Appeal Panel - Member Appeal Hearings**  
Purpose of report: **To consider and make recommendations on the continuance of the Employment Appeal Panel**

---

## **RECOMMENDATIONS**

**The Governance Committee is recommended to approve:**

**1) the amendment of the Grievance and Workplace Conflict Policy, Disciplinary Policy, Attendance Management Policy and Procedure, and the Procedure for the Management of Unacceptable Performance to replace the right of appeal against dismissal to an Employment Appeal Panel with a right of appeal to a senior officer at Assistant Director level or above**

---

### **1 Background**

1.1 It is good practice to review key employment policies and procedures on a regular basis to ensure they remain appropriate to the organisation and its staff, as well as ensuring that any relevant changes in legislation have been incorporated appropriately.

1.2 The Council's Grievance and Workplace Conflict Policy and Disciplinary Policy were last reviewed early 2014 and prior to that, in 2010/11. No significant policy changes were made in 2014 other than replacing the previous first informal line manager stage with the use of Mediation in the Grievance and Workplace Conflict Policy. Currently, the Grievance and Workplace Conflict Policy, Disciplinary Policy, Attendance Management Policy and Procedure and the Procedure for the Management of Unacceptable Performance, all contain a right of appeal to a panel of County Councillors as the final stage of the procedure. In accordance with the Constitution of the County Council this function is undertaken by the 'Employment Appeal Panel' which is drawn from members of the Regulatory Committee. The terms of reference for the Employment Appeal Panel are:

"To hear and determine appeals by employees:

- (i) against the grading of their posts;
- (ii) against disciplinary action and the dismissal of employees;
- (iii) to hear and determine grievances lodged by staff in accordance with the County Council's grievance procedure; and
- (iv) to hear and determine disputes lodged by employees in accordance with the County Council's disputes procedure."

1.3 In considering the above, it should be noted that following the implementation of the national Single Status Agreement in 1997 and the adoption of a local pay and grading scheme in 2003, this Panel no longer has responsibility for hearing grading appeals. Likewise, following the Employment Act 2008 which repealed the minimum statutory procedures, the Council's Restructure and Redundancy policy was amended to provide a review of the decision by an appropriate senior manager, rather than an appeal to a panel of County Councillors.

### **2 Current Position**

2.1 Over the last few years, the number of appeals heard by the Employment Appeal Panel has been very small, as detailed in the table below:

	Grievance	Dismissal	Total
2014/15	1	4	5
2015/16	3	3	6
2016/17	2	1	3
up to July 2017	0	0	0

2.2 Set against the above, Member appeal panels are required on a very infrequent basis. This is potentially an issue in terms of the confidence of Members to undertake this role given the growing volume and complexity of employment legislation and with greater emphasis on procedural and technical issues. Whilst the number of Employment Tribunals has reduced significantly over the last few years following the introduction of fees, it is anticipated that numbers will now increase since the Supreme Court found, on 26 July 2017, the introduction of such fees was unlawful. Employment Tribunals will now be more accessible.

2.3 Organising and arranging appeal hearings is extremely resource intensive and finding a date that that is convenient to all parties frequently proves to be very difficult. This is particularly the case for Members given the demands on their diaries. As a result, there have been occasions where the earliest date that can be found for an appeal hearing is some two or three months after the decision against which the appeal is being made was taken. Clearly, such elongated timescales are unsatisfactory for all parties.

2.4 Given all of the above, it is therefore proposed to amend the Grievance and Workplace Conflict Policy, Disciplinary Policy, Attendance Management and Procedure Policy and the Procedure for the Management of Unacceptable Performance, all of which currently provide for a right of appeal to the Employment Appeal Panel and replace this with a right of appeal to an appropriate senior officer at Assistant Director level or above, who has had no prior involvement in the case, to ensure impartiality.

#### Position of Other Local Authorities

2.5 A survey of Councils in the Hay User Group (a benchmarking group that we participate in) has been undertaken and the results are attached at Appendix 1. Of the 14 authorities that responded, 9 have moved to a position of no Member involvement in any appeal hearings; 2 have Members hearing dismissal appeals but with grievance appeals delegated to officers and 3 continue to have Members involved in all appeals.

#### Trades Union Views

2.6 UNISON and GMB have been consulted on this proposal. The GMB have advised that they are content with the proposal for an appropriate senior officer to undertake the appeal as an alternative to a Member panel. UNISON, however, have indicated that they disagree with this proposal and believe that an appeal to a Member panel provides the opportunity for an objective and independent consideration that would not be achieved in the same way by a senior officer undertaking it. Attached at Appendix 2 is a written submission from UNISON setting out their views and response to this proposal.

### **3 Conclusion and Recommendations**

3.1 The termination of an individual's employment is a very serious matter, as is the full consideration of employees' grievances. It is therefore essential – and a legislative requirement – that an appropriate appeal mechanism exists. However, for the reasons detailed in this report, it is proposed that this would more appropriately sit with senior officers as opposed to the Employment Appeal Panel.

3.2 The Governance Committee is therefore recommended to agree the proposal to amend the Grievance and Workplace Conflict Policy, Disciplinary Policy, Attendance Management Policy and Procedure, and the Procedure for the Management of Unacceptable Performance, to replace the right of appeal against dismissal to an Employment Appeal Panel with a right of appeal to a senior officer at Assistant Director level or above.

**KEVIN FOSTER**  
**Chief Operating Officer**

Contact Officers: Sarah Mainwaring, Head of HR & OD, email:  
[sarah.mainwaring@eastsussex.gov.uk](mailto:sarah.mainwaring@eastsussex.gov.uk), Tel. No: 01273 482060

**Position of other Local Authorities** (survey of Hay User Group June 2017)

Council	Elected Member	
	Dismissal	Grievance
Brent	Yes	Yes
Brighton & Hove City Council	Yes	No (collective grievances are heard by Member panel)
Broxbourne Borough Council	No	No
Buckinghamshire County Council	No	No
Chelmsford City Council	No	No
Daventry District Council	Yes	No
Gloucester County Council	No	No
Hampshire County Council	No	No
Hertfordshire County Council	No	No
Kent County Council	No	No
Leicester City Council	No	No
Surrey County Council	No	No
Warwickshire County Council	Yes	Yes
West Sussex County Council	Yes	Yes

This page is intentionally left blank



Formal response by the East Sussex Area Branch of UNISON to the Governance Committee's report – Employment Appeal Panel – Member Appeal Hearings.

Unison is grateful for the opportunity to present our views to Members in relation to Member involvement in Appeal Hearings.

Whilst we recognise the need to make some changes to the terms of reference in light of legislative change, we formally object to the proposal to remove the Member involvement level within the County Council's Disciplinary and Grievance procedure for the following reasons:-

1. It would appear to be unfair to amend the process because it is used rarely – that is surely because the procedure has been effective at the earlier levels and UNISON believes that this is as is should be.
2. Considering the proposal in front of this Governance Committee it is unclear to Unison that if a Chief Officer has made a decision at the second level (which often happens with dismissal cases) how would it be possible for an Assistant Director from another department be able to overturn a decision by a Chief Officer? Also Chief Officers are colleagues and of course work closely together - how independent could they truly be in possibly overturning another Chief Officers decision?
3. There are often topics discussed and decisions made by Members, that need some training or explanation or legislative updates and we can see no difference in the need to offer this to Councillors as and when required so for instance if an appeal hearing were needed then prior to that there should be an update briefing which could be timetabled in, if necessary.
4. Just because finance is not now an issue when holding Employment Tribunals anyone seeking a decision by a tribunal still has to have followed all internal procedures before they can seek the involvement of a tribunal and therefore we feel that this has very little relevance to the decision before you.
5. We feel that it is a very strange reason to say that Member involvement should be stopped because they are difficult to arrange – we would respectfully suggest that an appeal hearing meeting of one day be timetabled into the Councillors calendar for every other month (and can be born in mind when Officers are arranging the stage 2 grievance or our members can be advised of the likely date and we too could keep them available in our diaries?

6. Councillors are the employer and ultimately accountable and could be called to answer on behalf of the Authority at an Employment Tribunal and therefore should not be remote or indeed removed from the process
7. We believe that our unison members will at least feel that there is some independence in the decision and therefore they have been dealt with fairly (regardless of whether they are successful in the outcome)

Finally Unison would wish you as the Employer to have the ultimate say in what are, in effect, your Policies and therefore we ask that you do not agree to the change proposed.

East Sussex Area Branch of UNISON (ESAB)  
September 2017

AP/LW Appendix 2

Report to: **Governance Committee**

Date: **19 September 2017**

By: **Assistant Chief Executive**

Title of report: **Review of Members' Allowances**

Purpose of report: **To consider the proposals recommended by the Independent Remuneration Panel**

---

## **RECOMMENDATIONS**

**The Governance Committee is recommended to recommend the County Council to:**

- 1) approve the changes set out in the report of the Independent Remuneration Panel; and**
  - 2) delegate authority to the Assistant Chief Executive to amend the Scheme of Allowances to reflect any changes agreed and to update the list of bodies to which the County Council makes appointments as set out in Annex 1 of the Scheme of Allowances to reflect the current position**
- 

## **1. Background Information**

1.1 The Independent Remuneration Panel is required, by the Local Authorities (Members' Allowances) (England) Regulations 2003, to make recommendations to the Council on allowances paid to Councillors. In 2013, the Council agreed that the Panel be asked to review the Scheme every 4 years in accordance with the Regulations unless the Assistant Chief Executive considers that there is a change in circumstances that justifies an earlier review or a request is received from a Group Leader.

1.2 The Independent Remuneration Panel was appointed by the Governance Committee in April 2014 and consists of three members, Rosey Eggar, Duncan Keir and Fiona Leathers.

1.3 As part of their review the Independent Remuneration Panel took into account information provided including comparative information from other County Authorities.

1.4 Bearing in mind the uncertainties regarding elections and the importance of capturing the views of experienced Members all councillors were contacted, both before and after the County Council elections, regarding the review of the allowances scheme and given an opportunity to submit written representations and/or to make representations in person to the Panel. A summary of the written comments received is attached to the Panel report.

1.5 A copy of the Independent Remuneration Panel report is attached at Appendix 1. The current Members' Allowances Scheme is set out in Part 6 of the Constitution.

1.6 The Independent Remuneration Panel is required to review allowances based on the facts and information provided to it. The Governance Committee are asked to make recommendations to the County Council on whether to accept, reject or modify the recommendations. Councillors are required to give due consideration to the recommendations of the Panel but are not bound by them.

## **2 Financial Appraisal**

2.1 The Panel were aware of the financial constraints affecting the Council over the next four years and have taken the view that they would only make recommendations that would be

achievable within the existing budget and for the reasons set out in paragraph 2.2 with no additional cost.

2.2 The net cost of implementing the Panel's recommendations would be met from within existing budgets. The recommended increases amount to £68,300 and are offset by a £74,000 saving in the Council contribution to the Local Government Pension Scheme for councillors who were members of the Scheme.

### **3. Summary of findings**

3.1 The Regulations allow for the Members' Allowances Scheme to make provision for an annual adjustment of allowances by reference to such index as may be specified by the authority. Where an authority has regard to an index for the purpose of annual adjustment of allowances it must not rely on that index for longer than a period of four years before seeking a further recommendation from the Independent Remuneration Panel. For the last four years the allowances have been indexed to the percentage increase in the salaries of managers who are on locally negotiated pay

3.2 The Independent Remuneration Panel recommend in their report that the annual increase in allowances continues to be linked to the LMG managers increase.

3.3 The Independent Remuneration Panel took the view that the basic allowance currently paid to members is comparable with other similar authorities. However, there were a number of factors considered by the Panel that resulted in the Panel recommending an increase in basic allowance. The proposed increase in basic allowance reflects a number of issues including: the aim of encouraging a broader cross section of the community to stand for election; changes in relation to the Local Government Pension Scheme; and changes in broadband/telephone line provision, home printing and subsistence after meetings.

3.4 The Panel has also proposed an increase in the SRA payable to the Leader of the Council. This recommendation was made, following analysis of other authorities, on the basis that the current SRA to this post (being a multiplier of 2.2 of the level of basic allowance) was significantly below the range of multiplier commonly used (multipliers of between 2.8 and 3.2) and that the current SRA did not reflect the responsibility and role of the post.

3.5 In addition to Basic Allowances and SRAs, the Panel considered other aspects of the allowances scheme including subsistence levels, travel and carers' allowance

3.6 The Panel are recommending:

- a) The continued use of an index to allow for annual increases in basic and special responsibility allowances and that this index should continue to allow for allowances to be updated annually in line with the percentage increase in salaries for managers who are locally negotiated pay
- b) The basic allowance increase to £12,300
- c) The SRA payable to the Leader of the Council should be based on a factor of 2.8 of the level of basic allowance
- d) The SRA for the Deputy Leader and other Cabinet members should remain unchanged
- e) The SRA for Chairs of Scrutiny Committees and Planning Committee should remain unchanged
- f) The SRA for the Chairman and Vice Chairman should remain unchanged
- g) All other SRA should remain unchanged
- h) The basic mileage rate and supplement for passengers should remain at 45p and 10p per mile respectively
- i) The dependent carers allowance should remain at the actual cost up to £10 per hour
- j) Co-optees should continue to be able to claim mileage for travel to meetings

3.7 The Independent Remuneration Panel recommends that all changes to allowances are effective from 8 May 2017.

PHILIP BAKER  
Assistant Chief Executive

Contact Officer: Andy Cottell

Tel: 01273 481955

E-mail: [andy.cottell@eastsussex.gov.uk](mailto:andy.cottell@eastsussex.gov.uk)

Local Members: All  
Background Docs: none



## East Sussex County Council

### Report of the Independent Remuneration Panel 2017

#### 1. Background

1.1 The County Council is required, by the Local Authorities (Members' Allowances) (England) Regulations 2003, to have regard to the recommendations of the Independent Remuneration Panel in making amendments to the scheme of allowances paid to Councillors. In March 2013, the Council agreed that the Panel be asked to review the Scheme every 4 years in accordance with the Regulations unless the Assistant Chief Executive considers that there is a change in circumstances that justifies an earlier review or a request is received from a Group Leader. The Panel must produce a report making recommendations on:

(a) the responsibilities or duties in respect of which the following should be available:

- (i) Special Responsibility Allowances (SRA);
- (ii) travelling and subsistence allowance; and
- (iii) co-optees' allowance;

(b) the amount of such allowances and as to the amount of basic allowance;

(c) whether dependants' carers' allowance should be payable to members of an authority, and as to the amount of such an allowance;

(d) whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated in accordance with regulation 10(6);

(e) whether adjustments to the level of allowances may be determined according to an index and if so which index and how long that index should apply, subject to a maximum of four years, before its application is reviewed.

1.2 Since the last review of the scheme, allowances have risen annually in line with those of the Local Managers Pay (LMG).

1.3 Legislation requires that the index used for the purpose of annual adjustment of allowances must be reviewed after a maximum period of four years. As the scheme of allowances has not been reviewed for the same period, the Panel has considered the entire scheme. There have been no significant changes to the structure of the Council since the existing scheme was introduced.

1.4 Any changes agreed by the County Council in relation to the scheme of allowances would be backdated to 8 May 2017.

## **2. The principles of the East Sussex scheme**

2.1 The Panel has previously used the following principles when framing its recommendations:

- The review should take into account the value of the work undertaken by Members of the County Council and of the functions carried out by the Council.
- The system of allowances should acknowledge that public service, rather than material reward, should remain the primary motivation for involvement in local government.
- The scheme should be fair in terms of relevant comparisons with other public bodies.
- The system for the payment of Members' allowances should be simple to understand and administer.
- The scheme for Members' allowances should take into account the desirability of attracting people to take part in local government who reflect the population of East Sussex.
- The scheme should have regard to statutory guidance and relevant comparative information including local wage rates.
- SRAs should only be paid to reflect significant and exceptional additional work.

2.2 The Panel agreed that these principles should continue to be used when considering the Members' Allowances Scheme.

## **3. The review process**

3.1 The Panel met during 2016 to plan, review, consider information and to interview councillors. It was however felt appropriate that the Panel's report should not be finalised until after the Council elections in 2017 to allow newly elected councillors to have an opportunity to have an input into the review. Both in 2016 and in June 2017 all councillors were contacted regarding the review of the allowances scheme and given an opportunity to submit written representations and/or to make representations in person. A summary of the written representations received is attached at Appendix 1.

3.2 The Panel is required to review allowances based on the facts and information provided to it.

3.3 Given the current financial climate, the Panel was minded to ensure that any recommended changes to the scheme of allowances are made within the existing budget. The net cost of implementing the Panel's recommendations would be met from within existing budgets. The recommended increase in basic allowance (£50,000), the increase in the Leader's SRA (£9,300) and the increase in the Council's National Insurance contribution (£9,000) are offset by a £74,000 saving in the Council contribution to the Local Government Pension Scheme (LGPS) for councillors who were members of the Scheme



3.4 The written representations received are attached as Appendix 1 and include the following:

- 1) Pension provision will cease for county councillors from May 2017.
- 2) The current position regarding SRAs for the spokespersons for the largest opposition group.
- 3) Basic Allowance should be increased in an attempt to make the role more attractive to young and working age individuals.
- 4) Consideration to be given to the Basic Allowance in view of decisions taken to move to paperless meetings and to stop providing lunches for Members at meetings of council bodies.

#### 4. The Scheme of Allowances

##### 4.1 Annual increments for all allowances

The Panel has previously agreed that the all Member allowances rise incrementally each year in line with increases awarded to the East Sussex County Council Local Manager Group. Over the last six years, these have been:

Year	Percentage increase in allowances
2017/2018	1%
2016/2017	1%
2015/2016	1.19%
2014/2015	1%
2013/2014	1%
2012/2013	0%

4.2 Having reviewed the position the Panel see no reason to change the provision for annual increments and recommend that:

- **The basic and special responsibility allowances continue to be adjusted annually in line with the Local Manager Group pay award**

## 5. Basic Allowance

5.1 The Panel considered all statements presented and compared the allowance with other similar county authorities. These included neighbouring authorities and those of a similar size.

5.2 The basic allowance for these authorities at the time of the Panel's report being finalised was as follows:

<b>County Council (in order of population size)</b>	<b>Basic Allowance</b>
Kent	£14,725
Essex	£12,000
Hampshire	£12,003
Surrey	£12,418
West Sussex	£11,414
Oxfordshire	£10,000
Cambridgeshire	£10,315
<b>East Sussex</b>	<b>£11,303</b>
Buckinghamshire	£11,454

5.3 This table shows that the East Sussex County Council basic allowance is comparable with other authorities. However, the Panel was of the view that the level of basic allowance was not sufficient to encourage a broader, more representative range of people to stand for election. The Panel concluded that the basic allowance should be increased to reflect this view.

5.4 In considering the level of basic allowance, the Panel reflected on the fact that from May 2017 ESCC councillors would no longer be eligible to be members of the Local Government Pension Scheme (LGPS) and considered the representations received in relation to this issue. The Panel considered that removal of the ability for councillors to be members of the LGPS could have a negative impact on councillors and could possibly impact on the aim of encouraging a more diverse range of people from seeking election. The Panel concluded that the level of basic allowance should be increased in view of the LGPS changes for councillors.

5.5 The Panel noted representations made in relation to printing at home and the fact that lunches were no longer provided after formal meetings. The Panel concluded that it did not wish to recommend a subsistence allowance which would create an administrative cost and potentially reduce transparency

but was of the view that the fact that lunches were no longer provided should be reflected in the basic allowance. The Panel supported a move away from the provision of telephone lines (councillors are now provided with a corporate mobile phone), the provision of a broadband line (laptops/hybrid/tablet devices issued to councillors being 3G enabled) and that corporate printers were no longer for use in councillors homes. The Panel was minded to reflect these changes in determining the level of basic allowance.

5.6 In proposing an increase in basic allowance, the Panel wished to clarify that the increase was to reflect a number of issues including:

- the aim of encouraging a greater cross section of the community to stand for election, in particular more women and younger people
- changes in relation to the Local Government Pension Scheme
- changes in relation to broadband/telephone line provision, subsistence provision after meetings, home printing

5.7 The proposed increase would also help to ensure that the structure and payment of allowances was simple to understand and administer.

**5.8 The Panel recommends that the basic allowance increase to £12,300 with effect from 8 May 2017**

## **6. Special Responsibility Allowances (SRAs)**

6.1 In reviewing the SRAs the Panel considered various representations that had been made and was mindful of the principle that SRAs should only be paid to reflect significant and exceptional additional work.

6.2 SRAs are currently paid in respect of the following roles:

<b>Role</b>	<b>No.</b>	<b>Amount (per councillor)</b>
Leader	1	£25,113
Deputy Leader	1	£17,578
Other Cabinet Members	6	£15,068
Scrutiny Chairs	5	£6,277
Chair of Planning Committee	1	£6,277
Chairman of the County Council	1	£12,554
Vice-Chairman of the County Council	1	£5,026
Leader of the largest Opposition Group	1	£12,554

Deputy Leader of the largest Opposition Group	1	£3,262
Leader of the second largest Opposition Group	2	£5,026

#### Leader of the Council

6.3 The Panel noted that many authorities used a multiple of the basic allowance in relation to the SRA payable to the Leader of the Council. The norm is for this multiple to be in the range of 2.8 to 3.2. The Panel considered that the SRA payable to this post at ESCC was significantly below this multiple (currently the Leader of the Council's SRA was a multiple of approximately 2.22 of the basic allowance) and was at a level that did not adequately reflect the responsibility and work required of the postholder.

**6.4 The Panel recommends that the SRA for the Leader of the Council should be based at the bottom of the range on a factor of 2.8 of the level of basic allowance with effect from 8 May 2017**

#### Opposition Spokespersons

6.5 An allowance was previously paid to opposition group spokespersons but in 2010, the Panel recommended that SRAs should only be allocated to opposition spokespersons holding the roles of: leader and deputy leader of the largest opposition group, and the leader of the second largest opposition group.

6.6 At the request of the largest opposition group, this matter was reviewed by the Panel in 2012. The Panel concluded that the outlined responsibilities of opposition spokespersons were in effect representative of all elected Members and did not warrant an SRA. As part of the current review, the Panel was requested to consider whether an SRA should be paid to opposition spokespersons.

6.7 Given the principle to minimise the number of Councillors receiving special responsibility allowances and only for significant levels of work, the Panel recommend **that there should be no change to the SRAs currently paid - SRAs would be payable to the Leader and Deputy Leader of the largest opposition group and the Leader of the second largest opposition group**

#### Deputy Leader and other Cabinet members

6.8 The Panel recognise the significant level of responsibility and complexity of work carried out by cabinet members and recommend **that the SRAs for the Deputy Leader and other cabinet members should remain unchanged**

## Chairs of Scrutiny Committees and Planning Committee

6.9 The Panel recommend **that the SRA for Chairs of Scrutiny Committees and the Planning Committee remain unchanged.**

## Chairman and Vice Chairman of the County Council

6.10 The Panel recommend **that the SRA for Chairman and Vice Chairman of the Council remain unchanged**

## Other special responsibility allowances

6.11 Whilst appreciating the time, commitment and energy that councillors invest in other specialist work, the Panel recommend **that all other SRAs remain the same**

6.12 In 2012 the Panel recommended that no SRA should be paid to the Chair of the Shadow Health and Wellbeing Board. Since that time, the status of the Board has been formalised. **Having considered the role of this post the Panel concluded that no SRA should be payable to this post at the current time. The Panel would be happy to review this matter again in the future if requested to do so.**

## 7 Travel and subsistence

7.1 The basic mileage rate (45p per mile) reflects the rate recommended by the Inland Revenue. The current scheme also allows for an additional payment of 10p per mile for each passenger carried to encourage car sharing and to reduce pressure on parking.

7.2 The Panel recommends **that the basic mileage rate and supplement for passengers remain at 45p and 10p per mile respectively**

## 8. Dependent carers allowance

8.1 The Panel considered current fees and recommends **that the dependent carers allowance should remain unchanged at the actual cost up to £10 per hour.**

## 9. Co-optees' Allowance

9.1 The Panel noted that all co-optees are currently able to claim mileage for their travel to meetings of their respective bodies or to boards when appointed. The Panel recommends that **this remain unchanged but that no other allowance should be payable**

## **10. Other issues**

### ***Home printers and photocopying***

10.1 The Council has previously provided home ink-jet printers and associated supplies of ink and paper to Councillors to carry out their councillor-related duties.

10.2 In recent years, the need for Members to retain a personal home printer to carry out their duties as councillors has reduced significantly. This is due to a number of factors:

- Councillors are now able to use a variety of printers in Council buildings across East Sussex. These are significantly cheaper to operate than home printers and, with technology such as “follow-you printing”, can be used safely for confidential material.
- A Members’ ICT questionnaire (2015) demonstrated a dramatic increase in the use of email over letters to communicate with constituents in recent years.
- It makes financial and environmental sense to minimise printing, and so the Council moved to ‘paperless’ meetings with effect from April 2016.

10.3 However, some Councillors have indicated that they need to have printed papers and/or the use of a home printer to carry out their work as a Councillor. The Panel would support a proposal that home printers or supplies to Councillors be no longer supplied (with effect from 8 May 2017) and has proposed an increase in basic allowance to reflect this (see paragraph 5).

### ***Provision of home landline and broadband services***

10.4 Currently, some Councillors, but not all, are provided with telephone lines and broadband lines. Given that Councillors are now offered a mobile phone or a ‘smartphone’ and all laptops/tablets/hybrid devices issued to Councillors have the option of being 3G enabled so that Councillors can access information at home and on the move, the Panel would support the discontinuation of all landlines and wired broadband to councillors with effect from May 2017.

## **Representation on the Council**

10.5 The Panel recommends that the political groups and the Council be proactive in encouraging a greater cross section of the community to stand for election in order to increase the diversity of councillors on the Council.

## **Effective Date**

The Panel recommends that **all recommended changes to allowances are effective from 8 May 2017 subject to the agreement of the County Council**

## **Conclusion**

The Panel would like to thank the councillors for their contributions and views in assisting the Panel to reach its decisions.

Fiona Leathers (Chair of the Panel)

Rosey Eggar

Duncan Keir

## Written comments received from County Councillors

Appendix 1

No comment at this stage
The Panel should be reminded that the pension provision for Councillors is not available for many Councillors and for those remaining in the scheme it will cease in May 17. This means that Councillors will have to make such pension provision without any contribution from the County Council.
In relation to Members Allowances, I wish to suggest that, on a day when there is a meeting in the morning and afternoon, that members should be allowed a sum of say £5.00 to buy a sandwich and a drink. It doesn't seem right that we have to survive all day on a coffee and a biscuit. There have been several meetings when not even coffee and water are supplied As we now have to go paperless, I think we should be reimbursed for stationery items we have to employ at home ie if we want to print off papers, there should be some allowance for cartridges, and copy paper
I think it would be helpful if the panel were to look at the former position of allowances for the Shadow Cabinet.
Linking any uplift in members allowances to any increases given to staff seems the right way forward in my opinion. Simple, straightforward and transparent!
I might make the comment that since Government has reduced County Councillors ability to participate in a LG pension scheme from the 2017 elections and that from the same time we will be restricted in terms of expenses for Home to County journeys. Local members from the Panel may well wish to make a more generous contribution to the remuneration package for those so committed to the benefit of the Residents of East Sussex.
My issues are that: hard working members are paid the same as members who only turn up occasionally to full council and then do not stay for the whole session; the remuneration does not compensate young (working age) councillors to take time off from employment resulting in a council of retired and elderly members
I would like the opportunity to be interviewed by the panel. My concern is that the low remuneration and the increasing time commitment result in a very elderly council membership. The very few younger councillors cannot get time off work to attend many day time meetings and certainly their employers will not allow unpaid leave. Hence the tendency leans towards a council formed of those who are retired and on reasonable pensions and those who may have other private income. The recent council elections also revealed the low number of candidates across all parties and those standing as independent who were under 40 years of age. This is a very late response to your email of December 17. Perhaps it



is too late but I have the following observations.

- 1 The elderly average of councillors is of grave concern, it does not represent the young people, those in full-time work and is unbalanced in terms of gender and ethnic minority;
- 2 Of the councillors, I understand only three are in full time employment. I understand that employers will only give time off for full council which results in these councillors (the younger ones) cannot attend committees. Others supplement their income from posts at District and Borough and while this may facilitate communication between different levels of local government, it does lead to a confusion of roles and
- 3 Declaration of interests at times.
- 4 Others may supplement their income through being associated with businesses or companies that were their former employer. Again interests may not be entirely transparent.
- 5 As a result, the work of the councillors is unequally shared between those who see ESCC as their primary commitment and those who do not. Those "full-time" councillors build good relations with officers and councillor colleagues, often cross party, while the others, a substantial number do not and become further disconnected.
- 6 The pay of councillors is vastly disproportionate. If accounts of the former leaders income plus expenses were over 100k pa is true, then the pay to back bench and even shadow cabinet members is paltry and does not encourage young and very able young people to stand as candidates.

I would like to see a situation like the Republic of Ireland where local government reform is more transparent.

Were counties had been divided into Ridings, they are now amalgamated.

Councillors pay begins around 40,000 Euros, but councillors are considered full time and discouraged from any further employment.

This results in a more evenly distributed age and former income group.

Thank you for making me aware of this opportunity. The issue that I would like the panel to consider is the reinstatement of SRAs for the Shadow Cabinet members. The reason for this is that those who hold these responsibilities not only have to ensure that they are fully briefed on issues which means meetings with Chief Officers but also liaise with members of the public, often outside of their own area who are concerned about the decisions which are to be made and wish to speak to a Councillor who is not part of the Administration. This can of course not only take up time but also involve travelling to other parts of the County.

Now is not the time to be making any changes other than reducing

Is it right, in this time of austerity, for Cabinet members, who are also office holders in other authorities and so also receiving an allowance from that authority, to receive an allowance the same as those who are not.



Report to: **Governance Committee**

Date: **19 September 2017**

By: **Assistant Chief Executive**

Title of report: **Disclosure and Barring Service (DBS) Checks for Councillors**

Purpose of report: **To consider whether Disclosure and Barring Service checks should be undertaken for county councillors**

---

**RECOMMENDATION – The Governance Committee is recommended to recommend the County Council to:**

- 1) approve that an Enhanced Disclosure and Barring Service (DBS) check be undertaken for East Sussex County Councillors whose roles are listed at paragraph 4.2 and for any other Councillor whose role is considered by the Monitoring Officer to meet the criteria that qualifies for a check; and**
  - 2) approve that the Council's DBS Policy Statement is updated to include reference to elected Members and to incorporate the policy changes introduced by this report.**
- 

## **1. Introduction**

1.1 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.

1.2 The Council has a duty to protect vulnerable people to whom it owes a statutory duty of care. 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 such individuals.

1.3 In January 2014, the Governance Committee agreed that elected Members should only be requested to have a DBS check if they are to be involved in a Regulated Activity. By the definitions of the Council's current DBS Policy Statement for *employees, volunteers, agency staff and contractors/sub-contractors* (Appendix 1, p8), those who undertake work *for the purposes of a local authority adoption and fostering service ... and have access to personal and sensitive information about children* require a Standard DBS check. A number of Councillors fall within this category.

1.4 Certain roles may also entitle some Councillors to be eligible for Enhanced DBS checks, for example Cabinet Members with specific responsibilities that bring them into contact with children or vulnerable adults.

## 2. The DBS system

2.1 The DBS system is intended to offer safeguards in relation to individuals who come into contact with young or vulnerable people as part of their role. There are various levels of checks depending on the nature of the role:

Type of check	Description
Standard check	This checks for spent and unspent convictions, police cautions, reprimands and final warnings. Cost: £26 per check.
Enhanced check	This includes the same as the standard check plus any additional information held by local police (such as complaints or third party referrals) that is considered relevant to the role. Cost: £44 per check.
Enhanced check with Barred List check	This is like the enhanced check, but includes a check of the two DBS lists of people barred from working with (1) children and (2) vulnerable adults.

2.2 DBS checks, once made, are portable in that the check can be used for other roles discharged by the individual. Where an individual moves between different roles, a new DBS certificate is not generally required unless the new role requires a higher level of check.

## 3. Other local authorities' polices

3.1 An overview of current practice in a range of local authorities is shown below:

Organisation	Approach		Comment
	All Members	Panel Members	
East Sussex County Council	None	None	Current position
Surrey County Council	None	Enhanced check on Chairs only	Enhanced check on Cabinet members and Chairs of Adults' and Children's Scrutiny Committees
Brighton & Hove City Council	None	Enhanced check	
West Sussex County Council	Standard check	Enhanced check	Undertake checks shortly after elections as part of induction
Hampshire County Council	Enhanced check	Enhanced check	Undertake checks shortly after elections as part of induction
Kent County Council	Enhanced check without Barred List check	Enhanced check with Barred List check	

3.2 The number of elected Members likely to fall within the eligibility criteria over their term of office is a factor in determining whether some or all Members are DBS checked. In some authorities the majority of Councillors undertake an eligible role at some stage in their term of office; those authorities undertake checks on all their Councillors. Other authorities, who operate a more static panel membership restrict the checks to relevant Councillors.

#### **4. Matters for consideration**

4.1 Councillors are not required to undergo a DBS check by virtue of their role as a Councillor generally. The County Council must take care not to seek too much information since, for example, an organisation can only ask for a check where the nature of the role makes it appropriate.

4.2 Any Councillor who undertakes the following roles in East Sussex County Council is eligible for a Standard or Enhanced DBS check:

- Members of the Adoption and Permanence Panels
- Members of the Fostering Panel\*
- Members of the Corporate Parenting Panel
- Lead Member for Children and Families
- Lead Member for Education and Inclusion, Special Educational Needs and Disability
- Lead Member for Adult Social Care and Health.

(\*DfE Fostering Services: National Minimum Standards guidance document mentions this role specifically in respect of fostering duties.)

4.3 Therefore, it is proposed that Councillors who undertake the roles listed at paragraph 4.2 be required to undertake an Enhanced DBS check. Additionally, it is proposed that any other Councillor whose role is considered by the Monitoring Officer to meet the criteria should also undertake a DBS check.

4.4 It is further proposed that the DBS Policy Statement (Appendix 1) is updated to include reference to elected Members and to incorporate the changes introduced by this report.

4.5 In implementing this policy, the Council must guard against the potential that a DBS check may give false assurances. A DBS certificate is a reflection of data held by the police at a point in time and not a confirmation that a person does not present a risk. All existing risk management procedures will therefore remain in place.

#### **5. The procedure for undertaking checks**

5.1 As a high volume user of the DBS service, ESCC has recently adopted use of the e-DBS online system. This enables an individual applicant to enter their personal details directly into the DBS system although the organisation is still required to see and check original documentation (e.g. passport and utility

bills) to verify the person is who they claim to be. Members Services staff will assist Members through the process.

5.2 Disclosures are sent to the individual. The Councillor will then need to present the certificate to the Monitoring Officer. The unique reference number and date of issue of a Councillor's disclosure would be recorded on their SAP profile as evidence of the check having been undertaken but this will not indicate whether the check has resulted in a positive disclosure.

5.3 Where a DBS check results in a positive disclosure (ie. a criminal background or details that may be of concern) the Councillor would be requested to meet with the Chief Executive and Monitoring Officer to discuss the disclosure and its impact on their suitability to undertake certain roles. If the outcome of those discussions is that there should be a restriction in their role, then this would be additionally shared with the Councillor's group leader where relevant.

5.4 The County Council will pay for Member DBS checks that are required. (£44 per Enhanced check).

5.5 DBS checks are not time limited although they may be considered to lose validity over time. It is recommended that Members who continue in the relevant role are required to undertake a new DBS disclosure every three years in line with the DBS policy statement (Section 5, page 5).

## **6. Conclusion**

6.1 The Council has a duty to protect vulnerable people to whom it owes a statutory duty of care. 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 such individuals.

PHILIP BAKER  
Assistant Chief Executive

Contact Officer: Paul Dean Tel: 01273 481751  
[paul.dean@eastsussex.gov.uk](mailto:paul.dean@eastsussex.gov.uk)

Local Members: All

Background Documents  
None



# DBS Policy Statement

**Date:** October 2016

## Document summary

This policy statement provides guidance on the effective use of the DBS Disclosure process to safeguard the children and adults who access our services.

## Contents

Key points .....	3
1. DBS checks and when to use them .....	3
2. Validity of DBS Disclosures .....	4
3. Portability of DBS Disclosures .....	4
4. DBS Disclosure requirements for those moving positions within ESCC .....	5
5. Frequency of DBS Disclosure checking – employees.....	5
6. Commencement of work prior to receipt of DBS disclosure .....	6
7. Receipt of DBS disclosure .....	6
8. Recruiting from overseas .....	7
9. DBS Disclosures for agency workers, contractors, subcontractors or volunteers ....	7
10. Frequency of DBS Disclosure checking – Agency staff and contractors.....	7
Appendix 1 – DBS Eligibility flow diagrams.....	8

## About this document:

<p><b>Enquiries:</b> Personnel Support Unit Author: Personnel Support Unit Telephone: 01273 335185</p> <p><b>Download this document</b> From: <a href="http://intranet.escc.gov.uk/personnel/recruitment/Pages/safeguarding.aspx">http://intranet.escc.gov.uk/personnel/recruitment/Pages/safeguarding.aspx</a></p>	<p><b>Version number:</b> V7.2 02 11 2016</p> <p><b>Related information:</b> <a href="#">Storage of DBS disclosures policy</a> <a href="#">DBS checks for contractors – guidance for managers</a> <a href="#">Recruitment of ex-offenders policy</a></p>
<p><b>Accessibility help</b></p> <p>Zoom in or out by holding down CTRL and turning the mouse wheel. CTRL and click on the table of contents to navigate. Press CTRL and Home key to return to the top of the document Press Alt-left arrow to return to your previous location. References shown in <a href="#">blue text</a> are available on the Intranet and/or Webshop. References shown in <a href="#">underlined blue text</a> are hyperlinks to other parts of this document.</p>	



# DBS Policy Statement

## Key points

- East Sussex County Council (ESCC) is committed to safeguarding the welfare of those accessing its services through the effective use of the DBS Disclosure vetting process for all relevant groups of employees.
- The guidance set out in this DBS Policy Statement relates to employees, volunteers, agency staff and contractors/sub contractors.
- Throughout this document where a “DBS Disclosure or check” is referred to, this covers all types of DBS check (i.e. standard/enhanced/enhanced + childrens’ and/or adults barred list check.
- Where the term ‘vulnerable adult’ is used, this is where an adult is in receipt of, or accessing a service which, leads that adult to being considered vulnerable at that particular time.
- ESCC uses the DBS Disclosure process as part of a range of checks for assessing the suitability of preferred candidates, volunteers, contractors, agency staff, those transferring within ESCC, and the continued employment of those in specific roles which require reassessment.
- ESCC obtains and makes decisions based on information provided on DBS Disclosures in accordance with the Data Protection Act, the DBS Code of Practice, the Rehabilitation of Offenders Act and the regulations of the Department for Education (DFE) and the Department of Health (as regulated by OFSTED and CQC)
- This policy should be read in conjunction with ESCC's Employment of Ex-Offenders policy and the Storage and Retention of DBS Disclosures policy.

## 1. DBS checks and when to use them

- 1.1. It is best practice to determine the type of DBS Disclosure that is required by way of a risk assessment which should be undertaken by the manager responsible for the activity that the individual will be undertaking. Managers should conduct the risk assessment before the activity commences and in the case of recruitment to a vacant post, this should take place prior to the recruitment process. Managers are also responsible for the ongoing reassessment of the post/work to ascertain if the level and type of contact the individual has with children and/or vulnerable adults has changed and, if necessary, to initiate a new DBS Disclosure.

- 1.2. There are five types of check that are available. A series of flow diagrams are provided in Appendix 1 to enable you to establish, which, if any, level of check is required. The checks that are available are:
- **Enhanced Check for Regulated Activity (Children)** - used when someone is undertaking regulated activity relating to children (see Appendix 1). This check involves a check of the police national computer, police information and the children's barred list
  - **Enhanced Check for Regulated Activity (Adults)** - used when someone is undertaking regulated activity relating to adults (see Appendix 1). This check involves a check of the police national computer, police information and the adults barred list.
  - **Enhanced Check for Regulated Activity (Children and Adults)** - used when someone is undertaking regulated activity relating to both children and adults (see Appendix 1). This check involves a check of the police national computer, police information and the children's and adults barred list.
  - **Enhanced DBS Check** - used where someone meets the pre September 2012 definition of regulated activity (see Appendix 1). This level of check involves a check of the police national computer and police information.
  - **Standard DBS Check** - primarily for people entering certain professions such as: members of the legal and accountancy professions. Standard DBS checks just involve a check of the police national computer and do not include a check of police information or the childrens or adults barred lists.
- 1.3. Please note that you cannot apply for a DBS check for someone who is under 16 years of age.
- 1.4. If there are concerns about an existing worker's suitability to continue working with children and/or adults then there is the discretion to undertake a DBS Disclosure. Due to the requirements of the DBS Disclosure process the individual concerned must give their consent for the DBS Disclosure to be obtained. Personnel and Training (PAT) must be contacted for advice in these instances.

## 2. Validity of DBS Disclosures

- 2.1. There is no period of validity for a DBS Disclosure. A DBS Disclosure is technically out of date on the day it is issued as a new or further criminal conviction, caution, etc may be recorded against the individual at any time after the issue date.
- 2.2. In ESCC contracts of employment it sets out that if following an individual's appointment they are subsequently cautioned, charged, summonsed or convicted of a criminal offence then they should inform their line manager immediately. Failure to disclose such information may lead to disciplinary action being taken.

## 3. Portability of DBS Disclosures

- 3.1. Portability refers to the re-use of a DBS Disclosure, obtained for a position in one organisation and later used for a position in a new organisation.
- 3.2. Any applicant (whether an employee or a volunteer) who applies for, or receives, their disclosure certificate on or after 17 June 2013 is eligible to join the online update service. Membership of the online update service incurs an annual charge (payable by the applicant). Membership for volunteers is free of charge.

- 3.3. If a certain set of criteria are met, a free and instant check can be undertaken online which will detail whether the individual's current certificate remains valid or if there is new information present which will mean that a new disclosure certificate will need to be sought. If the check remains valid then it will be accepted as a portable check.
- 3.4. Applicants can register to become a member of the online update service at <https://secure.crbonline.gov.uk/crsc/subscriber>
- 3.5. In relation to Contractors or Agency Staff, the "employer" is responsible for obtaining the DBS check. This check can then be used within any organisation that the Agency or Contractor provides staff to work within.

#### **4. DBS Disclosure requirements for those moving positions within ESCC**

- 4.1. Where an individual has undertaken a DBS Disclosure for a position with ESCC and they move to another position within the organisation, the DBS Disclosure will be acceptable in the following instances:
  - The type of DBS Disclosure (i.e. Standard / Enhanced / Enhanced + relevant barred list check) is the same for the old and new post and;
  - The individual has not had a break in service of more than three months and;
  - The new work does not represent a significant increase in responsibility for, and contact with, children and/or adults;
  - The individual is registered with the online update service and, following a check of the update service, the certificate has been verified as current and valid.
- 4.2. For those individuals undertaking social care work, CQC regulations require all pre-employment checks to be completed every time an individual moves post.

#### **5. Frequency of DBS Disclosure checking – employees**

- 5.1. Where a DBS Disclosure is required, the individual will complete a DBS check as part of a recruitment and selection process to ascertain their suitability for the post. In most instances there are no requirements to undertake periodic DBS Disclosures, commonly known as a DBS Disclosure refresh.
- 5.2. ESCC has taken a policy decision which means that those employees working in the following areas are required to undertake a new DBS Disclosure every 3 years:
  - Adoption and Fostering Service (Ofsted requirement)
  - Looked After Children and Disability Residential teams
  - Children's Disability Service posts in the following areas:
    - Direct Intervention Service
    - After School/Holiday clubs
- 5.3. PAT monitors the DBS Disclosures for these groups of employees and contacts their managers to initiate the process every 3 years.
- 5.4. Where an existing worker's DBS Disclosure reveals a criminal background or any cause for concern (i.e. it is a Positive DBS Disclosure) a conversation should take place between the line manager and employee in regards to their suitability for the post. The line manager will, after having this conversation, be required to make a recommendation to their Assistant Director on the suitability of the individual to continue in post.

5.5. Further guidance on Positive DBS Disclosures can be found below in 'Receipt of DBS Disclosure'.

## **6. Commencement of work prior to receipt of DBS disclosure**

6.1. In all circumstances every effort must be made to ensure a DBS Disclosure is obtained prior to the individual commencing work with ESCC. Only in exceptional circumstances can an individual commence work without the full results of the DBS Disclosure being known and this can only be authorised by an Assistant Director/Head Teacher. Prior to the approaching the Assistant Director/Head Teacher for approval the following must have taken place:

- PAT are in receipt of all of the other pre-employment checks and these have been confirmed as being satisfactory and;
- A correctly completed DBS Disclosure application form has been submitted to PAT and this has been sent off to the DBS and;
- PAT have checked and cleared the individual against the relevant barred list and;
- The line manager has undertaken a risk assessment to determine and ensure that sufficient safeguards are in place to ensure the individual has no unsupervised access to children or adults.

## **7. Receipt of DBS disclosure**

7.1. The DBS issue 1 copy of a DBS Disclosure to the applicant, a copy is no longer sent to the employer (i.e. ESCC). The applicant will need to present the certificate to their prospective manager within three working days of receipt. For employees and school based volunteers, PAT will still need to record the DBS Disclosure reference number, type of Disclosure (e.g. Standard or Enhanced) and the issue date on SAP. This information should therefore be passed to PAT in the appropriate manner.

7.2. If a positive DBS Disclosure (i.e. a Disclosure that reveals a criminal background or details that may be of concern) is received the manager needs to follow the necessary guidance found in the 'Online Update Service and Single Certificate Guidance', Assistant Directors/Headteachers (or Chair of Governors in the cases of a DBS Disclosure for a Headteacher) must consider and approve the suitability of the candidate to commence/continue their employment.

7.3. In these instances a risk assessment is required to determine whether the risk of employing or continuing to employ an individual can be taken and what safeguards would need to be introduced to manage that risk.

7.4. In accordance with the Rehabilitation of Offenders Act a criminal conviction may not automatically prevent an individual from working with ESCC.

#### 7.5. Managers must consider the following factors:

- The requirements of the role and the level of supervision the individual will receive;
- The seriousness of the offence/issue raised and its relevance to the safety of employees, service users, clients or property;
- How relevant the offence is on the role to be undertaken;
- How much time has elapsed since the offence was committed and whether it was a one-off incident or part of a history of offending;
- Whether the individual's circumstances have changed since the offence was committed making re-offending less likely;
- Whether the individual was open and transparent about their past and declared their criminal background prior to receiving the DBS Disclosure.

### **8. Recruiting from overseas**

8.1. Disclosures do not record convictions that were committed abroad. When recruiting candidates who have spent a period of time living or working abroad, a DBS Disclosure must be obtained in the normal way and a DBS Disclosure or equivalent from the country(s) concerned may be required as well.

### **9. DBS Disclosures for agency workers, contractors, subcontractors or volunteers**

9.1. Agency workers, contractors, sub-contractors and volunteers must be assessed against the same criteria as those working directly for ESCC to see if a DBS Disclosure is required (please refer to Appendix 1)

9.2. Specific guidance relating to DBS checks for agency workers and contractors / sub-contractors can be found on the intranet and the Webshop.

9.3. A standard clause relating to DBS Disclosure requirements has been developed and should be introduced into any contract which involves work with children or adults or providing services for, or in, establishments where children and/or vulnerable adults may be present. This can be found on the intranet by searching for 'supplementary contract conditions'.

9.4. It is the responsibility of the relevant department to put appropriate measures in place to validate and ensure contract compliance.

### **10. Frequency of DBS Disclosure checking – Agency staff and contractors**

10.1. Staff employed via an agency must have their DBS renewed on an annual basis.

10.2. Contractors must ensure that their employees and sub contractors' DBS checks are refreshed every 3 years.

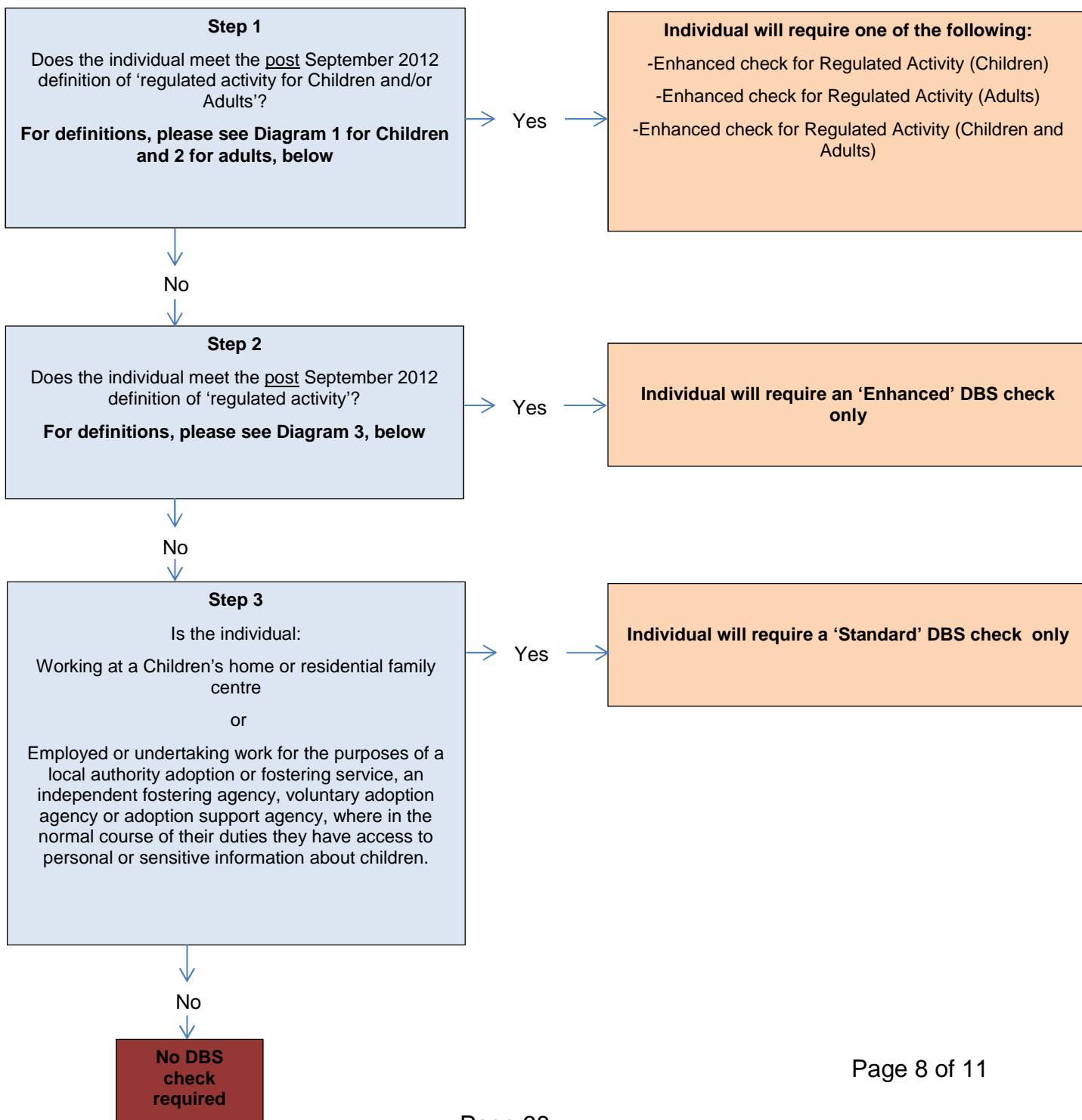
## Appendix 1 – DBS Eligibility flow diagrams

This flow diagram and supporting guidance is designed to enable you to identify:

- a) If a check is required and
- b) If it is, what type of check is appropriate.

East Sussex County Council has a duty to ensure it is not unnecessarily undertaking checks which could result in a breach of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, and may lead to the Council losing registered body status, which would mean losing the ability to undertake DBS checks itself.

### Steps to establish if a DBS check is required



**Diagram 1**

**Regulated activity relating to Children  
(Post September 2012 Definition)**

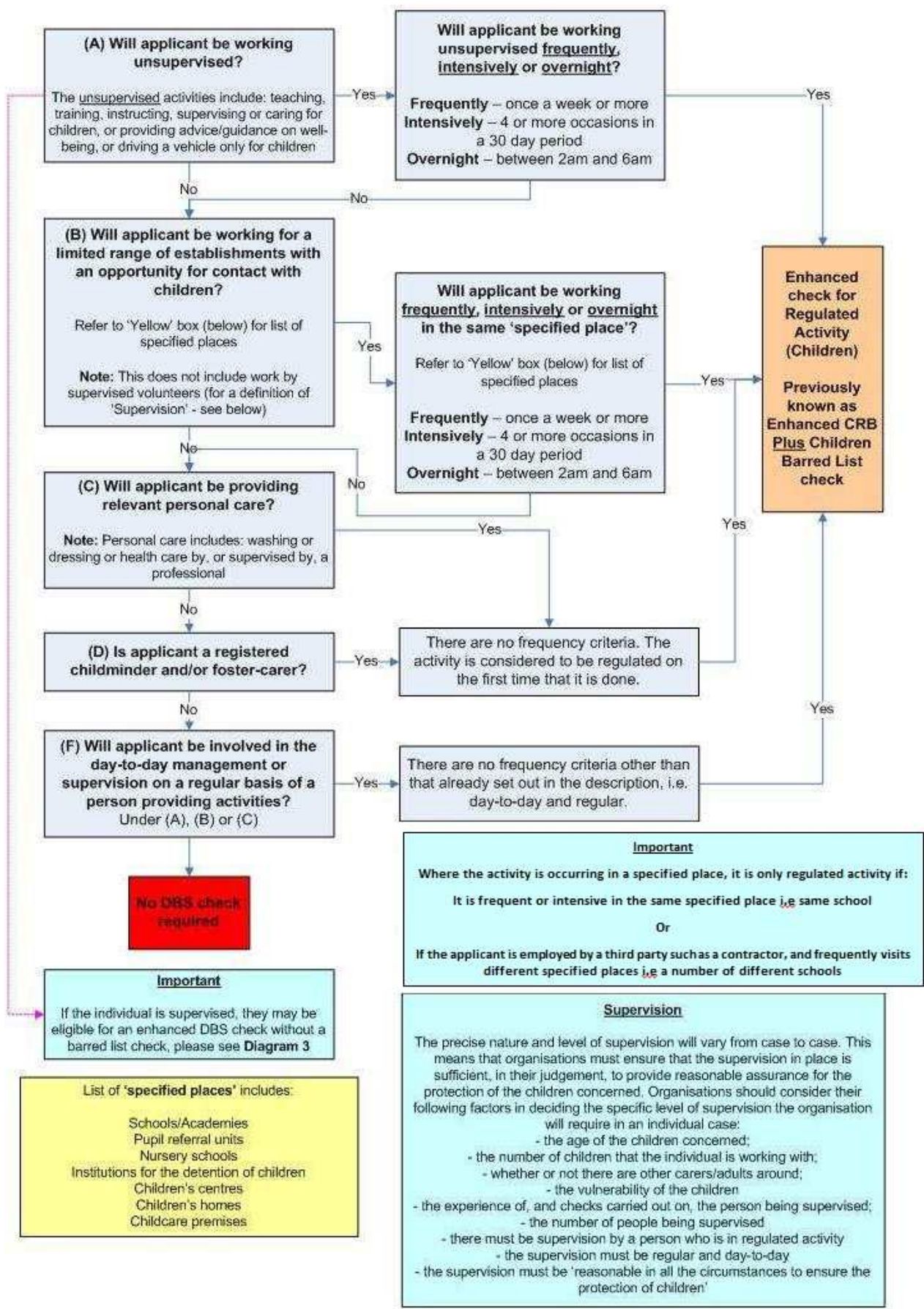
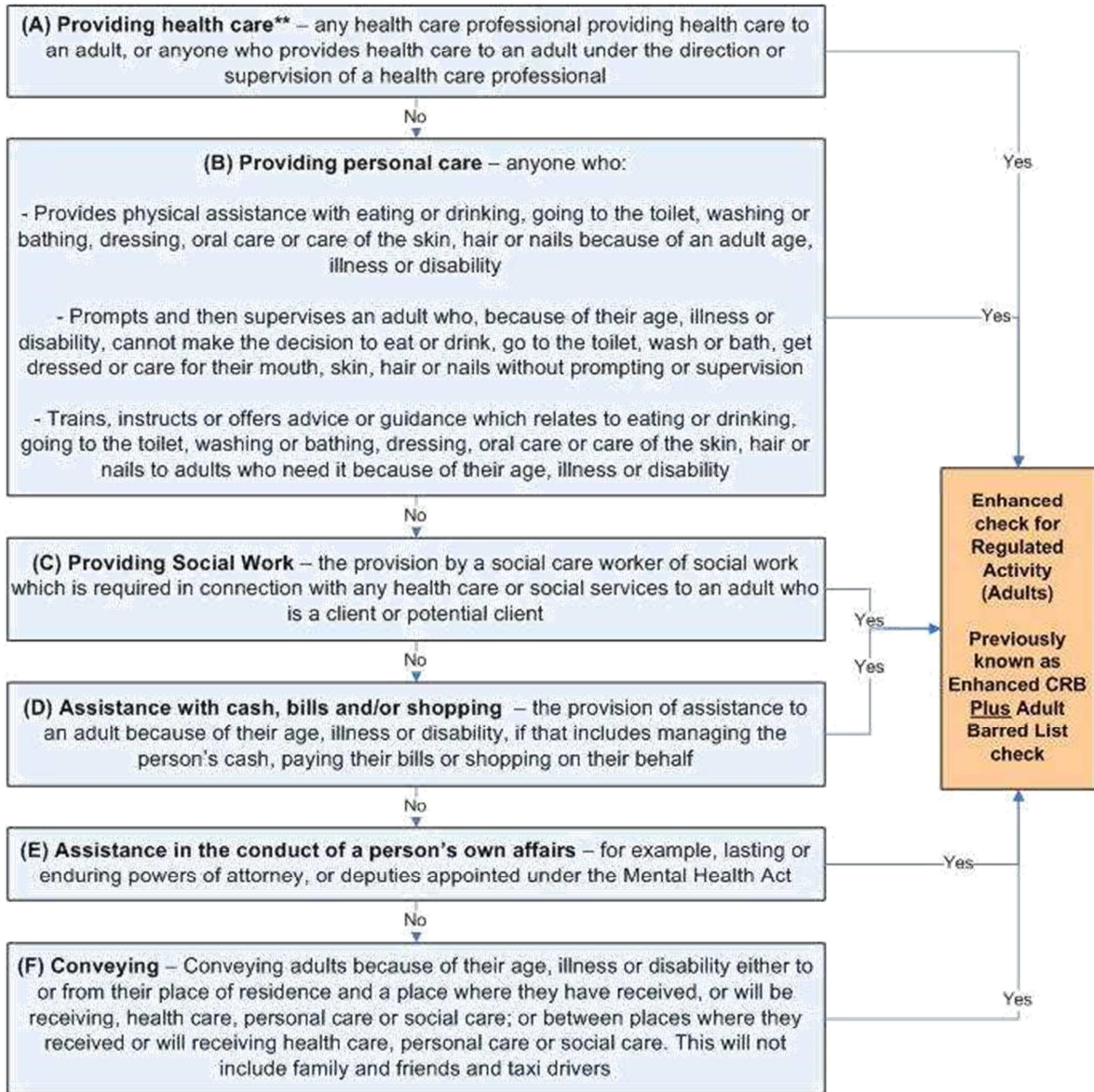


Diagram 2

**Regulated activity relating to Adults  
(Post September 2012 Definition)**

Regulated activity relating to adults identifies activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time. There is not a requirement to do the activity a certain number of times before it is considered as engaging in regulated activity. Anyone meeting the six definitions below (including a person who provides day-to-day management or supervision of those people) will require an enhanced DBS check with an adults barred list check.



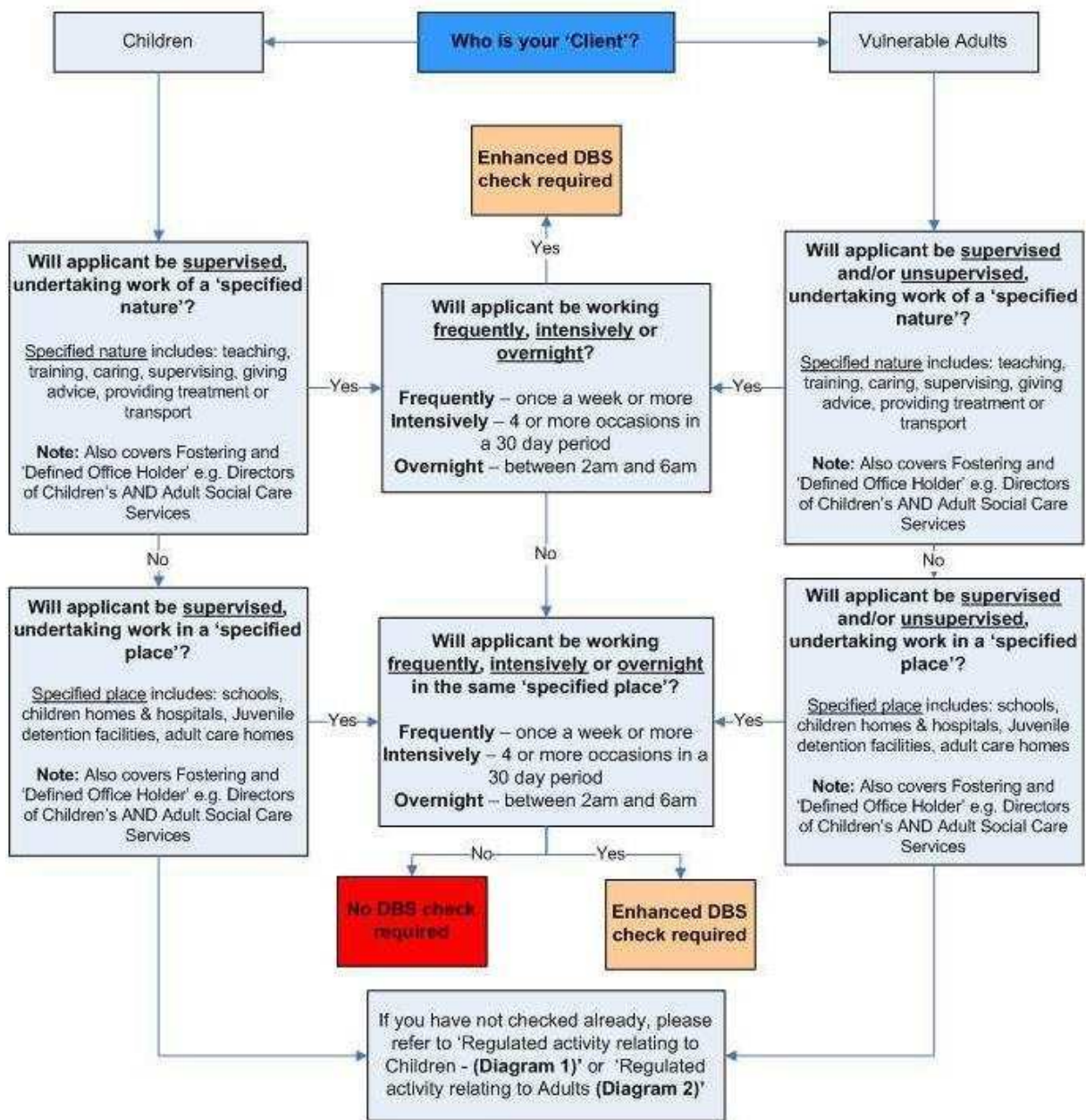
**\*\*Health Care** includes all forms of health care provided for adults, whether relating to physical or mental health, and includes palliative care. This includes diagnostic tests and investigative procedures. It also includes procedures that are similar to forms of medical or surgical care that are not provided in connection with medical condition, i.e. taking blood from a blood donor or cosmetic surgery.

**For an Enhanced CRB check with no barred list check**  
If an individual does not meet the definition of 'regulated activity' as set out above but **does** fall within the old definition of regulated activity. (See **Diagram 3** to see if they meet the old definition)



Diagram 3

**DBS Check without a barred list check  
(Pre September 2012 Definition)**



**Important**

Where the activity is occurring in a specified place, it is only regulated activity if:

It is frequent or intensive in the same specified place *i.e* same school

Or

If the applicant is employed by a third party such as a contractor, and frequently visits different specified places *i.e* a number of different schools

**Supervision**

The precise nature and level of supervision will vary from case to case. This means that organisations must ensure that the supervision in place is sufficient, in their judgement, to provide reasonable assurance for the protection of the children concerned. Organisations should consider their following factors in deciding the specific level of supervision the organisation will require in an individual case:

- the age of the children concerned;
- the number of children that the individual is working with;
- whether or not there are other carers/adults around;
- the vulnerability of the children
- the experience of, and checks carried out on, the person being supervised;
- the number of people being supervised
- there must be supervision by a person who is in regulated activity
  - the supervision must be regular and day-to-day
- the supervision must be 'reasonable in all the circumstances to ensure the protection of children'

This page is intentionally left blank

**Report to:** Governance Committee

**Date of meeting:** 19 September 2017

**By:** Director of Children's Services

**Title:** Proposed discontinuation of the Education Performance Panel, Governors Panel and the Music Service Management Committee

**Purpose:** To consider proposals relating to the discontinuation of the Education Performance Panel, Governors Panel and Music Service Management Committee

---

## **RECOMMENDATIONS**

The Governance Committee is recommended to recommend the County Council to:

- 1) approve that the Education Performance Panel be discontinued
  - 2) delegate the power to nominate and remove Local Authority governors to the Director of Children's Services as set out in paragraph 2.3 and approve that the Governors Panel be discontinued;
  - 3) delegate authority to the Director of Children's Services to exercise powers and duties of the County Council in its capacity as trustee of the charity known as the East Sussex Music Trust and approve that the current East Sussex Music Service Management Committee should be discontinued; and
  - 4) agree to delegate authority to the Assistant Chief Executive to amend the Constitution accordingly
- 

## **1 Education Performance Panel**

1.1 At the meeting of the Education Standards Panel on the 19 November 2013, it was agreed to change the Education Standards Panel and replace it with an Education Performance Panel with a fresh set of terms of reference to act as an advisory panel to the Cabinet with cross party representation to secure improvements at all key stages.

1.2 The purpose of the Education Performance Panel is to promote high standards in East Sussex schools and among other providers so that all children and young people fulfil their educational potential.

1.3 The functions of this Panel are:

- I. To ensure improvement in the attainment and progress of pupils in East Sussex schools and other providers
- II. To oversee the continued development of the Council Strategy for School Improvement and to monitor its implementation.
- III. To report and make recommendations as appropriate to the Cabinet and the Children's Services Scrutiny Committee.
- IV. To identify opportunities and challenges for improving school performance arising from legislative and policy changes

1.4 The Panel, which meets three times a year, has received regular performance reports on Ofsted inspection outcomes and educational attainment, and has also received reports on specific issues such as teacher recruitment and retention.

1.5 In addition to this, reports on inspection outcomes and educational attainment are also provided to Cabinet, the Children's Services Scrutiny Committee and the Lead Member for Education and Inclusion, SEN and Disability. Furthermore, the Children's Services Scrutiny Committee, which meets four times a year, has a work programme which has regularly included scrutiny reviews of issues relating to educational attainment and performance. For example, the Committee has appointed Review Boards to undertake reviews of attainment within Early Years, Key Stage 1 and Key Stage 4.2.3 Given the direct overlap between the roles of the Children's Services Scrutiny Committee and the Panel, and that effective oversight and scrutiny is already provided by the scrutiny committee, it is proposed that the Education Performance Panel be discontinued. Should this proposal be approved, and at a time when further savings are required, discontinuation of the Panel will also have the benefit of reducing the demands placed on Members and officers.

1.6 The functions of the Panel would be accommodated through the Cabinet, the Children's Services Scrutiny Committee and the Lead Member for Education and Inclusion, Special Educational Needs and Disability meetings. Currently, reports on overall school performance, attainment and progress of pupils, and impact on the Local Authority's school improvement strategy are reported to Members at Cabinet, Children's Services Scrutiny Committee and Lead Member meetings, and this would continue. The Scrutiny Committee would continue to select topics for scrutiny review as part of its work programme. There is senior officer review through the Corporate Management Team and Children's Services Senior Managers' Team. If Members wish to look at a particular education performance issue in depth, consideration could be given to conducting a scrutiny review.

## **2 Governors Panel**

2.1 In March 2016 the Governor's Panel considered proposed changes to the process for the nomination of Local Authority School Governors. These changes involved discontinuing the Panel and delegating powers to the Director of Children's Services to nominate and remove governors. The Panel resolved to continue with the current arrangements and to keep this under review pending further detail from the department on options for delegating this process to the Director of Children's Services.

2.2 It is proposed that the process for nominating Local Authority School Governors is amended for the following reasons:

- The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2014 stipulated that, from September 2015, the Local Authority is only required to nominate candidates to school governing boards rather than directly appointing Local Authority Governors. Governing Boards now make appointments and could decide not to accept a nomination.
- A governing board may only appoint one Local Authority Governor where as previously there could be multiple Local Authority Governors appointed per governing board.
- School re-constitution to meet the regulations combined with the academisation of maintained schools (academies do not need a Local Authority Governor) has seen a 54% fall in the total level of Local Authority governors required across the county. (272 in June 2014 to 125 in August 2017.)
- Currently the Governor Panel meets six times a year. Given the number of applications considered at each Panel meeting has greatly reduced, the current frequency of meetings represents an inefficient use of both Member and officer time. The alternative to this would be to reduce the number of Panel meetings a year. This would result in more efficient meetings as a greater number of nominations could be dealt with. However, as this would cause delays in filling vacancies, this option could negatively impact on the effective operation of Governing Boards. Instead, it is therefore proposed that officers consider nominations. This would mean the small numbers of applications submitted could be dealt with in a more timely and efficient way. In the current climate of recruitment concerns this would be extremely beneficial to be able to act swiftly on an expression of interest.
- Savings are required and there is reduced officer capacity to deliver support to the Panel.

2.3 It is proposed that the Governors Panel be discontinued and that the power to nominate and remove Local Authority Governors be delegated to the Director of Children's Services and that the

following delegations be added to the Scheme of Delegation for that post:

2.3.1 to nominate and remove governors to those places allocated to the Local Authority for school governing boards constituted under the Regulations or the Federation Regulations, as appropriate; and

2.3.2 to consider and make decisions relating to the recruitment of governors; the payment of expenses to governors; the training of governors; and any other matters that may be referred to the Director by the Cabinet or the Governance Committee.

2.4 The current process of on-line application, including success criteria and references, will remain unchanged.

2.5 Members will continue to provide oversight and scrutiny of the process. There will be regular summary reports to the Lead Member concerning vacancies, applications approved for nomination and the take up of training by Local Authority Governors. Scrutiny Members will have access to these reports and will have the ability to scrutinize issues if required.

2.6 The proposed approach will be robust and provide a more flexible, and efficient process which will result in fewer delays for applicants waiting for a decision on their application and will help ensure that Governing Boards do not have vacancies for LA governors for long periods of time. The regular reports to the Lead Member will ensure the process continues to be open to scrutiny and challenge.

### **3 Music Service Management Committee**

3.1 The County Council is the Trustee for the East Sussex Music Trust which has charitable status. The Music Service Management Committee fulfils the role of trustee on behalf of the County Council.

3.2 The terms of reference for the Music Management Committee are as follows:

On behalf of the County Council -

(a) in consultation with the Director of the East Sussex Music Service, to exercise oversight of the County Music Service including its strategic development, management and finances, and to monitor the level and quality of the service to its clients;

(b) subject to the County Council's normal financial procedures and the Children's Services Department budget, to draw up and recommend to the Cabinet the budget for Music Services including that element drawn from trust funds; and

(c) to exercise powers and duties of the County Council in its capacity as trustee of the charity known as the East Sussex Music Trust in compliance with the terms of the Trust Deed and Charities Acts.

3.3 Discontinuation of the committee was discussed in 2016 and it was agreed at that time to reduce the number of meetings to two per year. Furthermore, the Committee does not play an active role in the management of the music service and the service is now lead organisation for the East Sussex Music Education Hub, with responsibilities set out by the Department of Education in the National Music Plan, overseen by the Arts Council.

3.4 The Trust Deed, dated 13 May 1999, allows the County Council (as sole Trustee) to delegate to any Committee, Panel or officer of the Council to exercise any of the Trustee's powers.

3.5 The East Sussex Music Service no longer receives a budget from the county council, but receives grant income from the Department for Education on behalf of the East Sussex Music Education Hub and income from traded services with parents and schools. Approval of the budget takes place at 3 levels:

- fees and charges are approved annually through the normal county council process and the budget is approved and then monitored on a monthly basis by the Children's Services Department
- the Hub board approves the budget annually
- the budget is then submitted to the Arts Council for approval and a budget monitoring report is

submitted quarterly

3.6 In view of the changing role of the Service and the fact that the Music Service Management Committee does not play an active role in the management of the Service, it is proposed that the Music Service Management Committee be discontinued and that the County Council delegate to the Director of Children's Services the functions of the Committee as provided for in the Trust Deed.

3.7 Oversight of the strategic development, management and finances of the Music Service and level and quality of service provided would continue at 3 levels:

- the Head of Service will provide regular reports to the Director of Children's Services and Senior Management Team
- the Hub Board meets on a termly basis to oversee delivery of the core responsibilities as set out by the Department for Education
- the Head of Service meets on a quarterly basis with a representative from the Arts Council

3.8 The support of Members in raising and maintaining the profile of the Music Service is valued and Members would continue to be invited to Music Service concerts and events so that they are aware of achievements and can act as ambassadors for the Service.

3.9 The Music Service Management Committee has acted as trustee of the East Sussex Music Trust (Charity Number 1076180.) In 2003, the Trust sold its freehold premises to facilitate the building of a new purpose built Performing Arts Centre at Sussex Downs College, where the Music Service is now based. Due to the Trust status the service receives Mandatory Charitable Relief of approximately £28,000 pa. If the Trust was removed then the Service would lose the charity relief thus resulting in further financial commitments. In recent years Trust funds have been used to assist students to go on tours with music service ensembles.

#### **4. Conclusion**

4.1 The Governance Committee is recommended to recommend the County Council to:

- 1) agree that the current Education Performance Panel should be discontinued for the reasons set out in this report and that the Constitution be amended accordingly
- 2) delegate the power to nominate and remove Local Authority governors to the Director of Children's Services and that the Constitution be amended as set out in paragraph 3.1 of the report; and
- 3) agree that the current Governors Panel be discontinued for the reasons set out in the report and that the Constitution be amended accordingly.
- 4) agree that the current East Sussex Music Service Management Committee should be discontinued for the reasons set out in this report and that the Constitution be amended accordingly ; and
- 5) agree to delegate to the Director of Children's Services authority to exercise powers and duties of the County Council in its capacity as trustee of the charity known as the East Sussex Music Trust in compliance with the terms of the Trust Deed and Charities Acts and that the Constitution be updated to reflect this delegation

**STUART GALLIMORE**  
**Director of Children's Services**

Contact Officer: Bill Parsons  
Tel. No. 07876 878398  
Email: bill.parsons@eastsussex.gov.uk

<b>Report to:</b>	<b>Governance Committee</b>
<b>Date of meeting:</b>	<b>19 September 2017</b>
<b>By:</b>	<b>Director of Communities, Economy and Transport</b>
<b>Title:</b>	<b>Amendment to Constitution – Scheme of Delegation to Officers</b>
<b>Purpose:</b>	<b>To seek approval to change the Scheme of Delegation in relation to the determination of Listed Building Consents by East Sussex County Council</b>

---

***RECOMMENDATION:*** The Governance Committee is recommended to recommend the County Council to agree to amend the Scheme of Delegation to Officers as set out in paragraph 3.1 of this report.

---

## **1 Background Information**

1.1 The County Council's Scheme of Delegation provides the Director of Communities, Economy and Transport with the authority to determine planning applications, which fall to be determined by the County Council, where the proposal is considered to be in accordance with the Development Plan and the relevant and current planning policies. The proviso for this delegated authority is that less than two objections are received on the planning application.

1.2 As currently worded, the aforementioned delegated authority does not apply to applications for Listed Building Consent that are received and are to be determined by the County Council. Such applications will almost solely be for County Council proposals. This means that any application for Listed Building Consent received by the County Council has to be determined by the Planning Committee, even if no objections have been received and that the proposal is Development Plan compliant.

## **2 Supporting Information**

2.1 Historically, the County Council has received and determined very few applications for Listed Building Consent. However, in the past 2 years a number of applications have been received and determined by the County Council and a number of further such applications are considered likely in the near future. The refurbishment of Hastings Library is one example of a County Council development that has led to the need for a number of Listed Building Consents.

2.2 Often the applications received for Listed Building Consent are for relatively minor works, or alterations to the buildings in question. They invariably do not generate objections and/or very little debate when considered by the Planning Committee. All decisions taken on Listed Building Consents, by the County Council's Planning Committee over the past 5 years, have been in accordance with the case officer's recommendation.

2.3 The refurbishment of Hastings Library has demonstrated that the need for Listed Building Consent is often generated during the building works being undertaken, as amendments are often required to a scheme that has been previously approved. With this being the case, there is often a pressing need, from the applicant/developers perspective, for the relevant application to be determined in a timely manner. This accords with the Government's clear expectation that planning decisions are made as quickly as possible.

2.4 Inevitably, planning decisions that are taken by the Planning Committee often take longer than those determined under delegated authority. Therefore, having the ability to determine certain applications for Listed Building Consent under delegated authority will be seen as a significant benefit to applicants/developers and help meet the Government's expectations around the time it takes to make planning decisions. Having this delegated authority will also ensure that the County Council has a consistent approach to the decision making process for all planning decisions.

2.5 There will still be occasions when there will be clear benefits and/or a democratic need for the Planning Committee to make a decision on an application for Listed Building Consent. As

well as applications that generate objections, there could also be occasions where the decision to be taken is finely balanced and would therefore benefit from being taken by a Committee in a public meeting. Such applications would be referred to the Planning Committee.

### **3 Proposed amendment to the Scheme of Delegation**

3.1 In light of the above, it is proposed to add the following delegation to the scheme of delegation to the Director of Communities, Economy and Transport

*“To determine applications for Listed Building consent for alterations, extension or demolition of a Listed Building under the Planning (Listed Buildings and Conservation Areas) Act 1990, where the proposal is considered to be in accordance with the development plan and current planning policies, except where two or more objections have been received within the consultation period.”*

### **4. Conclusion and Reason for Recommendation**

All planning decisions need to be taken as quickly as possible and the current Scheme of Delegation aids in this, but only for planning applications that are Development Plan compliant and have not received more than one objection. The proposed addition to the Scheme of Delegation would extend this provision to applications for Listed Building Consent. This would provide a clear benefit to applicants/developers, whilst not undermining the democratic accountability of the planning process.

RUPERT CLUBB

Director of Communities, Economy and Transport

Contact Officer: Edward Sheath

Tel. No. 01273 481632

Email: [edward.sheath@eastsussex.gov.uk](mailto:edward.sheath@eastsussex.gov.uk)

#### LOCAL MEMBERS

ALL

#### BACKGROUND DOCUMENTS

None



Report to: **Governance Committee**

Date: **19 September 2017**

By: **Assistant Chief Executive**

Title of report: **Appointments to Outside Bodies**

Purpose of report: **To receive an update in relation to appointments to outside bodies**

---

**RECOMMENDATIONS: The Governance Committee is recommended to approve the appointment of the Council's representatives on the Board of Conservators of Ashdown Forest as set out in paragraph 1.3 for a period until May 2021**

---

## 1. Supporting Information

1.1 The County Council is invited to appoint Members (and in some cases non-County Councillors are eligible) to serve on a wide range of outside bodies whose role has a relationship to a function of the County Council. The appointments are a vital part of the County Council's working in partnership with voluntary bodies, statutory agencies and the public and private sectors.

1.2 In May 2017, the County Council Councillor appointed eight representatives as Conservators of Ashdown Forest. The Trust has requested formal confirmation of the appointments and that within 21 days of the appointments being made each Conservator appointed by the County Council signs a declaration of acceptance of their appointment.

1.3 In order to comply with this request, the Governance Committee is recommended to confirm the appointments made by the Council in May, namely that the following be appointed by the County Council as Conservators of Ashdown Forest:

Conservators of Ashdown Forest	Councillor Barnes Councillor O'Keeffe (nominated by the Labour Group) Councillor Stogdon Councillor Tidy Councillor Whetstone Mr M Cooper Mr T Reid Mrs R St Pierre
--------------------------------	--

## 2. Recommendations

2.1 The Committee is asked to confirm the appointment of those persons referred to in paragraph 1.3 as Conservators of Ashdown Forest.

PHILIP BAKER  
Assistant Chief Executive

Contact Officer: Andy Cottell

Tel: 01273 481955

E-mail: [andy.cottell@eastsussex.gov.uk](mailto:andy.cottell@eastsussex.gov.uk)

Background Documents

None

This page is intentionally left blank