

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