

Report to: Cabinet



Date of Meeting 27 March 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N /A

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## Councillor DBS checks and Safeguarding Protocol

### Report summary:

To present to Members for approval a draft Protocol in relation to the introduction of Councillor basic Disclosure Barring Service ("DBS") checks and consideration of any safeguarding issues.

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

That Cabinet recommend to Council for approval the attached Councillor DBS Checks and Safeguarding Protocol, to form part of the Council's Constitution.

### Reason for recommendation:

The Council has decided as part of its Safeguarding Policy to undertake DBS checks for members. It is important that a process is put in place for undertaking those checks and introducing a risk assessment process should any convictions and safeguarding concerns be identified.

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Communications and Democracy
- Economy
- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Tourism

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Medium Risk; Adopting a policy to conduct DBS checks for members is a mitigation against safeguarding and other risks occurring.

### Links to background information

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

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### Report in full

1. At a meeting on 31 January 2024 the Cabinet approved a new Safeguarding Policy which requires Disclosure and Barring (“DBS”) checks for councillors. Council subsequently approved a budget of £3000 for the carrying out of those checks.

**There are three types of DBS check, Basic, Standard and Enhanced.**

**A Basic DBS check provides** provide a minimal overview of an individual’s criminal history and reveals unspent convictions. It does not include cautions, reprimands, or spent convictions.

**A Standard DBS Check** is more comprehensive than basic checks and are commonly used in specific industries such as finance and law. It reveals both unspent and spent convictions.

**An Enhanced DBS Check** provides the highest level of disclosure and is essential for certain roles in education, healthcare, and other sensitive areas. It reveals unspent and spent convictions. It includes cautions, reprimands, and warnings. It also encompasses relevant police intelligence information deemed necessary for the applied position.

2. The appropriate level of check depends on the nature of the role and the level of contact an individual will have with vulnerable groups or sensitive information. As District councillors do not deal with social services matters, it is not considered that their roles meet the legal requirements to have a standard or enhanced check. In the circumstances, like many authorities, it is proposed that we introduce a protocol that all District councillors undergo a basic DBS check. However, in the unlikely event that activities are identified that may give grounds to consideration of a Standard or Enhanced DBS check, for example if the councillor, during the course of their duties, would be required to have contact with particularly vulnerable groups, the decision for the level of check required would be made by the Monitoring Officer in liaison with HR and following a risk assessment. The councillor would then be advised of this requirement.
3. To ensure that there is a process in place for the conducting of those checks, the attached Councillor DBS Checks and Safeguarding Protocol has been prepared. It is proposed that this Protocol forms part of the Constitution. The key elements of the Protocol can be summarised as follows:-
  - A reminder that councillors are bound by the Code of Conduct and when it applies.
  - Reference to the Safeguarding Policy and the requirement for councillors to undergo and co-operate with basic DBS checks.

- That the Protocol will form part of the Constitution and that failure to comply with it, will amount to a potential breach of the Code of Conduct pursuant to paragraph 5.8.5 of the Code of Conduct which states: *I will comply with the Codes and Protocols forming part of the Council's Constitution.*
- That the Council will conduct a Basic DBS Check upon a councillor being elected to office and following each subsequent election and that councillors will co-operate in providing all information to enable the DBS check to be carried out.
- Once a councillor DBS has been undertaken, the website will be updated to reflect that it has been carried out so that it is open and transparent.
- That in the event that the check results in a positive disclosure, any appropriate actions are taken, following a full risk assessment process. Whilst the DBS Certificate will be checked, a copy will not be retained by the Council.
- Following consultation with the Chief Executive and Safeguarding Lead (where safeguarding issues), the Chief Executive will discuss the matter with the relevant councillor in consultation with Leader of the relevant Political Group and advice provided on any steps that should be taken.

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### **Financial implications:**

A budget of £3000 has been approved by Full Council for the carrying out of the DBS checks

### **Legal implications:**

Disclosure Barring Service checks are not legally mandated for Local Authority councillors, however many authorities are, in light of high profile cases, making the decision to undertake at least basic DBS checks. Simon Bailey conducted a review of the Disclosure and Barring Regime in April 2023 concerning the eligibility of local councillors for criminal record checks. The purpose of the review, commissioned by the Home Office, was to provide assurance to Ministers about the effectiveness of the disclosure and barring regime in safeguarding children and vulnerable adults. Part of the review considered the regime with regard to eligibility of local councillors for criminal record checks provided by the Disclosure and Barring Service. With specific reference to local authorities, the review made the following recommendation:

**Recommendation 5: Local councillors** *I recommend that an enhanced criminal record check is made mandatory for all councillors in Unitary and Upper Tier Authorities who are being considered for appointment to any committee involved in decisions on the provisions of children's services or services for vulnerable adults. I accept that this would require legislation and therefore some inevitable delay, so I further recommend that these authorities are encouraged to adopt this procedure as best practice pending legislation.*

As this Council is not a Unitary or Upper Tier authority, this recommendation does not apply and since the Council does not carry out social services functions, we cannot legally conduct an enhanced check. There is, however, the ability to invite all members to undergo a basic DBS check. Whilst this is not mandatory, by including this Protocol in the Constitution, it will mean that failure to comply will result in a member being in potential breach of the Code of Conduct. e

It is important to reflect that a basic DBS Certificate is a snapshot in time and is only up-to-date at the time of issue.