

Report to Standards Committee

Subject: Disclosure and Barring Checks for Councillors

Date: 22nd May 2025

Author: Monitoring Officer

Purpose

To seek approval for a policy and process document in respect of Disclosure and Barring Services (DBS) checks for Councillors to be presented to Council

Recommendation

THAT Committee:

- 1) Note the contents of this report.
- 2) Agrees that the Policy and Procedure for Disclosure and Barring Services checks for Councillors at Appendix 1 be referred to Council for consideration.

1 Background

1.1 In January 2025, Council agreed a motion in the following terms:

We the Council recognise that the safety of staff, fellow councillors and residents alike currently is not completely represented within this chamber.

As a result of this we would like to see all of the 2023-2027 intake of councillors and all in the future to undergo an enhanced DBS check.

The cost will be met by the council.

This will not only ensure better transparency but also ensure that any risk of harm or untoward behaviour is minimised.

In light of the independent Bailey Review of the Disclosure and Barring Regime and the subsequent letter from the then Minister for Local Government to council leaders of 18th January 2024, Council refers the

matter to the Standards Committee to give consideration to the policy and procedural issues raised and report back to Council.

- 1.2 The Bailey Review, completed in May 2023, was an independent review of the disclosure and barring regime by Simon Bailey CBE, QPM. The review was to identify key issues of concern about the current regime; to consider current responses to them; assess and advise on risks and opportunities; and make recommendations for improvement. One of the nine resulting recommendations of that review was as follows:

“An enhanced criminal record check is made mandatory for all councillors in Unitary and Single 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.”

- 1.3 Within the review it was reflected that Councillors can cover a number of Councils from large unitary to parish councils. It was acknowledged that only Unitary Authorities and Upper Tier Authorities have responsibility for social services, including children’s services and the work of elected members within those councils may involve them taking decisions about the care of children and vulnerable adults, as such, it was felt those roles fell within the area of safeguarding with which the review was concerned.
- 1.4 Following on from the review and recommendations, in January 2024, a letter was sent to the Leaders of all Unitary and Upper Tier Authorities encouraging the recommendation set out in paragraph 1.2 be adopted as best practice.
- 1.5 Whilst it is not a legal requirement for Councillors to undertake DBS checks, Council have expressed a wish that enhanced checks are further explored for all Councillors, irrespective of roles they may hold in the Council. It should be noted that the disqualification of persons from standing for election to, or being members of, councils is governed by the provisions of the Local Government Act 1972 and the Local Government (Disqualification) Act 2022 which is outside the DBS regime.
- 1.6 At the meeting of this Committee on 20th March, it was identified by the Monitoring Officer that further work was needed to explore the legality and process for Councillors obtaining enhanced DBS checks. It was agreed that a working group would be established to support the Monitoring Officer to develop proposals. The working group met on 7th May 2025 and considered the legal implications and process in relation to enhanced DBS checks for

Councillors as set out within this report.

1.7 There are four different levels of DBS check:

- a basic check, which shows unspent convictions and conditional cautions – there are no eligibility requirements for such a check and the applicant can request a check for themselves.
- a standard check, which shows spent and unspent convictions and adult cautions, from the Police National Computer which have not been [filtered in line with legislation](#) – there are eligibility requirements for a standard check, specifically this check relates to prescribed roles of which Councillor is not one.
- an enhanced check, which shows the same as a standard check plus any information held by local police that's considered relevant to the role – there are eligibility requirements for an enhanced check prescribed by statute and generally the requirement for an enhanced check relates to the performance of certain regulated activities.
- an enhanced check with a check of the barred lists, which shows the same as an enhanced check plus whether the applicant is on the adults' barred list, children's barred list or both – there are eligibility requirements for this level of check.

1.8 An individual Councillor can request a basic check DBS check for themselves. Anything above this level can only be obtained through an employer or regulator and registered body. The registered body (in this case the Council) has to ensure that they have the legal ability to submit applications. This is not simply based on the consent of the applicant being given, but on the eligibility criteria set out in statute. If an individual does not meet the criteria for an enhanced DBS check, the Council as a registered body cannot perform the check, nor can an individual request one for themselves independently.

1.9 Specifically in relation to the office of Councillor, there is no specific legal requirement for Councillors to undertake any level of DBS check. It is not an office that is listed as requiring such checks.

1.10 The Police Act 1997 (Criminal Records) Regulations 2022 provide that members of a local authority are eligible for an enhanced check if the authority discharges any social services functions which relate wholly or mainly to adults who receive health or social care services. As this Council does not discharge such functions, these criteria are not met.

1.11 In relation to working with children, there is no specific reference to local authority members in the regulations, but the regulated activities in relation

to children cover a range of activities and enhanced checks are required for some activities predominantly when individuals are caring for children or making decisions about their care or placement. In general terms, none of the Councillors at Gedling, as part of their roles have unsupervised contact with children or are making decisions about their placement, this is a decision at County level.

1.12 Having considered the functions and roles of district Councillors, it is not clear that the regulated activities requiring an enhanced DBS check are satisfied.

1.13 Having considered the approach taken at other authorities, whilst the County Council require enhanced checks, this is in line with legislation and some Councillors certainly in specific roles will indeed be carrying out regulated activity. At a district level, the approach varies, some councils do undertake basic checks (Ashfield and Mansfield), other authorities have no policy in relation to DBS checks.

1.14 Having considered information in relation to the legal requirements of DBS enhanced checks, the working group recommended that all Councillors undergo basic DBS checks. As such, the group discussed the policy and process in respect of such checks and agreed the draft policy and process document at Appendix 1 be brought to Committee.

2 Proposal

2.1 It is proposed that having regard to the legal position and the views of the working group that Committee agree the policy and procedure document at Appendix 1 be recommended to Council for approval.

2.2 The policy confirms that basic DBS checks will be obtained by all Councillors within two months of the policy being agreed, or within two months for any new Councillor being elected. The cost of the checks will be met by the Council.

2.3 In order to ease the administrative burden for the Council, the checks will be requested by Councillors and copies of the check provided to the Monitoring Officer within 28 days of receipt by the Councillor.

2.4 The Monitoring Officer will keep a record of the dates checks have been requested and received and copies of any disclosure information contained within the checks. These will be kept securely and destroyed within 6 months in line with the DBS Code of Practice.

2.5 Where any information revealed within a DBS check raises cause for

concern the Monitoring Officer will discuss this with the individual councillor, Chief Executive and Group Leader if applicable. It may be agreed that a particular Councillor is not to carry out specific roles depending on the nature of the information disclosed. To be clear, under this policy there is no power to disqualify an individual Councillor.

- 2.6 If a Councillor's circumstances should change, in that they are convicted of an offence, the Monitoring officer should be notified within 28 days of conviction.
- 2.7 It is proposed within the policy that failure to comply with the policy could amount to a Code of Conduct breach.

3 Alternative Options

- 3.1 Committee have been tasked with looking at a policy and procedural issues in relation to all Councillors undertaking an enhanced DBS check. Committee could determine not to recommend any level of DBS check but this would be contrary to the intention of the agreed motion.
- 3.2 Committee could also consider other policy or procedural approaches than that set out in the attached Appendix 1, however this document is based on a similar approach taken by other authorities and complies with DBS Code of Practice and eligibility requirements for DBS checks.

4 Financial Implications

- 4.1 The costs associated with DBS checks for Councillors, it is proposed, are met by Council. The current cost of DBS checks for the Council is £21.50. Councillors will be re-imbursed for the cost of the check.

5 Legal Implications

- 5.1 Nothing in the Police Act 1997 (Criminal records) Regulations 2002 specifically requires Councillors to undertake enhanced DBS checks to perform their roles. District Councillors do not have specific social care responsibilities. Whilst there is currently no policy or legal requirement for enhanced DBS checks to be undertaken, basic checks can be undertaken.
- 5.2 In order to ensure compliance with information security and DBS Codes of Practice, a policy and process document has been prepared to support basic DBS checks. Ultimate approval of the document would be for Council.

6 Equalities Implications

- 6.1 The Bailey review was specifically concerned with the protection of children and vulnerable adults. There are no direct equality implications relating to the undertaking of the checks, should councillors require support with the process this can be provided by the Monitoring Officer.

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 There are no carbon reduction/environmental sustainability implications arising from this report.

8 Appendices

- 8.1 Appendix 1 – Draft Policy and Procedure for Basic DBS checks for Councillors

9 Background papers

- 9.1 [Independent Review of the Disclosure and Barring Regime - GOV.UK](#)
[Letter from Minister for Local Government to leaders of unitary and upper tier authorities in England](#)
[Revised Code of Practice for Disclosure and Barring Service Registered Persons](#)

10 Reasons for Recommendation

- 10.1 To provide a framework for DBS checks for Council to consider.

Statutory Officer approval
Approved by the Chief Financial Officer
Date:
Drafted by the Monitoring Officer