

Recommendations of the Independent Review of the Disclosure and Barring Service including an update on Member Criminal Record Checks

1. Aim

- 1.1 To advise Members of the outcomes of an independent review of the Disclosure and Barring Regime commissioned by the Home Office in February 2022.
- 1.2 To provide an updated position statement on uptake of criminal record checks for elected members since its last discussion at Standards Committee on 31st January 2023.

2. Summary

- 2.1 This report is to present to Standards Committee, for information, an up-to-date situation in relation to Members criminal record checks and the uptake thereof. At the time of writing 48 Members had a valid basic or enhanced criminal record check, one was awaiting the results of their check and the remaining 11 Members did not have a valid check within the last four years.
- 2.2 Members are also advised that 'The Independent Review of the Disclosure and Barring Regime' published in April 2023 recommended that all Councillors who are involved in decisions relating to children or vulnerable adults complete an enhanced DBS check as best practice in advance of potential future legislation mandating this.

3. Recommendations

That:

- 3.1 following the recommendations of the 'Independent Review of the Disclosure and Barring Regime' full Council be recommended to expand the list of eligible Members required to undertake an enhanced DBS check to include those Members whose role or Committee membership means they are involved in decisions on the provision of services for vulnerable adults; and
- 3.2 the information available on the current number of complete DBS checks for Members be reviewed and comments upon any assistance that could be provided to improve take up be made.

4. Report Detail - Know

Independent Review of the Disclosure and Barring Regime

- 4.1 As part of a desire to maintain transparency and high standards of behaviour Council agreed at its meeting on 25th May 2016 to ask all Members to undergo criminal record checks at least every 4 years and to make an annual declaration to the Monitoring Officer in the intervening years on any changes to their criminal record. This decision was made following a recommendation of the Standards Committee which had investigated methods to improve accountability and protection of Members because of concerns that arose out of multiple national abuse enquiries.
- 4.2 Dependant on their Committee membership Members are asked to either complete a basic disclosure or an enhanced DBS (Disclosure and Barring Service) check. It was agreed by Council that members of a committee or panel or portfolio holders that manage issues relating to children should have further accountability and protection through the enhanced process.
- 4.3 In February 2022 the Home Office commissioned the National Police Chiefs' Council lead for child protection and abuse investigation, Simon Bailey, to carry out a review of the effectiveness of the disclosure and barring regime. The stated purpose of the review was to provide assurance to Ministers about the effectiveness of the disclosure and barring regime in safeguarding children and vulnerable adults.
- 4.4 One particular focus of the review was the eligibility of local councillors for checks. As the Standards Committee discovered back in 2015-16 the report found that there was no uniformity of practice amongst councils as to how they approached requesting criminal record checks for Members for safeguarding purposes, but that Members were eligible for enhanced criminal record checks under the Police Act 1997 (Criminal Records) Regulations 2002 and its amendments.
- 4.5 Mr Bailey considered that it was important that there be consistency in the practice adopted by councils in relation to DBS checks and therefore made following recommendation in the report:
- “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.”*
- 4.6 Given Mr Bailey’s recommendation it is suggested that consideration is given to making a recommendation to full Council to require elected Members who sit on committees involved with vulnerable adults, namely the Portfolio Holders for Adult Social Care, Wellbeing, Leisure and Public Services and Deputy Leader (Resilient Communities), Members of the Social Care and Health Overview and

Scrutiny Committee and Health and Wellbeing Board, to undertake an enhanced DBS check. An analysis of current DBS statuses indicates that this would require 9 additional members to undertake an enhanced DBS check.

Update on status of Members' DBS checks

- 4.7 Members are required to complete a DBS check every four years. As of 7th July 2023 there are 48 Members who have a valid basic or enhanced criminal record check which has been registered by the Monitoring Officer. Currently 1 Member has submitted their criminal record check application and is awaiting the results of their check. This is an improvement on 29 Members holding a valid criminal record check when this was last discussed at Standards Committee on 31st January 2023.
- 4.8 The remaining 11 Members do not have a valid criminal record check because either they have not completed the process or more than four years have passed since the last time they did. All of these Members were contacted on 15th June 2023 and informed.
- 4.9 In the intervening years Members are also asked to confirm, in the form of an annual declaration, if there have been any changes to their criminal record since their last check was conducted. As of 14th July 2023 there are 17 Members out of a possible 27 who have duly completed this form.
- 4.10 The criminal record check process consists of completing an online form and providing 3 forms of identification from a list of acceptable ID which is circulated to all Members by email when requesting that they complete the check. The identification is to be brought into the Democratic Services Team to be scanned and verified. If it is not provided within 6 months of the online form being completed the form expires and a new form will have to be completed.
- 4.11 Members are requested on a six-monthly basis to take any required action in relation to their criminal record check. The last such emails were sent out on the 15th June 2023, requesting that Members take any relevant action before the 5th July 2023 for inclusion in this report.
- 4.12 If Members require any further assistance with the process Democratic Services Officers can respond to any queries by phone or email or schedule an appointment to complete the online form with the Member.
- 4.13 Once the criminal record check has been successfully completed the certificate is sent to the Member at their home address. This process can take up to 15 working days.

5. Financial information

- 5.1 A single basic disclosure check costs £24.47 and an enhanced disclosure check costs £40.22.

- 5.2 The maximum amount it would cost for the council to ensure that all Members of the Cabinet and Social Care and Health Overview and Scrutiny Committee receive an enhanced DBS check would be £925.06 every four years.
- 5.3 Based on the current membership of the Cabinet and Social Care and Health Overview and Scrutiny Committee the amount at present would be £361.98 as many of the Members on these two Committees already have an enhanced check for other reasons.

6. Legal implications

- 6.1 The Council is not legally required to undertake criminal record checks of all Members but as stated above doing so provides Members with further accountability and protection whilst also maintaining transparency and high standards of behaviour.

7. Decide

- 7.1 The committee is asked to review the information available and is invited to comment upon any improvements that could be made to assist Members in completing the process.
- 7.2. The committee is also asked to recommend the introduction of enhanced criminal record checks for those members who form part of a committee involved in decisions on the provisions of services for vulnerable adults.

8. Respond

- 8.1. The Monitoring Officer and Democratic Services team will continue to request Members complete any required actions in relation to their criminal record checks on a six-monthly basis. The Monitoring Officer will register all criminal record checks received.

9. Review

- 9.1 It is recommended that the committee continues to monitor the status of Members' criminal record checks.

Annex:

Appendix 1 – The Independent Review of the Disclosure and Barring Regime

Authors:

Sian Lloyd

Democratic Services Officer

Sian.Lloyd@walsall.gov.uk

01922 655943

Craig Goodall

Principal Democratic Services Officer

Craig.Goodall@walsall.gov.uk

01922 654765