

Meeting of:	Cabinet
Date of Meeting:	Monday, 11 April 2022
Relevant Scrutiny Committee:	Healthy Living and Social Care
Report Title:	Disclosure & Barring Service (DBS) – Proposals for Elected Members
Purpose of Report:	To enable Cabinet to consider proposals for DBS checks for Members
Report Owner:	Cabinet Member for Social Care and Health
Responsible Officer:	Director of Social Services
Elected Member and Officer Consultation:	This is an issue which affects all areas of the Vale of Glamorgan
Policy Framework:	This is a matter for Executive decision by Cabinet
<p>Executive Summary:</p> <ul style="list-style-type: none"> • The purpose of the report is to seek agreement from Cabinet to recommend that the Council change the existing Disclosure and Barring Service (DBS) arrangements in relation to DBS checks for certain elected Members, to ensure clarity in respect of expectations of elected Members in the Vale of Glamorgan, building on public trust and confidence. • DBS guidance for school governors and elected Councillors in Wales provides limited direction for Council's in relation to requiring elected Members to undergo DBS checks. 	

Recommendations

1. That Cabinet determines that elected Members of Cabinet, the Healthy Living and Social Care, Homes and Safe Communities, Learning and Culture Scrutiny Committees and Members who are in receipt of a Senior Salary will be required to apply for an enhanced DBS check.
2. That Cabinet determines that all elected Members upon taking up appointment will complete a basic DBS check.

Reasons for Recommendations

1. To ensure that elected Members of Cabinet, the Scrutiny committees referred to, and those elected Members who hold relevant roles are in receipt of an enhanced level DBS check.
2. To ensure that all elected Members are subject to a basic DBS disclosure to demonstrate to ensure that the public has trust and confidence in their elected Members.

1. Background

- 1.1 To date the Council has undertaken DBS checks in line with the legislation. DBS checks are undertaken on an exception only basis. Some Councillors may have had a DBS check because of another role they may hold, such as being a school governor.
- 1.2 The position of Councillor is not in itself a position named in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Therefore, there is no eligibility for a DBS certificate at a Standard or Enhanced level, solely on the basis of being a Councillor. Councillors have to be carrying out further activities prescribed within legislation.
- 1.3 The Protection of Freedoms Act (PoFA) 2012 amended the definitions of regulated activity with children and adults. These changes scaled back the number of activities which are regulated, with the aim of becoming more proportionate in the number of DBS checks are used. This had an impact on the level of DBS certificate that is available for some local authority roles, which may include some Councillors.
- 1.4 The Police Act 1997 (Criminal Records) Regulations 2002, as amended, most recently in 2013, incorporates elected Member roles into the new definition of 'work with children' and 'work with adult'. This made the individuals holding these positions eligible to be asked to apply for enhanced level DBS checks in the child/adult workforce, but without a children's/adults barred list check.
- 1.5 The level of DBS certificate that a Councillor can be asked to apply for depends on the activities that each individual Councillor carries out. Not all Councillors will

be carrying out functions that mean their role is eligible to be asked to apply for a DBS certificate.

2. Key Issues for Consideration

- 2.1** Work with children (Councillor who may carry out education and social services functions relating to children – a Councillor is only eligible for an enhanced DBS certificate without DBS barred list checks if they meet the specific legislative criteria from the Safeguarding Vulnerable Groups Act 2006, and they are a member of a relevant local government body, including a member of an executive; a committee of an executive; an area committee, or any other committee including sub-committee, of a local authority if it discharges any such functions. If the above conditions above are met, then a Councillor can be eligible for an enhanced DBS certificate without a check of the children’s barred list. This is because the individual is carrying out a specific function included in the definition of work with children.
- 2.2** Work with Adults (Councillors who carry out social services functions relating to adults) - a Councillor is only eligible for an enhanced DBS certificate without DBS barred list checks if they meet the specific legislative criteria as above and fall within the definition of work with adults, including the exercise of a function of a person who is - a member of a local authority and discharges any social services functions of a local authority which relate wholly or mainly to adults who receive a health or social care service, as specified in the legislation; a member of an executive/committee/area or any other committee of a local authority which discharges any such functions;
If any of the conditions above are met, then a Councillor can be eligible for an enhanced DBS certificate without a check of the adults’ barred list. This is because the individual is carrying out a specific function included in the definition of work with adults.
- 2.3** Councillors who do not carry out any of the specific educational and/or social service functions as described above, are not eligible for a Standard or Enhanced DBS check. Councillors in this position may attend community events, take surgeries, or visit local residents in their own homes, have access to the general public including children, but these activities do not meet the legislative criteria to be eligible to apply for a Standard or Enhanced DBS certificate. However, a Basic level check can be requested for these Councillors.
- 2.4** There is eligibility guidance for both standard checks and enhanced checks. Welsh guidance exists for those working in regulated activity with both children and adults. There is also guidance for school governors and elected Councillors in Wales:
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/739156/A Guide to School Governor and Elected Councillor Roles in Wales.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/739156/A_Guide_to_School_Governor_and_Elected_Councillor_Roles_in_Wales.pdf)

- 2.5 Elected Councillors are only eligible for an enhanced DBS check in the child or adult workforce without a barred list check if they are appointed as a member of a committee or sub-committee involved in:
- the delivery of services for children relating to education or social services;
 - the delivery of services for adults relating to social services (In the guidance referred to the delivery of adult services includes supported accommodation and sheltered accommodation.)

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1 Long-term – Considering ability across Directorates to horizon scan in relation to our safeguarding responsibilities.
- 3.2 Integration – this will be put in place for the whole council and for specific roles
- 3.3 Involvement – Ensuring checks are in place to help safeguard our vulnerable residents.
- 3.4 Collaboration – The issues have been considered by the Corporate Safeguarding Group.

4. Resources and Legal Considerations

Financial

- 4.1 There are some financial resource implications arising from this work, as there is a small charge for DBS checks.

Employment

- 4.2 There are no employment implications for the Vale of Glamorgan Council.

Legal (Including Equalities)

- 4.3 The legal implications are as set out within the body of this report and specifically, legislation requires the Local Authority to make arrangements for ensuring the discharge of functions, to discharge their duties, having regard to the need to safeguard and promote the welfare of children and adults at risk.
- 4.4 The Social Services & Wellbeing (Wales) Act 2014 and the Codes of Practice issued under the Act, makes it clear that Safeguarding Children and Adults at risk of abuse and neglect is everyone's responsibility.

5. Background Papers

None.