

BRISTOL CITY COUNCIL

HUMAN RESOURCES COMMITTEE

For Resolution

Thursday 3rd September 2009

Report of: Service Director: Strategic HR & Workforce Strategy

Title: CRB Review / Updated Disclosure Policy

Ward: N/A

Officer Presenting Report: Ian Button, Personnel Administration
Manager

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RECOMMENDATION

The Committee is asked to:

- (i) endorse the CRB proposals set out in paragraphs 4.1 to 4.5 below;
- (ii) adopt the decision set out in paragraph 1.3 below regarding CRB clearance for SLT;
- (iii) consider/agree the funding of ISA registration fees (paragraph 4.4 refers) and;
- (iv) note the response from CYPs/HR (to be given verbally) regarding paragraph 4.5 below.

Summary

The report is about increasing the rigor of the CRB Disclosure process and ensuring compliance with best practice.

The significant issues in the report are:

Ensuring that the correct people are checked, at the right time and at the correct frequency.

1. Policy

- 1.1 Approval of the recommendations requires changes to the Council's existing Disclosure Policy.
- 1.2 With regard to Members, Governors and Directors, category 7 “eligibility for a CRB check” covers the following positions:
- Member of the governing body of an educational establishment
 - Member of a relevant local government body
 - Director of Social Services of a local authority
 - Chief Education Officer of a local education authority
 - Charity Trustee of a children's charity
 - Member of the Youth Justice Board for England and Wales
 - Children's Commissioner for Wales or Deputy Children's Commissioner for Wales
 - Member of Chief Executive of the Children and Family Court Advisory and Support Services
- 1.3 This matter was considered by SLT on 11th August 2009, when it was decided that the following posts: Chief Executive, Deputy Chief Executive, Strategic Director: Children, Young People and Skills, Strategic Director: Health & Social Care, Strategic Director: Neighbourhoods - would be subject to an “enhanced” CRB check. This was not considered necessary for the other Strategic Director posts.

2. Consultation

2.1 Internal

Recruitment auditor, Disclosure Team, HRMT, Strategic HR Group and Strategic Director CYPS involved in consultation.

2.2 External

Southwest Regional CRB group.

3. Context

- 3.1 Departmental lists of regulated posts/people need to be reviewed at least annually to ensure that all necessary checks are made, and equally importantly that no unnecessary checks are made. This has proved difficult to accomplish satisfactorily in reality.
- 3.2 Criticism from CSCI has been made about the authority allowing employees to commence work in adult care situations before a CRB Disclosure check has been obtained. A risk assessment is currently carried out for unchecked posts, and 1 to 1 access is restricted, pending CRB clearance.
- 3.3 A copy of the CRB Investigation Report has been forwarded electronically to Strategic Directors for reference purposes.

4. Proposal

- 4.1 The following proposals have been approved by SLT, and are recommended to this Committee for adoption:
 - (i) HR Business Partners to compile and agree with each DMT an up to date list of CRB posts, after ensuring these comply with the national CRB guidelines and the Council's Disclosure Policy.
 - (ii) Each Service Director/HR Business Partner will have responsibility for keeping this list of posts up to date when posts are created, deleted and revised, and for notifying the Disclosure Service accordingly. This recommendation is consistent with a recent SLT discussion to tighten "establishment control" within the Council.

These CRB records will be incorporated into the Vision HR system as part of the newly proposed "workflow/design" arrangements for HR STS (from December 2009). This will require each post to be designated "enhanced", "standard" or "none". Regular reports outlining new starters and transferees will be published. Interim arrangements will apply in the meantime, to be co-ordinated by the current CRB team.

- (iii) CRB designation issues where agreement cannot be reached between the Disclosure Service and Service Managers will be referred to the Corporate HR Manager and a designated Principal Solicitor for resolution.
- (iv) The CRB Disclosure Service to create a Safeguarding information page

on The Source (intranet) and on the equivalent CYPS site, with up to date information, news and changes to CRB regulations and relevant Safeguarding issues, to increase knowledge and understanding around CRB criteria and good practice.

- (v) In line with best practice, CRB Disclosure certificates should be renewed on a 3 year cycle for all employees in regulated posts and volunteers, and a 4 year cycle for elected members and school governors following re-election.
- (vi) Disclosure Policies/Procedures will be reviewed and updated to incorporate and reflect latest CRB guidance on issues such as checks for school governors, Contact Point and checking of administrative staff, information on how to clarify CRB 003 categories/definitions, ISA etc. The new Vetting and Barring scheme comes into effect from July 2010.

- 4.2 The Committee is asked to determine whether CRB status should be related to the posts of Strategic Director: CYPS and Strategic Director: H&SC only, or be extended to the Chief Executive and other SLT members.
- 4.3 Personnel Administration Manager to support the HR Business Partners to provide briefings for Service Directors, Management Teams, and HR Advisers on CRB requirements.
- 4.4 The Committee is also asked to note that the initial ISA registration fee (£28.00) for existing employees in regulated and controlled positions be met by the City Council from existing directorate budgets.
- 4.5 The Committee is asked to note that the National College of School Leadership (NCSL) for safer recruitment training for all schools has been used by Bristol City Council. This training is accredited by NCSL. The HR Business Partner (CYPS) advises that:

“So far we have trained 95 people. 44 people have received on-line training. There are also an unknown number of people who have received training through other sources, eg Ofsted. We have another 6 courses on offer between 9 September and 8 December which schools can attend if they wish, but there is no reason at all why they cannot train on-line to suit themselves. Getting everyone trained by 31 December is not, and never has been, a problem in terms of training availability - just in terms of getting the schools to do it (preferably on-line)”.

Further information will be available at this meeting.

- 4.6 Clarification is also sought from HR that it is not necessary to check the same person more than once, even if they have multiple jobs or positions, unless these checks are needed at different levels (ie an “advanced” check is necessary, after an individual has already had a “standard” check).

5. Other Options Considered

- 5.1 Maintain the status quo - this option is not considered to be viable, as reported previously to this Committee.

6. Risk Assessment

- 6.1 There is low risk attached to current practice from the client's perspective as there is a tendency to check people who do not need checking. However in a few cases, where in the interest of maintaining a service, people in adult care start work without a new check, the risk is increased.

There is a medium risk to the authority of judicial review if we carry on checking people who do not qualify for a check and there is a complaint. There is a medium risk of a personal fine for an individual unlawfully asking an exempt question of a candidate.

For these reasons the status quo is not good enough.

7. Equalities Impact Assessment

- 7.1 Anyone in a regulated position is exempt from the provisions of the Rehabilitation of Offenders Act 1974 and can be asked exempt questions about criminal convictions. This makes it very important to carefully identify regulated positions because it is a criminal offence to ask exempt questions of individuals not covered by the exemption order.
- 7.2 However, controls are in place to ensure “confidentiality” and the application of a consistent practice across the Council.

Legal and Resource Implications

Legal

This report details issues arising from CRB checks carried out by the Council. The Safeguarding Vulnerable Groups Act 2006 provides that, from 12 October 2009, the engagement of a person who has direct contact with children or vulnerable adults without an appropriate check will be a criminal offence. In light of this the recommendations in this report will assist the Council in ensuring compliance with this forthcoming legislation.

(Advice from Husinara Jones for Head of Legal Services)

Financial

(a) Revenue:

In order to increase the frequency of CRB checking from 5 years to 3 years, there will be a need for extra Disclosure Administration staff at a cost of 25k per year for a period of 12-18 months.

From November 2010 onwards the introduction of the new ISA procedures will enable a reduction in Disclosure Administration staffing to below current levels.

Additionally, there will be a short term increase in CRB certificate costs from approx £215k to £265k pa (phased) during the same period of time. Again this cost will dramatically reduce once the ISA regulations take affect. These costs will be met from department budgets.

(b) Capital:

N/A

(Advice from Stephen Skinner, Head of Finance, CSS and Chief Executive Departments)

Land

N/A

Personnel

No direct impact other than on Disclosure Policy.

Appendices

Appendix A: Existing CRB statistics for BCC, LMS etc (to be tabled at the meeting).

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 Background Papers:

None

Appendix A

CRB Review / Updated Disclosure Policy

Summary of CRB Checks

CRB Checks Current Staff 01/09/2009	
Directorate	Checks Completed
Chief Executive's Department	1
Children Young People and Skills (CYPS)	1446
CYPS Schools	9544
City Development	514
Deputy Chief Executive's	7
Health and Social Care	1810
Neighbourhoods	492
Resources	100
Transformation	286
Councillors	75*
Governors	1516*
Other (Volunteers, externals etc.)	1957*
<p>*These figures are based on all checks completed since the implementation of the Disclosure Service August 2004.</p>	