

Draft Disclosure Policy for Elected Members

Introduction

Bristol City Council takes its responsibilities for safeguarding children, vulnerable adults and other vulnerable groups very seriously. As part of its strategy for discharging its safeguarding obligations, Bristol City Council has adopted this Policy for undertaking Disclosure and Barring Service (“DBS”) checks on elected members.

Elected members hold positions of trust and have wide access to the Bristol’s social care and education services. Elected members may also perform very important duties in respect of Bristol City Council’s safeguarding and education functions and in doing so have access to very sensitive information about vulnerable service users.

As representatives of their constituents, holding positions of significant trust, Bristol City Council’s policy is for elected members to undergo appropriate DBS checks as set out in this policy.

Bristol City Council is committed to ensuring that through its operation of this policy it will comply with its obligations in respect of the Rehabilitation of Offenders Act 1974 and other associated legislation.

Different types of Checks

The different types of checks are:

(a) Basic disclosure: Any individual can apply for a basic disclosure. A basic certificate will provide details of unspent convictions only.

(b) Standard Check: A standard certificate will include details of spent and unspent convictions, cautions, reprimands and final warnings.

(c) Enhanced Check: An enhanced certificate includes the same information as the standard check, plus any additional information held by local police that is reasonably considered relevant to the role being applied for.

(d) Enhanced Check with check of Barred Lists: This provides the same information as an Enhanced Check, and also confirms whether the individual’s name appears on the “barred lists”.

DBS Checks for Elected Members

The Protection of Freedoms Act 2012 significantly amended definitions of regulated activity with children and adults. This impacted on the level of DBS check that is available for Local Authority’s Elected Members. The level of DBS check that can be submitted for an Elected Member depends on the role that is being carried out and it is important to note that not all Elected Members will be eligible for DBS check above a ‘basic’ check.

The Council has decided that all Elected Members will be subject to a 'Basic' disclosure check on election/re-election to the Council to support the declaration confirming they are not disqualified under Section 80 of the Local Government Act 1972.

Elected members (and deputies) who hold Cabinet roles, or who are members of committees, panels or other bodies that have responsibility for discharging social care or education functions (see appendix 1), are eligible for 'Enhanced' disclosure checks without a check of any barred list. These roles do not fall under the definition of regulated activity required for the checks against barred lists.

Subject to compliance with the statutory rules on being eligible to be elected to office and to remain in that office, the Council cannot prevent the election or continuation in office of any Elected Member, irrespective of what might be disclosed by a criminal records check. However the Council will take appropriate steps in accordance with its safeguarding responsibilities and proportionate to the conviction, caution or other issue disclosed.

Disclosure information will only be used for the specific purpose for which it is requested and for which the applicant's full consent has been given.

The Council will not accept DBS disclosure certificates from other organisations for any elected Member.

For co-opted Members, the Council will consider and review disclosure certificates from the co-opted Member's employing organisation.

The Process

Within two months of the commencement date of this Policy and thereafter for newly elected Members within two months of taking office following election, Elected Members will be required to undergo a 'Basic' DBS check or, if undertaking a role contained within list at appendix 1, an 'Enhanced' disclosure check without a check of any barred list.

Checks will be processed by Member Services following a request by the Council's Monitoring Officer through the Council's 'E-Bulk' DBS system. The process will involve each elected Member signing a consent form to share DBS data outcomes with the Monitoring Officer, Executive Director: Care and Safeguarding and Party Leader. They will also provide evidence of their identity and certain other information member services who will assist with completing, validating and submitting the online application form.

The relevant Elected Member will be provided with a DBS certificate issued by the DBS. The Council will be notified by the DBS of the disclosure and whether the DBS check is clear. This information will be returned to the Monitoring Officer.

Where a check is not clear, for instance, it contains details of an offence, the elected Member will be required to provide a copy of the DBS certificate to the Monitoring Officer within 28 days of the date of issue of the DBS certificate, unless the content of the DBS certificate is disputed and the dispute is raised with the DBS within 3 months of the date of

issue, in which case the certificate must be provided to the Monitoring Officer within 28 days following the outcome of the dispute.

In accordance with Section 124 of the Police Act 1997 disclosure information will only be passed to those people who are authorised to receive it in the course of their duties. The Monitoring Officer will maintain a record of the date a check was requested, the date a response was received and note the certificate number.

If the disclosure is negative then the elected Members' record will normally be updated with the date of the completed DBS check and the DBS certificate number.

If the disclosure is positive the elected Member will be asked by the Monitoring Officer to bring their original paper DBS certificate to the Monitoring Officer. The Monitoring Officer, in consultation with the Executive Director: Care and Safeguarding, will risk assess the disclosure in relation to the Elected Members' responsibilities and complete a risk assessment form (appendix 2).

If a positive disclosure is not deemed to pose an assessed risk, then the risk assessment form will be sent by the Monitoring Officer to the HR DBS team to securely file in the electronic HR document management system, and the Elected Member's record will be updated with the date and number of the disclosure only.

If a positive disclosure is deemed to pose a risk for the Council or its residents then, following consideration by the Monitoring Officer, in consultation with the Executive Director: Care and Safeguarding, concerns will be discussed with the Member's Party Leader, in accordance with the consent form the Elected Member was asked to sign at the outset of the process. The Elected Member will be informed and a meeting arranged to consider the concerns and any proposed action.

If an elected Member refuses to undergo a DBS check relevant to their role, then the elected Member would be invited to discuss this with their Party Leader. Any refusal may also be considered as a breach of the Code of Conduct for Members.

Ongoing process

As DBS checks only represent a snap shot of the time the check was carried out, there will be a requirement to renew these following an election or appointment to a role that requires an enhanced check.

An Elected Member must declare to their Party Leader and the Monitoring Officer any police charge, conviction or caution during the period between DBS checks on an ongoing basis.

List of Roles and Committees requiring Enhanced DBS checks

- Cabinet Members
- Corporate Parenting Panel
- Guardianship Panel

Appendix 2

RISK ASSESSMENT (WHERE A DBS CERTIFICATE SHOWS RELEVANT CONVICTIONS)

Elected Member's name:

Job Title: Elected Member

Date of Risk Assessment:

Part 1 – Details of relevant convictions

Offence or incident 1	
Date of offence or incident	
What were the circumstances involved and what was the sentence?	
Does the individual agree that the information detailed on the DBS certificate is correct?	
The country in which the offence was committed e.g. some activities are offences in Scotland and not in England and / or Wales and vice versa.	
Offence or incident 2	
Date of offence or incident	
What were the circumstances involved and what was the sentence?	
Does the individual agree that the information detailed on the DBS certificate is correct?	
The country in which the offence was committed e.g. some activities are offences in Scotland and not in England and / or Wales and vice versa.	
Offence or incident 3	
Date of offence or incident	
What were the circumstances involved and what was the sentence?	
Does the individual agree that the information detailed on the DBS certificate is correct?	
The country in which the offence was committed e.g. some activities are offences in Scotland and not in England and / or Wales and vice versa.	

Were any offences work related or committed within the context of a work setting?
Were any offences committed within the last 2 years?
What is the seriousness of the offence / incident(s) and relevant to the safety of other employees, service users and property?

What is the individual's attitude to the offence/s now?
Would they do anything differently now?
Has the individual's circumstances changed since the conviction/s for example location, friends, partner, education?
Are there any mitigating circumstances for example their youth, financial / domestic difficulty?
Do the matters disclosed form any pattern for example repeat offences?

Part 2 – Details of role

Level of DBS clearance required for post – standard / enhanced (circle as appropriate)
Does the role present any opportunities for the individual to re-offend in the place of work?
Would the role holder have direct contact with children, adults, the public?
What is the potential level of risk to vulnerable service users?
Is contact with service users unsupervised and if so how frequently?
Does the role involve any direct responsibility for finance or items of value?
Is the offence / incident directly relevant to the post?

What factors might mitigate the risks above? For example – time elapsed since offence/s were committed, any causes for concern during work history, models positive behaviours etc.

Part 3 – Other relevant information

Any other information relevant to this Risk Assessment regarding the individual, nature of work and / or location / environment where the role is carried out?

Part 4 – Level of risk

Detail proposed level of risk of individual remaining in post and reasons:

High Risk	
Medium Risk	
Low Risk	

Can protective measures / safeguards be put in place to render the risk low? If so – detail Risk Management Plan, this may include for example: restricted duties, additional supervision, temporary changes to work location / allocation of tasks and / or training.

Risk Assessment completed by Monitoring Officer:

Signed:

Date:

Part 5 - Authorisation

Executive Director; Care and Safeguarding Authorisation:

I have considered the content of this risk assessment and give / do not give (delete as appropriate) approval for the individual to commence the role with the relevant restrictions / safeguards in place as outlined above:

Name:

Signed:

Date:

