

STANDARDS COMMITTEE

9 SEPTEMBER 2009

CRIMINAL RECORDS BUREAU CHECKS

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PURPOSE OF THE REPORT

- 1 To seek Committee approval to including in the Council Constitution a protocol relating to Criminal Records Bureau (CRB) checks in respect of all elected Members

BACKGROUND

- 2 The Criminal Records Bureau (CRB) was established in 2002 as an Executive Agency of the Home Office, providing access to criminal record information through its disclosure service. The intention was that the service would enable organisations in the public, private and voluntary sectors to make safer recruitment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves children or vulnerable adults.
- 3 Initially, CRB checks were only undertaken in respect of paid or unpaid workers who had unsupervised access to children. Examples were teachers, scout leaders, social work staff and sports instructors.
- 4 More recently CRB checks have been extended to a far wider range of people. They are no longer restricted to people working with children: they also now apply to people working with vulnerable adults. Vulnerable adults include the very frail elderly, people with certain mental health problems or learning disabilities, and adults who have been victims of abuse.
- 5 Also, CRB checks are no longer only sought in respect of people who have direct unsupervised access to children or vulnerable adults. People who have any access to these groups of people, or their personal records, are now increasingly subject to CRB checks.
- 6 The Criminal Records Bureau provides two types of disclosure: Standard and Advanced.

- 7 Standard CRB checks are primarily for posts that involve working with children or vulnerable adults. Standard checks may also be issued for other people, such as members of the legal and accountancy professions, who might have access to the records of children or vulnerable adults. Standard checks contain a record of all convictions, cautions, reprimands and warnings held in England and Wales on the Police National Computer
- 8 Enhanced checks are for posts involving a greater degree of contact with children or vulnerable adults. In general, the type of work will involve regularly caring for, supervising, training or being in sole charge of such people. Enhanced checks are also issued for certain statutory purposes such as gaming and lottery licences. Enhanced checks contain the same information as Standard checks but with the addition of any locally held police force information ('soft' information or intelligence) considered relevant by chief police officers to the job role subject to the CRB check.
- 9 It is the current policy of Middlesbrough Council that enhanced checks are requested in relation to all posts and positions subject to CRB checks. At present, enhanced disclosures are obtained in respect of those Members who are subject to a CRB check (see paragraph 11 below).

ELECTED MEMBERS AND CRB CHECKS

- 10 There is no legal requirement to undertake CRB checks in respect of all elected members but it is becoming best practice and is now common in several local authorities.
- 11 At present, only certain Middlesbrough Members are subject to CRB checks. These are:
 - ⇒ Corporate Parenting Board Members
 - ⇒ Rota Visitors
 - ⇒ Scrutiny Chairs:
 - Children & Learning
 - Social Care & Adult Services
 - Health
 - ⇒ Executive Members:
 - Children Families & Learning
 - Social Care

In line with current Council policy, enhanced disclosures are sought in respect of these Members.

- 12 There are two main reasons for extending CRB checks in respect of all Members.
- 13 First, the Council has a general duty of care to all its residents. Additionally, the Council has specific duties in respect of certain groups. For example, all Councillors, when elected, take on the duty of being 'corporate parents' to children looked after by (that is, in the care of) the Council. Also, many Members undertake community based activities with children and vulnerable adults.

Extending CRB checks to all Members will reduce the risks to the Council of abuse occurring in the course of Council duties. More importantly, it will also offer greater protection to children and vulnerable adults.

- 14 Second, Members often require access to premises in order to undertake ward-based activities. Many other agencies are now requiring CRB checks of people regularly accessing their premises, where these premises are used by children or vulnerable adults. Recently, a Middlesbrough Member was required to have a valid CRB check before being allowed to undertake regular ward surgeries in the premises that he had identified.

CRB checks can take some time to obtain. Extending CRB checks to all Members will ensure that delays are not encountered by Members in the course of undertaking Council duties when other agencies require checks to have been undertaken.

SECURITY, PRIVACY AND REASONABLNESS

- 15 Clearly, the advantages in terms of good practice and safeguarding vulnerable people have to be balanced against matters such as the individual Member's right to privacy and confidentiality, and some Members might have concerns as to the wider implications of requiring CRB checks of all Members.
- 16 First, CRB checks relate only to criminal records, so civil matters such as county court judgements will not be disclosed in any checks.
- 17 Second, the Council has to ensure that information disclosed as a result of a CRB check is handled and stored appropriately. The Council must also satisfy the Criminal Records Bureau that it is complying with the Code of Practice, which means co-operating with requests from the CRB to undertake assurance checks, as well as reporting any suspected malpractice in relation to the Code or misuse of disclosures.
- 18 If CRB checks do disclose convictions or other information, this information will be treated in the strictest confidence and will only be shared between the Monitoring Officer, the Members' Office Manager and the Chief Executive.
- 19 Third, there is a requirement that the Council must use disclosure information fairly, and that any action taken as a result of a disclosure must be proportionate depending on the role of the councillor and the nature of the information.
- 20 If a CRB check on a Member did result in disclosure, consideration would be given as to whether the information disclosed would have any direct relevance to the Member's duties and obligations as a Councillor. If it was considered that the disclosure could have a direct relevance to the Councillor's duties, then they would then be advised accordingly. In such an event the Councillor would be given the opportunity to provide background details of the circumstances relating to any information disclosed.

- 21 In extreme circumstances, if a Member refused to accept advice, then the Monitoring Officer and the Members' Office Manager would need to ensure that Members did not undertake duties that could bring the Council into disrepute or, more importantly, place any child or vulnerable person at risk. For example, if a CRB check disclosed offences against children, then a Member could not be allowed to undertake duties as a rota visitor to residential children's homes, or serve on Corporate Parenting Board.
- 22 In some Councils, election agents are informed of these requirements so that prospective candidates are aware prior to standing for election.

RECOMMENDATIONS

- 23 It is recommended that in future, all Members of the Council are subject to a Standards CRB check. As stated in paragraph A above, enhanced checks are for posts involving a greater degree of contact with children or vulnerable adults. In addition, it is also recommended that the following Members are subject to Enhanced CRB checks:
- ⇒ The Mayor and all Executive Members
 - ⇒ Corporate Parenting Board Members
 - ⇒ Rota Visitors
 - ⇒ Scrutiny Chairs of the following Scrutiny committees:
 - Overview & Scrutiny Board
 - Children & Learning Panel
 - Social Care & Adult Services Panel
 - Health Panels
- 24 A draft protocol is attached at Appendix 1. It is recommended that this is approved by Standards Committee and submitted to the Constitution Committee for consideration prior to consideration by Council.
- 25 It is recommended that election agents are in future informed of these requirements so that prospective candidates are aware prior to standing for election.

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Background Papers:

Criminal Records Bureau: Guidance (<http://www.crb.gov.uk/guidance.aspx>)

DRAFT PROTOCOL ON MEMBERS' CRB CHECKS

GENERAL

- 1 In order to ensure the highest standards in respect of safeguarding the most vulnerable members of the community, the Council requires that all elected Members are subject to checks with the Criminal Records Bureau (CRB).

STANDARD AND ENHANCED CRB CHECKS:

- 2 All Members other than those listed in paragraphs 3 and 6 below will be subject to a Standard CRB check. Standard checks disclose a record of all convictions, cautions, reprimands and warnings held in England and Wales on the Police National Computer
- 3 In addition to the above requirement, the following Members will be subject to an Enhanced CRB check:
 - ⇒ The Mayor and all Executive Members
 - ⇒ Corporate Parenting Board Members
 - ⇒ Rota Visitors
 - ⇒ Chairs of the following Scrutiny committees:
 - Overview & Scrutiny Board
 - Children & Learning Panel
 - Social Care & Adult Services Panel
 - Health Panels
 - ⇒ Any Member who requests an Enhanced CRB check (see para 6 below)

Enhanced checks contain the same information as Standard checks but with the addition of any locally held police force information ('soft' information or intelligence) considered relevant by chief police officers to the job role subject to the CRB check.

- 4 Standard CRB checks will be undertaken on election.
- 5 Enhanced checks will be undertaken on appointment to any position listed in paragraph 3 above
- 6 Some Members might prefer to have an Enhanced CRB check, as this might benefit them in other areas of their work, or if another agency requires this of the Member. An Enhanced check will be undertaken if a Member requests this.
- 7 CRB checks will thereafter be undertaken every four years
- 8 Any Member who fails to secure a CRB check will be reported to the Standards Committee.
- 9 Until a CRB check is obtained, Members will not be entitled to use Council resources, or to claim expenses, in relation to any duties or activities undertaken with children, young people or other vulnerable groups.

- 10 This protocol will be supplied to election agents or candidates whenever an election or by election is held.

APPLICATION

- 11 The Council will at all times act in accordance with the Criminal Records Bureau Code of Conduct and any other requirements issued by the Criminal Records Bureau, and all disclosed information will handled and stored appropriately.
- 12 If a CRB checks does disclose convictions or other information, this will be treated in confidence and will only be shared between the Monitoring Officer, the Members' Office Manager and the Chief Executive.
- 13 The Council will use disclosure information fairly, and any action taken in respect of a disclosure will be proportionate depending on the role of the councillor and the nature of the disclosure.
- 14 If action is considered necessary following disclosure, then the Councillor(s) concerned will be given the opportunity to provide background details of the circumstances relating to the information disclosed.
- 15 Consideration will be given by the Monitoring Officer, the Members' Office Manager and the Chief Executive as to whether disclosed information will have any direct relevance to a Member's duties and obligations as a councillor. In such cases the Member would then be advised accordingly, and asked to provide any comments or additional information.
- 16 In extreme circumstances, if a Member did refuse to accept advice, then the Monitoring Officer and the Members' Office Manager will need to ensure that Members do not undertake duties that could bring the Council into disrepute or, more importantly, place any child or vulnerable person at risk. In these circumstances a confidential report will also be submitted to Standards Committee.

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September 2009