

## Part 5 Codes and Protocols

### 5.7 Councillor DBS Checks and Safeguarding Protocol

#### 1. Introduction

- 1.1. A Councillor's behaviour is covered by the Council's Code of Conduct (as required under the Localism Act 2011) which provides recourse to any member of the public wishing to make a complaint against a Councillors behaviour. That Code, however, does not make specific mention or reference to DBS checks and allegations about safeguarding.
- 1.2. The Code of Conduct, in the main, only applies to the conduct of a Councillor when acting or giving the impression that they are acting in their official capacity. It does not, therefore, always cover them in their 'private' life. Moreover, while the Council's Monitoring Officer has a duty to advise and consult an Independent Person appointed under s28(7) of the Localism Act 2011 on any action to be taken arising from a complaint regarding the conduct of members under the East Devon District Council Code of Conduct, it would be inappropriate to do so in any case where safeguarding issues had been raised without first referring to the Council's safeguarding procedures.
- 1.3. The Council has adopted a Safeguarding Policy which requires Councillors to undergo a basic DBS check. This Protocol therefore outlines the process for undertaking DBS checks and the risk assessment process that will be followed should the DBS check identify convictions.
- 1.4. This Protocol will form part of the Council's constitution. Failure to comply with it, will amount to a potential breach of the Code of Conduct pursuant to paragraph 5.8.5 of the Code of Conduct which states: "I will comply with the Codes and Protocols forming part of the Council's Constitution".

#### 2. DBS Checks and Risk Assessment

- 2.1. Following each District Council election the Council will, (or mid-term if a Councillor is elected mid-term) conduct a Basic DBS check for all Councillors which will be in place for a period of four years (a Council term), unless they notify the Council of a change, or the Council requires a new check following safeguarding concerns.
- 2.2. Councillor's will co-operate in providing all necessary information to enable the DBS check to be carried out. Once a Basic DBS check has been undertaken for that individual Councillor, a record of that will be retained on the Council's website.
- 2.3. Only where the DBS check identifies a criminal conviction will the Monitoring Officer be notified. In these circumstances, the following course of action must be undertaken in line with the approved Risk Assessment, attached at Appendix A. The Monitoring Officer will not retain a copy of the DBS Certificate but will record the Certificate Number, date of Certificate, date of offence(s) disclosed, the type of offences and when they will be spent.
- 2.4. It is the responsibility of the Monitoring Officer to ensure all appropriate actions, guidance and notifications are taken in such cases.

- 2.5 The Monitoring Officer will first undertake an assessment of the risk to both vulnerable adults and/or children and/or the reputation of the Council, the risk of the Councillor (the subject Councillor ) continuing to exercise any existing or proposed role - either on a conditional basis or with additional safeguards in place or whether it would be incompatible with the circumstances of the case for the subject Councillor to continue in a particular role at all.
- 2.6 The Monitoring Officer will also review the circumstances of the case with reference to the Code of Conduct to determine whether there are any political and/or standards issues involved and any potential case to answer.
- 2.7 Thereafter and following consultation with the Head of Paid Service and Corporate Safeguarding Lead (where appropriate) a discussion will be had with the Councillor in consultation with the relevant Group Leader.
- 2.8 Any such risk assessment must necessarily require an objective common-sense approach, having regard not only to the Council's responsibilities for safeguarding but the need for Councillors to maintain the highest standards of conduct in their professional lives and from a safeguarding perspective, their personal lives. Also important is the need for any person in public life and holding a position of special responsibility to be extra vigilant.
- 2.9 The Monitoring Officer can also consider the withdrawal of facilities/access and, exceptionally, any action required to ensure the continued protection of others as a result of the disclosure or of any action the Council may decide to take as a result of that risk assessment, including confidential notification to a third party to ensure that continued protection of others, consulting with the Chair of the Standards Committee as appropriate.
- 2.10 If a Basic check reveals that a Councillor has been sentenced to imprisonment for 3 months or more (including suspended sentences) during the last five years or has been convicted of a corrupt or illegal practice by an election court, then their seat will be lost.

### **3 Safeguarding**

- 3.1 Councillors should operate within a safe working environment for children and adults at all times. If Councillors adhere to common sense principles of safe working this will not only benefit the work and reputation of the Council but help protect them (Councillors) as well.
- 3.2 Councillors should therefore ensure that they do not have or are not put in the position of having unsupervised contact with children and young people or vulnerable adults. Avoiding any such circumstances/unsupervised contact with vulnerable persons will help prevent the risk of any allegation of inappropriate behaviour being made.
- 3.3 Any safeguarding concerns as defined in the Safeguarding Policy should in the first instance be reported to the Corporate Safeguarding Lead, who, in liaison with the Monitoring Officer, shall take all necessary steps as indicated below including all appropriate notifications.
- 3.4 If the allegation is in relation to potential safeguarding concerns relating to the individual in their capacity, either as a councillor, or in any other working or

volunteering role with children, the Council's Monitoring Officer will liaise directly with Council's Corporate Safeguarding Lead.

- 3.5 If the allegation relates to safeguarding concerns regarding the individual's behaviour with children in their personal life (e.g. as a parent or relative or friend), and the local authority is made aware of it, the Monitoring Officer will ensure a referral is made to the Devon Multi-Agency Safeguarding Hub (MASH). In these circumstances, Children's Services would undertake any assessment as appropriate and, if following this, concerns remain which could impact on the individual's role as a Councillor, also make a referral for LADO consideration.
- 3.6 It is recognised that not all Councillors will have direct contact with children and young people or vulnerable adults as part of their role, although some may.

**Appendix A**

## PART A

<b>DBS RISK ASSESSMENT CHECKLIST IN THE EVENT OF A POSITIVE DISCLOSURE</b>	
Disclosure Certificate No:	
Date of Certificate:	
Full Name:	
Position check undertaken for:	
Councillor Level of Check	Basic/Standard/Enhanced
Convictions disclosed? If so, details	
Date(s) and place of conviction?	
<b>RISK ASSESSMENT</b>	
Questions to be considered by the Monitoring Officer as part of the Risk Assessment	
Question	Comments
Does the Councillor confirm that the information disclosed in the DBS Disclosure is accurate?	
What is the individual's attitude to the offence now?	
Will the Councillor be working unsupervised?	
Is the conviction now spent? Were/Are there any orders/requirements/conditions as a part of the conviction and are they relevant to rehabilitation or control of reoffending?	
Does the conviction disqualify the Councillor from being a councillor?	
Have circumstances changed since committing the offence(s)? What has the individual done to reduce the risk of re-offending i.e. rehabilitation, improved education, moved location, changed associates etc	
At the time of the offence were there any mitigating circumstances? (i.e. financial / domestic / alcohol / drugs	
Was this a 'one-off' offence? Or repeat offending?	

What level of contact is there with children or vulnerable adults i.e. unsupervised.	
What level of personal contact is there with the public.	
Is there potential for reputational damage?	
Describe what preventative measure(s) could be put in place to reduce risk?	
Signature of Monitoring Officer and Date of Risk Assessment	

**PART B – FURTHER ACTION REQUIRED**

Please state any additional action required. Examples below.

**Proposed action:**

1.
2.
3.
4.
5.

Examples:

- Speak to Leader of the Council and / or Group Leader
- Consideration of Committee / Sub Committees / outside bodies appointments
- Exclude or restrict the Councillor’s access to some or all District Council Premises or business;
- Any training required
- Withdraw facilities (e.g. computer access)
- Or other actions as defined in the Safeguarding Policy

**Action Taken**
