

## **A COUNCILLORS' SAFEGUARDING GUIDANCE NOTE AND DBS CHECKS**

*[NB: This Guidance Note does not form part of the Constitution or the Members' Code of Conduct but is reproduced here for convenient reference].*

A Councillor's behaviour is in effect already 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 Member's behaviour - that Code, however, does not make specific mention or reference to allegations about safeguarding.

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 may 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 on the conduct of members under the 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.

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.

Councillors, in their role as a Councillor, 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 adults. Avoiding any such circumstances/unsupervised contact wherever possible with vulnerable persons will help prevent the risk of any allegation of inappropriate behaviour being made.

Any suspicions of poor practice, abuse or inappropriate behaviour observed or reported **of a County Councillor** (by whatever means or route) should in the first instance be reported to the County Council's Monitoring Officer, who shall take all necessary steps as indicated below including all appropriate notifications.

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 County Council's Monitoring Officer will make a referral to and liaise directly with the Local Authority Designated Officer (LADO), who is responsible for managing and overseeing allegations against adults working with children.

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), the County Council's 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.

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 – either by virtue of their day-to-day representative role or as a Member with

‘special responsibilities’ (e.g. a Cabinet Member or Chair of Committee) - in which case they may have been the subject of a criminal records check.

[NB: The County Council’s LADO can be contacted at: [ladosecure-mailbox@devon.gcsx.gov.uk](mailto:ladosecure-mailbox@devon.gcsx.gov.uk) or on 01392 383000]

## **DBS Checks and Risk Assessment**

In line with current policy (Procedures Minute 44 of 10 September 2018 and Procedures Minute 51 of 1 February 2024)), the Council will conduct a Basic DBS check for all Members of the Council, notwithstanding a Councillor may undertake certain roles which, in line with the legislation, requires them to undergo an enhanced DBS check in relation to their contact with vulnerable adults or children or both or, is a member of a Committee which discharges a relevant function, for example those who sit on Foster Panels and / or undertake Reg 44 visits.

In line with the decision of the Procedures Committee on 1 February 2024 (and following Government recommendation), all Members of the Cabinet (decision making body for Adults and Childrens services) will undergo an enhanced DBS check.

DBS checks will be undertaken for all Members after quadrennial elections and for any Member elected following a by-election.

In the event of a DBS check of an employee resulting in a positive disclosure, the Council’s Disclosure & Barring Service Policy (<https://inside.devon.gov.uk/task/disclosure-barring-service/disclosure-policy/>) outlines the action to be taken.

Whilst this Policy does not make specific reference to Councillors, should a DBS check of a Councillor result in a positive disclosure then - and in the spirit of the Councils Disclosure & Barring Service Policy - the following course of action must be undertaken in line with the approved Risk Assessment, attached as appendix 1.

It is the responsibility of the Council’s Monitoring Officer to ensure all appropriate actions, guidance and notifications are taken in such cases.

The Monitoring Officer will first undertake an assessment\* of the risk to both vulnerable adults and / or children and the reputation of the Council, the risk of the Councillor (the subject member) 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 member to continue in a particular role at all.

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 case to answer.

Thereafter and following consultation with the Head of the Paid Service (and Chief Officer for Adult and/or Child Protection, if necessary) the Monitoring Officer will subsequently advise the Leader of the Council and the Leader of the relevant Party Group of any proposed course of action to be taken and will then also discuss that proposed course of action with the subject member and explain the reasons therefor.

*(\*Any such risk assessment must necessarily require an objective common-sense approach, having regard not only to the Council's responsibilities for safeguarding and corporate parenting but the need for Councillors to maintain the highest standards of conduct in both their personal and professional lives. Also important is the need for any person in public life and holding a position of special responsibility to be extra vigilant.*

*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 Standards Committee as appropriate.*

*For Councillors who may be carrying out Regulated Activity (activity in Regulated Establishments such as schools), if the Councillor has a conviction for a relevant (autobar) offence, or if they are barred, this would prevent them from carrying out Regulated Activity. Additionally, in these circumstances the Council would have a duty to refer to the DBS for a potential barring decision. The Monitoring Officer will seek HR advice in these circumstances.*

*If a Basic or Enhanced check reveals that a Councillor has been sentenced to prison 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 would be lost.*

February 2024

## Appendix 1

### **DBS Risk Assessment Checklist**

Disclosure Certificate No:												
Full Name:												
Position check undertaken for:	Councillor											
Level of Check	Basic / Enhanced											

### **RISK ASSESSMENT**

#### **Monitoring Officer / Questions to Consider 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?	
What preventative measure(s) could be put in place to reduce the risk?	
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? (ie 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.	
Describe what preventative measure(s) could be put in place to reduce risk?	

**PART B – MONITORING OFFICER – ANY FURTHER ACTIONS**

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Please state any additional safeguarding measures required such as building restrictions, or additional safeguards to be implemented by the Council and / or referral to the Standards Committee. Examples below .....

*(NB; Notwithstanding the guidance relating to Regulated Activity and Sentencing referred to earlier)*

- Speak to Leader of the Council and / or Group Leader
- Consideration of Committee / Sub Committees / outside bodies appointments
- Exclude or restrict the Subject Member's access to some or all County Council premises;
- Any training required
- Withdraw facilities (e.g. computer access).