

**Manchester City Council  
Report for Resolution**

**Report to:** Personnel Committee – 29 January 2019

**Subject:** Improving DBS compliance

**Report of:** Director of Human Resources / Organisational Development (HR/OD)

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**Purpose of Report**

This report presents the background to the work programme being carried out to improve governance and administration arrangements regarding criminal record checks across the Council.

The report serves to provide assurance around criminal record checking activity, detailing the steps taken to ensure that safer recruitment decisions are being made whilst ensuring compliance with safeguarding duties to prevent unsuitable people from working with vulnerable groups.

**Recommendations**

The Committee is invited to note:

- the updated DBS framework, leadership arrangements and compliance activity.
  - the revised approach for Elected Members,
  - proposals for scoping volunteer capacity, including DBS compliance,
  - the use of funding of circa £50,000 to expand the Neighbourhoods' volunteer record to be used across the Council, and
  - support for the Ban the Box campaign.
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**Wards Affected:**

All

**Financial implications for the revenue and capital budgets**

There are no new financial consequences arising from the proposals within this report.

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**Background documents (available for public inspection):**

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

Legislation including: *the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, the Police Act 1997 (Criminal Records) and the Safeguarding Vulnerable Groups Act 2006*

*DBS Checks: Assurance Update* (presented to Audit Committee 14 July 2016)

*Disclosure & Barring Service (DBS) Checking Arrangements* (presented to Audit Committee - 03 September 2018).

*Consideration of the introduction of DBS checks for all Members* (presented to Standards Committee - 01 November 2018).

*Consideration of the introduction of DBS checks for all Members* (recommendations of Standards Committee presented to Council - 28 November 2018).

## **1. Background**

- 1.1 The Disclosure and Barring Service (DBS) was established in 2012 merging the previous functions of the Criminal Records Bureau (CRB) and those of the Independent Safeguarding Authority (ISA). DBS carries out criminal record checks for specific positions, professions, employment, offices, works and licences included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and those prescribed in the Police Act 1997 (Criminal Records) regulations.
- 1.2 This report sets out the work programme to respond to recommendations contained within an internal audit report issued in April 2018. The programme will strengthen organisational assurance of DBS management as a basis for safer recruitment and practice.
- 1.3 The inspection of DBS arrangements by internal audit provided a conclusion of moderate assurance (a notable improvement of the Limited Assurance findings from the last audit in 2015).
- 1.4 The DBS process, which involves completing, risk assessing and maintaining DBS clearance of staff and elected members is overseen by a network of Directorate Lead Countersignatories (DLCS). To meet the recommendations of the report the DCLS, with support from the HR team, and in consultation with the trade unions have:
  - refreshed the DBS policy framework (Appendix A)
  - audited the list of posts that require clearance, and
  - made system improvements and planned others, to improve Council records.

## **2. Leadership of DBS**

- 2.1 The DBS Group has agreed with the internal audit recommendation to strengthen leadership capacity of DBS. As such it has been agreed that HR & OD will lead on DBS compliance and the Director of HR & OD will be designated as Lead Countersignatory and registered as such with the DBS.
- 2.2 The Director of HR & OD will chair the DBS Group of Directorate Lead Countersignatories (referred to as the DBS Group).

## **3. Posts in scope of DBS clearance**

- 3.1 The Council's policy confirms that staff who work in or support those undertaking regulated activities with vulnerable children or adults require DBS clearance. The associated list of posts in scope of DBS has been reviewed by the DLCS in consultation with Heads of Service.
- 3.2 The HR&OD Service has introduced new SAP functionality, called Nakisa, which allows services to view structures in an organisational chart format. This enables managers to view DBS requirements for individual posts which will reflect the agreed corporate 'posts in scope' as described in 3.1.

3.3 Linked to this will be additional functionality which can also display the level of DBS check for each employee and the expiry date which ties in with the Council three year renewal policy.

3.4 Arrangements for compliance with DBS status are clear in the policy, however historically these have not always been followed by managers. It is proposed that further communications are issued to managers advising that the requirement for DBS clearance is determined by the DLCS in consultation with the Head of Service only. Any requests to vary posts in scope by managers must be agreed with the DLCS. The DLCS will be consulted by the HR team on all new posts to determine DBS status.

#### **4. Assessing Roles and Risk**

4.1 In an attempt to simplify—and provide consistency in—the decision making process (when considering whether a role requires DBS) the following prompts have been incorporated into the DBS framework to help identify whether a criminal record check is needed:

- Can the individual gain access to vulnerable adults and children through their work. This includes the opportunity for access to sensitive records about children and vulnerable adults, including education and social services records?
- Does the role have an influencing feature on vulnerable people and/or those who supervise or carry out regulated activities?
- Case law provides that there does not have to be a conviction, but a proportionate risk of any repeat of the types of incident recorded on a DBS from having a significant negative impact on vulnerable children and adults.

4.2 Where there is any uncertainty around suitability for a role the Council continues the current practice of completing a risk assessment (as outlined in the revised policy and guidance July 2017). As part of this practice the DLCS will continue to brief Heads of Service on an annual basis.

#### **5. Communication and Awareness of DBS Responsibilities**

5.1 Proposed key communication and awareness tools are as follows:

- An overview of Safer Recruitment to be incorporated in the corporate induction materials (currently being updated).
- Manager responsibilities to be reflected in Raising the Bar and Our Manchester Leadership training materials.
- The Senior Leadership Group to be briefed.
- A letter to be sent to every member of staff in a post that is agreed to require DBS clearance outlining their responsibilities and obligations.
- Engage with the Trade Unions who will be briefed and updated on implementation.

## **6. Volunteers**

- 6.1 The Council does not currently operate a corporate record of volunteer capacity across the organisation. Neighbourhoods Directorates are in the process of implementing a system to hold records for their volunteer network, which already holds circa 7000 records; schools hold local records for governors and other volunteers. Similar records are required to be held across the rest of the Council to give assurance:
- of appropriate oversight of volunteer capacity—in particular that volunteers are safe to practice in Council services, and
  - that volunteers themselves are working within a safe environment with the required training.
- 6.2 To address the above is proposed that:
- 6.3 Directorates are required to provide details of all registered volunteers to the HR service in order that the scope of volunteer capacity may be assessed. Following this assessment the likely capacity needed to maintain records and DBS compliance will be reviewed and a recommendation made.
- 6.4 Future volunteer recruitment is managed and recorded through the corporate recruitment system, ATS (Applicant Tracking System). This will provide a single record of volunteer capacity being engaged and appropriate recourse to enable any required DBS checks and/or risk assessments.
- 6.5 Resources are made available to expand MCRVIP (the current platform used by Neighbourhoods) to hold a corporate record of all volunteers and their DBS status. It is proposed that this record will share the same ICT infrastructure used by Neighbourhoods but there will be no corporate access to the records of volunteers held by the Neighbourhoods Directorate as these are used for targeted communications within their volunteer base.
- 6.6 The records on MCRVIP are used to direct a network of DBS cleared staff to oversee any Council volunteers from vulnerable groups. One example is young people on work experience placements, as part of current plans to strengthen work experience coordination a network of Work Experience Champions is being developed across all directorates—this group will be DBS cleared.
- 6.7 The DBS Group have been fully engaged with all changes to the DBS framework including the proposed approach for volunteers across the Council.

## **7. Ban the Box**

- 7.1 Business in the Community (BITC) are campaigning to 'Ban the Box' which calls on UK employers to give ex-offenders a fair chance to compete for jobs by removing the disclosure 'box' from application forms and instead asking for the necessary disclosures later in the recruitment process, i.e. once the candidate has been offered the role.

7.2 A number of local authorities have received correspondence from BITC requesting their support for the Ban the Box campaign and an approach has also been made directly to the GM Mayor. A proposal for supporting this campaign has been circulated across GM authorities and has been widely supported.

7.3 Legal View on Ban the Box:

Legal Services cannot identify any legal issues in supporting the campaign for roles that do not require a DBS check.

The legal advice obtained included recommendations to ensure that the process is fair when assessing disclosures made. To mitigate any risk this would involve:

- Making sure that any correspondence to the successful applicant(s) is clear that the offer is subject to 'satisfactory' references/record checks.

- If a record check/reference came back and revealed information which suggested there would be some risk attached to that applicant carrying out that particular role, then a risk assessment would be required balancing the apparent risk against the nature of the job being applied for—taking into account any industry guidance or sector-specific regulations.

- If the outcome of this assessment is that the risk is deemed too great, then a clear explanation of the decision would need to be communicated to the applicant. As the applicant may feel unfairly treated and may be likely to seek further information about how the decision was made it is important that these explanations are confirmed in writing and are clear and concise.

7.4 DBS responsibilities: As required by the DBS Code of Practice organisations must have a policy on the recruitment of people with convictions. As with all policies it is good practice that these are reviewed and refreshed as necessary. The invitation from Business in the Community to support and commit to the campaign provides an opportunity to review current processes in light of the campaign requirements.

7.5 The intention is to undertake work to implement the revised process to support the campaign by the end of Q1 financial year 2019/20 (June 2019).

## **8. Consideration of the introduction of DBS checks for all Members**

8.1 A report from the City Solicitor presented to Standards Committee (01 November 2018) and Council (28 November 2018) considers whether Disclosure and Barring Service (DBS) checks should be undertaken for some or all elected and co-opted members serving on the Council and its committees.

8.2 The report explained the different levels of check that are available and the information each would disclose: a basic check, a standard check and an

enhanced check. It also examined the different roles that councillors and co-opted members undertake in the Council and explained the significance of “regulated activities” and “saved regulated activities” as defined by the Protection of Freedoms Act (2012), and which activities undertaken by councillors would be considered to be regulated activities.

- 8.3 The report examined a range of options to consider. From ending the requirement for any checks on any councillors; maintaining the present arrangements; introducing more enhanced checks for those members involved in “saved” regulated activities and introducing basic checks for all councillors and co-opted members.
- 8.4 Standards Committee supported the continuation of the present arrangements and introduction of the further options as set out in the report, with councillors involved in saved regulated activities needing an enhanced check, and all other councillors and co-opted members being asked to agree to a basic check that they share with the Council. The committee noted that no member could be compelled by the Council to have a basic check, but suggested that information on the number of councillors who had done so should be published each year.
- 8.5 The Committee also agreed that that it will be important for there to be well-written guidance on the arrangements relating to DBS checks for councillors which political parties could use for candidates that want to stand for election to the Council.
- 8.6 The process for checking will be improved in 2019 as the Council makes steps to register with the DBS Update Service, this will allow instant online checking of DBS certificates, fewer administrative procedures and strengthen the Councils current safeguarding processes. This will make the process for carrying out checks more efficient across the organisation, including any checks required for members.
- 8.7 As referenced in 8.1 following the presentation of the report to Standards Committee the recommendations were submitted to Council on 28 November 2018.
- 8.8 Following the recommendations from Standards Committee the Council agrees to:
- a) continue to carry out enhanced DBS checks with a check of the barred lists of members who sit on the Fostering and Adoption Panels or who undertake regulation 44 inspections of children's homes;
  - b) undertake enhanced DBS checks, with a check of the barred lists, for all other elected and co-opted members who undertake “saved” regulated activities, namely:
    - all members of the Executive,
    - all members of the Health and Wellbeing Board,
    - all members of the Children and Young People Scrutiny Committee,
    - members of the Health Scrutiny Committee; and

- c) request all other members and co-opted members to agree to basic disclosure checks.

## **9. Comments from Director of HROD**

- 9.1 This report sets out the work programme to strengthen organisational assurance of DBS management as a basis for safer recruitment and practice.

## **10. Comments from Trade Unions**

- 10.1 To follow.