

Birmingham City Council

Standards Committee

Date: 5th October 2023



Subject: Councillors DBS Checks

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1. Purpose of report:

- 1.1 To provide an oversight of the processing of DBS Applications for Councillors.
- 1.2 To explain why the Standard DBS check is the current level of check undertaken.

2. Recommendations:

- Ensure that candidates standing in elections know that DBS checks will be required upon election to the City Council.
- Recommend that the Council requires that Standard checks for all Councillors be undertaken upon election.
- That DBS checks are incorporated into the induction process.
- The Monitoring Officer be advised that all members have undergone a DBS check and the Monitoring Officer be advised of any adverse entries.
- Ensure that members are aware that they can speak confidentially to the Monitoring/Deputy Monitoring Officer, should any members have any concerns in completing this process.
- Consider whether any amendments are required to the code of conduct; that at any point during their term of office they participate in any activity that could result in harming their reputation e.g., fine, caution, reprimand that they must advise the Monitoring/Deputy Monitoring Officer immediately on a confidential basis.

3. Background:

3.1 There are three types of DBS Checks:

- Basic
- Standard
- Enhanced.

Further information can be found at

[About us - Disclosure and Barring Service - GOV.UK \(www.gov.uk\)](https://www.gov.uk/about-us-disclosure-and-barring-service)

Basic Check

- 3.2 A basic check is a check of any conditional cautions and unspent convictions, under the terms of the [Rehabilitation of Offenders Act 1974](#).
- 3.3 The Rehabilitation of Offenders Act 1974 aims to give those with convictions or cautions the chance – in certain circumstances – to wipe the slate clean and start afresh.
- 3.4 Under the Act, eligible convictions or cautions become ‘spent’ after a specified period known as the ‘rehabilitation period,’ the length of which varies depending on how the individual was dealt with.
- 3.5 Any individual can request a Basic DBS check.

Standard check

- 3.6 A Standard check will cover details of both spent and unspent convictions, cautions, reprimands and warnings that are held on the Police National Computer, which are not subject to filtering.
- 3.7 Convictions or cautions become ‘spent’ after a specified length of time, known as the ‘rehabilitation period.’ This means that once the rehabilitation period has been completed, they will not show on a Basic DBS certificate. You do not need to tell anyone about a spent conviction unless you are applying for a job where a Standard, Enhanced, or Enhanced with Barred Lists DBS check is needed.
- 3.8 A table of rehabilitation periods for the most common sentences and disposals can be found [here](#), along with some example scenarios.

What is not covered on a Standard Disclosure?

- 3.9 The following are not disclosed
 - Fixed penalty notices (e.g., speeding tickets, littering fines, etc.)
 - Allegations (if you are accused, but not prosecuted of a crime)
 - Filtered cautions or convictions (see below for more details)
 - Details of whether convictions or cautions are spent or unspent.

What are ‘filtered’ convictions and cautions?

- 3.10 Cautions are filtered after 2 years for under 18’s and 6 years for adults. Convictions are filtered after 5.5 years for under 18’s and 11 years for adults.

3.11 Some offences are exempt from filtering, i.e., they will always be disclosed on a standard DBS check. Here are some examples:

- Many sexual offences, including indecent assault, possessing indecent images of children, etc.
- Some violent offences, including affray, assault with actual bodily harm, robbery, etc.
- Safeguarding offences, including wilfully abandoning a child under 16.
- Supply of controlled substances.

Enhanced

3.12 Enhanced DBS checks is suitable for people working with children or adults in certain circumstances such as those in receipt of healthcare or personal care. The certificate will contain the same details as a standard certificate and, if the role is eligible, an employer can request that one or both of the [DBS Barred Lists](#) are checked.

3.13 Barred lists are databases that contain details of individuals that have been banned from working with children or vulnerable adults due to past behaviour or offences. The idea of barred lists is to protect vulnerable people from potential harm caused by predatory, violent, and abusive criminals.

3.14 The certificate may also contain non-conviction information supplied by relevant police forces, if it is deemed relevant and ought to be contained in the certificate

4. What is the process at Birmingham City Council

4.1 Following the May 2022 elections, a review of the DBS process was undertaken and it was subsequently agreed that the level of check for councillors was to be the Standard DBS check.

4.2 There is no legal requirement or mandatory requirement for Councillors to complete DBS checks. However, as community champions, it is fundamental that they have the trust of the electorate.

4.3 In conducting a standard check the Council can ascertain that Councillors are not excluded under this point of section 80 of the Local Government Act 1972. A standard check would detail both spent and unspent convictions. A basic check would not detail spent convictions.

4.4 The council is required to adhere to the DBS Code of Practice which includes only applying for Disclosure Barring Service (DBS) checks for individuals whose roles satisfy a prescribed framework.

- 4.5 For a Councillor to request an Enhanced DBS check for their role, they would need to meet the specific requirements for the Council to undertake this;
- 1) involved in direct contact with children or vulnerable adults and
 - 2) that this contact will be regular (i.e.
 - (i) at any time on more than three days in any period of 30 days; or
 - (ii) at any time between 2am and 6am and the activity gives the person the opportunity to have face-to-face contact with the adult; or
 - (iii) at least once a week on an ongoing basis)
- 4.6 And both of the criteria above would need to be met by the Councillor to request an enhanced check.
- 4.7 Members are emailed shortly after commencing their four year-term of office to undertake a DBS check. The email contains the link to the online DBS application and provision of the verification documents to complete the process. The DBS system is managed by People Services.
- 4.8 The application process is shown in Appendix A.

5. Are DBS checks Mandatory?

- 5.1 Candidates in an election sign a declaration to state that they are eligible to stand in the election, confirming that there are no reasons under any of the prescribed conditions set out in section 80 of the Local Government Act 1972 to prevent them from standing as a Councillor.
- 5.2 There is nothing in the current guidance to state that once elected they will undertake a mandatory Standard DBS check in addition to making their declaration as a candidate.
- 5.3 Elected members are requested to undertake a DBS check but there is no legal requirement or BCC code that stipulates this is a mandatory procedure.
- 5.4 Councillors are governed by the Councillors Code of Conduct. The Code is designed to protect the democratic role of a Councillor, encourage good conduct, and safeguard the public's trust in local government.
- 5.5 There have been many calls for mandatory DBS checking of Councillors, more recently reporting at Sandwell Council, for which it has been agreed for members to obtain a basic check –
- <https://www.birminghammail.co.uk/black-country/criminal-record-checks-councillors-given-26432423>
 - [Calls for mandatory DBS Checks for councillors rejected again — Personnel Checks](#)

- [Agenda for Standards on Wednesday, 13th July, 2022, 10.00 am | Torridge District Council](#)
- [bid for mandatory checks on councillors 'may be unlawful' | Exmouth Journal](#)

5.6 It is important to note that;

- You only need to tell an organisation about an unspent conviction or caution if they ask you to. This starts with declaration at start of process that they sign when becoming a Councillor.
- The Result of application will only show what has been found at that point in time.
- Any information included will be accurate at the time the check was conducted. Therefore, a Councillor could at any point do something wrong, unless it is reported the City Council would be unaware.
- A DBS check has no official expiry date.

6. Proposed Process

- 6.1 To ensure that all DBS checks are undertaken and to ensure the Monitoring Officer is aware of any “results” adverse entries. Democratic Services to confirm to the Monitoring Officer that all DBS checks have been completed or alternative the names of those members who have not undertaken the relevant check).
- 6.2 All DBS checks will be undertaken at the time of the Councillors election to the Council (i.e., at the next scheduled elections in May 2026) or at the time of any by-election.
- 6.3 The DBS process to be incorporated into the members induction day, and candidates/elected members notified in advance that verification documents will be required, so the process can be completed on the same day.
- 6.4 To consider if Councillors should be encouraged, on receipt of their certificates, to sign up for the [DBS Update Service](#)

The Disclosure and Barring Service (DBS) Update Service allows:

- applicants to keep their DBS certificates up to date
- employers to check a DBS certificate

The service is for standard and enhanced DBS checks only.

The current cost for this service is £13 per year and Councillors would need to register for this service within 30 days of their certificate being issued.

- 6.5 Any “results” adverse entries will be reported through to the monitoring officer. The monitoring officer will decide upon the results appropriate action and in consultation with the member and the Group Leader.

DBS Application Process for Members

