



POLICY & RESOURCES SCRUTINY COMMITTEE – 25TH FEBRUARY 2020

SUBJECT: SAFER RECRUITMENT PROCEDURE AND DISCLOSURE AND BARRING SERVICE (DBS) POLICIES

REPORT BY: HEAD OF PEOPLE SERVICES

1. PURPOSE OF REPORT

1.1 The purpose of the report is to consult with Policy & Resources Scrutiny Committee in relation to the Safer Recruitment Procedure and Disclosure and Barring Service (DBS) Policies attached as appendices 1, 2 and 3 to this report prior to consideration by Cabinet.

2. SUMMARY

2.1 Caerphilly County Borough Council's current Recruitment and Selection Procedure was last reviewed in 2004. Approval is now being sought from Cabinet to introduce a revised procedure that is reflective of current safe recruitment practice and equal opportunity.

2.2 The proposed Safer Recruitment Procedure attached (Appendix 1) complements the current vacancy management process and guidance that is available for recruiting managers on the Council's intranet, i.e. the process and guidance that requires regular review and update in accordance with Council operational priorities and legislative updates.

2.3 The focus of this proposed Safer Recruitment Procedure is based on equal opportunities and safer recruitment practice, both of which are non-negotiable requirements in recruitment to posts within the Council. It provides a set of guidelines which ensure a fair and objective process is followed in recruitment, which takes account of employment and equalities legislation together with Safeguarding best practice when recruiting to a post and / or engaging agency staff / volunteers to work across the Council. It reflects the statutory guidance and best practice principles of the South East Wales Safeguarding Children Board (SEWCSB), the Gwent Wide Adult Safeguarding Board (GWASB) and Care Inspectorate Wales (CIW) where awareness and good practice is promoted.

2.4 Integral to Safer Recruitment practice is the Council's position on Disclosure and Barring Service (DBS) checks and it is an expectation of the DBS that the Council's position is clearly reflected in written policy. The Council has consistently followed

DBS Policy and Procedure in its operational practice but it has not yet published its own written policy position. This Policy is now attached at Appendix 2.

- 2.5 The DBS issued guidance in Autumn 2018 entitled 'A Guide to School Governors and Elected Councillor Roles in Wales (Attached at Appendix 4)'. This guidance now gives the Council the opportunity to review its current operational practice to ensure that it is consistently robust and safe. In response to this guidance, Committee Services, HR, Education and Social Services colleagues responsible for / involved with safeguarding seek to extend the operational DBS checking process to include Elected Members and School Governors as outlined in the DBS Policy and Procedure documents attached at Appendices 2 and 3.

3. RECOMMENDATIONS

- 3.1 It is recommended that Policy and Resources Scrutiny Committee note the contents of the report and recommend:
- 3.1.1 The Safer Recruitment Procedure attached at Appendix 1 to Cabinet for approval. This will replace the current 2004 Recruitment and Selection Procedure.
- 3.1.2 The DBS Policy attached at Appendix 2 to Cabinet for approval. This Policy will be published on the Council's website.
- 3.1.3 The DBS Policy relating to School Governors attached at Appendix 3 to Cabinet for approval. This Policy will then be circulated to Schools for recommended adoption.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 Caerphilly County Borough Council is committed to safeguarding children and vulnerable adults who access the services it provides and consistently utilises the services offered by the DBS to assist in the protection of children and vulnerable adults from persons who may wish to harm them. The Council's safe recruitment practice and DBS practice is not accurately captured and presented in a current written policy, which does not truly reflect operational practice
- 4.2 The DBS decision to circulate guidance on checks relating to Elected Members and School Governors in Autumn 2018, highlighted that individuals holding these positions are eligible to be asked to apply for enhanced level DBS checks in the child or adult workforce, but without relevant barred list checks. Following a review of this guidance the preference of consultees was to include these groups in the Council's DBS checking process as appropriate.

5. THE REPORT

Safer Recruitment Procedure

- 5.1 The Council's current Recruitment Policy was written from a corporate process perspective, is 43 pages long and dates back to 2004. This policy is long overdue for review and the process information contained therein is largely out of date.
- 5.1.1 Whilst the Council can demonstrate that current operational process promotes safe

practice in recruitment, our current procedure does not indicate that the safety and wellbeing of our children, young people and vulnerable adults are a Council priority, nor that we take all reasonable and sensible measures in recruitment to keep them safe from those who may wish to harm them.

5.1.2 Nowhere within the Council's current Recruitment and Selection Procedure are the words 'child'; 'children', or 'vulnerable adult' written. The current operational practice has moved on to incorporate safeguarding requirements, however, the procedure is not reflective of the safer operational practice of the Council.

5.1.3 In direct contrast to the current policy, the proposed Safer Recruitment Procedure in terms of title and content complements our Corporate Safeguarding Policy which emphasises that:

- The Council ensures that everyone working with or on behalf of children and vulnerable adults are competent to do so.
- The Council promotes safer recruitment policy and practice.
- Safeguarding responsibilities for all employees are emphasised from the point of recruitment and throughout their employment.
- All Heads of Service / Chief Officers must ensure that safe recruitment practices are adopted.

5.1.4 The proposed Safer Recruitment Procedure furthermore complements the Council's voluntary pledge to support the Armed Forces in that, the recruiter must always be prepared to ensure that applicants who have identified themselves as members of the Armed Forces, and who meet the essential criteria of the person specification, are guaranteed an interview. Members of the Armed Forces include:

- Service Leavers
- Veterans
- Reservists
- Spouse

5.1.5 The proposed Safer Recruitment Procedure was shared with HR Strategy Group colleagues and consequently Directorate feedback was received. The Procedure was updated accordingly and shared with our Corporate and Education Trade Union colleagues on the 30th August 2019. Their feedback was requested and received at the Education Joint Consultative Committee (JCC) meeting held on the 25th September 2019. The Safer Recruitment Procedure was positively received and no amendments to the procedure were requested.

DBS Policy and Procedure

5.1.6 Scrutiny Members will be aware that the DBS service allows organisations to make safer recruitment decisions by providing access to criminal records for posts which are deemed to require a criminal records check. The Council is committed to safeguarding children and vulnerable adults who access the services it provides and consistently utilises the services offered by the DBS to assist in the protection of these groups from persons who may wish to harm them.

- 5.1.7 The Council's position on DBS checks is integral to Safer Recruitment practice and it is an expectation of the DBS that this position is clearly reflected in written policy.
- 5.1.8 The DBS Policy attached at Appendix 2 outlines the Council's current practice and clarifies that in addition to DBS checks that are undertaken for employees who qualify for a DBS check and who are subject to a 3 year renewal check:
- DBS checks will equally apply to Agency workers who undertake duties within the Council which have been identified as requiring a DBS check. The Agency worker must have a valid DBS certificate which has been issued within the last 12 months i.e. in line with current operational practice.
 - The Council will carry out checks for Elected Members who serve on committees which involve the delivery of services for Children and Adults relating to Education or Social Services. Other specified roles which involve the Elected Member serving on committees or as a designated person will also require a DBS check. N.B. Committee Services have engaged Elected Members in this capacity in recent months.
 - Volunteers whose roles are eligible for a DBS check and which meet the DBS definition of a volunteer will be required to have the relevant level of DBS check in place prior to commencing their volunteering role' i.e. in line with current operational practice.
 - The Council will also recommend to Schools that Governors are DBS checked as they are incorporated into the definition of "work with children" thus making them eligible for an enhanced level DBS check for the child workforce. N.B. This is a proposed position that with Cabinet agreement will be recommended to Schools for adoption as highlighted in Appendix 3.
- 5.1.9 The 'Guide to School Governor and Elected Councillor Roles in Wales' 2018 as referred to in 2.5 above is an undated document which helpfully clarifies the legislative position that supports the DBS to undertake an enhanced DBS check (no barred list check) at the request of the employer for:
- School Governors including member or clerk to the governing body of an educational establishment and/or a person appointed by the governing body of a maintained school to serve on a committee.
 - Elected Councillors if they are appointed as a member of a committee or sub-committee involved in the delivery of services for children relating to education or social services and/or the delivery of services for adults relating to social services.

Under the position of 'legislation', the guidance states:

- *'These roles used to be included in the original definition of regulated activity with children and adults, as set out in the Safeguarding Vulnerable Groups Act (SVGA) 2006. Following changes to this definition by the Protection of Freedoms Act 2012, School Governors were removed. This means that the roles were no longer classed as being regulated activity and therefore not eligible for a barred list check'.*

- The Police Act 1997 (Criminal Records) Regulations 2002 were amended in 2012 for School Governors and in 2013 for Elected Members to incorporate these roles into the new definition of 'work with children' and 'work with adults'. This made the individuals holding these positions eligible to be asked to apply for enhanced level DBS checks in the child or adult workforce, but without relevant barred list checks.

5.1.10 Following the DBS' circulation of 'A Guide to School Governor and Elected Councillor roles in Wales' in Autumn 2018:

- The Committee Services Team have worked with relevant Elected Councillors to undertake enhanced DBS checks as deemed appropriate.
- HR have engaged with colleagues responsible for Education and Safeguarding in the Council, Headteachers in cluster group meetings and Trade Unions through the JCC forum to seek their views on whether some or all governors should be asked to apply for an enhanced level DBS check (no barred list).

5.1.11 With regard to School Governors specifically, it was the preference of all consultees to recommend to Schools that all Governors be asked to apply for an enhanced level DBS check (without a barred list check). This recommendation is reflected in the DBS Policy relating to School Governors document attached at Appendix 3.

5.1.12 Trade Union colleagues on the 25th September 2019 at JCC supported the recommendation to Schools that all School Governors should be asked to apply for an enhanced level DBS check (without a barred list check).

5.2 **Conclusion**

5.2.1 The Council's clear commitment to ensuring safe operational practice is not expressed in written policy. The proposed Safer Recruitment Procedure and recommended DBS Policies that have been referred to in this report for adoption and publication on the Council's website, will rectify this.

5.2.2 The adoption of the Safer Recruitment Procedure and the DBS Policy clearly outlines the Council's commitment to safe recruitment and DBS practice and officer accountability to ensure this.

5.2.3 In supporting the recommendation of a DBS Policy to our Schools relating to School Governors specifically, Scrutiny members will show their commitment to ensuring robust DBS practice within Schools.

6. **ASSUMPTIONS**

6.1 There are no assumptions made within this report.

7. **SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

7.1 The proposed procedures and policies link to the Corporate Safeguarding Policy and the People Management Strategy and therefore to all other strategies, including all equality strategies, policies and procedures, that rely on employees to deliver the strategy and service provision.

7.2 **Corporate Plan 2018-2023.**

The proposed procedure and policies support Objective 1. i.e.: *Improve education opportunities for all, Outcome 8 - Safeguard all children and young people in order to create a climate for learning, particularly for those most vulnerable.* Safe recruitment practice and relevant DBS checks are integral to ensuring a safe learning environment. These are fundamental principles that underpin the delivery and development of sufficient and sustainable safeguarding training.

8. **WELL-BEING OF FUTURE GENERATIONS**

8.1 Having considered the five ways of working, they will not be affected by the contents of this report.

9. **EQUALITIES IMPLICATIONS**

9.1 An EIA screening has been completed in accordance with the Council's Strategic Equality Plan and supplementary guidance. No potential for unlawful discrimination and/or low level or minor negative impact has been identified, therefore a full EIA has not been carried out. It should be noted that DBS certificates cannot be printed in Welsh due to procedures laid down in Part V of the Police Act 1997.

10. **FINANCIAL IMPLICATIONS**

10.1 There will be additional costs incurred as a result of the extension of DBS checks to include School Governors. It is the intention to progress the DBS check of every School Governor through the E-Bulk process, which will incur a £2.50 administrative charge in each case. The actual DBS check itself will be free of charge on the premise that School Governors are unpaid volunteers.

10.2 The DBS recently reviewed its charges as follows with effect from 1st October 2019:

- Basic DBS check - £23.00 (previously £25)
- Standard DBS check - £23.00 (previously £26)
- Enhanced DBS check - £40.00 (previously £44)

10.3 The reduction in cost of the DBS check could offset the £2.50 administrative charge that the Council will incur as we progress to using E Bulk for the vast majority of checks that we undertake which are enhanced checks.

11. **PERSONNEL IMPLICATIONS**

11.1 There is likely to be some support requirements on the part of some governors in completing the online application. HR will produce guidance documents to support this process and will support Schools to progress these checks.

12. **CONSULTATIONS**

12.1 All consultation responses have been incorporated in the report.

13. STATUTORY POWER

- 13.1 Local Government Act 1972
Protection of Freedoms Act 2012

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Appendices:

- Appendix 1 Proposed Safer Recruitment Procedure
Appendix 2 Proposed DBS Policy and Procedure
Appendix 3 Proposed DBS Policy and Procedure relating to School Governors
Appendix 4 DBS Guidance 'A Guide to School Governor and Elected Councillor roles in Wales' 2018

Background Papers:

Recruitment and Selection Procedure 2004