Members’ Safeguarding and Criminal Records Checks Policy

Date 22/07/15
Version 1.0
**Current Document Status**

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<th>Responsible officer</th>
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<tr>
<td>Matthew Stokes</td>
<td>April 2018</td>
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**Version History**

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<td>Matthew Stokes</td>
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**Comprehensive Impact Assessment Record**

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**Document retention**

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1. Summary

The Council has a statutory duty to ensure the safety and welfare of children, young people and adults. It also has a responsibility to ensure high standards of behaviour by its Members. The different elements of this policy collectively contribute to these objectives and particularly the safeguarding responsibilities of the Council and individual Members.

Safeguarding is a shared responsibility and is one of the most important duties with which the Council, its Members and officers are charged.

We all need to ensure that if we observe something that concerns us we report it to the appropriate person or, according to our role, we take the appropriate action.

Members need to be mindful of the public trust that is placed in them in their official capacity by virtue of their membership of the Council and avoid circumstances which expose them to allegations of improper behaviour that could damage the reputation of the Council.

2. Scope

This policy covers:

Part 1 – Safeguarding – how Cornwall Council Members are expected to discharge their duties to safeguard and promote the welfare of children, young people and adults in Cornwall.

Part 2 – Criminal records checks – what checks will be undertaken for which Members and the requirements on Members.

Part 3 – How the Council will deal with safeguarding issues or positive criminal records checks relating to Members.

Part 4 – General and administrative issues.

3. Application and communication

This policy applies to all Members and reference to ‘Members’ includes all Cornwall Councillors as well as those persons co-opted to the Council’s Committees. The policy will be communicated to Members by whatever means and at such frequency as are considered appropriate.

4. Further detail and support

For further detail on particular aspects of safeguarding or criminal records checks reference should be made to the corresponding documents relating to staff or enquiries can be made:
• in relation to safeguarding of the appropriate officers in Adults or Children’s Services or, during officer hours, of the safeguarding contacts whose details are below; and
• in relation to criminal records checks the HR Safeguarding Team in on
01872 324130 or by e-mailing hrsafeguardingteam@cornwall.gov.uk.

If you have a safeguarding concern that you need to report please use the contact details below:

**Safeguarding Children**

Telephone: 0300 1231 116  
Out of hours telephone: 0300 1234 100

The out of hour’s service runs from Monday to Thursday 5.15pm (4.45pm on Fridays) until 8.45am weekdays and for 24 hours on Saturday and Sunday.

Website: [www.safecchildren-cios.co.uk/](http://www.safecchildren-cios.co.uk/)

For further information please see [safeguarding and child protection](#).

**Safeguarding Adults**

Telephone: 0300 1234 131  
Out of hours telephone: 0300 1234 131 – Option 1 (For emergencies only)  
Email: adultcarehealthandwellbeing@cornwall.gov.uk

Members will have detailed guidance to support them to do this in the [Alerters Guide](#) for adults.
Part 1 – Safeguarding

5. Essentials

For Members to be effective in relation to safeguarding it is essential they:
• know what safeguarding means;
• know the signs and symptoms of potential harm;
• know that safeguarding is everyone’s responsibility;
• understand their responsibilities as elected Members;
• know how to access safeguarding information, advice and guidance; and
• are committed to making an informed contribution to safeguarding children, young people and adults.

A child is anyone who has not yet reached their 18th birthday.

Young people are children who have reached the age of 17 but not yet reached majority although they are still within the definition of children.

The Care Act 2014 replaced the ‘No Secrets’ guidance and placed safeguarding adults on a statutory basis. The safeguarding duties apply to an adult who:
• has needs for care and support (whether the local authority is meeting any of those needs); and
• is experiencing, or at risk of, abuse or neglect; and
• as a result of those care and support needs, is unable to protect themselves from either the risk of, or the experience of, abuse or neglect.

6. Safeguarding Children and Young People

6.1 Corporate Parenting

Cornwall Council’s corporate parenting role for children and young people in public care depends upon ownership and leadership at a senior level including by Members and the embedding of that understanding throughout the Council’s workforce. We act upon our responsibility and monitor our actions to ensure good parenting for all children and young people in our care, including safeguarding and promoting their education.

6.2 Policy background

The policy background comes mainly from:
• the Children Act 1989;
• the Children Act 2004;
• Chapter 3 of the statutory guidance to the Children Act 2004, Working Together to Safeguard Children, (DfE 2015); and
• the statutory guidance on making arrangements to safeguard and promote the welfare of children under section 11 of the Children Act 2004 (www.everychildmatters.co.uk).

Safeguarding and promoting the welfare of children and young people
means:
• protecting children and young people from maltreatment;
• preventing impairment of their health or development;
• ensuring they grow up in circumstances consistent with the provision of safe and effective care; and
• enabling them to have optimum life chances and to enter adulthood successfully.

The main categories of abuse against children and young people are:

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The emerging picture about the scale and nature of child sexual exploitation means that additional and specific arrangements are in place to prevent, detect and disrupt this insidious form of child abuse.

We work with partners from the Safeguarding Children Board and the wider community to promote awareness of neglect and abuse and appropriate ways to respond to safeguarding concerns.

6.3 Principles of Safeguarding Children and Young People

The principles underpinning all of the Council’s work with children and young people are detailed in the officer safeguarding policy and include:
• child/young person centred – seeing and listening to them;
• supporting the achievement of best possible outcomes for them;
• holistic – seeing the whole and not just aspects of their lives;
• collaboration between agencies and appropriate information sharing;
• taking prompt and decisive action to help and protect children at risk of significant harm; and
• monitoring and reviewing the impact of intervention.

7 Safeguarding Adults

7.1 Key messages

The responsibilities flowing from the Care Act 2014 can be summarised as:
• the principle of promoting individual well-being;
• person centred care and support planning;
• duty to assess where an adult appears to need care and support;
• duty to assess carers who appear to have need for support; and
• duty to pursue safeguarding enquiries.

When supporting adults who are parents/carers, it is important to be alert to the impact of any incapacity on the welfare and safety of any children in the household and to take appropriate action to safeguard them.
7.2 Policy background

The policy background comes from the Care and Support Statutory Guidance issued under the Care Act 2014.

The main categories of abuse against adults are:

- **Physical**
- **Domestic violence**
- **Sexual**
- **Psychological**
- **Financial/material**
- **Modern slavery**
- **Discriminatory**
- **Organisational**
- **Neglect/acts of omission**
- **Self-neglect**

7.3 Principles of Safeguarding Adults

The following principles underpin all of the Council’s work with adults:

- the right to live their lives free from violence, fear and abuse;
- the right to be protected from harm and exploitation; and
- the right to independence, which carries with it a degree of risk.

8 Responsibilities for safeguarding

Members safeguarding responsibilities are to:

- comply with relevant legislation and statutory requirements;
- undertake the required criminal record checks in accordance with the Council’s Policy on checks for Members;
- undertake appropriate training;
- know how to respond to a safeguarding concern or alert; and
- know what to do if an allegation is made against another Member, or anyone else.

The Council’s responsibilities for safeguarding, which are detailed in the corresponding policy relating to staff, include:

- ensuring the highest standards of safer recruitment, supervision and management oversight of staff;
- advising/supporting schools and governing bodies on safeguarding;
- taking appropriate action regarding any safeguarding concerns; and
- promoting the highest standards of safeguarding practice across the Council.

Each Directorate has clear lines of accountability in relation to its work in safeguarding.

The Council is a member of the Cornwall and Isles of Scilly Local Safeguarding Children Board and subscribes to the South West Safeguarding and Child Protection Procedures (www.swcpp.org.uk) and related measures.
The Council adheres to the Cornwall and Isles of Scilly Multi-agency Safeguarding Adults Policy (www.cornwall.gov.uk/safeguardingadults).

9 Training

Members will be offered appropriate safeguarding and safe working practices training.

10 Responding to a safeguarding concern or alert

If there is a safeguarding concern about a child, young person or adult, one of the dedicated safeguarding teams should be contacted, as above.

11 Management of concerns or allegations relating to Members

All such concerns or allegations must be reported immediately and will be dealt with in accordance with Part 3 of this Policy.

Use should be made of the Whistle Blowing Policy where appropriate:

Part 2 – Criminal records checks

12 Summary

The Council must have a policy in place relating to the checking of criminal records for new and existing Members. This policy complies with the corresponding legislation and the Disclosure and Barring Service (DBS) Code of Practice.

This Part sets out the Council’s approach to undertaking criminal records checks for existing and new Members.

The Council undertakes criminal records checks to establish whether a Member has any criminal convictions, cautions, reprimands, warnings or other relevant information in relation to which the Council should be taking appropriate steps in line with its safeguarding responsibilities. Checks are administered by the HR Safeguarding Team and undertaken with the Disclosure and Barring Service or Disclosure Scotland as appropriate.

13 Declaring criminal convictions

When a Member is elected, re-elected or co-opted details of unspent criminal convictions are requested of them. Whilst we would want them to do so, in confidence, Members are not required to declare spent cautions or convictions unless they are covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Further details on spent convictions can be found here:


14 Criminal records checks for Members

The Council has decided that the requirements for criminal records checks for Members are:

- all Cabinet Members – enhanced checks; and
- all other Members – basic checks.

The Council’s expectation is that Members will undertake the correct level of check before taking up seats on the Cabinet or any committees.

The Council also undertakes enhanced checks for every member of the Council’s Fostering and Adoption Panels.

Where a Member has had a prior period of residence overseas, the Council will, where appropriate, seek a criminal records check from the relevant country or countries as the domestic DBS process does not access criminal records held overseas. The Home Office guidance is available at this link:

If a Member is already registered with the DBS Update Service we may request their permission to undertake a status check. Further details can be found on the DBS website.

Details of what each type of check covers can be found on the Disclosure and Barring Service website and in the corresponding policy for officers.

Criminal records checks for Members will typically be undertaken:
- when a Member has not had a criminal records check at the required level for at least three years;
- when a Member discloses an offence or incident which requires clarification through a formal disclosure;
- upon a Member joining the Council, whether newly elected or returned;
- a Member takes on responsibilities requiring a higher level of check.

15 Types of disclosure results

A clear disclosure certificate is one where there is no record of any relevant information.

A positive disclosure certificate is one which contains content about cautions, convictions, reprimands, warnings or information held locally by police forces relating to the Member and the activities they will or may be or may have been involved in whether as a private individual or a Member.

If a positive disclosure is received the HR Safeguarding Team will ensure that the relevant safeguarding lead is notified where there is a safeguarding concern and will notify the Chief Executive and the Monitoring Officer (or the appropriate officers in their absence) at the earliest opportunity (and in any event within one working day). The Chief Executive and the Monitoring Officer will invoke Part 3 of this policy. Although the HR Safeguarding Team will receive online notification of a positive disclosure they will not know what convictions or cautions are disclosed until the certificate is available.

A refusal by a Member to undertake a criminal records check will also be referred to the Chief Executive and the Monitoring Officer as above as there will be a lack of assurance as to the Member’s previous conduct, including whether there are any safeguarding issues.

16 Criminal records certificates from other organisations

The Council will not accept DBS disclosure certificates from other organisations for any Member.
Part 3 – How the Council will deal with safeguarding issues or positive criminal records checks relating to Members

17 Summary

This Part sets out how to deal with safeguarding concerns and allegations relating to Members, whether those concerns arise as a result of positive criminal records disclosures or otherwise, as well as how to deal with positive criminal records disclosures outside of the safeguarding framework. It seeks to achieve a proportionate response to any issues whilst still ensuring compliance with our other responsibilities.

In relation to safeguarding issues the LADO process takes priority.

The Council’s primary responsibility in relation to any safeguarding issues is to ensure that all appropriate action is taken to mitigate or prevent risks to children, young people or adults. Whenever there are safeguarding concerns, all appropriate safeguarding measures must be followed through, whatever the wider consequences for the Council.

18 Dealing with safeguarding concerns and allegations relating to Members

Safeguarding allegations or concerns about Members however arising must first be reported to the relevant dedicated safeguarding team. They will ensure that appropriate steps are taken to send a referral to the Local Authority Designated Officer (LADO) Service. The contact details are at the beginning of this document.

The LADO Service, which includes the Designated Adult Safeguarding Manager, is responsible for the management and oversight of all cases where allegations are made or concerns raised about a person, whether an employee, volunteer or student, paid or unpaid who may have harmed or who may pose a risk to children, young people or adults.

The LADO process must be followed and take priority in relation to any safeguarding concern or allegation.

The Safeguarding Team is also required to notify the Chief Executive and the Monitoring Officer (or the appropriate officers in their absence) of any safeguarding issues raised or identified relating to a Member so that they can consider invoking the procedure outlined below relating to positive disclosures. This notification will be as soon as reasonably practicable and in any event within one working day of the Safeguarding Team receiving the information.

19 Dealing with positive disclosures (other than through the LADO process)

For the purposes of this procedure, a positive disclosure includes those matters formally identified by way of a positive criminal records check and any matters that are brought to the attention of the Chief Executive or
Monitoring Officer (or the appropriate officers in their absence) which would ordinarily be identified by a criminal records check. This will include ‘live’ issues such as where a Member has been charged with or convicted of a criminal offence.

Any refusal by a Member or co-optee to cooperate with the obtaining of a criminal records check under Part 2 above will be addressed under this Part as the Council will not have the assurance provided by a clear criminal records check certificate.

Subject to compliance with the statutory rules on being eligible to be elected to office and to remain in that office, the Council cannot prevent the election or continuation in office of any Councillor, irrespective of what might be disclosed by a criminal records check. Steps proportionate to the conviction, caution or other issue disclosed can still be taken.

If disclosure results are positive, the HR Safeguarding Team will ask the Member for sight of their Certificate so that a copy can be taken and so a decision can be made as to how to address the issues disclosed.

The HR Safeguarding team will notify the Chief Executive and the Monitoring Officer of the positive disclosure and provide them with a copy of the Certificate as soon as reasonably practicable (and in any event within one working day) and following that the default procedure will be:

(i) The Monitoring Officer will prepare an Agenda for the meeting at step (iii);
(ii) The Monitoring Officer will determine who else, if anyone, will be required to attend the meeting at step (iii), in consultation with the Chief Executive where possible;
(iii) As soon as possible following notification by the HR Safeguarding Team, the Chief Executive and the Monitoring Officer (or the appropriate officers in their absence) must meet to consider what action, if any, needs to be taken. The Chief Executive and the Monitoring Officer need to meet quickly because of the implications for the Member, the Council and potentially others and because it is not possible to predict what might arise. An anonymous allegation against a Member reported on social media or a Member receiving a speeding penalty will have different implications and will require a different approach to notification from the police that a Member is to be charged with a serious criminal offence that gives rise to serious safeguarding concerns;
(iv) The meeting will be expected to consider all issues relevant to the particular circumstances and these might be:
   (a) how this procedure will integrate with the LADO process, where appropriate and whether the LADO or their representative should participate in future meetings;
   (b) whether there is a need for a corporate steering group;
   (c) whether a positive criminal record disclosure risk assessment is required. If so, this will be undertaken by the Chief Executive and the Monitoring Officer with support from the HR Safeguarding Team;
the context of the offence or incident disclosed and any information provided by the Member to explain the circumstances;

(e) the seriousness and nature of the offence or incident;

(f) the relevance of the offence or incident to the Member engaging with vulnerable groups, staff, Members and customers, the passage of time since the offence or incident and whether the Member’s circumstances have changed since the offence or incident;

(g) whether to make representations to the police or the Disclosure and Barring Service;

(h) who should be informed of the matters under consideration, rationalising why they should be informed, how they will be informed and by whom. See also point (vi) below;

(i) the communications strategy, including who will be involved in preparing and delivering communications, whether a press release is desirable or required, the timing of communications, what can be communicated, how communications will be sent and who the recipients should be;

(j) the governance issues which the positive disclosure gives rise to and how they can be lawfully and practically addressed;

(k) whether any practical steps are required as an immediate response or on an ongoing basis, such as restricting access to others, buildings or resources; and

(l) whether it is appropriate to inform the Chairman and Vice-Chairman of the Standards Committee;

(v) The Monitoring Officer will prepare notes of the meeting to ensure that the outcome and actions are properly recorded and there is clarity of responsibility for any actions or further notification;

(vi) Two key principles should be followed in relation to the notification of others. First, as the consequences could be far reaching, information needs to be kept strictly confidential and should only be disclosed on a “need to know” and lawful basis. The second principle is that nothing should be done or any information shared that might compromise compliance with the Council’s safeguarding responsibilities. The presumption will be in favour of not notifying others unless there is a clear, justifiable and agreed rationale for doing so. In most instances, it is likely that the Chief Executive will consult the Leader in view of their respective roles and responsibilities but this will not be automatic. Factors to be considered will include the seriousness of the allegation, the political allegiances of the Leader and Member concerned and the personal relationship between those two individuals;

(vii) The Chief Executive and Monitoring Officer will communicate fully and regularly and take such advice and action and involve such persons as are necessary to ensure that the Council’s interests are protected and the issues are addressed. All meetings and actions taken must be confidentially recorded to ensure that there is a clear rationale and audit trail and that effective action is not reliant on the presence and/or memory of key individuals; and

(viii) External advice will be taken as and when required.
If there is any doubt about how to proceed, guidance should be sought from the Monitoring Officer, his Deputy or the Assistant Head of Governance and Information – Legal at the earliest possible opportunity.

20 Confidentiality of information and security of disclosure information

All allegations may have far-reaching consequences for the Member and others and so all information must be kept strictly confidential. It should only be disclosed on a ‘need to know’ and lawful basis in accordance with the Council’s Confidentiality Policy, and then only as permitted by the Monitoring Officer and Chief Executive.

Any actions or decisions of the Council must be in the context of putting its safeguarding responsibilities first. Others must not be notified if that may have an adverse impact on any related safeguarding process.

Cornwall Council complies fully with the Disclosure & Barring Service Code of Practice regarding the correct handling, use, storage, retention and disposal of disclosures and disclosure information (policy on security of disclosures and disclosure information). The Council also complies fully with its obligations under the Data Protection Act and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of disclosure information.
Part 4 – general and administrative issues

21 Equality and Diversity

This procedure should be read with Cornwall Council’s Equality Framework and Equality of Opportunity Policy.

22 Breaches and non-compliance

Members will be in breach of this policy if they:
• fail to comply with the related statutory requirements;
• do not undertake safeguarding training;
• fail to respond or report a safeguarding concern or alert; or
• fail to comply with the Council’s criminal records checks requirements.

Any breaches or non-compliance with this policy will be referred to the Chief Executive and the Monitoring Officer to be dealt with in accordance with Part 3 of the policy and otherwise dealt with in accordance with the law, any other relevant policies or procedures and the Code of Conduct for Members.

23 How the impact of the policy will be measured

Part 1 – compliance with the safeguarding duty but this is likely to be a subjective assessment informed by any issues that arise.; Part 2 – compliance by all Members with the criminal records checks requirements; and Part 3 – given the unpredictable nature of issues that might need to be addressed it is difficult to state how the impact will be measured.

24 Review

This will be done not less than three yearly or as legislation requires.

Contacts

Procedure prepared by Matt Stokes, Assistant Head of Service – Governance and Audit, Governance and Information Service, 25 June 2015

Further information

Safeguarding teams as set out at the beginning of the policy, Monitoring Officer, Assistant Head of Service – Governance and Audit/Deputy Monitoring Officer, Assistant Head of Service – Legal, Head of People Management, Development and Wellbeing, DBS and Disclosure Scotland web sites and the Council’s intranet.

Alternative formats

If you would like this information in another format please contact: Cornwall Council, County Hall, Treyew Road, Truro TR1 3AY
Telephone: 0300 1234 100 email: enquiries@cornwall.gov.uk
www.cornwall.gov.uk

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