

**To the Chair and Members of the
AUDIT COMMITTEE**

COMPLETION OF DISCLOSURE AND BARRING SCHEME (DBS) CHECKS

| Relevant Cabinet Member(s) | Wards Affected | Key Decision |
|-----------------------------------|-----------------------|---------------------|
| | | |

EXECUTIVE SUMMARY

1. The purpose of this report is to update members on the progress on actions and assurances required resulting from a report considered at the July 2014 meeting regarding the completion of DBS checks. This followed concerns about the process for new starters and the absence of confirmation records for existing employees highlighted through the audit of recruitment processes undertaken during 2013.

RECOMMENDATIONS

2. It is recommended that Members note the contents of the report, actions taken and assurances presented since the report presented in July and comment as appropriate.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

3. Completion of all appropriate checks required through the recruitment and selection process ensures that appropriately qualified and experienced people are appointed to undertake roles. Undertaking adequate checking processes minimises the risk of people obtaining posts for which they are considered to be unsuitable.

BACKGROUND

4. The Disclosure and Barring Service (DBS) merged the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA) and was established under the Protection of Freedoms Act 2012. This service enables organisations to make safer recruitment decisions by identifying candidates who may be unsuitable for certain work, especially posts which involve working closely with children, vulnerable adults or in certain positions of trust such as senior finance and legal posts (posts which are exempt from the Rehabilitation of Offenders Act (ROA)).
5. The purpose of a DBS check is to allow employers to make recruitment decisions in relation to eligible posts, ie, posts which are included in the ROA exceptions order, for example working with vulnerable adults. The DBS

searches police records and, in relevant cases, barred list information, and then issues a DBS certificate to the applicant which they can provide to a prospective employer to help them make an informed recruitment decision. Employers should only arrange a DBS check on a successful job applicant. They can withdraw a job offer if the results show anything that would make the applicant unsuitable. There is no legislative requirement to renew a DBS check, however a new check may be required if an individual moves into a different eligible post with the same employer. An employer can decide to renew checks throughout an individual's employment at agreed intervals (eg every 3 years), however the Council has not adopted such a procedure currently.

6. Following migration from the Council's old payroll system onto the new HR portal during 2012, an audit of recruitment processes was undertaken during 2013. The audit highlighted an issue whereby posts indicated as requiring a DBS check on the HR Portal did not show a check having been completed for the incumbent postholder. Historical data prior to the implementation of the HR Portal was not maintained in a structure that allowed it to be migrated into the portal. It would require a manual exercise to check records for existing staff where there is currently no indication on the HR portal that a check has been completed.
7. Following the Audit Committee meeting in July 2014 a data cleansing and matching exercise has been conducted on those records on the HR Portal which indicate a DBS check is required. Initially all school posts were removed to be looked at separately. The following provides an overview of the current position and a sampling exercise conducted by Internal Audit.

| Category | No. of Records | Sample Size | Sample Proportion | Assurance Obtained | Assurance Level |
|---|-----------------------|--------------------|--------------------------|---------------------------|------------------------|
| New Starters | 500 | 20 | 4% | 18 | 90% |
| Records to be Data Matched into HR Portal | 1500 | 20 | 1.3% | 20 | 100% |
| No Check Recorded | 2000 | 50 | 2.5% | 49 | 98% |
| TOTAL | 4000 | 1570 | 39% | 1567 | 99% |

8. New Starters
500 (12.5%) of the records were for individuals who were shown on the HR Portal as new starters. All new starters since April 2013 that require a DBS check should have completed checks recorded on the HR Portal. Of the sample 2 (10%) of the records were found to be new pensioners who must previously have occupied posts requiring a DBS check and who should not have appeared on the new starter list. The remaining 18 (90%) have clear evidence that a check is either in progress or has been completed.

9. Records to be Data Matched into the HR Portal
1500 posts (37.5% of the total) require further data matching to record correctly on the HR portal that a completed check exists. These posts have a check recorded within the historical recording system but due to there being no unique identifier recorded within that system any slight differences in job title or where employees have had multiple checks have proven to be a barrier to undertaking a straight forward data match with the records in the HR Portal. A sample of 20 has resulted in a clear match being possible for all 20 (100%) to provide assurance that an appropriate check has been completed. A method of matching the data from the historical system into the HR Portal is being explored.
10. No Check Recorded
2000 records (50%) showed no marker of a completed DBS check in a post which specified a check as a requirement. Audit looked at a sample of 50 records (2.5%) and found clear evidence that a check had been conducted in 40 cases (80%). Of the remaining 10 (20%), 4 (8%) have been reassessed against the latest guidance and determined that no check is necessary as they do not meet the eligibility requirements, 5 (10%) are very long standing employees who have been in post since before checks became a requirement (2002) and the remaining 1 (2%) had no clear evidence that a check has been undertaken. It does not mean that a check has not been done only that no evidence is on record. It is important to note that previous guidance stipulated that employers should not keep copies of checks undertaken.
11. Therefore it is considered by HR and Internal Audit that a reasonable level of assurance has been attained that checks have been undertaken.

CURRENT PRACTICE

12. During 2013/14 a total of 2,683 DBS checks were undertaken at a cost of £118,052. Note. This is the total number and includes council and schools' posts.
13. There are 3 different levels of DBS check:
 - Standard (£26) – available for certain specific occupations, licences and entry into certain specified professions;
 - Enhanced (£44) – for those carrying out certain activities or working in regulated activity with children or adults;
 - Enhanced with list check (£44) – only available for those who are in regulated activity and includes a check against children and/or adults barring lists.
14. Currently every check undertaken is at either an enhanced or enhanced with list check as best practice. There is no requirement within national guidance to have this type of approach. Although very little distinction has been drawn about which type of posts require which level of check, a list of the types of activities and occupations where a check is required is available for employers to assess posts against if required.

15. Doncaster does not currently renew DBS checks for employees unless they move to a different type of post or a post in a different location, even where the type of work is the same. There is no requirement to have a renewal policy however some inspection bodies do have expectations that renewals will take place and it would be good practice to adopt such a policy. This would ensure any changes in someone's circumstances, which may impact on their suitability to continue employment in a particular role, could be picked up and assessed accordingly. There is a duty on individuals to alert their employer to any changes but this may not always happen.

SCHOOLS

16. There are a number of issues to consider in relation to schools. For academies there is no role for the Council to undertake and any risks lie with the academy and their sponsor where relevant. Where the Council is the employer (community schools and pupil referral units) or has an ongoing relationship (maintained schools) there are risks and liabilities which would lie with the Council as well as the school should there be an issue. The Council do not often become involved in selection processes for staff employed in schools, with the exception of Headteachers, but is entitled to refuse to appoint someone who fails a check.
17. Where the Council has an ongoing relationship with a school any non-compliance with policies, procedures, statutory requirements etc. may result in some liability for the Council if challenged or discovered through an inspection process. It therefore follows that a duty exists on the employer to ensure that appropriate processes are followed, including the appointment of staff. If schools use the Council's service to undertake DBS checks compliance can be assessed through the HR portal, however schools are able to use any provider to undertake checks.
18. Schools are also subject to the Ofsted inspection regime and safeguarding is a key part of the process. Schools are required to keep a single central record (SCR) for every employee and these are looked at during an inspection to ensure they are up to date and contain all requisite information including evidence of a DBS check. Failure to provide up to date SCRs is viewed very seriously by Ofsted. The Council's Education Standards and Effectiveness team have an officer who deals specifically with safeguarding matters and has monthly meetings with school safeguarding leads and undertakes audits, which includes checking the SCRs.
19. It is therefore considered that appropriate processes and assurances are already in place for schools where any risks and liabilities could affect the Council.

OPTIONS CONSIDERED

20. The options considered were:
 - Do nothing;
 - Undertake a manual process to check records for existing employees;

- To ensure that appropriate DBS checks are undertaken, reviewed in a timely manner and recorded accurately on the HR Portal.

REASONS FOR RECOMMENDED OPTION

21. Members of the Audit Committee expressed concerns at their meeting in July 2014 about whether sufficient assurance exists that appropriate checks have been carried out for individuals in posts that require a DBS check.
22. Directors have been provided with an update of progress and considered the options available. While Directors expressed concerns about the sample size reviewed by Audit and the subsequent level of assurance this provided, they did endorse the following proposed way forward.
 - i) To complete the ongoing review of all posts on the HR Portal which indicate that a DBS is/is not required and apply the current guidance to ensure that only posts that meet the criteria require a check to be done and using the appropriate level of check. Following completion of this review the HR Portal can be updated against posts and clear guidance made available to managers when setting up new posts to ensure they correctly record whether or not a DBS check is needed and at what level. This is also to be included when managers check and approve their six monthly establishment reports.
 - ii) Agree a policy on renewals. Good practice is to undertake a programme of renewals on a 3 year basis. Only those posts requiring an enhanced check, in line with the new agreed list of posts that require a check, should be renewed on a 3 yearly basis, resulting in fewer posts being reviewed more often. Those individuals who have been in post for more than 3 years that are deemed as requiring a renewal will be assessed in order of priority and then a check undertaken and processed at the appropriate level. The functionality already exists within the HR Portal for reminders to be issued to managers when a renewal is due and therefore this can be implemented with little additional development work required.
 - iii) There will be an additional cost to adopting a renewal programme and undertaking them on a 3 yearly basis which will need to be met from within existing budgets. It is not possible to quantify the overall additional cost until it is clear how many posts will need a renewal, but is estimated to be in the region of £50 - £100k every three years.

IMPACT ON THE COUNCIL'S KEY PRIORITIES

23.

| | Priority | Implications |
|--|---|--|
| | <p>We will support a strong economy where businesses can locate, grow and employ local people.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> | <p>Recruitment and selection processes adhere to relevant legislation and risks of appointing unsuitable people are minimised.</p> |

| | | |
|--|--|--|
| | <ul style="list-style-type: none"> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> | |
| | <p>We will help people to live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> | |
| | <p>We will make Doncaster a better place to live, with cleaner, more sustainable communities.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> | |
| | <p>We will support all families to thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> | |
| | <p>We will deliver modern value for money services.</p> | |
| | <p>We will provide strong leadership and governance, working in partnership.</p> | |

RISKS AND ASSUMPTIONS

24. There are no significant concerns that DBS checks have not been completed, only that the system does not reflect that they have. However, not undergoing a DBS check could result in the appointment of individuals into roles for which they are unsuitable.

LEGAL IMPLICATIONS

25. An employer may request a criminal records check processed through the Disclosure and Barring Service (DBS) as part of its recruitment process. For certain roles the check will also include information held on the DBS's children and adults barred lists, together with any information held locally by police forces that is reasonably considered to be relevant to the applied for post.

These checks are, for some appointments, a legal obligation where a satisfactory DBS check must be obtained before employment can commence. It is recommended that the Government Guidance that deals with the obtaining of DBS checks is followed.

Failure to comply with the obligation may lead to legal action against the council. It is essential that we ensure that all relevant employees do have the necessary check and also that an appropriate renewals period is agreed.

FINANCIAL IMPLICATIONS

26. As stated in the body of the report the number of renewal checks are still to be determined, therefore it is difficult to quantify what specific costs will be incurred. Any costs arising from the options recommended in the report will need to be contained within existing service budgets as no additional funding has been identified.

HUMAN RESOURCES IMPLICATIONS

27. Covered within the body of the report.

EQUALITY IMPLICATIONS

28. There are no specific implications as DBS checks are job specific.

CONSULTATION

29. Directors have been consulted and they are supportive of the proposed way forward and actions contained within this report. Consultation has also taken place with the HR Service Centre at Rotherham to agree appropriate processes and with Doncaster Audit in relation to the outcomes of the original audit and the actions taken following the audit and the Audit Committee report considered in July 2014.

This report has significant implications in terms of the following:

| | | | |
|-------------------------------|---|------------------------------|---|
| Procurement | | Crime & Disorder | |
| Human Resources | ✓ | Human Rights & Equalities | ✓ |
| Buildings, Land and Occupiers | | Environment & Sustainability | |
| ICT | | Capital Programme | |

BACKGROUND PAPERS

30. Audit Report – Recruitment Processes Review, 2013
Audit Committee report July 2013 - Completion of Disclosure and Barring Scheme (DBS) Checks for New Starters

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