

Report to Council

13 June 2023

Subject:	Motions – Responses and Updates
Director:	Director Law and Governance and Monitoring Officer - Surjit Tour
Contact Officer:	Trisha Newton Trisha_Newton@sandwell.gov.uk

1 Recommendations


That Council receive and consider the Motions , as set out on the agenda.

2 Reasons for Recommendations

Any member of the Council may give notice of not more than one motion for consideration at any ordinary meeting of the Council. Such a motion may be considered at the request of that member without prior reference to a committee, the Cabinet or a cabinet member.

The Leader of the Council may give notice of more than one motion for consideration at any ordinary meeting of the Council.

3 How does this deliver objectives of the Corporate Plan?

	<p>Councillors submitting motions are demonstrating their local leadership role, acting as a voice for their local community and expressing local concerns.</p>
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4 Context and Key Issues

- 4.1 The Council regularly considers notices of motion submitted by members under Standing Order No 7.
- 4.2 Details of the Council resolutions in response to motions, action taken and responses received can be found on [Modern.gov](https://www.modern.gov.uk)
- 4.3 Responses received to motions will be reported back to the next available meeting of Full Council.
- 4.4 Further to Minute No. 54/23(b) - DBS Legislation Review – a copy of the letter that has been sent to Sarah Dines MP is attached.

5 Alternative Options

- 5.1 There are no alternative options.

6 Implications

Resources:	There are no strategic resources arising from this report.
Legal and Governance:	Standing Order No 7 provides that any member of the Council may give notice of not more than one motion for consideration at any ordinary meeting of the Council and sets out the process for dealing with the motion. The motion can only be accepted if it relates to matters for which the Council has powers, duties and responsibility, or which affect the Borough or a part of it, or some or all of its citizens.
Risk:	There are no risk implications arising from this report.
Equality:	There are no implications for equality arising from this report.
Health and Wellbeing:	There are no implications of the proposals on health and wellbeing of our communities arising from this report.
Social Value	There are no implications for social value arising from this report.





Sandwell Metropolitan Borough Council

Council Leader – Cllr Kerrie Carmichael

Sarah Dines MP
Under Secretary of State
For Safeguarding
Via Email:
Sarah.dines.mp@parliament.uk

My Ref: KC/JLP

Please ask for: Kerrie Carmichael
Telephone Number: 07342059670
Date: 17th May 2023

Dear Miss Dines

Disclosure and Barring Service Checks for Councillors

I write with reference to the above matter.

Sandwell Council has recently introduced a protocol in relation to DBS checks for all Councillors. In developing the protocol, various aspects of the DBS process and requirements have been debated at various Full Council meetings. During the course of the debates, two key issues arose, namely: -

1. Individuals convicted of sexual offences who change their name; and
2. Criteria for Enhanced DBS checks should include all Councillors.

The clear position of Sandwell councillors, irrespective of political persuasion, was that ALL councillors should be subject to Enhanced DBS checks.

I note that both of the above issues were scrutinised through the Independent Review of the Disclosure and Barring Regime, the final report of which was published in February 2023. I am pleased that recommendations have been made in relation to both these issues and I

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would urge that you continue to drive forward and implement the recommendations proposed by the Independent Review at the very least.

I would like to take this opportunity to place on record Sandwell Council's position in relation to these two issues.

Individuals convicted of sexual offences who change their name

There is a clear risk that the DBS identity validation process (IDV) process may be circumvented where a convicted sex offender changes their name lawfully via enrolled or unenrolled deed poll. The individual may then go on to obtain other identification documents in their new name, such as a passport or driving licence in their new name, and using those documents, apply for a DBS check.

It is recognised that there are other measures in place to safeguard against that, for example the notification requirements under the Sexual Offences Act 2003, which states that individuals convicted of a relevant sexual offence must notify the Police within 3 days of using a new name, of that name change. Failure to do so is a criminal offence and a person found guilty of such as offence is liable:

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.

However, this does not, in our view, go far enough. It places the onus upon the individual to report any name change, which is clearly insufficient to ensure the safety of our children and vulnerable adults. This, in isolation, does not prevent individuals who are intent on avoiding the DBS IDV system and continuing to have unfettered access to children and vulnerable adults from doing so and there is a clear risk that system may be exploited by convicted sex offenders.

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Recommendation 8 of the Independent Review states:

The Home Office and the DBS continue the work of assessing what, if any, further steps can be taken to mitigate the risk of individuals circumventing the DBS identification validation process, including the consideration of mandating the provision of a birth certificate as one of the documents establishing identity.

Sandwell Council supports this recommendation and I would urge you to take all appropriate steps to mitigate this risk at the earliest opportunity.

Criteria for Enhanced DBS checks should include Councillors sitting on committees relating to children and/or vulnerable adults.

During the development of Sandwell Council's DBS check protocol, it quickly became apparent that the criteria for an Enhanced DBS check was somewhat vague in respect to the duties undertaken by councillors. The reality is councillors cannot, with sufficient certainty and clarity, determine the extent of exposure they may have to vulnerable persons when carrying out their duties. That ambiguity is very unhelpful. Sandwell councillors have made it very clear that they would prefer to have annual Enhanced DBS checks as a means of providing assurance to residents.

We note the outcome of the Independent Review and particular, Recommendation 5 which states:

An enhanced criminal record check is made mandatory for all councillors in Unitary and Single Tier Authorities who are being considered for appointment to any committee involved in decisions on the provisions of children's services or services for vulnerable adults. I accept that this would require legislation and therefore some inevitable delay, so I further recommend that these authorities are encouraged to adopt this procedure as best practice pending legislation.

We welcome the recommendation as it does offer clarity on the roles that require Enhanced DBS checks; however, we would ask that all councillors be subjected to annual Enhanced DBS checks.

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In the interim, I confirm that we will be implementing the recommendation pending any recommended legislative change.

I look forward to hearing from you in respect of this matter in due course.

Yours sincerely

Cllr Kerrie Carmichael
Council Leader

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