

| MAYOR AND CABINET | | | |
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| Report Title | Update on the response to the comments of the Safer Stronger Communities Select Committee on DBS checks for library staff | | |
| Key Decision | No | Item No. | |
| Ward | All | | |
| Contributors | Executive Director for Resources and Regeneration | | |
| Class | Part 1 | Date: 19 October 2016 | |

1. Purpose

- 1.1 This report gives an update on the response to the comments of the Safer Stronger Communities Select Committee, about the Libraries Savings Programme Update report at its meeting on 4th July 2016.

2. Background

- 2.1 On 11th May 2016, the Safer Stronger Communities Select Committee considered a report entitled Library Savings programme update. The Committee resolved to advise Mayor and Cabinet of the following:

2.2 Referral

- 2.2.1 The Committee was advised that the Council's library staff were not required to undergo Disclosure and Barring Service (DBS) checks, based on advice from the Council's Human Resources department. Partner organisations that would be approved to manage the community-led libraries would also not be required to perform DBS checks on their staff and volunteers.
- 2.2.2 The Committee was concerned about this viewpoint, as school governors and some staff responsible for managing community centres were required to undergo DBS checks. The Committee noted that library staff often worked with children and could at times find themselves alone with a child.
- 2.2.3 The Committee therefore requests that outside legal advice is sought on whether Council staff, staff paid by partner organisations and volunteers working in libraries would need to undergo DBS checks.

3. Response

- 3.1 In order to undertake an enhanced DBS check, the post must either be listed in the both the Rehabilitation of Offenders Exceptions Order and in Police Act Regulations, or the post holder needs to be engaged in a 'Regulated Activity'. Discussions have taken place with Library Service management to identify both the activities undertaken with children/young people and in what circumstances staff may be left alone with children/young people. From these discussions it is apparent that Library staff are not undertaking specified activities and are not left alone with children. Parent/carers or school teaching assistants attend activities/programmes provided for children. Such activities are always set up in sight of other Library staff.
- 3.2 The Disclosure and Barring Service will only undertake checks for those who are eligible under the provisions of the Safeguarding of Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012. Employers are asked to use an on-line toolkit to determine if a post meets the criteria. The Library posts have been checked again against the tool kit which indicates that they do not meet the criteria. However, in light of the concerns raised by the Committee the Disclosure and Barring Service were contacted and asked to advise specifically on the activities/contact that Council Library staff would have. The DBS have responded to confirm that the Library roles do not meet the criteria for a 'Regulated Activity' and that they do not therefore consider that a legal entitlement for a check exists.
- 3.3 The Council takes its' safeguarding responsibilities very seriously and undertakes DBS checks on any posts which meet the requirements. However, if the Council seeks to undertake enhanced checks for posts which do not meet the statutory requirements, this could affect the Council's registration. Carrying out a DBS check when the Council is not entitled to do so, might risk a complaint of a breach of the Data Protection Act 1988 and/or the Human Rights Act 1998.
- 3.4 School Governors are specifically covered in the legislation, so DBS checks are undertaken on all Lewisham School Governors.
- 3.5 Whilst the roles in the Council's Libraries do not meet the criteria for an enhanced DBS check, there is a Basic disclosure that employers can request from any employee. This check does not include any spent convictions, but would show any current convictions. It is proposed that Basic checks are sought for staff working in front-line library roles.
- 3.5. HR would advise that community library providers should consider themselves in each case if staff or volunteers need a DBS check. This will depend on whether or not such staff or volunteers are carrying out an activity regulated by the Safeguarding of Vulnerable Groups Act 2006 as amended and on whether that activity is unsupervised by a person who is carrying out a regulated activity. They should be advised to refer to the DBS on line toolkit, or to consider undertaking Basic checks.

- 3.6 The Committee is asked to note that staff in the Mobile Library Service are DBS checked as they are alone and unsupervised in the homes of vulnerable residents.

4. Finance

- 4.1 A Basic disclosure costs £25. There are approximately 50 front-line staff (excluding the management team). The cost of introducing Basic disclosures would therefore be around £1,250 plus ongoing checks for new staff and renewals (it is the Council's policy to review checks every 3 years).

5. Legal

- 5.1 The legislation governing DBS checking of staff is contained in the Safeguarding of Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012. Under the provisions of this legislation only people undertaking roles or activities meeting the requirements of the legislation can be DBS checked. The Disclosure and Barring Service need to be satisfied that any application for an enhanced DBS meets these requirements.

6. Crime and Disorder Implications

- 6.1 None

7. Equalities Implications

- 7.1 The Council's obligations to vulnerable groups consistent with its obligations to employees under law have been taken into account as set out above.

8. Environmental Implications

- 8.1 None

9. Conclusion

- 9.1 The Committee are asked to note the action taken to confirm that staff working in the Library Service do not meet the criteria for an enhanced DBS check.
- 9.2 The Committee are asked to note the proposal to undertake Basic disclosures on front-line Library staff.

Background Documents

If there are any queries on this report please contact Jackie Stirling, HR Business Partner and Council Lead Counter Signatory on 020 8314 8633.