

Title of Report:	Corporate Policy on Criminal Records Bureau Searches	Item 9
Report to be considered by:	Executive	
Forward Plan Ref:	EX0818	

Corporate Plan Priority:	D1 – Performance Improvement
The proposals contained in this Report will help to achieve the above Corporate Plan priority by streamlining the procedure for making searches and standardising how the results are dealt with.	

Purpose of Report: To co-ordinate and update existing policies by agreeing a Council wide policy on applying for and processing Criminal Record Bureau Searches.

Recommended Action: To adopt the policy set out in this Report and agree that the Council act as an umbrella organisation charging an administrative fee for handling such applications.

Reason for decision to be taken: To ensure a safe and consistent approach across the Council which will be sufficiently robust to withstand potential challenge.

List of other options considered: To continue with current arrangements within each service

Key background documentation:

- Existing guidelines used by licensing as adopted by Hackney Carriage Sub-committee on 22nd February 1993.
- CRB Guide to Umbrella Organisations
- CRB Code of Practice
- NACRO “Recruiting ex offenders : the employers’ perspective”
- CIPD “Employing Ex Offenders : A Practical Guide”

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Implications

- Policy:** A corporate approach giving guidance on how to deal with information on criminal records is consistent with the Council's Equalities Policy.
- Financial:** There are no increased costs caused by the adoption of this policy. There may be some savings by only carrying out one search, with the consent of the applicant, rather than a number. However, the cost of searches is rising and as the scope of jobs covered by the need for searches increases this will cause budget pressures in some service areas
- Personnel:** Guidance on dealing with the result of searches should assist the recruitment process
- Legal:** A consistent approach to this issue will ensure that the Council can withstand any potential challenges.
- Risk Management:** A written policy, widely available, will ensure the Council's position is clear, fair and less vulnerable to challenge

Supporting Information

1. Background

- 1.1 The Criminal Records Bureau (CRB) is an executive agency of the Home Office specifically set up to help organisations make safer recruitment decisions. Access to criminal record information has to strike a balance between the rights of children and the vulnerable, an individual's right to privacy and the rights of ex offenders to become rehabilitated into society. It is essential that this confidential and sensitive information is handled fairly and properly.
- 1.2 The Rehabilitation of Offenders Act (ROA) 1974 allows people with criminal convictions to treat these as "spent" and therefore not reveal them after a prescribed period of time. The Exemptions Order to the ROA sets out exceptions to this general principle. When assessing the suitability of a person for certain positions of trust an employer, or a licensing authority, is entitled to ask an applicant to reveal details of all convictions, whether spent or not. These are "enhanced" disclosures.
- 1.3 The Police Act 1997 Part V and the Protection of Children Act 1999 considerably extended the areas where restrictions on employment existed and the obligation to make checks including enhanced disclosures. The number of searches carried out against different categories of employees is now significantly higher than in the past. This means there is an increased risk of discrimination and the government is recommending that employers have fair and responsible recruitment policies in relation to ex offenders. The existence of such policies will discourage decisions based on the subjective judgement of individuals. The Council has a policy on the relevance of criminal records which was adopted by the Hackney Carriage Sub-committee in 1993 and which the taxi licensing section in Environmental Health have been using since then. However, that policy will be reviewed in the context of subsequent legislation and the draft policy attached to this report if adopted.
- 1.4 There are three distinct areas of the Council which regularly instigate and utilise Criminal Record Bureau searches. These are Human Resources who carry out searches on prospective Council employees where necessary, Public Protection via the taxi licensing function and Highways who are responsible for school transport. These three areas have agreed to a common approach and propose the draft policy which is attached in Appendix 9(a), which has been consulted on corporately.
- 1.5 In addition, as West Berkshire Council is registered with the CRB and has direct access to the disclosure service, we can provide access to records for organisations not registered with the CRB by being an "umbrella" organisation. There is no additional fee to pay to the CRB for being an "umbrella" organisation. We may charge organisations an administrative fee for the work involved although the CRB is keen that this fee be as small as possible. The suggested fee is £15 per search to cover handling charges. Organisations may not be registered themselves with the CRB because they are too small or lack the expertise. The Council may also apply for CRB checks on behalf of individual service users who are purchasing services from an independent carer under the Council's direct payments scheme or for individuals applying for licences, for example, under the Licensing Act 2003 where personal licence applicants must provide a CRB check. The Executive is asked to confirm that it wishes the Council to continue to act as an umbrella organisation, accept the responsibility and obligations that this entails which are set out within the draft policy in Appendix 9(a) and in the draft agreement in Appendix 2 to this Report and to agree the administrative fee proposed. The Executive is also asked to approve the procedure note for schools in Appendix 9(c) which has been used as a draft since 2003.

Appendices

Appendix 9(a) – draft policy on handling and storage of disclosure information, recruitment of ex offenders, guidance of relevance of convictions and acting as an umbrella organisation.

Appendix 9(b) – draft agreement for acting as an umbrella organisation.

Appendix 9(c) - procedure note on CRB checks for schools.

Consultation Responses

Local Stakeholders:	Local Taxi Drivers representatives are consulted regularly by Public Protection about CRB issues
Officers Consulted:	Sarah Johns, Sally Johnson, Richard Compton, Andrew Butler, Mike Trevallion, Catherine Carey , Brian Leahy, John Priest, Leigh Hogan, Matt Bowsher ,Pam Darroch, Jeanne Lapsley, Sue Broughton
Trade Union:	Proposed policy is acceptable