

Minutes of Council

**Tuesday 28 March 2023 at 6.10pm
at Sandwell Council House, Oldbury**

Present: His Worshipful The Mayor, Councillor R Jones;
Deputy Mayor, Councillor Taylor;

Councillors Abrahams, Akpoteni, Allcock, Allen, Anandou, Bhullar, Bostan, Carmichael, Chambers, Chapman, Chidley, Choudhry, Costigan, Crompton, Dunn, Fenton, Fisher, Gavan, E A Giles, E M Giles, J Giles, L Giles, M Gill, W Gill, Hackett, Hartwell, Hinchliff, Hughes, A Hussain, Jalil, O Jones, Kalari, Kaur, Khatun, Lewis, Mayo, McVittie, Melia, Millar, Millard, Owen, Padda, Piper, Preece, Rahman, Randhawa, Rollins, Singh, Smith, Uddin, Webb, Wilkes and Williams.

Officers: Shokat Lal – Chief Executive; Surjit Tour – Director of Law and Governance and Monitoring Officer; Elaine Newsome – Services Manager – Democracy; Suky Suthi-Nagra – Democratic and Member Services Manager; Stephnie Hancock – Deputy Democratic Services Manager; Trisha Newton – Deputy Democratic Services Manager; Ruth Darby – Lead Officer – Mayoralty and Member Development; Connor Robinson – Democratic Services Officer; John Swann – Democratic Services Officer; Kennedy Brown – Sergeant at Arms.



36/23 **Minute Silence**

The Council observed a minute silence to mark the passing of the former Speaker of the House of Commons, Baroness Betty Boothroyd of Sandwell.

Baroness Betty Boothroyd had represented the parliamentary constituency of West Bromwich from 1973 to 1974 and West Bromwich West from 1974 to 2000.

On behalf of Council, the Mayor extended condolences to her family and friends.

37/23 **Apologies for Absence**

Apologies for absence were received from Councillors Ahmed, Akhtar, Ashman, Davies, Dhallu, Dhariwal, G Gill, S Gill, Z Hussain, Moore, Shaeen, Simms and Trumpeter.

38/23 **Declarations of Interest**

Minute No.	Subject	Member	Interest
52/23(a)	Nominations for the Office of Mayor/Chair of Council and Deputy Mayor/Vice Chair of Council of Sandwell for the 2023/24 Municipal Year.	Councillors Gavan and E M Giles	Nominated for the positions of Mayor and Deputy Mayor 2023/24
		Councillors E A Giles, J Giles and L Giles	Relatives of Councillor E M Giles above.



39/23 **Minutes**

Resolved that the minutes of the meeting of Council held on 21 February 2023 be approved as a correct record and signed by the Chair.

40/23 **Additional Item of Business**

There was one additional item of business – Revisions to Appointments to Committees and Boards (see Minute No. 55/23 below).

41/23 **Mayor's Announcements**

Details of Mayoral and Deputy Mayoral engagements since the last meeting of Council had been circulated to members.

42/23 **Petitions**

No petitions were received under Standing Order No, 5.

43/23 **Written Questions**

Questions received under Standing Order No. 6 were asked of the relevant members and responses received.

44/23 **Pay Policy 2023 and Gender pay Gap Reporting**

The Council considered the Pay Policy Statement and Gender Pay Gap data.

The Council was required under the Localism Act 2011 to annually prepare and publish a Pay Policy Statement setting out its policies relating to the remuneration of their chief officers and employees.



The Council was required by the Equality Act (Specific Duties and Public Authorities) Regulations 2017, to prepare and publish its Gender Pay Gap data on an annual basis and this formed part of an equality measure and transparency obligation placed upon local authorities to illustrate the difference in average earnings between men and women.

The Council's previous Annual Pay Policy statements had informed that the pay ratio between the median FTE employee and the Chief Executive reduced in 2021 from 1:6 to 1:5 and had remained fairly static since. It was noted that this median salary figure had continued to increase over the last 12 months from £28,672 to £30,151 per annum, or by 5.2%.

Sandwell Council's mean Gender Pay Gap figure for 2023 had narrowed from 3.4% to 0.6% over the last 12 months.

Resolved that:-

- (1) the Pay Policy Statement 2023 be approved;
- (2) the Gender Pay Gap data be approved.

45/22

Transport for West Midlands Update

Council received an update on the work of the Transport Authority from Councillor Webb, the member nominated pursuant to Section 41 of the Local Government Act 1985 to report on the activities of Transport for West Midlands.

46/22

West Midlands Police and Crime Panel

Council received an update on the work undertaken by the West Midlands Police and Crime Panel from Councillor Millard, the Council's lead representative on the Panel.



47/22 **West Midlands Combined Authority**

Council received an update on the work undertaken by the West Midlands Combined Authority from the Leader of the Council.

48/22 **Annual Report of the Ethical Standards and Member Development Committee 2022/23**

Councillor Allcock, Chair of the Ethical Standards and Member Development Committee, presented the Annual Report of the Committee for 2022/23 and highlighted the business of the Committee for the year.

In presenting the report the Councillor Allcock wished to place on record his thanks to John Tew, who had retired as Independent Person.

49/23 **Minutes of Cabinet**

The minutes of the meeting the Cabinet held on 15 February 2023 were received.

50/23 **Minutes of the Budget and Corporate Scrutiny Management Board**

The minutes of the meetings of the Budget and Corporate Scrutiny Management Board held on 2 February and 1 March 2023 were received.

51/23 **Minutes of the Ethical Standards and Member Development Committee**

The minutes of the meeting of the Ethical Standards and Member Development Committee held on 7 March 2023 were received.



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The Council considered the recommendations of the Ethical Standards and Member Development Committee on the following matter:-

51/23(a) **DBS Checks for Elected Members**

Council considered the recommendation of the Ethical Standards and Member Development Committee in respect of DBS Checks for Elected Members.

Resolved that the DBS Check Protocol for Elected Members, as set out in Appendix A, which includes:

- (1) annual Basic DBS Checks to be undertaken for all elected members not identified in the roles set out in (2) below;
- (2) annual Enhanced DBS Checks to be undertaken for those elected members in the roles set out below:-
 - The Leader
 - Deputy Leader
 - Cabinet Members for Children and Adults
 - all Members of Children’s Services and Education Scrutiny Board and Health and Adults Social Care Scrutiny Board
 - Members of the Corporate Parenting Board
 - Members of the Health and Wellbeing Board
 - any other Member who may regularly come into contact with children or vulnerable adults as part of their Council role.

be approved with effect from the commencement of the 2023 municipal year.



52/23 **Minutes of the General Purposes and Arbitration Committee**

The minutes of the meeting of the General Purposes and Arbitration Committee held on 14 March 2023 were received.

The Council considered the recommendation of the General Purposes and Arbitration Committee on the following matter:-

52/23(a) **Nominations for the Offices of Mayor/Chair of Council and Deputy Mayor/Vice Chair of Council of Sandwell for the 2023/24 Municipal Year**

The Council considered the recommendation of the General Purposes and Arbitration Committee in respect of the nomination for the Office of Mayor/Chair of Council and Deputy Mayor/Vice Chair of Council of Sandwell for the 2023/24 Municipal Year.

Resolved that: -

- (1) Councillor Gavan be nominated to the office of Mayor/Chair of Council for the Borough of Sandwell for the 2023/24 Municipal Year;
- (2) Councillor E M Giles be nominated to the office of Deputy Mayor of the Borough of Sandwell for the 2023/24 Municipal Year.

(Councillors Gavan, E A Giles, E M Giles, J Giles and L Giles left the Council Chamber during consideration of the item and took no part in the debate)

53/23 **Minutes of the Audit and Risk Assurance Committee**

The minutes of the meeting of the Audit and Risk Assurance Committee held on 19 January 2023 were received.



54/23 **Notice of Motions**

The Council proceeded to consider the following motions received under Standing Order No. 7.

54/23(a) **Introduction of an Additional Licensing Scheme for Houses of Multiple Occupancy across Sandwell**

It was moved by Councillor Dunn and seconded by Councillor Wilkes:-

“That this Council recognises that Houses of Multiple Occupancy (HMOs) with under five occupants is difficult to monitor due to the lack of requirements needed when registering with Local Authorities and is therefore having an impact on the wellbeing of residents within our community.

As a result, this Council moves that the Cabinet Member for Housing commissions a report to the next meeting of Cabinet, which outlines the feasibility of having an Additional Licensing Scheme, for all HMOs within Sandwell Metropolitan Borough, which runs alongside the Mandatory Licensing Scheme, pursuant to Section 56 of the Housing Act 2004 and report the findings of this Report to the next Full Council Meeting, which falls in the next Municipal Year.”

In accordance with Standing Order No.12, Councillor Piper moved the following amendment to the Motion, seconded by Councillor Carmichael:-

“That this Council recognises that Houses of Multiple Occupancy (HMOs) with under five occupants is difficult to monitor due to the lack of requirements needed when registering with Local Authorities and is therefore having an impact on the wellbeing of some residents within our community.



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It must be noted that HMOs, where of good quality, make an important contribution to the private rented sector (PRS) by catering for different housing needs, including for some key workers, professionals and single persons and by contributing to the overall provision of affordable or private rented stock.

It is important that Sandwell has a mixture of housing and homes available for its residents especially with the current waiting list that the council currently operates - that is why this administration welcomed the councils introduction of the West Bromwich Trial for Additional Licensing to gather evidence needed to submit a scheme to the whole borough.

This Council moves that the Cabinet Member for Housing continues with the current trial that has been in place for 9 months so that robust evidence can be gathered which outlines the feasibility of having an Additional Licensing Scheme, for all HMOs within Sandwell Metropolitan Borough, which runs alongside the Mandatory Licensing Scheme, pursuant to Section 56 of the Housing Act 2004 and report the findings and bring a report back to this council.”

The amendment was accepted, the amended motion was put to the vote and, having been carried, it was RESOLVED accordingly.

54/23(b) **DBS Legislation Review**

It was moved by Councillor Allcock and seconded by Councillor Crompton:-

“The work the Disclosure and Barring Service (DBS) does is vital to safeguarding initiatives across the UK and they undertake millions of checks every year.

However, a legal loophole that allows dangerous individuals to potentially bypass these measures exist. By simply changing one's name by deed poll, the link to an individual criminal record is broken.



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By law, people convicted of sex offences or those on the sex offenders' register must inform the police if they change their name and failure to do so can lead to a 5-year prison sentence. If the individual in question decides to change their name without informing the police, they could potentially disappear and bypass the DBS process.

Also during the development of the Sandwell Council's DBS check protocol, it has become apparent that the "Enhanced Disclosure" criteria is somewhat vague in respect to the duties undertaken by Councillors. The reality is that we do not know what level of exposure to vulnerable persons we will have whilst carrying out our duties and Enhanced checks that offer greater level of scrutiny and assurance may be declined by DBS.

This Council requests that the Leader of the Council, with cross party support, write to the Minister for Safeguarding, Sarah Dines MP to close this loophole in the legislation and consider the role of a Local Councillor as automatic qualification for Enhanced Checks as part of the planned Government review."

On being put to the vote, the motion was carried and it was **RESOLVED** accordingly.

54/23(c) **Dog Waste**

It was moved by Councillor W Gill and seconded by Councillor Chapman:-

"This Council recognises the impact of dog mess in our local communities and the concerns that residents raise about the issue, particularly in hotspot areas like in parks and on popular dog walking routes.

This Council recognises and reaffirms its duty to ensure Sandwell's streets are safe and clean.



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This Council requests that the executive work with Serco to explore the option of introducing more bins onto our local housing estates, parks and nature reserves, to encourage people to pick up and dispose of their dog waste – and encourages the Council’s communications department to continue to emphasise the importance of clearing up after your pets.

That this Council requests that the Cabinet Member explores the option of a local database of ‘dog dna’ to trace, fine and bill any people who leave their dog waste on our streets as this has proven in other areas of both the United Kingdom and the western world to significantly reduce the amount of dog waste reported to local authorities.”

On being put to the vote, the motion was carried and it was RESOLVED accordingly.

54/23(d) **West Bromwich Albion**

It was moved by Councillor Dunn and seconded by Councillor W Gill:-

“That this Council recognises the benefit of having local sports teams like West Bromwich Albion in our community.

And it is acknowledged that fans have concerns surrounding the majority shareholder and the use of club funds, but this Council welcomes the steps taken by central government to introduce a white paper which will help reform football governance.

Finally, this Council will commit to work proactively with groups like Action for Albion along with West Midlands Police to assist in any necessary road closures and management of the ongoing lawful protests that fans are engaging in.”

In accordance with Standing Order No.12, Councillor Hackett moved the following amendment to the Motion, seconded by Councillor Hughes:-



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“That this Council recognises the benefit of having local sports teams like West Bromwich Albion in our community – to be inclusive we must recognise that all sports clubs are a benefit to Sandwell.

It is acknowledged that West Bromwich Albion fans have concerns surrounding the majority shareholder and the use of club funds, this Council welcomes the positive steps taken by central government to introduce a white paper which will help reform football governance and protect the heritage of football clubs. The white paper does need to go further with the need to review women’s football, player welfare, equality- diversity- inclusion, agent regulation and alcohol at football.

We ask this Council to commit to work proactively with groups like Action for Albion along with West Midlands Police to assist in any road closures as judged necessary by the police with regard to any outgoing lawful protests that fans are engaging in.

We also ask the Cabinet Member for Environment that - when making the decision to close roads - the council along with West Midlands Police take into consideration the effect on traffic near the M5 Junction 1 island.

Finally, we ask the same Cabinet Member to report back to this council any developments that the council and National Highways, who are responsible for road infrastructure in the area, both working to improve traffic flow at the junction in the short-term and will work with the club in the development of scheme options for a longer-term solution to ease the burden of fans travelling to games on match days.”

The amendment was accepted, the amended motion was put to the vote and, having been carried, it was RESOLVED accordingly.

55/23

Revisions to Appointments to Committees and Boards

Council considered revisions to the appointments to committees, boards and other bodies.



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Resolved:-

- (1) that Councillor Dunn be appointed to the Budget and Corporate Scrutiny Management Board to replace Councillor Anandou;
- (2) that Councillor Fisher be appointed to the Planning Committee to replace Councillor Williams;
- (3) that Councillor Chapman be appointed to the Economy, Skills, Transport and Environment Scrutiny Board to replace Councillor Abrahams.

Meeting ended at 8.54pm following an adjournment between 7.26 – 7.57pm

Contact: democratic_services@sandwell.gov.uk



DBS Checks Protocol for Elected Members

Introduction

Section 27 of the Localism Act 2011 requires local authorities to promote and maintain high standards of conduct by members and co-opted members of the authority. There is no statutory requirement for councillors to undergo basic DBS checks.

There are 4 levels of DBS checks:

1. Basic Check

A Basic DBS Check is for any purpose, including employment.

A basic check will contain details of convictions and conditional cautions considered to be 'unspent' under the terms of the Rehabilitation of Offenders Act 1974.

The Rehabilitation of Offenders Act 1974 aims to give those with convictions or cautions the chance - in certain circumstances - to wipe the slate clean and start afresh.

Under the Act, eligible convictions or cautions become 'spent' after a specified period of time known as the 'rehabilitation period', the length of which varies depending on how the individual was dealt with.

2. Standard Check

A Standard DBS check is suitable for certain roles, such as a security guard. The certificate will contain details of both spent and unspent convictions, cautions, reprimands and warnings that are held on the Police National Computer, which are not subject to filtering.

An individual cannot apply for a standard check by themselves. There must be a recruiting organisation who needs the applicant to get the check. This is then sent to DBS through a Registered Body.

3. Enhanced Check

An Enhanced DBS check is suitable for people working with children or adults in certain circumstances such as those in receipt of healthcare or personal care. An Enhanced DBS check is also suitable for a small number of other roles such as taxi licence applications or people working in the Gambling Commission.

The certificate will contain the same details as a standard certificate and, if the role is eligible, an employer can request that one or both of the DBS Barred Lists are checked.

The certificate may also contain non-conviction information supplied by relevant police forces, if it is deemed relevant and ought to be contained in the certificate.

An individual cannot apply for an Enhanced DBS check by themselves. There must be a recruiting organisation who needs the applicant to get the check. This is then sent to DBS through a Registered Body.

4. Enhanced with Barred List(s) Check

An Enhanced with Barred Lists DBS check is also suitable for people working with children or adults in certain circumstances such as those in receipt of healthcare or personal care.

An Enhanced with Barred Lists certificate will contain the same information as an Enhanced DBS certificate, but will also include a check of one or both Barred Lists.

Eligibility for Standard, Enhanced, and Enhanced with Barred Lists DBS checks is prescribed in legislation and can only be requested where the requester is legally allowed to do so. They can only be applied for by a 'Registered Body' such as an employer.

Basic Checks

Following member consultation, it has been agreed that all members shall undergo basic DBS checks.

Each member is responsible for making the application and must do so within 3 months of being elected and thereafter every 12 months whilst they remain an Elected Member.

DBS requires Elected Members to submit the DBS application personally. However, officers from the Council's Law and Governance Directorate will support and co-ordinate the application and processing of Basic DBS checks with Elected Members.

Members must produce an original or certified copy of the DBS check to Vanessa Maher-Smith in Law & Governance (vanessa_mahersmith@sandwell.gov.uk). A record will be kept of Members who have complied with this requirement. Copies of the DBS check will not be kept by the Council.

Enhanced DBS Checks

There are certain roles an Elected Member may take on in addition to their role as a ward Councillor. Some of those roles involve more regular and frequent contact with vulnerable adults and children. Whilst there is no statutory requirement for DBS checks in relation to these roles, they may meet the eligibility criteria for an Enhanced DBS check. To determine whether an Enhanced DBS check is required, the Council follows the Government's DBS Eligibility Guidance, which can be found via the following link:

<https://www.gov.uk/government/collections/dbs-eligibility-guidance>

The eligibility criteria for an Enhanced DBS check is dependent upon whether the Elected Member will be working with adults or children, how frequent that interaction is and whether it is unsupervised or with no other person present.

Working with Adults

Under the Police Act 1997 (Criminal Records) Regulations 2002, a person is eligible for an Enhanced DBS check if they are:

- (i) a member of a local authority and discharges any social services functions of a local authority which relate wholly or mainly to adults who receive a health or social care service
- (ii) a member of an executive of a local authority which discharges any such functions;
- (iii) a member of a committee of an executive of a local authority which discharges any such functions; or
- (iv) a member of an area committee, or any other committee, of a local authority which discharges any such functions.

Working with Children

Under the Police Act 1997 (Criminal Records) Regulations 2002, a person is eligible for an Enhanced DBS check if the organisation is:

- i) considering the applicant's suitability to engage in any activity which is a regulated activity relating to children

Regulated activity is made up of:

- i) what activity a person carries out and how often the person does it, for example

Activity	Period condition	Supervision	Age of child
Teaching, training or instruction, care or supervision of children	More than 3 days in a 30 day period OR overnight between 2am & 6am with the opportunity for face to face contact with children	Must be considered	Under 18 – but not if the activity is in relation to the child's paid or unpaid employment AND they are 16/17.
Moderating a web service wholly or mainly for children	More than 3 days in a 30 day period ONLY	Not required	Under 18
Advice or guidance wholly or mainly to children	More than 3 days in a 30 day period OR overnight between 2am & 6am with the opportunity for face to face contact with children	Not required	Under 18 – but not if the activity is in relation to the child's paid or unpaid employment AND they are 16/17.
Driving a vehicle for children	More than 3 days in a 30 day period ONLY	Not required	Under 18
Health care or personal care	Once is enough	Not required	Under 18
Registering to be a foster carer or private foster carer	None	Not required	Under 18
Registering to be a childminder or child care provider, including voluntary registration	None	Not required	In line with regulations

or

- ii) where the role takes place and how often the person will work there

The specified establishments are:

- An educational institution exclusively or mainly for the provision or full-time education of children
- A pupil referral unit
- A provider of nursery education
- A detention centre for children
- A children's home or a home provided under the Children Act 1989
- A children's centre
- Relevant childcare premises

Ancillary roles in these specified establishments must meet all four of the following criteria to be in regulated activity with children:

- They work there on more than 3 days in a 30 day period or overnight between 2am and 6am with the opportunity for face to face contact with the children and
- They have the opportunity, because of their job, to have contact with the children in the establishment and
- They work there for the purpose of the establishment and
- It is not temporary or occasional work, and
- It is not a supervised volunteer role

The following members will be asked to consent to Enhanced DBS checks, subject to them meeting the DBS eligibility criteria/guidance:

- The Leader,
- Deputy Leader,
- Cabinet Members for Children and Adults
- All Members of Children's Services and Education Scrutiny Board and Health and Adults Social Care Scrutiny Board
- Members of the Corporate Parenting Board
- Members of the Health and Wellbeing Board, and
- Any other Member who may regularly come into contact with children or vulnerable adults as part of their Council role.

Costs

A Basic DBS check is currently £18 each.

Enhanced DBS checks currently cost £38 each.

The cost of the DBS check is to be met by the Council.

Frequency of Check

Members will be expected to complete the application for a Basic DBS online within 3 months of being elected, and every 12 months thereafter. The application can be completed on the following website:

<https://www.gov.uk/request-copy-criminal-record>

Guidance is available here:

<https://www.gov.uk/government/collections/dbs-checking-service-guidance--2>

The Enhanced DBS request will be completed within 14 days of appointment to the relevant position/committee and every 12 months from the date of appointment, until the appointment ceases.

Failure to comply

If Members fail to meet the requirements to complete a DBS check and produce it to the Council, this will be reported to:

- i) The Ethical Standards and Member Development Committee;
- ii) The Group Leader; and
- iii) Full Council (if required)

In the event that a Member fails to comply with the requirement to undergo an Enhanced check, they will be unable to undertake that role.

What Happens if a Check Reveals an Offence?

In the case of a DBS check revealing an offence, the relevant Elected Member shall within 3 working days refer the DBS check to the Monitoring Officer.

The Monitoring Officer, will in consultation with the Chair of the Ethical Standards and Member Development Committee, consider the results of the DBS check and determine whether the matter should be referred to the Group Leader of the relevant Elected Member and/or the Ethical Standards and Member Development Committee for consideration.

The Monitoring Officer and Chair of the Ethical Standards and Member Development Committee shall consider, inter alia,

- (i) the significance and/or severity of the offence,
- (ii) the amount of time that has elapsed since the date of the conviction,
- (iii) whether public confidence in the position held by Elected Member in question could be adversely affected, and if so, to what extent,
- (iv) The potential reputational harm (if any) that could impact upon the Council
- (v) whether the matter should be referred to the Ethical Standards and Member Development Committee for consideration.

It is recognised that the data will include personal data and criminal offence data and the Council will ensure compliance with UK GDPR and Data Protection legislation when processing the information, including the application of Schedule 12A Local Government Act 1972 (as amended).

Other actions- assurance from Political Parties

It is recognised that a DBS check is only valid on the day that it is provided, and circumstance may change at any time. The Council will work with the Political Groups to ensure Elected Members understand that they have an obligation to declare any criminal offences/convictions (other than minor offences such as traffic offences) to the Monitoring Officer as soon as reasonable practicable after conviction (i.e. within 3 working days).

Retention of Information

The Council will maintain a record of Members who have produced their basic DBS checks to the Officer appointed by the Monitoring Officer. This will be retained for a period of 15 months after the date of the last entry.

Enhanced DBS checks will be provided to the Council as the Registered Body. They will be kept for 1 month after receipt of the updated check.

Should a Councillor cease to be a Councillor during the 12 month period, their Enhanced DBS check will be destroyed after 1 month.