

CHESHIRE EAST

CABINET

Date of meeting: 6 JANUARY 2009
Report of: DIRECTOR OF PEOPLE AND HR LEAD OFFICER
Title: CRIMINAL RECORDS BUREAU AND INDEPENDANT SAFEGUARDING AUTHORITY

1.0 Purpose of Report

- 1.1 To consider the implications of the Criminal records Bureau (CRB) and Independent Safeguarding Authority (ISA) requirements for the new Council and to make recommendations on the way forward.

2.0 Decision Required

- 2.1 To agree that Back Office Shared Services, if agreed by Cheshire East and Cheshire West and Chester, will manage the processes on behalf of Cheshire East.
- 2.2 To agree that candidates, employees, and Members will not be required to pay for the cost of any required
- CRB checks
 - ISA registration
- and to note the financial consequences of this decision.
- 2.3 To agree that a member of the Senior Management Team be accountable for ensuring that the Council complies with CRB and ISA requirements.
- 2.4 To require the accountable senior manager to develop the Council's approach to supporting voluntary bodies in relation to CRB and ISA and to develop the necessary policies which will be required in relation to CRB checks and ISA requirements.

3.0 Financial Implications for Transitional Costs

- 3.1 There will be some small costs incurred in 2008/09. These will be the set up costs of registering with CRB through Shared Back Office Services. This will cost approximately £11,000 for Cheshire East and will be absorbed within existing budgets, predominantly Children and Families and Adult Services.

4.0 Financial Implications 2009/10 and beyond

- 4.1 The current estimated cost of CRB and ISA for the East for 2009/10 is £210,000, based on ISA implementation in October 2009. This would grow to £447,000 in 2010/11 onwards. However a significant proportion of this would be funded within the Dedicated Schools Grant, with the balance to be considered as part of the 2009/10 budget setting process.

5.0 Legal Implications

- 5.1 The Council will have a duty to safeguard and promote the welfare of children and vulnerable adults, and safe recruitment practises, of which the CRB and ISA have a major part to play, is a critical aspect of this.
- 5.2 There is a legal requirement to comply with the ISA and failure to do so could lead to criminal prosecution. It will be illegal to employ an unregistered person and non compliance could result in imprisonment or a fine of up to £5000. There will also be a new offence, punishable by a fine of up to £5000, for employers who fail to provide relevant information about individuals, without reasonable excuse, to the ISA as part of the new referral system.

6.0 Risk Assessment

Risk	Mitigation
Increasing risks to children and vulnerable adults	Ensure robust, risk assessed processes are in place which comply with CRB and ISA requirements.
Reputation of Council if proper practices not in place and service user is harmed	Ensure high level management accountability and monitoring of practice..

7.0 Background

- 7.1.1 Establishing safe workforces for the most vulnerable of the Council's residents is a critical governance issue and one which needs to be grasped now to ensure that good policy, procedures and practice is in place by 1 April 2009 and so that the Council is prepared to meet the ISA requirements in October 2009.
- 7.2 Events like the murder of Jessica Chapman and Holly Wells in Soham, have highlighted the importance of ensuring (as far as is possible) that people who pose a potential threat do not work with or have easy access to children and vulnerable people. This is clearly a crucial issue when recruiting staff but it also affects many non employees including bus and taxi drivers, foster parents, Councillors, student placements and families who host exchange visits, for example. It therefore impacts on all parts of the Council's services.
- 7.3 Whilst CRB and ISA are important means of delivering safer recruitment, they need to be set within an overall recruitment code of practice which delivers robust assessments of candidates.
- 7.4 It should also never be forgotten that CRB and ISA do not provide a 100% guarantee, as they will only report on people who are known risks, not those who may become a danger. There is therefore a need to ensure vigilance and that appropriate processes are in place if risks are identified after recruitment.
- 7.5 Appendix 1 summarises the CRB process and requirements, which have been in place since 2002 and which will continue once the ISA arrangements start on 12 October 2009.
- 7.6 Appendix 2 summarises the ISA process and requirements.
- 7.7 These two bodies are complementary, they have many common issues which the Council needs to address and some individual ones.

8.0 Common Issues

- 8.1 Councils can decide to ask candidates and employees to pick up the costs of the CRB fee (currently £36) and the ISA registration fee (expected to be £28). It will not be possible to obtain ISA registration without a CRB check so in many cases the cost would be £64. (There will be some occasions when CRB checks are required but ISA registration is not.) In practice Councils have picked up the cost themselves rather than expecting employees and applicants to fund fees. This is mainly a recruitment incentive or perhaps more accurately a way of not seeming mean compared with other authorities. In relation to existing employees who will have to register with ISA, there would be a strong reaction from both employees and the trade unions to a proposal for individuals to meet the costs. If proceeded with some staff may refuse and the Council would then be required to dismiss them (as it would be illegal to continue to employ them in work with children and vulnerable adults). It is therefore recommended that the Council agrees to pay CRB and ISA fees itself.
- 8.2 Under current arrangements within the County Council, the Employee Service Centre currently undertakes the administration of the CRB process (and had the Council been continuing would also have picked up the administration of ISA registration). If Shared Back Office Services are agreed, it is proposed that they should continue to support this process on behalf of Cheshire East. To set up separately processes and to register Cheshire East separately to undertake CRB and ISA registration is likely to cost in the region of £135,000, plus on-going software licence fees for individual checks.
- 8.3 Many smaller third sector organisations have employees who are/will be required to have CRB checks or be ISA registered. They are not able to carry out these checks themselves but have to work through what are known as 'umbrella organisations', normally local councils who are registered with the CRB to undertake checks. If Councils do this on behalf of other organisations they are required to ensure that they have proper procedures in place which comply with CRB requirements. Cheshire East may wish to identify third sector organisations who they wish to be included in this process.
- 8.4 Experience has shown that as this is such a wide ranging issue affecting all Council Departments and employees, Members and a wide range of non employees, it is very difficult to get a co-ordinated approach to issues and that there can be a lack of overall organisational accountability. This has recently been reviewed by the Management Board of the County Council who, amongst other measures, agreed that 'the Shadow Authorities be advised of the importance of structural arrangements to cater for CRB/ISA employee and non employee matters'. It is therefore strongly recommended that a member of the senior management team is given the responsibility for the co-ordination of all matters relating to CRB and ISA. In view of the remit of the Strategic Director People to provide services to children and vulnerable adults it is proposed that the accountability should rest with him. He would need to commission work from other parts of the Council who provide services to those at risk.
- 8.5 A further difficulty relates to overseas applicants, where information is not held by British Authorities. Employers are required to make every effort to check the applicant's criminal record and obtain information from the relevant overseas authority. The CRB have provided employers with overseas contact details, but it can be problematic. Information about ISA registration in this context is awaited.

9.0 CRB Issues

- 9.1 With the merging of four authorities who are likely to have had slightly different approaches to who is CRB checked and the level of check required, it is important that the approach is harmonised for 1 April and that a risk based assessment to the need for checks is taken. A written policy about employing people with a criminal record and a security policy covering the correct handling and safekeeping of information will need to be in place as part of the CRB Code of Practice.
- 9.2 Similarly there is a need to agree the approach to portability of CRB checks from one authority to another (whether an employee has been checked by another Council needs to be re checked if appointed to Cheshire East. (NOTE – this is not an issue for any employees TUPEd across from one of the four merging Councils.)
- 9.3 There are national regulations (e.g. fostering and adoption, ContactPoint etc) and best practice issues around CRB re-checking at specified time periods. It is understood that an employer's legal duty to renew CRB checks, in some cases, will not change with the introduction of the ISA scheme. It is however, suggested that this area be reviewed to ensure a coherent approach to CRB and ISA checking in the light of the final ISA regulations when they are published.

10.0 ISA Issues

- 10.1 Implementation from October 2009 will be major exercise affecting both employees and the non employed groups. The “phasing in” arrangements for existing appointments will commence in 2010 and continue for a five year period. Clear policies, procedures and processes will need to be in place to ensure strict compliance with ISA requirements and effective service delivery.
- 10.2 ISA guidance and training will be needed for recruiting Managers, Headteachers and others involved in the process to ensure successful implementation of the scheme. Training will also be needed in relation to the new referral of information system to the ISA.
- 10.3 Members may remember that the introduction of CRB was chaotic with many checks taking months to complete with consequential problems for recruitment. Delays still happen on occasions and it is possible that the introduction of ISA registration may result in similar problems occurring. It will therefore be important that the Council has in place a clear policy on whether or not employees can work prior to confirmation of checks and if so in what circumstances. The final regulations are yet to be published, but Information on the ISA web-site currently states that employers will not be able to employ people, under supervision, while they wait for registration. This could result in difficulties in providing services if significant delays occur.

11.0 Overview of Day One, Year One and Term One issues.

- 11.1 This is a crucial issue. It is vital that proper arrangements for the protection of service users are in place by 1 April 2009 and that the Council is prepared for the inception of ISA registration in October 2009
- 11.2 The priorities are to ensure that the processes are in place to deliver, that there is clear accountability for CRB and ISA matters at a senior level, that decisions on charging have been taken and budgetary provision has been made for the consequences of that decision and that key policies/guidance is in place.

12.0 Reasons for Recommendation

- 12.1 To ensure that the Council complies with CRB and ISA requirements and safeguards the residents of East Cheshire

For further information:-

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Background Documents:-

Documents are available for inspection at: County Hall, Chester