

WILTSHIRE COUNCIL

STAFFING POLICY COMMITTEE

19 May 2010

INDEPENDENT SAFEGUARDING AUTHORITY - PROPOSAL FOR WILTSHIRE COUNCIL TO MEET THE COST OF MANDATORY REGISTRATION FEES

Purpose of Report

1. Members of Wiltshire Council's Staffing Policy Committee are asked to consider this report and recommend whether the new Independent Safeguarding Authority (ISA) Registration fees should be absorbed by the employer(s) or be viewed as a personal expense for new staff in all front-line services for children and vulnerable adults, including education.

Background

2. The Enhanced Criminal Records Bureau Disclosure cost of £36 is currently met by Wiltshire Council as part of its routine recruitment/staffing costs. This is to ensure Wiltshire schools and the Local Authority can fully meet their corporate safeguarding responsibilities. On 27th November 2008 the teaching unions made a formal request for the School employers to pay the proposed new £64 Independent Safeguarding Authority (ISA) Registration fee in the same way that the Enhanced CRB disclosure costs were being met.
3. Human Resources agreed to take the necessary discussions forward in consultation with those Service Directors, whose frontline services would eventually require ISA-Registration. The Implementation Executive Joint Consultative Committee in March 2009 also recorded a request for all relevant Council-employed staff to be included in future proposals over the payment of the ISA-Registration fee.

Main Considerations for the Council

4. The Safeguarding Vulnerable Groups Act 2006 (SVGA) became law on 12th October 2009. Guidance released around this date by the ISA contained more detail about the scope of ISA Registration and the two categories called respectively 'Regulated Activity' and 'Controlled Activity'. Due to the revisions to the timescales for the setting up of the ISA and Vetting and Barring Scheme (VBS) and delays in the production of guidance for Registered Activity Providers (RAPs) from the ISA it has not been possible until now to progress the unions request for the employer(s) to fully meet the cost of ISA Registration. That information has now largely been provided although some recent guidance about 'Controlled Activity' is still awaited.

Environmental Impact of the Proposal

5. None

Equalities Impact of the Proposal

6. Whilst the Council should not seek to discriminate in the way that it provides services and employment and, where possible, it should do all it can to promote equality and good relations between different groups it must be noted that all the below statutory provisions specifically seek to exclude undesirable individuals from working with children or vulnerable

adults. This forms part of our corporate strategy to meet requirements on the Council to ensure we meet both safeguarding and safer recruitment inspection standards.

7. The existing exemptions from the provisions of the Rehabilitation of Offenders Act 1974 permits employers to ask ex-offenders to declare their offences on application for any positions in either the Children's or Vulnerable Adults Workforce.
8. The CRB founded under Part V of the Police Act 1997 and launched in March 2002 enables organisations in the public, private and voluntary sectors to make safer recruitment decisions by identifying and rejecting candidates whose criminal records indicate that they may be unsuitable to work with either children or vulnerable adults.
9. The Vetting and Barring Scheme (VBS) provisions of the Independent Safeguarding Authority (ISA) will further reinforce the right to 'bar' undesirable individuals from working with children or vulnerable adults in regulated activity and is covered by the Safeguarding Vulnerable Groups Act 2006.

Risk Assessment

10. Risk of potential claims of unfair discrimination is fully mitigated by the above statutory provisions providing they are applied fairly and proportionately by the Council. The risk of general non-compliance with the Safeguarding Vulnerable Groups Act 2006 is already included on the Corporate Risk Register under item CR007. The risk of the Council not covering the full ISA-Registration fee is covered in the options set out below.

Financial Implications

11. ISA Registration will begin for new recruits from November 2010 with the rest of the existing regulated workforce needing to be registered over the next 4 years. Registration will cost £64 per individual and includes a CRB check. An Enhanced CRB check at Enhanced level currently costs £36 and in Wiltshire this is currently paid by the employer. The Council's recognised unions, as detailed above, have requested that the employer cover the cost of all future ISA Registration in the same way.

Options Considered

12. ***Option A - Full fee covered.***
HR Management and the Head of Safeguarding would like to recommend to Staffing Policy Committee that to ensure an adequately vetted and cleared workforce that we should cover the full costs of ISA Registration. The previous arrangement whereby the full CRB fee was covered by the employer has resulted in a high level of safer recruitment and safeguarding standard for both children and vulnerable adults. These standards have been commented on favourably during inspections and area reviews and we have fully met the expectation on us as a regulated activity provider in respect of safeguarding service users. By covering these costs the Council has been able to process disclosure applications promptly without the need to delay and recharge staff for such applications. This has also removed a potential disincentive to junior staff who might not be in a position to pay a fee before a decision is made about whether they are acceptable to work in such regulated activities. For schools in particular there are a significant number of roles which are not only on relatively lower grades and pay but are also part-time due to the nature of the academic working year. For such staff a fee of £64 may be a serious deterrent to their applying for such roles. Having the full fee CRB paid by the employer has been a successful arrangement for Wiltshire Council and is the option that carries the lowest risk of non-compliance with statutory safeguarding arrangements.

13. It is also to be noted that the larger 'County' authorities in the South-West region, hence our competitors for staff, also intend to cover these ISA-Registration costs for similar business reasons. This option is supported as the best or preferred practice for safeguarding and safer recruitment reasons by HR, the Head of Safeguarding and the Corporate Directors for Children and Education and Community Services.
14. **Option B - Part fee covered**
This option is not preferred by either HR or the Head of Safeguarding but is offered as a status quo solution in recognition of the otherwise increased costs of the new ISA arrangements. The proposal would be to continue to pay the equivalent of the CRB fee of £36 with the new recruit or member of staff paying the additional £28 ISA Registration fee element. The rationale for this would be that the ISA Registration is a personal registration and is fully portable to other employers whereas the CRB component belongs to the current employer. This option carries some risk for non-compliance with statutory safeguarding arrangements due to the reluctance of staff to pay the part-fee and or complete and return the application for a disclosure. There is also the risk of challenge from the teaching unions in particular, as their professional fees for General Teaching Council registration are reimbursed to them through payroll as a national arrangement, and they would expect this 'disclosure fee' to also be covered by the employer. The support staff unions are also likely to object to this option as their members are generally in lower paid parts of the workforce but especially those in schools and care services. It is likely that we would experience a increased level of wastage on applications that are not pursued once a fee is requested of the applicant to confirm their suitability for appointment.
15. It is also to be noted that none of the larger 'County' authorities in the South-West region, hence our competitors for staff, are pursuing this option although some smaller authorities are considering it to manage costs. This option is not supported as best or preferred practice for safeguarding and safer recruitment reasons by HR, the Head of Safeguarding or the Directors for Children and Education and Community Services.
16. **Option C - No fee covered**
This option carries the greatest risk both in respect of safeguarding compliance but also trade union opposition. It is however the option of nil cost. It is likely that Option C will have a higher level of wastage than Option B on the number of applications that are not pursued once a fee is requested of the applicant to confirm their suitability for appointment.
17. This option is not supported as best or preferred practice for safeguarding and safer recruitment reasons by HR, the Head of Safeguarding or the Directors for Children and Education and Community Services. It will potentially impact adversely on recruitment times, re-recruitment costs and our level of compliance with statutory requirements as well as have a negative impact on our preferred employer status.
18. **Independent Safeguarding Authority phasing 2010-2015**

The ISA phasing is planned across five years according to timescales shown in the tables below. Based on estimates using existing staff data for previous year the predicted costs of the ISA Registration phasing is also shown for two of the three options in the two tables below:

Table 1 - Option A

YEAR AND CRITERIA FULL FEE £64	Corporate costs <i>(Estimated)</i>	Schools costs <i>(Estimated)</i>
Year one (2010) New entrants to the 'regulated' workforce and those moving between employers.	400	1650
	£25,600	£105,600
Year two (2011) All those who have never had a CRB Disclosure check	0	100
	£0	£6,400
Year three (2012) All those with a CRB Disclosure check older than 3 years	1700	7000
	£108,800	£448,000
Year four (2013) All those with a CRB check under 3 years old	500	1300
	£32,000	£83,200
Year five (2014) Those undertaking 'controlled' activity (both new starters and existing staff)	100	0
	£6,400	£0
Total	2700	10050
Costs	£172,800	£643,200

Table 2 - Option B

YEAR AND CRITERIA PART FEE £36	Corporate costs <i>(Estimated)</i>	Schools costs <i>(Estimated)</i>
Year one (2010) New entrants to the 'regulated' workforce and those moving between employers.	400	1650
	£14,400	£59,400
Year two (2011) All those who have never had a CRB Disclosure check	0	100
	£0	£3,600
Year three (2012) All those with a CRB Disclosure check older than 3 years	1700	7000
	£61,200	£252,000
Year four (2013) All those with a CRB check under 3 years old	500	1300
	£18,000	£46,800
Year five (2014) Those undertaking 'controlled' activity (both new starters and existing staff)	100	0
	£3,600	£0
Total	2700	10050
Costs	£97,200	£361,800

Recommendation

19. Option A for full costs covered is supported as the best or preferred practice for safeguarding and safer recruitment reasons by HR, the Head of Safeguarding and the Corporate Directors for Children and Education and Community Services. It also places us in a good competitive position in respect of the recruitment and appointment of the best available candidates for these regulated activities.
20. Once a decision has been reached in the Council about whether these new safeguarding costs should be absorbed by the employer(s) or be viewed as a personal expense for new staff in all front-line services for children and vulnerable adults, including education, then further information will be provided by HR to all the authority's Joint Consultative Committees and other relevant employee relations forums for the School employers.

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The following unpublished documents have been relied on in the preparation of this Report:
None