

**Report to:** Council

**Date:** 4 March 2009

**Subject:** Failure of a Local Authority Governor to complete a Criminal Records Bureau Check

**Report of:** Director of Children & Young People's Services

**Contact officer:** Jackie Fowler 01942 486090 j.fowler@wigan.gov.uk

---

**Purpose / summary:** To consider the implications of the failure of a Local Authority Governor to complete a Criminal Records Bureau Check.

**Alternative options considered and reason for selecting the one recommended:**

**Option 1.** To remove the governor identified in this report for failure to complete a Criminal Records Bureau Check. Disqualification is in line with the advice of Legal Counsel as set out in section 5 of this report.

**Option 2.** To allow the governor identified in this report to continue as a Local Authority Governor. In allowing the governor to remain in office Council would be acting contrary to Counsel's advice.

**Recommendation / decision:** That Council removes the Local Authority Governor identified in this report from office for failure to complete the required Criminal Records Bureau Check. That the Director of Children & Young People's Services be requested to advise the Governor and the Governing Body concerned of their removal.

**Risks / Implications:**

Financial:	None
Staffing:	None
Policy:	None
Equal Opportunities - Has a Diversity Impact Assessment	No

been conducted?  
Wards affected:

All

**Property Implications – Does the proposal involve a reduction, addition or change to the Council’s asset base or its occupation?**

No

**If yes, have the property implications been agreed with the Corporate Property Officer?**

**Does this proposal have significant implications for the Council and the local population?**

A diversity impact assessment is not necessary at this stage, however, equality and diversity implications have been considered when producing this report.

**Does this proposal involve a new policy or procedure or significant changes to an existing policy or procedure?**

A diversity impact assessment is not necessary at this stage, however, equality and diversity implications have been considered when producing this report.

---

Has the Service Director - Borough Solicitor confirmed that the recommendations within this report are lawful and comply with the Council’s Constitution?

**Yes**

Has the Service Director - Corporate Services confirmed that any expenditure referred to within this report is consistent with the Council’s budget?

**Yes**

Are any of the recommendations within this report contrary to the Policy Framework of the Council?

**No**

\* delete which applicable

---

**For Cabinet reports only :**

Categorisation of the report:	<b>X</b>		<b>X</b>
Discussion leading to a decision		Discussion	
Monitoring		Decision	
Sharing for corporate understanding		Information	

---

**Tracking/Process:**

	Consultation	Ward Members	Partners
Panel	Overview & Scrutiny	Cabinet	Council
			4/3/09

There are no Background Papers to this Report within the meaning of Section 100D of the Local Government Act 1972.

Proper Officer \_\_\_\_\_

Date \_\_\_\_\_

## Background:

1. The Education Act 2002 made provision for all those working in schools on either a paid or voluntary basis to be subject to a Criminal Bureau Records Check. The DfES issued the appropriate guidance in May 2006.
2. On 11<sup>th</sup> July 2002 Cabinet agreed the submitted policy on Criminal Bureau Record Check for Governors.
3. In November 2002 the DfES, due to pressure on the Criminal Records Bureau, temporarily suspended Criminal Bureau Record Check for School Governors.
4. As an interim measure in order to provide an element of child protection, within the existing regulatory framework L99 checks were instituted for all new governors on their appointment/re-appointment.
5. In May 2006 the following advice was received from Legal Counsel, that:-  
“appointment to all school governing bodies are regulated positions, which means that an offence can be committed if a person who is disqualified from working with children is a governor”  
and recommended that the Council should implement Criminal Bureau Records Checks for any one it appoints as a school governor.

Legal Counsel also advised that:-

‘Whether the Council would be committing an offence by nominating a person who is disqualified from working with children as a school governor it might be subject to a claim on the basis that a school could rely upon the Council nominating or appointing a fit person’.

6. In June 2006 the recommendation was implemented in respect of all new appointments to all categories of school governors including Local Authority governors. A detailed procedure for completion and submission of the forms was prepared and implemented to ensure that, if it became necessary to disqualify a governor for non-compliance with this requirement, there would be evidence that the governor concerned had been given every opportunity to undertake the required checks. A diagrammatic representation of the process is attached to this report. Appendix 1.
7. The response from governors to this requirement has been very positive, however there is a small number of governors who have been appointed by the diocese and the school, who still have long term outstanding Criminal Record Bureau Checks, and the appointing bodies are now being requested to consider the removal of those governors in line with paragraph 11 of Schedule 6 of the School Governance (Constitution) (England) Regulations 2007.
8. In relation to the above mentioned small number of governors, one is a Local Authority Governor with a long term outstanding Criminal Bureau Record Check.

A Governor currently serving on a Primary School Governing Body.

A detailed history to the correspondence requesting completion of the required check is set out below.

Date	Action	Response
31 October 2007	Appointed by Council Term of office 1 November 2007 to 31 October 2011	
1 November 2007	The governor was issued with a Criminal Records Bureau (CRB) check form.	
18 December 2007	Reminder letter sent to the governor	No Response
31 January 2008	Reminder letter sent to governor	No Response
31 January 2008	Governor issued with a new CRB check form following telephone request.	
20 March 2008	Reminder letter sent to governor	No Response
19 May 2008	Reminder letter sent to governor	No Response
10 July 2008	Reminder letter sent to governor	No Response
15 July 2008	The Chair of the Governing Body was advised of the situation and asked to encourage the governor to return the CRB form	No Response from the governor concerned.
3 November 2008	A further reminder letter sent to the governor.	No Response
14 January 2009	A further reminder letter sent to the governor.	No Response
16 January 2009	A further letter was sent to the governor advising that if the outstanding CRB form was not returned by 6 February 2009 then Council would be requested to consider their removal as a Local Authority Governor, the governor was advised that this would be considered by Council at its meeting on 4 March 2008 (another CRB form was issued to the governor concerned with this letter)	No Response had been received by the 11 February 2009

### **Proposals:**

That the above mentioned Governor be removed as a Local Authority Governor in line with the Grounds for Disqualification from membership of a Governing Body (Statutory Instrument 2007 No 957 – School Governance (Constitution) (England) Regulations 2007 (Schedule 6, paragraph 11)

### **Alternative options considered and reason for the recommended option:**

**Option 1.** To remove the governor identified in this report for failure to complete a Criminal Records Bureau Check.

Removal is in line with the advice of Legal Counsel as set out in section 5 of this report.

**Option 2.** To allow the governor identified in this report to continue as a Local Authority Governor.

In allowing the governor to remain in office Council would be acting contrary to Counsel's advice.

**Conclusions:**

The governor concerned be removed as a Local Authority Governor.

## CRB Process for Local Authority Governors Governors Issued CRB Form on Appointment

