

# Garda Vetting Policy

(February 2018)



Irish Forest  
School Association

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<b>Responsibility for approval of policy</b>	ACORN (Steering Committee)
<b>Responsibility for implementation</b>	Garda Vetting Committee
<b>Responsibility for ensuring review</b>	Garda Vetting Committee

## 1. Policy Statement

The Irish Forest School Association (IFSA) is committed to the protection and welfare of our members. As part of this commitment, the IFSA will comply with relevant legislation and recommended best practice in recruitment and selection procedures for both employees and volunteers, and will conduct Garda Vetting, where appropriate, as part of this process.

## 2. Purpose

The purpose of this document is to provide information and guidance on Garda Vetting procedures within the IFSA.

## 3. Scope

This policy applies to IFSA employees and individual members, including all members of the IFSA ACORN (Steering Committee) who may carry out “relevant work” with children and/or vulnerable adults as defined in the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 (See Appendix).

The IFSA will only provide Garda vetting for individual members who have no other way to access Garda vetting services, for example individual trainees, individual trained forest school leaders and individual forest school volunteer members, who do not yet have an organization through which they can access Garda vetting.

It is the policy of the IFSA that all members act in accordance with the Garda Vetting legislation. All members of the IFSA are expected to facilitate and support the implementation of this policy.

## 4. Glossary of Terms and Definitions

**Garda Central Vetting Unit (GCVU) / National Vetting Bureau (NVB)** – is the national unit of the Garda Síochána which conducts vetting of applicants to ascertain whether applicants have prior convictions and / or prosecutions. The GCVU is now known as the “National Vetting Bureau” following the commencement of the National Vetting Bureau (Children and Vulnerable Persons) Bill 2012 to 2016.

**Garda Vetting:** This is the process by which the NVB discloses details regarding “prosecutions, successful or not, pending or completed, and/or convictions” in respect of an individual and with that individual’s consent to their prospective employer and/or the organisations with which they wish to volunteer. (Please note, unsuccessful convictions may not be disclosed.)

**Liaison Person:** is the person who is nominated to apply for and receive vetting disclosures

on behalf of applicant organisations. The Liaison Person may be nominated to act for a consortium of organisations (e.g. Volunteer Centre) or from a representative body for a group of organisations (e.g. NYCI). The Authorised Signatory is now known as the “Liaison Person” following the commencement of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 to 2016.

**Natural Justice:** There are essentially two sections to the Rules of Natural Justice, the first being derived from the Latin maximum “audi alteram partem” (let the other side be heard). This is the duty to allow persons affected by a decision to have a reasonable opportunity of presenting their case. The second part of the Rules of Natural Justice is derived from the Latin maxim “nema judex in causa sua” (no one can be the judge in his own cause). This gives rise to a duty to act fairly, to listen to arguments, and to reach a decision in a manner that is untainted by bias (NUI, Galway).

**Child:** a person under the age of 18 years.

**Vulnerable Adult:** a person, other than a child who – is suffering from a disorder of the mind, whether as a result of mental illness or dementia; has an intellectual disability; is suffering from a physical impairment, whether as a result of injury, illness or age, or has a physical disability, which is of such a nature or degree as to restrict the capacity of the person to guard himself or herself against harm by another person, or, that results in the person requiring assistance with the activities of daily living including dressing, eating, walking, washing and bathing.

## 5. Principles

Garda Vetting is just one of a number of elements that the IFSA implements to ensure the protection and safety of the children and/or vulnerable adults who come into contact with the IFSA. Appropriate recruitment screening (including interviews, reference checking), child protection and health and safety procedures, etc. will be implemented along with Garda Vetting.

An individual member will not work/volunteer with children or vulnerable adults on IFSA activities until their Garda vetting has been completed and the results conveyed to the IFSA Garda Vetting Officer by the Liaison Person.

Having a criminal record will not automatically exclude an individual from employment/volunteering/membership unless they relate to the offences outline in Section 10 of the Act. Decisions on whether to involve an individual with prior criminal convictions will take into account:

- the individual’s abilities, skills, experiences and qualifications;
- the nature of the conviction and its relevance to the job;
- the length of time since the offence took place;
- the risk to the service users, employees and organisation;
- training which may have occurred since the time individual’s offence

The IFSA will employ a Natural Justice framework in dealing with any disclosures of convictions.

## 6. Vetting Applications Process

All vetting applications via the IFSA shall be processed by a Liaison Person who is trained by the National Vetting Bureau in the management of Vetting applications and disclosures. The IFSA has appointed Volunteer Ireland/ Dublin City to act as Liaison Person on its behalf.

The IFSA will nominate one ACORN member, usually the Chairperson, to act as the 'Garda Vetting Officer' (GVO). The responsibilities of the GVO include:

- Assessing when Garda vetting is necessary i.e. the role involves "relevant work" with children or vulnerable adults as specified in the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 to 2016.
- Ensuring that candidates are provided with the correct Garda vetting forms and that the forms are completed accurately and in full, prior to submitting them to the Liaison Person.
- Verifying the identity of the person submitting the vetting application by checking relevant ID (e.g. passport, driving licence).
- Ensuring all personal information in relation to vetting is kept confidentially and in compliance with Data Protection legislation and best practice.
- That IFSA members and staff are aware of the IFSA Garda Vetting Policy.

The IFSA will nominate 3 representatives from the ACORN to make up the IFSA Garda Vetting Committee, usually the membership secretary, the treasurer and Garda Vetting Officer. The responsibilities of the Committee include:

### **7. Ensuring organisational compliance with the Garda Vetting policy**

Assisting the Garda Vetting Officer to make decisions on the suitability of candidates following the disclosure of convictions via the Garda vetting process.

If the individual being vetted is over the age of 16 and under the age of 18, they are required to have a completed parent / guardian consent form which must be submitted along with their vetting application form.

The IFSA will not accept historical vetting information from employment/volunteer candidates or from their previous employers/volunteer managers. Each new employer/volunteer must be vetted via the IFSA vetting process, even if engaging an individual already vetted elsewhere. The IFSA will require all vetted members to be re-vetted at regular intervals of three years.

### **8. Vetting Disclosures Process**

On return from the National Vetting Bureau the forms will be processed by the nominated Liaison Person who will inform the IFSA Garda Vetting Officer by letter/email of the results.

The Liaison Person will pass on a copy of any possible or probable convictions to the Garda Vetting Officer for their consideration, and this document will be held confidentially.

Where there are no convictions, an offer of a position of employment/voluntary role will be issued to the candidate in line with the IFSA other screening/recruitment procedures.

Where serious convictions are disclosed, (for e.g. those itemised in *10. Circumstances for the Withdrawal of the offer to Work/Volunteer*) a letter will be sent to the person asking them to attend a meeting with the Garda Vetting Committee. This letter must not disclose the information on the returned Garda Vetting form. The purpose of this meeting is to allow the applicant (employee/volunteer) access to the information returned by the National Vetting Bureau and to give them an opportunity to explain the circumstances surrounding

the conviction.

A written record of this meeting will be kept and the time, date and duration of the meeting recorded. At this meeting, the IFSA will ensure that:

Everyone, no matter what their history, is given fair and equal treatment and the right to state their case. A disclosure of conviction will not automatically preclude the applicant from obtaining the position in question. Cognisance is taken of the applicants' self-disclosure or non-disclosure of a conviction at the time of the application and of their experience (work record etc.) and rehabilitation subsequent to any conviction disclosed.

Applicants who deny any convictions returned by the National Vetting Bureau will be provided with details on how to write a letter of appeal to amend their records at the National Vetting Bureau.

Applicants are informed that in the case of uncertainties their form will be returned to the National Vetting Bureau seeking clarification.

The applicants name and date of birth are clarified at the start of the meeting as mistakes may be made by the National Vetting Bureau where names and addresses are similar.

The IFSA will consider each Garda Vetting disclosure returned with convictions individually and the IFSA will always treat the applicant with respect, dignity and complete confidentiality.

The IFSA recognises that there are three potential outcomes of the review meeting:

- i) In line with this policy and taking all things into consideration including interview, current history and references, the applicant may be offered the position.
- ii) The applicants Garda Vetting form is returned to the National Vetting Bureau for further clarification. In which case a second review meeting may be held.
- iii) The applicant is deemed unsuitable for the position on offer by nature of their history of offences.

In each case a written explanation of the outcome will be sent to the applicant by letter. A record of this letter, including date sent must be kept. A record of any replies received and any follow-up must also be kept.

## **9. Confidentiality and Data Protection**

All information in the vetting process will be held in a manner consistent with good practice regarding the secure storage, handling and use of the National Vetting Bureau disclosures and personal vetting information as per our Data Protection Policy and our legal obligations under Data Protection Legislation

## **10. Circumstances for the Withdrawal of the offer to Work / Volunteer/Membership**

The IFSA considers the following as reasonable grounds to withdraw an offer or opportunity of employment / volunteer/membership role to an individual:

- The individual has been charged with, or convicted of a sexual offence;
- The individual has been charged with, or has a conviction for, an offence that relates to the ill treatment of a child, or a vulnerable adult;
- The individual has been charged with, or has a conviction for, the ownership, production or distribution of child pornography.
- Offences against the person, e.g. assault, harassment, coercion;

- Breaches in trust, e.g. fraud, theft, larceny;
- Offences against property e.g. arson, armed robbery;
- Domestic Violence;
- Offences against the state.

The IFSA is conscious of not initiating policies that prohibit needlessly against rehabilitated individuals. Such cases will be objectively determined on a case-by-case basis in accordance with the criteria outlined under 5. *Principles*.

## **11. Appeal Process**

While the focus is on protecting children and vulnerable adults, there are also safeguards and due processes for those being vetted, including the right to appeal. Appeals should be made in writing to the Liaison Person within 14 days of issue of the decision.

# Appendix to Garda Vetting Policy

Excerpt from Schedule 1, Part 1 and Part 2 from the National Vetting Bureau (Children and Vulnerable Persons) Bill 2012.

## **Relevant work or activities relating to children**

1. Any work or activity which is carried out by a person, a necessary and regular part of which consists mainly of the person having access to, or contact with, children in -

- (a) an establishment which provides pre-school services within the meaning of Part VII of the Child Care Act 1991,
- (b) a school or centre of education, both within the meaning of the Education Act 1998,
- (c) any hospital or health care centre which receives, treats or otherwise provides services to children,
- (d) a designated centre within the meaning of section 2 of the Health Act 2007, in so far as it relates to an institution at which residential services are provided in accordance with the Child Care Act 1991,
- (e) a special care unit provided and maintained in accordance with section 23K of the Child Care Act 1991,
- (f) a children detention school within the meaning of section 3 of the Children Act 2001.

2. Any work or activity which consists of the provision of home tuition by a person pursuant to the Scheme administered and funded by the Department of Education and known as the Home Tuition Scheme.

3. Any work or activity which consists of treatment, therapy or counselling provided to a child by a person in the course of that work or activity.

4. Any work or activity which consists of care or supervision of children unless the care or supervision is merely incidental to the care or supervision of persons who are not children.

5. Any work or activity which consists of the provision of educational, training, cultural, recreational, leisure, social or physical activities (whether or not for commercial or any other consideration) to children unless the provision of educational, training, cultural, recreational, leisure, social or physical activities is merely incidental to the provision of educational, training, cultural, recreational, leisure, social or physical activities to persons who are not children.

6. Any work or activity which consists of the provision of advice, guidance, developmental, or counselling services, (including by means of electronic interactive communications) to children unless the provision of the advice, guidance, developmental or counselling service is merely incidental to the provision of those services to persons who are not children.

7. Any work or activity as a minister or priest or any other person engaged in the advancement of any religious beliefs.

8. Work as a driver of a public service vehicle which is being used only for the purpose of conveying children.

9. The provision by a person, whether or not for commercial or other consideration, of accommodation for a child in his or her own home.

10. Any research work or activities (howsoever described) carried out in a university, institute of technology or other establishment at which third level education is provided where a necessary and regular part of the research work or activity involves contact with or access to children.
11. Any application by a person to carry on or manage a designated centre within the meaning of section 2 of the Health Act 2007.
12. Any application by a person for a declaration of eligibility and suitability within the meaning of section 3 of the Adoption Act 2010.
13. Any assessment of a person's suitability to act as a foster carer by or under section 39 of the Child Care Act 1991.
14. Any assessment by or under section 41 of the Child Care Act 1991 of a person's suitability to act as a carer of a child in respect of whom he or she is a relative.
15. Any work or activity which is carried on by a person, a necessary and regular part of which requires the person to have access to, or contact with, children pursuant to the following enactments:
  - (a) Medical Practitioners Act 2007;
  - (b) Nurses Act 1985;
  - (c) Nurses and Midwives Act 2011;
  - (d) Dentists Act 1985;
  - (e) Health and Social Care Professionals Act 2005;
  - (f) Pharmacy Act 2007;
  - (g) Pre-Hospital Emergency Care Council Order 2000 (S.I.No. 109 of 2000);
  - (h) Pre-Hospital Emergency Care Council (Establishment) Order 2000 (Amendment) Order 2004 (S.I. No. 575 of 2004).

## **PART 2**

Relevant work or activities relating to vulnerable persons

1. Any work or activity which is carried out by a person, a necessary and regular part of which consists mainly of the person having access to, or contact with, vulnerable persons in:
  - (a) a school or centre of education, both within the meaning of the Education Act 1998, unless, in the case of a centre of education, the work or activity is merely incidental to work or activities undertaken in relation to persons who are not vulnerable persons,
  - (b) any hospital or care centre which receives, treats or otherwise which provides services to vulnerable persons,
  - (c) a designated centre within the meaning of section 2 of the Health Act 2007, in so far as it relates to an institution at which residential services are provided to vulnerable persons,
  - (d) an approved centre within the meaning of Part 5 of the Mental Health Act 2001,
  - (e) any organisation or facility which provides educational, training, cultural, recreational, leisure, social or physical activities (whether or not for commercial or any other consideration) for vulnerable persons,
  - (f) in any organisation or facility which provides welfare, advice, guidance, developmental, or counselling services for vulnerable persons.
2. Any work or activity which consists of treatment, therapy or counselling provided to a vulnerable person by a person in the course of that work or activity.

3. Any work or activity which consists of the care (including the provision of health and personal social services and essential domestic services) of vulnerable persons unless the care is merely incidental to the care of persons who are not vulnerable persons.
4. Any work or activity which consists of the provision of educational, training, cultural, recreational, leisure, social or physical activities (whether or not for commercial or any other consideration) to vulnerable persons unless the provision of educational, training, cultural, recreational, leisure, social or physical activities is merely incidental to the provision of educational, training, cultural, recreational, leisure, social or physical activities to persons who are not vulnerable persons.
5. Any work or activity which consists of the provision of advice, guidance, developmental, or counselling services, (including by means of electronic interactive communications) to vulnerable persons unless the provision of the advice, guidance, developmental or counselling service is merely incidental to the provision of those services to persons who are not vulnerable persons.
6. Work as a driver of a public service vehicle which is being used only for the purpose of conveying vulnerable persons.
7. Any work or activity as a minister or priest or any other person engaged in the advancement of any religious beliefs.
8. The provision by a person, whether or not for commercial or other consideration, of accommodation for a vulnerable person in his or her own home.
9. Any research work or activities (howsoever described) carried out in a university, institute of technology or other establishment at which third level education is provided where a necessary and regular part of the research work or activity involves contact with or access to vulnerable persons.
10. Any assessment of a person's suitability to act as a care representative under section 21 of the Nursing Homes Support Scheme Act 2009.
11. Any application by a person to carry on or manage a designated 10 centre both within the meaning of section 2 of the Health Act 2007.
12. Any work or activity which is carried on by a person, a necessary and regular part of which requires the person to have access to, or contact with, vulnerable persons pursuant to the following enactments:
  - (a) Medical Practitioners Act 2007;
  - (b) Nurses Act 1985;
  - (c) Nurses and Midwives Act 2011;
  - (d) Dentists Act 1985;
  - (e) Health and Social Care Professionals Act 2005;
  - (f) Pharmacy Act 2007;
  - (g) Pre-Hospital Emergency Care Council (Establishment) Order 2000 (S.I. No. 109 of 2000);
  - (h) Pre-Hospital Emergency Care Council (Establishment) Order 2000 (Amendment) Order 2004 (S.I. No. 575 of 2004).

