

Appendix 2

Garda Vetting – Statutory Requirements

ACCS/Info Bulletin 24/17.

Re: Update on Garda Vetting.

1. **Retrospective Vetting**
2. **Vetting of New Employees**
3. **Update on FAQs issued by DES on 01/06/17**
4. **Electronic version of NVB1 Vetting Invitation Form and Guidelines**
5. **Student Work Experience**

1. **Retrospective Vetting: Section 21 of the Vetting Act. CL 16/2017**

- This refers to all current employees and other persons who have never previously been Garda Vetted and who undertake relevant work or activities with children or vulnerable persons.
- Section 21 of the Vetting Act requires that retrospective vetting of all teaching staff, non-teaching staff and others must be applied for by 31 December 2017.
- Relevant work or activities:
 - o Vetting Act states: any work or activity carried out by a person where a necessary and regular part of that work or activity consists mainly of the person having access to, or contact with, children or vulnerable persons.
 - o CL 31/16 refers to persons who assist a school where vetting is required if person is involved with coaching, mentoring, counselling, teaching or training of children or vulnerable persons.

Teachers: (retrospective)

- The Teaching Council (TC) is processing the retrospective vetting of all 33,000 teachers who have never previously been Garda vetted. As the year progresses these teachers are being contacted on a randomly selected basis and asked to apply for vetting. To date over 90% of those contacted have made an application as requested.
- Teachers who hold a vetting letter from the TC (pre-29 April 2016) or have completed the NVB on-line vetting offered by the TC since 29 April 2016 are deemed vetted and do not require retrospective vetting.
- Teachers can check their vetting status by logging onto the My Registration section of the TC website.
- CL 16/2017, Para 4.8 advised school management to review its teaching staff records to identify which members of its teaching staff had not yet been Garda vetted and to draw up a list of these teachers. School management would have requested teachers from this list to:
 - o Inform school management as soon as an application for vetting was made by the TC in respect of him/her and
 - o Provide school management with evidence that the vetting application had been submitted to the Bureau. A copy of the acknowledgement by the Bureau to the teacher should be kept on the teacher's file.
- School management should check periodically with teachers remaining on the list to ensure that the list is kept up to date and accurate.

Non-teaching staff and non-employees: (retrospective)

- CL 16/2017, Para 5.2 advised school management to review its non-teaching staff records and other relevant records in respect of:
 - o All non-teaching staff who undertake relevant work or activities
 - o All persons who are contracted by the school to undertake relevant work or activities
 - o All persons who are permitted by the school to undertake relevant work or activities on the school's behalf to identify those who have already been vetted and those who have never been Garda vetted.
- School management should have a list of those persons who have never been Garda vetted to date by the school and commence the process of having this personnel Garda vetted by ACCS. All of these applications should be made by 31 December 2017.
- Where the school and another relevant organisation have a joint agreement regarding the employment, contract or permission of a person to undertake relevant work or activities in the school and a GCVU outcome was obtained or a disclosure from the Bureau was obtained in respect of this person previously, then retrospective vetting is not required. Please see below Joint template Agreement.

School Headed Paper

Joint Agreement as per Section 12 (3A) of the Vetting Act

----- Community/Comprehensive School
in agreement with

----- other Relevant Organisation

has obtained a Vetting Disclosure from the National Vetting Bureau (NVB) in respect of the employment, contract, permission or placement of

----- to undertake relevant work or activity in your organisation

This disclosure by the NVB was issued on -----

Signed: -----

Signed: -----

on behalf of -----
Community School

on behalf of -----
Relevant Organisation

2. Vetting of New Employees:

Teachers: (new)

Schools must adhere to the statutory requirements in respect of Garda vetting when employing teachers for the 2017/18 school year.

- The school must not commence the employment of an employee to undertake ‘relevant work or activities’ before the school authority receives a vetting disclosure from the National Vetting Bureau in respect of that person. (See CL 31/16)
- The registered teacher must apply for vetting via the Teaching Council.
- The Teaching Council will issue the vetting disclosure to the teacher through a secure online portal called Digitary. The teacher can access the vetting result 24/7 via this secure web portal and can share the vetting result online with the school principal.
- The school principal should have a confidential valid email address for the purpose of receiving all online eVetting disclosures. The principal provides the teacher with this address.
- The principal will receive an email from the teacher containing a secure link to the login section of Digitary. The principal follows the instructions to view the disclosure.
- The teacher has the option to add a secure PIN number to the shared document. The teacher must provide the details of this PIN separately to the principal.

Examples of teacher employment:

- **Employing a new teacher:** The school must obtain a vetting disclosure from the Bureau in respect of the teacher before commencing the employment of the teacher.
- **Renewing a fixed term contract for an existing teacher:** This teacher will require retrospective vetting if he/she wasn't previously vetted by the school by 31 December 2017.
- **Teachers returning from career break or secondment:** These teachers will require retrospective vetting if they weren't previously vetted by the school by 31 December 2017. Also, where a teacher has been on extended leave (e.g. 2 years or more), it may be prudent for the school to require a new vetting disclosure from the Bureau.
- **Redeployed teachers:** Where a teacher is being employed by a new employer, even where this arises from redeployment the new employer in question must obtain a vetting disclosure from the Bureau in respect of the person prior to commencing his or her employment. The DES has advised all teachers and their new schools of this requirement.
- **Teachers in newly amalgamated schools:** In the case of school amalgamations, from the commencement of the new school year all teachers who transfer/move to the new school must be vetted by the new school employer prior to commencing their employment in that new amalgamated school. Therefore, the newly amalgamated school must obtain a vetting disclosure from the Bureau for all staff prior to the commencement of the new school year.
- **Employing a substitute teacher:** Save for the exception directly below, a school must not commence the employment of a substitute teacher without first obtaining a disclosure from the Bureau in respect of that teacher.

The exception is, where the teacher is

- (a) on the school's list of substitute teachers prior to 29 April 2016 and
- (b) the school has received a copy of the Teaching Council vetting letter for that teacher prior to 29 April 2016, there is no obligation under the Vetting Act to obtain a disclosure from the Bureau in respect of that teacher prior to commencing the employment.

Both conditions (a) and (b) must be met for this exemption.

- **Adding teachers to the school's substitute list:** The school must obtain a vetting disclosure from the Bureau via the Teaching Council before it can consider employing the teacher. The vetting disclosure should be obtained at the point on which the teacher is being added to the school's substitute teaching list or as soon as possible thereafter. In this way the school will ensure that the vetting disclosure has been obtained in sufficient time to allow the teacher to commence work in the school at short notice.

Non-teaching staff and non-employees: (new)

Schools must adhere to the statutory requirements in respect of Garda vetting when employing non-teachers for the 2017/18 school year.

- The school must not commence the employment of an employee to undertake ‘relevant work or activities’ before the school authority receives a vetting disclosure from the National Vetting Bureau (NVB) in respect of that person. (See CL 31/16)
- ACCS acts as the ‘liaison person’ with the NVB to process all non-teaching vetting for ACCS schools.

- The following procedures should be followed by C&C schools when they seek to have personnel vetted by the Bureau through ACCS:
1. Principal provides applicant with Electronic *NVB1 Form (Vetting Invitation) and revised Guidelines for completing the form.
 2. Principal confirms applicant's identity and current address. Principal retains proof of identity and current address on Applicant's file. (Do not send to ACCS).
 3. Principal signs Confirmation Form.
 4. For applicants completing work experience and the applicant is between 16 and 18 years of age he/she must also submit NVB3 form (Parent / Guardian consent form).
 5. Principal will check the Vetting Invitation Form for accuracy and return it with the Confirmation Form to ACCS Garda Vetting at the ACCS office address.
 6. ACCS will submit the information to the NVB who will generate an email to the applicant enabling him/her **to complete the process online**. It is very important for principals to emphasise with applicants that this part of the process is crucial. No vetting disclosure will be generated without completion of the form.
 7. The applicant will return the completed online form to ACCS who will review and submit it to the Bureau for generation of a disclosure. There will be an expiry date for this submission.
 8. The Bureau will process the application and forward a Vetting Disclosure to ACCS. The vast majority of applications are processed within 5 days.
 9. ACCS will email the outcome of the Vetting Disclosure to the principal at a dedicated email address provided to ACCS by the Principal for this purpose.
 10. Principal will download the Vetting Disclosure, share the outcome with the applicant and keep it on file in a secure location.

Statutory Declaration and Form of Undertaking

The requirement for a Statutory Declaration and Form of Undertaking to be completed and provided to the school authority prior to making an appointment of any duration still exists.

The updated version of the **Statutory Declaration** contained in the Appendix to CL 31/16 must be used where a declaration is being newly completed from 29 April 2016 onwards.

Declarations already completed using the old version of the declaration (as contained in CL 63/2010) can still be provided to a school authority subject to meeting the requirement for the declaration having been made in the current or previous calendar year.

The new version of the **Form of Undertaking** must be used in the case of any appointment made after 29 April 2016.

3. Update on FAQs issued by DES on 01/06/17

- Some additional vetting related FAQs have been added to the FAQ document. The updated document was published on June 1, 2017.
- The updated FAQs are available at the following link: <https://www.education.ie/en/Schools-Colleges/Information/Garda-Vetting/Commencement-Of-Statutory-Vetting.html>
Commencement Of Statutory Vetting - Department of Education and Skills
- The additional questions are numbers 18 to 21 inclusive and deal with the following issues
 - o Question 18: student teachers;
 - o Question 19: TY students; there is a requirement to have TY students (over the age of 16 yrs) vetted by the Bureau if they are engaged in relevant work or activities;
 - o Question 20: Exemption under Section 12 (5)(c) of the Vetting Act; arrangements with other relevant organisations. Conditions and a written statement.
 - o Question 21: Joint Agreement under 12(3A) of the Vetting Act. Must be in writing, signed by both parties, confirmation that a Disclosure from the Bureau has been received.
- The DES is still awaiting advices on some further matters and intends to publish some further FAQs when these advices are made available to the Department.

4. *Electronic version of NVB1 Vetting Invitation Form and Guidelines

- ACCS has encountered difficulties in deciphering handwriting on some of the Vetting Invitation Forms. As a result, we have developed an Electronic Invitation Form NVB1 for a typed input.

- We would be obliged if you could use this version for all future Vetting Invitations.
- Principals should email the electronic NVB1 forms to applicants and ask them to
 - o type the requested information onto the form
 - o print the form (or email the school with form for printing)
 - o sign the form and present to the School Principal

5. Student Work Experience (Please share this information with TY Co-ordinators)

ACCS had hoped for some exemption on the requirement for TY Work Experience students to be vetted (if they were involved in relevant work or activities). However, there is no such exemption.

- There continues to be a vetting obligation for a student being placed on work experience which involves **relevant work or activities** such as working in another school, creche or in a nursing home.
- There is no obligation to obtain a vetting disclosure in respect of a student where the work experience **does not** involve relevant work or activities with children or vulnerable persons, as defined under the Vetting Act.
- In the case of students under 18 years of age, vetting must be done in consultation with the students' parents/guardians.
- A student under 16 years of age cannot be vetted.
- A vetting obligation arises for both the student's school and the other relevant organisation (such as the other school or nursing home or creche) involved.
- The student's school can enter into an agreement with the other relevant organisation in accordance with Section 12 (3A) of the Vetting Act. This means that the student's school can organise the vetting and the other relevant organisation doesn't need to, once there is a **joint agreement**. This agreement must:
 - o Be in writing
 - o Signed by both parties
 - o Agree to the work placement of the student which involves relevant work or activities
 - o State that the student's school has received a vetting disclosure from the Bureau in respect of the student concerned

See sample CPSA agreement on page 113 of this handbook.

Both the student's school and the other relevant organisation should retain a copy of this agreement for their records.

- A Table outlining the Stages required by parties to the process when vetting TY students is available from ACCS Head Office for Parents/Guardians, students, TY Co-ordinator and any persons involved in the processing of garda vetting forms for work placement.

ACCS/Info Bulletin 42/17.

Re: Vetting Update

Vetting of TY/LCA/LCVP/PLC students engaged in relevant work in primary schools

Primary Management Bodies have advised schools that:

- TY students attending primary schools for work experience are required to be vetted.
- The National Vetting Bureau is not vetting students under 16 years of age and accordingly primary schools may decide not to accept these students.
- Primary schools may arrange to have the students vetted themselves or alternatively may enter into an agreement with the post primary schools, whereby the post primary school arranges the vetting.
- Where the primary school opts to enter into a joint agreement with the post primary school, an agreement in the form of the attached template is required to be signed by the post primary school with each primary school in which it places students on work experience.
- A statutory declaration in the form of the attached template is also required to be signed by each TY student before a Peace Commissioner, Commissioner for Oaths, Practising Solicitor or Notary Public. Please liaise with your local national school to determine if this is a requirement for their school.
- Each TY student should furnish the relevant primary school with his/her vetting disclosure and signed statutory declaration prior to commencing work experience.

Vetting of TY students is processed through ACCS; please refer to ACCS Info Bulletin 24/17 on www.accs.ie. Please note that parental consent is required for the vetting of students under 18 years of age.

These arrangements also apply to LCA, LCVP and PLC students attending primary schools as part of a work experience programmes. See below the following documents:

Template Joint Agreement

AGREEMENT BETWEEN:

_____ [the “Organisation”]

AND _____ [the “School”]

IN RESPECT OF _____ [name of person]

In recognition of their respective obligations under the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012-2016 (“the Acts”), the Organisation and the School agree the following:

1. The Organisation and the School agree that [_____] (name of person) shall attend the school on such dates during the 2017/2018 School Year as may be agreed between the Organisation and the School for the purposes of [_____].
2. The Organisation confirms that it has received a Vetting Disclosure from the National Vetting Bureau in respect of the person named above. Prior to the person named above attending the School and the commencement of any relevant work or activities for the purposes of the Acts, he/she will furnish the School with a copy of the Vetting Disclosure received by the Organisation from the National Vetting Bureau (“the Vetting Disclosure”) and made available to the person by the Organisation under section 16(1) of the Acts.
3. The person named above will not be allowed to commence relevant work or activities until such time as the Vetting Disclosure has been received and considered by the School.
4. Where the Vetting Disclosure discloses no criminal record or specified information, the person named above will be allowed to commence relevant work or activities in the School on the starting date agreed between the Organisation and the School and may attend the School on such other dates as may be agreed between the Organisation and the School.
5. Where the Vetting Disclosure discloses any criminal record or specified information, the person named above will not be allowed commence relevant work or activities in the School unless a risk assessment for this placement is conducted by the Organisation and is considered acceptable to both the Organisation and the School.
6. Prior to attendance at the School, the person named above will be required to complete a Statutory Declaration in the form attached at Appendix 1 to this Agreement. The School reserves the right to request and verify references in respect of the person named above, prior to and following, the commencement of any relevant work or activities in the School.
7. This Agreement permitting the attendance of the person named above in the School may be terminated by the School at any time.

[Organisation]

[the School]

Date

Date

Appendix 1

Statutory Declaration and Form of Undertaking

I _____ of, _____

_____ in the county of _____ aged sixteen years and upwards do

SOLEMNLY AND SINCERELY DECLARE as follows:

that to the best of my knowledge and belief there is nothing, from a child protection perspective, in relation to my conduct, character or personal background of any nature that would adversely affect the position of trust in which I would be placed in relation to children or vulnerable persons by virtue of my placement in [_____] (the “**School**”) by [_____] (the “**Organisation**”) or in any recognised primary or post-primary school or any other state funded centre of education for children or vulnerable persons for the purposes of [_____] (the “**Placement**”)

I am aware that I am not now, or in the future, required to disclose to a school authority details of any conviction regarded as spent under the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016, but that, in accordance with section 10 of that Act, this does not however apply in the case of any conviction in respect of offences specified in Part 1 or 2 of Schedule 1 of that Act or those specified in Schedule 3 of the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016.

Within a child protection context:

- I hereby confirm my irrevocable consent to the School to the making of such enquiries as they deem necessary in respect of my suitability for the Placement in the School.
- I hereby accept and confirm the entitlement of the School to reject my application or terminate the Placement, if I have omitted to furnish the School with any information relevant to my application for, or continuing performance in the Placement.
- I understand that any false or misleading information submitted by me will render me liable to automatic disqualification from taking up the Placement or render me liable to have the Placement terminated in the event that it has already commenced.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed: _____ Date: _____

Applicant

Print Name: _____

Declared before me _____
by _____
who is personally known to me, at _____
in the City/County of _____ on the ____ day of
_____ 20____

[Practising Solicitor] [Commissioner for Oaths]
[Notary Public] [Peace Commissioner]

Declared before me _____
by _____
who is identified to me by _____
who is personally known to me, at _____
in the City/County of _____ on the ____ day of
_____ 20____

[Practising Solicitor] [Commissioner for Oaths]
[Notary Public] [Peace Commissioner]

Declared before me _____
by _____
whose identity has been established to me before the
taking of this Declaration by the production to me of
[passport no. [passport number] issued on [date of issue]
by the authorities of [issuing state], which is an authority
recognised by the Irish Government]

Or

[national identity card no. [identity card number] issued on [date of issue] by the authorities of [issuing state] [which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement]

Or

[alien's passport no. (document equivalent to a passport) [passport number] issued on [date of issue] by the authorities of [issuing state] which is an authority recognised by the Irish Government]

Or

[refugee travel document no. [document number] issued on [date of issue] by the Minister for Justice, Equality and Law Reform]

Or

[travel document (other than refugee travel document) no. [document number] issued on [date of issue] by the Minister for Justice, Equality and Law Reform]

at _____
in the City/County of _____ on the ____ day of
_____ 20____

[Practising Solicitor] [Commissioner for Oaths]
[Notary Public] [Peace Commissioner]

ACCS/Info Bulletin 43/17.

Re: Retrospective Vetting Update

Retrospective Vetting of Teachers:

The Teaching Council has provided the following guidance regarding the requirement for school management to ensure teachers have applied for vetting. Also see attached FAQs designed by the Teaching Council for Schools and Principals.

In the first instance **schools are asked to establish the vetting status of each teacher. Schools should therefore draw up a list of teachers who are/were:**

1. Already vetted by the NVB (since 29 April 2016)
2. Previously vetted by the GCVU (Teaching Council vetting letter)
3. Un-vetted – *now require to be vetted by 31 December 2017*

Only those teachers previously un-vetted are required to be vetted by 31 December 2017

In relation to un-vetted teachers the school needs to confirm:

- that the un-vetted teacher has made an application for vetting (the teacher should supply the confirmation email to this effect)
- Or
- Obtain the vetting disclosure from the previously un-vetted teacher once the online vetting has been completed

It is important that this engagement between the school and teacher happens in the coming weeks as this will ensure that compliance with the requirement for all individuals working with children and vulnerable persons to be vetted by the 31 December 2017 will be attained. Also, it should be borne in mind that it is a two-stage application process which, with the full co-operation of the teacher, takes a minimum of 5 working days for both stages to be completed.

Once the school establishes the vetting status of each teacher there are five possible outcomes listed below with some guidance for the schools:

1. **No Vetting:** Where a teacher is un-vetted by the Council, the school should ask them to commence the process immediately. This process takes a minimum of 2 weeks where all the correct documentation is provided at the outset. Therefore, schools should encourage the teachers to double check their documentation against the requirements e.g. within the 6 months/year, name on ID matches name on Register etc.
2. **Stage 1 e-Vetting Commenced:** Where a teacher indicates that he/she has commenced the process (Stage 1) but has not yet submitted all addresses to the National Vetting Bureau (Stage 2), the school should encourage the teacher to check emails for the link to the NVB and complete the input of addresses immediately. If the teacher has not received a link and five working days have lapsed since the Council received the identification documentation, the teacher should contact the Council.
3. **Stage 1 & 2 e-Vetting Completed:** Where a teacher indicates that he/she are in the process of being vetted and have submitted all their addresses to the National Vetting Bureau (Stage 2), a confirmation email issues to the teacher, a sample email can be found in under Q3 of the FAQs. The legislation requires that the teacher has applied for vetting rather than has completed the vetting process. This means that teachers at this stage have complied with the retrospective vetting requirement.
4. **Previous GCVU Vetting:** Where a teacher holds an older GCVU Disclosure and the school does not have a copy of this on file, the school should request the teacher to provide the evidence that they have been vetted. These teachers have previously complied with the vetting requirement and should not at this stage be requested to undergo the e-Vetting process unless there is a particular concern.
 - a. Evidence can be provided by the teacher logging onto the My Registration section of the Teaching Council website and printing off a screenshot of the Vetting Tab showing the Approved Status of the Vetting. The printout should be held on file by the school. A sample of the screen shot can be seen here under Q2 of the FAQs for Retrospective Vetting Schools/Principals.
 - b. Alternatively the teacher may still be in possession of the original vetting result letter issued by the Council. This should be copied and held on file. Please note that the Council is not in a position to re-issue these letters but will direct teachers to providing the information held under My Registration.

5. **Recent NVB Vetting:** Where a teacher holds the newer NVB Disclosure, the school should request the teacher to share the Disclosure via Digitary and a printout should be retained on file by the school.

Retrospective Vetting of Non-teaching staff and non-employees:

CL 16/2017, Para 5.2 advised school management to review its non-teaching staff records and other relevant records in respect of:

- o All non-teaching staff who undertake relevant work or activities
- o All persons who are contracted by the school to undertake relevant work or activities
- o All persons who are permitted by the school to undertake relevant work or activities on the school's behalf

to identify those who have already been vetted and those who have never been Garda vetted.

- School management should have a list of those persons who have never been Garda vetted to date by the school and commence the process of having these personnel Garda vetted through ACCS. All of these applications should be made by 31 December 2017.
- Where the school and another relevant organisation have a joint agreement regarding the employment, contract or permission of a person to undertake relevant work or activities in the school and a GCVU outcome was obtained or a disclosure from the Bureau was obtained in respect of this person previously, then retrospective vetting is not required.