



National Vetting Bureau (Children & Vulnerable Persons) Act – Guidance for NGBs

Introduction:

The Act will provide a legislative basis for the mandatory vetting of *persons who wish to undertake certain work or activities relating to children or vulnerable persons*. Persons who have on-going contact with children, in the provision of leisure or physical activities (paid or voluntary), other than those who assist **'occasionally'** or in the course of a family or personal relationship, must be vetted. This applies whether the person works alone or accompanied by another adult (*The definition given by Dept. Justice of Occasional = "now and then" or a once off event, such as a sports day*).

Who will need to be Garda Vetted?

- In the context of a sports club only those members i.e. coaches, trainers, mentors, etc. who provide sports activities to children and persons who are in direct contact with children or vulnerable persons on a **continuous** basis need to be vetted. [*Schedule 1, part 1, 2(5)*]
- It should be noted that it is illegal for an individual to commence working with children or vulnerable adults before successfully completing the Garda Vetting process [*section 12(d)*]

What action should the club take now?

- It is advisable to look at what persons in your club are vetted and decide who should be vetted under the new Act. For example, some clubs currently vet the chairperson and secretary of every club, however under the new Act you would not have to vet every chairperson and secretary unless they were in direct contact with the children on a continuous basis.
- The club should consider if they are providing this service for mixed groups of adults and children or only for children. If the club is for children only, all staff and volunteers should be vetted. If groups of children are being trained separate to the general club membership then the persons training them **must** be vetted. A *"child" means a person under the age of 18 years*.
- The club should also assess ancillary services such as the caretaker. The club will have to make the assessment themselves. For example, in one club the caretaker may only be responsible for outdoor facilities and may not have any role working with children. In another club the caretaker may be responsible for supervision of changing and shower areas. The Act only requires vetting of persons working with children. If the caretaker does not have such a role, a club is not committing any offence by not having them vetted.

Who may be exempted?

- Persons who assist **'occasionally'** and on a voluntary basis in certain activities, as the Act recognises the occasional but necessary involvement or assistance of parents or other persons in certain activities for a particular event or 'now and again'. Such persons are covered by the "occasional assistance" exemption.
- Where a person is providing a once off service at sporting events. Clubs will need to assess the individual positions involved and only conduct vetting where the position specifically involves working with children on an ongoing basis. Each club will have to make their own assessment.

Whose responsibility is it to ensure vetting is carried out?

- NGBs will be registered as the “relevant organisation” with the National Vetting Bureau and the NGB will have to register all clubs/units that they will be conducting vetting for within the organisation.
- Vetting is normally carried out by the Authorised Signatory (who will be known as Liaison Person once the Act commences) of the NGB. This will continue to happen. However an NGB can only complete the vetting process according to the requests they receive from their affiliated clubs.
- Whoever employs/engages the coach is responsible for vetting. The club is responsible for ensuring that club coaches are vetted. However, if the National Governing Body (or any national agency) employs coaches itself, perhaps to provide elite coaching, then the National Governing Body will be responsible for vetting of those persons.

Is it an offence to fail to vet a sports coach or trainer working with children?

- Yes. Section 12 of the Act prohibits the engagement of persons to do relevant work or activities relating to children or vulnerable persons, unless that person has been subject to the vetting procedures under the Act. The Act does, however provide a defence for a person to show that he or she did not know, or could not be reasonable expected to know, that the work for which a person was engaged constituted relevant work or activity.

What should the NGB (and/or club) do on receipt of vetting disclosures?

- Where a vetting disclosure contains details of criminal records or specified information the organisation must make available a copy of the disclosure to the vetting applicant [section 16 (1)]. The organisation should then consider the information in a confidential and sensitive manner.
- The organisation and/or club should carry out a risk assessment and consider the suitability of the person for the position for which they have applied. The organisation may not disclose the information [section 15(d)]

What is specified information?

- This is information other than details of a criminal conviction. It is information that is considered to give rise to a bona fide concern that a person may harm a child or a vulnerable person. Only information arising from a statutory inquiry or Garda investigation can constitute ‘specified information’ to be disclosed in vetting applications. If such information is going to be disclosed, the Chief Bureau Officer must notify the vetting subject of the intention to disclose the information.
- Organisations that have submitted applications in the past for individuals will be informed if a re-vetting application is received from them for that individual and if any “specified Information” is held since previous vet will be released (subject to above bullet point).
- It must be borne in mind that if the individual is no longer involved in the organisation there is no basis in law for providing such information to the organisations.

What is the procedure for the retention of information for a National Governing Body following the issuing of the Vetting Disclosure to the person?

- Under the Data Protection Act a vetting disclosure would constitute “sensitive personal information”. Section 2 of the 1988 Act requires that such data shall be kept for “no longer than is necessary”. Most disclosures will state that there is no record of the person having a conviction. It is suggested that there is no reason to keep these “nil” disclosures once they have been recorded. Where a disclosure shows that a person has a relevant criminal conviction, which is considered to make them unsuitable, it is likely to be necessary to retain this record for a longer period. There are no hard and fast rules – each organisation/club can assess what is the necessary period in respect of a particular record.

What should the NGB do if the adult has already been vetted by another sporting or voluntary organisation?

- The Data Protection Act prevents the use of "sensitive personal information" for purposes other than the purpose for which the data was collated for. Therefore a person that has completed a check within one sporting organisation cannot be considered to have been vetted for all sporting activities. Each organisation will have to complete vetting on its own staff, either paid or voluntary.
- The National Vetting Bureau will issue a Vetting ID number to participants. If the adult has already been vetted the current application will complete a check for the intervening time. For instance if there was a 6-month lapse since they filled out a form they will only be vetted for that 6-months. However if there are any disclosures as a result of a search of the criminal records from the previous vetting application they will be included in the results of the current application.

How does the NGB avail of vetting?

- National Governing Bodies who are already registered with the Garda Central Vetting Unit do not have to re-register.
- If your organisation wishes to register with the Garda Central Vetting Unit (to be renamed the National Vetting Bureau under the new act) you should contact the Irish Sports Council for further information.
- If you will only be vetting small numbers of staff or volunteers then you can access vetting through the Federation of Irish Sport.

The above guidance is a general overview of the new legislation that came into effect at the end of 2012. Each organisation will need to further examine how the legislation may affect the workings of their organisation; as there may be issues that are specific to your organisation.

For further information contact Bernie Priestley in the Irish Sports Council on 01 8608800, www.irishsportsCouncil.ie