

GARDA VETTING POLICY



Friends of the Earth Ireland is committed to the protection and welfare of our members, supporters, volunteers and all those we engage through our work and activities. As part of this commitment Friends of the Earth Ireland will comply with relevant legislation and recommended best practice in recruitment and selection procedures for employees, contractors and volunteers, and will conduct Garda Vetting, where appropriate, as part of this process.

PURPOSE

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

SCOPE

This policy applies to Friends of the Earth employees, volunteers and contractors who will 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 2). Responsibility for ensuring this policy is effectively implemented rests with our Garda Vetting Officer with the support of the Garda Vetting Committee. All other staff members and volunteers in Friends of the Earth are expected to facilitate and support the implementation of this policy.

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) Act 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 organisation’s 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 (Dublin City 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 maxim "*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 "*nemo iudex 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.

Occasional Volunteering – External people or volunteers who assist on an occasional basis for no commercial consideration (ie: paid work) for any work, event or activity other than where such assistance will include training/ coaching/ mentoring children or vulnerable persons will not be required to be Garda vetted.

Relevant work/ Incidental Work – Vetting is a legal requirement for any person who is carrying out relevant work or activity under [Schedule 1](#) of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012-2016. Relevant work must be a regular and consistent part of their role; it should not be incidental to their role (i.e. happening as a minor accompaniment to something else). The Act does not provide the legal power to request vetting for any person, unless that person is conducting relevant work as defined in the Act. To vet someone who does not require it is a breach of the Act and of Data Protection.

PRINCIPLES

Garda Vetting is just one of a number of elements that Friends of the Earth Ireland implements to ensure the protection and safety of the children and/or vulnerable adults we engage with through our work. Appropriate recruitment screening (including interviews, reference checking), child protection and health and safety procedures, etc. will be implemented along with Garda Vetting. (Please read this policy in conjunction with our policies on Child Protection, Volunteers and Data Protection and Privacy).

An individual will not work / volunteer with children or vulnerable adults in Friends of the Earth until their Garda vetting has been completed and the results conveyed to the organisation's Garda Vetting Officer by the Liaison Person.

Having a criminal record will not automatically exclude an individual from employment/contract for services/volunteering with Friends of the Earth. 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 of the individual's offence

Friends of the Earth Ireland will employ a Natural Justice framework in dealing with any disclosures of convictions.

VETTING APPLICATIONS PROCESS

All vetting applications for employment/contracted/volunteer roles with Friends of the Earth shall be processed by a Liaison Person who is trained by the National Vetting Bureau in the management of Vetting applications and disclosures. Friends of the Earth has appointed Dublin City Volunteer Centre to act as Liaison Person on its behalf.

Friends of the Earth will nominate a 'Garda Vetting Officer' (GVO) (See Appendix 1). Their responsibilities in conjunction with the Garda Vetting Committee include:

- Assessing when Garda vetting is necessary for each employment position/volunteer role 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 for employment positions/volunteer roles and contract for services 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 Friends of the Earth staff, volunteers and contractors where relevant are aware of the organisation's Garda Vetting Policy.

Friends of the Earth will nominate 3 people to be part of the "Garda Vetting Committee" (See Appendix 1). This Vetting Committee will be responsible for the following:

ENSURING ORGANIZATIONAL 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.

Friends of the Earth will not accept historical vetting information from employment / volunteer candidates or from their previous employer's / volunteer managers. Each new employee / contractor / volunteer in relevant roles must be vetted via the Friends of the Earth vetting process, even if engaging an individual already vetted elsewhere.

Friends of the Earth will require all of its existing staff/volunteers to be re-vetted at regular intervals of three years if this is still relevant to their role.

Friends of the Earth will require all of its existing staff/contractors/volunteers to be vetted as their role evolves to carrying out relevant work or activity under Schedule 1 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012-2016.

VETTING DISCLOSURES PROCESS

On return from the National Vetting Bureau the forms will be processed by the nominated Liaison Person who will inform the Friends of the Earth 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/contracted/voluntary role will be issued to the candidate in line with Friends of the Earth's 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 members of the 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 / contractor / 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, Friends of the Earth will ensure that: Everyone, no matter what their history, is given fair and equal treatment and the right to state their case. Cognisance is of Repeat Offending, Restorative Justice and Rehabilitation of Offenders. A disclosure of conviction will not automatically preclude the applicant from obtaining the position in question. Cognisance is taken of the applicant's 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.

Where multiple convictions are evident but may be as the result of a particular lifestyle, e.g., drug addiction, then the change in lifestyle must be taken into consideration.

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.

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

Friends of the Earth 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.

CONFIDENTIALITY AND DATA PROTECTION

All information in the vetting process will be held in a manner consistent with Friends of the Earth's Privacy and Data Protection policy. Friends of the Earth also complies fully with good practice regarding the secure storage, handling and use of the National Vetting Bureau disclosures and personal vetting information as per our Privacy and Data Protection Policy and our legal obligations under Data Protection Legislation.

CIRCUMSTANCES FOR THE WITHDRAWAL OF THE OFFER TO WORK/ VOLUNTEER

Friends of the Earth considers the following as reasonable grounds to withdraw an offer or opportunity of employment / volunteer 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.

Friends of the Earth considers the following list of offences to be relevant, and each case will be considered in a case-by-case basis:

- 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.

Friends of the Earth 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

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.1

As of March 2021, Friends of the Earth Ireland have nominated Emma Jayne Geraghty, Education and Training Coordinator as our Garda Vetting Officer.

Our Garda Vetting Committee is comprised of: Oisín Coghlan, Director, Audrey Vallier, Head of Finance and Operations and Emma Jayne Geraghty, Education and Training Coordinator.

APPENDIX. 2

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

PART 1 – 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, develop mental 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).

APPENDIX. 3

PREVIOUS CONVICTIONS MATRIX

| Category of conviction | Period Since Court Outcome Expired | | | | |
|---|------------------------------------|-----------|-----------|------------|-----------|
| | 0-2 Years | 2-5 Years | 5-8 Years | 8-11 Years | 11+ Years |
| Offences of Sexual, Physical or Emotional Abuse Against Children or Child Pornography | Unlikely | Unlikely | Unlikely | Unlikely | Unlikely |
| Murder | Unlikely | Unlikely | Unlikely | Unlikely | Consider |
| Sexual Offences Against or Involving Adults | Unlikely | Unlikely | Unlikely | Unlikely | Consider |
| Treason | Unlikely | Unlikely | Unlikely | Unlikely | Consider |
| Drug (Trafficking / Supply) | Unlikely | Unlikely | Unlikely | Unlikely | Consider |
| Manslaughter | Unlikely | Unlikely | Unlikely | Consider | Consider |
| Drug (Misuse) | Unlikely | Unlikely | Consider | Consider | Consider |
| Non-Fatal Offences Against a Person or Persons | Unlikely | Unlikely | Consider | Consider | Consider |
| Offences Under The Defence Act(s) | Unlikely | Consider | Consider | Consider | Consider |
| Offences Against The State | Unlikely | Consider | Consider | Consider | Consider |
| Offences Involving Offensive Weapon Possession | Unlikely | Unlikely | Consider | Consider | Likely |
| Road Traffic Offences (Use of Vehicle In Commission Of A Crime) | Unlikely | Unlikely | Consider | Likely | Likely |
| Offences Involving Fraud | Unlikely | Consider | Consider | Likely | Likely |
| Offences Involving Damage To Property | Unlikely | Consider | Consider | Likely | Likely |
| Offences Involving Theft | Unlikely | Consider | Consider | Likely | Likely |
| Road Traffic Offences (Hit and Run Offences) | Unlikely | Consider | Consider | Likely | Likely |
| Road Traffic Offences (Outcome: Other) | Consider | Consider | Consider | Likely | Likely |
| Public Order and Anti-Social Behaviour Offences | Consider | Consider | Likely | Likely | Likely |
| Road Traffic Offences (Outcome: Fine Only) | Consider | Likely | Likely | Likely | Likely |
| Offences Not Falling In To The Above Categories (Outcome: Fine Only) | Consider | Consider | Likely | Likely | Likely |
| Offences Not Falling In To The Above Categories (Outcome: Other) | Consider | Consider | Consider | Likely | Likely |

The “Period Since Court Outcome Expired” is determined as follows:

- In the cases of a custodial sentence the day when the full sentence has expired (not the date of release).
- In the case of a suspended sentence the day when the period of suspension expires.
- In the case of a non-custodial sentence the day the sentence was imposed.

MULTIPLE CONVICTIONS MATRIX

In the case of multiple convictions, the period since court outcome expired is extended by:

a minimum of 1 year for 3 or less convictions

a minimum of 2 years for more than 4-6 convictions

a minimum of 3 years for more than 7-10 convictions

a minimum of 4 years for more than 10 convictions

| | Period since court outcome expired | | | | |
|-------------------------------------|------------------------------------|-----------|------------|-------------|-----------|
| Multiple Convictions (3 or less) | 0-3 Years | 3-6 Years | 6-9 Years | 9-12 Years | 12+ Years |
| Multiple Convictions (4-6) | 0-4 Years | 4-7 Years | 7-10 Years | 10-13 Years | 13+ Years |
| Multiple Convictions (7-10) | 0-5 Years | 5-8 Years | 8-11 Years | 11-14 Years | 14+ Years |
| Multiple Convictions (more than 10) | 0-6 Years | 6-9 Years | 9-12 Years | 12-15 Years | 15+ Years |