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## Vetting/Foreign Police Certification Policy for Staff

### 1. BACKGROUND

The University is committed, that it takes all steps that are reasonably practicable, to ensure that only suitable candidates are appointed to positions which involve contact, which is not merely incidental to the candidate role, with children or vulnerable adults. On this basis, the University ensures that Garda Vetting is conducted in accordance with the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 and 2016 (the “Act”), in respect of any person who is carrying out work or activity, a necessary and regular part of which consists mainly of the person having access to, or contact with, children or vulnerable persons. Any disclosures obtained during the course of the Garda Vetting process assists the University when making decisions in this regard, including recruitment decisions.

Any queries in respect of this policy should be raised with the University Liaison Person at [gardavet@tcd.ie](mailto:gardavet@tcd.ie).

### 2. GENERAL PRINCIPLES

This policy applies to anyone who is employed and/or engaged by or acts on behalf of the University who will have access to children and/or vulnerable adults in the course of their



employment/engagement in a manner which is not merely incidental to the role of that person.

Individuals who are not directly employed by the University, but who are employed by contractors (or sub-contractors) of the University and who will have access to children and/or vulnerable adults in the course of their duties in a manner which is not merely incidental to the role will also be required to undergo the vetting/clearance process.

A “child”, for this purpose, *is a person under 18 years of age.*

The term “vulnerable person” means *a person, other than a child, who is (a) suffering from a disorder of the mind, whether as a result of mental illness or dementia or (b) has an intellectual disability or (c) is suffering from a physical impairment, whether as a result of injury, illness or age, or (d) has a physical disability, which is of such a nature or degree (i) as to restrict the capacity of the person to guard himself or herself against harm by another person, or (ii) that results in the person requiring assistance with the activities of daily living including dressing, eating, walking, washing and bathing.*

The University reserves the right to terminate any engagement with any non-payroll resource/contractor should they fail to discharge their obligations under the Act and/or if information is obtained through the vetting process which is disclosed by the Bureau on the basis that it is necessary, proportionate and reasonable for the purposes of protecting children and/or vulnerable adults.

Where a vetting disclosure is made in respect of any person to the University, then the University is obliged to make a copy of the vetting disclosure available to the person concerned as soon as practicable. The information contained in the vetting disclosure will not be used by the University for a purpose other than for assessing the suitability of the person for the relevant work or activities for which they are being considered.



The University will follow the National Vetting Bureau, An Garda Síochána, Code of Practice-Garda Vetting.

### **3. VETTING / FOREIGN POLICE CLEARANCE OF APPLICANTS**

Where a person is deemed to be required to submit to vetting, for whatever reason then that person shall be required to complete the e-vetting form which is available at <http://www.cic.gc.ca/english/information/security/police-cert/index.asp>.

The Vetting Application Form requires the person subject to the vetting to disclose particulars of any criminal record.

The administration of the vetting process will be carried out under the direction of the Liaison Person and/or any other University employee as may be assigned such responsibility from time to time.

If the applicant has resided outside Ireland for a cumulative period of 36 months or more over the age of 18 they must also furnish a Foreign Police Certificate (FPC) from the country or countries of residence. The University however, reserves the right to request FPC for a lesser period if it so requires. This Certificate should state that the applicant has no convictions recorded against them while residing there or the Certificate should disclose any convictions recorded against the applicant during the term of residence.

The University relies on the National Vetting Bureau (NVB) in conjunction with Foreign Police Certification to ensure, as far as is reasonably practicable, the suitability of any person who is carrying out work or activity, a necessary and regular part of which consists mainly of the person having access to, or contact with, children or vulnerable persons. The



University may also require that applicants to provide an enhanced disclosure by the completion of an affidavit or statutory declaration.

The University may, at its sole and absolute discretion afford an employee or a potential candidate a period of up to six months to obtain the appropriate Foreign Police Certificate. This period may be extended only in the most exceptional of circumstances. In circumstances where a Foreign Police Certificate is unobtainable in a particular jurisdiction then the University may, at its absolute discretion, agree an alternative method by which a candidate/employee can discharge this obligation. If an employee or potential candidate is not in a position to pay for the cost of discharging this obligation, the University (School, Faculty or division) will pay on behalf of the individual.

Should any information required to be supplied by an employee, third party or prospective employment candidate be false and/or not forthcoming then the University shall be entitled to rescind any offer of employment or engagement and, in the case of employees of the University shall immediately refer the matter through the appropriate internal policy.

#### **4. THE NATIONAL VETTING BUREAU AND FOREIGN POLICE CERTIFICATE PROCEDURE FOR APPLICANTS**

The following sections outline the various stages that are involved in the vetting process:

##### **Stage 1: Identification of Vetting**

The [Head of School/Head of Area] having consulted with the liaison person as he/she considers appropriate will identify the types of posts that require vetting. This does not preclude the [Head of School/Head of Area] from requiring from time to time that additional positions will require vetting. Certain roles/activities will be designated by the University and/or liaison person as automatically requiring vetting. A sample of the current



list of these roles and activities is contained at Appendix 1. No assessment shall be required to be undertaken in respect of such roles and/or activities as vetting shall be a precondition of participating in such activities.

If however, a [Head of School/Head of Area] is of the view that certain roles in these areas do not require vetting, for example, due to the application of an exemption under the Acts, an assessment shall be required to be undertaken before a decision that the position does not require automatic vetting is made. This decision shall be recorded by the [Head of School/Head of Area] and the Liaison Person and subject to review if the activities undertaken in the role change.

### **Stage 2: Advertisement**

All posts identified as requiring vetting will generally state in either the job description or accompanying documentation that the post will be subject to vetting. The fact that the job description/advertisement does not contain such a statement does not preclude the University from requiring that such a post be subject to vetting/re-vetting.

### **Stage 3: The Offer / Contract**

Following completion of the recruitment and selection process, the candidate(s) deemed suitable for appointment can be offered the position subject to them satisfying the full requirements of the role including satisfactory vetting by the NVB.

This will be explicitly reflected in the offer letter and/or contract, which will be accompanied by instructions on how to complete the Vetting process.

No person required to undergo vetting shall be permitted by the University to engage in work activities with children and/or vulnerable adults until such time as all parts of the recruitment and selection process including vetting by the NVB has been fully completed to the satisfaction of the University.



Whilst the University may, at its sole and absolute discretion afford an employee or a potential candidate a period of up to six months to obtain the appropriate Foreign Police Certificate, the contract will explicitly state that the offer and their continued employment is subject to them successfully completing the Foreign Police Certificate process within the stated period.

#### **Stage 4: Confirmation of NVB response by Liaison Person**

Where the information supplied by the NVB/Foreign Police is inconsistent with the information supplied by the applicant the Liaison Person will contact the applicant to clarify whether:

- (a) The information supplied by the NVB /Foreign Police is correct;
- (b) the candidate/prospective employee does not agree that the information supplied by the NVB /Foreign Police is correct, in which case the Liaison Person will request the NVB /Foreign Police to review their information and confirm or review their initial response.

Where the vetting disclosure contains criminal records information or 'specified information' within the meaning of the Act, the University shall as soon as practicable make available a copy of the vetting disclosure to the applicant.

#### **Stage 5: Assessment of Information**

The University shall take such action and/or invoke such internal policies as it considers necessary and appropriate in respect of any vetting disclosure.

Where a vetting disclosure contains convictions, specified information or information that is inconsistent with that provided by the applicant then it shall be considered by the University's Decision Making Committee.



The Decision Making Committee will comprise the following persons: The Head of the School/Area, Director of Human Resources, Deputy Director of Human Resources and Liaison Person.

The role of the Decision Making Committee will be to assess the suitability of the person who is the subject of the disclosure to perform the role.

In considering this assessment, the Decision Making Committee may, inter-alia, consider and take into account the following criteria:

- All the information disclosed to it by the Bureau
- Previous employment history
- Educational qualifications
- Skills and competencies pertaining to the position sought
- Performance at interview or job assessment
- Satisfactory reference from acceptable referees
- The nature and seriousness of any conviction or offence which may be recorded in respect of the individual
- Mitigating factors, if any, in favour of the individual
- The self-disclosure of any such offence by the individual
- The age of the individual at the time any such offence was committed by the individual
- The length of time elapsed since any such offence was committed by the individual
- The conduct of the individual in the time elapsed since any such offence was committed
- Rehabilitative efforts undertaken by the individual in the time elapsed since any such offence was committed
- Recidivism rate, if any, of the individual in the time elapsed since any such offence was committed



- Any other information recorded relating to the commission of or involvement in the commission of an offence, or which would give rise or would be likely to give rise to a bona-fide concern that the individual poses a risk to the safety of children and/or vulnerable adults.

This is not an exhaustive set of criteria. It is a general guideline to criteria the Decision Making Committee may consider and take into account when assessing the suitability of an individual to undertake a role or engage in a work activity which involve contact, which is not merely incidental to the candidate role, with children or vulnerable adults.

#### **Stage 6 – Completion of National Vetting Bureau / Foreign Police Procedure**

Applicants, employees and/or any other person who is deemed to require vetting by the NVB and who has satisfactorily completed vetting (and all other conditions of the appointment process) may be employed/engaged by the University.

Applicants, employees and/or any other person who is required to provide a Foreign Police Certification may be employed/engaged by the University subject to them completing the process to the satisfaction of the University within 6 months of their commencement date.

In the event that the Applicants, employees and/or any other person who is required to provide a Foreign Police Certification is unable to obtain one and has exhausted all avenues to do so must provide proof of attempts to obtain a Foreign Police Certification and submit Statutory Declaration Form signed by the Applicant and a Practising Solicitor / Commissioner for Oaths / Notary Public / Peace Commissioner.

## **5. VETTING / FOREIGN POLICE CERTIFICATION OF EXISTING STAFF**

### **Retrospective Vetting**





The University is required to request staff members and or third parties who are already employed and/or engaged by the University in certain positions and/or undertaking certain work activities to undergo vetting (including, for the avoidance of doubt, the Foreign Police procedure). Retrospective vetting will be carried out in accordance with this policy and all persons subject to these requirements will be informed that they will be required to undergo vetting.

### **Re-Vetting**

The University reserves the right to request any member of staff/third party who has access during the course of their employment and/or engagement to children and/or vulnerable adults to undergo vetting/police clearance at any time in their employment/engagement but in any event at appropriate intervals (currently every 5 years) or such shorter periods as may be prescribed under the Act or as may be deemed appropriate by the University<sup>1</sup>.

Stages 1, 4 and 5 of *Section 4 - The National Vetting Bureau and Overseas Police Clearance Procedures for Applicants*, will also apply to Re-vetting and Retrospective Vetting. The University shall take such action and/or invoke such internal policies as it considers necessary and appropriate in respect of any persons failure or refusal to engage in the vetting process and/or in respect of any vetting disclosure made.

## **6. DISCLOSURE OF CRIMINAL CONVICTIONS**

It is University policy to ask any person who is carrying out work or activity, a necessary and regular part of which consists mainly of the person having access to, or contact with, children or vulnerable persons if they previously have been convicted of a criminal

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<sup>1</sup>The University has designated the College Day Nursery as an area that require vetting every 3 years in line with Tusla – Child and Family Agency recommendations for childcare settings or such shorter periods as may be prescribed under the Act or as may be deemed appropriate by the University.



offence(s). It will be a matter for the Decision Making Committee to consider such disclosures on a case by case basis.

## **7. VETTING FOR POSTS WHERE A DUAL PLACEMENT IS REQUIRED AND / OR JOINT APPOINTMENTS WHERE THERE ARE TWO OR MORE ORGANISATIONS INVOLVED.**

In accordance with Section 12(3A) of the National Vetting Bureau (Children & Vulnerable Persons) Acts 2012 to 2016, organisations can share vetting disclosures where they have in place a joint agreement in writing to do so. The section stipulates that this relates to the employment, contracting, permitting or placement of a person to undertake relevant work or activities.

Where two or more organisations both have a responsibility to vet a person for the same job, it is sufficient that both organisations agree in writing that one will conduct vetting on behalf of both.

This joint agreement is a matter for the signatories to such an agreement to satisfy themselves that the provisions of the National Vetting Bureau (Children & Vulnerable Persons) Acts 2012 to 2016 are met.

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## **Appendix 1**

### **Posts which may require mandatory Garda Vetting/Foreign Police Clearance**

If any person engaged by the University undertakes the following activities as a necessary and regular part of their role then they may be required to submit to Garda vetting and police clearance. This is not an exhaustive list and may be added to, amended or varied by the University from time to time and is subject always to any role and or activity being identified as requiring vetting/clearance in accordance with Stage 1 of this policy.

Persons working in the areas below may not be automatically required to undergo Garda Vetting and police clearance in circumstances where, for example, an exemption to Garda Vetting applies under the Acts. If the [Area Head/Head of Department] considers that an exemption may apply, the [Area Head/Head of Department] must consult with the Liaison Person to clarify the position prior to allowing an individual who has not completed the



**Trinity College Dublin**  
Coláiste na Tríonóide, Baile Átha Cliath  
The University of Dublin

vetting process to undertake such activities.

Access programmes (e.g., Disability Office)

Accommodation / residential staff

Activity camps

All research work involving children or vulnerable adults

Buildings Maintenance Staff

Bus drivers

Campus tours

Careers advisors

Chaplains



Child protection officers

Contact persons for bullying, harassment etc.

Counselling

College Day Nursery<sup>1</sup>

Disability support workers

Invigilators (when invigilating vulnerable adults)

Open Day (not required if occasional)

Outreach activities to secondary or primary school children; on or off site; (not required if only occasional)

Relevant Clubs and or Societies (eg. coder jojo)

Security staff

Sports centre staff

Student ambassadors

Student health services

Student recruitment

Summer Schools.

Staff responsible for TY students on placement

Welfare officers.

Where students are vetted as a requirement for their course, staff who have similar access as the students must then be vetted