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# Garda Vetting

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Dun Laoghaire Rathdown Outreach  
Project

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Last Review date: 20<sup>th</sup> June 2019

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Revision date: June 2021

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1. Responsibility for approval of policy	Governance and Human Resources Subcommittee
2. Responsibility for implementation	Manager
3. Responsibility for ensuring review	Manager
4. Version	V2 June 2019 AC

## 1. Policy Statement

- 1.1 Dun Laoghaire Rathdown Outreach Project is committed to the protection and welfare of all of our Service Users. As part of this commitment Dun Laoghaire Rathdown Outreach Project will comply with relevant legislation and recommend best practice in selection and recruitment procedures for employees, volunteers, students and sessional staff, and will conduct Garda Vetting, where appropriate, as part of this process.
- 1.2 Dun Laoghaire Rathdown Outreach Project has signed an agreement with the Dun Laoghaire Rathdown Volunteer Centre in which Dun laoghaire Rathdown Outreach Project has agreed that Dun Laoghaire Rathdown Volunteer Centre will act as the Registered Organisation for Garda Vetting.

## 2. Purpose

- 2.1 The purpose of this document is to provide information and guidance on Garda Vetting procedures within Dun Laoghaire Rathdown Outreach Project.

## 3. Scope

- 3.1 This policy applies to Dun Laoghaire Rathdown Outreach Project employees, volunteers, students on placement and sessional workers providing in-reach services who will carry out “relevant work” with children and/or vulnerable persons as defined in the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012-2016. Responsibility for ensuring this policy is effectively implemented rests with the Garda Vetting Officer within the organisation Anthea Carry, Manager.
- 3.2 All other staff members, volunteers, students on placement and sessional workers providing in-reach services are expected to facilitate and support the implementation of this policy.
- 3.3 *Dun Laoghaire Rathdown Outreach Project will manage all Garda Vetting applications and disclosures within Human Rights, Legislative and a Natural Justice framework.*  
Dun Laoghaire Rathdown Outreach Project recognise that a body of legislation impacts on Garda Vetting, including
  - Child Care act 1991 – sections 5, 61 and 65
  - Data Protection Act 1988/2003
  - Children’s Act 2001 – section 258
  - European Union Convention on Human Rights.
- 3.4 This policy must be read in conjunction with Dun Laoghaire Rathdown Outreach Projects Selection and Recruitment Policy, Confidentiality Policy and Data Protection Policy.

## 4. Glossary of Terms

- 4.1 **National Vetting Bureau (NVB)** is the national bureau of the Garda Síochána which conducts vetting of applicants engaged in relevant work to ascertain whether these applicants have a criminal record as defined below
- 4.2 **Garda Vetting** is the national process by which the National Vetting Bureau gives a statement on whether a person has had any convictions – pending or completed – recorded against their name (subject to the Spent Convictions Act of 2016 which allows for certain convictions to become “Spent”). In certain circumstances specified information may be disclosed
- 4.3 **Criminal Record** in relation to a person means:
  - 4.3.1 A record of the persons convictions, whether within or outside the State, for any criminal offences together with any ancillary or consequential orders made pursuant to the convictions concerned

4.3.2 A record of prosecutions pending against the person whether within or outside the State for any criminal offence

4.3.3 Or both

4.4 **Specified Information** in relation to a person who is subject of an application for vetting disclosure means information concerning a finding or allegation of harm to another person received by the Bureau from An Garda Síochána or a scheduled organisation pursuant to Section 19 of the Act. It is information that is considered to give a bona fide concern that the vetting subject may harm, attempt to harm or put at risk a child or vulnerable person or both. If such information is going to be disclosed to a relevant organisation relation to one of their applicants, the Chief Bureau Officer must, in advance, notify the vetting subject of the intention to disclose the information

4.5 **Spent Convictions Act 2016** allows for certain convictions to become “spent” after a period of time has elapsed (7 years being the standard).

The following convictions will always be disclosed:

- Offences against the person (except minor public order offences)
- Sexual Offences
- Convictions on indictment that go to circuit court or higher court

*The Vetting Disclosure will include:*

Particulars of the criminal record (if any) relating to the person and a statement of specified information (if any) relating to the person which the Chief Bureau Officer has determined in accordance with Section 15 of the Act should be disclosed

Or

State that there is no criminal record or specified (soft) information in relation to the person

4.6 **Liaison Person** is the person who is nominated to apply for and receive the vetting disclosures on behalf of applicant organisations. The Liaison Person may be nominated to act for a consortium of organisations (i.e. Volunteer Centres) or from a representative body for a group of organisations (i.e. NYCI)

4.7 **Child** is a person under the age of 18 years.

4.8 **Vulnerable person** is 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 an 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

4.9 **Registered Organisation** A volunteer centre that has a vetting relationship with the National Vetting Bureau of the Garda Síochána in the Act is referred to as a registered organisation

4.10 **Relevant Organisation** see below

4.11 **Affiliates** are relevant organisations who are affiliated to a local volunteer centre for vetting purposes. All VCs keep an up to date list of affiliates officially with the NVB

4.12 **Liaison Person** is the person in the DLR Volunteer Centre who processes Garda Vetting information on behalf of its affiliates

4.13 **Garda Vetting Officer** is the person in DROP who the liaison officer can work with in relation to vetting

4.14 **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 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)

## 5. Principles

- 5.1 Garda vetting is just one of a number of elements that Dun Laoghaire Rathdown Outreach Project implements to ensure the protection and safety of the service users in our care. Appropriate recruitment screening (including interviews, referencing checking), child protection and health and safety procedures etc. will be implemented along with Garda vetting.
- 5.2 An individual will not work with vulnerable persons at the Dun Laoghaire Rathdown Outreach Project until their Garda Vetting has been completed and the results conveyed to the organisations Garda vetting Officer by the liaison person. It will be an offence to start a person in relevant work before Garda vetting is completed.
- 5.3 Having a criminal record will not automatically exclude an individual from employment/volunteering. Decisions on whether to involve an individual with prior criminal convictions will take into account:
- the individuals 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, volunteer, employees and organisation;
  - training which may have occurred since the time individuals offence
- 5.4 Dun Laoghaire Rathdown Outreach Project will employ a Natural Justice Framework in dealing with any disclosures of convictions

## 6. Garda Vetting Process

- 6.1 The advertising of any role **that will be undertaking relevant work or activities** within Dun Laoghaire Rathdown Outreach Project, paid or voluntary will include a statement advising that Garda Vetting will be required.
- 6.2 New staff members, volunteers and sessional workers will not be allowed to undertake relevant work with service users until the Garda Vetting process has been completed.
- 6.3 A Vetting Invitation Form will be given to the applicant along with the Vetting Initiation Instructions and Checklist. It is noted on the information sheet that the Dun Laoghaire Rathdown Volunteer Centre is acting on behalf of Dun Laoghaire Rathdown Outreach Project as their Authorised Signatory.
- 6.4 The applicant must return the completed vetting invitation form along with photograph proof of identification and proof of address which the Manager then verifies. **The consent tick box must be completed on all Vetting Invitations.**
- 6.5 The manager then inputs the details from the invitation form into the DLR Volunteer Centre Google form at <https://goo.gl/forms/w2R7vOd98eXuvNc53> and submits within 6 months of the date on the form. The role being vetted for should **include the relevant section of the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012-2016**. The applicant will then receive an email link to complete the Garda Vetting form
- 6.6 Dun Laoghaire Rathdown Outreach Project will keep a record of the invitation form and identification details on the personnel file for the applicant. On completion of the vetting process the DLR Volunteer Centre will return, by email, the Garda Vetting disclosure result to the Garda Vetting Officer.
- 6.7 All vetting applications for employment/volunteer roles/student placements with Dun Laoghaire Rathdown Outreach Project shall initially be processed by the GVO before referral to the liaison person who is trained by the garda vetting unit in the management of vetting applications and disclosures. Dun Laoghaire Rathdown Outreach Project has appointed Dun Laoghaire Rathdown Volunteer Centre to act Liaison Person on its behalf.

- 6.8 Dun Laoghaire Rathdown Outreach Project will nominate one staff/board/committee member to act as the Garda Vetting Officer (GVO). The responsibilities of the GVO include:
- Assessing when Garda vetting is necessary for each employment position/volunteer role i.e. the role involves relevant work with vulnerable persons as specified in the National Vetting Bureau (Children and Vulnerable Persons Acts) 2012 to 2016.
  - Ensuring that candidates for employment/volunteer roles are provided with the correct Garda Vetting Forms and that the forms are completed accurately and in full, prior to submitting the details on line to the Liaison Officer
  - Verifying the identity of the person submitting the vetting application by checking relevant photo ID and proof of address
  - Ensuring all personal information in relation to vetting is kept confidential and in compliance with the General Data Protection Regulations and best practice
7. That Dun Laoghaire Rathdown Outreach Project staff/volunteers are aware of the organisation's Garda Vetting Policy. The Dun Laoghaire Rathdown Outreach Project Garda Vetting Committee will consist of all members of the Governance & Human Resources Sub Committee whose remit includes Garda Vetting. The responsibilities of the Garda Vetting Committee include:
- 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 and or specified information 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
8. Dun Laoghaire Rathdown Outreach Project 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 Dun Laoghaire Rathdown Outreach Project vetting process, even if engaging an individual already vetted elsewhere. Dun Laoghaire Rathdown Outreach Project will require all of its existing staff/volunteers to be re-vetted at regular intervals of five years.
- 9. Vetting Disclosures Process**
- 9.1 On return from the National Vetting Bureau the forms will be processed by the nominated Liaison Person who will inform Dun Laoghaire Rathdown Outreach Project Garda Vetting Officer by email of the results
- 9.2 The Liaison Person will pass on a copy of the persons disclosure to the Garda Vetting Officer for their consideration, and this document will be held confidentiality within the organisation
- 9.3 An offer of a position of employment/voluntary role will be issued to the candidate in line with Dun Laoghaire Rathdown Outreach Project's other screening / recruitment procedures if deemed suitable by the organisation's Garda Vetting Committee.
- 9.4 Where serious convictions are disclosed, the disclosure is received by the organisation and a letter to the person asking them to attend a meeting with the Manager should be sent. The purpose of this meeting is to allow the applicant (employee/volunteer) to discuss the information returned by the Garda Vetting Bureau and to give them an opportunity to explain the circumstances surrounding the conviction.
- 9.5 A written record of this meeting will be kept and the time, date and duration of the meeting recorded. At this meeting, Dun Laoghaire Rathdown Outreach Project will ensure that:

- 9.5.1 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.
- 9.5.2 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 application and of their experience (work record etc.) and rehabilitation subsequent to any conviction disclosed
- 9.6 Where multiple convictions are evident but may be as the result of a particular lifestyle i.e. drug addiction, then the change in lifestyle must be taken into consideration.
- 9.7 Applicants who deny any convictions returned by the Vetting Bureau will be provided with details on how to write a letter of appeal to amend their records at the Vetting Bureau.
- 9.8 Applicants are informed that in the case of uncertainties their form will be returned to the Vetting Bureau seeking clarification.
- 9.9 The applicants name and date of birth are re-checked at the start of the meeting as mistakes may be made by the Vetting Bureau where names and addresses are similar.
- 9.10 Dun Laoghaire Rathdown Outreach Project will consider each Garda Vetting Form returned with convictions individually and will always treat the individual with respect, dignity and complete confidentiality.
- 9.11 Dun Laoghaire Rathdown Outreach Project recognises that there are three potential outcomes of the review meeting
- 9.11.1 In line with this policy and taking all things into consideration including interview, current history and references, the applicant may be offered the position
- 9.11.2 The applicants Garda Vetting form is returned to the Garda Vetting Bureau for further clarification. In which case a second review meeting will be held
- 9.11.3 The applicant is deemed unsuitable for the position on offer by nature of their history of offences.
- 9.12 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.

## 10. Confidentiality and Data Protection

All information in the vetting process will be held in a manner consistent with the Dun Laoghaire Rathdown Outreach Confidentiality Policy. Dun Laoghaire Rathdown Outreach Project also complies fully with good practice regarding the secure storage, handing and use of the Vetting Bureau disclosures and personal vetting information as per GDPR Legal obligations and the organisations Data Protection Policy.

## 11. Circumstances for the Withdrawal of the offer to work/volunteer

- 11.1 Dun Laoghaire Rathdown Outreach Project considers the following as reasonable grounds to withdrawn 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
- 11.2 Dun Laoghaire Rathdown Outreach Project 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 i.e. assault, harassment, coercion;
  - Breaches in trust i.e. fraud, theft, larceny;
  - Offences against property i.e. arson, armed robbery;
  - Domestic Violence;

- Offences against the state.
- 11.3 Dun Laoghaire Rathdown Outreach Project is conscious of not initiating policies that prohibit needlessly against rehabilitated individuals.
12. **Roles within the organisation that require Garda Vetting as per Part 2 Section 2 & 3 of the Act (this list is subject to amendment by direction of the Governance & HR Subcommittee who are tasked with Garda Vetting)**
- Manager
  - Project Workers
  - Community Employment Supervisor
  - Support Workers
  - Counsellors/Volunteer Counsellors
  - Students on placement and working directly with service users

**APPENDIX 1**

(received from DLR Volunteer Centre, GV training 2017)

Excerpt from Schedule 1, Part 1 and Part 2 from the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016

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).



Reasonable precautions have been taken to ensure information in this publication is accurate. However it is not intended to be legally comprehensive; it is designed to provide guidance in good faith without accepting liability. If relevant, we therefore recommend you take appropriate professional advice before taking any action on the matters covered herein.