

## **Athletics Ireland - Frequently Asked Questions on the Implications of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012**

### **1. What is the new vetting legislation?**

The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 .This legislation is part of a suite of complementary legislative proposals to strengthen child protection.

<http://www.oireachtas.ie/documents/bills28/acts/2012/a4712.pdf>

### **2. When will it commence?**

The legislation was enacted in December 2012 and will commence on April 29<sup>th</sup> 2016.

### **3. Why has this legislation been introduced?**

The purpose of this Act is to provide a legislative basis for the vetting of persons who seek positions of employment relating to children or vulnerable persons. Previously, persons applying for such positions were vetted on a non statutory basis. This Act makes vetting mandatory.

### **4. Who is subject to vetting?**

Those involved in ‘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’ –

- Childcare Services
- Schools
- Hospitals and health services
- Residential services or accommodation for children or vulnerable persons
- Treatment, therapy or counselling services for children or vulnerable persons
- Provision of educational, recreational, leisure, social or physical activities to children or vulnerable persons
- Promotion of religious beliefs

*See schedule I Part I (pages 29 - page 32) of legislation for detail.*

### **5. Who is exempt from vetting?**

The Act does not apply to an individual who does work in the course of a private arrangement for their own benefit, or for a child or vulnerable person who is a member of the individual’s own family.

The Act does not apply to any work or activity undertaken in the course of a family relationship or to persons who assist occasionally and on a voluntary basis in certain activities or events be they school, sport or community related. This recognises the occasional but necessary involvement or assistance of parents or other persons. However, the Act will apply where such involvement includes coaching, mentoring, counselling, teaching or training of the children or vulnerable persons.

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### **6. How does my organisation decide who should be vetted?**

This is a matter for each organisation to assess.

Useful Guidance: Is the person 'providing physical or leisure activities and services to children'? If not, they do not require vetting. Ordinary members participating in club events do not require vetting.

All youth leaders, coaches, trainers, religious leaders who work with groups of children, whether alone or accompanied by another adult, must be vetted.

If substitute persons are required from time to time for this work then they should be appointed from a panel of persons who have been vetted.

### **7. What if we need to appoint a volunteer at short notice for a one off event?**

That person does not have to be vetted. They would be covered by the 'occasional assistance' exemption. Occasional means 'now and then' or for a once off event such as a sports day. The Act will apply where such involvement includes coaching, mentoring, counselling, teaching or training of the children or vulnerable persons.

### **8. Is it an offence to fail to vet a sports leader who is working directly with children?**

Yes. A person may not be engaged 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. Failure to comply with this duty is an offence under the Act.

### **9. Where does the liability rest for non-vetting?**

If a person working with children or vulnerable persons is not vetted, any offence that is committed is committed by the organisation that the person works for. Each local club management committee will have to ensure that the relevant persons working with children or vulnerable persons are vetted. Equally, national organisations will be required to vet persons working for them who are working with children or vulnerable adults.

### **10. Do I need to register my club for anything?**

No, Athletics Ireland is already registered with the vetting unit (soon to be called the vetting bureau) and provides access to vetting services to all affiliated clubs and organisations.

### **11. What is the procedure for vetting applications?**

Following the receipt of an application for vetting disclosure by a liaison person, the Bureau will undertake an examination of its own database and Garda Síochána records to establish whether any criminal records or any specified information relates to the applicant.

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The Bureau will release a vetting disclosure upon completion of all necessary enquiries and procedures as required. It may state that there is no criminal record or specified information relating to the applicant.

Where an organisation receives a vetting disclosure containing details of criminal records or specified information it must provide a copy of the disclosure to the vetting subject. It may consider and take into account the information disclosed in assessing the suitability of the person to do relevant work or activities. This is done in accordance with the Athletics Ireland vetting policy.

### **12. What is Soft/Specified information?**

The Act provides for the exchange of specified or 'soft' information' in the context of protecting children and vulnerable adults. This is information held by the Garda Síochána or an organisation specified in Schedule 2 of the Act where such information reasonably gives rise to a bona fide concern that a person may harm a child or vulnerable person. The disclosure of specified information is tightly controlled and the Act seeks to balance the rights of vetting subjects to the protection of their good name and the rights of children and vulnerable adults to be protected from persons who are likely to cause them harm.

### **13. What is the process for disclosing specified information?**

Where a member of the Bureau staff considers that there is 'specified information' in regard to the vetting subject it will be referred to the Chief Bureau Officer for assessment as to whether the information should be disclosed. The Chief Bureau Officer will notify the vetting subject of the referral, provide a summary of the information, and inform him or her of their right to make a written submission in relation to the information.

The Act provides statutory constraints. Firstly, a decision to disclose the specified information can be made only if the Chief Bureau Officer, on assessment, believes the information in question is of such a nature as to give rise to a bona fide concern that the vetting subject may harm, attempt to harm or put at risk of harm a child or vulnerable person.

Secondly, the Chief Bureau Officer must be satisfied that the disclosure is necessary, proportionate and reasonable in the circumstances in order to protect children or vulnerable persons. The vetting subject must be informed of the intention to disclose the information and informed that he or she may appeal the decision.

### **14. Who assesses the vetting subject's suitability?**

As with the current system, it is a matter for Athletics Ireland and not the Bureau, nor the Garda Síochána to consider and take into account the information disclosed in a vetting disclosure in assessing the suitability of the person for the position for which he or she has applied. Athletics Ireland may not disclose the information otherwise than in accordance with the Act. Non-compliance with this duty is an offence.

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The Head of the Registered Organisation as required shall appoint a Decision Making Committee to assess the suitability of applicants for positions within the registered organisation vis-à-vis any Garda vetting disclosures that may be received in respect of them and in line with the vetting policy of Athletics Ireland.

### **15. How long should an organisation retain returned vetting information?**

Under the Data Protection Acts 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”. As most disclosures will be returned with no convictions, it is usually decided not to keep these records for any longer than 12 months and to record the outcome of the vetting process. However, for returned disclosures with relevant convictions and/or specified information Athletics Ireland will keep this information for a longer period of time as required.

### **16. What about re-vetting?**

The Act provides for the re-vetting of employees and volunteers every three years.

### **17. What if the vetting applicant has lived outside of Ireland?**

The Garda vetting application form requires applicants to supply all address that they have been resident at from birth. The Criminal Records Information Systems Bill 2013 provides for exchange of criminal records with other countries. This implements an EU Framework Decision on exchange of criminal records information. The Bill will also provide for exchange of information with non-EU states.

### **18. What about vetting for youth leaders under 18 years old?**

The Act requires all persons who have work with children and vulnerable young people to be vetted, irrespective of age. It is not possible to vet a person under the age of 16. A person may not be engaged 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.

### **19. Is there a fee charged for vetting applicants?**

There is currently no intention to charge fees to the community and voluntary sector for accessing the vetting service.

### **20. Will the current vetting form be changed?**

Yes, a revised form will be issued on the commencement date of the Act, April 29<sup>th</sup> 2016. The current Athletics Ireland Garda Vetting form will expire on April 8<sup>th</sup> and vetting will cease until the Act commences in line with instructions from the Garda Central Vetting Unit.