

National Vetting Bureau (Children and Vulnerable Persons) Bill 2012

Purpose of Bill

The purpose of this Bill is to provide a legislative basis for the vetting of persons who seek positions of employment relating to children or vulnerable persons. Currently persons applying for such positions are vetted on a non-statutory basis. This Bill will make this vetting mandatory.

What type of work requires vetting?

The schedule to the Bill lists in detail the types of work or activities that require vetting. These include:

- 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 leisure or physical activities to children or vulnerable persons** (unless this is incidental to the provision of services to a mixed group including adults).
- Promotion of religious beliefs.

Exemptions from vetting requirements

The Bill does not apply to:

- any work or activity undertaken in the course of a family relationship.
- any unpaid work or activity undertaken in the course of a personal relationship.
- persons who assist occasionally and on a voluntary basis in certain activities or events be they school, sport or community related. This provision recognises the occasional but necessary involvement or assistance of parents or other persons in certain activities in which children or vulnerable persons are participating. However, the Act will apply where such involvement includes coaching, mentoring, counselling, teaching or training of the children or vulnerable persons.

How does a club draw the line between a person who does and does not require vetting?

The following are suggested as guidelines for decisions about vetting:

- The existing Sports Council code of ethics still applies.
- Is the person “providing physical or leisure activities for children”? If not, they do not require vetting. Ordinary members participating in club events do not require vetting.
- All coaches, trainers etc. who work with groups of children, whether alone or accompanied by another adult, must be vetted.
- If substitute trainers are required from time to time then they should be appointed from a panel of persons who have been vetted.
- If you need to appoint a linesperson or umpire at short notice for a match or one day competition, that person does not have to be vetted. They would be covered by the “occasional assistance” exemption. Occasional = “now and then” or for a once-off event, such as a sports day.

Register of relevant organisations

Sports clubs are already registered with the vetting unit through their national bodies. They do not have to re-register. The Bill allows national organisations to submit vetting applications on behalf of another organisation.

What is “specified information” (also known as “soft information”)?

This is information other than details of a criminal conviction. It is information which is considered to give rise to a bona fide concern that a person may harm a child or vulnerable person. For example, it might be a report from a HSE inquiry or a report from a medical fitness-to-practice inquiry which found that a person abused a child.

Only information arising from a statutory inquiry or a 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 and must inform the subject that he or she may appeal the decision to disclose that information.

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

Yes. Section 12 of the Bill prohibits the engagement of persons to do relevant work or activities relating to children or other vulnerable persons, unless that person has been subject to the vetting procedures under the Bill. The Bill does, however provide a defence for a person to show that he or she did not know, nor could be reasonably expected to know, that the work for which a person was engaged constituted relevant work or activity.

Assessment and use of vetting disclosures by relevant organisations

Where a vetting disclosure contains details of criminal records or specified information the organisation **must** provide a copy of the disclosure to the vetting applicant. The organisation may then consider and take into account the information disclosed in assessing the suitability of the person for the position for which they have applied. The organisation may not disclose that information otherwise than in accordance with the Act.

Re-vetting

This Bill provides for the re-vetting of persons previously vetted for their current position. This element of the Bill is unlikely to be commenced for a number of years, as the requirement for retrospective vetting of teachers and health workers not previously vetted will be given priority.