



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Oifig an Stiúrthóra Náisiúnta, Acmhainní Daonna
Feidhmeannacht na Seirbhíse Sláinte
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To: Each Member of the Directorate and Leadership Team
Each Assistant National Director, HR
Each Chief Officer, CHO
Each CEO, Hospital Group
Each CEO, Section 38 Agency
Each Employee Relations Manager
HR Senior Staff

From: Rosarii Mannion, National Director Human Resources

Date: 10th July, 2017

Re: **HR Circular 022/2017 re National Vetting Bureau Acts 2012-2016 - Garda Vetting of Existing Health Service Employees Engaged in “relevant work” with Children or Vulnerable Persons (Section 21)**

Dear Colleagues,

The National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016 provide a statutory basis for the vetting of persons carrying out relevant work with children or vulnerable persons (**Appendix 1**). The Act stipulates that a relevant organisation shall not permit any person to undertake relevant work or activities on behalf of the organisation, unless the organisation receives a vetting disclosure from the National Vetting Bureau of the Garda Síochána in respect of that person. Garda vetting is conducted on behalf of registered organisations only and is not conducted for individual persons on a personal basis. The Act creates offences and penalties for organisations who fail to comply with its provisions.

The Act defines relevant work or activities as “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 or vulnerable adults”. A checklist to assist managers to identify posts which come within the definition of “relevant work” is attached at **Appendix 2**.

Section 21 of the Act provides for the retrospective vetting of employees who are carrying out “relevant work or activities” and who were **not** previously vetted. The Regulations (*SI No. 223 of 2016*) provide that applications for retrospective vetting disclosures shall be made not later than **31 December 2017**. Health service employers are required to actively progress the garda vetting process for existing employees (not previously vetted) whose positions come within the scope of Section 21 of the legislation to ensure compliance with this statutory timeframe.

Prior to requesting an employee to undergo garda vetting in accordance with Section 21, managers are required to establish whether the employee is engaged in relevant work. All vetting applications include a section whereby the manager confirms that the applicant is engaged in relevant work. The Bureau have raised concerns with the HSE regarding inappropriate applications for vetting and have advised the HSE that vetting applications should only be submitted for positions which constitute relevant work as defined by the legislation (**Appendix 2**).

Employers must ensure that where a position, which is deemed to be “relevant work” within the meaning of the National Vetting Bureau Act, is due to be filled by way of internal promotion, redeployment, reassignment or transfer of an existing employee, confirmation is obtained that the employee has satisfactory garda clearance. If the employee did not previously undergo garda vetting, he or she may not take up the position until the vetting process has been completed and garda clearance has been obtained. In the case of existing employees who have applied for promotion or other competitions in respect of positions which constitute “relevant work”, it will be a condition of the selection process that the employee’s garda vetting status has been established.

All sections of the National Vetting Bureau Act have come into operation, with the exception of Section 20 which provides for the re-vetting of employees who were previously vetted for their current position following the expiry of a specified period (to be prescribed by the Minister for Justice and Equality). Separate Regulations will issue in respect of Section 20 in due course. In the meantime, there is no statutory requirement for the re-vetting of employees pending the enactment of these Regulations.

Section 38 employers should continue to operate their existing arrangements for conducting garda vetting of existing employees who are deemed to come within the scope of Section 21 of the Act.

The procedure which operates in the HSE has been revised to reflect current management structures. A copy of the HSE Procedure for Garda Vetting of Existing Employees (Section 21) is attached at **Appendix 3**.

In the case of employees who lived overseas there may be *exceptional circumstances* which prevent the employee from providing evidence of police clearance through no fault of their own. Where these exceptional circumstances arise employees will have to provide such evidence as may be required by the employer and may be required to provide a sworn affidavit.

The National Vetting Bureau will disclose convictions in accordance with the provisions of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016.

Please ensure that this Circular is brought to the attention of relevant managers in your area of responsibility.

Queries:

Queries from individual employees regarding the implementation of this Circular should be addressed by local management or their local HR Department.

Queries from HR Departments in relation to the contents of this Circular may be referred to Anna Killilea, HSE Corporate Employee Relations. Email: anna.killilea@hse.ie

Yours sincerely,



Rosarii Mannion
National Director of Human Resources

Extract from National Vetting Bureau acts 2012 to 2016

SCHEDULE 1

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;

(d) Health and Social Care Professionals Act 2005;

(e) Pharmacy Act 2007;

(f) Pre-Hospital Emergency Care Council Order 2000 (S.I.No. 109 of 2000);

(g) Pre-Hospital Emergency Care Council (Establishment) Order 2000 (Amendment) Order 2004 (S.I. No. 575 of 2004).

SCHEDULE 1
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, developmental 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 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).

Questionnaire to Establish if Role to be Assigned is Deemed as Relevant Work

This questionnaire is designed to assist managers within the HSE establish if a direct employee or someone being considered for employment as a direct employee is/will be engaged in relevant work. If the answer to one or more of the questions below is yes then the Role to which the individual is assigned / will be assigned meets the criteria of relevant work and therefore they must be vetted

<p>1) Will the Role require the individual to be engaged 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 and or vulnerable persons in—</p> <p>(a) an establishment which provides pre-school services within the meaning of Part VII of the Child Care Act 1991,</p> <p>or</p> <p>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</p>		<p>No</p>
<p>(b) a school or centre of education, both within the meaning of the Education Act 1998</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>(c) any hospital or health care centre which receives, treats or otherwise provides services to children and or vulnerable persons</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>(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 or at which residential services are provided to vulnerable persons</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>(e) a special care unit provided and maintained in accordance with section 23K of the Child Care Act 1991</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>(f) A children detention school within the meaning of section 3 of the Children Act 2001.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>(g) An approved Centre within the meaning of Part 5 of the Mental Health Act 2001</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>(h) 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</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>(i) In any organisation or facility which provides welfare, advice, guidance, developmental, or counselling services for vulnerable persons.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>2) Will the Role require the individual to be engaged in 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</p>	<input type="checkbox"/>	<input type="checkbox"/>

known as the Home Tuition Scheme?		
3) Will the Role require the individual to be any work or activity which consists of treatment, therapy or counselling provided to a child or vulnerable person by a person in the course of that work or activity?	<input type="checkbox"/>	<input type="checkbox"/>
4) Will the Role require the individual to be engaged in 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?	<input type="checkbox"/>	<input type="checkbox"/>
5) Will the Role require 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?	<input type="checkbox"/>	<input type="checkbox"/>
6) Will the Role require the individual to be engaged in 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 / 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 children or vulnerable persons?	<input type="checkbox"/>	<input type="checkbox"/>
7) Will the Role require the individual to be engaged in 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/vulnerable persons 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/vulnerable persons.	<input type="checkbox"/>	<input type="checkbox"/>
8) Will the Role require the individual to be engaged in any work or activity as a minister or priest or any other person engaged in the advancement of any religious beliefs?	<input type="checkbox"/>	<input type="checkbox"/>
9) Will the Role require the individual to be engaged in any work as a driver of a public service vehicle which is being used only for the purpose of conveying children/ Vulnerable persons?	<input type="checkbox"/>	<input type="checkbox"/>
10) Will the Role require the individual to be engaged in the provision by a person, whether or not for commercial or other consideration, of accommodation for a child / vulnerable person in his or her own home?	<input type="checkbox"/>	<input type="checkbox"/>
11) Will the role require 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 / vulnerable persons?	<input type="checkbox"/>	<input type="checkbox"/>
12) Will the Role require the individual to application by a person to carry on or manage a designated centre within the meaning of section 2 of the Health Act 2007?	<input type="checkbox"/>	<input type="checkbox"/>
13) Will the Role require the individual to make any application by a person to carry on or manage a designated centre within the meaning of section 2 of	<input type="checkbox"/>	<input type="checkbox"/>

the Health Act 2007?		
14) Will the Role require any application by a person for a declaration of eligibility and suitability within the meaning of section 3 of the Adoption Act 2010?	<input type="checkbox"/>	<input type="checkbox"/>
15) Will the role require any assessment of a person's suitability to act as a foster carer by or under section 39 of the Child Care Act 1991?	<input type="checkbox"/>	<input type="checkbox"/>
16) Will the role require 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?	<input type="checkbox"/>	<input type="checkbox"/>
17) Will the role require assessment of a person's suitability to act as a care representative under section 21 of the Nursing Homes Support Scheme Act 2009?	<input type="checkbox"/>	<input type="checkbox"/>
18) Will the role require 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 and or vulnerable persons pursuant to the following enactments: <p>(h) Medical Practitioners Act 2007;</p> <p>(i) Nurses Act 1985;</p> <p>(j) Nurses and Midwives Act 2011;</p> <p>(d) Dentists Act 1985;</p> <p>(k) Health and Social Care Professionals Act 2005;</p> <p>(l) Pharmacy Act 2007;</p> <p>(m) Pre-Hospital Emergency Care Council Order 2000 (S.I.No. 109 of 2000);</p> <p>(n) Pre-Hospital Emergency Care Council (Establishment) Order 2000 (Amendment) Order 2004 (S.I. No. 575 of 2004).</p>	<input type="checkbox"/>	<input type="checkbox"/>



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

HSE PROCEDURE FOR GARDA VETTING AND ASSESSMENT OF EXISTING EMPLOYEES WHO UNDERTAKE RELEVANT WORK WITH CHILDREN AND VULNERABLE PERSONS

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1. SCOPE

The National Vetting Bureau (Children and Vulnerable Persons) Acts 2012-2016 came into effect on 29 April 2016. This legislation makes it mandatory for people who carry out relevant work or activities in respect of children or vulnerable adults to be vetted by the National Vetting Bureau (NVB) of the Garda Síochána. The Acts define relevant work or activities as “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 or vulnerable adults”.

Section 21 of the Act provides for the retrospective vetting of employees who are carrying out “relevant work or activities” and who were **not** previously vetted. The Regulations (*SI No. 223 of 2016*) provide that applications for retrospective vetting disclosures shall be made not later than 31 December 2017.

Each CHO and Hospital Group is responsible for identifying positions which come within the scope of Section 21 of the legislation. Managers should assess the relevant positions (currently filled by employees who **have not** been vetted) to determine whether *a necessary and regular part of the employee’s work consists mainly of him/her having access to, or contact with, children or vulnerable adults*. A guidance document for managers is attached at Appendix 2.

Once a decision is made that the employee is engaged in “relevant work”, he or she should be informed that garda vetting is now a **mandatory requirement in respect of their position**. As the garda vetting process may take some time, it is important that the necessary arrangements are being made for retrospective vetting applications to be submitted without undue delay. Each CHO and Hospital Group may determine the order of priority but must ensure that all applications for retrospective vetting disclosures are made not later than **31 December 2017**.

If an employee objects to the requirement for mandatory garda vetting, s/he may appeal to the Head of HR CHO Areas / Group Director of HR (as appropriate) whose decision will be final. Following this appeal process, if an employee fails to comply with an instruction to undergo garda vetting the disciplinary procedure (Stage 4) will be invoked.

2. HSE PROCEDURE FOR EMPLOYEES UNDERGOING GARDA VETTING

In advance of submitting requests for vetting, managers should ensure that they are registered with the HSE Garda Vetting Liaison Office (GVLO) if they have not already done so previously.

Employees must provide proof of their identity. The attached **ID Validation Checklist for Garda Vetting Purposes Form** contains a list of acceptable forms of identification. Once the manager has completed the mandatory identity verification they will issue the employee with the HSE **Vetting Invitation Form (NVB1 Form)**. The employee will be required to complete and sign the NVB 1 Form which confirms his or her consent to be vetted.

The manager is responsible for checking that the **NVB1 Form** and the **HSE Garda Vetting Request Form** in respect of each employee has been fully and accurately completed prior to submission of the application to the GVLO.

Following receipt of appropriately completed NVB 1 & Garda Vetting Request Forms the GVLO will create an account for each employee on the NVB’s e-vetting portal.

Please note that vetting requests are processed on a first-come, first-served basis in chronological order from the date of receipt of applications. This is with a view to observing equity and fairness in respect of all vetting subjects. Processing time fluctuates upwards and downwards depending on seasonal demands; volumes received; and the number, or nature, of queries to be conducted with external Garda Stations or agencies external to the Garda Central Vetting Unit such as the Courts Service.

Once an account has been created the vetting applicant (employee) will be issued an email by the NVB which will include a link to their e-vetting account. The applicant will have 30 days within which they must access their account on-line and finalise their vetting application. As part of the on-line application the applicant will be asked to disclose any and all conviction(s) received. This disclosure must include such offences as driving offences, non-payment of a TV licence and public order offences, and includes the application of probation or community service.

For further details on the garda vetting process in the HSE please refer to:

<http://ihbs.healthirl.net/Human-Resources/National-Recruitment-Services/HBS-Garda-Vetting-Liaison-Office/>

NOTE: the Garda Vetting procedure as set out above only covers addresses in the Republic of Ireland and Northern Ireland. Special provisions apply to employees who have resided overseas for a period of 6 months or more – see HSE website for details:

http://www.hse.ie/eng/staff/Jobs/Recruitment_Process/Garda_Clearance.html

Queries in relation to overseas vetting should be directed to the relevant HR Department and not the Garda Vetting Liaison Office.

In accordance with Section 26 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 a person shall be guilty of an offence if he /she **(a)** falsifies or alters a vetting disclosure **(b)** makes a false statement for the purposes of obtaining or enabling another person to obtain, a vetting disclosure, or **(c)** allows a vetting disclosure which relates to him /her to be used by another person in such a way as to give rise to the reasonable belief that the record relates to that other person. In accordance with section 27 of the 2012 Act a person found guilty of falsification of vetting disclosures shall be liable to a Class A fine or imprisonment for a term not exceeding 12 months or both, or on conviction indictment , to a fine not exceeding €10,000 or imprisonment for a term not exceeding 5 years or both.

The fully completed Garda Vetting Request Form and the fully completed NVB 1 Form in respect of each HSE employee should be submitted to:

**Garda Vetting Liaison Office
Health Business Services
Aras Slainte Chluainín
Manorhamilton
Co Leitrim
F92 AP57**

The manager should retain evidence that was reviewed to establish identity as this may be requested by the NVB.

The manager is responsible for advising all employees of the outcome of the garda vetting process and updating the appropriate Human Resources system in relation to the date on which Garda Clearance was issued.

Please note in all cases where an application is submitted on-line the outcome will be the production of a NVB Disclosure. These disclosures will fall into two broad categories:

1. Negative / Nil Disclosures

A negative or Nil disclosure is issued by the NVB which includes **NO** offence history and **NO** 'Specified' information

2. Positive Disclosures

A positive disclosure is a document issued by the NVB which does include an offence history and/or includes details of 'Specified' information.

3. DATA PROTECTION

The principles of the Data Protection Act, 1998 and 2003 will be adhered to during the Garda vetting process:

- The information will be obtained and processed fairly.
- The information will be kept and used for the purposes of Garda vetting only.
- The information may only be used or disclosed in a manner that is compatible with this specified purpose.
- The information will be kept safe, secure, accurate and up to date.
- The HSE will retain the information for no longer than is necessary for the specified purpose for which it is required. It is suggested that a period of 1 year would be sufficient subject to any legal restrictions. The employee will be entitled to request a copy of the Garda Vetting Disclosure issued by the NVB.

The disclosure issued by the NVB will only be used for the specific purpose for which it is requested and for which the employee's consent has been obtained.

The GVLO, Manorhamilton will ensure that any NVB disclosure will be kept securely at all times and when appropriate will be disposed of securely.

The office of the Head of HR CHO Areas / Group Director of HR and all those involved in the process will treat all the vetting documentation and information on the vetting documentation in strictest confidence in compliance with the HSE's obligations under the Data Protection Acts.

The information regarding the content of a Disclosure from the NVB shall not be disclosed to anyone other than those involved in the assessment of the information.

4. ACTION BY THE GARDA VETTING LIAISON OFFICE IN MANORHAMILTON

Following receipt of an appropriately completed Garda Vetting Request Form and a NVB 1 Form in respect of each employee, the GVLO will record all requests for Garda Vetting on the Garda Vetting Database and create an account for the vetting applicant on the NVB's e-vetting portal.

Vetting invitations will be issued daily on receipt of correctly completed vetting requests and NVB1 Consent forms.

The GVLO will also review the details submitted by the vetting applicant (on-line) to ensure that the details given are sufficient to allow the vetting process to progress to the NVB.

5. RETURN OF THE PROCESSED GARDA VETTING FORMS

Once the status of the on-line application process is changed to 'Application Process Completed' the GVLO will download the resultant Disclosure.

Each disclosure will be individually assessed by the GVLO who will invoke the appropriate follow up actions (issue confirmation of clearance or to commence the risk assessment process).

All vetting Disclosures will be stored securely in the GVLO, Manorhamilton and will not be maintained on employee's files in local offices with the following exception:

Administrative arrangements governing the storage and access of garda vetting disclosure documentation in relation to employees working in *residential care centres for older persons and persons with disabilities* are subject to HIQA regulations and are currently under review. Further guidance on these arrangements will be issued separately.

In relation to residential care centres for older persons and persons with disabilities, which are registered with HIQA, garda vetting is a requirement on a 3-year cycle basis for those staff who are 'Persons in Charge' and 'Persons Participating in the Management' of these centres. Separate guidance on specific requirements in relation to garda vetting for staff working in such centres will be issued.

6. NIL DISCLOSURES FROM NATIONAL VETTING BUREAU

Where the disclosure from the NVB confirms that there are 'Nil' disclosures in relation to the employee the GVLO will issue a Garda Vetting Report Confirmation to the requesting manager for retention on the employee's file the requesting manager is responsible for ensuring the appropriate HR system is updated. No further action is required.

7. POSITIVE DISCLOSURE FROM NATIONAL VETTING BUREAU

Where the disclosure from the NVB includes details of a criminal record and /or "specified information" in relation to the employee, the GVLO will formally assess the Disclosure as follows:

7(a) Disclosures Released - deemed not relevant in the context of an employee's current role: Disclosures released and confirmed by the employee, where necessary, will be assessed by the GVLO. Where these offences are deemed not relevant, the GVLO will issue a Garda Vetting Report Confirmation to the requesting manager for retention on the employee's file. The requesting manager is responsible for ensuring the appropriate HR system is updated. The confirmation will not contain details of the disclosures made by the NVB.

7(b) Disclosures Released - deemed relevant in the context of an employee's current role: Where the NVB disclosure includes details of a disclosure(s) which are initially considered to be relevant in the context of an employee's current role, the GVLO will write to the employee:

- Advising him/her of the existence of the disclosure
- Requesting confirmation or otherwise that the disclosure relates to him/her

- Inviting the employee to provide any information s/he deems relevant including an explanation of the events that led to the incident(s) and any detail s/he considers relevant for consideration by the CHO/Hospital Group.
- Advising the employee of his/her right to seek to have his/her Garda file re-examined in full by the NVB.

7 (b)(i) If the employee disputes the content of the disclosure (e.g. claiming that the information does not apply to him/her or is factually inaccurate) the GVLO in Manorhamilton will advise the NVB and request that the matter be reviewed under the Garda Dispute Resolution Procedure.

7 (b)(ii) Once the employee has confirmed that the disclosure relates to him/her, the information provided by the employee will be attached to the Garda Vetting disclosure.

The Garda Vetting disclosure and the response from the employee will be forwarded to the office of the Head of HR CHO Areas / Group Director of HR (as appropriate) for further action.

8. RISK ASSESSMENT PROCESS

The office of the Head of HR CHO Areas / Group Director of HR (as appropriate) will forward the Garda Vetting documentation to the Area Risk Assessment Team¹ who will complete a Risk Assessment in consultation with the Line Manager and make a recommendation. This process may involve a meeting with the employee.

When conducting the risk assessment, management will ensure, as a matter of course, that confidentiality is maintained and the employee is protected throughout the process.

The employee will be advised of his or her right to invoke the grievance procedure at any stage during the risk assessment process.

At an appropriate stage in the process, management may take whatever protective measures are necessary to ensure that no patient/client, employee, or the HSE is exposed to unacceptable risk. These protective measures are not disciplinary measures and may include:

- Reassigning the employee to other duties
- Providing an appropriate level of supervision
- Placing the staff member off duty with pay pending the outcome of the risk assessment.

The views of the employee will be taken into consideration when determining the appropriate protective measures to take in the circumstances. The final decision, however, rests with management.

It should be noted that placing an employee off duty pending the outcome of the risk assessment will occur only in exceptional circumstances. The employee should be informed that the decision to put him/her off duty is a precautionary measure and not a disciplinary sanction.

In carrying out the risk assessment the following information should be considered and documented:

- The nature of the offence / “specified information” vis a vis the role of the employee
- Was the offence / “specified information” committed since commencing employment with the HSE?

¹ This would comprise a Head of Department for the service and a senior manager nominee from HR

- The length of time since the offence / “specified information” occurred and the age of the employee at the time of the offence/ “specified information”
- Does the post involve one-to-one contact with children or other vulnerable groups of clients, service users?
- What level of supervision does the post holder receive?
- Does the post involve any direct responsibility for finance or items of value?
- Does the post involve casual exposure to finances or items of value?
- Does the job involve direct contact with members of the public?

ALL factors considered in the risk assessment must be documented on the HSE Garda Vetting Assessment Form (attached).

9. OUTCOME OF THE RISK ASSESSMENT PROCESS

The Area Risk Assessment Team will recommend one of the following actions to the Head of HR CHO Areas / Group Director of HR (as appropriate);

1. No further action is required
2. The employee should remain in the post subject to certain conditions
3. Issues raised about the suitability of the employee for continued employment

The Head of HR CHO Areas / Group Director of HR (as appropriate) will review the recommendations received from the Area Risk Assessment Team. If s/he upholds the recommendation that the employee should remain in the post subject to certain conditions (2 above), the decision will be notified to the Line Manager.

Where the Head of HR CHO Areas / Group Director of HR (as appropriate) does not accept the proposed ‘conditions’ or has concerns about the employee’s suitability (2 or 3 above) for continued employment in the post, s/he will refer the matter to the Chief Officer (CO) of the relevant CHO / Group Chief Executive of the relevant Hospital Group.²

Following receipt of all relevant documentation, the Chief Officer (CO) of the relevant CHO / Group Chief Executive of the relevant Hospital Group will consider the case and will convene a hearing with the employee in accordance with stage 4 of the Disciplinary Procedure. The purpose of this hearing will be to afford the employee an opportunity to respond to the findings of the risk assessment and to make representations. The employee will be given a copy of the risk assessment report and all relevant supporting documentation in advance of the hearing and advised of the reasons for the hearing in his or her case. The employee will be advised of his/her right to be accompanied by a union representative or work colleague.

Following the hearing, the Chief Officer (CO) of the relevant CHO / Group Chief Executive of the relevant Hospital Group will make a decision which may include an action short of termination of employment (e.g. transfer to another location or reassignment to suitable alternative duties where the employee will not be engaged in “relevant work”). In extremely serious cases, where reassignment to alternative duties / another location is not possible, the outcome of the hearing will be a decision to terminate the employee’s employment with the HSE.

10. RIGHT TO APPEAL

Action Short of Dismissal:

² Employees in corporate functions will follow the same risk assessment process. The decision maker where there are concerns regarding the employee’s suitability for continued employment will be the appropriate Assistant National Director. The employee may appeal decisions short of dismissal to the relevant National Director. A decision to dismiss the employee may be referred to the HSE Dismissals Appeals Committee.

Where the decision is an action short of termination of employment, the employee may appeal this decision to the relevant National Director. The grounds for appeal should be set out in writing. Following a hearing at which the employee will be afforded an opportunity to set out his or her case, the National Director will decide to accept or overturn the original decision based on all the relevant information and the employee's representations.

The outcome of the appeals process will be notified to the Chief Officer (CO) of the relevant CHO / Group Chief Executive of the relevant Hospital Group and Head of HR CHO Areas / Group Director of HR for action. The National Director's decision will be final.

Termination:

In cases where the decision is to terminate employment, the employee will be informed of his/her right to appeal the termination to the HSE Dismissals Appeals Committee and the process for submitting an appeal.

11. NOTIFYING THE GARDA VETTING LIAISON OFFICE OF OUTCOME

The GVLO will be notified in writing of the outcome of the risk assessment process and any decisions taken in respect of an employee on foot of the findings of the risk assessment and, if applicable, any subsequent hearings.

All Garda Vetting documentation must be returned to the GVLO for secure central storage.