



Sisters of Mercy Southern Province
Vetting Policy and Procedures
July 2020

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APPENDICES

Appendix 1

The National Vetting Bureau (Children and Vulnerable Persons) Act 2012;

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For the Purpose of this policy:

- 1. “A child is defined as a person under the age of 18” (National Vetting Bureau Act 2012)**
- 2. A Vulnerable Adult is defined**

“Vulnerable Person” means a person (including, in so far as the offences specified at paragraph 8 of Schedule 2 are concerned, a child aged 17 years old) – who -

- I. is suffering from a disorder of the mind, whether as a result of mental illness or dementia, or
- II. has an intellectual disability, which is of such a nature or degree as to severely restrict the capacity of the person to guard himself or herself against serious exploitation or abuse, whether physical or sexual by another person, or
- III. who is suffering from an enduring physical impairment or injury which is of such a nature or degree to severely restrict the capacity of the person to guard himself or person or to report such exploitation or abuse to the Garda Síochána or both”.

Introduction

The Sisters of Mercy are committed to the highest standards of practice in its recruitment procedures and take all necessary steps to ensure that all individuals with whom they come into contact are safe and protected from harm.

Vetting is one of the many steps that are taken during the recruitment and selection process, to help ensure that only those who are suitable to work with children and vulnerable adults are given the opportunity to do so.

This document sets out the Policy and Procedures in place within the Sisters of Mercy, Southern Province, in relation to vetting in the Republic of Ireland.

Aim

To ensure that all personnel recruited by the Sisters of Mercy, are suitable for the post to which they are appointed.

Garda Vetting

Since the introduction of the National Vetting Bureau, (Children and Vulnerable Persons), Act, 2012 – 2016, there is now a statutory requirement that people who carry out relevant work, (that is work that involves regular and necessary access to or contact with children and/or vulnerable adults), must be vetted prior to commencing employment or carrying out relevant activities.

It is important to point out that having a criminal record will not automatically exclude an individual from employment or volunteering with the Sisters of Mercy, Southern Province.

The General Data Protection Regulation, effective from 25.05.2018, provides for higher standards of data protection for individuals and imposes increased obligations on organisations that process personal data.

What is Vetting?

Vetting is a criminal background check undertaken on personnel who will be carrying out **relevant work or activities**. It is carried out with the permission of the individual to establish what, if any criminal record, pending or completed, relating to them, is held by the Garda Síochána, which may deem them unsuitable to work with children or vulnerable adults.

Specified information (also known as soft information) is information other than criminal convictions where such information leads to a bona-fide belief that a person poses a threat to children or vulnerable persons.

If **specified information** is to be disclosed, the National Vetting Bureau must, in advance, notify the person of their intention to disclose this.

What is included in a Vetting Disclosure?

Within current disclosure policy, a person who is vetted by the National Bureau, will have a criminal record (if that person has one) disclosed to the **Authorised Liaison Person** of the Sisters of Mercy, Southern Province. A vetting disclosure will include details of all convictions and pending prosecutions and a statement of specified information (if any) or else it is a statement that there is no criminal record or specified information relating to the person being vetted. Information of a conviction that falls under the Spent Convictions Act (2016) will not be included in a disclosure

The following convictions will always be disclosed:

- i. Offences against the person (except minor public order offences).
- ii. Sexual offences
- iii. Convictions or indictments that go to circuit court or higher court

Garda vetting procedures only apply to those who have addresses in the Republic of Ireland and Southern Ireland. The Sisters of Mercy reserve the right to seek assurances for those who have lived abroad.

Who should be Vetted?

The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 – 2016 defines people who should be vetted as:

“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 and/or vulnerable adults”. (See Appendix 1)

Any person whose work or activity involves access to children or vulnerable adults, whether in a full-time, part-time or voluntary capacity with the Sisters of Mercy, must be vetted. The National Vetting Bureau of the Garda Síochana deals with requests for vetting to be carried out.

Re-vetting

The Sisters of Mercy, Southern Province, require people to be re-vetted for their role every three years. However, the Sisters of Mercy rely on individuals to inform them if there is any relevant change to their criminal record and this is pointed out during the recruitment process.

The Vetting Procedure

The National Vetting Bureau carries out vetting for **Relevant Organisations** that are registered with it. A **Relevant Organisation** is one that employs or permits a person to carry out work or activities which mainly consists of that person having access to or contact with children or vulnerable adults. The Congregation of the Sisters of Mercy is a **Relevant Organisation**.

The National Vetting Bureau (Children and Vulnerable Persons) Act 2012, states:

A “Relevant Organisation” means a person (including a body corporate or an unincorporated body of persons) who

- i. employs (whether under contract of employment or otherwise) any person to undertake relevant work or activities,*
- ii. enters into a contract for services with any person for the provision by that person of services that constitute relevant work or activities,*
- iii. permits any person (whether or not for commercial or any other consideration) to undertake relevant work or activities on the person’s behalf,*
- iv. is a provider of courses of education or training, including internship schemes, for persons and, as part of such education or training or scheme, places or makes arrangements for the placement of any person in work experience or activities where a necessary part of the placement involves participation in relevant work or activities.*

Vetting is not conducted for individuals on a personal basis.

E-Vetting

The Sisters of Mercy use the E-vetting online process.

The Vetting Application

Following interview, the successful prospective candidate is given the Vetting Application Form to complete. The Vetting Application Form seeks the consent of the individual for the Garda vetting check to be carried out.

The Identification Check

The identity verification of the vetting subject is carried out by a representative of the Sisters of Mercy, usually a member the recruitment panel, the line manager or local Leader of the Sisters of Mercy.

The photographic identification must be verified in the presence of the vetting subject. The confirmation of identification statement with copies of supporting identification documents are returned to the Authorised Liaison Person.

The Vetting Application Form is completed by the vetting subject and returned to the Authorised Liaison Person.

The Authorised Liaison Person checks that the Vetting Application Form has been fully completed. The Authorised Liaison Person confirms that proof of identity has been verified and submits the Vetting Application online to the National Vetting Bureau.

The Vetting Disclosure

The National Vetting Bureau processes the Application and sends a Vetting Disclosure to the Authorised Liaison Person. An individual vetting subject may obtain a copy of this Garda Vetting Disclosure from the Sisters of Mercy.

The Vetting Disclosure will be a statement from the National Vetting Bureau that there is no criminal record or specified information in relation to the person.

or

A statement from the National Vetting Bureau detailing a criminal record and/or specified information in relation to the applicant.

If specified information is to be disclosed, the National Vetting Bureau's Chief Officer will have notified the vetting subject in advance of the intention to disclose such information. The vetting subject will have had an opportunity to appeal against that decision.

Should a disclosure of a criminal record be made, the Authorised Liaison Person will inform the person who requested the vetting check that there is a delay in the vetting process.

The Authorised Liaison Person will notify the Safeguarding Manager, the PLT Safeguarding link person and/or the Human Resources Co-ordinator in Provincial Office that a conviction or other information has been revealed on the Vetting Disclosure Certificate. Depending on the nature of the conviction disclosed, a decision will be reached as to how the matter will be addressed. The Safeguarding Manager will liaise with the local Leader/line manager regarding the way forward. A representative of the Sisters of Mercy, will as soon as practicable, give the vetting subject the opportunity to verify the information contained in the Vetting Disclosure Certificate. The vetting subject may be asked to attend a meeting and to provide additional details in relation to the matter and/or any offence committed. The vetting subject will be informed of their right to dispute the disclosure with the National Vetting Bureau.

Disputing a Vetting Disclosure

If the applicant has been the subject of any prosecution and/or convictions, the National Vetting Bureau will provide the details. It is the right of the applicant to dispute this information if he/she so wishes and to respond to the information received from the National Vetting Bureau.

Where a vetting subject disputes the details contained in a Vetting Disclosure Certificate issued by the National Vetting Bureau, he/she must write to the Authorised Liaison Person and outline the exact basis of their dispute.

The Authorised Liaison Person will submit the report received from the vetting subject along with the original Garda Vetting Application Form to the National Vetting Bureau for further checks to be conducted.

If the vetting subject indicates that there were errors or omissions made by them when completing the original application form, they will be requested to complete a new application form and both the new and the original forms will be submitted together to the National Vetting Bureau.

If, following the result of further checks, the vetting subject still disputes details in the Garda Vetting Disclosure, arrangements will be made for further validation procedures to be carried out in order to resolve the matters in dispute.










Vetting decision-making

Where there is no disclosure of a criminal record or specified information, the Authorised Liaison Person informs the applicant, the line manager/local Leader that the Vetting Disclosure has been received and the recruitment process proceeds as set out in the Recruitment Policy and Procedures.

The documentation associated with the vetting process, that is, the completed Vetting Application Form, copies of the documents produced to validate identity, the Identification Confirmation statement and the original Vetting Disclosure Certificate are kept by the Authorised Liaison Person in the Provincial Office. The vetting information is also entered on the database by the Authorised Liaison Person and is maintained securely in the Provincial Office.




Where a vetting disclosure of a criminal record is received from the National Bureau or a self-disclosure is made by an individual, the decision to offer employment or the continuation of a position, rests with the Sisters of Mercy.

The following factors will be considered as appropriate:

-  The post for which the applicant is seeking employment
-  The age of the person at the time when the offence(s) was committed.
-  The nature of the conviction and the sentence imposed
-  The number of convictions
-  The time lapse since last conviction.
-  The disclosure of the offence by the applicant
-  The explanation offered by the person
-  The steps taken to prevent re-offending
-  The potential risk to service users.

Other factors for consideration

The Sisters of Mercy will NOT consider any person for employment or as a volunteer to work with children or vulnerable adults, who has been convicted of any of the following:

-  An offence of a sexual nature or violent nature
-  The ill treatment of a child or vulnerable adult
-  The ownership, production or distribution of child pornography.

Other offences will be considered on a case by case basis.

Decision not to Appoint







Where the matter is deemed to be of a sufficiently serious nature as to call into question the suitability of the individual for the post concerned, the decision regarding confirmation of the appointment will revert to a Recruitment Panel. A record will be compiled giving the decision made and the reason for that decision.

Where the decision of the Recruitment Panel is **not** to confirm the appointment, then the individual is entitled to appeal the decision in accordance with the procedure outlined below.

The Appeals Process

It must be noted that an appeal can only be made in relation to the Panel's decision not to employ the person (paid or voluntary). The Panel has no role in reviewing the contents of the Garda Vetting Disclosure, as this belongs solely to the Garda Síochána. If the applicant wishes to appeal the decision, the Chairperson/HR Co-ordinator, must set up a Review Panel. The role of the Review Panel is to determine if the decision of the Recruitment Panel was reasonable and fair. The applicant must be told that the appeal process will require that the information disclosed by the Garda Síochána will be shared with members of the Review Panel and that any representations made by him/her may be shared with the statutory authorities. Representation from the applicant will be requested in writing in order to offer the opportunity to explain any circumstances which might further inform the Review Panel.

The Chairperson/HR Co-ordinator may arrange a meeting with the applicant who is invited to bring a support person if she/he so wishes.

-  The purpose of the meeting is to confirm the applicant's identity and to give the applicant an opportunity to discuss the application in the light of the information received from the National Vetting Bureau
-  The nature and significance of the new information will be discussed
-  A written record of the meeting will be kept.
-  Should the applicant claim that the information is inaccurate, the onus is on her/him to provide evidence to support this claim.
-  This evidence will be forwarded to the National Vetting Bureau by the Authorised Liaison Person with any other information deemed necessary.
-  When the National Vetting Bureau has conducted further checks, the response will be forwarded to the Authorised Liaison Person who will then communicate it to the Panel.

Confidentiality

All information in relation to the vetting process will be handled in a manner consistent with the Sisters of Mercy Confidentiality policy. The Sisters of Mercy comply with good practice regarding the secure storage, handling and use of the Vetting information as per legal obligations under the General Data Protection Regulation, 2018.

The documentation and information associated with the vetting process will be filed securely in Provincial House.

The Sisters of Mercy will not rely on vetting disclosures conducted by a previous employer nor shall they forward disclosures of past staff to other organisations.

The vetting disclosure certificate is not transferable.

The Sisters of Mercy reserve the right to initiate Garda re-checks at any time.

The standard Garda vetting form only covers addresses in the Republic and the North of Ireland. Individuals who lived overseas for a period of six months or more may be required to provide proof of non-convictions from the country in which they were resident. In the event that the individual is unable to provide this, it must be demonstrated that all efforts have been made to do so. These situations may include individuals who are from countries where police clearance certificates may be difficult to obtain.

Sisters of Mercy, Policy Statement

General Principles

The Sisters of Mercy, Southern Province comply fully with the National Vetting Bureau requirements regarding the correct handling, use, storage, retention and disposal of Vetting documentation and Disclosure information. The Sisters of Mercy also comply fully with obligations under the General Data Protection Regulation, 2018, with regard to the safe handling, storage, retention and disposal of Disclosure Information.

Vetting Disclosure Certificate

The Authorised Liaison Person of the Sisters of Mercy, receives a Vetting Disclosure Certificate from the National Vetting Bureau, Employment will not commence until the Authorised Liaison Person confirms with the line manager/local Leader that the Vetting Disclosure has been received and the vetting process has concluded.

The original Disclosure Certificate and all associated documentation are held by the Authorised Liaison Person . The vetting information is entered by the Vetting Co-ordinator

on the database in Provincial Office. The Vetting Disclosure Certificate and all associated documentation is filed securely in Provincial Office.

Storage and Access

Vetting documentation is kept in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

Vetting information is only shared with those who are authorised to receive it in the course of their duties. The Sisters of Mercy recognise that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

Usage

Vetting information is used only for the specific purpose for which it was requested and for which the applicant's full consent has been given.

Retention

Once a recruitment or other relevant appointment decision has been taken, the vetting information will be retained securely for the necessary period, that is, until the person is re-vetted, resigns or ends their involvement with the Sisters of Mercy.

Disposal

Once the retention period has elapsed, the line manager/local Leader will inform the Vetting Co-ordinator, Provincial Office , who will ensure that copies of the vetting identification documents, the Vetting Disclosure Certificate and any other documentation associated with the vetting process is destroyed by secure means, i.e. by shredding. The database in Provincial Office will be updated by the Authorised Liaison Person .

Appendix 1

The National Vetting Bureau (Children and Vulnerable Persons)

Act 2012

Schedule 1

Section 2:

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's detention school within the meaning of Sectionn 3 of the Children Act 2001
 - g) a reception or accommodation centre which provides residential accommodation services to applicants for asylum under contract to the Department of Justice and Equality.
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 or developmental services (including by means of electronic interactive communications) to children unless the provision of the advice, guidance or developmental service is merely incidental to the provision of these services to persons who are not children.
 7. Any work or activity as a minister or priest or any person engaged in the advancement of any religious beliefs.
 8. Work as a driver of a public service vehicle which is being used 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. An 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 out 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 & 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 people 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 of 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.
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 to persons who are not vulnerable persons.
5. Any work or activity which consists of the provision of advice, guidance or developmental services (including by means of electronic interactive communications) to vulnerable persons unless the provision of the advice, guidance or developmental 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 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 out 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 & 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).