



Irish Association for Counselling and Psychotherapy

IACP Garda Vetting Policy

Rationale

The Irish Association for Counselling and Psychotherapy (IACP) have a responsibility to ensure that the Association provides a safe, secure and professional service for all stakeholders. It also endeavors to ensure that Garda Vetting is part of a wider process ensuring the protection and safety of all vulnerable members of the community.

IACP is committed to ensuring the safety and welfare of all people attending its Accredited Counsellors and Psychotherapists. As a relevant organisation, all of our registered members are subject to vetting procedures as part of the accreditation and recruitment process.

The National Vetting Bureau of the Garda Síochána (NVB) is the responsibility of the IACP to have its own decision making process following disclosures received. Disclosures of any kind will be dealt with on a case by case basis.

The Garda Vetting Decision Maker (GVDM) will make recommendations relating to the suitability of potential or pre-existing members of the IACP. In dealing with disclosures, the IACP acknowledges that this is a most sensitive and complex area and disclosures however minor or serious must be dealt with on a case by case basis. The Garda Vetting Appeal Panel will adjudicate on appeals from the decision of the Garda Vetting Decision Maker in circumstances where the applicant is unhappy with the decision of the GVDM and lodges the appeal within the time specified in this policy document.

The Garda Vetting Decision Maker and the Garda Vetting Appeal Panel will carry out their work within the guidelines set down in this policy and will provide consistency and safeguard individual rights.

All disclosures are held within the strictest of confidence and in compliance with data protection requirements.

Garda Vetting Procedure

1. The applicant must manually complete and forward the Vetting Invitation Form (NVB1) to the IACP and provide proof of identity as outlined in the Validation of Identity Form.
- 2.
3. Following this the Gardaí send the applicant an email with a link attached inviting him/her to complete the vetting application online. The link will expire after 30 days.
4. When checks are complete the vetting disclosure is issued to the IACP. The IACP will, as soon as practicable, inform the applicant of the outcome.

Please Note: A copy of the vetting disclosure will be made available to applicants upon request.

Please visit <https://vetting.garda.ie/Help/FAQ> for further information on vetting processes and procedures.

Who will be required to be Garda Vetted?

Student (1st year students exempt), Pre-Accredited and Accredited members and any other personnel deemed appropriate by IACP, as well as applicants that have applied for any of these posts or positions.

Who is responsible for the Garda Vetting administration within the IACP?

Nominated Garda Vetting Liaison Person

The Nominated Liaison Person in the IACP is registered with the NVB. It is their role to manage all Garda Vetting forms submitted by the organisation and information received from the NVB.

The IACP's nominated Liaison Person is Stephen Kelly

Who is;

- Appointed and registered with the NVB
- Act as liaison between NVB and IACP
- Responsible for distribution of all Garda Vetting forms, submissions to and information received from the NVB
- Responsible for maintaining the confidentiality of information received from both the individual and the NVB

If you have any queries, please do not hesitate to contact Stephen Kelly, Accreditation Supervisor, IACP, First Floor, Marina House, 11-13 Clarence Street, Dun Laoghaire, County Dublin.

Email – stephen@iacp.ie Phone 01 214 7930

Verification of Identity

Before Garda Vetting Forms can be processed, the NVB require that an applicant's identity is verified by IACP.

Applicants must complete a 100 Point Identification Check as stipulated on the Garda Vetting Validation of Identity form. This form must be signed by a designated responsible person and forwarded, along with copies of ID, to the authorised Liaison Person in the IACP.

The following designated responsible persons may verify applicant's identification and sign the Validation of Identity Form: IACP Head Office, Dun Laoghaire, County Dublin (by appointment only), IACP Accredited Supervisor, BACP Supervisor, IAHIP Accredited Supervisor, Gardaí, Solicitor, Commissioner of Oaths, Notary or Peace Commissioner

ID Verification must be completed, in person, by a designated responsible person. Original ID documents must be viewed by the designated responsible person

Process of decision making in relation to the information received from the National Vetting Bureau, where there is a disclosure that raises an issue regarding the applicant's suitability to remain or become a member of the IACP

Minor motoring convictions will not exclude an applicant from membership unless deemed excessive by the IACP. Motoring convictions will be deemed excessive if an applicant has more than three minor motoring offences.

The Garda Vetting Decision Maker will assess applications for membership with the IACP and existing members where previous convictions or prosecutions, whether successful, unsuccessful, pending or completed have been raised by the NVB or where any disclosure or non-disclosure by the NVB or the applicant raises doubt or concern regarding the applicant's suitability to remain or become a member of the IACP.

The GVDM assesses the Vetting Invitation Form, the vetting disclosure furnished by the NVB and any other relevant information to determine the suitability of the applicant. It is the decision of the GVDM to request additional information from the applicant, to aid in making a decision. The applicant will be given the opportunity to make a submission in writing setting out their position which will be considered by the GVDM before making their decision.

In exceptional circumstances the GVDM or Garda Vetting Appeal Panel, at their discretion, may organize a meeting to discuss this information but in all other cases the matter shall be decided based on the information furnished as set out above and any other such information as the IACP considers relevant.

The applicant may bring a colleague or friend to the meeting; their role is restricted to supporting the applicant and they are not entitled to participate directly in the meeting. The GVDM will have a colleague in attendance. The function of this meeting is to give the applicant the opportunity to provide more information to assist in assessing the disclosure(s). If the applicant does not want to attend a meeting he/she may provide a statement in writing to the registered office of the IACP for the attention of the GVDM or Garda Vetting Appeal Panel. Where a meeting or written statement is not provided, the GVDM/ Appeal Panel will assess the application on the information available to it.

The decision to approve or refuse the Garda Vetting application must be made in a timely manner and the applicant will be notified in writing of the decision to approve or reject the applicant's suitability to become or remain a member of the IACP based on the Vetting Disclosure together with the reasons for the decision and the procedures for appealing the decision and the time limit for this appeal. The decision of the Garda Vetting Decision Maker will become final on the expiration of 21 days from the date of its transmission to the applicant.

Basis on which the Garda Vetting Decision Maker will determine the suitability of the applicant

The GVDM must consider the risk in terms of the individual, the offence and the role. In carrying out this assessment the following factors, in addition to other relevant case specific concerns will be considered.

Assessment of the Risk of the Individual Applicant together with the Offence

- The seriousness of the offence and its relevance to the safety of potential clients or those coming into contact with the applicant
- The length of time since the offence occurred and the age of the applicant at the time of the offence
- Whether the offence was a one-off, or part of a history of offending
- The number and frequency of any convictions
- Whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely
- The degree of remorse, or otherwise, expressed by the applicant and their motivation to change [if provided by the applicant]
- Work history since the offence
- Availability of references
- The applicant's statement, if provided
- Any other relevant factors

Assessment of the Risk/Relevance of the Offence to the Potential Client

- Does the post involve one-to-one contact with children or other vulnerable groups of clients, service users or employees?
- What level of supervision will the member receive?
- Does the IACP membership involve any direct responsibility for finance or items of value?
- Will the nature of the IACP membership present any realistic opportunity for the applicant to re-offend as a member of the IACP?
- What could happen as an IACP member at work and how serious would that be?
- Does being an IACP member involve direct contact with members of the public?
- By permitting the person with this conviction to become a member of the IACP, would this seriously undermine public confidence in the IACP?
- The applicant's statement if provided
- Any other relevant factors

Additional grounds where Garda Vetting Decision Maker is entitled not to proceed with an interview, appointment, application for membership or termination of an existing position of an individual

The GVDM reserves discretion to deal with any information or findings as part of this procedure, as he/ she believes to be fair and reasonable in all circumstances. Listed below are a non-exhaustive list of instances that would deem an individual unsuitable to work/ be a member/ volunteer of the IACP.

- The applicant has convictions in a different jurisdiction that may be under a different name
- The IACP has received specified information in relation to the applicant
- The applicant has not made full or accurate disclosure in his / her application and / or Garda Vetting forms
- In the event whereby a charge arises, a declaration has not been made to the IACP
- The IACP deem the number of minor convictions excessive
- Failure to notify IACP of the outcome of pending prosecutions or the outcome of prosecutions since application for Garda Vetting
- Non-completion and return of the Garda Vetting Form and supporting documents within 28 days from the notification date on the invitation to vetting email
- The eVetting link is sent a second time and is not completed by the applicant
- Failure to provide further information, as requested, to the IACP regarding a disclosure made by the NVB within 21 days
- A Police Clearance Certificate has been requested, and has not been submitted to the IACP within three months
- The Garda Vetting Decision Maker has discretion to refuse an application if an offence is disclosed by the NVB which would render the applicant unsuitable to work for, with or remain or become a member of the IACP
- Any offence that in IACP's opinion deems the person unfit to work and/ or practice/ be a member of the IACP
- Failure to complete the payment for Garda Vetting

Prosecution Pending

In the case whereby an applicant has a prosecution pending, this information will be transmitted to the IACP by the NVB.

For **existing personnel / members** the applicant may remain in their position / as a member while awaiting the outcome of the prosecution however the decision on this rests with the GVDM who retains discretion.

There are automatic exclusions under which an individual's position with IACP will be suspended. These include being charged with

- Murder, attempted murder, manslaughter
- Rape, attempted rape
- Any conviction leading to inclusion in the Sex Offenders Register
- Ownership, production, possession or distribution of child pornography
- Ill treatment, abuse or neglect of children / minors / vulnerable people

Members **must** notify IACP of the outcome of the prosecution.

In the case of **new applicants for membership or employment** with a prosecution pending, their application will be put on hold pending the outcome of the prosecution.

If disclosures have been received which raise doubts or concerns regarding the applicant for membership/position applied for or existing member or applicants suitability for membership or the position applied for, the Garda Vetting Decision Maker will request in writing that the applicant furnish further information on these.

Appeal to IACP Garda Vetting Appeal Panel

In the event whereby a disclosure had been made by the National Vetting Bureau (NVB) in relation to an applicant, the findings are accurate, and the application has not been approved by the Garda Vetting Decision Maker or in any other circumstances where an application has not been approved and which relate to the IACP Garda Vetting application, the applicant may, if they wish, make an appeal to the IACP Garda Vetting Appeal Panel.

IACP Garda Vetting Appeal Panel Structure:

Number / Size:

- A panel of three members will adjudicate on applications at any one time. One must be an external individual
- The Panel will comprise of IACP accredited members with relevant experience / qualifications in child protection / risk management / law
- The adjudicating panel of three members must contain one external
- A panel of appeal members will be appointed by the Board of Directors for a period not longer than five years and the appeal members will be appointed to a three-member appeal panels as required.

Appeal Process

If an applicant wishes to appeal a decision in relation to a decision whereby they have not been deemed suitable to become or remain a member of the IACP following Garda Vetting, they should follow the process of appeal which is outlined below.

- The applicant should submit a written comment on the recorded convictions to the Garda Vetting Appeal Panel Administrator in the IACP, marked 'private and confidential'. This must be done within twenty-one days of the date on the letter [the transmission date] stating that Garda Vetting has not been approved.
- The submitted written comment should be up to 500 words, of comments or information pertinent to the reasons stated for rejection.
- The appeal must be accompanied by the fee of €38.
- The Garda Vetting Appeals Panel will hear this appeal and issue their findings by letter to the Appellant. The decision of the appeal panel is final.

In the event that no appeal is made or an appeal has not been successful, an applicant's position with the IACP will be refused or withdrawn once the 21 day period for appeal has passed.

The criteria which the Garda Vetting Decision Maker must take into account in determining the suitability of the applicant as set out above will be the criteria which the Appeal Panel must take into account when adjudicating on appeals with any adjustments as decided by the Appeal Panel in the circumstances of the particular case.

The decision of the appeal panel is final.

Legislation impacting on Garda Vetting

1. Civil Service Commissioners Act 1956
2. Child Care Act 1991 – Sections 5; 61; 65
3. Data Protection Act 1988/2003
4. Children's Act 2001 – Section 258
5. Private Security Authority Act 2004
6. Protection of Children Act 2012
7. National Vetting Bureau (Children and Vulnerable Persons) Act 2012
8. Withholding of Information on Offences against Children and Vulnerable Persons Act 2012
9. Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016
10. Other relevant legislation which may come into force before this document is revised

What is Garda Vetting?

Garda Vetting is conducted in respect of 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 or vulnerable persons. The National Vetting Bureau make such enquiries with An Garda Síochána or a scheduled organisation, as they deem necessary, to establish whether there is any criminal record or specified information relating to the applicant.

Garda Vetting is non-transferable between organisations. Though you may have been previously vetted by another organisation, or by your university/college, in this case IACP is the relevant organisation and is responsible for its own vetting. Therefore, IACP cannot accept vetting letters from another organisation.

Please Note: By engaging in the Garda Vetting process applicants agree that they have read, understand and agree to the IACP Garda Vetting Policy.

Specified Information

Specified information in relation to a person who is the subject of an application for a vetting disclosure, means information concerning a finding or allegation of harm to another person received by the National Vetting Bureau from An Garda Síochána or a scheduled organisation.

It is information that is considered to reasonably give rise to a bona fide concern that the applicant may

- harm any child or vulnerable person,
- cause any child or vulnerable person to be harmed,
- put any child or vulnerable person at risk of harm,
- attempt to harm any child or vulnerable person, or,
- incite another person to harm any child or vulnerable person

Notification of a determination

If specified information is to be disclosed to a relevant organisation the Chief Bureau Officer must, in advance, notify the applicant of the intention to disclose the information.

The applicant will be notified directly by the Chief Bureau Officer that he/she is considering disclosure of the information and the Chief Bureau Officer will provide a summary in writing of the specified information and inform the applicant that he or she may make a written submission in relation to the specified information.

On receiving this notification, the applicant may make a submission in writing to the Chief Bureau Officer concerning the information, not later than 14 days, from the date of notification, or a longer period if the Chief Bureau Officer specifies.

When the Chief Bureau Officer is making a determination as to whether the specified information should be disclosed, he or she must reasonably believe that the information is of such a nature as to give rise to a bona fide concern that the applicant may harm, attempt to harm or put at risk of harm, a child or vulnerable person and must be satisfied that the disclosure of this information is necessary, proportionate and reasonable in the circumstances for the protection of children or vulnerable persons.

Making a determination

In making a determination, the Chief Bureau Officer must take a number of matters into account, including the relevance of the type of work concerned, and the rights of the applicant.

The Chief Bureau Officer can make any further enquiries necessary from An Garda Síochána or a scheduled organisation, to assist in making a determination.

When the Chief Bureau Officer has made a determination that specified information should be disclosed, he or she shall

- notify the applicant in writing of the determination and the reasons for it,
- provide a copy of the specified information proposed to be disclosed,
- notify the applicant of the intention to disclose the specified information to a liaison person for the relevant organisation concerned after the expiry of 14 days, and
- inform the applicant that he or she may appeal the determination to an appeals officer not later than 14 days, or such longer period as the appeals officer may determine, after the date of the notification is sent to the applicant.

It is important to note that the National Vetting Bureau will not make any disclosure in relation to the applicant until the 14 days allowed for the making of an appeal has elapsed, or where an appeal is lodged, until the determination or withdrawal of the appeal.

Residency Abroad

International Police Vetting

If the applicant has resided in countries outside of the Republic of Ireland and Northern Ireland for a period of 6 months or more, they may be required to obtain a Police Clearance Certificate from Countries stating that they have no convictions recorded against them while residing there. Seeking security clearances from other countries (e.g. UK, USA etc.) are the responsibility of the applicant.

The following websites may be of assistance if required to provide a Police Clearance Certificate:

United Kingdom:	www.acro.police.uk/police_certificates.aspx www.disclosurescotland.co.uk
Australia	www.afp.gov.au/what-we-do/police-checks/national-police-checks
New Zealand	www.justice.govt.nz/services/criminal-records
United States of America	http://travel.state.gov/content/passports/en/abroad/legal-matters/criminal-record-check.html http://www.fbi.gov/about-us/cjis/identity-history-summary-checks

Other Countries

For other countries not listed above you may find it helpful to contact the relevant embassies who could provide you with information on seeking Police Clearance.

In the case whereby an applicant is requested to submit additional documentation, time will be allotted to facilitate this.

Note: Any costs incurred in this process will be borne by the applicant.

Only original Police Clearance Certificate should be submitted (copies not accepted). Alternatively, applications may submit a certified copy, verified by one of the following: Solicitor, Peace Commissioner or Commissioner of Oaths.

If Clearance Certificates in a language other than English must be translated by a registered translator.

The right to request a Police Clearance Certificate is at the discretion of the Accreditation Supervisor.

Applicants residing outside of the state of Ireland or Northern Ireland will be required to submit a Police Clearance Certificate from their country of residence.

Garda Vetting will be required of any individual who works in the Republic of Ireland.

Communication Protocol

Telephone -Verification of Applicant

If the nominated Liaison Person is required to communicate with the applicant by telephone the following protocol will be adhered to:

- The Liaison Person will verify the person is the applicant
- No detailed messages will be left
- No discussion will take place with any other person, spouse or partner
- The Liaison Person will give an assurance of confidentiality

If the Liaison Person is required to verify disclosed details the applicant will be asked:

- Is there anything they remember concerning the time of the offence
- Have they ever been to court
- For any relevant information concerning the disclosed information
- To consider the significance of the disclosure in relation to the position applied for
- All responses should be noted

Dispute Handling Mechanism regarding information supplied by the NVB

Disputes Concerning Information Supplied by the NVB

Where an applicant disputes the detail contained in a vetting disclosure from the NVB, he or she may refer the issue to the NVB dispute process.

- This process is activated by the applicant, who should outline the basis of his or her dispute, in writing, to the Liaison Person for the organisation who is conducting vetting. The Liaison Person then submits the complete application file to the NVB for further checks.

In instances where an applicant wishes to dispute any detail contained in a Garda Vetting Disclosure issued to a Liaison Person in respect of them, the following procedure should be implemented:

- The applicant should outline the exact basis of their dispute and submit it in writing to the Liaison Person.
- The Liaison Person should submit the report received from the applicant, along with the original Garda Vetting Application Form in respect of them, to the NVB for further checks to be conducted.
- If the applicant indicates there were errors or omissions made by them while completing the original application form, they should be requested to complete a new application form; and both the original and the new application forms should then be submitted together with the request for further checks to be conducted.
- If, following the result of further checks, the applicant still disputes any detail in the Garda Vetting Disclosure issued in respect of them, arrangements will be made for further validation procedures to be undertaken in order to resolve the matters at issue in the dispute.
- At the conclusion of the dispute resolution procedure, decisions in respect of the suitability of the applicant for a position / membership within the IACP are the responsibility of the Decision Maker/Decision Making committee within the IACP, and the NVB will have no input into any such decisions.

Results of the re-check by the NVB will be returned via the Liaison Person in the IACP. If, following a re-check, the applicant still disputes the data, arrangements will be made by the NVB for further identification procedures to be implemented e.g., fingerprinting so as to resolve the dispute. Pending the outcome of a dispute or appeal process the individual's membership will be suspended.

Outcome

Where the applicant vetting is approved by the IACP, this will be communicated to the individual and the person responsible for the recruitment or membership by the nominated Liaison Person.

Where the information disclosed by the NVB and/or self-disclosed by the applicant deems the individual to be unsuitable for the position applied for, by the GVDM, they will be informed of such. The applicant will be unsuccessful in the position applied for, or will be removed from their current position with the IACP and/ or will have their membership lapsed.

The applicant can decide to withdraw their application at any stage during the vetting process.

Where in appropriate cases of seriousness of disclosure and where the GVDM deems it necessary the applicant, where they are existing members of the IACP may be suspended from their membership or employment pending the outcome of the decision making process regarding their suitability to remain as a member or in their current position.

Re-Vetting

Vetting is required for new members to the IACP and re-vetting is only required whereby a member's membership lapses and they wish to re-apply for membership/a position in the future. IACP reserve the right to request vetting at any time and failure to comply will result in position being withdrawn.

There is an obligation on a member to inform the IACP of any actual or pending conviction or prosecution since they were vetted and therefore they will be re-vetted. Failure to do so may result in the IACP terminating their membership of the IACP. The IACP may engage in spot checks of members at any point during the said period.

If the circumstances of a member/person change, a declaration must be made to the IACP notifying of any prosecution, prosecution pending, or offence. This will be dealt with in line with the procedures outlined in the Garda Vetting Policy.

In the case that an applicant's Garda Vetting Application has not been approved by the IACP, the applicant may re-apply after a 12-month period from the final date the applicant has been informed of the outcome.

Data Protection

All rules of Data Protection will be observed in respect of any data received following a Garda Vetting request:

- Information will be obtained and processed fairly
- Information will be kept for a specified, explicit and lawful purpose
- Use of and disclosure of information obtained occurs only in ways compatible with these purposes
- Information will be kept safe and secure
- Information will be accurate complete and up to date
- It will be retained only while necessary for the purpose obtained
- Information received from the NVB will be shared with the individual at their request

All data is kept in accordance with GDPR and the Data Protection Acts by the Liaison Person on behalf of IACP. All information is kept in a secure cabinet in IACP Head Office. Files relating to Garda Vetting will be kept for the period outlined in the IACP Data Protection Policy and will be securely destroyed after the designated time. Only those deemed relevant will have access to the secure cabinet.

Disclaimer

The IACP reserves the right to amend or revoke this policy at any time without notice, and in any manner in which the IACP sees fit.

Appendix A

Garda Vetting Administrative Filter

The Administrative Filter is a procedure applied by the Garda, that allows certain minor convictions over 7 years old not to be disclosed. The purpose of this filter is to allow a more balanced, relevant and proportionate approach to Garda Vetting.

In the case of convictions, cognisance will be taken of restorative justice and rehabilitation of offenders by the NVB. All disclosures received from the NVB will be managed within a Natural Justice Framework. Appendix A outlines the Garda Vetting Procedures from which the NVB will be adhering to.

This section replaces the Administrative Filter that was introduced by the Minister for Justice and Equality on 31st March 2014.

A. Criminal Convictions to be disclosed in all cases:

1. An offence under section 17 of the Domestic Violence Act 1996.
2. An offence under the Non-Fatal Offences against the Person Act 1997.
3. An offence under section 246 of the Children Act 2001 (cruelty to children).
4. An offence under section 176 of the Criminal Justice Act 2006 (reckless endangerment of children).
5. An offence under section 80 of the Health and Social Care Professionals Act 2005.
6. An offence under section 41 of the Medical Practitioners Act 2007.
7. An offence under section 44 of the Nurses and Midwives Act 2011.
8. An offence under section 49 of the Nurses Act 1985.
9. Any offence under section 50 and 51 of the Dentists Act 1985
10. An offence under section 32 of the Pharmacy Act 2007.
11. An offence under section 56 of the Teaching Council Act 2001.
12. An offence under the Firearms Act 1925.
13. An offence under the Firearms Act 1964.
14. An offence under the Firearms and Offensive Weapons Act 1990.
15. An offence under section 31 or 32 of the Intoxicating Liquor Act 1988.
16. An offence under the Misuse of Drugs Acts 1977 to 2015, other than a first offence under section 3 of the Misuse of Drugs Act 1977.
17. An offence under section 14, 15, 16, 17, 18 or 19 of the Criminal Justice (Public Order) Act 1994.

B. The following District Court Convictions will NOT be disclosed:

This section applies to District Court convictions only.

- Convictions over 7 years for motoring offences other than Section 53(2) of the Road Traffic Act 1961.
- Convictions over 7 years for the following offences under the Public Order Act 1994:
 - Section 4 (Intoxication),
 - Section 5 (Disorderly conduct),
 - Section 6 (Threatening, abusive or insulting behavior),
 - Section 7 (Distribution or display of material which is offensive),
 - Section 8 (Failure to comply with direction of Garda),
 - Section 9 (Wilful obstruction).
- District Court convictions for any other minor offence will not be disclosed after 7 years where the person has one such offence only (excluding motoring or public order offences over 7 years old).
- This provision does not apply to excluded offences as outlined in Schedule 3 of the Act

