

# Garda Vetting Policy



**Policy owner: UCD HR**

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UMT**

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## 1. Purpose

University College Dublin is committed the health, safety and wellbeing of its community. As such, the University has a comprehensive suite of initiatives and policies in place to enable the University to meet its obligations to provide a safe, inclusive and diverse environment. Once such policy is the UCD Garda Vetting Policy which aims to fulfil the University's commitment to its community and meet its legal requirements under the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016 (the Act). The Act provides a statutory basis for the vetting of persons carrying out relevant work with children or vulnerable persons.<sup>1</sup>

## 2. Definitions

### Child/Children

The term "child" or "children" shall be understood to mean any person under the age of 18 years.

### Vulnerable Person

The term "vulnerable person" shall be understood to mean a person, other than a child, who:

- a. is suffering from a disorder of the mind, whether as a result of mental illness or dementia;
- b. has an intellectual disability;
- c. is suffering from a physical impairment, whether as a result of injury, illness or age; or
- d. has a physical disability, which is of such a nature or degree-
  - (i) as to restrict the capacity of the person to guard himself or herself against harm by another person; or
  - (ii) that results in the person requiring assistance with the activities of daily living including dressing, eating, walking, washing and bathing.

## Relevant Work or Activities

“Relevant work” or “activities” shall be understood to mean any work or activity 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 persons.

## National Vetting Bureau

Since the commencement of the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016 on 29th April 2016, the national vetting unit of An Garda Síochána (known before the Act as the Garda Central Vetting Unit) is now known as the National Vetting Bureau. The National Vetting Bureau is the single point of contact in An Garda Síochána to conduct Garda Vetting. Its primary objective is to provide an accurate and responsible vetting service which enhances the protection of children and vulnerable persons through enabling safer recruitment decisions.

## University Liaison Person

A Liaison Person is a person who is authorised within a Relevant Organisation for Garda Vetting to submit National Vetting Bureau Application Forms to the National Vetting Bureau on behalf of the Relevant Organisation and receive resultant disclosures

## University’s Garda Vetting Review Committee

The University’s Garda Vetting Review Committee refers to the group tasked with assessing information received via a vetting disclosure and the suitability of the person to perform the role.

The University’s Garda Vetting Review Committee will comprise the following persons:

- A HR Functional Director (or nominee)
- A representative from Corporate and Legal
- A Faculty Member

## HR Functional Director

The term “HR Functional Director” shall be understood to include the Director of Human Resources, the Director of Culture & Engagement, the Director of People Development & Organisational Effectiveness, the Director of HR Partners and/or the Director of HR Services, or their nominee.

## Vetting Disclosure

A vetting disclosure shall be understood to include particulars of the criminal record (if any) relating to the person, and a statement of the specified information (if any) relating to the person or a statement that there is no criminal record or specified information, in relation to the person.

### **3. Scope**

This policy applies to anyone who is employed and/or engaged by, or applying to be employed and/or engaged, and/or acts on behalf of the University who will have access to children and/or vulnerable adults in the course of their employment/engagement in a manner which is not merely incidental to the role of that person.

Individuals who are not directly employed by the University, but who are employed by contractors (or sub-contractors) of the University and who will have access to children and/or vulnerable adults in the course of their duties in a manner which is not merely incidental to the role may also be required to undergo the vetting/clearance process.

### **4. Principles**

The University is committed to taking all reasonable and practicable steps to ensure that only suitable candidates are appointed to positions which involve direct contact with children and/or vulnerable adults which is not merely incidental in the performance duties. The University undertakes that any vetting carried out as part of its obligations under the aforementioned processes, and other statutory obligations, will be done so in an atmosphere of mutual respect, trust and transparency.

On this basis, the University aims to apply best practices as set out in the National Vetting Bureau, An Garda Síochána, Code of Practice - Garda Vetting and ensure that Garda Vetting is conducted in accordance with the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 and 2016.

The University reserves the right to take such steps as is reasonable to the circumstances should persons identified in section 3 of this document fail to discharge their obligations under the Act and/or if information is obtained through the vetting process which necessitates same. Any such steps should be necessary, proportionate and reasonable for the purposes of protecting children and/or vulnerable adults and/or fulfilling the University's statutory obligations. The University may also take any interim steps as it deems appropriate to the circumstances in such instances. Any such steps shall not influence the outcome of any investigation or infer wrong doing on any party.

### **5. Vetting and Foreign Police Clearance of Applicants**

The University relies on the National Vetting Bureau (NVB), in conjunction with Foreign Police Authorities, to ensure, as far as is reasonably practicable, the suitability 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 and/or vulnerable persons.

It is noted that while the legislation only refers to Garda Vetting, it is University Policy to seek Foreign Police Certificates (FPC) from applicants in relevant cohorts who have lived and worked abroad as part of its vetting process.

Where a person is deemed to be required to submit to vetting, for whatever reason then that person shall be required to complete the Vetting Application Form which is available at <http://www.ucd.ie/hr/forms/>.

The Vetting Application Form requires the person subject to the vetting to disclose particulars of any criminal record.

The administration of the vetting process will be carried out under the direction of the University Liaison Person and/or any other University employee as may be assigned such responsibility from time to time.

If the applicant has resided outside Ireland for a cumulative period of 36 months or more over the age of 18, they must furnish a Foreign Police Certificate (FPC) from the country or countries of residence. The University, however, reserves the right to request FPC for a lesser period at its sole discretion. The FPC should state that the applicant has no convictions recorded against them while residing there or should disclose any convictions recorded against the applicant during the term of residence.

The University may at its sole discretion also require that applicants provide an enhanced disclosure by the completion of an affidavit or statutory declaration.

The University may, at its sole and absolute discretion, afford an employee or a potential candidate a period of up to six months to obtain the appropriate Foreign Police Certificate. This period may be extended only in the most exceptional of circumstances. Where every effort has been made, and a Foreign Police Certificate is unobtainable in a particular jurisdiction then a HR Functional Director on behalf of the University, may, at their absolute discretion, agree to an alternative method by which a candidate/employee can discharge this obligation.

Should any information required to be supplied by an employee, third party or prospective employment candidate be false and/or not forthcoming then the University shall be entitled to rescind any offer of employment or engagement and, in the case of employees of the University shall immediately refer the matter through the appropriate internal policy.

## 6. National Vetting Bureau and Foreign Police Certificate Procedure for Applicants

The following sections outline the various stages that are involved in the vetting process:

### *Stage 1: Identification of Vetting*

The Head of School/Unit having consulted with the University Liaison Person as they consider appropriate will identify the types of posts that require vetting. This does not preclude the Head of School/Unit from deciding that from time to time that additional positions will require vetting. Certain roles/activities may be designated by the University and/or liaison person as automatically requiring vetting. A sample of the current list of these roles and activities is contained in Section 9. No assessment shall be required to be undertaken in respect of such roles and/or activities are a necessary and regular part of their role as vetting is likely to be a precondition of participating in such activities.

If however, a Head of School/Unit is of the view that certain roles in these areas do not require vetting, for example, due to the application of an exemption under the Act, an assessment shall be required to be undertaken before a decision that the position does not require automatic vetting is made. This decision shall be recorded by the Head of School/Unit and the University Liaison Person and subject to review if the activities undertaken in the role change.

### *Stage 2: Advertisement*

All posts identified as requiring vetting will generally state in either the job description or accompanying documentation that the post will be subject to vetting. The fact that the job description/advertisement does not contain such a statement does not preclude the University from requiring that such a post be subject to vetting/re-vetting.

### *Stage 3: The Offer / Contract*

Following completion of the recruitment and selection process, the candidate(s) deemed suitable for the appointment can be offered the position subject to them satisfying the full requirements of the role including satisfactory vetting by the NVB. This will be explicitly reflected in the offer letter and/or contract, which will be accompanied by instructions on how to complete the Garda Vetting process.

No person required to undergo vetting shall be permitted by the University to engage in work activities with children and/or vulnerable adults until such time as all parts of the recruitment and selection process including vetting by the NVB has been fully completed to the satisfaction of the University.

Whilst the University may, at its sole and absolute discretion afford an employee or a potential candidate a period of up to six months to obtain the appropriate Foreign Police Certificate, the contract will explicitly state that the offer and their continued employment is subject to them successfully completing the Foreign Police Certificate process within the stated period.

#### *Stage 4: Confirmation of NVB/Foreign Police response by Liaison Person*

Where the information supplied by the NVB/Foreign Police is inconsistent with the information supplied by the applicant and/or those vetted under Section 7 of this policy, the University Liaison Person will contact the applicant to clarify whether:

- a) The information supplied by the NVB/Foreign Police is correct; or
- b) The employee/candidate does not agree that the information supplied by the NVB /Foreign Police is correct, in which case the University Liaison Person will request the NVB/Foreign Police to review their information and confirm or review their initial response.

Where the vetting disclosure contains criminal records information or 'specified information', the University should as soon as practicable make available a copy of the vetting disclosure to the applicant. The University may also take any interim steps as it deems appropriate to the circumstances. Any such steps shall not influence the outcome of any investigation or infer wrongdoing on any party.

#### *Stage 5: Assessment of Information*

The University may take such action and/or invoke such internal policies as it considers necessary and appropriate in respect of any vetting disclosure.

Where a vetting disclosure contains convictions, specified information or information that is inconsistent with that provided by the applicant, then it shall be considered in the first instance by the University Liaison Person and a HR Functional Director who will determine what, if any, action is appropriate.

Where further assessment is deemed appropriate, this will be carried out by the University's Garda Vetting Review Committee.

The University's Garda Vetting Review Committee will comprise the following persons: A HR Functional Director (or nominee), a representative from Corporate and Legal and a Faculty Member.

The role of the University's Garda Vetting Review Committee will be to assess the information on the vetting disclosure and the suitability of the person who is the subject of the disclosure to perform the role.

The University's Garda Vetting Review Committee will gather facts and decide as follows:

1. The appointment can proceed/the employee may continue in their role;
2. There is a finding in relation to the suitability of a candidate in which case the University's Garda Vetting Review Committee will determine if the appointment can proceed; or
3. In the case of retrospective vetting, re-vetting or a disclosure by any person who is employed and/or engaged by or acts on behalf of the University, facts gathered by the University's Garda Vetting Review Committee may be referred to the disciplinary policy or any other policy appropriate to the circumstances.

In considering this assessment, the University's Garda Vetting Review Committee may, *inter-alia*, consider the following criteria:

- a. All the information disclosed to it by the NVB;
- b. Previous employment history;
- c. Educational qualifications;
- d. Skills and competencies pertaining to the position sought/currently employed in;
- e. Performance at interview or job assessment;
- f. Satisfactory reference from acceptable referees in the opinion of the University;
- g. The nature and seriousness of any conviction or offence which may be recorded in respect of the individual;
- h. Mitigating factors, if any, in favour of the individual;
- i. The self-disclosure of any such offence by the individual;
- j. The age of the individual at the time any such offence was committed by the individual;
- k. The length of time elapsed since any such offence was committed by the individual;
- l. The conduct of the individual in the time elapsed since any such offence was committed;
- m. Rehabilitative efforts undertaken by the individual in the time elapsed since any such offence was committed;
- n. Recidivism rate, if any, of the individual in the time elapsed since any such offence was committed; and/or
- o. Any other information relating to the commission of or involvement in the commission of an offence, or which would give rise or would be likely to give rise to a *bona fide* concern that the individual poses a risk to the safety of children and/or vulnerable adults.

This is not an exhaustive set of criteria. It is a general guideline to criteria the University's Garda Vetting Review Committee may consider and take into account when assessing the suitability of an individual to undertake, or continue to undertake, a role or engage in a work activity.

### *Stage 6 – Completion of the National Vetting Bureau / Foreign Police Procedure*

Applicants, employees and/or any other person who is deemed to require vetting by the NVB, or the University, and who has satisfactorily completed vetting (and all other conditions of the appointment process) may be employed/engaged by the University.

Applicants, employees and/or any other person who is required to provide a Foreign Police Certification may be employed/engaged by the University subject to them completing the process to the satisfaction of the University within six months of their commencement date.

## **7. Vetting and Foreign Police Certification of Existing Employees**

### *Retrospective Vetting*

The University is required to request employees and or third parties who are already employed and/or engaged by the University in certain positions and/or undertaking certain work activities to undergo vetting (including, for the avoidance of doubt, the Foreign Police Certificate procedure). Retrospective vetting will be carried out in accordance with this policy and all those subject to these requirements will be informed that they will be required to undergo vetting.

### *Re-Vetting*

The University reserves the right to request any employee/third party to undergo vetting/police clearance at any time in their employment/engagement but in any event at appropriate intervals (currently every three years) or such shorter periods as may be prescribed under the Act or as may be deemed appropriate by the University.

The processes as outlined in Section 3 will also apply to Re-vetting and Retrospective Vetting of existing employees. The University shall take such action and/or invoke such internal policies as it considers necessary and appropriate in respect of any persons failure or refusal to engage in the vetting process and/or in respect of any vetting disclosure made.

## **8. Disclosure of Criminal Convictions**

It is University policy to ask 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 persons if they previously have been convicted of a criminal offence(s).

Furthermore, there is an obligation on any person who is employed and/or engaged by or acts on behalf of the University to disclose any if they previously have been convicted of a criminal offence(s), are convicted of a criminal offence or have been/are indicted of a serious criminal offence.



It will be a matter for the University's Garda Vetting Review Committee to consider such disclosures on a case by case basis.

## **9. Posts which may require mandatory Garda Vetting/Foreign Police Clearance**

If any person engaged by the University undertakes a role listed or is engaged in the activities listed below as a necessary and regular part of their role then they may be required to submit to Garda vetting and police clearance. This is not an exhaustive list and may be added to, amended or varied by the University from time to time and is subject always to any role and or activity being identified as requiring vetting/clearance in accordance with section 1 of this procedure.

Persons working in the areas below may not be automatically required to undergo Garda Vetting and police clearance in circumstances where, for example, an exemption to Garda Vetting applies under the Acts. The Head of School/Unit in consultation with HR will assess the work carried out on a case by case basis to determine if Garda Vetting is required.

If the Head of School/Unit considers that an exemption may apply, they must consult with the Liaison Person to clarify the position prior to allowing an individual who has not completed the vetting process to undertake such activities.

- a. Access Office
- b. Accommodation / Residential staff
- c. Activity Camp Staff
- d. All research work involving children and/or vulnerable adults
- e. Buildings Maintenance Staff
- f. Bus drivers
- g. Campus tours
- h. Careers Advisors
- i. Chaplains
- j. Child Protection Officers
- k. Contact persons for bullying, harassment etc.
- l. Counselling Staff
- m. Crèche
- n. Disability support workers
- o. Invigilators (when invigilating vulnerable adults)
- p. Open Day
- q. Outreach activities to secondary or primary school children; on or off site;
- r. Relevant Clubs and/or Societies
- s. Security Staff
- t. Sports Centre Staff
- u. Student Ambassadors
- v. Student Health Services

- w. Student Recruitment
- x. Summer Schools.
- y. Staff responsible for TY students on placement
- z. Welfare officers.
- aa. Where students are vetted as a requirement for their course, staff who have similar access as the students must then be vetted.

## 10. Version history

Version	Date	Description	Author
1.0	Jan 2016	First version of policy approved by UMT	EH
2.0	Feb 2018	Version 2 agreed with IUA/7 Unis	EH
3.0	May 2018	Incorporates feedback from UMT at their meeting of 06 March 2018. Policy returned for noting in May 2018.	EH
4.0	May 2019	The policy has been placed in the new template consistent with the template provided by University Secretariat.  Minor changes to wording.  Decision Making Committee changed to Garda Vetting Review Committee Timelines for re-vetting updated from 5 years to 3 years.	EH