

## Draft Vetting Policy 2021-2022



In the context of the school's Mission Statement and of its commitment to the care and protection of its students and of all who work in the school, the board of management has adopted the policy set out hereunder to govern its application of vetting as part of its recruitment practice.

The policy has been framed in compliance with:

- DES circular letter 31/2016
- The Child Protection Procedures for Primary and Post Primary Schools 2017
- The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 as amended by the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016
- The Data Protection Acts/GDPR
- Employment Equality Acts 1998 and 2004
- Equal Status Act 2000
- Industrial Relations Act 1990

### Goals:

- To ensure that the school is a safe and secure environment
- To ensure that vetting of school personnel is carried out to the highest standards of good practice, in compliance with all legal and ethical obligations and in an open, transparent and just manner.
- To ensure that all applicants for vetting are assured that the highest standards of confidentiality are observed.

### The Policy:

The principal will be designated as the contact person who will be responsible for the implementation of this policy and for liaising with the liaison person in JMB.

The principal will conduct the process on behalf of the school in conjunction with the Teaching Council, the Joint Managerial Body (JMB) and with the Vetting Bureau.

The National Vetting Bureau (Children and Vulnerable Persons) Act 2012, section 12 requires a school authority to obtain a vetting disclosure from the Vetting Bureau prior to employment of, contracting of, permitting or placement of a person to undertake relevant work or activities with children or vulnerable persons. This applies to all appointments of any duration including full-time, part-time and substitute positions. It is a criminal offence for a school authority to commence the employment of an employee to do relevant work or activities without first obtaining a vetting disclosure from the Bureau in respect of that person.

“Relevant work or activities” in the context of a school or centre for education means any work or activity carried out by a person where a necessary and regular part of that work or activity consists mainly of the person having access to, or contact with, children or vulnerable persons.

In cases where no statutory vetting obligation exists (see sections 5.3 and 6.4 of this circular) ... a school authority must consider, having regard to its duty of care to its pupils, whether it should seek an up to date vetting disclosure in respect of the person. (See section 9 of DES circular 31 of 2016)

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DES FAQs number 12. A (person) who helps on an occasional basis is therefore not subject to vetting as long as the (person) is not involved in the coaching, mentoring, counselling, teaching or training of pupils.

**Exemption** - a school is not required to obtain a vetting disclosure from the Bureau:

In the case of the employment of, or entering into a contract for services with, a person on behalf of the State Examinations Commission (SEC) - locally appointed superintendents of special centres, aural examinations, and practical examinations etc. (Nonetheless, JMB advises that such recruitment is carried out in a prudent manner and that, where possible, all such personnel are vetted. If vetting is not feasible such persons should provide a Statutory Declaration and Form of Undertaking.)

### **Non-employees – contractors, volunteers, coaches etc.**

Vetting requirements in respect of non-employees occur where a school authority:

- (a) Enters into a contract for services that constitute relevant work or activities or
- (b) Permits any person to undertake relevant work or activities on the school's behalf, whether or not for commercial or any other consideration or
- (c) Places or makes arrangements for the placement of any person in work experience or activities that involve participation in relevant work or activities. (e.g. work experience)

Exemptions - the school is not required to obtain a vetting disclosure prior to commencing the contract, permission or placement in the following circumstances-

Unpaid volunteers who assist on an occasional basis provided such assistance does not involve the teaching, coaching, mentoring, counselling or training of children or vulnerable persons.

Following the completion of retrospective vetting in April 2018, all personnel doing relevant work or activities in schools must have been vetted.

### Recruitment

Thorough recruitment procedures must always be followed and are an essential element of child protection practice. Vetting does not take the place of recruitment procedures but is to be used as part of those procedures.

- Best practice in checking references and previous employment history is essential.
- A number of questions concerning child protection will be asked of job applicants.
- The school will give job applicants a leaflet setting out its recruitment policies and procedures, with particular reference to its recruitment practice with regard to child protection. This leaflet will alert applicants to the child protection-related questions which they will be asked to answer in writing. (See appendix 1)

### **Procedures for all categories:**

Prospective employees must confirm in writing that their appointment is subject to the satisfactory outcome of vetting.

- At the completion of the selection process, when the preferred candidate has been selected, the candidate must, if he or she is a qualified teacher, apply to the Teaching Council to be vetted. If the candidate has already been vetted by the Vetting Bureau, he or she must

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enable the principal to access the vetting disclosure online so that it can be downloaded and assessed.

- All others must complete a Vetting Bureau Application Form and submit it to JMB through the school.
- Failure to complete the Vetting Application Form will disqualify the candidate and no offer of employment can be made to him or her.
- The provision of inaccurate information on the Vetting Application Form may disqualify.
- Failure to disclose a conviction will disqualify, other than as provided for in section 14 A of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012, as amended.
- A Statutory Declaration and a Form of Undertaking must be signed by all those appointed to teaching and non-teaching posts of any duration.
- Where a person changes employment from one school to another the Statutory Declaration is valid if made in the same or previous calendar year.
- A statement confirming that he/she has read and understood the school's Child Protection Policy must be signed by the candidate.

### Teaching Personnel:

- Persons being appointed must be vetted prior to appointment to any teaching position, regardless of the duration of the appointment.
- Where the teacher to be appointed is a registered teacher or has applied to be registered, vetting is carried out through the Teaching Council. The teacher must enable the school authority to access the vetting disclosure on the Teaching Council's Digital platform.
- The school will download the vetting disclosure in respect of the teacher and
- Retain a copy for its records

IT DOES NOT FOLLOW THAT VETTING DEEMED SATISFACTORY FOR TEACHING COUNCIL PURPOSES WILL, IN ALL CASES, BE SATISFACTORY FOR EMPLOYMENT PURPOSES. IT IS THE BOARD'S VETTING POLICY ONLY THAT WILL DETERMINE THIS.

The Teaching Council's determination as to whether a particular vetting outcome is satisfactory for its purposes is made within the statutory framework within which the Teaching Council works. It is possible that an outcome which meets the Teaching Council's requirements might not be acceptable to the school's board of management for employment purposes.

### Non-Teaching Personnel

Vetting for all non-teaching personnel is carried out through JMB as above.

Other Appointees (volunteers, coaches, etc)

The principal will meet with and interview all volunteers, coaches, trainers, etc. who may be involved in relevant work or activities in the school from time to time.

The board will have persons in this category vetted through JMB prior to their engagement by the school. However, it is permissible for two or more organisations to agree in writing that one organisation will have the person vetted, e.g. the school could agree with the GAA that the GAA

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will have the person vetted. In such a case, the school must receive written confirmation from the other organisation that the person has been vetted and the school should require a copy of the vetting disclosure from the person who has been vetted by the organisation with which the school has entered into a written agreement.

### **Student Teachers**

Student teachers must be vetted through JMB unless there is a prior written agreement between the school and the college. The school must receive written confirmation from the college that the student teacher has been vetted. The school should also require that the student teacher furnishes to the school their disclosure from the Vetting Bureau to enable the school to determine if the disclosure amounts to satisfactory vetting in terms of the school's vetting policy.

### **Students and Work Experience**

Where a student is participating in work experience which requires that the student be vetted, a completed Vetting Application Form (NVB 1), downloadable from [jmb.ie](http://jmb.ie), should be submitted to JMB.

Persons not yet 16 years old cannot be vetted.

Where the student is 16 or 17 years old on the date on which the vetting application form is signed and dated, the application must be accompanied by the Parent/Guardian Consent Form (NVB 3) available on the JMB website.

Vetting may be conducted in respect of students over 18 years of age on his/her written authorisation where required for an individual participating in work experience.

### **The School's Duty of Care to Students going on Work Experience**

Students going on work experience should be well prepared by the school to cope with potentially difficult situations. They should be assured of school support in such instances.

Safety of students should be discussed with employers before placements begin.

### **Disclosures**

The attached schedule sets out those offences or categories of offences which will disqualify candidates.

It should be noted that a disclosure from the Vetting Bureau may also include "specified information". "Specified information" or "soft information" in relation to a person who is the subject of an application for a vetting disclosure means information other than criminal convictions held by An Garda Síochána that leads to a bona-fide belief that a person poses a threat to children or vulnerable persons. The Act states that 'Where a member of staff of the Bureau considers there is specified information relating to a person who is the subject of an application for vetting disclosure, he or she shall refer the matter to the Chief Bureau Officer for assessment and determination under section 15 as to whether the information concerned should be disclosed. (3) The Chief Bureau Officer shall assess the application for vetting disclosure and the specified information relating to the person who is the subject of that application but he or she shall not make a determination that that information concerned should be disclosed Unless—

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(a) he or she reasonably believes that that information is of such a nature as to give rise to a bona fide concern that the person concerned may—

- (i) harm any child or vulnerable person,
- (ii) cause any child or vulnerable person to be harmed,
- (iii) put any child or vulnerable person at risk of harm,
- (iv) attempt to harm any child or vulnerable person, or
- (v) incite another person to harm any child or vulnerable

Person, and (b) he or she is satisfied that its disclosure is necessary, proportionate and reasonable in the circumstances for the protection of children or vulnerable persons or both, as the case may be.

Because of the nature of “specified information” and the requirements in the Act, including an appeal process available to the vetting applicant before “specified information” can be disclosed, the board of management will determine whether a vetting applicant whose disclosure from the Bureau includes “specified information” is a suitable person to be employed in the school. In such a case the vetting applicant will be afforded an opportunity to make representations to the board of management before the board comes to a decision on the matter.

The following schedule also sets out other offences or categories of offences which may disqualify. In deciding whether a particular conviction renders a candidate unsuitable for appointment, the school will have regard to:

- the nature of the offence and its possible relevance to the post;
- the age of the offence (offences many years in the past may be less relevant than more recent offences);
- the frequency of the offence (a series of offences will give more cause for concern than an isolated minor conviction).
- Offences which are not sexual or violent in nature or drug related offences of a minor nature committed before the age of 18 will be judged in the light of the age of the applicant at the time of the offence.
- Where the vetting process discloses pending prosecutions or unsuccessful prosecutions, such prosecutions will be assessed in the light of the nature, age and frequency of the alleged offence(s) and of the age of the candidate at the time of the alleged offences.
- Statutory vetting will, in addition to a check for criminal records, include a check for any relevant "soft information". "Soft information" referred to as "specified information" in the Vetting Act, is information other than criminal convictions held by An Garda Síochána that leads to a bona-fide belief that a person poses a threat to children or vulnerable persons.
- The principal will meet the applicant in person and in privacy. The applicant will be informed of the nature of the disclosure and will be given an opportunity to respond to it.

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- The principal is authorised by the board to determine if the outcome of the vetting of a candidate has been satisfactory or not, the determination being made in accordance with this policy. Should the principal deem it necessary, he/she may consult the chairperson of the board of management before reaching a decision.
- The only circumstance in which a disclosure of convictions or prosecutions would be made known to the board of management would be where the applicant consents that they be consulted.
- A copy of the vetting disclosure document will be given to the applicant.

The Eight Rules of Data Protection will be strictly observed by the school.

The rules are:

1. Gather and process information fairly
2. Keep it only for one or more specified, explicit and lawful purposes
3. Use and disclose it only in ways compatible with these purposes
4. Keep data safe and secure
5. Keep data accurate and up-to-date
6. Ensure that it is adequate, relevant and not excessive
7. Retain it no longer than is necessary for the purpose or purposes
8. Give a copy to the individual, on request

### **Implementation:**

This policy will be effective from the date of adoption by the board of management. The school's Vetting Policy will be made available to candidates for employment, paid or unpaid. It will be included on the school's Job Application Form(s), such that the candidate's signature on that form confirms that he/she is aware of the school's policy on vetting and accepts the school's policy that satisfactory vetting is an essential requirement for appointment to a post in the school. By signing the Vetting Application Form, the job applicant authorises the principal to receive disclosure of the outcome of vetting and to have regard to it in determining if the candidate may be appointed to the post.

### **Policy Review:**

This policy will be reviewed as necessary and particularly to comply with any relevant legislative changes.

Policy adopted by the board of management Dec 14th 2021

Signed: Kevin Wjane

Chairperson, board of management

Date: 14th December 2021

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The following schedule sets out those offences or categories of offence which will disqualify candidates. It also sets out other offences or categories of offence which may disqualify. In deciding whether a particular conviction renders a candidate unsuitable for appointment, the school will have regard to:

- the nature of the offence and its possible relevance to the post;
- the age of the offence (offences many years in the past may be less relevant than more recent offences);
- the frequency of the offence (a series of offences will give more cause for concern than an isolated minor conviction).
- offences which are not sexual or violent in nature or drug related offences of a minor nature committed before the age of 18 will be judged in the light of the age of the applicant at the time of the offence.
- Where the vetting process discloses pending prosecutions or unsuccessful prosecutions or ‘specified information’ as defined in the Vetting Act, such disclosures will be assessed in the light of the nature, age and frequency of the alleged offence(s) and of the age of the candidate.

Category/Type of Offence	Automatic disqualification from employment	May or may not disqualify	May be acceptable
Homicide	Murder	Manslaughter	
Sexual offences	Rape Rape under section 4 Unlawful carnal knowledge Aggravated sexual assault Sexual assault Sexual offences (other)		

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Assault	False imprisonment Abduction Assault causing harm Non-fatal offences against the person including threats to kill, syringe attacks, endangering traffic	Assault (minor) Assault (other)	
Theft/ Burglary/Robbery	Aggravated burglary	Theft from person Theft (other) Burglary Robbery of establishment/ cash/goods Robbery from person	
Criminal Damage	Arson	Criminal damage	
Drugs	Possession of drugs for sale or supply	Simple possession	
Firearms	Possession of firearms Discharge of firearm Possession of offensive weapon		



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Traffic		Intoxicated driving a vehicle Intoxicated in charge of a vehicle Unauthorised taking of a vehicle Dangerous driving causing death Hit and run (leaving the scene of an accident)	Speeding Dangerous driving Careless driving General road traffic offences
Public Order Offences		Drunkenness offences	
Fraud offences		Fraud offences	
Explosives Offences	Explosives offences		
Money laundering	Money laundering		
Trafficking of illegal immigrants	Trafficking of illegal immigrants		
Terrorist Offences	Terrorist offences		



**APPENDIX 1 – Recruitment Process and Child Protection Information Leaflet:**

The school thanks you for your interest in applying for the position of ..... in the school. I enclose a standard application form which I would ask you to complete and return to the school before the stated closing date for applications.

This school owes a duty of care to its pupils. The school has a duty to satisfy itself that no person employed by the school poses a threat to pupils or staff. The school must therefore make certain enquiries of all applicants for employment in the school, and these enquiries will include both:

- (a) Questions to each applicant at interview (see below) and
- (b) Enquiries with previous employer(s), and the National Vetting Bureau.

The questions which you will be asked at interview and also invited to answer in writing may include the following:

- Where have you been residing during the previous five years?
- Were you ever the subject of an inquiry by Tusla/ the HSE concerning a child welfare matter?
- Were you ever the subject of a garda criminal investigation arising from a complaint of child abuse?
- Were you the subject of any allegation of criminal conduct or wrongdoing towards a minor?
- Are you aware of any material circumstance in respect of your own conduct which touched/touches on the welfare of a minor?

Please note that it is a fundamental term of your employment that you make appropriate full disclosure in respect of the questions outlined above, and a fundamental term will be included in any future contract of employment to this effect.

You should also note that if the school is satisfied, in the future, that you have made incomplete or inaccurate disclosure, you may face disciplinary action, up to and including dismissal.

The school undertakes that all responses furnished by you in respect of the above questions will be treated as confidential, subject to any reporting obligations which may be imposed on the school, pursuant to “Children First” published by the Department of Health, the Child Protection Procedures for Primary and Post-Primary Schools published by the Department of Education and Skills or pursuant to any legal obligation imposed on the school to facilitate the effective investigation of crime.

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### APPENDIX 2: Recruitment Process and Child Protection

(NOTE: This clause can also be inserted into a letter of appointment in the case of a short-term casual appointment.)

#### **Draft Clause to be inserted into Contracts of Employment**

It is a fundamental term of your employment in this school that you agree that you have made full, truthful, accurate and appropriate disclosure in reply to questions asked or information sought at interview, relating to any child welfare issues. If it transpires, during the course of your future employment, that you have not made such full, accurate and appropriate disclosure, the failure to make such disclosure will be treated as a fundamental breach of this contract of employment, which may lead to disciplinary action, up to and including dismissal.