



Waterford Sports Partnership Garda Vetting Policy

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Reviewed	Every three years
Responsibility	WSP Board
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Introduction

The following policy and procedures, which have been approved by the WSP Board, aim to ensure that all WSP Sports Leaders have a clear understanding of the policy and how it applies to their role.

Garda Vetting checks are available to WSP for relevant individuals via Sport Ireland, who is registered with the National Vetting Bureau (NVB).

WSP engages in vetting as part of our safeguarding procedures to protect children, young people and vulnerable persons in our activities.

The Garda Vetting process does not provide clearance for people but is one of WSP's Safe Recruitment measures that provides information that may be relevant for an organisation in deciding the suitability of an individual to carry out a certain role working with or having access to children, young people, and vulnerable persons.

Definitions

Sports Leaders

For the purpose of this policy, all persons involved in leading sports and physical activity are referred to as Sports Leaders. In this policy, we are referring to those sports leaders who are leading activities for children, young people and vulnerable persons. All have a role to play in ensuring that procedures as described in this policy are followed. The principal leadership roles (some of which overlap) include the following:

Administrators: While administrators may not be actively involved in leading sport and physical activity, they may be involved in organising activities and events.

Assistants: Assistants are those people who provide back-up to any of the roles outlined in this section, and often such assistants are involved on an intermittent basis (e.g. student placement, youth volunteers).

Coach/ Trainer: A coach is a person who assists a participant to develop his or her skills and abilities in a progressive way.

Instructor/ Teacher: Instructors are involved in the systematic development of the core skills and abilities of an activity.

Mentor: A mentor is an individual who undertakes an overseeing role with a group of participants often under 18 years of age and/or in co-operation with other mentors.

Official: An official is an individual charged with the responsibility of ensuring that the rules of an activity are adhered to in a formal way. This category includes referees, judges, umpires, etc.

LSP Staff: An LSP staff member, employed by the LSP, may be involved in the development, delivery and management of programmes and activities for children, young people and vulnerable persons.

Tutors: A tutor is a person who leads or assists in leading a programme of physical activity and may be involved in the development, delivery and management of programmes and activities for children, young people and vulnerable persons.

Designated Liaison Person (DLP)

A person who is responsible for reporting allegations or suspicions of child abuse and welfare issues to the Statutory Authorities. This person will be a resource to anyone in the organisation who has a child protection/welfare concern. The DLP is responsible for the implementation of this Garda Vetting Policy.

Mandated Person

The mandated person is a person in a role under schedule 2 of Children First Act 2015 (ROI). They have a legal responsibility to report concerns or allegations that reach or exceed the threshold of harm of abuse to Tusla.

Legislation

The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 to 2016 together with the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 Part 3 provides the legal framework for persons working in relevant work or activity to undergo a vetting check prior to working with young people.

Relevant Legislation

- Civil Service Commissioners Act 1956
- Child Care Act 1991 – Sections 5; 61; 65
- Children First Act 2015
- Data Protection Act 2018
- Children’s Act 2001 – Section 258
- Private Security Authority Act 2004
- General Data Protection Regulation (EU) 2016/ 679 (GDPR)
- National Vetting Bureau (Children and Vulnerable Persons) Act 2012 to 2016
- Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 Part 3
- Criminal Law (Sexual Offences) Act 2006
- The Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act, 2012
- The Protections for Persons Reporting Child Abuse Act 1998

Who Should Undergo Vetting

Garda Vetting is legally required for specific roles, as outlined in the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 to 2016.

WSP will assess which roles require Garda Vetting within the organisation, in line with the legislation.

“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.” (Garda Vetting Bureau website)

All sports leaders engaged by WSP, with regular access to, or contact with children, young people or vulnerable persons will be required to be vetted.

The WSP Designated Liaison Person (DLP) or any appointed Deputy DLP who is involved in the Garda Vetting process must be vetted.

Any other individuals, including WSP Board members, carrying out WSP work which requires having regular access to, or contact with children, young people and vulnerable persons, will be vetted prior to commencing the work.

Where WSP is working with a commercial provider or partner organisation (eg. sports club, leisure centre, school, activity provider) which is providing personnel to deliver a programme with or on behalf of WSP, WSP must obtain confirmation from the commercial provider or partner organisation that it has satisfactorily vetted its personnel and that it is satisfied that all personnel are suitable to work with children, young people and vulnerable persons. The Partnership Agreement that will be put in place between WSP and the commercial provider/partner organisation will include this confirmation request. Refer to WSP Child Safeguarding Policy, Section 2.ii Safe Recruitment and Selection of People for further information.

Under 18 Vetting

No person under 18 years of age may undergo the Garda Vetting process without the permission of their parent or guardian. WSP should consider the need for such a check and how appropriate it would be to have a person aged under 18 in a position of responsibility that would require a check. A check must not be undertaken on anyone under 16 years of age. Where a person under 18 years of age is being vetted, their parent or guardian must complete the NVB3 Form.

Process for Garda Vetting

The individual to be vetted must complete the Garda Vetting procedure as outlined in Appendix 1.

Re-vetting

All individuals in relevant roles will undergo re-vetting after 3 years, or earlier if determined necessary by WSP. Any individual may be re-vetted if information that would affect a decision concerning an individual's suitability to work with children, young people and/or vulnerable persons comes to the attention of WSP. WSP reserves the right to suspend an individual from their role until their vetting is complete.

Residency

Any individual who has been resident in Ireland for less than one year (taken from the date of the initial Garda Vetting application) will be asked to provide a police check from their previous country of residence/country of origin, in addition to undergoing the vetting process through WSP.

They will be required to undergo a vetting recheck after 12 months, or earlier at the discretion of WSP.

Information received from another country, in addition to the disclosure from the NVB, will be subject to the same risk assessment for suitability as set out in this policy.

Disclosures

All Garda Vetting applications result in a disclosure being issued and these will be dealt with in complete confidence.

- If a Nil disclosure is received, the applicant is informed by the Designated Liaison Person (DLP) via letter/email that they have satisfactorily completed the Garda Vetting element of the WSP Safe Recruitment process. The suitability of the applicant for the role is determined by the satisfactory completion of all elements of the Safe Recruitment process as outlined in the WSP Child Safeguarding Policy.
- If there is relevant intelligence (specified information) to be disclosed, the NVB will first contact the applicant directly and give them an opportunity to appeal the disclosure of the intelligence to WSP via Sport Ireland. This will cause a delay in the process. However, the DLP will not be aware that this is taking place.
- If convictions or relevant intelligence (specified information) are disclosed, these will be available for the DLP to view on the disclosure letter. The DLP contacts the applicant directly to inform them of the disclosure received and provides an opportunity for the applicant to confirm or respond to the disclosure. The DLP will note the response from the applicant.
- The applicant may withdraw their application for the role, at which time the process is completed.

- If the applicant disputes the information provided on the disclosure, the NVB has a mechanism for disputes regarding disclosures, which the applicant will be advised to follow. The applicant cannot begin a role with WSP while a dispute is pending.

See link: [National Vetting Bureau \(garda.ie\)](http://garda.ie)

- If the applicant confirms the information and wishes to proceed with the process, the DLP convenes a meeting of the Safeguarding Committee.
- The applicant may be asked for further information regarding the disclosures and/or permission to obtain further information from the NVB, other statutory bodies or voluntary agencies.

Communicating with the Applicant

When the DLP is required to communicate with the applicant for any reason, the following protocol will be adhered to:

- Communication should be by phone or in person, if convenient.
- The DLP will verify the person is the applicant.
- No messages will be left.
- No discussion will take place with any other person, spouse or partner.
- The DLP will give an assurance of confidentiality.

If the DLP is required to verify disclosed details, the applicant will be asked:

- Is there is 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. If any of the information is disputed by the applicant, the applicant will be advised to follow the NVB disputes procedure. See links [National Vetting Bureau \(garda.ie\)](http://garda.ie)
The applicant cannot begin a role with WSP while a dispute is pending.

Safeguarding Committee

The WSP Board has established a Safeguarding Committee as a committee of the Board. One of the roles of the committee is to consider vetting, disclosures and/or returns referred to the DLP by Sport Ireland and make decisions in that regard.

- If there are disclosures, other than a NIL disclosure, a process will begin to assess whether the applicant is a suitable candidate for working with children, young people and/or vulnerable persons. Certain convictions will automatically preclude an applicant from a role.

- This process is completely confidential. The identifying information on the disclosure is removed and the disclosure is discussed only by the WSP Safeguarding Committee.
- The WSP Safeguarding Committee will then use the information available to them to make a decision using defensible decision-making regarding suitability for the role of the applicant on a case-by-case basis.
- If a decision is required that is not clearly dealt with in this Garda Vetting policy, external advice is sought. Again, any identifying information on the disclosure will be removed. External advice may be sought from other regulatory and advisory bodies, e.g. Ethics Unit in Sport Ireland, Legal/HR advisory bodies.

Processing the Disclosed Information

Any assessment of suitability depends on:

- the relevance of any conviction/disclosed information to the position or role applied for,
- the self-disclosure of such information,
- the seriousness of the offence/ disclosed information,
- the timing of the offence, and
- any possible pattern of offences.

The integrity of the applicant with regard to self-disclosure or lack of disclosure in the application process is considered important.

The information disclosed is used only for the specific purpose for which it was obtained, i.e. as part of a recruitment or appointment process within WSP. On receiving information that may potentially result in exclusion from taking up the relevant role, any original documentation is checked to ensure it is correct and that the disclosed information refers to the applicant.

If the applicant has self-disclosed the information and this is consistent with the disclosure from the vetting body, a decision will be made depending on the type and nature of the offence(s) or report disclosed. If the applicant has not self-disclosed and information is received from the vetting body, this will be checked with the applicant.

Disclosed Information

Disclosure of certain types of convictions/prosecutions/reports or specified information will automatically disqualify the applicant from a position working with children, young people and vulnerable persons.

Examples of offences that will automatically disqualify an applicant are:

- Any offence of a sexual nature.
- Any offence against a child, including indecent images of children.
- Any offence of murder or manslaughter.
- An offence of kidnapping.

Other offences will automatically require a risk assessment to be conducted. This will allow an applicant an opportunity to submit mitigating factors and consideration to be given to the recruitment of ex-offenders. Examples of more serious offences of concern include:

- An offence that causes serious harm or grievous bodily harm.
- A series of continuous offending that might cause concern for the wellbeing of children.
- Where a charge or report is brought to the Director of Public Prosecutions concerning abuse of a child.

The decision on the suitability of an applicant is a matter for the WSP Safeguarding Committee. The NVB are not involved in such decisions, however they may supply additional information.

Disclosures relating to Existing Personnel

An assessment must be made of the suitability of the individual to hold their present position. This decision will be made on an individual basis, based on the nature of the disclosed information and the initial self-disclosure by the individual. No decision shall be made unless any disclosed information is verified in accordance with the Communicating With the Applicant procedure. The decision regarding the verified information shall be made by the WSP Safeguarding Committee under normal procedures.

Where the individual is deemed suitable for their position, this will be communicated to the individual in accordance with the Communicating With the Applicant procedure, and this will be recorded on the vetting database.

If the individual is deemed not suitable to work with children, young people or vulnerable persons they will be afforded the opportunity to withdraw from their current position.

Informing the Applicant

If the WSP Safeguarding Committee has decided, based on the disclosure and all relevant information, that the applicant is suitable or unsuitable to work with children, young people or vulnerable persons in WSP, then the applicant will be informed of the decision by the DLP. Communication will be sent to the applicant via email/letter with information confirming the outcome.

Disputes

Vetting Disclosure

If the applicant disputes the information provided on the disclosure, the NVB has a mechanism for disputes regarding disclosures, which the applicant will be advised to follow. The applicant cannot begin a role while a dispute is pending.

See links: [National Vetting Bureau \(garda.ie\)](http://nationalvettingbureau.garda.ie)

Safeguarding Committee Decision

Any disputes regarding the decision made by WSP Safeguarding Committee about the suitability of an applicant for a role can be raised by written submission by the applicant to WSP within 2 weeks of the decision. The appeal will be dealt with by a panel who were not involved in the original decision. The panel will be given the facts only and anonymity of the applicant will be maintained. The decision of the appeals panel is final.

Data Management

All data relating to the Garda Vetting process and any subsequent disclosure data is kept in accordance with the Data Protection Acts 1988-2018 and the General Data Protection Regulation (EU) 2016/679 (“GDPR”) and held in a locked cabinet and/or stored in a secure online file.

All relevant documentation collected for Garda Vetting applications is deleted one year after it is received, unless there is a legal basis to retain it beyond this point. This one-year period is with the exception of the disclosure letter from the NVB along with the letter sent to the applicant by WSP, which may be retained indefinitely on file for any future queries with the National Vetting Bureau.

All data collected in the course of managing disclosures which require a decision by the WSP Safeguarding Committee and/or appeals committee will be processed, shared, and stored in line with GDPR regulations and may be retained indefinitely on file for any future queries e.g statutory agencies.

Data can be accessed only by authorised personnel in WSP, i.e. the DLP or any person designated by the DLP.

Garda Vetting Policy Review

This Garda Vetting Policy is required to be reviewed and approved by the Board every three years, or in line with legislative updates.

Appendix 1: Garda Vetting Procedure

- Sport Ireland (SI) provides the relevant Garda Vetting Invitation Forms (NVB1), Sport Ireland (SI) provides the relevant Garda Vetting Invitation Form (NVB1), Parent/Guardian Consent Form (NVB3) and ID Verification Form.
- As part of the Safe Recruitment process, the WSP staff member issues the relevant form(s) to the person to be vetted (the Applicant).
- The Applicant (or the Applicant's Parent/Guardian) completes the relevant Garda Vetting Invitation Form(s) (NVB1 and/or NVB3) and returns it, along with the relevant ID and Proof of Address documentation, to the WSP staff member.
- The staff member reviews the documentation received from the Applicant to ensure that it has been completed fully, correctly and legibly, that all relevant boxes have been ticked on the form and all necessary ID and Proof of Address documentation has been provided. NOTE: Incomplete or incorrectly completed Vetting Forms will be returned to the Applicant and must be re-submitted in full once complete.
- The staff member takes a photocopy of the ID and Proof of Address documentation provided and returns the originals to the Applicant.
- Once satisfied that everything is in order, the staff member completes and signs the ID Verification Form (Section 3) and passes the forms and copies of ID/Proof of Address documentation to the Programme Manager.
- The WSP Administrator and DLP process the Applicant's vetting application and send to the Sport Ireland (SI) Garda Vetting Liaison Person.
- The SI Garda Vetting Liaison Person checks and logs the application and submits it to the National Vetting Bureau (NVB) for processing.
- The NVB issues a link via e-mail to the Applicant to complete the Garda Vetting form online. **The Applicant has 30 days to complete this process.**
- Upon completion of all necessary enquiries and procedures as required, the NVB releases a Vetting Disclosure to the SI Garda Vetting Liaison Person.
- The SI Garda Vetting Liaison Person sends the Vetting Disclosure to the nominated WSP staff member who will process as per the WSP Garda Vetting policy.

Appendix 2 - Administrative Filter in Respect of Garda Vetting Unit Disclosures

An administrative filter in respect of Garda Vetting Unit Disclosures will operate in accordance with the following procedural guidelines:

A. Criminal Convictions to be disclosed in all cases:

- 1) Offences Against the Person
- 2) Sexual Offences
- 3) Convictions on indictment.

B. District Court Convictions which will not be disclosed:

1) Motoring Offences:

District Court convictions for motoring offences will not be disclosed after 7 years, even where more recent offences have been committed. This is because it is considered that old minor motoring offences would not be relevant due to the passage of time.

2) Minor Public Order Offences:

The following convictions under the Criminal Justice (Public Order) Act 1994 will not be disclosed if the offence is over 7 years old, even where more recent offences have been committed:

- Section 4 (Intoxication)
- Section 5 (Disorderly conduct)
- Section 6 (Threatening, abusive or insulting behaviour)
- Section 7 (Distribution or display of material which is offensive)
- Section 8 (Failure to comply with direction of Garda)
- Section 9 (Wilful obstruction).

3) Other minor offences – 1 Only:

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 offences against the person or to sexual offences.

C. Probation Act Provisions

Where persons have been dealt with by a District Court in accordance with the provisions of section 1(1) (i) or 1 (1) (ii) of the Probation Act 1907, the offences will not be disclosed, except in cases where the circumstances of the offence gives rise to a bona fide concern that the person concerned may harm a child or vulnerable person.

Where persons have been dealt with by a court in accordance with section 1 (2) of the Probation Act, these will be disclosed in all cases. (Section 1 (2) relates solely to persons “convicted on indictment” Court other than District Court.)

D. Non Convictions - Offences in respect of which a person is charged but subsequently not prosecuted or acquitted.

Non convictions will be considered for disclosure where the circumstances of an offence gives rise to a bona fide concern that the person concerned may harm a child or vulnerable person. This information will only be disclosed if the information is of such a nature 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.

The Garda Central Vetting Unit (GCVU) will make such decision in the context of:

- The information concerned
- The relevance of the information to the type of work/activity
- The source and reliability of the information
- The rights of the vetting applicant and any submissions made by them.

Where the GCVU makes a determination to disclose information under this section, the GCVU will:

- Notify the person who is the subject of the application for the vetting disclosure concerned, in writing, of its determination and of the reasons for it
- Provide to the person a copy of the information to be disclosed
- Notify the person of the intention to disclose the information to an Authorised Signatory for the registered organisation concerned after the expiry of 14 days from the date of notification, and
- Allow the applicant the opportunity to make a written submission.
- There will also be an appeals process in respect of a decision to disclose non-conviction information.

The GCVU will not issue a vetting disclosure in respect of a person until this process has been completed.