



Early Years Inspectorate

Regulatory Notice

QMS reference	EYI-RN12.3
Version	V1.0
Issued:	September 2023
Title:	Renewal of Garda Vetting
Ref:	02/2023

Background

It is a legal requirement that Garda vetting is completed by an early years service before a person is appointed, assigned or allowed access to, or contact with, a child attending an early years service. This includes each employee, unpaid worker, student and contractor. It is the responsibility of the registered provider to ensure that the Garda Vetting disclosure is assessed regarding suitability of an individual to work in an early years setting. These requirements are set down in legislation, see below. Garda Vetting is examined by Early Years Inspectors on the day of inspection.

Early 'early years service' means a service providing (a) a pre-school service, or (b) a school age service. Therefore, this notice applies to both service types.

Legislation

The commencement of the [National Vetting Bureau \(Children and Vulnerable Persons\) Act 2012](#) at the end of April 2016 introduced a number of changes to Garda Vetting procedures. Further details with respect to the application process can be obtained from your authorised signatory or vetting provider.

A memo to all registered providers dated 22nd April 2016 set out the requirement under Part 3, Article 12 of the National Vetting Bureau Act 2012 of the requirement for all registered providers regarding Garda vetting. Registered providers are not permitted to employ or enter a contract with any individual unless they have first obtained a vetting disclosure in respect of that person. This legislation applies to all appointments and other engagement of persons to provide direct care to children as outlined in Schedule 1, Part (1) of the Garda National vetting Bureau Act 2012.

Regulation 9 (2)(c) & (3) of [The Child Care Act 1991 \(Early Years Services\) Regulations 2016](#) and Regulation 8(1)(c) & (2) of [The Child Care Act 1991 \(Early Years Services\) \(Registration of School aged Services\) Regulations 2018](#) requires that a registered Provider has "*consideration of the vetting disclosure received from the National Vetting Bureau of the Garda Síochána in accordance with the Act of 2012*" in respect of any person engaged in the direct care of children and that this vetting be carried out prior to any person being appointed, assigned, or allowed access or contact with a child attending the service.

The engagement of any persons who has not been Garda vetted and had that vetting disclosure considered by the Registered provider is in direct contravention of Part 3, Article 12 (1) of the National Vetting Bureau Act 2012/2016. It is an offence under this act to have those persons engaged directly with children and it is also non-compliant with the Early Years Services Regulations 2016.

Current Position

In June 2021 Tusla issued [EYI-RN23.1 Garda Vetting](#) regulatory notice to all registered which advised services that the Early Years Inspectorate had reviewed its approach to managing non-compliance in relation to Garda Vetting. Where the Registered Provider is unable to provide evidence that a garda vetting disclosure has been obtained and reviewed for an employee, unpaid worker, contractor, student or board member (see below) who has access to children, an Immediate Action Notice will be issued by an authorised person. It further outlined the requirement for boards of management.

[Tusla Early Years Inspectorate Quality & Regulatory Framework](#) (2018) states that: “Garda vetting for each person has been undertaken within the last three years, including Garda re-vetting”. Currently, the early years inspectorate seeks current garda vetting for the registered provider and person in charge to be dated within the previous 3 years for all new applications and change in circumstances applications.

To date this requirement of vetting to be dated within the previous 3 years has not been required on service inspections for all adults in early years settings working directly with children and therefore a non-compliance is not raised in relation to garda vetting which was issued greater than 3 years.

New Position Effective January 1st, 2024

All adults in early years settings working directly with children are required to have a vetting disclosure dated within the previous 3 years. When a registered provider receives a garda vetting disclosure there is a date in bold. The vetting will be considered valid for 3 years from the date on the disclosure. Applicants must renew their vetting before it expires to ensure they remain vetted and compliant with safeguarding measures.

Positive disclosures

Where the vetting process returns a positive disclosure outlining a criminal record for a particular staff member, the registered provider must assess the risk attached to this staff member. This assessment will determine whether that individual is suitable to work with children. If the staff member is retained and continues to work in the service, the results and response to the risk assessment must clearly outline how assurance has been gained that this staff member can continue to work with children. Evidence of this risk assessment must be retained by the registered provider.

Child Safeguarding Statement Risk Assessment

All early years providers are required Pursuant to Part 2, Section 11, (3) of the [Children First Act 2015](#) to develop a statement of risk which outlines the processes and policies in place to appropriately and safely manage the selection, recruitment and assessment of the suitability of their staff to work with children. Accordingly, it is recommended that all employers of persons

working with children should ensure that such person's vetting is subject to renewal at regular intervals no less than every 36 months as a mitigation of potential harm to children.

Compliance.

Tusla published [EYI-RN23.1 Garda Vetting](#) regulatory notice which outlined the following:

Where the Registered Provider is unable to provide evidence that a garda vetting disclosure has been obtained and reviewed for an employee, unpaid worker, contractor or board member who has access to children, an Immediate Action Notice will be issued by an authorised person. This will be captured in the EYI inspection report. If all required Garda vetting disclosures requested on inspection have been provided to the office of the Early Years Inspectorate by midday on the next working day following the inspection, an Immediate Action Notice may not be issued. This position has not changed by the issuing of this notice.

Additional requirements

Most early years services already have appropriate garda vetting in place for all staff as required. Garda Vetting disclosures dated >3 years from January 1st, 2024, should be renewed in the intervening period following the publication of this notice and January 1st, 2024.

From January 1st, 2024, where the Registered Provider has a Garda vetting disclosure > 3 years but is unable to provide evidence that a garda vetting disclosure dated less than 3 years has been obtained and reviewed for an employee, unpaid worker, contractor, or board member who has access to children, this will be deemed as non-compliant and captured in the EYI inspection report.

If regulatory compliance is not met, the service will be escalated to the Early Years Inspectorate National Registration Enforcement Panel (NREP). The NREP will review and consider whether non-compliance with Garda Vetting and/or other vetting requirements is considered high risk to children or is persistent in the service.

Support

Any queries regarding this notice can be submitted to rpdt@tusla.ie