



Early Years Inspectorate Regulatory notice

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Title :	Garda Vetting
Ref:	01/2021
Circulation list:	Registered Providers of Early Years Services
Responsibility for action:	Registered Providers of Early Years Services



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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, and contractor. It is the responsibility of the registered provider to ensure that the Garda Vetting disclosure is assessed with regard to 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.

Legislation

[Child Care Act 1991 \(Early Years Services\) Regulations 2016](#)

Regulation 9 (2) A registered provider shall ensure that each employee, unpaid worker and contractor is suitable and competent taking into consideration the nature of the needs of children, including by –
(c) consideration of the vetting disclosure received from the National Vetting Bureau of the Garda Síochána

Regulation 9 (3) The procedures specified in paragraph (2) shall be carried out prior to any person being appointed, assigned or allowed access to or contact with a child attending the pre-school service.

Inspection

The Early Years Inspectorate has 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 or board member (see below) who has access to children, an Immediate Action Notice will be issued by an authorised person¹. A template of the Notice is provided in Appendix 1. 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.

Board of Management

The following applies in all registered early years settings in relation to vetting board members:

- Any member of a board of management of an early years setting, either a preschool and / or a school age setting, who partakes in any function in that setting where they have access to or contact with children will be subject to garda vetting. The application for vetting must explicitly declare that the individual will have access to children.
- The Chairperson of a board of management should routinely enter the premises whilst operational and observe care practices to satisfy themselves that an early years services is

¹ 'Authorised Persons' include Early Years Inspectors, Inspection & Registration Managers and other managers within Children's Services Regulation

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operating in accordance to standards and regulations and that children are well cared for. This means that the Chairperson will be subject to vetting. An application for vetting must explicitly declare that the chairperson will have access to children as a regular part of their duties.

- Any other member of the board who assists the chairperson, or acts on behalf of the chairperson, to be satisfied that children are well cared for whilst availing of the service shall be subject to vetting. An application for vetting in this instance must explicitly declare that the individual will have access to children as a regular part of their duties.
- Any board members who do not have access to children as a regular part of their duties should remain subject to reference and other suitability checks.



Compliance

Most early years services already have appropriate garda vetting in place for all staff as required. However, if any services have staff members that do not have appropriate garda vetting in place, it is the responsibility of the Registered Provider to immediately ensure Garda Vetting is obtained and reviewed before a staff member(s) returns to have access or contact with children.

As there has been no change to legal requirements, this regulatory notice will come into effect immediately and the Early Years Inspectorate continue to expect that all registered providers will demonstrate full compliance with the legislation.

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, and as appropriate the NREP will refer the service to the National Garda Vetting Bureau of An Garda Síochána.

Appendix 1 – Immediate Action Notice Template

<p>EYI-JAN23.1 V3.0 04/06/2024</p>	 <p>TUSLA An Ghníomhaireacht um Leanaí agus an Teaghlach Child and Family Agency</p>		
<p>Garda Vetting Immediate Action Notice</p> <p><u>CHILD-CARE</u> ACT 1991 (EARLY YEARS SERVICES) REGULATIONS 2016</p> <p><u>CHILD-CARE</u> ACT 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018</p>			
Tusla Number:		Registered Provider:	
Service Name:		Inspection Date:	

Evidence of Garda vetting disclosure was not available for the following person(s) who had access to children:

This is contrary to the requirements of the above regulations; Regulation 9 (2)(c) where "A registered provider shall ensure that each employee, unpaid ~~work~~ and contractor is suitable and competent taking into consideration the nature and needs of the children including 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 the person.... **and** the requirements of Regulation 9(3) where these procedures must be carried out *"prior to any person being appointed, assigned or allowed access to or contact with a child attending the preschool service."*

As the registered provider you are required to ensure that the person(s) named above must not have access to the children until a Garda Vetting disclosure has been obtained and reviewed by you.

I, hereby require you to submit a written response within 24 hours confirming:

- a) That the individual (s) does/do not have access to or contact with children.
- b) The measures taken to obtain Garda Vetting and to maintain the adult: child ratio (as relevant) in the absence of this/these individuals.

The Garda Vetting disclosure for the above-named person(s) must be submitted to the Early Years Inspectorate on receipt.

Please direct the response to _____@tusla.ie and CC _____@tusla.ie.

Signed _____, Authorised Person

National Vetting Bureau (Children and Vulnerable Persons) Act 2012

The engagement of these persons by a registered provider is also in direct contravention of Part 3, Article 12(1) of the National Vetting Bureau Act 2012/2016 and is an offence.

*Please note that any documentation received by the inspectorate in relation to Garda vetting will be managed in line with Tusla's GDRP procedures which may be found here: <https://www.tusla.ie/about/your-personal-information/new-data-protection/>