



Garda Vetting Policy and Procedure

1 Introduction

This is Exchange House Ireland's Garda Vetting Policy and Procedures document outlining the specifics of the Garda Vetting process.

The Human Resource and Staffing Sub-Committee (HRSC), as directed by the Board, have ultimate responsibility for administering the Exchange House Ireland screening process, with the Children and Young Peoples' Service Manager as Authorised Signatory.

Garda Vetting uses a centralised system using a pre-designed form from the Garda Central Vetting Unit. The Garda Central Vetting Unit will deal only with the authorised signatory in each organisation. The Garda Central Vetting Unit will not make decisions about applicants' suitability; it is the responsibility of each organisation to carry out their own decision making following disclosures received. Disclosures of any kind will be dealt with on a case by case basis. The Garda Vetting Procedure will disclose all convictions or prosecutions successful or not, pending or completed in the State or elsewhere as the case may be.

Garda vetting is required for all employees and volunteers of the Exchange House Ireland. Garda Vetting is currently conducted in respect of personnel working in a full-time, part-time and voluntary or student placement capacity in a position in a registered organisation.

The HRSC makes recommendations relating to suitability of prospective employees and volunteers within the organisation. In dealing with disclosures, Exchange House Ireland recognises that this is a most sensitive and complex area and disclosure of any kind will be dealt with on an individual basis. The HRSC will operate within a clear set of guidelines in order to provide consistency and to safeguard all individuals' rights. All disclosures are held within the strictest of confidence and in compliance with data protection requirements.

As a commitment to our internal policy and procedures to ensure protection for young and vulnerable persons, we will also ensure that in circumstances where we contract for support with outside bodies (example: aspect of event management/supervision) we will seek confirmation in advance that any such personnel have been appropriately vetted.

2 Benefits of Garda Vetting Procedures

- Protection of children and vulnerable persons.
- Protection of organisation providing services to children and vulnerable persons.
- Protection of personnel within an organisation providing services to children and vulnerable persons
- Management of risk in respect of former offenders.
- Strong component part of a professional human resource management practice within an organisation providing services to children and vulnerable persons.

- Partnership relationship between the Garda Central Vetting Unit and Customer Organisation for Garda Vetting.
- Widely viewed as one of the key elements in the delivery of a comprehensive and robust child protection system in this state.

3 The Human Resource and Staffing Sub-Committee

Exchange House Ireland has designated the HRSC to assess employee and volunteer applications where previous convictions or prosecutions whether successful, unsuccessful, pending or completed, have been flagged by the Garda Central Vetting Unit.

The HRSC will have responsibility to assess the information provided by the disclosure process, and to make a recommendation on the applicant's suitability to work or volunteer with Exchange House Ireland. In the implementation of this policy, the HRSC will also convene for the purposes of assessing existing employees and volunteers where certain previous convictions or prosecutions are flagged by the Garda Central Vetting Unit. The Authorised Signatory will be in attendance at all meetings of the group, except where the disclosure relates to the Authorised Signatory.

Having a criminal record will not necessarily bar someone from being employed or volunteering with Exchange House Ireland - it will depend on the assessment of the risks involved. This involves the HRSC assessing when and where the offence took place, and the circumstances surrounding the conviction or prosecution. **The disclosure will be assessed in relation to the applicant's intended role in Exchange House Ireland.** Disclosures of any kind will be dealt with on a case by case basis.

4 Areas for Committee Consideration

Information concerning convictions or prosecutions relating to the following legislation and whether from the Republic of Ireland jurisdiction and/or other jurisdictions will require assessment by the Committee:

- The Child Care Act (1991)
- Domestic Violence Act (1996)
- Non-Fatal Offences against the person Act (1997)
- Protection for Persons Reporting Child Abuse Act (1998)
- Criminal Justice Act (2006)
- The Education and Welfare Act (2000)
- Children's Act (2001)
- Sex Offenders Act (2001)
- Criminal Justice (withholding of information on offences against children and vulnerable persons) Act 2012.
- National Vetting Bureau (children and vulnerable persons) Act 2012. (When commenced).
- Offences against the state
- Offences related to drugs
- Number and frequency of convictions particularly in the last ten years
- Serious road traffic offences such as drunk driving, dangerous driving, hit and run, no insurance and car theft.
- Non child protection related offences that may still give cause for concern for example a prosecution and successful conviction under the Domestic Violence Act (1996).

This list is included as an example and is not exhaustive. For the avoidance of doubt, any disclosures relating to any amendments to the aforementioned legislation and/or to any other relevant legislation enacted after the date of issue of this policy may also require assessment by the committee.

5 Position of Authorised Signatory

The Authorised Signatory is registered with the Garda Central Vetting Unit for the purposes of Garda Vetting on behalf of Exchange House Ireland. Following training by the Garda Central Vetting Unit, the Authorised Signatory is assigned a registered number and their signature is kept on a digital file at the Garda Central Vetting Unit. The Authorised Signatory provides the Garda Central Vetting Unit with a security password which is confidential to the Authorised Signatory and must not be disclosed to any other person.

Registration with the Garda Central Vetting Unit is predicated on the understanding that the Authorised Signatory gives an undertaking to comply with the Code of Practice on Garda Vetting in respect of all applications received by the Authorised Signatory and all data received from the Garda Central Vetting Unit. Registration is further predicated upon the understanding that all data received from the Garda Central Vetting Unit in respect of any individual is for the sole use of Exchange House Ireland and that the Authorised Signatory gives an undertaking to manage and protect within the statutory provisions of the Data Protection Acts and any other legislation that may be enacted in respect of data protection or Garda Vetting.

The Garda Central Vetting Unit has the right to revoke registration of the Authorised Signatory in the event of a failure and / or neglect to observe professional standards in respect of Garda Vetting procedures and data protection. The reasons for revocation will be outlined to the organisation through the Authorised Signatory. The Authorised Signatory must adhere to the Exchange House Ireland Child Protection Policy at all times.

The Garda Vetting Authorised Signatory is the contact person for the organisation with the Garda Central Vetting Unit on all matters relating to Garda Vetting. Approved by Exchange House Ireland

6 Pre-Appointment / Pre-Garda Vetting Involvement

While an application for employment or volunteering is being considered, the prospective employee or volunteer may be allowed to work or volunteer within Exchange House Ireland structure but must be supervised at all times.

Supplying inadequate or misleading disclosure may result in terminating employment or dismissal from the organisation.

An employee or volunteer must understand that if negative Garda references or disclosures are received, their involvement may be suspended until the necessary assessment has taken place. However the Board of Directors reserve the right to place the person on administrative leave from all Exchange House Ireland activities pending a satisfactory outcome.

If any conviction or disclosure is such that the committee recommends the prospective employee or volunteer is unsuitable, then the pre-appointment shall be terminated immediately.

7 Garda Vetting Process

All applicants to become an employee or volunteer with Exchange House Ireland must undergo Garda Vetting. The purpose of Garda Vetting is to find out if there is any information with reference to convictions or prosecutions recorded against an individual. All information received is held in the strictest of confidence. The Garda Vetting process is outlined below:

- (i) A potential employee or volunteer is required to fill out a Garda Vetting Application form and return it to the Authorised Signatory at Exchange House Ireland. If, on the date of the Garda Vetting Application Form being signed, the person is 16 but under 18 years of age, written consent from a parent or guardian will be required.
- (ii) The Authorised Signatory will forward the completed Garda Vetting Application form to the Garda Central Vetting Unit seeking information on convictions, if any, registered against the applicant.
- (iii) The Garda Central Vetting Unit will in return provide the Authorised Signatory with any information regarding convictions and prosecutions whether successful, unsuccessful, pending or completed.
- (iv) The Garda Central Vetting Unit does not provide clearance for an individual. It is the responsibility of Exchange House Ireland to make the decision regarding the suitability, or otherwise, of that person to become a staff member or a volunteer. Exchange House Ireland's HRSC is responsible for assessing an individual's convictions and making recommendations to the Board of Directors on their suitability to work with Exchange House Ireland. Each person's convictions will be assessed on a case by case basis.

8 Life Cycle of Garda Vetting

In accordance with best practice, Garda Vetting should be sought in respect of each employee or volunteer approximately every 5 years, or at any time or times within the said 5 year period as deemed necessary by the organisation.

If a member takes a leave of absence from the organisation, i.e. leaves the country for more than 6 months, upon their return they are re vetted.

There is an obligation on an employee or volunteer to inform Exchange House Ireland of any actual or pending conviction or prosecution since they were vetted and therefore they will be re vetted. Failure to do so may result in the Board of Directors placing the person on administrative leave from all Exchange House Ireland activities pending a satisfactory outcome.

Exchange House Ireland can also do a random selection of both employees and volunteers at any point during the said period.

9 Dealing with a Garda Vetting Disclosure

If any disclosure raises doubts or concerns about the employee's or volunteer's suitability, it will be considered by the HRSC. The decision on accepting or rejecting an applicant following a negative disclosure will be made by the Board of Directors taking account of the nature of the disclosure, the circumstances surrounding it (to the extent that they may be known) and an assessment of the risk factors. The HRSC will recommend to the Board of Directors if the applicant

should be accepted with or without restriction. The HRSC should be provided with all available details about the relevant applicant and the disclosure.

If an applicant is accepted, subject to a restriction due to a disclosure in the course of the Garda Vetting, the HRSC will notify the Chairperson of the details of the restriction and the Chairperson will notify the CEO, Manager and/or other relevant person to whom the applicant will be reporting of the details of the restriction.

A Register of restricted persons will be kept on file and disclosure of details of the restriction will be kept to a minimum to ensure that the restriction is monitored and complied with.

10 Areas for Consideration

The disclosure needs to be assessed in relation to the employee's or volunteer's intended role within Exchange House Ireland.

The following points will be considered:

- The seriousness or nature of any offence and its relevance to being an employee or volunteer
- The length of time since the offence occurred
- The number and frequency of any convictions
- Any relevant information offered by the applicant about the circumstances, for example influence of domestic or financial difficulties
- The self-disclosure of the conviction/prosecution or pending conviction or prosecution by the applicant
- Whether the offence was a one-off or part of a history of offending
- Whether the applicant's circumstances have changed since the offence took place
- The country in which the offence took place
- Whether any conviction is spent
- Whether the offence has since been decriminalised by Government/Oireachtas
- Serious road traffic offences such as drunk driving, dangerous driving, hit and run, no insurance and car theft
- The degree of remorse, and motivation for change, expressed by the individual, if this information is provided
- The references received
- Any other relevant information

Points specific to the relevant guiding include:

- Does the role involve one-to-one contact with children in an unsupervised position?
- Does the role involve any direct responsibility for finance, unit funds?
- Will the nature of the role provide the volunteer or staff member with any opportunity to re-offend?

The answers to these questions, and information gleaned from the references, will allow the HRSC to recommend whether the disclosed information permits the appointment, and if so should the appointment be made with or without restrictions.

11 Assessing Disclosures

The HRSC will assess the information provided by the disclosure process, and will make a recommendation on whether or not the prospective volunteer or employee should be appointed.

If disclosures have been received, the Authorised Signatory will request in writing that the prospective employee or volunteer furnish further information on these disclosures or attend a meeting to discuss these disclosures and the circumstances surrounding them. If attending a meeting the prospective employee or volunteer is entitled to bring a colleague or friend to the meeting; however their role is for support and they are not being involved in the discussion.

The Authorised Signatory will request another member of staff or senior volunteer to attend the meeting as an observer.

The function of this meeting is to gain more information from the applicant for the HRSC in order to assess the disclosures. If the prospective employee or volunteer does not want to meet with the Authorised Signatory he/she can provide a written statement. Any such statement will be sent in a sealed envelope marked 'private and confidential' to Exchange House Ireland for the attention of the Authorised Signatory. Where such meeting or written statement is not provided, the committee will assess the application on the information available to it.

The committee will have three options open to it:

11.1 Appointment Approved

If after reviewing all the available information the HRSC is confident that the prospective employee or volunteer is able to work within Exchange House Ireland's policy to safeguard its members, then the remainder of the process for the registration of any employee or volunteer should be followed in the usual way and the appointment confirmed. The prospective employee or volunteer can be allowed to work under normal policies and procedures with regards to young people and vulnerable persons. Acceptance of the application for employee or volunteer should be confirmed in writing to the employee or volunteer.

11.2 Restricted Appointment

After reviewing all the available information, the HRSC may feel that the prospective employee or volunteer is suitable to work with Exchange House Ireland, but should avoid any areas where there may be an opportunity to re-offend. For example, a person with a recent minor conviction involving money could be issued with a restricted appointment excluding them from dealing with cash or other finances. If an application for an employee or volunteer position is accepted subject to any restrictions, the acceptance and terms of the restrictions should be confirmed in writing to the employee or volunteer.

11.3 Appointment Denied

If after reviewing all the available information from the HRSC, the Board of Directors may feel that the application should be denied, the applicant will be informed of this in writing.

Throughout the procedure it is important that the prospective employee or volunteer is kept informed and that the information provided is kept confidential to those directly involved in the process.

The applicant will then be notified in writing on the final decision made by the Board of Directors.

All notes (dated and signed) made during the meeting(s) and any documentation or other information used in reaching the decision is kept securely filed by the Authorised Signatory at Exchange House Ireland.

This policy and procedure is not intended to prevent someone from working with Exchange House Ireland unless absolutely essential. The procedure exists to provide safeguards.

12 The Right of Appeal

A final appeal facility will be provided if the decision of the Board of Directors to remove, or to refuse employment or volunteering, is not accepted.

An External Appeal Tribunal shall hear the appeal. This will comprise of external individuals, with suitable standing and expertise, from one to three in number, who shall be entirely independent of Exchange House Ireland.

The decision of this tribunal is final.

13 Retaining of returned Garda Vetting information/form

The Office of the Data Protection Commissioner advises that: "The content of such disclosures constitute sensitive personal data. Therefore they must be held in a secure manner with access restricted to a small number of authorised personnel.

Vetting disclosures may only be used for the purpose for which they were provided to an organisation in accordance with the consent of the vetting subject. They cannot be further processed or disclosed to other parties. In relation to retention of vetting information, personal data must be destroyed when the purpose for which it was sought has expired. Exchange House Ireland recommends that vetting disclosures should be deleted every 5 years after they received except in exceptional circumstances and also in line with best practice set out in the Life Cycle of Garda Vetting.

The Office of Data Protection Commissioner states that "the consent given by an individual for vetting is specifically linked to the disclosure of their information to a specific registered organisation to allow the organisation to make an assessment decision about allowing that individual to take on a particular role within that organisation.

14 Relevant Procedures

14.1 Data Protection

When the Garda Central Vetting Unit disclose data to an organisation following a vetting application, the organisation is then responsible for that data. The Authorised Signatory should ensure that the rules of Data Protection are observed in respect of the data –

- Obtain and process information fairly
- Keep it only for one or more specified, explicit and lawful purposes
- Use and disclose it only in ways compatible with these purposes
- Keep it safe and secure
- Keep it accurate, complete and up-to-date

- Ensure that it is adequate, relevant and not excessive
- Retain it no longer than is necessary for the purpose or purposes
- Give a copy of his /her personal data to that individual, on request

Section 258 (4) (a) of the Children's Act 2001 states that "A person to whom this section applies should be treated for all purposes in-law as a person who has not committed or being charged with or prosecuted for or found guilty of or dealt with for the offences which were the subject of the finding of guilt". Therefore the Garda disclosure sheet will contain "no offence". The offence will be kept on the Garda record, but it will not be disclosed to Exchange House Ireland.

14.2 Commitment to Fairness

All members of the HRSC must in all cases behave without malice, and in every event must act fairly. They are entitled to reach a decision on the basis of the information before them, but may ask the prospective volunteer or employee for additional information.

Where an applicant under review is known to a HRSC member, or is from the same county as a, the HRSC member will excuse themselves from the process for this case.

14.3 Confidentiality

The information disclosed by a person wishing to undertake a role in Exchange House Ireland must at all-times remain confidential and be treated with the utmost respect.

All personal information received verbally or in writing will be treated as confidential.

It is important that the prospective employee or volunteer feels confident that the details appertaining to their convictions or prosecutions will not be disclosed to the other employees or volunteers with whom they will be working on a regular basis

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