

Appendix XIX – Garda Vetting Policy



Policy & Procedure Title: SETU Carlow Garda Vetting Policy

Effective Date	1 st December 2018	Version	7.0
Approved By	Academic Council Governing Body	Date Approved	26 th November 2018 29 th November 2018

Form(s)	Responsibilities/ Owner
Declaration Form following Provisional Registration for Programme	Academic Administration & Student Affairs Manager
Annual Self-Declaration Form for Programme	Head of Department/Faculty/Campus
List of SETU Carlow Programmes whose students require vetting clearance	Vice President for Academic Affairs & Registrar
Information required for E-Vetting Invitation	
Interview Record Form	
E-Vetting Information Document & Guideline	
Superseded or Obsolete Procedures	
Version 06 – June 2017 - Policy reviewed to reflect requirements under Equality Diversity & Inclusion and GDPR	
Version 05 – October 2016 - Policy review to update legislation reference and amend application requirements	
Version 04 – June 2014 - Policy review to update legislation reference and reflect changes to title of Faculty	
Version 03 - June 2013 – Policy review to reflect changes in Garda Vetting Application Form and of filter to Authorised signatures	
Version 02 - Dec 2008 - Policy review to reflect changes in Garda Vetting Legislation	
Version 01 – Dec 2007 – Initial issue	

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1.0 Background

A number of programmes in the South East Technological University Carlow, (hereafter referred to as SETU Carlow), especially in the areas of medicine, health, social, youth and community work and education, require students to undertake placements that bring them into contact with children or vulnerable adults and in which they assume positions of trust.

In addition, all staff in the University may be in contact with children and/or vulnerable adults by virtue of their work in SETU Carlow.

A statutory definition of both 'child' and 'vulnerable adult' is provided under section 2 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.

A 'child' is defined as a person under the age of 18 years.

A 'vulnerable person' is defined as a person other than a child who

- (a) is suffering from a disorder of the mind, whether as a result of mental illness or dementia,
- (b) has an intellectual disability,
- (c) is suffering from a physical impairment, whether as a result of injury, illness or age, or
- (d) has a physical disability, which is of such a nature or degree— (i) as to restrict the capacity of the person to guard themselves against harm (meaning exploitation or abuse, whether physical, sexual or emotional) by another person, or (ii) that results in the person requiring assistance with the activities of daily living including dressing, eating, walking, washing and bathing.

2.0 Policy

To ensure the protection of the public, and justify public trust and confidence, and to comply with legal obligations, SETU Carlow is committed to ensuring that only suitable candidates are allowed to undertake programmes where students may be in contact with children/vulnerable adults as part of that programme, and that all staff in the University are vetted to ensure suitability to work with children and/or vulnerable adults.

In the Republic of Ireland responsibility for the vetting of all personnel working in a full-time, part-time and/or voluntary capacity with children and/or vulnerable adults lies with the National Vetting Bureau (NVB). The National Vetting Bureau and the vetting procedures are established on a statutory basis.

Under section 12(1) & (2) of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012, it is a criminal offence for a provider of courses of education or training for persons to make arrangements for the placement of any person in work experience activities, where a necessary part of the placement involves participation in work or activities relating to children or vulnerable persons, unless the provider receives a vetting disclosure from the National Vetting Bureau in respect of that person.

The Act also provides for the use of "soft" information (referred to in the Act as "specified information") in regard to vetting. This is information other than criminal convictions,

received by the National Vetting Bureau from An Garda Síochána or another listed organisation in the Act, concerning a finding or allegation of harm to another person, where such information leads to a bona-fide belief that a person poses a threat to children or vulnerable persons. This information shall only be released to a provider by the Bureau once certain specified safeguards in the Act are followed. In such a case, the provider shall be entitled to consider the information.

Types of person to be vetted

The Act requires people who are involved in work or activities with children and vulnerable adults in the following contexts to be vetted:

- Childcare services
- Schools
- Hospitals and health services
- Residential services or accommodation for children or vulnerable persons
- Treatment, therapy or counselling services for children or vulnerable persons
- Provision of leisure, sporting or physical activities to children or vulnerable persons
- Promotion of religious beliefs

SETU Carlow Applicants/Students

SETU Carlow uses the established vetting procedure to assess the suitability of applicants for defined programmes (Appendix 3). SETU Carlow may also require applicants to provide an enhanced disclosure by the completion of an affidavit at the time of registration. SETU Carlow requires applicants for certain specified programmes to successfully complete the garda vetting process before they fully complete their registration as students of SETU Carlow. The list of programmes requiring garda vetting (Appendix 3) is subject to continuous review.

SETU Carlow Staff

In addition, SETU Carlow uses the established vetting procedure to assess the suitability of all University staff to work with children and/or vulnerable adults. All incoming SETU Carlow staff shall be vetted, and all existing SETU Carlow staff shall undergo a vetting procedure, to be completed by December 2017. In addition, all contract staff who work in the University shall also be required to have completed a garda vetting procedure in their employment.

3.0 Vetting Procedure

To manage the vetting process, SETU Carlow has created an administration structure as follows to handle the various stages of the process:

- Liaison Person(s) for National Vetting Bureau (nominated by SETU Carlow):
 - Student Services Manager, SETU Carlow
 - Human Resources Manager, SETU Carlow

For Students

- SETU Carlow Appeal Committee on Garda Vetting: Comprising of three members of Academic Council including at least one Head of Faculty/Campus appointed by the Vice President for Academic Affairs & Registrar, SETU Carlow.

For Staff

- SETU Carlow Vetting Review Panel, comprising of:
 - Vice President for Corporate Affairs
 - Vice President for Academic Affairs & Registrar
 - HR Manager

3.1 Applicant/Student Vetting Procedure

3.1.1 Stages in the Vetting Process

The vetting procedure is conducted over a number of stages, detailed below. At all stages of the process, a spread sheet shall be maintained to indicate what stage of the process an applicant's vetting is at.

Stage 1: Provisional Registration

Applicants complete provisional registration during first year registration process. The student must also sign a self-declaration form at this registration process which declares that their registration process is not complete until they have satisfied Garda Vetting requirements for the programme of study (Appendix 1).

Stage 2: Completion of Applicant Vetting Invitation

Applicants who have provisionally registered on a relevant programme shall complete the necessary e-vetting invitation from (Appendix 6). Applicants shall also receive information highlighting the details which shall be required for the vetting process and the importance of full disclosure and the criminal and civil consequences of falsifying or altering a vetting disclosure (Appendix 4). If an applicant is under 18, the consent of their guardian shall be required to allow the applicant undergo the vetting process.

In cases where the applicant has previously resided outside the jurisdiction, further affidavits and/or appropriate evidence may be required from the relevant other jurisdiction.

Stage 3: Forwarding of Applicant Invitation & Completion of Application

The completed the e-vetting invitation form is submitted to the Faculty/Campus Administrators with proof of ID (student card will suffice). These are checked and processed by the administrator and forwarded to the Clerk user, who inputs the data. Applicants then receive an e-mail from the vetting unit asking them to complete the full vetting application online.

Stage 4: Completion & Return of National Vetting Bureau (NVB) form

The NVB responds to the vetting request by ticking and signing one of the following three sections of the form:

To be completed by the National Vetting Bureau

According to Garda records there are no previous convictions recorded against the above named applicant: ☐

OR

the attached convictions appear on Garda Records: ☐

AND/OR

the attached prosecutions are pending: ☐

The form and any attached documentation are returned in confidence to the Liaison Person.

Stage 5: SETU Carlow's Evaluation of NVB information

SETU Carlow processes the information received by the NVB as described below:
Information received is classified and defined as follows:

- (a) No previous convictions or specified information recorded
- (b) Convictions or Specified Information Recorded
 - I. Offences or charges pending or specified information which do/does not materially affect the applicant's suitability for the programme of study including work placement.
 - II. Offences or charges pending or specified information which do/does materially affect the applicant's suitability for the programme of study including work placement.

Note: SETU Carlow shall take into account failure to disclose an offence or charge pending by the applicant prior to and during the vetting process when deciding on an applicant's suitability for the programme of study.

No previous convictions or specified information recorded

The names of all applicants where no previous convictions or specified information have/has been recorded are forwarded to the relevant Head of Faculty/Campus. The applicant's completed garda vetting form shall then be forwarded to the applicant (in accordance with s. 16 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012), who can provide this information as required to the placement agency.

Convictions or Specified Information Recorded

Offences or charges pending which do not materially affect the applicant's suitability for the programme of study including work placement

- (a) If the offence had not been disclosed (in the self-declaration form) the Head of Faculty/Campus and the Liaison Person shall meet with the applicant to seek an explanation for the non-disclosure. An interview form is used to document a meeting between the Liaison Person and the student
- the applicant shall be asked to confirm if the conviction relates to them. Where the information supplied by the NVB is inconsistent with the response from the applicant, the Liaison Person shall request the NVB to review their information and confirm or review their initial response.
 - Should a satisfactory explanation be received about the failure to disclose, that applicant's information shall be provided to the placement agency by the Head of Department/Faculty/Campus.
 - Should a satisfactory explanation not be received about the failure to disclose, the offence shall be deemed to be a more serious offence and be dealt with as outlined below.
- (b) In the event that the offence had been disclosed, the applicant shall be asked to confirm if the conviction relates to them. Where the information supplied by the NVB is consistent with the response from the applicant, the applicant's information shall be provided to the placement agency by the Head of Department/Faculty/Campus.

Where the information supplied by the NVB is inconsistent with the response from the applicant, the Liaison Person shall request the NVB to review their information and confirm or review their initial response. If the information does relate to the applicant, the applicant's information shall be provided to the placement agency by the Head of Faculty/Campus.

Offences or charges pending or specified information which do/does materially affect the applicant's suitability for the programme of study including work placement

- (a) The Head of Department/Faculty/Campus and the Liaison Person shall meet with the applicant. The applicant shall be asked to confirm if the conviction and/or specified information relates to them. Where the information supplied by the NVB is inconsistent with the response from the applicant, the Liaison Person shall request the NVB to review their information and confirm or review their initial response. The applicant shall then be advised that their information is being treated in accordance with the procedure outlined in section (b) below. An interview form is used to document the meeting.

(b) The Liaison Person and the Head of Department/Faculty/Campus shall meet with the applicant to discuss

- the nature of the conviction/specified information
- the circumstances of the offence/specified information
- evidence of rehabilitation or evidence of appropriate behaviour modification by the applicant

An interview form (Appendix 5) is used to document a meeting between the Liaison Person, the Head of Department/Faculty/Campus and the applicant. Additional supporting information may be required at this stage by SETU Carlow.

In the event that there has been evidence of significant rehabilitation and/or evidence of appropriate behaviour modification by the applicant since the event took place, then the applicant shall be advised that they shall be allowed to continue in the programme but that all placement agencies, whether or not they request the information, shall be advised of the offence and/or specified information. The applicant shall also be advised that the availability of such information to an agency may result in that agency or other agencies not agreeing to a placement and therefore it / they may be unable to complete the award for which they have registered.

However, if

- the nature of the conviction/specified information is such as to cause serious concern for the applicant's suitability for the programme of study and/or
- there is no evidence of significant rehabilitation or evidence of appropriate behaviour modification by the applicant and/or
- in relation to a material conviction or pending charge, the applicant had not disclosed the information at the self-declaration stage,

the applicant shall be advised that they cannot continue in that programme of study.

Stage 6: Completion of Process

Applicants who have satisfactorily completed Garda Vetting (and any other requirements of the registration process) shall be deemed suitable to be fully registered as students of SETU Carlow.

3.1.2 Appeal Procedure

The applicant shall be advised in writing of any decision concerning their suitability for the programme of study in writing. The applicant may, within ten working days of the date of receipt of the letter, lodge an appeal in writing to the Vice President for Academic Affairs

& Registrar, who shall then convene a meeting of SETU Carlow's Appeal Committee on Garda Vetting to consider the appeal.

This Appeal Committee comprises three members of Academic Council, including at least one Head of Department/Faculty/Campus. The vetting interview form, along with all other relevant documentation, is automatically made available to any Appeals Committee, who may uphold or overturn the original decision.

3.1.3 On-going Vetting Process

Applicants are required to complete on an annual basis a self-declaration form (Appendix 2), confirming that they have declared any prosecutions since the vetting process was completed and declaring that they shall notify SETU Carlow of any pending prosecutions, cautions, warnings, reprimands or convictions whilst remaining as a student on the course.

These declaration forms shall be made available to students by their placement tutors at the beginning of each academic year and once completed shall be given to the placement tutor who shall in turn, give the forms to the Head of Department. Should any new convictions or charges be disclosed, the student shall undergo a new vetting process.

In addition, SETU Carlow reserves the right, given the duration of the programme of study, at its discretion, to require students to undergo a further Vetting process or alternatively to provide an enhanced disclosure by the completion of an affidavit during the course of their programme of study.

3.2 Vetting Procedure for SETU Carlow Staff

Vetting of incoming and existing SETU Carlow staff shall be administered by the HR Manager.

Confidentiality

Appropriate measures are in place to protect the security, integrity and confidentiality of all personnel data. This data will be treated as sensitive and confidential and will be subject to the data protection rules set out by the Data Protection Commissioner and to data protection legislation.

Non-Disclosure – Spent Convictions

Under the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016, which came into effect on 29 April 2016, a range of minor offences become spent after 7 years. This means that an adult convicted of an offence covered by the Act does not have to disclose the conviction after 7 years, except in certain circumstances.

The convictions which may be regarded as spent after 7 years are set out in Section 5 of the Act. They are:

- All convictions in the District Court for motoring offences except for convictions for dangerous driving which are limited to a single conviction
- All convictions in the District Court for minor public order offences
- A single conviction (other than a motoring or public order offence) in the District or Circuit Court which resulted in a term of imprisonment of 12 months or less (or a fine)

The Act does not apply to any conviction for a sexual offence or an offence which was tried in the Central Criminal Court.

The 7 years is from the date the custodial or non-custodial sentence became operative and you must have complied with the sentence or order imposed.

Children - Spent convictions

Under Section 258 of the Children Act 2001 an offence committed by a child under the age of 18, for which they have been found guilty, can be automatically expunged from the record as if never committed, once certain conditions are met. The conditions are as follows:

- The offence was committed before the child reached the age of 18 years
- The offence is not one required to be tried by the Central Criminal Court (such as murder or rape)
- At least 3 years have elapsed since the finding of guilt and
- The child has not been dealt with for another offence in that 3-year period

If these conditions are met, they are no longer regarded under Irish law as having committed an offence. If they have received a caution or have been dealt with under the Probation of Offenders Act 1907, Section 258 also applies.

3.2.1 Vetting of University Job Candidates

All candidates who have been recommended to proceed to Governing Body for ratification for a post at SETU Carlow shall be required to successfully undergo a garda vetting process. This shall be a pre-requisite to any job offer made to a candidate and forms a precondition to any offer of employment. Candidates for posts shall be advised of this requirement in advance of the interview, usually on the job advertisement.

The candidate shall be advised that they are required to disclose any convictions and/or charges pending to HR in advance of the vetting process. The candidate shall then be required to provide proof of identity, and complete the vetting invitation and application. Once this is complete the National Vetting Bureau shall complete the vetting and forward the outcome to the relevant liaison person (HR manager). A copy of this will be forwarded to the candidate.

If no convictions or charges pending are disclosed, the candidate is deemed to have successfully completed the vetting process and can move to the next stage of the appointment process.

If a conviction or charges pending are disclosed the following procedure will be followed:

Dispute with information supplied by the National Vetting Bureau (NVB)

Where the candidate disputes the accuracy of any detail contained in the NBV vetting disclosure the following procedure will apply:

- The candidate will outline, in writing, to the Liaison Person the exact basis of their dispute;
- The Liaison Person will re-submit the candidate's report along with the original application to the NVB
- The NVB will carry out further checks and respond with the Liaison Person

Should the NVB receive a dispute directly from the candidate or their solicitor the NVB will inform the Liaison Person of this dispute.

When criminal convictions or cases pending are disclosed, the case will be reviewed by the University's Vetting Review Panel (VRP). The VRP will consist of the following:

- Vice President Corporate Affairs
- Registrar & Vice President for Academic Affairs
- HR Manager

This VRP will review

- the nature and materiality of the convictions/charges, and/or
- whether the convictions/charges had been disclosed by the applicant prior to the vetting procedure, and/or
- the timeframe between the convictions and the application to SETU Carlow, and/or
- Other factors it considers necessary when considering the case.

The VRP may

- ask the applicant to provide further information to it (which may include further details of the offence and/or any evidence of rehabilitation) and/or
- request the applicant to appear before it to discuss the convictions/charges and/or
- seek legal advice, if desired

Upon consideration of the above the VRP may or may not recommend that the applicant proceeds to the next stage of the appointment process. The decision of the VRP in this regard is final.

3.2.2 Vetting of Existing University Staff

All existing SETU Carlow staff are required to undergo a garda vetting procedure by December 31st 2017. All staff will be required to complete the necessary vetting invitation and application process. Staff will also be advised to disclose any convictions, which are not spent (as determined by the provisions of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 and Section 258 of the Children Act 2001), to HR in advance of the vetting process.

The Vetting Process

Once the member of staff has completed the application, the National Vetting Bureau (NVB) will complete the vetting process and forward the outcome to the relevant liaison person (HR manager). A copy of the NVB report will be forwarded to the member of staff.

If no convictions or charges pending are disclosed, the staff member is deemed to have successfully completed the vetting process.

If a conviction or charges pending are disclosed the following procedure will be followed:

Dispute with information supplied by the National Vetting Bureau

Where the member of staff disputes the accuracy of any detail contained in the NVB disclosure the following procedure will apply:

- The member of staff will outline, in writing, to the Liaison Person the exact basis of their dispute;
- The Liaison Person will re-submit the member of staff's report along with the original application to the NVB
- The NVB will carry out further checks and respond with the Liaison Person

Should the NVB receive a dispute directly from the member of staff or their solicitor the NVB will inform the Liaison Person of this dispute.

Disclosed Information

If a conviction or case pending is disclosed, this will be reviewed by the SETU Carlow Vetting Review Panel (VRP). The VRP will consist of the following:

- Vice President Corporate Affairs
- Registrar & Vice President for Academic Affairs
- HR Manager

The VRP will review

- the nature and materiality of the convictions/charges, and/or
- whether the convictions/charges had been disclosed by the applicant prior to the

- vetting procedure, and/or
- the timeframe between the convictions and the application to SETU Carlow, and/or
- other factors it considers necessary when considering the case.

The VRP may

- ask the applicant to provide further information to it (which may include further details of the offence and/or any evidence of rehabilitation) and/or
- request the applicant to appear before it to discuss the convictions/charges and/or
- seek legal advice, if desired

Following a review, the VRP has discretion to make recommendations to the University as to how best to proceed and what action, if any, to take. The VRP may recommend:

- referral to the Child Protection and Vulnerable Adults Policy, if applicable
- referral to the University's Disciplinary Procedure

3.2.3 Ongoing Vetting & Disclosures

All SETU Carlow staff members are required to immediately disclose any pending charges or convictions which may arise while in continued employment with SETU Carlow. Disclosures should be made to the HR manager. These will be considered and dealt with by the SETU Carlow VRP as outlined in section 3.2.2 above. Failure to disclose an offence or charge pending to SETU Carlow, and/or the provision of false or misleading information may result in disciplinary action. SETU Carlow reserves the right, at its discretion, to require staff member(s) to undergo a further vetting process or to provide an enhanced disclosure by the completion of an affidavit during their course of employment in the University.

All staff members will be re-vetted by SETU Carlow at least every 5 years.