

Statutory Requirements for the retrospective vetting of teaching staff, non-teaching staff and others.  
Circular 0016/2017

FAQ for schools, centres for education, teachers and non-teaching personnel.

***Important Note:*** *This FAQ is intended as a guide to assist schools and centres for education and should be read in conjunction with the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 as amended by the Criminal Justice (Spent Convictions and Certain Disclosures Act) 2016 referred to as the Vetting Act and [Department Circular 0016/2017](#).*

*This is not a legal interpretation of the Vetting Act. It is the responsibility of each school authority to read and familiarise themselves with the requirements of [Circular 0016/2017](#) and with the Vetting Act. The information/guidance contained in the circular and FAQ does not constitute legal advice. It is the responsibility of each school authority to satisfy itself, having regard to its own legal advice if required, that it has met any vetting obligations that arise under the Vetting Act. The Department of Education and Skills is not the prosecuting authority for the Vetting Act and adherence to Department of Education and Skills guidance is not a defence to any prosecution.*

*It should also be noted that many of the issues addressed in this FAQ are inter-connected and readers should therefore be careful not to read individual questions in isolation but should read this document in its entirety and in conjunction with Circular 0016/2017 and the Vetting Act.*

**IMPORTANT UPDATE RE RETROSPECTIVE VETTING:** The Department of Education and Skills has been informed that on 20 December 2017, the Minister for Justice and Equality signed new regulations extending the deadline for retrospective vetting to **30 April 2018**. (This update was published on 22 December 2017. Further information will issue in early January.)

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## 1. What is “retrospective vetting”?

Under section 21 of the Vetting Act a relevant organisation (which includes a school authority) is obliged to ensure that a vetting application is made in respect of individuals currently employed, contracted or permitted by it to undertake relevant work or activities with children or vulnerable persons, where those individuals have never previously been Garda vetted. Such vetting is referred to as a “retrospective vetting”. The Minister for Justice and Equality has prescribed that retrospective vetting applications must be made before 31 December 2017.

The Vetting Act provides that where a relevant organisation (which includes a school authority) fails, without reasonable excuse, to comply with the Act’s retrospective vetting requirements it is a criminal offence punishable by a fine of up to €10,000 or a prison term of up to 5 years or both.

Further information in relation to the retrospective vetting requirements is set out in *Circular 0016/2017*. This includes information in relation to who needs to be retrospectively vetted and the practical arrangements that are in place to support such vetting.

## 2. Who is required to undergo retrospective vetting?

Employees (teaching and non-teaching) and others persons who have never previously been Garda vetted and who are undertaking relevant work or activities with children or vulnerable persons are required to be vetted under the retrospective vetting provisions of section 21 of the Vetting Act.

It should be noted that a person for whom a GCVU vetting outcome or a Bureau disclosure has previously been received is not required to be vetted under the Vetting Act’s retrospective vetting requirements.

Please refer to question 3 in relation to how the retrospective vetting of registered teachers will be undertaken and to question 4 in relation to retrospective vetting of non-teaching staff and non-employees.

## 3. What are the arrangements for registered teachers?

It is intended that the retrospective vetting of all registered teachers who have not been vetted to date will be conducted by the Teaching Council in the context of their annual renewal of registration rather than by individual school employers. Where a retrospective vetting application has been made by the Teaching Council before 31 December 2017, the relevant school employer does not have to require the teacher concerned to undergo retrospective vetting for the purposes of Section 21 of the Vetting Act.

Further information in relation to the retrospective vetting of registered teachers is set out in section 4 of circular 0016/2017. **School authorities should also ensure that they take the relevant steps outlined at sections 4.7 to 4.11 of circular 0016/2017.**

#### 4. What are the arrangements for non-teaching staff and non-employees?

A school authority is obliged to ensure that a retrospective vetting application is made in respect of non-teaching staff (e.g. Special Needs Assistants, school secretary etc.) and other individuals currently employed, contracted or permitted by it to undertake relevant work or activities with children or vulnerable persons, where those individuals have never previously been Garda vetted. In accordance with the Vetting Act, such vetting applications must be made before 31 December 2017. Further information in relation to the retrospective vetting of non-teaching staff and non-employees is set out in section 5 of circular 0016/2017,

#### **Note**

**School authorities must ensure that they take the relevant steps outlined at section 5 of circular 0016/2017.**

School authorities should also note the following:

- a) There is no retrospective vetting requirement in respect of a member of a school's non-teaching staff or other person who is employed or contracted by the school to undertake relevant work or activities with children or vulnerable persons or who is permitted to undertake such work on behalf of the school ,where –
  - the school authority has already obtained a vetting disclosure from the Bureau in respect of the person concerned or
  - the school authority has previously obtained a GCVU outcome in respect of the person concerned.
- b) The Vetting Act does not apply to any unpaid volunteer who assists the school on an occasional basis provided such assistance does not involve the coaching, mentoring, counselling, teaching or training of children or vulnerable persons.

#### 5. My school has previously received vetting outcomes issued by the Garda Central Vetting Unit (GCVU) prior to 29 April 2016 in respect of some members of staff. Do they now need to be vetted by the Bureau?

There is no obligation under section 21 of the Vetting Act to retrospectively vet persons in respect of whom the school authority has already received a vetting outcome issued by the GCVU. The Act's retrospective vetting requirement applies to individuals who have never previously been Garda vetted. A person in respect of whom the school authority has received a vetting outcome issued by GCVU prior to 29 April 2016 or has received a Teaching Council Vetting letter is not required to be vetted again under the retrospective vetting provisions of the Vetting Act.

Section 20 of the Vetting Act which concerns the periodic re-vetting of employees and others involved in working with children and vulnerable persons who have already been vetted has not yet been commenced by the Minister for Justice and Equality. Further guidance will issue when the Vetting Act's re-vetting requirements are put in place.

6. My school has received vetting disclosures that were issued by the Bureau since 29 April 2016 in respect of some members of staff. Do they need to be vetted again?

There is currently no statutory obligation to re-vet persons in respect of whom the school authority has received a Bureau disclosure. The Act's retrospective vetting requirement applies to individuals who have never previously been Garda vetted. A person in respect of whom the school authority has received a vetting disclosure from the Bureau since 29 April 2016 is not required to be vetted again under the retrospective vetting provisions of the Vetting Act.

Section 20 of the Vetting Act which concerns the periodic re-vetting of employees and others involved in working with children and vulnerable persons who have already been vetted has not yet been commenced by the Minister for Justice and Equality. Further guidance will issue when the Vetting Act's re-vetting requirements are put in place.

7. I am a registered teacher but have never been vetted before. How will I be vetted?

Registered teachers who have never previously been vetted by the Teaching Council will be required to undergo retrospective vetting as part of their registration renewal process. The Teaching Council intends to require all un-vetted registered teachers to undergo retrospective vetting by the end of December 2017, in accordance with a schedule determined by the Teaching Council for this purpose. Such vetting has commenced by the Teaching Council and will continue on an ongoing basis between now and the end of 2017.

Registered teachers who have been requested by the Teaching Council to undergo retrospective vetting should take the steps outlined at section 4.12 of circular 0016/2017.

Further information on the vetting of registered teachers including retrospective vetting can be found on the Teaching Council's website [Teaching Council](#).

8. I am a registered teacher who has never been vetted. My registration is due to be renewed in March 2017 but I have not yet been requested to undergo vetting. When will I be vetted?

The Teaching Council intends to require all un-vetted registered teachers to undergo retrospective vetting by the end of December 2017, in accordance with a schedule determined by the Teaching Council for this purpose. Between now and the end of December 2017, the Council will be contacting each registered teacher who has not previously been vetted to inform them of the requirement to be vetted.

While many un-vetted teachers have an annual renewal date in March, not all such teachers will be contacted about vetting in advance of their March 2017 renewal date. Those who aren't contacted by March 2017 will be contacted at a later date in 2017 and this vetting will be linked to their next (e.g. March 2018) renewal date.

9. I have been in the same teaching position for several years but no longer have a copy of my Teaching Council Vetting letter. Is there any way of verifying for my school that I have been GCVU vetted by the Council?

Registered Teachers can check their previous GCVU vetting status by logging on to the “My Registration” section of the Teaching Council website [www.teachingcouncil.ie](http://www.teachingcouncil.ie). This section of the website includes an indicator of when a teacher has previously been vetted by the GCVU.

A teacher can show the relevant webpage to the relevant school authority which should retain a printed copy of same for its records. Further details on how to access this information is available in the Retrospective Vetting FAQs published on the [Teaching Council’s website](#).

Teachers can also access their Bureau disclosures via the online electronic register.

10. My school employs a cleaner who works after school when no children are present and who has never been vetted. Is there a requirement to have this person retrospectively vetted?

The Vetting Act requires retrospective vetting in the case of a person who is currently employed, contracted or permitted to undertake relevant work or activities with children or vulnerable persons and where that person has not previously been Garda vetted. Therefore in the case of a cleaner who only works in the school when no children are present, no vetting obligation arises for the school.

Separate to the requirements of the Vetting Act, school authorities must always be cognisant of their civil law duty of care to their pupils and the need for prudent practice from a child protection perspective.

11. Is there any requirement for parents who help out occasionally with school events to be retrospectively vetted?

The Vetting Act does not apply to unpaid volunteers (such as parents) who assist the school on an occasional and unpaid basis provided such assistance does not involve the coaching, mentoring, counselling, teaching or training of children or vulnerable persons. A parent who helps out on an occasional unpaid basis is therefore not subject to any vetting requirement under the Vetting Act as long as the parent is not involved in the coaching, mentoring, counselling, teaching or training of pupils.

Separate to the requirements of the Vetting Act, school authorities must always be cognisant of their civil law duty of care to their pupils and the need for prudent practice from a child protection perspective.