

Commencement of Statutory Requirements for Garda Vetting from 29 April 2016 and

Department of Education and Skills Circular 0031/2016.

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

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 0031/2016.

This FAQ 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 0031/2016 and with the Vetting Act. The information/guidance contained in this 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 0031/2016 and the Vetting Act.

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1. What were the main changes introduced from 29 April 2016?

[Circular 0031/2016](#) contains (at [section 4](#)) the following ten key points to note in relation to the commencement from 29 April 2016 of statutory vetting -

1. From 29 April 2016, the Vetting Act will be commenced and will place statutory vetting obligations on school authorities.

2. The Vetting Act will put in place the National Vetting Bureau (the Bureau) which will replace the Garda Central Vetting Unit (GCVU) and will be responsible for issuing vetting disclosures under the Act's statutory vetting arrangements.

3. Statutory vetting will, in addition to a check for criminal records, include a check for any relevant "soft information". "Soft information" referred to as "specified information" in the Vetting Act, is information other than criminal convictions held by An Garda Síochána that leads to a bona-fide belief that a person poses a threat to children or vulnerable persons.

4. From 29 April 2016, it will be a criminal offence, **other than in certain limited circumstances**, for a school authority to **commence** the employment of an employee without first obtaining a vetting disclosure from the Bureau in respect of that person. ([See section 5 of the circular](#)).

5. It will not be necessary under the Vetting Act to obtain a vetting disclosure from the Bureau prior to employing a teacher as a substitute **where** the school authority has prior to 29 April 2016 received a copy of the Teaching Council vetting letter in respect of that teacher. (See [section 5.3 of the circular](#)). However, in such cases, school authorities must take into account the wider duty of care considerations set out in [section 9 of the circular](#).

6. From 29 April 2016, it will be a criminal offence, **other than in certain limited circumstances**, for a school authority to contract, permit or place a person (e.g. contractor, volunteer, sports coach etc.) to undertake relevant work or activities with children or

vulnerable persons, without first obtaining a vetting disclosure from the Bureau in respect of that person. (See [section 6.4 of the circular](#))

7. There is no immediate requirement to obtain vetting disclosures in respect of existing employees, volunteers, sports coaches etc. who undertake relevant work or activities in the school under contracts of employment or other arrangements that were in place prior to 29 April 2016. Such persons will however be required to be vetted in due course under the retrospective and re-vetting requirements of the Act (sections 21 and 20 of the Vetting Act respectively). The Department will issue further guidance in this regard.

Important update re number 7 above: Please note that [Circular 0016/2017](#) has since been published (February 2017) and sets out the retrospective vetting requirements of the Vetting Act. This outlines that a school authority must ensure that applications for the retrospective vetting 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, have been made before 31 December 2017.

8. The practice of the Teaching Council providing teachers with a vetting letter will be discontinued from 29 April 2016. From that date vetting disclosures received by the Teaching Council from the Bureau will, subject to the teacher's consent, be made available electronically to the relevant school authority. (See [section 8 of the circular](#))

9. In cases where no statutory vetting obligation exists (see sections [5.3](#) and [6.4](#) of the circular) or where the school authority has met its statutory obligation by receiving a vetting disclosure that has been issued by the Bureau in the past (i.e. not immediately prior to the person commencing the relevant work or activities in the school), a school authority must consider, having regard to its duty of care to its pupils, whether it should seek an up to date vetting disclosure in respect of the person. ([See section 9 of the circular](#))

10. Thorough recruitment procedures, including the checking of references and any gaps in career history, are an essential element of child protection practice. Statutory vetting

should not take the place of good recruitment procedures but must be used as part of those procedures (see [section 9 of the circular](#)). As an additional safeguard the **Statutory Declaration** and **Form of Undertaking** must be completed and provided to the school authority prior to making a teaching or non-teaching appointment of any duration.

2. What is a vetting disclosure?

Since 29 April 2016 vetting is being conducted by the National Vetting Bureau (the Bureau). The function of the Bureau is to provide a vetting disclosure to a relevant organisation that has applied for vetting in respect of a person.

A vetting disclosure is a statement issued by the Bureau which sets out particulars of the criminal record (if any) relating to that person and/or a statement of the specified information (if any) relating to that person.

A criminal record includes a record of the person's convictions for any criminal offences or a record of any prosecutions pending against the person for any criminal offence but does not contain details of certain minor convictions as set out in section 14A of the Vetting Act.

"Specified information" or "soft information" in relation to a person who is the subject of an application for a vetting disclosure means information other than criminal convictions held by An Garda Síochána that leads to a bona-fide belief that a person poses a threat to children or vulnerable persons.

3. Is there a difference between a vetting disclosure issued by the Bureau (National Vetting Bureau) and a vetting outcome issued previously by the GCVU (the Garda Central Vetting Unit)?

In addition to criminal records, a vetting disclosure issued by the Bureau may contain additional "specified information" or "soft information". This is information other than

criminal convictions that leads to a bona-fide belief that a person poses a threat to children or vulnerable persons.

Since 29 April 2016, it is a criminal offence, other than in certain limited circumstances, for a school authority to commence the employment of an employee without first obtaining a vetting disclosure from the Bureau in respect of that person.

Where such an obligation applies, a GCVU outcome (or a Teaching Council vetting letter) will not satisfy the requirement of section 12(1) of the Vetting Act to receive a disclosure from the Bureau.

4. Does a vetting disclosure from the Bureau have a life span?

No. The Vetting Act 2012 does not specify that a vetting disclosure received by the school authority must be an up-to-date disclosure that issued immediately prior the employment/contract, permission/placement of a person to undertake relevant work or activities.

For example, a school proposes to appoint Teacher A to a teaching position from September 2018. Prior to the employment of the teacher, the Teaching Council makes available to the school authority the most recent vetting disclosure in its possession in respect of Teacher A. The disclosure was issued by the Bureau in May 2016. The school has satisfied the statutory requirement under section 12 of the Vetting Act to receive a vetting disclosure from the Bureau prior to employment. However, the school will need to consider whether having regard to its civil law duty of care to its pupils it should seek an up to date disclosure in respect of that teacher. See [section 9 of the Circular](#).

5. Is there still a requirement for a Statutory Declaration and Form of Undertaking for teaching and non-teaching appointments?

Yes. The requirement for a Statutory Declaration and Form of Undertaking to be completed and provided to the school authority prior to making a teaching or non-teaching appointment of any duration still exists.

The updated version of the Statutory Declaration contained in the [Appendix to Circular 0031/2016](#) must be used where a declaration is being newly completed from 29 April 2016 onwards.

Declarations already completed using the old version of the declaration (as contained in [circular 0063/2010](#)) can still be provided to a school authority subject to meeting the requirement for the declaration having been made in the current or previous calendar year.

The new version of the Form of Undertaking must be used in the case of any appointment made from 29 April 2016. A new payroll appointment form incorporating the updated Form of Undertaking is applicable to teacher and SNA appointments being made from 29 April 2016.

6. Some of the staff in my school have been in posts since prior to 2006 and have not been vetted. Must they be vetted after 29 April 2016?

The Department has issued Circular 0016/2017 - Statutory Requirements for the retrospective vetting of teaching staff, non-teaching staff and others (published February 2017) which outlines the retrospective vetting requirements that apply to school authorities along with the practical arrangements to support such vetting.

An [FAQ document](#) to assist schools with queries in relation to Circular 0016/2017 is also available.

It is important to note that a school authority must ensure that applications for the retrospective vetting 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, have been made before 31 December 2017.

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 re-vetting requirements are put in place.

7. My school has an existing arrangement with the local GAA club for a coach to train the school Gaelic team. Will the school now need to get a vetting disclosure from the Bureau for this coach?

The Department has issued [Circular 0016/2017 - Statutory Requirements for the retrospective vetting of teaching staff, non-teaching staff and others \(published February 2017\)](#) which outlines the retrospective vetting requirements that apply to school authorities along with the practical arrangements to support such vetting.

An [FAQ document](#) to assist schools with queries in relation to Circular 0016/2017 is also available.

It is important to note that a school authority must ensure that applications for the retrospective vetting 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, have been made before 31 December 2017.

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 re-vetting requirements are put in place.

8. The school expects to employ, for the first time, a new substitute teacher on or after 29 April 2016. Is the school authority required under the Vetting Act to obtain a vetting disclosure from the Bureau before it can employ this new teacher?

It depends on whether the school has, prior to 29 April 2016, received a copy of the Teaching Council Vetting letter in respect of the teacher in question.

If the teacher hasn't been employed by the school as a substitute previously **but** the school has, prior to 29 April 2016, received a copy of the Teaching Council vetting letter in respect of the teacher, there is no obligation under the Vetting Act to obtain a disclosure from the Bureau in respect of him or her prior to commencing the employment. The school should however consult [section 9 of circular 0031/2016](#) in relation to whether it would nonetheless be prudent to seek a disclosure notwithstanding that there is no statutory obligation to do so.

If the teacher hasn't been employed by the school as a substitute previously and the school has not, prior to 29 April 2016, received a copy of the Teaching Council vetting letter in respect of the teacher, then the school must not commence the employment of the person without first obtaining a disclosure from the Bureau in respect of him or her.

9. What is the position regarding teachers who are added to the school's substitute list after 29 April 2016? Will obtaining the Teaching Council letter suffice or will the school need to obtain a vetting disclosure from the Bureau prior to employing such person?

In the case of any teacher added to the substitute list from 29 April 2016 onwards, receiving the Teaching Council vetting letter after that date will not satisfy the requirements of section 12(1) of the Vetting Act. The school is required under section 12 of the Act to obtain a vetting disclosure from the Bureau in respect of such a person before employing him or her.

10. The school is employing a new cleaner in September 2016 who will be working after school when no children are present. Is there a requirement under the Act to have this person vetted prior to employing him or her?

The Vetting Act requires vetting where an organisation employs a person to undertake relevant work or activities in respect of children or vulnerable persons. “**Relevant work or activities**” has the meaning assigned to it in the Vetting Act and includes any work or activity carried out by a person where a necessary and regular part of that work or activity consists mainly of the person having access to, or contact with, children or vulnerable persons in a recognised school or centre for education

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. My school has some building work planned which will be undertaken while the school is open. Is there a requirement that the builders working on site must be vetted?

The Vetting Act requires vetting where an organisation employs, contracts or permits a person to undertake relevant work or activities in respect of children or vulnerable persons. “**Relevant work or activities**” has the meaning assigned to it in the Vetting Act and includes any work or activity carried out by a person where a necessary and regular part of that work or activity consists mainly of the person having access to, or contact with, children or vulnerable persons in a recognised school or centre for education.

Builders working on site should not have access to or contact with pupils and therefore no vetting obligation would arise.

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.

12. Is there a requirement to vet parents who help out with the annual cake sale?

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

13. My employment with my current school is being transferred to a new school because of an amalgamation. Do I have to be vetted before starting work in the newly amalgamated school?

Where a person is being employed by a new employer - even where that arises from an amalgamation, redeployment etc. the new employer in question must obtain a vetting disclosure from the Bureau in respect of the person prior to commencing his or her employment.

Therefore in the case of amalgamations, redeployments etc. all employees who transfer/move to a new school must be vetted by the new school employer prior to their commencing their employment in that new school.

14. A teacher in my school is returning from a career break of three years. Does she have to be vetted before coming back to the school?

Section 5 of circular 0031/2016 sets out the statutory vetting requirements in respect of new employees. There is no obligation under section 12 of the Vetting Act to obtain a vetting disclosure from the Bureau in respect of existing employees, including those returning from career break.

The school should consult section 9 of circular 0031/2016 in relation to whether it would nonetheless be prudent to seek a disclosure notwithstanding that there is no statutory obligation to do so.

However, the Department has also issued [Circular 0016/2017 - Statutory Requirements for the retrospective vetting of teaching staff, non-teaching staff and others \(published February 2017\)](#) which outlines the retrospective vetting requirements that apply to school authorities along with the practical arrangements to support such vetting. This circular outlines that that a school authority must ensure that applications for the retrospective vetting 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, have been made before 31 December 2017.

An [FAQ document](#) to assist schools with queries in relation to Circular 0016/2017 is also available.

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 re-vetting requirements are put in place.

15. My school is renewing a fixed term contract for an existing teacher. Does the school have to have him or her vetted?

Section 5 of circular 0031/2016 sets out the vetting requirements under section 12 of the Vetting Act and which apply prior to commencing an employment. There is no obligation under section 12 of the Vetting Act to obtain a vetting disclosure from the Bureau prior to re-appointing an existing employee whose employment is continuous with the same school authority and where the person is being re-appointed with no gap in that employment.

However, the Department has also issued [Circular 0016/2017 - Statutory Requirements for the retrospective vetting of teaching staff, non-teaching staff and others \(published February 2017\)](#) which outlines the retrospective vetting requirements that apply to school authorities along with the practical arrangements to support such vetting. This circular outlines that that

a school authority must ensure that applications for the retrospective vetting 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, have been made before 31 December 2017.

An [FAQ document](#) to assist schools with queries in relation to Circular 0016/2017 is also available.

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.

16. If a school has a difficulty accessing a vetting disclosure for a teacher via the Teaching Council's online solution (dignitary) what can it do?

Advice in relation to how to access a disclosure via the Council's online solution (dignitary) and what to do where a school encounters difficulty in gaining access to the disclosure is available on the Teaching Council's website at the following link:

[Dignitary FAQs for schools/employers - Teaching Council](#)

Schools are also advised to take into account that from time to time technical or internet connection difficulties can arise and should plan accordingly. For example schools should ensure that the disclosure is obtained as early as possible after the offer (conditional on vetting) of employment is made rather than waiting until when the teacher is about to commence his or her employment.

In the case of new substitute teachers who were not on a school's substitute list prior to 29 April 2016, schools are advised that, as far as possible, the vetting disclosure should be obtained at the point on which the teacher is being added to the school's substitute teaching list or as soon as possible thereafter. In this way schools will ensure that the vetting disclosure has been obtained in sufficient time to allow that teacher to commence work in the school at short notice.

17. Where a college/university has received vetting information from the GCVU prior to 29 April 2016 in respect of a student teacher undertaking teaching practice in my school, is there any obligation on my school to obtain a vetting disclosure from the Bureau in respect of this student teacher?

Under Section 12(5) (c) of the Vetting Act, there is no requirement for a school or the relevant college/university to obtain a vetting disclosure from the Bureau prior to a student teacher undertaking teacher practice in the school in any case where –

- (1) the relevant college/university had, prior to 29 April 2016, received vetting information from the GCVU in respect of the person concerned **and**
- (2) that GCVU vetting information was obtained for the purposes of that person's attendance on the course which includes the school placements.

When agreeing to such placements, a school should seek confirmation from the college that it received vetting information from the Garda Central Vetting Unit in respect of the student concerned prior to 29 April 2016.

Where such confirmation is received, a school authority may also, from a prudent practice/civil liability perspective, determine, in accordance with its own child protection and relevant recruitment/selection policies, that it is necessary to undertake other checks, which could include checking references or past work experience of a person. The final decision on the suitability of a person rests with each school authority. In circumstances where the Act does not **require** a school to obtain a vetting disclosure, a school may nevertheless opt to seek a vetting disclosure in respect of any person prior to employing, contracting, permitting or placing that person to undertake relevant work or activity.

18. Where a college/university has not received vetting information from the GCVU prior to 29 April 2016 but has received a vetting disclosure from the Bureau (i.e. after 29 April 2016) in respect of a student teacher undertaking teaching practice in my school, does my school have any vetting obligation under the Vetting Act in respect of this student teacher?

Where a school authority, other than in the circumstances set out at [question 17](#), permits a student teacher to undertake teaching practice in its school, a vetting obligation arises for both the school authority and the relevant college/university involved in the placement. However, where the college/university concerned has obtained a Bureau disclosure in respect of the student teacher concerned, the school may decide to enter into an agreement with the college/university concerned in accordance with Section 12(3A) of the Vetting Act. It is important to read in full the answers to [questions 20](#) and [21](#) in relation to the vetting requirements and other considerations that might arise where two or more relevant organisations are involved in an employment, contract, placement of or permission in respect of a person.

19. Is there a requirement for transition year students on work experience to be Garda vetted under the Act?

Where a transition year student is being placed on work experience which involves relevant work or activities (as defined in the Vetting Act) such as working in another school or in a nursing home, a vetting obligation under the Vetting Act arises for both the student's own school and the other relevant organisation (such as the other school or the nursing home in question) involved.

However, provided that a disclosure from the Bureau has been obtained in respect of the work experience by either the school or the other relevant organisation, the school may decide to enter into an agreement with the other relevant organisation concerned in accordance with Section 12(3A) of the Vetting Act. Further information in relation to Section 12(3A) of the Vetting Act is set out in [question 20](#).

It is also important to read in full the answers to [questions 20](#) and [21](#) in relation to the vetting requirements and other considerations that might arise where two or more relevant

organisations are involved in an employment, contract, placement of or permission in respect of a person.

Note re vetting of students

- In the case of students under 18 years of age, vetting must be done in consultation with the students' parents/guardians.
- There is no obligation to obtain a vetting disclosure in respect of the student where the work experience **does not** involve relevant work or activities with children or vulnerable persons, as defined under the Vetting Act.

20. What is the position where the school and another external organisation (e.g. sporting body) are both involved in the employment/contract, placement or permitting of a person (e.g. sports coach) to undertake relevant work or activities?

The answer to this question is set out under the following headings:

Part A General

Part B Statutory vetting requirements in respect of arrangements that are in place since prior to 29 April 2016

Part C Statutory vetting requirements in respect of arrangements put in place after 29 April 2016

Part A General

- Any decision to enter into an arrangement with another relevant organisation for a person to undertake relevant work or activity in the school is ultimately a matter for each school authority. If the school authority decides to enter into such an arrangement, it is the responsibility of the school authority to ensure that any vetting obligations that arise are met. Further information in relation to the Vetting Act's requirements are set out at **Parts B and C** of this answer.

- Separate to the Vetting Act's requirements, a school authority may also, from a prudent practice/civil liability perspective, determine, in accordance with its own child protection and relevant recruitment/selection policies, that it is necessary to undertake other checks, which could include checking references or past work experience of a person. The final decision to enter into an arrangement with another organisation in respect of a person undertaking work or activity in the school and the final decision on the suitability of the person concerned rests with each school authority. In circumstances where the Act does not **require** a school to obtain a vetting disclosure, a school may opt to seek a vetting disclosure in respect of any person prior to employing, contracting, permitting or placing that person to undertake relevant work or activity.
- Where a school has decided to enter into an arrangement with another organisation, it should always be cognisant that the responsibility to discharge a duty of care towards the pupils in the school remains that of the school authority. The school should therefore ensure that it has in place adequate measures to ensure the ongoing safety of children while the person concerned is undertaking the relevant work or activities. This might include measures such as ensuring that the work or activities concerned are carried out under appropriate supervision by teaching staff and that the person is made aware of relevant school policies and procedures in respect of child protection, codes of conduct, ICT usage etc. **Important Note:** The foregoing information is not intended to be exhaustive in terms of the prudent practice/civil liability considerations that a school may wish to take into account. Each school must determine for itself the particular considerations that apply having regard to the specific circumstances in question.

Part B Statutory vetting requirements in respect of arrangements that are in place since prior to 29 April 2016

There is no requirement under section 12 of the Vetting Act to obtain a vetting disclosure in respect of existing employees, volunteers, sports coaches etc. who have never been vetted to date and undertake relevant work or activities, under contracts of employment or existing arrangements that are in place since prior to 29 April 2016.

However such persons are required to be vetted under the retrospective vetting requirements of the Vetting Act (section 21 of the Vetting Act). A person for whom a GCVU vetting outcome has previously been received by the school authority is not required to be vetted under the Act's retrospective vetting requirements.

The Department has issued [Circular 0016/2017 - Statutory Requirements for the retrospective vetting of teaching staff, non-teaching staff and others](#) (published February 2017) which outlines the retrospective vetting requirements that apply to school authorities along with the practical arrangements to support such vetting.

An [FAQ](#) document to assist schools with queries in relation to [Circular 0016/2017](#) is also available.

It is important to note that a school authority must ensure that applications for the retrospective vetting 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, have been made before 31 December 2017.

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 re-vetting requirements are put in place.

Part C Statutory vetting requirements in respect of arrangements put in place after 29 April 2016

In certain circumstances an exemption under Section 12(5) (c) of the Vetting Act to the vetting requirements of Section 12(1) may be applicable to the arrangement. Further details in relation to this exemption are set out at [\(a\) below](#).

Otherwise, where a school, post 29 April 2016, enters into an arrangement with another relevant organisation for a person to undertake relevant work or activity, a vetting obligation under the Vetting Act arises for both the school and the other relevant organisation involved.

However, provided that the other relevant organisation involved in the arrangement has obtained a disclosure from the Bureau in respect of the employment, contact, permission or placement of the person concerned, the school may decide to enter into an agreement with the other relevant organisation concerned in accordance with Section 12(3A) of the Vetting Act. Further details in relation to entering into a joint agreement under Section 12(3A) are set out at [\(b\) below](#).

a) Exemption under Section 12(5)(c) of the Vetting Act

Where, after 29 April 2016, a school and another relevant organisation enter into an arrangement for a person to undertake relevant work or activity in the school, Section 12(5) (c) of the Vetting Act provides there is no requirement for the school or that other relevant organisation to obtain a vetting disclosure from the Bureau prior to the person undertaking the relevant work or activities in the school **provided both of the following conditions are met** –

- (1) the other relevant organisation, has, prior to 29 April 2016, received vetting information from the GCVU in respect of the person concerned **and**
- (2) that GCVU vetting information was obtained for the purposes of the same type of relevant work or activity that will be undertaken by the person for the school.

In such cases, the school authority should ensure that it obtains a written statement from the other organisation that –

1. Confirms that the other relevant organisation has obtained GCVU vetting information in respect of the person concerned,
2. States the date of issue of the GCVU vetting information **and**
3. Confirms that the GCVU vetting information was obtained by the other organisation for the purposes of the same type of relevant work or activity as is being undertaken by the person in the school. The type of work or activity should be specified.

Note:

- Schools should retain a copy of the written statement referred to above.
- Schools should also refer to [Part A](#) of this answer for general information in relation to such arrangements including in relation to prudent practice/civil liability.

Example of exemption under Section 12(5)(c)

As an example of the above scenario, a school does not have a vetting obligation under section 12 of the Act in circumstances where the school (post 29 April 2016) enters into an arrangement with a sports organisation to permit a coach of that organisation to undertake coaching work in the school provided the sports organisation has obtained a GCVU vetting outcome in respect of that person for the purposes of that person undertaking work or activity that involves the coaching of children. In this case, the school authority should ensure that it obtains the written statement referred to above and ensure that it takes full account of the information at [Part A](#) of this answer.

b) Joint Agreement under Section 12(3A) of the Vetting Act

In certain circumstances an exemption under Section 12(5) (c) of the Vetting Act to the vetting requirements of Section 12(1) will be applicable to the arrangement. Details in relation to this exemption are set out at [\(a\) above](#).

Otherwise, where a school, post 29 April 2016, enters into an arrangement with another relevant organisation for a person to undertake relevant work or activity, a vetting obligation under the Vetting Act arises for both the school and the other relevant organisation involved. However, provided that the other relevant organisation involved in the arrangement has obtained a disclosure from the Bureau in respect of the employment, contact, permission or placement of the person concerned, the school **may** decide to enter into an agreement with the other relevant organisation concerned in accordance with Section 12(3A) of the Vetting Act.

Section 12(3) (A) of the Vetting Act provides for a defence where a relevant organisation complies with the preconditions set out in that subsection which are as follows:

- that there is a joint agreement in writing
- between two or more relevant organisations
- agreeing to the employment, contracting, permitting or placement of a particular person to undertake relevant work or activity
- and where the other relevant organisation received a vetting disclosure from the Bureau in respect of the employment, contracting, permitting or placement of the person concerned

If the school authority decides to enter into an agreement in accordance with 12(3A) of the Vetting Act, the school authority must ensure that -

1. A joint written agreement signed by both parties is in place as per the above requirements.
2. It obtains written confirmation from the other relevant organisation involved in the agreement confirming that it has obtained a vetting disclosure from the Bureau in respect of the employment, contracting, permitting or placement of the person concerned.

Note

- Schools should retain a copy of the documents referred to at (1) and (2) above for their records.
- Schools should also refer to [Part A](#) of this answer for general information in relation to arrangements with other organisations including in relation to prudent practice/civil liability.

21. My school proposes to enter into a new arrangement with another organisation for a person to undertake relevant work/activity in the school and the other organisation has received a disclosure from the Bureau in respect of the person concerned. Does my school have to enter into an agreement with the other organisation in accordance with section 12(3A) of the Vetting Act?

Section 12(3A) of the Act provides that where two or more relevant organisations jointly agree in writing to the employment, contract, placement or permission of a particular person to undertake relevant work or activities, it shall be a defence in any prosecution under Section 12(2) of the Act to show that the other organisation who was a party to the agreement received a vetting disclosure from the Bureau for that particular person in respect of the employment, contract, permission or placement of the person concerned.

However, the school is not required by the Vetting Act to enter into an agreement under Section 12(3A).

The school authority may also opt to apply itself for a vetting disclosure in respect of the person concerned prior to employing, contracting, permitting or placing that person to undertake relevant work or activity.

Note: The guidance under this question should be read in conjunction with the guidance at [Question 20](#).

22. Do Inspectors and NEPs Psychologists have to be vetted by the school?

There is no requirement under the Vetting Act for a school to receive a vetting disclosure from the Bureau in respect of the Department's Inspectors, NEPS psychologists who visit schools and psychologists visiting schools under the Department's Scheme for the Commissioning of Psychological Assessments.

The Act obliges a school to receive a vetting disclosure where it is permitting a person to undertake relevant work or activities on behalf of the school. The work in schools of

Inspectors and psychologists referred to above is undertaken on behalf of the Department (not on behalf of the school).

Schools should be aware that all members of the Inspectorate and all psychologists referred to above have been Garda vetted for their employment with or engagement by the Department.

23. Do HSE vaccination teams or TUSLA staff (such as social workers) have to be vetted by the school before the school allows them to work in the school?

There is no requirement under the Vetting Act for a school to receive a vetting disclosure from the Bureau in respect of HSE or TUSLA staff who visit schools in the course of their duties.

The work of HSE and TUSLA staff is undertaken on behalf of the HSE and TUSLA. The Vetting Act requires that these staff are Garda vetted by the HSE and TUSLA respectively.