



Circular 0026/2015

**To: The Managerial Authorities of Recognised Primary, Secondary,
Community and Comprehensive Schools,
The Chief Executive of each Education and Training Board and
Teachers registered with the Teaching Council**

**Advance preparation for the commencement of statutory requirements for
Garda vetting under the National Vetting Bureau (Children and Vulnerable
Persons) Act 2012**

1. Purpose of this circular

1.1 The purpose of this circular is to outline preparations being put in place in advance of the forthcoming statutory Garda vetting requirements of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 (the “Vetting Act”). The circular provides advice on (a) the steps to be now taken by registered teachers who intend to seek new employment in a new school immediately after the commencement of the Vetting Act and (b) the advance preparations and actions to be taken by all school authorities so as to facilitate, as far as possible, a smooth transition to the forthcoming statutory vetting requirements.

The circular is structured as follows:

- 1. Purpose of this circular**
- 2. Forthcoming statutory vetting requirements of the Vetting Act**
- 3. Immediate steps for registered teachers**
- 4. Advance preparations and actions to be taken by all school authorities**
- 5. Ongoing communication and further updates**
- 6. FAQs and other queries**

2. Forthcoming statutory vetting requirements of the Vetting Act

- 2.1 The requirement that persons commencing employment in a school must be Garda vetted currently operates on a non-statutory basis. The Vetting Act will put in place statutory vetting requirements. However, that Act has not yet been commenced.
- 2.2 A 2013 UK Court of Appeal judgment necessitated a review of the disclosure provisions in both the Vetting Act and the Spent Convictions Bill 2014. That review has been completed and amendments to the Vetting Act and consequential amendments to the Spent Convictions Bill are currently being drafted.
- 2.3 Pending the amendment of the Vetting Act, an administrative filter for Garda Vetting disclosures has been introduced, which provides that certain minor offences that are over 7 years old are no longer disclosed.
- 2.4 The Vetting Act will put in place the National Vetting Bureau (the Bureau) which will replace the Garda Central Vetting Unit (GCVU) and will, once the Act is commenced, be responsible for issuing vetting disclosures under the Act's statutory arrangements.
- 2.5 The statutory vetting arrangements under the Vetting Act will, in addition to the existing check for criminal offences, also include a check for any relevant "soft information". This will be an important new aspect of the vetting arrangements. "Soft information" referred to as "specified information" in the Vetting Act, is information other than criminal convictions held by the Garda Síochána that leads to a bona-fide belief that a person poses a threat to children or vulnerable persons.
- 2.6 When commenced, Section 12(1) of the Vetting Act will require that the employer (i.e. school/ Education and Training Board (ETB)) must obtain a vetting disclosure from the Bureau before commencing the initial employment of a new employee. Failure by an employer to comply with this statutory requirement will be a criminal offence.
- 2.7 Please note that the requirement in Section 12(1) to obtain a vetting disclosure from the Bureau will not apply to any employment which had commenced, or was entered into before the commencement of the Vetting Act. Teachers who are employed by a school/ETB before the commencement of the Vetting Act (whether in a permanent, fixed-term (temporary) or substitute role) will not therefore be affected by the provisions of Section 12(1) of the Vetting Act in respect of their existing employment with that school/ETB.
- 2.8 The Vetting Act provides that the vetting disclosure may be obtained via a registered organisation (referred to as a "relevant organisation" in the Act) that represents another registered organisation for the purposes of vetting. In the case of registered teachers,

the Teaching Council will continue to act as a conduit for schools and ETBs for the purposes of garda vetting.

- 2.9 Under the current non-statutory arrangements, the Teaching Council provides the individual teacher with a vetting disclosure letter but does not make available a copy of the actual vetting disclosure to the school authority¹. The provision of this vetting disclosure letter will be discontinued. This change in practice will be timed to coincide with the commencement of the Vetting Act. Under the new arrangements, a vetting disclosure that has been received by the Teaching Council from the Bureau will be made available electronically to the relevant school authority via the Teaching Council's electronic register of teachers. This will be facilitated by the Teaching Council entering an electronic copy of the Bureau disclosure in the private section of the teacher's entry on the Council's electronic register of teachers. Access to the Bureau disclosure will be controlled by the teacher concerned. When required for employment purposes, the teacher must provide a school authority with electronic access to the Bureau disclosure entered on the register thereby enabling the school authority to meet its requirement under the Vetting Act to receive a disclosure from the Bureau.
- 2.10 It is intended that the amendments to the Vetting Act will be brought before the Oireachtas in the current Dáil session and that, following their enactment, the Vetting Act will then be commenced at the earliest opportunity. The precise timeframe for commencement of the Vetting Act will be confirmed in due course by the Minister for Justice and Equality. The commencement date will also be notified by this Department to the school system and published on this Department's website as soon as it is known. In the meantime, this Department has, for advance planning purposes, identified **31 July 2015** as the date by which the advance actions set out in this circular should be completed by registered teachers and school employers.
- 2.11 Given that the Vetting Act is being amended at present and these amendments have not yet been enacted, it is not possible at this stage to be precise on its finalised requirements. Regular updates on the Department's website will provide further information as the finalised details become available in relation to amendments to the Vetting Act.
- 2.12 Prior to the commencement of the Vetting Act, the Department will also issue a further circular in relation to the statutory requirements that will apply from its commencement and in relation to the wider duty of care considerations that school authorities must also take into account as part of the recruitment process.

¹ In this circular "school authority" means the relevant managerial authority for the school or centre for education concerned e.g. the relevant ETB in the case of ETB schools and centres for education and board of management/manager in the case of all other schools.

2.13 In tandem with the amendments to the Vetting Act, the *Teaching Council (Amendment) Bill 2015* was published in January 2015. This Bill is designed to underpin the central role of the Teaching Council in the operation of the statutory vetting arrangements for registered teachers. This Bill is due to be enacted as part of the Government's legislative programme for the 2015 Spring/Summer session.

3. Immediate steps for registered teachers

3.1 Registered teachers who expect to be taking up new teaching employment (permanent, fixed-term (temporary) or substitute) in a new school from the beginning of or during the first term of the 2015/2016 school year should read this circular carefully to determine the immediate steps that they should take in order to ensure they can be readily employable after the commencement of the Vetting Act.

3.2 When the timeframe for commencement of the Vetting Act is confirmed in due course by the Minister for Justice and Equality, that timeframe will be notified by this Department to the school system and published on this Department's website. In the meantime, this Department has, for advance planning purposes, identified **31 July 2015** as the date by which the advance actions set out in this circular should be completed by registered teachers.

Steps to be taken in respect of new substitution work

3.3 In the case of teachers who expect to be undertaking substitution work from the beginning of or during the first term of the 2015/2016 school year, the following steps should be taken before **31 July 2015**:

(a) Where the teacher knows the school or the schools (including ETB schools) in which he or she will be available to work in as a substitute in the first term of the 2015/16 school year then, if he or she has not already done so, the teacher should:

- (i) notify each of the schools concerned that he or she is available for substitute teaching work in that school and;
- (ii) provide a copy of his/her Teaching Council vetting disclosure letter to each of the schools concerned

Note: Providing a copy of a Teaching Council vetting disclosure letter at this stage is sufficient to ensure compliance with the statutory requirements of the Vetting Act following its commencement. However, in line with the existing non-statutory requirements of [Circular 0063/2010](#), the school authority must be presented with an original Teaching Council vetting

disclosure letter, issued within the current or previous calendar year, prior to the teacher commencing the initial substitute employment.

- (b) If unable to do (a) above or where the teacher does not know all of the schools in which he or she might be undertaking substitute work during the first term of the 2015/16 school year then he or she should apply to the Teaching Council for a vetting disclosure from the Bureau under the arrangements set out at section 3.9 below.

3.4 Important Note: Teachers should note that no action is needed under this circular if, prior to the commencement of the Vetting Act, they have undertaken substitution work on a recurring basis in a particular school or schools and intend only to seek further substitution work in that particular school or schools after the commencement of the Vetting Act.

Steps to be taken in respect of other types of new employment with a new employer

3.5 Teachers, except where section 3.6(a) of this circular applies, who expect to be undertaking new employment (other than substitution work referred to at 3.3 (a) above) with a new employer from the beginning of or during the first term of the 2015/16 school year are requested to apply, under the arrangements set out at section 3.9 below, before **31 July 2015** to the Teaching Council for a vetting disclosure from the Bureau.

3.6 It is important to note that;

- a) No action is required under this circular if the contractual arrangements with the employer for the new employment are already made, or are expected to be made, prior to the commencement of the Vetting Act. It should be noted that the existing arrangements under Department [circular 0063/2010](#) will continue to apply to such employment.
- b) If the contractual arrangements with the employer for the new employment are not already made or are not expected to be made prior to **31 July 2015** then the registered teachers should apply to the Teaching Council before **31 July 2015** for a vetting disclosure under the new statutory arrangements which will be issued by the Bureau in the period immediately following commencement of the Vetting Act.

3.7 This advice to apply now for a vetting disclosure is also applicable to registered teachers who expect to be employed by a new employer under the Department's Home Tuition Scheme where (a) that employment is from the beginning of or during the first term of

the 2015/2016 school year and (b) the contractual arrangements for this new employment have not been made or are not expected to be made before **31 July 2015**.

3.8 Please also note the following:

- (a) The Department will be notifying individual teachers on redeployment panels in relation to the steps to be taken by such teachers.
- (b) The Teaching Council will be notifying newly qualified teachers graduating in summer 2015 in relation to the steps to be taken by such teachers.

3.9 Arrangements for applying now to the Teaching Council (in advance of the Vetting Act's commencement) for a vetting disclosure from the Bureau.

- The vetting application form can now be downloaded from the [Teaching Council's website](#). By applying now for a vetting disclosure from the Bureau those teachers identified at sections 3.3 (b), 3.5 and 3.7 of this circular, are helping to ensure that they will be readily employable for employment, as a new substitute or in other new employment that arises after the Vetting Act is commenced.
- Full details in relation to these arrangements are published under the Garda Vetting section of the Teaching Council website www.teachingcouncil.ie
- Fully completed vetting application forms should be returned to the Teaching Council by **31 July 2015** in order to facilitate the Teaching Council in processing these applications prior to the commencement of the Vetting Act.
- It is of vital importance that applications are fully and accurately completed. Incomplete applications or inaccurate information will delay an application and may result in the vetting application not being processed under these arrangements.
- Teachers should regularly check the Teaching Council website for updates in relation to these arrangements including any changes to the timelines for submission of applications.

4. Advance preparations and actions to be taken by all school authorities

- 4.1 Section 12(1) of the Vetting Act will, when commenced, puts a statutory obligation on the school authority (the employer) to receive a Bureau disclosure (i.e. a disclosure that has been issued by the Bureau under the Vetting Act), prior to commencing the employment of a person in a new position. **School authorities should note that they will be committing a criminal offence if they fail to comply with this new statutory obligation.**
- 4.2 While the current non-statutory arrangements under [circular 0063/2010](#) allow, in certain circumstances for a provisional appointment to be made conditional on the outcome of vetting, it is important to note **this will not comply** with the legal obligation under Section 12(1) of the Vetting Act to receive a vetting disclosure from the Bureau.
- 4.3 When the timeframe for commencement of the Vetting Act is confirmed by the Minister for Justice and Equality, this will be notified by this Department to the school system and published on this Department's website. In the meantime, this Department has, for advance planning purposes, identified **31 July 2015** as the date by which the advance actions set out in this circular should be completed by school authorities.

Advance preparation in respect of substitute teaching work

- 4.4 It is important that, after the commencement of the Vetting Act, a school does not find itself in a situation where an urgent substitution need arises but it cannot employ a person because it does not have a substitute readily available to it whose employment would meet the vetting requirements of the Vetting Act.
- 4.5 **School authorities** are therefore advised to check and update their list of teachers available for substitute work so as to ensure, as far as possible, that it will meet their requirements for substitution work that arise following the commencement of the Vetting Act.
- 4.6 In this regard, the school should now check that;
- (a) there is a sufficient number of qualified and registered teachers on the list to meet substitution requirements that may arise from the beginning of or during the first term of the 2015/2016 school year;

and

- (b) the school has received a copy of the Teaching Council vetting disclosure letter in respect of each of the teachers on the list. In any case where the

school does not have a copy of the Teaching Council vetting disclosure letter, it should now be obtained from the teacher concerned in order that the school has received it prior to the commencement of the Vetting Act. Schools should retain a copy of the vetting disclosure letter obtained in respect of each teacher on the school substitution list.

Note: Obtaining a copy of a Teaching Council vetting disclosure letter at this stage is sufficient to ensure compliance with the statutory requirements of the Vetting Act following its commencement. However, in line with the existing non-statutory requirements of [Circular 0063/2010](#), the school authority must, prior to the teacher commencing the initial substitute employment, inspect an original Teaching Council vetting disclosure letter that has been issued within the current or previous calendar year. A copy of that disclosure letter must also be retained by the school authority.

- 4.7 These two actions are designed to ensure that the school can continue to use its substitution list after the commencement of the Vetting Act without the need for the school to firstly wait for a vetting disclosure from the Bureau before commencing the employment of the teachers concerned.

Advance preparation in respect of other employments (teaching and non-teaching)

- 4.8 In relation to any other type of new employment (teaching or non-teaching) in a new school that is commencing from the start of or during the first term of the 2015/16 school year each school authority should, where possible, have the contractual arrangements for same made by **31 July 2015** so that such employment can commence without the school authority having to firstly wait for a vetting disclosure from the Bureau in respect of the employee(s) concerned.

- 4.9 The advices and approach in this circular are based on amendments that are expected to be made to the Vetting Act. Given that these amendments have not yet been enacted, it is not possible at this stage to be precise on its finalised requirements. Accordingly, it is important for all school authorities to keep abreast of the regular updates that the Department will be putting on its website (www.education.ie) in relation to the forthcoming statutory vetting requirements, including updates in relation to the commencement date of the Vetting Act. This will enable school authorities to be aware of the precise timeline and finalised requirements for statutory vetting in respect of the initial employment of new employees and to make any necessary advance preparations to help ensure they operate as smoothly as possible.

5. Ongoing communication and further updates

5.1 In the period leading up to the commencement of the Vetting Act, a number of communication channels will be used to:

- a) help ensure that registered teachers are fully aware of the advice in this circular and
- b) update school authorities and registered teachers as additional details become available in relation to the finalised requirements under the Vetting Act.

Further information about these communication channels and other information in relation to the forthcoming statutory vetting requirements and the commencement date for the Vetting Act will, as it becomes available, be reflected in the regular updates which will be published on the Department's website www.education.ie.

6. FAQs and other queries

6.1. The Department has published on its website an [FAQ document](#) to assist school authorities in relation to any queries that they may have regarding this circular. This will be updated in the lead up to the commencement of the statutory arrangements.

6.2. Any other queries that a school authority may have should be addressed as follows:

- (a) General queries in relation to this circular should be addressed to the Department at the following e-mail address:

schoolgovernance@education.gov.ie

- (b) Specific queries in relation to the vetting applications of registered teachers should be addressed to the Teaching Council at the following e-mail address:

vetting@teachingcouncil.ie

- (c) Specific queries in relation to the vetting applications of any other persons should continue to be addressed in the normal manner to the relevant school Management Body/Diocesan Office.

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