



National Association For Youth Drama

Garda Vetting Policy: Youth Theatres

National Association For Youth Drama

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Introduction

Garda Vetting is a procedure through which An Garda Síochána is asked, with a person's permission, to disclose any information held about them on file. As of 1st September 2006, Garda Vetting was extended to cover sectors such as Youth Work and the Arts. It is now considered best practice for all staff and volunteers with substantial unsupervised access to children, young people and/or vulnerable adults to apply for vetting from the **Garda Central Vetting Unit (GCVU)**. It is expected that vetting will be enshrined in legislation in the near future.

The GCVU only accepts garda vetting applications forms from approved organisations (known as **Registered Organisations**) and only if signed by that organisation's **Authorised Signatory (AS)**. An Authorised Signatory is an individual nominated by their organisation, who has been vetted and received training from the Garda Central Vetting Unit. It is their role to manage all garda vetting applications submitted by their organisation, to handle any resulting disclosures and to liaise with the GCVU on all garda vetting related matters. The AS must agree to act in line with the Code of Good Practice for Garda Vetting as provided by An Garda Síochána.

The GCVU emphasise that garda vetting is only one component of good recruitment practice and organisations should ensure other elements of good practice are followed including interviews, reference checks etc.

Vetting is available to those aged over 18. It is available to those aged between 16 and 18 but only in exceptional circumstances and only when written permission has been provided by both the individual in question and his/her parents/guardians. NAYD wishes to emphasise that those under 18 should never be left in charge of youth theatre members without adequate supervision by a competent adult.

Procedure for Garda Vetting

To apply for garda vetting, an applicant must complete a standard **garda vetting application form** provided by the Registered Organisation.

The following information is required from an applicant:

- Forename, surname, any previous surnames and any aliases
- Date and place of birth
- Addresses from year of birth to present to include any overseas addresses.
- Applicants will be asked whether they have been convicted of an offence, of any nature, in the Republic of Ireland or elsewhere. If the applicant has such a conviction, they need to provide details of the conviction: the date, court, offence and court outcome.

- The applicant must complete and sign the declaration. It is important that all applicants who complete and sign a Garda vetting application form are aware that they are giving permission to the Garda Central Vetting Unit to provide information to the Registered Organisation relating not just to any past convictions but also:

prosecutions, successful or not, pending or completed, in the State or elsewhere as the case may be.

The form is then signed by the Registered Organisation's Authorised Signatory and sent to the Garda Central Vetting Unit.

NAYD has developed an **Advice Sheet on Completing the Garda Vetting Application Form** downloadable from the Advice Centre of the NAYD website:

http://www.nayd.ie/resources/advice_centre

Disclosures

If there are no convictions or prosecutions recorded against the applicant, this will be indicated on the form itself, which is returned to the Authorised Signatory.

If the Garda records have revealed a conviction or prosecution, this will be indicated on the form and the form will be returned to the Authorised Signatory accompanied by a **disclosure letter**. A disclosure letter provides details of the conviction/prosecution including information on the offence and the court outcome.

Some important points to note:

- The procedure outlined above is the only method of accessing vetting. Vetting is not provided through local Garda Stations.
- Individuals are not issued with a certificate or a letter of Garda clearance.
- The Registered Organisation cannot share Garda vetting information with third parties including other organisations that may employ/be seeking to employ an individual who has been vetted.

NAYD and Garda Vetting

While NAYD recognises the importance of Garda vetting in safeguarding the well-being of young people, the organisation also recognises that it is only one element of good practice and that a wider whole organisational approach is necessary. To reflect this approach and to advise member youth theatres, NAYD has developed welfare and child protection guidelines for youth

theatres and an accompanying template to support affiliated groups in developing their own policies and procedures.

NAYD became a Registered Organisation in August 2006. NAYD nominates a staff member as Authorised Signatory for garda vetting. The current AS is Katie Martin.

As the vast majority of NAYD's member youth theatres do not have the capacity to become Registered Organisations themselves and would otherwise have difficulty accessing garda vetting, NAYD operates a **Garda Vetting Consortium** that allows youth theatres access to vetting for their staff/volunteers.

NAYD also offers garda vetting to parent organisations of youth theatres because it is common for staff/volunteers within such an organisation to also carry out duties for the youth theatre that may involve substantial unsupervised access to members.

Terms of Membership of NAYD's Garda Vetting Consortium

In order to become a member of the consortium and avail of NAYD's garda vetting facility, a youth theatre must be in current membership of NAYD and sign a **Garda Vetting Consortium Agreement** outlining the following terms of membership:

1. In order to become a member of the consortium, a youth theatre must nominate a **Designated Person (DP)** for garda vetting. NAYD's AS will liaise with this person on all garda vetting related matters. The only exception would be if a disclosure were returned in relation to a DP in which case, the person who signed the agreement on behalf of the youth theatre would be contacted. The DP must sign a declaration stating that they agree to follow best practise as advised by the Garda Central Vetting Unit. The DP must also provide a password that will be requested before NAYD's AS discloses/discusses any sensitive information with a DP. This password should not be revealed to any other person. A completed vetting application form for the Designated Person should be forwarded to NAYD's Authorised Signatory with the signed agreement. The results of any garda vetting applications will be communicated to a Designated Person only after their own garda vetting application process has been completed and NAYD deems them a suitable person to fulfil the role of Designated Person.
2. Youth theatres must agree to put in place a decision-making mechanism for garda vetting, particularly with regard to disclosures. As advised by the Garda Central Vetting Unit, all garda vetting applications should be managed within a Legislative, Human Rights and Natural Justice Framework. **(See section on Decision-Making for more.)**

Youth theatres should also either have a dedicated garda vetting policy or include details of their approach to garda vetting in their welfare/child protection policy. (See **NAYD's Welfare/Child Protection Guidelines for Youth Theatres** for more information)

3. Neither NAYD nor the GCVU can make a decision about which staff/volunteers should be subjected to vetting. This is solely the decision of a youth theatre. NAYD can take no responsibility if youth theatre staff/volunteers with substantial unsupervised access to young people do not apply for vetting. However good practice indicates that garda vetting should be conducted in respect of all adults who may have substantial unsupervised access to young people as a consequence of their role in the organisation.
4. Groups in membership of the consortium need to be aware that it is only the youth theatre, and not the Garda Central Vetting Unit or NAYD, can make decisions regarding an individual's suitability to work/volunteer with the group.
5. While ideally a volunteer/staff member should be subjected to vetting in advance of commencing their role with a youth theatre, NAYD recognises that this is not always possible. NAYD recommends that youth theatres have a clear probationary period for all staff/volunteers during which the garda vetting application process is completed. Staff/volunteers should be supervised by a competent adult during this period.
6. All youth theatres must agree to manage all information in relation to garda vetting with the strictest confidentiality and within the statutory provision of the Data Protection Act. **(Refer to section below on Confidentiality and Data Protection for more information).**
7. Youth theatres agree that all information received from the Garda Central Vetting Unit, via NAYD, in respect of any individual, is for sole use of the named youth theatre.
8. The youth theatre Designated Person is required to check forms for completeness before forwarding them to the NAYD Authorised Signatory.
9. Each garda vetting application form returned to NAYD is to be accompanied by an NAYD cover sheet.
10. Youth theatres must inform NAYD if they appoint a new Designated Person who must submit a signed declaration and a completed garda vetting application form. NAYD must also be informed of any changes to a DP's contact details.
11. Youth theatres need to be aware that garda vetting is only one element of good welfare/recruitment practice. **(Refer to NAYD's Welfare and Child Protection Guidelines for Youth Theatres for more.)**

How the Consortium works

If a youth theatre wishes to become a member of the consortium, they will be sent a copy of this policy plus the following documents for completion:

1. An **NAYD Garda Vetting Consortium Agreement** outlining the terms of membership to be signed by a senior youth theatre representative.
2. A **Designated Person Registration Form** including a declaration to be signed by the DP.
3. A **Garda Vetting Application Form** and **NAYD Cover Sheet** to be completed by the DP and returned to NAYD.

The DP may request garda vetting application forms once the above have been completed and returned to NAYD. They will, however, not be informed of the outcome of any applications submitted until their own vetting application is completed and NAYD considers them a suitable person to fulfil the role of DP. DPs will also be sent NAYD cover sheets, one to be completed and returned with every garda vetting application form. These sheets allow the NAYD Authorised Signatory to keep track of each form submitted. NAYD provides Child Protection and Welfare training for Designated Persons that includes a session on garda vetting and managing disclosures.

NAYD has six closing dates a year for submission of garda vetting application forms from members of the consortium. In 2012 the dates are:

31 January

31 March

31 May

31 August

31 October

17 December

Designated Persons should ensure each garda vetting application form is legible and completed in full in advance of submission to the NAYD Authorised Signatory. If the AS considers that it is incomplete or illegible, the form will be returned to the DP. The AS will add each applicant's details to NAYD's garda vetting database.

The period of time necessary to complete the vetting process will depend on the volume of applications the Garda Central Vetting Unit has at any given time. Application forms that are illegible or incomplete will take longer to process and will be returned to the youth theatre DP.

Managing Processed Forms

Once vetting has been completed, NAYD's Authorised Signatory receives the forms back from the Central Garda Vetting Unit. If no convictions/prosecutions are returned, the Authorised Signatory returns the original form to the youth theatre's Designated Person. NAYD's Authorised Signatory keeps a copy of the form in secure storage in the NAYD office and records the outcome on NAYD's garda vetting database. The DP needs to ensure that the original is also stored securely in a location with controlled access.

A form may be returned with a disclosure letter attached. A disclosure outlines details of any convictions/prosecutions (including unsuccessful or pending prosecutions) in relation to the person who has applied for garda vetting. The following information is contained on the disclosure:

- The date the conviction was recorded e.g. date of court appearance
- Details of the court e.g. circuit court or district court etc.
- Details of the Offence
- Court Result e.g. details of fine or custodial sentence etc.

NAYD's Authorised Signatory will contact the youth theatre's Designated Person to inform them of the details of the disclosure letter. They will send the original form, with the original disclosure letter, to the youth theatre DP. The NAYD Authorised Signatory will keep a copy in secure storage. Details contained in a garda vetting disclosure should be verified with the applicant and they should be given an opportunity to respond to the disclosure in advance of any decision being made which may affect them. The applicant can request a copy of the Garda Vetting disclosure.

Decision-Making/Disputes

The Code of Good Practice on Garda Vetting as issued by the Garda Central Vetting Unit makes it clear that all decisions should be managed within a Legislative, Human Rights and Natural Justice Framework. While at the same time keeping in mind that the well-being of children/young people is of paramount importance, an organisation may decide to employ or engage an individual with a conviction/prosecution that is unrelated to offences against children. It is essential to keep in mind that the fact a person has a conviction/ prosecution on their record should not automatically disqualify them from working with a group. Whether the information received has any impact on their involvement is at the discretion of the youth theatre. The key decision to be made is whether the disclosure affects the persons suitability to work in a position

within the organisation which will afford them substantial unsupervised access to children and/or young people.

Neither NAYD nor the Garda Central Vetting Unit can play any role when it comes to making the decision with regard to a person's suitability for commencing/continuing their work with the youth theatre. Youth theatres should put in place a decision-making policy and mechanism such as a small committee. (See NAYD's **Welfare/Child Protection Guidelines for Youth Theatres** for advice on welfare committees)

NAYD's Authorised Signatory can advise on good practice and can help interpret what the conviction means and what the severity/leniency of the sentence indicates about the nature of the offence. If necessary, the AS can also contact the GCVU for further clarification.

Some factors that should be taken into account in the decision-making process:

- the nature of the offence.
- the outcome of the legal proceedings. Was a conviction secured? Take note of the sentence, as this can be a good guide to the severity of the crime.
- the age of the individual when they committed the offence and how much time has passed since its occurrence.
- whether there is more than one offence on their record and their conduct in the interim.
- any rehabilitative efforts made.
- the nature of their role in the youth theatre and their overall suitability for this role.
- whether the offence was declared on the garda vetting application form or on organisation's own declaration form.
- were there any mitigating circumstances?

Consideration should be given to other information gleaned through the recruitment process such as:

- employment history.
- educational qualifications and training.
- performance at interview.
- references.

- if they are an existing staff member/volunteer, consider their work performance and behaviour.

In the individual disputes the disclosure....

If the individual in question disputes the disclosure, the youth theatre's Designated Person should inform NAYD's Authorised Signatory. The applicant needs to outline the basis for their dispute in writing and the DP needs to ensure that this is forwarded to NAYD's AS. The DP should also send the original garda vetting form for submission to the GCVU so that further checks can be carried out. If the individual indicates that there were errors or omissions made by them on completion of their original garda vetting application form, the DP needs to ensure that the applicant completes a new form and this new form is to be forwarded to NAYD's AS for submission with the original form to the Garda Central Vetting Unit. The GCVU will conduct further checks.

If a conviction/prosecution is confirmed, the youth theatre's decision-making mechanism should be initiated. The GCVU emphasise that the decision-making mechanism should be established solely to assist the organisation/group in assessing the suitability of any individual for a position within the organisation vis-à-vis the details contained in their disclosure.

Garda Vetting and Recruitment

Garda vetting should be viewed as a part of your recruitment process. It does not replace interviews, checking references and other ways you assess an applicant's suitability for a position.

NAYD have developed a number of **Advice Sheets on Recruitment of Staff and Volunteers**. They are available to download from <http://www.nayd.ie/resources/show/StaffandVolunteers>

Youth Theatres and Confidentiality/Data Protection

This is an important consideration in relation to garda vetting as the information in question is of a personal and often a sensitive nature. The reputation and livelihood of an individual may be at stake. A certain amount of information needs to be revealed to those involved in the decision-making process. It is necessary that information, including the identity of the individual, be shared only on a need-to-know basis. All documentation relating to garda vetting, including any record of the decision-making process, should be kept securely stored with controlled access. NAYD recommends that each youth theatre develop clear procedures for handling personal

information. For good practice guidelines on Confidentiality, please refer to NAYD's **Welfare and Child Protection Guidelines for Youth Theatres**.

Data Protection

The Data Protection Acts (1998/2003) lay down strict rules about the way such personal data is collected, accessed, used and stored.

Definitions under the Data Protection Act

Under the Acts **personal data** is defined as:

data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or likely to come into, the possession of the data controller.

Included In the definition of **sensitive personal data** under the Acts is information relating to:

the commission or alleged commission of any offence by the data subject

or
any proceedings for an offence committed or alleged to have been committed by the data subject, the disposal of such proceedings or the sentence of any court in such proceedings.

A **Data Controller** is defined as:

those who, either alone or with others, control the contents and use of personal data. Data Controllers can be either legal entities such as companies, Government Departments or voluntary organisations, or they can be individuals such as G.P.s, pharmacists or sole traders.

These definitions make it clear that any organisation, group or individual that is in possession of completed garda vetting application forms and any disclosures detailing convictions/prosecutions are subject to the Data Protection Acts.

Eight Rules of Data Protection

The Office of the Data Commissioner has summarised the key responsibilities of Data Controllers under the following eight principles:

A Data Controller must:

- 1. Obtain and process information fairly**
- 2. Keep it only for one or more specified and lawful purposes**
- 3. Use and disclose it only in ways compatible with the purposes for which it was initially**

given

4. Keep it safe and secure

5. Keep it accurate and up-to-date

6. Ensure that it is adequate, relevant and not excessive

7. Retain it no longer than is necessary for the specified purpose or purposes

8. Give a copy of his/her personal data to any individual, on request.

Source: <http://www.dataprotecion.ie>

What this means in practice is that garda vetting information must be treated in a very specific manner. The information can not be shared between organisations and groups, it can only be used by the specific organisation who sought the vetting and only for the purpose of making a decision on the particular role that is stated on the application form. All garda vetting information including processed forms and any resulting disclosures must be stored securely and be accessible only to authorised individuals. As stated above any individual has a right to obtain a copy of any information held on them and this includes a copy of their processed vetting form and any disclosure letters. Any individual who receives this information should be informed that they should not use it as a proof they have been vetted and need to apply for vetting as normal with other organisations.

Data Protection and Retention of Information

It can be difficult to obtain clear guidance around retention periods for personal and sensitive information. As indicated in principle no. 7 above, information should be retained no longer than is necessary for the specified purpose for which the data was obtained in the first place.

However, sometimes it is difficult to know when the purpose no longer exists. For example, in the case of vetting, an individual may dispute a disclosure that may involve the re-submission of the original form. The advice from the Office of the Data Protection Commissioner, as outlined in the National Youth Council's **Information Pack on Garda Vetting for the Youth Work Sector**, is that vetting disclosures and processed forms should be deleted one year after they are received except in exceptional circumstances. An exceptional circumstance could be in the case of a dispute yet to come to a conclusion. It is acceptable and perhaps advisable to retain the reference number and the date of disclosure. The reference number is at the top of processed garda vetting forms. These two pieces of information are sufficient to allow the Gardaí to check their records in case of any future queries. Once the retention period has elapsed the hard copy information should be shredded and any material held on computer file should be deleted.

NAYD and Confidentiality/Data Protection

NAYD recognises the paramount importance of confidentiality in relation to garda vetting and takes the following steps:

- All garda vetting information relating to individuals are securely stored with controlled access.
- NAYD's Authorised Signatory has been provided with a security password by the GCVU that will not be disclosed to any other individual. A copy of the AS's Signature is kept on file by the GCVU.
- NAYD's AS seals, signs and dates all files containing sensitive information after use.
- NAYD's garda vetting database has two levels of password protection.
- NAYD's Authorised Signatory will only disclose/discuss sensitive information relating to garda vetting with the youth theatre's nominated Designated Person and will request the DP's password before doing so.
- All correspondence forwarded from the NAYD Authorised Signatory to a youth theatre Designated Person that contains sensitive information will be marked 'Private and Confidential'.
- NAYD follows the advice of the Office of the Data Protection Commissioner and retains copies of processed garda vetting application forms and disclosure letters for no more than one year after they have been received except in exceptional circumstances such as in the case of an on-going appeal.
- Once the retention period has elapsed and there are no outstanding issues with a particular form or disclosure, all hard-copy information will be destroyed by shredding. Any information held on computer will be deleted with the exception of the reference number on the form and the date of disclosure.

Garda Vetting/Welfare Supports available from NAYD

NAYD supports member youth theatres by:

- Providing training to member youth theatres on welfare/child protection/garda vetting.
- Developing guidelines/advice sheets on a wide range of welfare related areas.
- Providing advice on developing policies and procedures
- Providing advice on particular welfare and child protection issues that may arise.
- Providing advice on particular garda vetting issues that may arise.

More Information

NAYD Website

NAYD has created a range of resources on Welfare, Recruitment and Managing a Youth Theatre. They are available in the Advice Centre Section of the NAYD website:

http://www.nayd.ie/resources/show/advice_centre

Child Protection Programme Website

The National Youth Council of Ireland's Child Protection Programme develops resources on child protection and garda vetting including the recent addition of an ***Information Pack on Garda Vetting for the Youth Work Sector.***

<http://www.childprotection.ie>

Contact

You can contact **Katie Martin**, NAYD's Designated Welfare Person and Authorised Signatory for Garda Vetting by phone on **01-8781301** or email **katie@nayd.ie**

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